

03-1340-CD  
MARTIN R. SLIFKO, JR. vs. GARY BALDWIN, et al

October 27, 2005

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

Re: Martin R. Slifko, Jr.

Vs.

Gary Baldwin, t/d/b/a Gary Baldwin Trucking; Albert Green Trucking, Inc.; Senex  
Explosives, Inc.

No. 03-1240-CD

Superior Court No. 1617 WDA 2005

Dear Prothonotary:

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

Sincerely,

William A. Shaw  
Prothonotary/Clerk of Courts

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

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

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

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

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

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

Richard A. Bell  
PO Box 670  
Clearfield, PA 16830

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

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

Dear Counsel:

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

Sincerely,

William A. Shaw  
Prothonotary/Clerk of Courts

Date: 10/27/2005

## Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:20 AM

ROA Report

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Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

## Civil Other

| Date       |  | Judge    |
|------------|--|----------|
| 08/21/2003 | Filing: Civil Complaint Paid by: Terry Noble Receipt number: 1865020<br>Dated: 08/21/2003 Amount: \$85.00 (Check) 5 CC to Atty. Noble  | No Judge |
| 09/02/2003 | Praecipe To Enter Appearance on Behalf of Defendant, ALBERT D. GREEN TRUCKING, INC. filed by s/Dwight L. Koerber, Jr., Esq. no cc  | No Judge |
| 09/11/2003 | Praecipe For Appearance On Behalf Of Defendant, GARY BALDWIN, t/d/b/a GARY BALDWIN TRUCKING. filed by s/Jeffrey A. Ramaley, Esq. Certificate of Service no cc  | No Judge |
| 09/15/2003 | Praecipe For Appearance On Behalf Of Defendant, ALBERT GREEN TRUCKING. filed by s/Paul J. Walsh, III, Esquire Cert. of Svc. no cc  | No Judge |
|            | Entry of Appearance On Behalf Of Defendant, SENEX EXPLOSIVES, INC. filed by s/Sharon M. O'Donnell, Esq. Certificate of Service no cc   | No Judge |
| 09/18/2003 | Praecipe For Entry Of Appearance On Behalf of Defendant, Albert Green Trucking, Inc. filed by s/Robert R. Leight, Esquire Certificate of Service no cc   | No Judge |
|            | Plaintiff's Notice of Service along with his first set of Discovery Requests upon Atty Ramaley, Walsh, III, and O'Donnell. filed by s/Theron G. Noble, Esquire no cc   | No Judge |
| 09/23/2003 | Praecipe To Withdraw On Behalf Of Defendant, Albert Green Trucking, Inc. filed by s/Dwight L. Koerber, Jr., Esquire Certificate of Service 7 cc Atty Koerber   | No Judge |
| 09/24/2003 | Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm   | No Judge |
|            | Notice of Service of Interrogatories and Requests for Production of Documents directed to Defendant, Senex Explosives, Inc., filed by s/Paul J. Walsh, III No CC   | No Judge |
|            | Notice of Service of Interrogatories and Request for Production of Documents Directed to Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, filed by s/Paul J. Walsh, III, Esq. No CC  | No Judge |
|            | Notice of Service of Interrogatories and Request for Production of Documents Directed to Plaintiff, filed by s/Paul J. Walsh, III, Esq. No CC  | No Judge |
| 09/30/2003 | Answer, New Matter, and New Matter Under Rule 2252(D). filed by s/Jeffrey A. Ramaley, Esquire Verification s/Gary Baldwin t/d/b/a Gary Baldwin Trucking Certificate of Service 1 cc Atty Ramaley                                     | No Judge |
| 10/06/2003 | Reply to New Matter of Defendant Baldwin filed by Atty. Noble. No cc.  | No Judge |
| 10/10/2003 | Answer With New Matter On Behalf Of Defendant, SENEX Explosives, Inc., A Pennsylvania Corporation To Plaintiff's Complaint. filed by s/Sharon M. O'Donnell, Esquire Verification s/Fred Cardillo Certificate of Service 2 cc to Atty | No Judge |
| 10/17/2003 | Reply to New Matter (as to Defendant Senex Explosives, Inc.) filed by s/Theron G. Noble, Esquire Plaintiff's Notice of Service no cc   | No Judge |
| 10/24/2003 | Reply to New Matter Under Rule 2252(d) of Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking, filed by s/Paul J. Walsh III, Esq. One CC Attorney Walsh   | No Judge |
|            | Answer, New Matter and New Matter Pursuant to Rule 2252(d), filed by s/Paul J. Walsh III, Esq. One CC Attorney Walsh   | No Judge |
| 10/31/2003 | Reply to New Matter filed by Atty. Ramaley No cc.  | No Judge |
| 11/10/2003 | Praecipe For Withdrawal Of Appearance of PAUL J. WALSH, ESQ. on behalf of the Defendant, ALBERT GREEN TRUCKING, INC. filed by s/Paul J. Walsh, III, Esquire Certificate of Service no cc Copy to C/A                                 | No Judge |
| 11/12/2003 | Plaintiff's Reply To New Matter Of Defendant Green. filed by, s/Theron G. Noble, Esquire Plaintiff's Notice of Service no cc   | No Judge |

Date: 10/27/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:20 AM

ROA Report

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Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |  | Judge                   |
|------------|--|-------------------------|
| 11/26/2003 | Substitution Of Counsel, SHARON O'DONNELL, ESQ. on behalf of Defendant, SENEX ESPLOSIVES, INC. filed by, s/David F. Wilk, Esquire 1 cc to Atty Wilk  | No Judge                |
| 12/02/2003 | Notice of Serving Discovery filed by Atty. Wilk No CC.   | No Judge                |
| 01/26/2004 | Motion To Consolidate. filed by, s/Signature Illegible Cert of Svc no cc   | No Judge                |
| 01/28/2004 | Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley   | Fredric Joseph Ammerman |
| 02/23/2004 | ORDER, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial at Docket No. 03-1240-CD. by the Court, s/FJA, P.J. 1 cc Attys: Noble, Butcher, Leight, Wilk and R. Bell  | Fredric Joseph Ammerman |
| 11/17/2004 | Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC   | Fredric Joseph Ammerman |
|            | Praeipce for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC   | Fredric Joseph Ammerman |
|            | ORDER, filed 5 Cert. w/memo to Atty Ramaley.   | Fredric Joseph Ammerman |
|            | NOW, this 17th day of November, 2004, ORDERED that argument on Atty. Ramaley's Motion for Summary Judgment has been scheduled for the 21st day of December.  |                         |
| 12/16/2004 | Order, AND NOW, this 16th day of December, 2004, it is the ORDER of the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the above-captioned matter is hereby rescheduled from December 21, 2004 to Wednesday, Jan. 12, 2005 at 10:30 a.m. in Courtroom No. 1, Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1 CC Attys: Noble, R. Bell, Ramaley, Leight, and Wilk   | Fredric Joseph Ammerman |
| 01/05/2005 | Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC   | Fredric Joseph Ammerman |
| 01/06/2005 | Praeipce To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC  | Fredric Joseph Ammerman |
| 01/13/2005 | Order, NOW, this 12th day of January, 2005, following argument on the Motion for Summary Judgment filed on behalf of Defendant Gary Baldwin, t/d/b/a Gary Baldwin Trucking, it is the ORDER of this Court as follows:<br>1. Decision on the Motion for Summary judgment will be deferred until such time as Plaintiff has an opportunity to complete the discovery<br>2. Discovery by all parties shall be completed by no later than May 1, 2005, unless the Court Should issue an order to extend the deadline<br>3. All Defendants shall file any further motions for summary judgment be no later than May 10, 2005<br>4. The Court Administrator shall schedule reargument during the month of of May on Defendant Baldwin's preexisting motion for Summary Judgment and on any other motions for summary judgment that would be timely filed by May 10, 2005, following which the Court will issue decision on any outstanding said motions<br>5. In the event that the Plaintiff wishes to contest the motions for summary judgment previously filed by Defendant Baldwin, Plaintiff shall file an answer thereto by no later than May 10, 2005. By The Court: /s/ Fredric J. Ammerman, President Judge. 3 CC atty Ramaly | Fredric Joseph Ammerman |
| 01/14/2005 | Order, AND NOW, this 13th day of Jan., 2005, it is the ORDER of the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the above-captioned matter is hereby scheduled for Monday, May 23, 2005 at 11:00 a.m. in Courtroom No. 1, Clfd Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC: Attys Noble, Bell, Ramaley, Leight, and Wilk  | Fredric Joseph Ammerman |
| 03/24/2005 | Defendant Senex Explosives, Inc.'s Motion For Summary Judgment, filed by s/David F. Wilk, Esquire. 2CC Atty  | Fredric Joseph Ammerman |

Date: 10/27/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 10:20 AM

ROA Report

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Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |   | Judge                   |
|------------|---|-------------------------|
| 03/30/2005 | Rule To Show Cause, AND NOW, this 28th day of March, 2005, upon consideration of Motion for Summary Judgment of Defendant Senex Explosives, Inc., Rule Returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Judge. 2CC Atty Wilk   | Fredric Joseph Ammerman |
| 05/05/2005 | Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC, Original filed to 02-962-CD  | Fredric Joseph Ammerman |
| 05/09/2005 | Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting, a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell<br>Original filed to 02-962-cd  | Fredric Joseph Ammerman |
| 05/11/2005 | Deposition of Cprl. Thomas E. Josephson, PSP. Original to 02-962-CD   | Fredric Joseph Ammerman |
|            | Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC  | Fredric Joseph Ammerman |
|            | Order, NOW, this 10th day of May, 2005, the Plaintiff having no objections to the Motion for Summary Judgment filed by Defendant Senex Explosives, Inc.; it is the ORDER of this Court that said Motion be and is hereby GRANTED and that Summary Judgment is entered in favor of Senex Explosives, Inc. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, J. Ramaley, R. Leight, D. Wilk   | Fredric Joseph Ammerman |
| 05/17/2005 | Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC   | Fredric Joseph Ammerman |
| 05/19/2005 | Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1, Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty. Bell w/memo Re: service   | Fredric Joseph Ammerman |
|            | Certificate of Service, Copy of Order dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC  | Fredric Joseph Ammerman |
| 05/20/2005 | Order Of Court, AND NOW, this 17th day of May, 2005, it is hereby ORDERED that Summary Judgment is entered in favor of the Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties to this civil action. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 5CC Atty. Ramaley  | Fredric Joseph Ammerman |
|            | Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of the Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, P.J.  | Fredric Joseph Ammerman |
| 08/24/2005 | Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. | Fredric Joseph Ammerman |
| 09/16/2005 | Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908397 Dated: 09/16/2005 Amount: \$45.00 (Check)   | Fredric Joseph Ammerman |

Date: 10/27/2005

**Clearfield County Court of Common Pleas**

User: BHUDSON

Time: 10:20 AM

ROA Report

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Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |  | Judge                   |
|------------|--|-------------------------|
| 09/16/2005 | Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck   | Fredric Joseph Ammerman |
| 09/20/2005 | Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell | Fredric Joseph Ammerman |
| 09/21/2005 | Appeal Docket Sheet, filed. Superior Court Number 1617 WDA 2005. No CC   | Fredric Joseph Ammerman |
| 09/28/2005 | Concise Statement of Matters Complained of on Appeal, filed by s/ Theron G. Noble, Esquire. No CC  | Fredric Joseph Ammerman |
| 10/27/2005 | Appeal mailed to Superior Court October 27, 2005.  | Fredric Joseph Ammerman |

No. 03-1240-CD

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

**THERON G. NOBLE., ESQ.**

vs.

**GARY BALDWIN, t/d/b/a GARY BALDWIN**  
**TRUKCING ,**

**ALBERT GREEN TRUCKING, INC.,** a Pennsylvania  
Corporation; and

**SENEX EXPLOSIVES, INC.,** a Pennsylvania  
Corporation

and

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

**JOSEPH F. BUTCHER, ESQ.**  
Zimmer Kunz, 3300 U.S. Steel  
Tower, PGH 15219 412-281-8000

**ROBERT LEIGHT, ESQ.**  
Pietragallo, Bosick & Gordon,  
One Oxford Centre, 38<sup>th</sup> Flr.  
301 Grant St., PGH 15219

**DAVID F. WILK, ESQ.**  
Marshall, Dennehey, Warner,  
Coleman & Goggin, 33 W. 3<sup>rd</sup> St.,  
Ste. 200, Williamsport 17701

vs.

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

**THERON G. NOBLE., ESQ.**

**RICHARD A. BELL, ESQ.**



Date: 10/06/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 04:18 PM

ROA Report

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Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |  | Judge       |
|------------|--|-------------|
| 08/21/2003 | ① Filing: Civil Complaint Paid by: Terry Noble Receipt number: 1865020 Dated: 08/21/2003 Amount: \$85.00 (Check) 5 CC to Atty. Noble   | 8 No Judge  |
| 09/02/2003 | ② Praecipe To Enter Appearance on Behalf of Defendant, ALBERT D. GREEN TRUCKING, INC. filed by s/Dwight L. Koerber, Jr., Esq. no cc  | 3 No Judge  |
| 09/11/2003 | ③ Praecipe For Appearance On Behalf Of Defendant, GARY BALDWIN, t/d/b/a GARY BALDWIN TRUCKING. filed by s/Jeffrey A. Ramaley, Esq. Certificate of Service no cc  | 3 No Judge  |
| 09/15/2003 | ④ Praecipe For Appearance On Behalf Of Defendant, ALBERT GREEN TRUCKING. filed by s/Paul J. Walsh, III, Esquire Cert. of Svc. no cc  | 3 No Judge  |
|            | ⑤ Entry of Appearance On Behalf Of Defendant, SENEX EXPLOSIVES, INC. filed by s/Sharon M. O'Donnell, Esq. Certificate of Service no cc   | 2 No Judge  |
| 09/18/2003 | ⑥ Praecipe For Entry Of Appearance On Behalf of Defendant, Albert Green Trucking, Inc. filed by s/Robert R. Leight, Esquire Certificate of Service no cc   | 2 No Judge  |
|            | ⑦ Plaintiff's Notice of Service along with his first set of Discovery Requests upon Atty Ramaley, Walsh, III, and O'Donnell. filed by s/Theron G. Noble, Esquire no cc   | 1 No Judge  |
| 09/23/2003 | ⑧ Praecipe To Withdraw On Behalf Of Defendant, Albert Green Trucking, Inc. filed by s/Dwight L. Koerber, Jr., Esquire Certificate of Service 7 cc Atty Koerber   | 3 No Judge  |
| 09/24/2003 | ⑨ Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm   | 4 No Judge  |
|            | ⑩ Notice of Service of Interrogatories and Requests for Production of Documents directed to Defendant, Senex Explosives, Inc., filed by s/Paul J. Walsh, III No CC   | 3 No Judge  |
|            | ⑪ Notice of Service of Interrogatories and Request for Production of Documents Directed to Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, filed by s/Paul J. Walsh, III Esq. No CC   | 3 No Judge  |
|            | ⑫ Notice of Service of Interrogatories and Request for Production of Documents Directed to Plaintiff, filed by s/Paul J. Walsh, III, Esq. No CC  | 3 No Judge  |
| 09/30/2003 | ⑬ Answer, New Matter, and New Matter Under Rule 2252(D). filed by s/Jeffrey A. Ramaley, Esquire Verification s/Gary Baldwin t/d/b/a Gary Baldwin Trucking Certificate of Service 1 cc Atty Ramaley                                     | 6 No Judge  |
| 10/06/2003 | ⑭ Reply to New Matter of Defendant Baldwin filed by Atty. Noble. No cc.  | 3 No Judge  |
| 10/10/2003 | ⑮ Answer With New Matter On Behalf Of Defendant, SENEX Explosives, Inc., A Pennsylvania Corporation To Plaintiff's Complaint. filed by s/Sharon M. O'Donnell, Esquire Verification s/Fred Cardillo Certificate of Service 2 cc to Atty | 9 No Judge  |
| 10/17/2003 | ⑯ Reply to New Matter (as to Defendant Senex Explosives, Inc.) filed by s/Theron G. Noble, Esquire Plaintiff's Notice of Service no cc   | 3 No Judge  |
| 10/24/2003 | ⑰ Reply to New Matter Under Rule 2252(d) of Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking, filed by s/Paul J. Walsh III, Esq. One CC Attorney Walsh   | 5 No Judge  |
|            | ⑱ Answer, New Matter and New Matter Pursuant to Rule 2252(d), filed by s/Paul J. Walsh III, Esq. One CC Attorney Walsh   | 10 No Judge |
| 10/31/2003 | ⑲ Reply to New Matter filed by Atty. Ramaley No cc.  | 5 No Judge  |
| 11/10/2003 | ⑳ Praecipe For Withdrawal Of Appearance of PAUL J. WALSH, ESQ. on behalf of the Defendant, ALBERT GREEN TRUCKING, INC. filed by s/Paul J. Walsh, III, Esquire Certificate of Service no cc Copy to C/A                                 | 3 No Judge  |
| 11/12/2003 | ㉑ Plaintiff's Reply To New Matter Of Defendant Green. filed by, s/Theron G. Noble, Esquire Plaintiff's Notice of Service no cc   | 3 No Judge  |

Date: 10/06/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 04:18 PM

ROA Report

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Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |  | Judge                   |
|------------|--|-------------------------|
| 11/26/2003 | 22 Substitution Of Counsel, SHARON O'DONNELL, ESQ. on behalf of Defendant, SENEX ESPLOSIVES, INC. filed by, s/David F. Wilk, Esquire 1 cc to Atty Wilk   | No Judge                |
| 12/02/2003 | 23 Notice of Serving Discovery filed by Atty. Wilk No CC.  | No Judge                |
| 01/26/2004 | 24 Motion To Consolidate. filed by, s/Signature Illegible Cert of Svc no cc  | No Judge                |
| 01/28/2004 | 24 Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley  | Fredric Joseph Ammerman |
| 02/23/2004 | 25 ORDER, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial at Docket No. 03-1240-CD. by the Court, s/FJA, P.J. 1 cc Attys: Noble, Butcher, Leight, Wilk and R. Bell   | Fredric Joseph Ammerman |
| 11/17/2004 | 26 Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC  | Fredric Joseph Ammerman |
|            | 27 Praecipe for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC  | Fredric Joseph Ammerman |
|            | 28 ORDER, filed 5 Cert. w/memo to Atty Ramaley. NOW, this 17th day of November, 2004, ORDERED that argument on Atty. Ramaley's Motion for Summary Judgment has been scheduled for the 21st day of December.  | Fredric Joseph Ammerman |
| 12/16/2004 | 29 Order, AND NOW, this 16th day of December, 2004, it is the ORDER of the Court that argument on Attorney Ramaley's motion for Summary Judgment in the above-captioned matter is hereby rescheduled from December 21, 2004 to Wednesday, Jan. 12, 2005 at 10:30 a.m. in Courtroom No. 1, Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1 CC Attys: Noble, R. Bell, Ramaley, Leight, and Wilk  | Fredric Joseph Ammerman |
| 01/05/2005 | 30 Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC  | Fredric Joseph Ammerman |
| 01/06/2005 | 31 Praecipe To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC   | Fredric Joseph Ammerman |
| 01/13/2005 | 32 Order, NOW, this 12th day of January, 2005, following argument on the motion for Summary Judgment filed on behalf of Defendant Gary Baldwin, and b/a Gary Baldwin Trucking, it is the ORDER of this Court as follows:<br>1. Decision on the Motion for Summary judgment will be deferred until such time as Plaintiff has an opportunity to complete the discovery<br>2. Discovery by all parties shall be completed by no later than May 1, 2005, unless the Court Should issue an order to extend the deadline<br>3. All Defendants shall file any further motions for summary judgment be no later than May 10, 2005<br>4. The Court Administrator shall schedule reargument during the month of of May on Defendant Baldwin's preexisting motion for Summary Judgment and on any other motions for summary judgment that would be timely filed by May 10, 2005, following which the Court will issue decision on any outstanding said motions<br>5. In the event that the Plaintiff wishes to contest the motions for summary judgment previously filed by Defendant Baldwin, Plaintiff shall file an answer thereto by no later than May 10, 2005. By The Court: /s/ Fredric J. Ammerman, President Judge. 3 CC atty Ramaley | Fredric Joseph Ammerman |
| 01/14/2005 | 33 Order, AND NOW, this 13th day of Jan., 2005, it is the ORDER of the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the above-captioned matter is hereby scheduled for Monday, May 23, 2005 at 11:00 a.m. in Courtroom No. 1, Clfd Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC: Attys Noble, Bell, Ramaley, Leight, and Wilk   | Fredric Joseph Ammerman |
| 03/24/2005 | 34 Defendant Senex Explosives, Inc.'s Motion For Summary Judgment, filed by s/David F. Wilk, Esquire. 2CC Atty   | Fredric Joseph Ammerman |

Date: 10/10/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 09:09 AM

ROA Report

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Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |  | Judge                   |
|------------|--|-------------------------|
| 03/30/2005 | 1 Rule To Show Cause, AND NOW, this 28th day of March, 2005, upon consideration of Motion for Summary Judgment of Defendant Senex Explosives, Inc., Rule Returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Judge. 2CC Atty Wilk  | Fredric Joseph Ammerman |
| 05/05/2005 | 35 Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC, Original filed to 02-962-CD \  | Fredric Joseph Ammerman |
| 05/09/2005 | 36 Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting, a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell Original filed to 02-962-cd   | Fredric Joseph Ammerman |
| 05/11/2005 | 37 Deposition of Cprl. Thomas E. Josephson, PSP. Original to 02-962-CD sic   | Fredric Joseph Ammerman |
|            | 38 Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC  | Fredric Joseph Ammerman |
|            | 39 Order, NOW, this 10th day of May, 2005, the Plaintiff having no objections to the Motion for Summary Judgment filed by Defendant Senex Explosives, Inc.; it is the ORDER of this Court that said Motion be and is hereby GRANTED and that Summary Judgment is entered in favor of Senex Explosives, Inc. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, J. Ramaley, R. Leight, D. Wilk   | Fredric Joseph Ammerman |
| 05/17/2005 | 40 Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC   | Fredric Joseph Ammerman |
| 05/19/2005 | 41 Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1, Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty. Bell w/memo Re: service   | Fredric Joseph Ammerman |
|            | 42 Certificate of Service, Copy of Order dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC  | Fredric Joseph Ammerman |
| 05/20/2005 | 43a Order Of Court, AND NOW, this 17th day of May, 2005, it is hereby ORDERED that Summary Judgment is entered in favor of the Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties to this civil action. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 5CC Atty. Ramaley   | Fredric Joseph Ammerman |
|            | 43b Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of the Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, P.J.   | Fredric Joseph Ammerman |
| 08/24/2005 | 44 Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. | Fredric Joseph Ammerman |
| 09/16/2005 | 45 Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908397 Dated: 09/16/2005 Amount: \$45.00 (Check)   | Fredric Joseph Ammerman |

Inside 11/17/04 Motion for Summ Judg.

Date: 10/10/2005

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 09:09 AM

ROA Report

Page 4 of 4

Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |  | Judge                   |
|------------|--|-------------------------|
| 09/16/2005 | Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck   | Fredric Joseph Ammerman |
| 09/20/2005 | Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell | Fredric Joseph Ammerman |
| 09/21/2005 | Appeal Docket Sheet, filed. No CC 1017 WDA 2005  | Fredric Joseph Ammerman |
| 09/28/2005 | Concise Statement of Matters Complained of on Appeal, filed by s/ Theron G. Noble, Esquire. No CC  | Fredric Joseph Ammerman |

7002 2030 0004 5014 7920

|  |         |
|--|---------|
| <b>U.S. Postal Service™</b>  |         |
| <b>CERTIFIED MAIL™ RECEIPT</b>   |         |
| <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>                                  |         |
| For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a> |         |
| <b>OFFICIAL USE</b>  |         |
| Postage  | \$ 7.35 |
| Certified Fee  | \$2.30  |
| Return Receipt Fee<br>(Endorsement Required)   | \$1.75  |
| Restricted Delivery Fee<br>(Endorsement Required)  | \$0.00  |
| Total Postage & Fees   | \$11.40 |
| 0830 07 Postmark Here  |         |
| 10/27/2005   |         |
| Sent To <i>02-962-CD, 03-1240-CD, 05-471-CD</i>  |         |
| <i>Superior Court of PA Prothonotary</i>   |         |
| Street, Apt. No., or PO Box No. <i>310 Grant St.</i>   |         |
| City, State, ZIP+4 <i>Pittsburgh, PA 15219</i>   |         |
| PS Form 3800, June 2002 See Reverse for Instructions   |         |

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

**FILED**  
*01349Bd*  
OCT 27 2005 *OK*

William A. Shaw  
Prothonotary/Clerk of Courts

| SENDER: COMPLETE THIS SECTION  |  | COMPLETE THIS SECTION ON DELIVERY   |                              |
|--|--|---|------------------------------|
| <ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul> |  | A. Signature<br>X <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee  |                              |
| 1. Article Addressed to:<br><br>Superior Court of PA<br>Office of the Prothonotary<br>310 Grant St.<br>Pittsburgh, PA 15219  |  | B. Received by (Printed Name)   | C. Date of Delivery<br>10-28 |
|  |  | D. Is delivery address different from item 1? <input type="checkbox"/> Yes<br>If YES, enter delivery address below: <input type="checkbox"/> No   |                              |
|  |  | 3. Service Type<br><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail<br><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise<br><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. |                              |
| 2. Article Number<br>(Transfer from service label)   |  | 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes  |                              |
| 7002 2030 0004 5014 7920   |  |   |                              |

02-962-CD

03-1240-CD

05-471-CD

FILED

10/10:52AM

OCT 31 2004

William A. Shaw  
Prothonotary/Clerk of Courts

1:05 PM

**Appeal Docket Sheet**

**Docket Number:** 1617 WDA 2005

**Superior Court of Pennsylvania**

**Page 1 of 4**

**September 19, 2005**



03-1240-CD

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

Gary Baldwin, t/d/b/a Gary Baldwin Trucking; Albert Green Trucking, Inc., a Pennsylvania Corporation; and Senex Explosives, Inc., a Pennsylvania Corporation

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: September 19, 2005

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Trespass

Consolidated Docket Nos.:

Related Docket Nos.:

1618 WDA 2005 Same Issue(s)

**SCHEDULED EVENT**

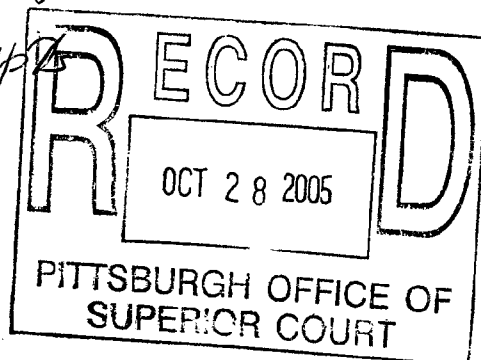
Next Event Type: Receive Docketing Statement

Next Event Due Date: October 3, 2005

Next Event Type: Original Record Received

Next Event Due Date: October 31, 2005

*Record 2 parts  
2 Transcripts*



*1617, 1618 WDA 2005*

**FILED** *no cc*  
*m/1:23/*  
**SEP 21 2005** *(W)*  
William A. S. Jr.  
Prothonotary/Clerk of Courts

*#47*

## Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1617 WDA 2005

Page 2 of 4

September 19, 2005



## COUNSEL INFORMATION

**Appellant** Slifko Jr., Martin R.  
**Pro Se:** Appoint Counsel Status:  
**IFP Status:** No

**Appellant Attorney Information:**

**Attorney:** Noble, Theron G.  
**Bar No.:** 55942 **Law Firm:** Ferraraccio & Noble  
**Address:** 301 E Pine Street  
Clearfield, PA 16830  
**Phone No.:** (814)765-4990 **Fax No.:** (814)765-9377  
**Receive Mail:** Yes  
**E-Mail Address:**  
**Receive E-Mail:** No

**Appellee** Senex Explosives, Inc.  
**Pro Se:** Appoint Counsel Status:  
**IFP Status:**

**Appellee Attorney Information:**

**Attorney:** Bell, Richard A.  
**Bar No.:** 6808 **Law Firm:** Bell, Silberblatt & Wood  
**Address:** 318 E Locust St Box 670  
Clearfield, PA 16830  
**Phone No.:** (814)765-5537 **Fax No.:** (814)765-9730  
**Receive Mail:** Yes  
**E-Mail Address:** rbell@pennswoods.net  
**Receive E-Mail:** No

**Appellee** Baldwin, Gary  
**Pro Se:** Appoint Counsel Status:  
**IFP Status:**

**Appellee Attorney Information:**

**Attorney:** Bell, Richard A.  
**Bar No.:** 6808 **Law Firm:** Bell, Silberblatt & Wood  
**Address:** 318 E Locust St Box 670  
Clearfield, PA 16830  
**Phone No.:** (814)765-5537 **Fax No.:** (814)765-9730  
**Receive Mail:** No  
**E-Mail Address:** rbell@pennswoods.net  
**Receive E-Mail:** No

**Appellee** Gary Baldwin Trucking  
**Pro Se:** Appoint Counsel Status:  
**IFP Status:**

**Appellee Attorney Information:**



## Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1617 WDA 2005

Page 3 of 4

September 19, 2005



Attorney: Bell, Richard A.  
 Bar No.: 6808 Law Firm: Bell, Silberblatt & Wood  
 Address: 318 E Locust St Box 670  
 Clearfield, PA 16830  
 Phone No.: (814)765-5537 Fax No.: (814)765-9730  
 Receive Mail: No  
 E-Mail Address: rbell@pennswoods.net  
 Receive E-Mail: No

**Appellee** Albert Green Trucking, Inc.  
 Pro Se: Appoint Counsel Status:  
 IFP Status:

**Appellee Attorney Information:**

Attorney: Bell, Richard A.  
 Bar No.: 6808 Law Firm: Bell, Silberblatt & Wood  
 Address: 318 E Locust St Box 670  
 Clearfield, PA 16830  
 Phone No.: (814)765-5537 Fax No.: (814)765-9730  
 Receive Mail: No  
 E-Mail Address: rbell@pennswoods.net  
 Receive E-Mail: No

**FEE INFORMATION**

| Fee Date | Fee Name         | Fee Amt | Paid Amount | Receipt Number  |
|----------|------------------|---------|-------------|-----------------|
| 9/19/05  | Notice of Appeal | 60.00   | 60.00       | 2005SPRWD001137 |

**TRIAL COURT/AGENCY INFORMATION**

Court Below: Clearfield County Court of Common Pleas  
 County: Clearfield Division: Civil  
 Date of Order Appealed From: August 23, 2005 Judicial District: 46  
 Date Documents Received: September 19, 2005 Date Notice of Appeal Filed: September 16, 2005  
 Order Type: Order OTN:  
 Judge: Ammerman, Fredric J. Lower Court Docket No.: No. 03-1240-CD  
 President Judge

**ORIGINAL RECORD CONTENTS**

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

Date of Remand of Record:

**BRIEFS**

4:05 P.M.

**Appeal Docket Sheet**

**Docket Number: 1617 WDA 2005**

**Page 4 of 4**

**September 19, 2005**

**Superior Court of Pennsylvania**



**DOCKET ENTRIES**

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

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

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

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

**03-1240-CD**

**Martin R. Slifko, Jr.**

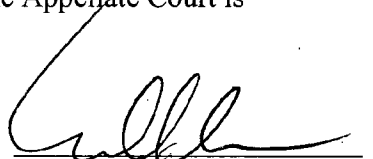
**VS.**

**Gary Baldwin, t/d/b/a Gary Baldwin Trucking; Albert Green Trucking, Inc.;  
and Senex Explosives, Inc.**

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

The documents comprising the record have been numbered from **No. 1 to No. 48**, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages comprising the document.

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

  
Prothonotary/Clerk of Courts

(seal)

Date: 10/27/2005

Time: 10:07 AM

Page 1 of 4

Cliff County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |   | Judge    |
|------------|---|----------|
| 08/21/2003 | Filing: Civil Complaint Paid by: Terry Noble Receipt number: 1865020<br>Dated: 08/21/2003 Amount: \$85.00 (Check) 5 CC to Atty. Noble   | No Judge |
| 09/02/2003 | Praecipe To Enter Appearance on Behalf of Defendant, ALBERT D.<br>GREEN TRUCKING, INC. filed by s/Dwight L. Koerber, Jr., Esq. no cc  | No Judge |
| 09/11/2003 | Praecipe For Appearance On Behalf Of Defendant, GARY BALDWIN,<br>t/d/b/a GARY BALDWIN TRUCKING. filed by s/Jeffrey A. Ramaley, Esq.<br>Certificate of Service no cc   | No Judge |
| 09/15/2003 | Praecipe For Appearance On Behalf Of Defendant, ALBERT GREEN<br>TRUCKING. filed by s/Paul J. Walsh, III, Esquire Cert. of Svc. no cc  | No Judge |
|            | Entry of Appearance On Behalf Of Defendant, SENEX EXPLOSIVES, INC.<br>filed by s/Sharon M. O'Donnell, Esq. Certificate of Service no cc   | No Judge |
| 09/18/2003 | Praecipe For Entry Of Appearance On Behalf of Defendant, Albert Green<br>Trucking, Inc. filed by s/Robert R. Leight, Esquire Certificate of Service<br>no cc  | No Judge |
|            | Plaintiff's Notice of Service along with his first set of Discovery Requests<br>upon Atty Ramaley, Walsh, III, and O'Donnell. filed by s/Theron G. Noble,<br>Esquire no cc  | No Judge |
| 09/23/2003 | Praecipe To Withdraw On Behalf Of Defendant, Albert Green Trucking, Inc.<br>filed by s/Dwight L. Koerber, Jr., Esquire Certificate of Service 7 cc Atty<br>Koerber  | No Judge |
| 09/24/2003 | Sheriff Return, Papers served on Defendant(s). So Answers, Chester A.<br>Hawkins, Sheriff by s/Marilyn Hamm   | No Judge |
|            | Notice of Service of Interrogatories and Requests for Production of<br>Documents directed to Defendant, Senex Explosives, Inc., filed by s/Paul J.<br>Walsh, III No CC  | No Judge |
|            | Notice of Service of Interrogatories and Request for Production of<br>Documents Directed to Defendant, Gary Baldwin t/d/b/a Gary Baldwin<br>Trucking, filed by s/Paul J. Walsh, III, Esq. No CC   | No Judge |
|            | Notice of Service of Interrogatories and Request for Production of<br>Documents Directed to Plaintiff, filed by s/Paul J. Walsh, III, Esq. No CC  | No Judge |
| 09/30/2003 | Answer, New Matter, and New Matter Under Rule 2252(D). filed by<br>s/Jeffrey A. Ramaley, Esquire Verification s/Gary Baldwin t/d/b/a Gary<br>Baldwin Trucking Certificate of Service 1 cc Atty Ramaley  | No Judge |
| 10/06/2003 | Reply to New Matter of Defendant Baldwin filed by Atty. Noble. No cc.   | No Judge |
| 10/10/2003 | Answer With New Matter On Behalf Of Defendant, SENEX Explosives, Inc.,<br>A Pennsylvania Corporation To Plaintiff's Complaint. filed by s/Sharon M.<br>O'Donnell, Esquire Verification s/Fred Cardillo Certificate of Service<br>2 cc to Atty | No Judge |
| 10/17/2003 | Reply to New Matter (as to Defendant Senex Explosives, Inc.) filed by<br>s/Theron G. Noble, Esquire Plaintiff's Notice of Service no cc   | No Judge |
| 10/24/2003 | Reply to New Matter Under Rule 2252(d) of Defendant, Gary Baldwin,<br>t/d/b/a Gary Baldwin Trucking, filed by s/Paul J. Walsh III, Esq. One CC<br>Attorney Walsh  | No Judge |
|            | Answer, New Matter and New Matter Pursuant to Rule 2252(d), filed by<br>s/Paul J. Walsh III, Esq. One CC Attorney Walsh   | No Judge |
| 10/31/2003 | Reply to New Matter filed by Atty. Ramaley No cc.   | No Judge |
| 11/10/2003 | Praecipe For Withdrawal Of Appearance of PAUL J. WALSH, ESQ. on<br>behalf of the Defendant, ALBERT GREEN TRUCKING, INC. filed by<br>s/Paul J. Walsh, III, Esquire Certificate of Service no cc Copy to C/A                                    | No Judge |
| 11/12/2003 | Plaintiff's Reply To New Matter Of Defendant Green. filed by, s/Theron G.<br>Noble, Esquire Plaintiff's Notice of Service no cc   | No Judge |

Date: 10/27/2005

Time: 10:07 AM

Page 2 of 4

Cherryfield County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |  | Judge                   |
|------------|--|-------------------------|
| 11/26/2003 | Substitution Of Counsel, SHARON O'DONNELL, ESQ. on behalf of Defendant, SENEX ESPLOSIVES, INC. filed by, s/David F. Wilk, Esquire 1 cc to Atty Wilk  | No Judge                |
| 12/02/2003 | Notice of Serving Discovery filed by Atty. Wilk No CC.   | No Judge                |
| 01/26/2004 | Motion To Consolidate. filed by, s/Signature Illegible Cert of Svc no cc   | No Judge                |
| 01/28/2004 | Scheduling ORDER: AND NOW, this 28th day of Jan. 2004, it is hereby Ordered that oral argument on the Motion to Consolidate filed by Defendant, shall be heard on Feb. 23, 2004. S/FJA 1 CC to Atty. Ramaley   | Fredric Joseph Ammerman |
| 02/23/2004 | ORDER, AND NOW, this 23rd day of February, 2004, IT IS HEREBY ORDERED that the two civil actions listed above are hereby consolidated for the purpose of discovery and trial at Docket No. 03-1240-CD. by the Court, s/FJA, P.J. 1 cc Attys: Noble, Butcher, Leight, Wilk and R. Bell  | Fredric Joseph Ammerman |
| 11/17/2004 | Motion for Summary Judgment, filed by s/Jeffrey A. Ramaley, Esq. No CC   | Fredric Joseph Ammerman |
|            | Praeipce for Argument, filed by s/Jeffrey A. Ramaley, Esq. No CC   | Fredric Joseph Ammerman |
|            | ORDER, filed 5 Cert. w/memo to Atty Ramaley. NOW, this 17th day of November, 2004, ORDERED that argument on Atty. Ramaley's Motion for Summary Judgment has been scheduled for the 21st day of December.   | Fredric Joseph Ammerman |
| 12/16/2004 | Order, AND NOW, this 16th day of December, 2004, it is the ORDER of the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the above-captioned matter is hereby rescheduled from December 21, 2004 to Wednesday, Jan. 12, 2005 at 10:30 a.m. in Courtroom No. 1, Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1 CC Attys: Noble, R. Bell, Ramaley, Leight, and Wilk   | Fredric Joseph Ammerman |
| 01/05/2005 | Motion for Continuance, filed by s/Theron G. Noble, Esq. No CC   | Fredric Joseph Ammerman |
| 01/06/2005 | Praeipce To Withdraw Motion For Continuance, filed by s/ Theron G. Noble. No CC  | Fredric Joseph Ammerman |
| 01/13/2005 | Order, NOW, this 12th day of January, 2005, following argument on the Motion for Summary Judgment filed on behalf of Defendant Gary Baldwin, t/d/b/a Gary Baldwin Trucking, it is the ORDER of this Court as follows:<br>1. Decision on the Motion for Summary judgment will be deferred until such time as Plaintiff has an opportunity to complete the discovery<br>2. Discovery by all parties shall be completed by no later than May 1, 2005, unless the Court Should issue an order to extend the deadline<br>3. All Defendants shall file any further motions for summary judgment be no later than May 10, 2005<br>4. The Court Administrator shall schedule reargument during the month of of May on Defendant Baldwin's preexisting motion for Summary Judgment and on any other motions for summary judgment that would be timely filed by May 10, 2005, following which the Court will issue decision on any outstanding said motions<br>5. In the event that the Plaintiff wishes to contest the motions for summary judgment previously filed by Defendant Baldwin, Plaintiff shall file an answer thereto by no later than May 10, 2005. By The Court: /s/ Fredric J. Ammerman, President Judge. 3 CC atty Ramaly | Fredric Joseph Ammerman |
| 01/14/2005 | Order, AND NOW, this 13th day of Jan., 2005, it is the ORDER of the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the above-captioned matter is hereby scheduled for Monday, May 23, 2005 at 11:00 a.m. in Courtroom No. 1, Clfd Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1CC: Attys Noble, Bell, Ramaley, Leight, and Wilk  | Fredric Joseph Ammerman |
| 03/24/2005 | Defendant Senex Explosives, Inc.'s Motion For Summary Judgment, filed by s/David F. Wilk, Esquire. 2CC Atty  | Fredric Joseph Ammerman |

Date: 10/27/2005

Time: 10:07 AM

Page 3 of 4

Clifford County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

Civil Other

| Date       |   | Judge                   |
|------------|---|-------------------------|
| 03/30/2005 | Rule To Show Cause, AND NOW, this 28th day of March, 2005, upon consideration of Motion for Summary Judgment of Defendant Senex Explosives, Inc., Rule Returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. BY THE COURT: /s/ Fredric J. Ammerman, Judge. 2CC Atty Wilk   | Fredric Joseph Ammerman |
| 05/05/2005 | Defendant Junior Coal Contracting, Inc.'s Motion For Summary Judgment, filed by s/Richard A. Bell, Esquire. No CC, Original filed to 02-962-CD  | Fredric Joseph Ammerman |
| 05/09/2005 | Rule To Show Cause, AND NOW, this 6th day of May, 2005 upon consideration of the Motion for Summary Judgment filed by the Defendant Junior Coal Contracting, a Rule is issued upon plaintiff. Rule shall be returnable the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1. 1CC Atty. Bell<br>Original filed to 02-962-cd  | Fredric Joseph Ammerman |
| 05/11/2005 | Deposition of Cprl. Thomas E. Josephson, PSP. Original to 02-962-CD   | Fredric Joseph Ammerman |
|            | Answer To Defendant Junior Coal Contracting's Inc., Motion for Summary Judgment, filed by s/ Theron G. Noble, Esquire. No CC  | Fredric Joseph Ammerman |
|            | Order, NOW, this 10th day of May, 2005, the Plaintiff having no objections to the Motion for Summary Judgment filed by Defendant Senex Explosives, Inc.; it is the ORDER of this Court that said Motion be and is hereby GRANTED and that Summary Judgment is entered in favor of Senex Explosives, Inc. BY THE COURT, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, J. Ramaley, R. Leight, D. Wilk   | Fredric Joseph Ammerman |
| 05/17/2005 | Defendant Junior Coal Contracting, Inc.'s Preliminary Objections--Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment, filed by s/Richard A. Bell, Esq. No CC   | Fredric Joseph Ammerman |
| 05/19/2005 | Order, AND NOW, this 19th day of May, 2005, it is the ORDER of the Court that argument on Attorney Bell's Preliminary Objections filed in the above matter has been scheduled for the 23rd day of May, 2005 at 11:00 a.m. in Courtroom No. 1, Clfd. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 4CC Atty. Bell w/memo Re: service   | Fredric Joseph Ammerman |
|            | Certificate of Service, Copy of Order dated May 19, 2005 with regard to our Preliminary Objections in the above matter served upon Theron G. Noble, Esq., David F. Wilk, Esq., Jeffrey A. Ramaley, Esq., Robert R. Leight, Esq. Filed By Richard A. Bell, Esq. No CC  | Fredric Joseph Ammerman |
| 05/20/2005 | Order Of Court, AND NOW, this 17th day of May, 2005, it is hereby ORDERED that Summary Judgment is entered in favor of the Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties to this civil action. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 5CC Atty. Ramaley  | Fredric Joseph Ammerman |
|            | Order, AND NOW, this 10th day of May, 2005, Ordered that Summary Judgment is entered in favor of the Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, and against all other parties to this civil action. BY THE COURT: /s/Fredric J. Ammerman, P.J.  | Fredric Joseph Ammerman |
| 08/24/2005 | Opinion and Order. (see original for opinion). Order: NOW, this 23rd day of August, 2005, following review of the record, oral argument, and submission of briefs, it is the Order of this Court as follows: The Motion for Summary Judgment filed on behalf of Defendant, Junior Coal Contracting, Inc., is hereby Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: T. Noble, J. Ramaley, R. Leight, D. Wilk, R. Bell, and D. Mikesell. | Fredric Joseph Ammerman |
| 09/16/2005 | Filing: Appeal to High Court Paid by: Noble, Theron G. (attorney for Slifko, Martin R. Jr.) Receipt number: 1908397 Dated: 09/16/2005 Amount: \$45.00 (Check)   | Fredric Joseph Ammerman |

Date: 10/27/2005

Time: 10:07 AM

Page 4 of 4

Clerk of field County Court of Common Pleas

ROA Report

User: BHUDSON

Case: 2003-01240-CD

Current Judge: Fredric Joseph Ammerman

Martin R. Slifko Jr. vs. Gary L. Baldwin, Gary Baldwin Trucking, Albert Green Trucking, Inc., Senex Explosives, Inc.

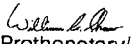
Civil Other

| Date       | Judge  |
|------------|--|
| 09/16/2005 | Notice of Appeal, filed by s/ Theron G. Noble, Esquire. 1CC Sup. Crt. w/ck Fredric Joseph Ammerman   |
| 09/20/2005 | Order, NOW, this 20th day of Sept., 2005, the court having been notified of Appeal to the Superior Court of Pennsylvania, it is the Order of this Court that Martin R. Slifko, Jr., Appellant, file a concise statement of the matters complained of on said Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Attys: Noble, Ramaley, Leight, Wilk, R. Bell Fredric Joseph Ammerman |
| 09/21/2005 | Appeal Docket Sheet, filed. Superior Court Number 1617 WDA 2005. No CC Fredric Joseph Ammerman   |
| 09/28/2005 | Concise Statement of Matters Complained of on Appeal, filed by s/ Theron G. Noble, Esquire. No CC Fredric Joseph Ammerman  |

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

OCT 27 2005

Attest.

  
Prothonotary/  
Clerk of Courts

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

**No. 03-1240-CD**

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

**VS.**

**Gary Baldwin, t/d/b/a Gary Baldwin Trucking; Albert Green Trucking, Inc., a Pennsylvania Corporation; and  
Senex Explosives, Inc., a Pennsylvania Corporation**

| <b>ITEM<br/>NO.</b> | <b>DATE OF<br/>FILING</b> | <b>NAME OF<br/>DOCUMENT</b>  | <b>NO. OF<br/>PAGES</b> |
|---------------------|---------------------------|--|-------------------------|
| 01                  | 08/21/03                  | Civil Complaint  | 08                      |
| 02                  | 09/02/03                  | Praecipe to Enter Appearance on behalf of Defendant, Albert D. Green Trucking, Inc. by D. Koerber                                | 03                      |
| 03                  | 09/11/03                  | Praecipe for Appearance on behalf of Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking by J. Ramaley                        | 03                      |
| 04                  | 09/15/03                  | Praecipe for Appearance on behalf of Defendant, Albert Green Trucking by P. Walsh  | 03                      |
| 05                  | 09/15/03                  | Entry of Appearance on behalf of Defendant, Senex Explosives, Inc. by S. O'Donnell   | 02                      |
| 06                  | 09/18/03                  | Praecipe for Entry of Appearance on behalf of Defendant, Albert Green Trucking, Inc. by R. Leight                                | 02                      |
| 07                  | 09/18/03                  | Plaintiff's Notice of Service along with first set of Discovery Requests   | 01                      |
| 08                  | 09/23/03                  | Praecipe to Withdraw on behalf of Defendant, Albert Green Trucking, Inc. by D. Koerber   | 03                      |
| 09                  | 09/24/03                  | Sheriff Return, papers on Defendants   | 04                      |
| 10                  | 09/24/03                  | Notice of Service of Interrogatories and Requests for Production of Documents, directed to Senex Explosives, Inc.                | 03                      |
| 11                  | 09/24/03                  | Notice of Service of Interrogatories and Request for Production of Documents Directed Gary Baldwin t/d/b/a Gary Baldwin Trucking | 03                      |
| 12                  | 09/24/03                  | Notice of Service of Interrogatories and Request for Production of Documents Directed to Plaintiff                               | 03                      |
| 13                  | 09/30/03                  | Answer, New Matter, and New Matter under Rule 2252(d)  | 06                      |
| 14                  | 10/06/03                  | Reply to New Matter of Defendant Baldwin   | 03                      |
| 15                  | 10/10/03                  | Answer with New Matter on behalf of Defendant, Senex Explosives, Inc., to Plaintiff's Complaint                                  | 09                      |
| 16                  | 10/17/03                  | Reply to New Matter (as to Defendant Senex Explosives, Inc.)   | 03                      |
| 17                  | 10/24/03                  | Reply to New Matter Under Rule 2252(d) of Defendant Baldwin  | 05                      |
| 18                  | 10/24/03                  | Answer, New Matter and New Matter Pursuant to Rule 2252(d)   | 10                      |
| 19                  | 10/31/03                  | Reply to New Matter  | 05                      |
| 20                  | 11/10/03                  | Praecipe for Withdrawal of Appearance, Re: Albert Green Trucking, Inc., by P. Walsh  | 03                      |
| 21                  | 11/12/03                  | Plaintiff's Reply to New Matter of Defendant Green   | 03                      |
| 22                  | 11/26/03                  | Substitution of Counsel, Re: Senex Explosives, Inc., by D. Wilk  | 01                      |
| 23                  | 12/02/03                  | Notice of Serving Discovery  | 01                      |
| 24                  | 01/26/04                  | Motion to Consolidate with scheduling Order filed 01/28/04   | 06                      |
| 25                  | 02/23/04                  | Order, Re: civil actions are hereby consolidated for the purpose of discovery and trial at Docket No. 03-1240-CD                 | 01                      |
| 26                  | 11/17/04                  | Motion for Summary Judgment  | 10                      |
| 27                  | 11/17/04                  | Praecipe for Argument  | 03                      |
| 28                  | 11/17/04                  | Order, Re: argument scheduled on Attorney Ramaley's Motion for Summary Judgment  | 02                      |
| 29                  | 12/16/04                  | Order, Re: argument on Attorney Ramaley's Motion for Summary Judgment has been rescheduled                                       | 01                      |
| 30                  | 01/05/05                  | Motion for Continuance   | 04                      |
| 31                  | 01/06/05                  | Praecipe to Withdraw Motion for Continuance  | 03                      |
| 32                  | 01/13/05                  | Order, Re: Motion for Summary Judgment filed on behalf of Defendant Baldwin  | 02                      |
| 33                  | 01/14/05                  | Order, Re: argument on Attorney Ramaley's Motion for Summary Judgment is scheduled   | 01                      |
| 34                  | 03/24/05                  | Defendant Senex Explosives, Inc.'s Motion for Summary Judgment with Rule to Show Cause filed March 30, 2005                      | 07                      |



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

**No. 03-1240-CD**

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

**VS.**

**Gary Baldwin, t/d/b/a Gary Baldwin Trucking; Albert Green Trucking, Inc., a Pennsylvania Corporation; and  
Senex Explosives, Inc., a Pennsylvania Corporation**

| <b>ITEM<br/>NO.</b> | <b>DATE OF<br/>FILING</b> | <b>NAME OF<br/>DOCUMENT</b>   | <b>NO. OF<br/>PAGES</b> |
|---------------------|---------------------------|---|-------------------------|
| 35                  | 05/05/05                  | Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment   | 01                      |
| 36                  | 05/09/05                  | Rule to Show Cause, Re: Junior Coal Contracting, Inc.'s Motion for Summary Judgment scheduled, rule issued upon Plaintiff   | 02                      |
| 37                  | 05/11/05                  | Deposition of Crpl. Thomas E. Josephson, PSP  | Separate<br>Cover       |
| 38                  | 05/11/05                  | Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment   | 15                      |
| 39                  | 05/11/05                  | Order, Re: Motion for Summary Judgment granted, Summary judgment entered in favor of Senex Explosives, Inc.   | 01                      |
| 40                  | 05/17/05                  | Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment   | 05                      |
| 41                  | 05/19/05                  | Order, Re: argument on Attorney Bell's Preliminary Objections scheduled   | 02                      |
| 42                  | 05/19/05                  | Certificate of Service, Re: Order regarding Preliminary Objections  | 01                      |
| 43a                 | 05/20/05                  | Order, Re: Ordered that Summary Judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties   | 03                      |
| 43b                 | 05/20/05                  | Order, Re: Ordered that Summary Judgment entered in favor of Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking and against all other parties (Inside Motion for Summary Judgment filed November 17, 2004)        | 01                      |
| 44                  | 08/24/05                  | Opinion and Order, Re: Motion for Summary Judgment filed on behalf of Junior Coal Contracting, Inc., is Granted and Summary Judgment is entered in favor of Junior Coal Contracting, Inc. and against the Plaintiff | 09                      |
| 45                  | 09/16/05                  | Appeal to High Court  | 05                      |
| 46                  | 09/20/05                  | Order, Re: concise statement  | 02                      |
| 47                  | 09/21/05                  | Appeal Docket Sheet, 1617 WDA 2005  | 04                      |
| 48                  | 09/28/05                  | Concise Statement of Matters Complained of on Appeal  | 06                      |

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

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

**Martin R. Slifko, Jr.**

VS.

**Gary Baldwin, t/d/b/a Gary Baldwin Trucking; Albert Green Trucking, Inc.;  
and Senex Explosives, Inc.**

**03-1240-CD**

So full and entire as the same remains of record before the said Court, at No. **03-1240-CD**

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

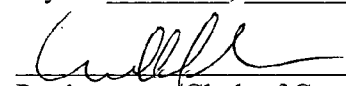
  
Prothonotary/Clerk of Courts

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

  
President Judge

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

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

  
Prothonotary/Clerk of Courts

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

Type of Pleading:

CONCISE STATEMENT  
OF MATTERS COMPLAINED  
OF ON APPEAL

Filed By:

Plaintiff

Counsel of Record:

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

FILED No CC  
m/11:388  
SEP 28 2005 (6R)

William A. Shaw  
Prothonotary/Clerk of Courts

#48

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

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

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

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

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

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

1. That the trial Court erred, as a matter of law, in its determination that Defendant did not owe a duty to Mr. Slifko when in fact such a duty was established by the issuance of the Pennsylvania Department of Transportation Highway Occupancy Permit which permitted the defendant to cut open and use a private driveway connecting to the adjacent State Road only upon certain terms and conditions;

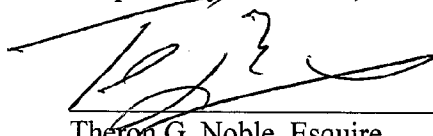
2. That the trial Court erred, as a matter of law, by failing to give to Mr. Slifko inferences he was entitled to from the facts of record, namely that the fluid (oil type, possibly hydraulic fluid) on the State Road originated from defendant's business operations given the testimony of witnesses placing the lead of the fluid at the entranceway to defendant's business and was the type of fluid one would expect to be in vehicles using defendant's private drive;

3. That the trial Court erred, as a matter of law, by failing to give Mr. Slifko inferences he was entitled to from the facts of record, namely that defendant failed to detect the fluid on the State Road;

4. That the trial Court erred, as a matter of law, in granting defendant's motion for summary judgment in that Mr. Slifko stated a cause of action and produced evidence in support of that cause of action by showing that defendant owed the general public a duty (as per the Highway Occupancy Permit), breached that duty (by failing to keep and or observe debris (namely the oil type fluid) from the State Road and that said breach of said duty was a legal cause of the injuries sustained by Mr. Slifko as per Mr. Slifko's CIVIL COMPLAINT identified at averments 22(b)(c) and (d);

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

Respectfully Submitted,



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

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

---

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

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

PLAINTIFF,

v.

JUNIOR COAL CONTRACTING, INC., a  
Pennsylvania Corporation,

DEFENDANT.

No. 02- 962 -CD

**PLAINTIFF'S CERTIFICATE OF SERVICE**

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

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

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

Respectfully Submitted,

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

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



**Appeal Docket Sheet**

**Superior Court of Pennsylvania**

**Docket Number: 1617 WDA 2005**

**Page 1 of 4**

**September 19, 2005**

03-1240-CD



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

Gary Baldwin, t/d/b/a Gary Baldwin Trucking; Albert Green Trucking, Inc., a Pennsylvania Corporation; and Senex Explosives, Inc., a Pennsylvania Corporation

Initiating Document: Notice of Appeal

Case Status: Active

Case Processing Status: September 19, 2005

Awaiting Original Record

Journal Number:

Case Category: Civil

CaseType: Trespass

Consolidated Docket Nos.:

Related Docket Nos.:

1618 WDA 2005 Same Issue(s)

**SCHEDULED EVENT**

Next Event Type: Receive Docketing Statement

Next Event Due Date: October 3, 2005

Next Event Type: Original Record Received

Next Event Due Date: October 31, 2005

**COPY**  
**FILED**  
m/12341  
SEP 21 2005  
Prothonotary/Clerk of Court.

## Appeal Docket Sheet

Docket Number: 1617 WDA 2005

Page 2 of 4

September 19, 2005

Superior Court of Pennsylvania



## COUNSEL INFORMATION

**Appellant** Slifko Jr., Martin R.  
**Pro Se:** Appoint Counsel Status:  
**IFP Status:** No

**Appellant Attorney Information:**

**Attorney:** Noble, Theron G.  
**Bar No.:** 55942 **Law Firm:** Ferraraccio & Noble  
**Address:** 301 E Pine Street  
Clearfield, PA 16830  
**Phone No.:** (814)765-4990 **Fax No.:** (814)765-9377  
**Receive Mail:** Yes  
**E-Mail Address:**  
**Receive E-Mail:** No

**Appellee** Senex Explosives, Inc.  
**Pro Se:** Appoint Counsel Status:  
**IFP Status:**

**Appellee Attorney Information:**

**Attorney:** Bell, Richard A.  
**Bar No.:** 6808 **Law Firm:** Bell, Silberblatt & Wood  
**Address:** 318 E Locust St Box 670  
Clearfield, PA 16830  
**Phone No.:** (814)765-5537 **Fax No.:** (814)765-9730  
**Receive Mail:** Yes  
**E-Mail Address:** rbell@pennswoods.net  
**Receive E-Mail:** No

**Appellee** Baldwin, Gary  
**Pro Se:** Appoint Counsel Status:  
**IFP Status:**

**Appellee Attorney Information:**

**Attorney:** Bell, Richard A.  
**Bar No.:** 6808 **Law Firm:** Bell, Silberblatt & Wood  
**Address:** 318 E Locust St Box 670  
Clearfield, PA 16830  
**Phone No.:** (814)765-5537 **Fax No.:** (814)765-9730  
**Receive Mail:** No  
**E-Mail Address:** rbell@pennswoods.net  
**Receive E-Mail:** No

**Appellee** Gary Baldwin Trucking  
**Pro Se:** Appoint Counsel Status:  
**IFP Status:**

**Appellee Attorney Information:**

# Appeal Docket Sheet

Docket Number: 1617 WDA 2005

Page 3 of 4

September 19, 2005

Superior Court of Pennsylvania



Attorney: Bell, Richard A.  
 Bar No.: 6808 Law Firm: Bell, Silberblatt & Wood  
 Address: 318 E Locust St Box 670  
 Clearfield, PA 16830  
 Phone No.: (814)765-5537 Fax No.: (814)765-9730  
 Receive Mail: No  
 E-Mail Address: rbell@pennswoods.net  
 Receive E-Mail: No

Appellee Albert Green Trucking, Inc.  
 Pro Se: Appoint Counsel Status:  
 IFP Status:

## Appellee Attorney Information:

Attorney: Bell, Richard A.  
 Bar No.: 6808 Law Firm: Bell, Silberblatt & Wood  
 Address: 318 E Locust St Box 670  
 Clearfield, PA 16830  
 Phone No.: (814)765-5537 Fax No.: (814)765-9730  
 Receive Mail: No  
 E-Mail Address: rbell@pennswoods.net  
 Receive E-Mail: No

## FEE INFORMATION

| Fee Date | Fee Name         | Fee Amt | Paid Amount | Receipt Number  |
|----------|------------------|---------|-------------|-----------------|
| 9/19/05  | Notice of Appeal | 60.00   | 60.00       | 2005SPRWD001137 |

## TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas  
 County: Clearfield Division: Civil  
 Date of Order Appealed From: August 23, 2005 Judicial District: 46  
 Date Documents Received: September 19, 2005 Date Notice of Appeal Filed: September 16, 2005  
 Order Type: Order OTN:  
 Judge: Ammerman, Fredric J. Lower Court Docket No.: No. 03-1240-CD  
 President Judge

## ORIGINAL RECORD CONTENTS

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

Date of Remand of Record:

## BRIEFS

4:05 P.M.

Appeal Docket Sheet

Docket Number: 1617 WDA 2005

Page 4 of 4

September 19, 2005

Superior Court of Pennsylvania



DOCKET ENTRIES

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

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

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

vs. :

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

NO. 03-1240-CD

---

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

vs. :

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

NO. 02-962-CD

**ORDER**

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

BY THE COURT



FREDRIC J. AMMERMAN  
President Judge

FILED

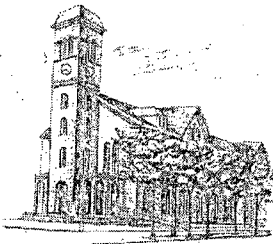
01:10:53 PM  
SEP 20 2005

William A. Shaw  
Prothonotary/Clerk of Courts

cc Arys:  
Noble  
Ramaley  
Leight  
Wilk  
R. Bell

CR

#46



## Clearfield County Office of the Prothonotary and Clerk of Courts

**William A. Shaw**  
Prothonotary/Clerk of Courts

**David S. Ammerman**  
Solicitor

**Jacki Kendrick**  
Deputy Prothonotary

**Bonnie Hudson**  
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

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

Sincerely,

William A. Shaw  
Prothonotary

\_\_\_\_\_ You are responsible for serving all appropriate parties.

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

☒ \_\_\_\_\_ Plaintiff(s)/Attorney(s)

☒ \_\_\_\_\_ Defendant(s)/Attorney(s)

\_\_\_\_\_ Other

\_\_\_\_\_ Special Instructions:

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

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

vs.

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

No. 03-1240-CD

Type of Pleading:  
NOTICE OF APPEAL

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

vs.

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

No. 02-962-CD

Filed on behalf of: Martin Slifko Jr.,  
Plaintiff

Counsel of Record for this Party:

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

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

FILED ice  
012:0321 Sup. Ct. Clerk  
SEP 16 2005 @

William A. Shaw  
Prothonotary/Clerk of Courts

#45

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

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

vs.

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

No.03-1240-CD

Type of Pleading:  
NOTICE OF APPEAL

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

vs.

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

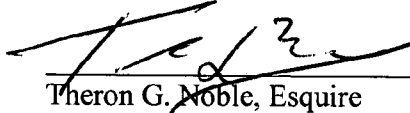
No. 02-962-CD

**NOTICE OF APPEAL**

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



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

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

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

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

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

vs.

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

No.03-1240-CD

Type of Pleading:  
NOTICE OF APPEAL

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

vs.

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

No. 02-962-CD

**CERTIFICATE OF SERVICE**

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

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

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

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

Date: 9/16/08



---

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

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

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

vs.

: No. 03-1240-CD

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

Defendants

**FILED** @  
019:2430 T. Noble  
AUG 24 2005 J. Ramaley  
William A. Shaw R. Leigh  
Prothonotary/Clerk of Courts D. W. H.  
R. Bell  
D. M. Kesell

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

vs.

: No. 02-962-CD

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

**OPINION and ORDER**

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

44

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

Presently before this Court are Defendant's Motion for Summary Judgment<sup>2</sup> and Defendant's Preliminary Objections to Plaintiff's Answer to Defendant Junior Coal Contracting, Inc.'s Motion for Summary Judgment.

### **I. Summary Judgment**

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

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

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

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

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

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

---

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

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

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

When a party files for summary judgment,

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

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

## II. The Record

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

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

---

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

Count I: Negligence

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

---

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



3. James Mock is an individual who lived in the vicinity of the accident scene. Motion for Summary Judgment, paragraph 7 (E).
4. Mr. Mock stated that the entrance to the Defendant's job site was approximately 100 yards from where the liquid was on the highway. *Id.*
5. Mr. Mock believed the substance to be hydraulic fluid. *Id.*
6. Cprl. Thomas E. Josephson, PSP was a patrol trooper in 2001 and responded to the report of the motorcycle accident.

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

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

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

The discovery process has established various facts which are dispositive of the Defendant's Motion. State Route 2024 is a heavily traveled road. Deposition of James Mock, page 39. Trucks unrelated to the Defendant's operation used the road for local deliveries. *Id.* page 71. It was common to see oil streaks on the road in this area. *Id.* page 35. The municipality was doing a sewer or water job in the area which brought truck traffic into the area about a mile from the entrance to the Defendant's job site. Trucks from the municipality have used the entrance to the Defendant's access road for a turnaround. *Id.* page 70 and Deposition of George Cowfer, Jr., page 15. Other vehicles have also used the Defendant's road as a turnaround. Deposition of Dennis Hughes, page 12.<sup>5</sup>

### **III. Discussion**

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

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

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

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

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

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

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

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

vs.

: No. 03-1240-CD

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

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

vs.

: No. 02-962-CD

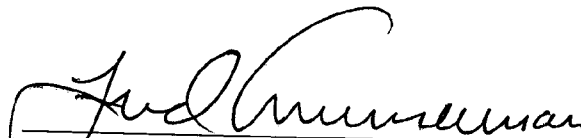
JUNIOR COAL CONTRACTING, INC., a :  
Pennsylvania Corporation, :  
Defendant :

**ORDER**

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

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

BY THE COURT:

  
FREDRIC J. AMMERMAN  
PRESIDENT JUDGE

**FILED**

**AUG 24 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

v.

No. 03-1240-CD

No. 02-262-CD

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

**ORDER OF COURT**

Defendants.

No. 03-1240 - CD

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

v.

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

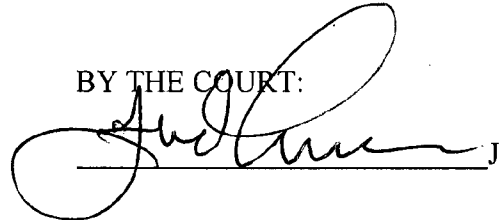
No. 02-962 CD

ORDER OF COURT

AND NOW this 17<sup>th</sup> day of May, ~~2004~~ <sup>2005</sup>, it is hereby

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

BY THE COURT:

 J.

FILED 502  
01/10:0639/ Amy Ramaley  
MAY 20 2005

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**MAY 20 2005**

William A. Shaw  
Prothonotary/Clerk of Courts

**ZIMMER KUNZ**  
PROFESSIONAL LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW

HARRY J. ZIMMER  
RAYMOND H. CONAWAY (PA & WV)  
GEORGE N. STEWART (PA & WV)  
JONI M. MANGINO (PA & WV)  
JOSEPH W. SELEP (PA & WV)  
RAYMOND J. CONLON  
EDWARD K. DIXON  
ALEXANDER P. BICKET (PA & WV)  
JOHN W. ZOTTER (PA & OH)  
JEFFREY A. RAMALEY (PA & OH)  
DARA A. DeCOURCY (PA & WV)  
DANIEL E. KRAUTH

GEORGE R. FARNETH II  
ANTHONY C. CARONE (PA & WV)  
MEGHAN F. WISE (PA & OH)  
JOHN K. BRYAN  
CHRISTOPHER T. YOSKOSKY  
JEFFREY S. TARKER  
MACEL E. RHODES (WV ONLY)  
JOHN M. BIONDI  
JOSEPH F. BUTCHER  
ROBERT W. GALBRAITH  
RICHARD J. BOSCO  
SHARON Z. HALL (PA & WV)

AARON R. CRAMER (PA & IL)  
CHRISTIAN W. WRABLEY  
MATTHEW G. BRENNEMAN (PA & WV)  
KIMBERLY J. WILLIAMS

*OF COUNSEL*

JOHN E. KUNZ  
ANDREW J. BANYAS, III  
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3300 U.S. STEEL TOWER  
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FAX (304) 292-7529

BUTLER OFFICE:  
(724) 285-6677  
FAX (724) 431-2490

GREENSBURG OFFICE:  
(724) 836-5400  
FAX (724) 836-5149

BEAVER OFFICE:  
(724) 774-6000  
FAX (724) 774-4400

May 11, 2005

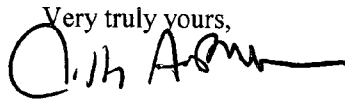
The Honorable Frederick J. Ammerman  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

**RE: Martin R. Slifko, Jr. vs. Gary Baldwin, et al.**  
**No. 03-1240-CD**  
**Martin R. Slifko, Jr. v. Junior Coal Contracting, Inc.**  
**No. 02-962-CD**

Dear Judge Ammerman:

Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking, has filed a Motion for Summary Judgment and Brief in Support thereof in the above-captioned matter. By letter dated May 5, 2005, the Plaintiff has informed this Defendant that the Plaintiff does not oppose this Motion for Summary Judgment. I have attached a copy of this letter for your review. In that the Plaintiff does not oppose this Motion, the court administrator's office suggested that I ask that you sign the Order which was attached to Defendant's Motion for Summary Judgment. I also enclose a copy of this Order for your convenience. Please note that argument has been scheduled on this Motion to occur on May 23, 2005. Since Plaintiff does not oppose the Motion for Summary Judgment, I ask that the argument scheduled for May 23 on my client's Motion only be cancelled.

Thank you for your attention to this matter.

Very truly yours,  
  
JEFFREY A. RAMALEY

JAR/sl

Enclosure

cc: David Meholick, Court Administrator (w/encl.)  
Robert Leight, Esquire (w/encl.)  
Thereon G. Noble, Esquire (w/encl.)  
David F. Wilk, Esquire (w/encl.)  
Richard A. Bell, Esquire (w/encl.)



**FERRARACCIO & NOBLE**

301 East Pine Street  
Clearfield, PA 16830  
(814) 765-4990  
(814) 375-2221  
FAX: (814) 765-9377

Mr. David Meholick, Court Administrator  
Clearfield County Courthouse  
2nd and Market Streets  
Clearfield, PA 16830

COPY

May 5, 2005

Re: Slifko v. Junior Coal Contracting, Inc., et.al.;  
02-962-CD (consolidated to) 03-1240-CD  
Defendants Motion for Summary Judgment

Dear Mr. Meholick:

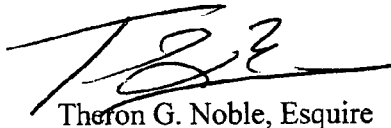
Defendants Senex Explosives, Inc. and Gary Baldwin, t/d/b/a Gary Baldwin Trucking have filed motions for summary judgment in the above captioned matter. By previous ORDER of Court, the Plaintiff, Martin R. Slifko, Jr., has until May 11th to oppose said motions, with argument scheduled for May 23rd on each Motion.

The purpose of this letter is to inform you that Plaintiff does not oppose said motions. As such, we will not be filing any thing in opposition nor should there be any reason to attend. I wanted to let you, the court and counsel know so that schedules can be readjusted. Please also be advised that Plaintiff reached settlement with Albert Green Trucking, Inc., leaving just Mr. Slifko and Junior Coal Contracting, Inc. as parties.

As always, thank you for assistance which is greatly appreciated.

With regards, I am

Sincerely,



Theron G. Noble, Esquire

tn/TGN w.encl.

cc: Mr. Martin R. Slifko, Jr., w.encl.  
Richard A. Bell, Esquire w.encl.  
David F. Wilk, Esquire w.encl.  
Jeffrey A. Ramaley, Esquire w.encl.  
Hon. Fredric J. Ammerman, PJ

6456.1216

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

MARTIN R. SLIFKO, an adult  
individual Plaintiff

NO. 03-1240-CD

Vs.

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

FILED  
O 2:15 p.m. GK  
MAY 19 2005 No CC

William A. Shaw  
Prothonotary

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

NO. 02-962-CD

Vs.

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

CERTIFICATE OF SERVICE

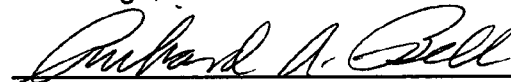
I hereby certify that a copy of Order dated May 19, 2005 with regard to our  
Preliminary Objections in the above matter was mailed the 19<sup>th</sup> day of  
May, 2005, by regular mail postage prepaid at the post office in Clearfield,  
PA 16830 to the following:

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

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

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

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



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

FILED

MAY 19 2005

William A. Shaw  
Prothonotary

CP

a

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O

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

MARTIN R. SLIFKO, JR., an adult  
individual

vs.

No. 03-1240-CD

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

**ORDER**

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

**FILED** 4cc  
10:40 AM  
MAY 19 2005  
William A. Shaw  
Prothonotary/Clerk of Courts  
w/ memo  
Re: service

BY THE COURT:

*Fredric J. Ammerman*  
FREDRIC J. AMMERMAN  
President Judge

#41



OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

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

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

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

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

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

Please make note of the following:

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

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

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

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

MARTIN R. SLIFKO, an adult  
individual Plaintiff

NO. 03-1240-CD

Vs.

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

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

NO. 02-962-CD

Vs.

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

Type of Pleading

Defendant Junior Coal  
Contracting, Inc.'s  
Preliminary Objections

Filed on Behalf of:  
Defendant

Counsel of Record for  
this Party:

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

FILED  
MAY 17 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

MARTIN R. SLIFKO, an adult  
individual Plaintiff

NO. 03-1240-CD

Vs.

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

---

NO. 02-962-CD

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

Vs.

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

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

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

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

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

off of the highway.

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

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

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

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

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

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

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

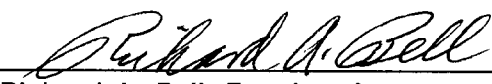
6. A violation of a Highway Occupancy Permit is not connected with the negligence alleged in the Complaint, and seeks to introduce a new cause of action which would be barred by the Statute Of Limitations.

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



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

BELL, SILBERBLATT & WOOD  
BY

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

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

MARTIN R. SLIFKO, an adult  
individual Plaintiff

NO. 03-1240-CD

Vs.

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

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

NO. 02-962-CD

Vs.

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

CERTIFICATE OF SERVICE


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

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

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

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

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

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

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

MARTIN R. SLIFKO, JR.,  
Plaintiff

vs.

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

NO. 03-1240-CD

MARTIN R. SLIFKO, JR.,  
Plaintiff

vs.

JUNIOR COAL CONTRACTING, INC.,  
Defendant

**ORDER**

NOW, this 10<sup>th</sup> day of May, 2005, the Plaintiff having no objections to the Motion for Summary Judgment filed by Defendant Senex Explosives, Inc.; it is the ORDER of this Court that said Motion be and is hereby GRANTED and that Summary Judgment is entered in favor of Senex Explosives, Inc.

**FILED**

MAY 11 2005

William A. Shaw  
Prothonotary/Clerk of Courts

BY THE COURT,

FREDRIC J. AMMERMAN  
President Judge

FILED

MAY 11 2005

William A. Shaw  
Prothonotary/Clerk of Courts

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

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

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

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a  
Pennsylvania Corporation,

Defendant.

No. 02-962-CD

Filed By:

Plaintiff

Counsel of Record:

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

**FILED**  
PA ID #: 55942  
m/2:0361 NO  
MAY 11 2005

William A. Shaw  
Prothonotary/Clerk of Courts

#38

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

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

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a  
Pennsylvania Corporation,

Defendant.

No. 02-962-CD

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

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

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

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

5. Admitted.

6. Admitted.

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

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

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

B. Admitted.

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

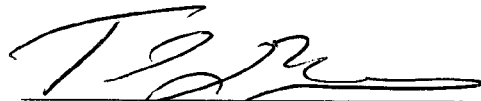
back into the west bound lane and traveled up the west bound lane, all of which led Cpl. Josephson to testify that most likely the "oil slick" was from a vehicle leaving the job site and turning right, i.e. onto the west bound lane. See pg. 11 of Cpl. Josephson deposition.

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

E. Admitted.

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

Respectfully Submitted,



---

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



APR 25 '01 8:09 FR PAD HYDE

814 755 0661

93427099

P.02/03

M-945P (5-98)

AUDIT CONTROL NO.

801209

COMMONWEALTH OF PENNSYLVANIA

*Punk  
To*

## HIGHWAY OCCUPANCY PERMIT

|                  |           |
|------------------|-----------|
| PERMIT NO.       | 02011441  |
| ORGANIZATION     | 022       |
| DATE ISSUED      | 051499    |
| PERMIT FEES      | 25.00     |
| ACCOUNT NO.      |           |
| COUNTY           | 17        |
| TOWNSHIP/BORO    | 212       |
| DESCRIPTION      | 513       |
| STATE ROUTE NO.  | 2024      |
| SEGMENTS         | 0290 0290 |
| OFFSET TO OFFSET | 1950 1950 |
| DESCRIPTION      |           |
| STATE ROUTE NO.  |           |
| SEGMENT(S)       |           |
| OFFSET TO OFFSET |           |
| DESCRIPTION      |           |
| STATE ROUTE NO.  |           |
| SEGMENT(S)       |           |
| OFFSET TO OFFSET |           |
| TOWNSHIP/BORO    |           |
| DESCRIPTION      |           |
| STATE ROUTE NO.  |           |
| SEGMENT(S)       |           |
| OFFSET TO OFFSET |           |

|  |                       |
|--|-----------------------|
| PERMITTEE<br>JUNIOR COAL CONTRACTING, INC. |                       |
| ADDRESS<br>R.D. 3, BOX 225-A               |                       |
| POST OFFICE<br>PHILIPSBURG                 | ZIP CODE<br>PA 12378- |

COUNTY CLEARFIELD

TOWNSHIP/BORO DECATUR

BOND/AGREEMENT NUMBER

ALL WORK UNDER THIS PERMIT MAY BE STARTED ON 05/14/99

AND SHALL BE COMPLETED ON OR BEFORE 05/14/00 5/14/01

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

## DESCRIPTION OF WORK

ALTER EXISTING MINIMUM USE DRIVEWAY BY WIDENING AND ADDING MINIMUM 15" PIPE AT SR 2024 SEG 0290 OFFSET 1950 TO SEG 0290 OFFSET 1950 MINIMUM WORK ZONE TRAFFIC CONTROL TO BE IN ACCORDANCE WITH PUB. 203, FIGURE(S) 5.

PERMITTEE MUST MAINTAIN EXISTING SHOULDER DURING CONSTRUCTION. SURFACE DRAINAGE MAY NOT BE DIRECTED ONTO STATE RIGHT OF WAY.

IT IS THE PERMITTEE'S RESPONSIBILITY TO KEEP VEGETATION TRIMMED IN ORDER TO MAINTAIN MINIMUM SIGHT DISTANCE. NO OBJECTS MAY BE PLACED WITHIN THE LINE OF SIGHT. DRAINAGE INSTALLED BY THIS PERMIT IS THE RESPONSIBILITY OF THE PERMITTEE TO CONTINUALLY MAINTAIN OR REPLACE. PERMITTEE IS RESPONSIBLE FOR ENSURING THAT MUD, SILT AND OTHER DEBRIS IS REMOVED FROM VEHICLES AND TIRES (BY POWER WASH, ETC.) BEFORE ENTERING ONTO THE HIGHWAY. PERMITTEE SHOULD CONTACT DISTRICT BONDED ROAD COORDINATOR TO DETERMINE IF HAUL ROADS ARE RESTRICTED. (SEE ATTACHED SUPPLEMENT).

X  
X  
X  
X

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

## Acknowledgement of Completion

Permitted work has been completed.

Date \_\_\_\_\_ By \_\_\_\_\_

FOR

BRADLEY L. MALLORY

BY

*R. L. Mallory* Secretary of Transportation

GEORGE M. KHOURY, P.E.

District Engineer

RECORDING COPY/COUNTY COMPLETION REPORT

*Exhibit "A"*



## APPLICATION FOR MINIMUM USE DRIVEWAY

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

## READ INSTRUCTIONS ON REVERSE

APPL. NO. **95588**

|  |                          |                           |
|--|--------------------------|---------------------------|
| Applicant / Property Owner<br><b>Junior Coal Contracting, Inc.</b> |                          |                           |
| Address<br><b>R.D. #3 Box 225-A</b>                                |                          |                           |
| Post Office<br><b>Phillipsburg, PA.</b>                            | Zip Code<br><b>16866</b> |                           |
| Phone<br><b>(814)-342-2012</b>                                     | Fee<br><b>\$25.00</b>    | Check No.<br><b>12378</b> |

## LOCATION OF PROPOSED DRIVEWAY

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

## APPLICATION IS MADE TO

☐ CONSTRUCT A NEW DRIVEWAY ☒ ALTER AN EXISTING DRIVEWAY

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

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

Indicate North  
Use Arrow

CENTER LINE

ROADWAY SIGHT DISTANCE **190 ft**

AREA TO BE CLEAR OF VIEW OBSTRUCTIONS

DRIVEWAY RADIUS **10 ft**

VEHICLE TURNAROUND

DRIVEWAY WIDTH **30 ft**

DRIVEWAY RADIUS **10 ft**

DRIVEWAY WIDTH MUST BE AT LEAST 10 FEET FOR CARS.

EDGE OF PAVEMENT

ROADWAY SIGHT DISTANCE **570 ft**

ROADWAY

EDGE OF PAVEMENT

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

FOR DEPARTMENT USE ONLY

FOR DEPARTMENT USE ONLY

Site Reviewed On \_\_\_\_\_ (Date)

Comments \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ROADWAY SHOULDER (Fill in appropriate line)

slope (Fill in appropriate slope)

Des. \_\_\_\_\_

S.R. \_\_\_\_\_

Segment \_\_\_\_\_

Offset \_\_\_\_\_

Field Viewed By \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

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

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

By X

SIGNATURE(S)

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

APPLICANT

DATE

4/14/99

12.3 Haulroads

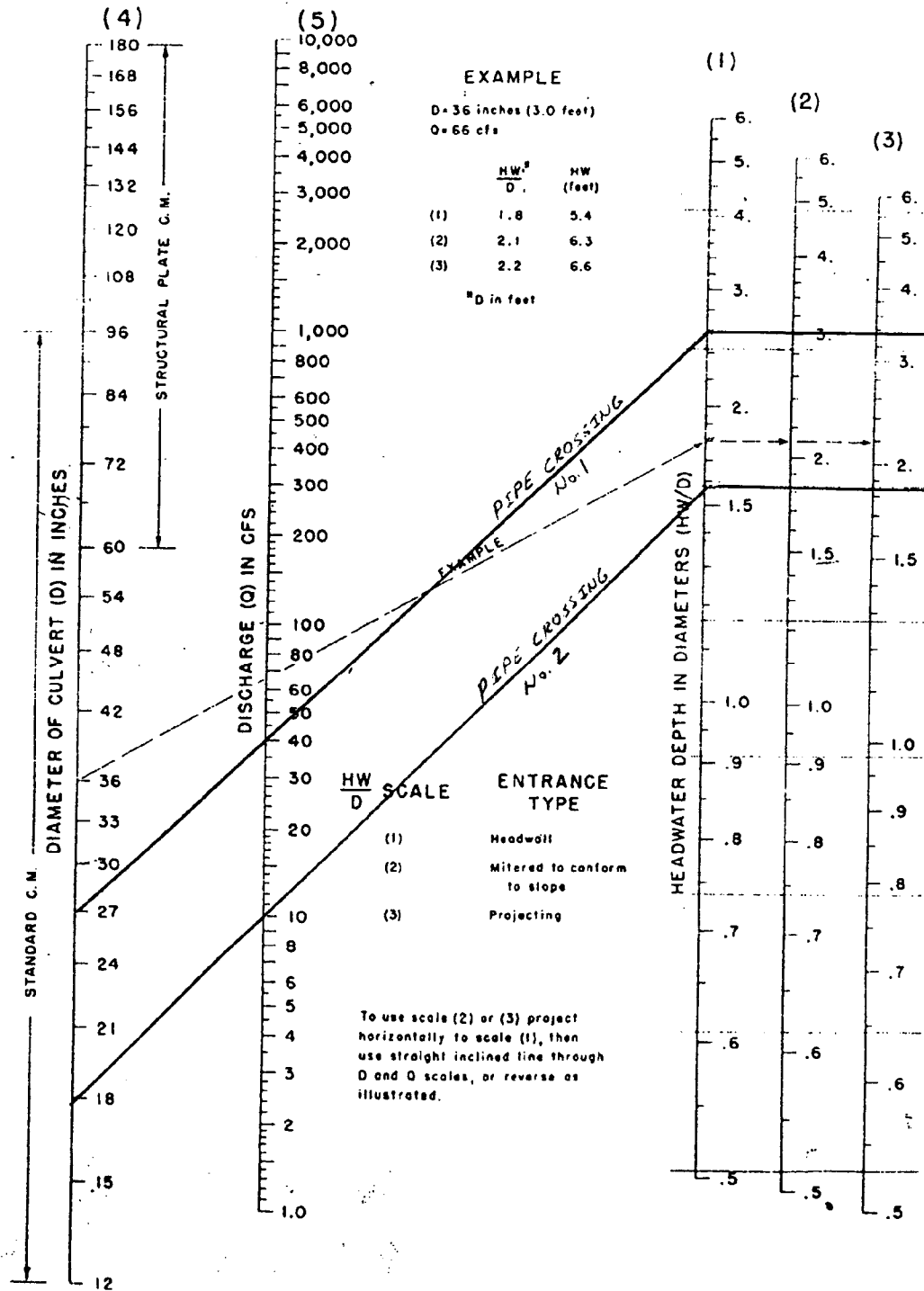
- a.) Leading in from either S.R. 322 or S.R. 2024.
- b.) Please see attached details.
- c.) Where possible, haulroad runoff will be directed into a major erosion control device, if not, sediment traps will be placed every 200 feet.
- d.) Upon completion of mining, the access road off of S.R. 2024 will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

(12.3 Haulroads)

Proposed Pipe Crossings

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

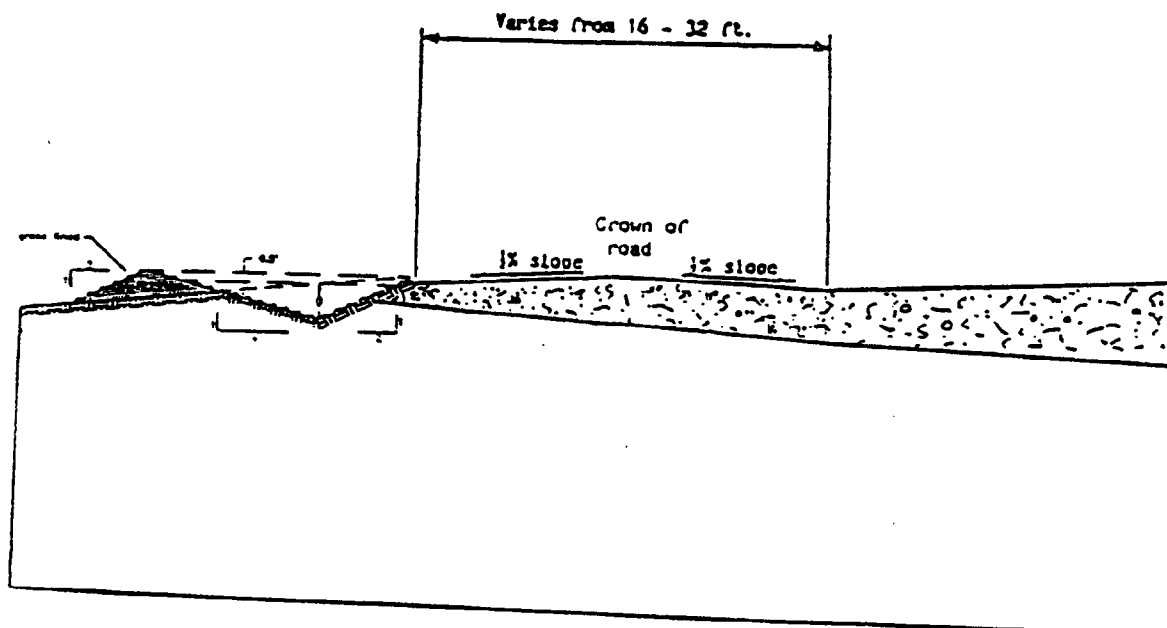
Refer to Exhibit 9.0 Map for crossing location.



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

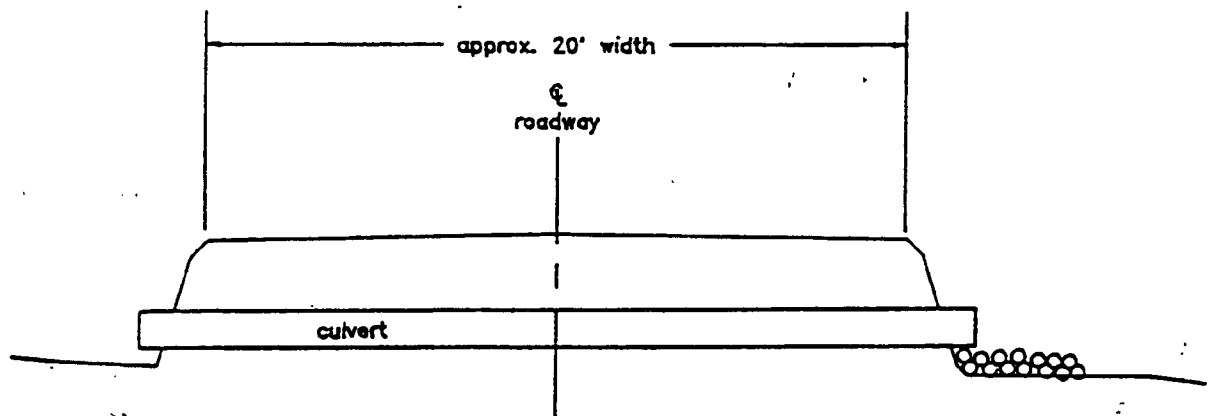
(12.3 Haul Road)

TYPICAL CROSS SECTION  
OF ACCESS ROAD CONSTRUCTION TECHNIQUES  
nts

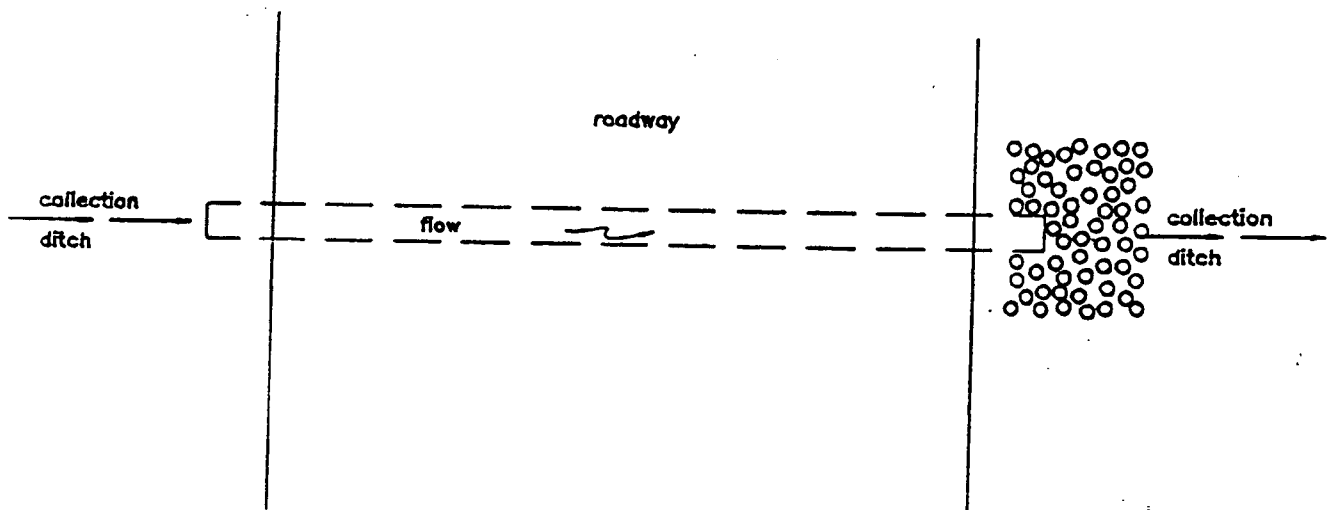


Clean compacted rock will be utilized to establish a stable base. This base will consist of existing road fill or newly added material.

TYPICAL ROAD CROSSING



TYPICAL SECTION



PLAN

HEAD LOSS COEFFICIENT,  $K_p$ , FOR CIRCULAR PIPE FLOWING FULL

$$K_p = \frac{5087 n^4}{d_i^{2/3}}$$

| Pipe Diam. Inches | Flow Area Sq Ft | MANNING'S COEFFICIENT OF ROUGHNESS "n" |         |         |         |         |         |         |         |         |         |         |         |         |        |        |        |
|-------------------|-----------------|--|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|--------|--------|--------|
|                   |                 | 0.010                                  | 0.011   | 0.012   | 0.013   | 0.014   | 0.015   | 0.016   | 0.017   | 0.018   | 0.019   | 0.020   | 0.021   | 0.022   | 0.023  | 0.024  | 0.025  |
| 6                 | 0.196           | 0.0467                                 | 0.0565  | 0.0672  | 0.0789  | 0.0914  | 0.1050  | 0.1194  | 0.1348  | 0.151   | 0.168   | 0.187   | 0.206   | 0.226   | 0.247  | 0.269  | 0.292  |
| 8                 | 0.349           | 0.0318                                 | 0.0385  | 0.0458  | 0.0537  | 0.0623  | 0.0715  | 0.0814  | 0.0919  | 0.1030  | 0.1148  | 0.1272  | 0.140   | 0.154   | 0.168  | 0.183  | 0.199  |
| 10                | 0.545           | 0.0236                                 | 0.0286  | 0.0340  | 0.0399  | 0.0463  | 0.0531  | 0.0604  | 0.0682  | 0.0765  | 0.0852  | 0.0944  | 0.1041  | 0.1143  | 0.1249 | 0.136  | 0.148  |
| 12                | 0.785           | 0.0185                                 | 0.0224  | 0.0267  | 0.0313  | 0.0363  | 0.0417  | 0.0474  | 0.0535  | 0.0600  | 0.0668  | 0.0741  | 0.0817  | 0.0896  | 0.0980 | 0.1067 | 0.1157 |
| 14                | 1.069           | 0.0151                                 | 0.0182  | 0.0217  | 0.0255  | 0.0295  | 0.0339  | 0.0386  | 0.0436  | 0.0488  | 0.0544  | 0.0603  | 0.0665  | 0.0730  | 0.0798 | 0.0868 | 0.0942 |
| 15                | 1.23            | 0.0138                                 | 0.0166  | 0.0198  | 0.0232  | 0.0270  | 0.0309  | 0.0352  | 0.0397  | 0.0446  | 0.0496  | 0.0550  | 0.0606  | 0.0666  | 0.0727 | 0.0792 | 0.0859 |
| 16                | 1.40            | 0.0126                                 | 0.0153  | 0.0182  | 0.0213  | 0.0247  | 0.0284  | 0.0323  | 0.0365  | 0.0409  | 0.0455  | 0.0505  | 0.0556  | 0.0611  | 0.0667 | 0.0727 | 0.0789 |
| 18                | 1.77            | 0.01078                                | 0.0130  | 0.0155  | 0.0182  | 0.0211  | 0.0243  | 0.0276  | 0.0312  | 0.0349  | 0.0389  | 0.0431  | 0.0476  | 0.0522  | 0.0570 | 0.0621 | 0.0674 |
| 21                | 2.41            | 0.00878                                | 0.01062 | 0.0126  | 0.0148  | 0.0172  | 0.0198  | 0.0225  | 0.0254  | 0.0284  | 0.0317  | 0.0351  | 0.0387  | 0.0425  | 0.0464 | 0.0506 | 0.0549 |
| 24                | 3.14            | 0.00735                                | 0.00889 | 0.01058 | 0.0124  | 0.0144  | 0.0165  | 0.0188  | 0.0212  | 0.0238  | 0.0265  | 0.0294  | 0.0324  | 0.0356  | 0.0389 | 0.0423 | 0.0459 |
| 27                | 3.98            | 0.00628                                | 0.00760 | 0.00904 | 0.01061 | 0.0123  | 0.0141  | 0.0161  | 0.0181  | 0.0203  | 0.0227  | 0.0251  | 0.0277  | 0.0304  | 0.0332 | 0.0362 | 0.0393 |
| 30                | 4.91            | 0.00546                                | 0.00660 | 0.00786 | 0.00922 | 0.01070 | 0.01228 | 0.0140  | 0.0158  | 0.0177  | 0.0197  | 0.0218  | 0.0241  | 0.0264  | 0.0289 | 0.0314 | 0.0341 |
| 36                | 7.07            | 0.00428                                | 0.00518 | 0.00616 | 0.00723 | 0.00839 | 0.00963 | 0.01096 | 0.0124  | 0.0139  | 0.0154  | 0.0171  | 0.0189  | 0.0207  | 0.0226 | 0.0246 | 0.0267 |
| 42                | 9.62            | 0.00348                                | 0.00422 | 0.00502 | 0.00589 | 0.00683 | 0.00784 | 0.00892 | 0.01007 | 0.01129 | 0.0126  | 0.0139  | 0.0154  | 0.0169  | 0.0184 | 0.0201 | 0.0218 |
| 48                | 12.57           | 0.00292                                | 0.00353 | 0.00420 | 0.00493 | 0.00572 | 0.00656 | 0.00747 | 0.00843 | 0.00945 | 0.01053 | 0.01166 | 0.0129  | 0.0141  | 0.0154 | 0.0168 | 0.0182 |
| 54                | 15.90           | 0.00249                                | 0.00302 | 0.00359 | 0.00421 | 0.00488 | 0.00561 | 0.00638 | 0.00720 | 0.00808 | 0.00900 | 0.00997 | 0.01099 | 0.0121  | 0.0132 | 0.0144 | 0.0156 |
| 60                | 19.63           | 0.00217                                | 0.00262 | 0.00312 | 0.00366 | 0.00424 | 0.00487 | 0.00554 | 0.00626 | 0.00702 | 0.00782 | 0.00866 | 0.00955 | 0.01048 | 0.0115 | 0.0125 | 0.0135 |

HEAD LOSS COEFFICIENT,  $K_c$ , FOR SQUARE CONDUIT FLOWING FULL

$$K_c = \frac{29.16 n^4}{r^{4/3}}$$

| Conduit Size feet | Flow area sq ft | MANNING'S COEFFICIENT OF ROUGHNESS "n" |         |         |         |         |
|-------------------|-----------------|--|---------|---------|---------|---------|
|                   |                 | 0.012                                  | 0.013   | 0.014   | 0.015   | 0.016   |
| 2x2               | 4.00            | 0.01058                                | 0.01242 | 0.01440 | 0.01653 | 0.01880 |
| 2½x2½             | 6.25            | 0.00786                                | 0.00922 | 0.01070 | 0.01228 | 0.01397 |
| 3x3               | 9.00            | 0.00616                                | 0.00723 | 0.00839 | 0.00936 | 0.01096 |
| 3½x3½             | 12.25           | 0.00502                                | 0.00589 | 0.00683 | 0.00784 | 0.00892 |
| 4x4               | 16.00           | 0.00420                                | 0.00493 | 0.00572 | 0.00656 | 0.00746 |
| 4½x4½             | 20.25           | 0.00359                                | 0.00421 | 0.00488 | 0.00561 | 0.00638 |
| 5x5               | 25.00           | 0.00312                                | 0.00366 | 0.00425 | 0.00487 | 0.00554 |
| 5½x5½             | 30.25           | 0.00275                                | 0.00322 | 0.00374 | 0.00429 | 0.00488 |
| 6x6               | 36.00           | 0.00245                                | 0.00287 | 0.00333 | 0.00382 | 0.00435 |
| 6½x6½             | 42.25           | 0.00220                                | 0.00258 | 0.00299 | 0.00343 | 0.00391 |
| 7x7               | 49.00           | 0.00199                                | 0.00234 | 0.00271 | 0.00311 | 0.00354 |
| 7½x7½             | 56.25           | 0.00182                                | 0.00213 | 0.00247 | 0.00284 | 0.00323 |
| 8x8               | 64.00           | 0.00167                                | 0.00196 | 0.00227 | 0.00260 | 0.00296 |
| 8½x8½             | 72.25           | 0.00154                                | 0.00180 | 0.00209 | 0.00240 | 0.00273 |
| 9x9               | 81.00           | 0.00142                                | 0.00167 | 0.00194 | 0.00223 | 0.00253 |
| 9½x9½             | 90.25           | 0.00133                                | 0.00156 | 0.00180 | 0.00207 | 0.00236 |
| 10x10             | 100.00          | 0.00124                                | 0.00145 | 0.00168 | 0.00193 | 0.00220 |

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

## Nomenclature:

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

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

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

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

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

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

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

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



## Module 12: Erosion and Sedimentation Controls

### 12.1 Diversion Controls (See Attached)

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

### 12.2 Erosion and Sediment Control (See Attached)

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

### 12.3 Haul Roads (See Attached)

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

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

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

○ ○

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

)  
)  
)  
)  
) No. 03- 1240 -CD  
)  
)  
)  
)  
)

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

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC., a  
Pennsylvania Corporation,

Defendant.

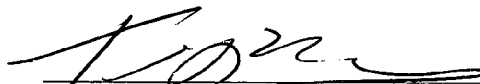
)  
)  
) No. 02-962-CD  
)  
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)

**PLAINTIFF'S CERTIFICATE OF SERVICE**

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

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

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Theron G. Noble', written over a horizontal line.

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

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,  
Plaintiff

vs.

CIVIL DIVISION

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

*Consolidated with*  
*03-1240-CD*

FILED

*m/12:04 Bdl*  
MAY 11 2005 @

NO. 02 - 962 - CD

William A. Sniaw  
Prothonotary/Clerk of Courts  
*Orig. to 02-962-CD*

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

APPEARANCES:

THERON G. NOBLE, Esquire  
appeared on behalf of Plaintiff

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

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

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

SRS

437

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

MARTIN R. SLIFKO, an adult  
individual Plaintiff

NO. 03-1240-CD

Vs.

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

FILED  
01:00 PM  
MAY 09 2005 @

William A. Shaw  
Prothonotary/Clerk of Courts  
Orig. to 02-962-CD

NO. 02-962-CD

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

Vs.

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

RULE TO SHOW CAUSE

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

NOTICE

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

#36

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

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

BY THE COURT

/s/ Fredric J. Ammerman

Judge

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

MARTIN R. SLIFKO, an adult  
individual Plaintiff

NO. 03-1240-CD

Vs.

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

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

NO. 02-962-CD

Vs.

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

Type of Pleading

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

Filed on Behalf of:  
Defendant

Counsel of Record for  
this Party:

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

COPY  
FILED  
MAY 05 2005  
13:00  
NO CC

William A. Shaw  
Prothonotary/Clerk of Courts

orig. to 02-962-CD

#35 #22

CK

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

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

Plaintiff

v.

No. 03-1240-CD

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

**RULE TO SHOW CAUSE**

AND NOW, this 28<sup>th</sup> day of MARCH, 2005, upon consideration of the foregoing Motion for Summary Judgment of Defendant Senex Explosives, Inc., a Rule is directed to be issued to the Plaintiff to show cause if any he may have, why the relief requested in the foregoing Motion shall not be granted.

RULE RETURNABLE the 23 day of May, 2005 at 11:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania, with oral argument to be held at that time.

BY THE COURT

Justice J. Cunningham  
Judge

c: Theron G. Noble, Esq.  
Jeffrey A. Ramaley, Esquire  
Richard A. Bell, Esquire  
David F. Wilk, Esquire

**FILED** <sup>2cc</sup>  
11:17 AM My work  
MAR 30 2005 @

William A. Shaw  
Prothonotary/Clerk of Courts

#34



IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

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

Plaintiff

v.

No. 03-1240-CD

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

FILED

MAR 24 2005

William A. Shaw  
Prothonotary/Clerk of Courts

**DEFENDANT SENEX EXPLOSIVES, INC.'S MOTION  
FOR SUMMARY JUDGMENT**

AND NOW, comes Defendant Senex Explosives, Inc., by and through their attorneys, Marshall, Dennehey, Warner, Coleman and Goggin, and files the following Motion for Summary Judgment and in support thereof avers as follows:

1. This action arises out of a motor vehicle accident which occurred on September 18, 2001 when Plaintiff lost control of his motorcycle allegedly as a result of an oily substance on the roadway of State Route 2024 in Decatur Township, Clearfield County, Pennsylvania.
2. Plaintiff alleges, inter alia, that Defendant Senex Explosives' trucks traveled on the roadway in question and placed oil on the roadway.
3. Discovery has occurred in this case consisting of all parties exchanging written discovery, and the depositions of numerous party representatives and witnesses.
4. Specifically, on March 15, 2005, the deposition of Senex representative David Bender was taken by Plaintiff's counsel. During this deposition, as well as during all the depositions, no evidence has been produced which would in any way indicate that Defendant Senex Explosives' vehicles caused the oily substance complained of by Plaintiff to be placed on the roadway.

5. All discovery anticipated by the parties has been completed.

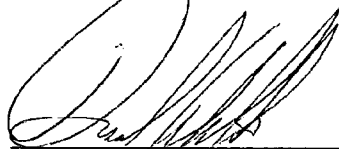
6. There exists absolutely no evidence which in any way allows Plaintiff to maintain his cause of his action against Defendant Senex Explosives alleging the placement of an oily substance on the roadway causing Plaintiff's accident.

7. By Order of this Court dated January 12, 2005, the parties were directed to file Motions for Summary Judgment no later than May 10, 2005. A copy of this Order is attached hereto and marked as **Exhibit A**.

8. Also by Order of this Court, argument on the Summary Judgment Motion filed by co-Defendant Gary Baldwin t/d/b/a Gary Baldwin Trucking, was scheduled for May 23, 2005 at 11:00 a.m. in Courtroom number 1 of the Clearfield County Courthouse. A copy of this Order is attached hereto and marked as **Exhibit B**.

9. Defendant Senex Explosives that its Motion for Summary Judgment also be heard at this same time.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN



---

David F. Wilk, Esquire  
Attorney for Defendant Senex Explosives  
I.D. #65992  
33 W. Third Street, Suite 200  
Williamsport, PA 17701  
(570)326-9069

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

1.14  
JAN 13 2005

Attest.

*W. J. [Signature]*  
Prothonotary/  
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

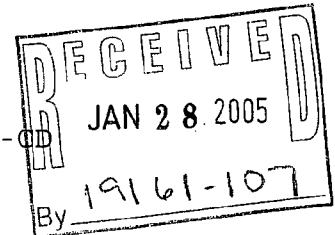
MARTIN R. SLIFKO :

VS. :

NO. 03-1240-CD

GARY BALDWIN, t/d/b/a GARY :

BALDWIN TRUCKING, et al. :



ORDER

NOW, this 12th day of January, 2005, following argument on the Motion for Summary Judgment filed on behalf of Defendant Gary Baldwin, t/d/b/a Gary Baldwin Trucking, it is the ORDER of this Court as follows:

1. Decision on the Motion for Summary Judgment will be deferred until such time as Plaintiff has an opportunity to complete the discovery described during argument;

2. Discovery by all parties shall be completed by absolutely no later than May 1, 2005, unless, upon presentation of extraordinary circumstances as set forth in a petition or motion, the Court should issue an order to extend the deadline;

3. All Defendants shall file any further motions for summary judgment by no later than May 10, 2005;

4. The Court Administrator shall schedule reargument during the month of May on Defendant Baldwin's preexisting motion for Summary Judgment and on any other motions for summary judgment that would be timely filed by May 10, 2005, following which the Court will issue decision on any outstanding

EXHIBIT

A

said motions;

5. In the event that the Plaintiff wishes to contest the motions for summary judgment previously filed by Defendant Baldwin, Plaintiff shall file an answer thereto by no later than May 10, 2005.

BY THE COURT:

/s/ Fredric J. Ammerman

President Judge

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

MARTIN R. SLIFKO

vs.

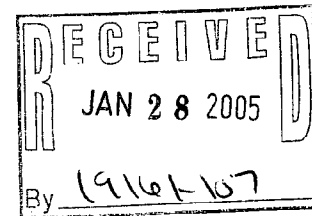
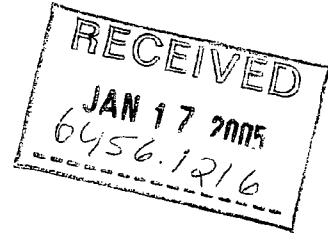
GARY BALDWIN, al

MARTIN R. SLIFKO

vs.

JUNIOR COAL CONTRACTING, INC. :

:  
:  
: No. 03-1240-CD  
:  
:



**ORDER**

AND NOW, this 13 day of January 2005, it is the ORDER of the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the above-captioned matter is hereby scheduled for **Monday, May 23, 2005 at 11:00 A.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

/s/ Fredric J. Ammerman

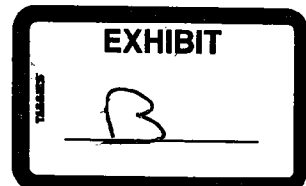
FREDRIC J. AMMERMAN  
President Judge

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

JAN 14 2005

Attest.

*[Signature]*  
Notary/  
Clerk of Courts



**CERTIFICATE OF SERVICE**

I, David F. Wilk, do hereby certify that I served a true and correct copy of the foregoing document via First Class United States Mail, postage pre-paid as follows:

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

Jeffrey A. Ramaley, Esquire  
3300 USX Tower  
600 Grant Street  
Pittsburgh, PA 15219  
*Attorney for Gary Baldwin Defendants*

Richard A. Bell, Esquire  
Bell, Silverblatt & Wood  
318 E. Locust Street  
PO Box 670  
Clearfield, PA 16830  
*Attorney for Junior Coal Contracting*

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN



David F. Wilk, Esquire  
Attorney for Defendant Senex Explosives  
I.D. #65992  
33 W. Third Street, Suite 200  
Williamsport, PA 17701  
(570)326-9069

Date: 3/23/05

CR

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

MARTIN R. SLIFKO

vs.

GARY BALDWIN, al

MARTIN R. SLIFKO

vs.


JUNIOR COAL CONTRACTING, INC. :

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:  
: No. 03-1240-CD  
:  
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:  
:

**ORDER**

AND NOW, this 13 day of January 2005, it is the ORDER of the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the above-captioned matter is hereby scheduled for **Monday, May 23, 2005 at 11:00 A.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

  
FREDRIC J. AMMERMAN  
President Judge

**FILED** OK  
10 8:54 AM  
JAN 14 2005  
cc atty. Noble  
cc atty. Bell  
cc atty. Ramaley  
cc atty. Wright  
cc atty. Wilk  
CA Ammerman

William A. Shaw  
Prothonotary

#33

FILED  
09:34 69-366  
JAN 13 2005  
Remedy

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

MARTIN R. SLIFKO

:

VS.

:

NO. 03-1240-CD

GARY BALDWIN, t/d/b/a GARY

:

BALDWIN TRUCKING, et al.

:

O R D E R

NOW, this 12th day of January, 2005, following argument on the Motion for Summary Judgment filed on behalf of Defendant Gary Baldwin, t/d/b/a Gary Baldwin Trucking, it is the ORDER of this Court as follows:

1. Decision on the Motion for Summary Judgment will be deferred until such time as Plaintiff has an opportunity to complete the discovery described during argument;

2. Discovery by all parties shall be completed by absolutely no later than May 1, 2005 unless, upon presentation of extraordinary circumstances as set forth in a petition or motion, the Court should issue an order to extend the deadline;

3. All Defendants shall file any further motions for summary judgment by no later than May 10, 2005;

4. The Court Administrator shall schedule reargument during the month of May on Defendant Baldwin's preexisting motion for Summary Judgment and on any other motions for summary judgment that would be timely filed by May 10, 2005, following which the Court will issue decision on any outstanding

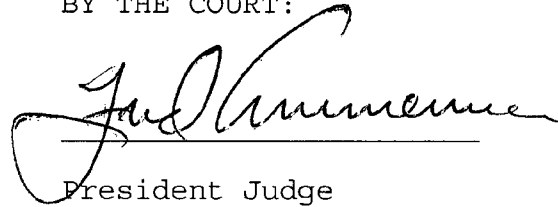
32



said motions;

5. In the event that the Plaintiff wishes to contest the motions for summary judgment previously filed by Defendant Baldwin, Plaintiff shall file an answer thereto by no later than May 10, 2005.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "J. D. [unclear]", is written over a horizontal line. The signature is fluid and stylized, with a large initial 'J' and a long, sweeping underline.

President Judge

CR

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

Type of Pleading:

**PRAECIEP TO WITHDRAW  
MOTION FOR CONTINUANCE**

Filed By:

Plaintiff

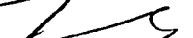
Counsel of Record:

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

**FILED**

JAN 06 2005  
11:30  
William A. Shaw  
Prothonotary/Clerk of Courts  
No Cont.

(3)

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

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

CA

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

Type of Pleading:

**MOTION FOR CONTINUANCE**

Filed By:

Plaintiff

Counsel of Record:

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

FILED <sup>no cc</sup>

JAN 05 2005

William A. Shaw  
Prothonotary/Clerk of Courts

#30

No. 03- 1240 -CD

WHEREFORE, Plaintiff requests that argument on Defendant Baldwin's MOTION FOR SUMMARY JUDGMENT be again rescheduled.

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

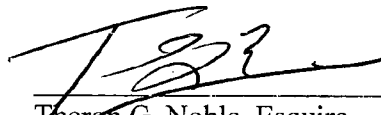
No. 03-\_\_1240\_\_-CD

**PLAINTIFF'S CERTIFICATE OF SERVICE**

I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 24th day of December, 2004, that I did mail a true and correct copy of Plaintiffs' motion for continuance to the below indicated persons, being all Defendants' counsels of record, via United States Mail, postage prepaid, first class:

|                          |                             |                               |                          |
|--------------------------|-----------------------------|-------------------------------|--------------------------|
| Richard A. Bell, Esquire | Jeffrey A. Ramaley, Esquire | Robert Leight, Esquire        | David F. Wilk, Esquire   |
| Bell, Silberblatt & Wood | Zimmer Kuntz                | Pietragallo, Bosick & Gordon  | Marshall, Dennehey etal  |
| P.O. Box 670             | 3300 U.S. Steel Tower       | One Oxford Centre, 38th Floor | 33 W. 3rd St., Suite 220 |
| Clearfield, PA 16830     | Pittsburgh, PA 15219-2702   | Pittsburgh, PA 15219          | Williamsport, PA 17701   |

Respectfully Submitted,



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

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

MARTIN R. SLIFKO

vs.

GARY BALDWIN, al

MARTIN R. SLIFKO

vs.

JUNIOR COAL CONTRACTING, INC. :

:  
:  
: No. 03-1240-CD 7  
:  
:

:  
:  
: No. 02-962-CD  
:  
:

**ORDER**

AND NOW, this 16<sup>th</sup> day of December, 2004, it is the ORDER of  
the Court that argument on Attorney Ramaley's Motion for Summary Judgment in the  
above-captioned matter is hereby rescheduled from December 21, 2004 to  
**Wednesday, January 12, 2005 at 10:30 A.M.** in Courtroom No. 1, Clearfield  
County Courthouse, Clearfield, PA.

FILED <sup>66K</sup>

01:27/BA 1cc atty Noble  
1cc atty R. Ball  
1cc atty Ramaley  
DEC 16 2004  
1cc atty Height  
1cc atty Wilk

William A. Shaw  
Prothonotary

BY THE COURT:

*Fredric J. Ammerman*

FREDRIC J. AMMERMAN  
President Judge



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

MARTIN R. SLIFKO, JR., an adult :  
individual :  
 :  
 :  
vs. : No. 03-1240-CD  
 :  
 :  
GARY BALDWIN, t/d/b/a GARY :  
BALDWIN TRUCKING, ALBERT :  
GREEN TRUCKING, INC., a :  
Pennsylvania corporation; and SENEX :  
EXPLOSIVES, INC., a Pennsylvania :  
corporation :

**ORDER**

AND NOW, this 17<sup>th</sup> day of November, 2004, it is the ORDER  
of the Court that argument on Attorney Ramaley's Motion for Summary Judgment  
filed in the above matter has been scheduled for the 21 day of  
December, 2004, at 2:00 P.M, in Courtroom No. 1,  
Clearfield County Courthouse, Clearfield, PA.

**FILED**

11/13/04  
NOV 17 2004

William A. Shaw  
Prothonotary/Clerk of Courts

BY THE COURT:

*Fredric J. Ammerman*  
FREDRIC J. AMMERMAN  
President Judge

#28



OFFICE OF COURT ADMINISTRATOR  
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA

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

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

DAVID S. MEHOLICK  
COURT ADMINISTRATOR

MARCY KELLEY  
DEPUTY COURT ADMINISTRATOR

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

Please make note of the following:

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

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

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY;  
PENNSYLVANIA

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

Plaintiff,

v.

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

CIVIL DIVISION

No. 03-1240-CD

No. 02-~~262~~-CD

**PRAECIPE FOR ARGUMENT**

Filed on behalf of:

Defendant, GARY BALDWIN, t/d/b/a  
GARY BALDWIN TRUCKING

No. 03-1240 - CD

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

Plaintiff,

v.

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

Counsel of Record for this party:

**JEFFREY A. RAMALEY, ESQUIRE**

Pa. I.D. #41559

**ZIMMER KUNZ, P.L.L.C.**

Firm #920

3300 U. S. Steel Tower

Pittsburgh, PA 15219

(412) 281-8000

No. 02-962 CD

**JURY TRIAL DEMANDED**

**FILED**

m/10:56 AM

NOV 17 2004

William A. Shaw  
Prothonotary/Clerk of Courts

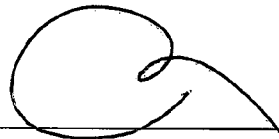
PRAECIPE FOR ARGUMENT

TO THE PROTHONOTARY:

Kindly place Defendant's Motion for Summary Judgment on the next available argument list. Oral Argument is requested.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.



---

JEFFREY A. RAMALEY, ESQ.  
Attorneys for Defendant,  
GARY BALDWIN, t/d/b/a GARY  
BALDWIN TRUCKING, only

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within PRAECIPE FOR  
ARGUMENT was forwarded to counsel below named by United States Mail on the 5th  
day of Nov., 2004:

Thereon G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Richard A. Bell, Esquire  
Bell, Silverblatt & Wood  
318 E. Locust Street  
P.O. Box 670  
Clearfield, PA 16830  
(Attorney for Defendant,  
Junior Coal Contracting, Inc.)

David F. Wilk, Esquire  
Marshall, Dennehey, Warner, Coleman  
& Goggin  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
(Attorney for Defendant,  
Senex Explosives, Inc.)

Robert R. Leight, Esquire  
Pietragallo Bosick & Gordon  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 16219  
(Attorney for Defendant,  
Albert Green Trucking.)

ZIMMER KUNZ, P.L.L.C.

By 

JEFFREY A. RAMALEY, ESQUIRE

**FILED**

**NOV 17 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

Plaintiff,

v.

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

No. 03-1240 - CD

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

Plaintiff,

v.

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

No. 02-962 CD

**JURY TRIAL DEMANDED**

CIVIL DIVISION

No. 03-1240-CD

No. 02-262-CD

**MOTION FOR SUMMARY JUDGMENT**

Filed on behalf of:

Defendant, GARY BALDWIN, t/d/b/a  
GARY BALDWIN TRUCKING

Counsel of Record for this party:

**JEFFREY A. RAMALEY, ESQUIRE**

Pa. I.D. #41559

**ZIMMER KUNZ, P.L.L.C.**

Firm #920

3300 U. S. Steel Tower

Pittsburgh, PA 15219

(412) 281-8000

**FILED**

m/10-5604  
NOV 17 2004

William A. Shaw  
Prothonotary/Clerk of Courts

**MOTION FOR SUMMARY JUDGMENT**

Defendant, GARY BALDWIN, t/d/b/a GARY BALDWIN TRUCKING, by his attorneys, ZIMMER KUNZ, P.L.L.C., files the following Motion for Summary Judgment and, in support thereof, avers as follows:

1. The Plaintiff filed a Complaint in Civil Action against, inter alia, this Defendant, alleging that he suffered injuries and damages when a motorcycle he was operating on State Route 2024 in Decatur Township lost control allegedly as a result of an oil slick on the roadway. See Plaintiff's Complaint, paragraphs 5 through 9.

2. Plaintiff alleges, inter alia, that this Defendant's trucks traveled on the roadway in question before the accident and placed the oil on the roadway. Id.

3. Discovery has occurred in this case consisting of, inter alia, this Defendant providing Answers to Interrogatories and Responses to Request for Production of Documents to the Plaintiff. Further, Plaintiff has taken the deposition of this Defendant on June 8, 2004 along with the only other driver for this Defendant, Francis Rowles.

4. During the aforementioned depositions, it was confirmed that this Defendant and his driver drove trucks through the area in question before the accident in question. However, no evidence has been produced in discovery to date that either truck caused an oil slick to be placed on the roadway.

5. On June 8, 2004, the Plaintiff also took the deposition of an independent witness, James Mock. During Mr. Mock's deposition, he described the substance on the roadway as "hydraulic fluid." See excerpt from James Mock's deposition at pages 21 through 25. Copies are attached hereto and marked as Exhibit "A".



6. Discovery to date has failed to reveal that either of this Defendant's trucks deposited hydraulic fluid or any other fluid on the roadway in question.

7. No issue of material fact exists which would bar entry of summary judgment.

WHEREFORE, for the reasons set forth above, Defendant requests that summary judgment be entered in his behalf and against all other parties to this civil action.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.



---

JEFFREY A. RAMALEY, ESQ.  
Attorneys for Defendant,  
GARY BALDWIN, t/d/b/a GARY  
BALDWIN TRUCKING, only

1 where the accident started, it was  
2 down the hill probably 100 yards or a  
3 little over. It's right on the curve,  
4 on a curve there is a couple going up  
5 the hill.

6 Q. What type --- what were the  
7 weather conditions on the day of this  
8 accident?

9 A. It was a nice day. It was  
10 nice, it was a typical fall day. It  
11 wasn't warm and it wasn't cold and it  
12 wasn't raining, the sun was shining.

13 Q. Did you notice anything about  
14 the road conditions on Route, I  
15 believe what you said you think is  
16 Route 2024?

17 A. Yeah. After the ambulance had  
18 come and taken Martin and the police  
19 left and everybody left, I thought to  
20 myself, I am go to walk back over and  
21 see --- you know, see what happened.  
22 And I walked back over and there is a  
23 curve coming off the top of the hill  
24 before you hit the straightaway and I  
25 walked back over to the curve and I

1     could see the trail where he went up  
2     into the field. So on the curve, I  
3     noticed there was a bunch of fluid on  
4     the road and it wasn't motor oil, it  
5     wasn't a lubricant. To me, it was a  
6     hydraulic fluid. And I didn't know  
7     what it came from, but I assumed it  
8     came from a lift on a truck bed or on  
9     a hydraulic system on the truck. And  
10    then I could see where he had lost  
11    control of it there and he was trying  
12    to get it back under control and then  
13    he went right up over a small bank  
14    into the field. And he was going  
15    across the field and I figured, when  
16    that happened is when the motor picked  
17    up like it was running and then it  
18    slowed down and it didn't --- and when  
19    he come across there, there was a  
20    limb, probably about a four inch  
21    diameter limb laying in the field that  
22    had fallen off the tree and it was  
23    right where he was coming. And I  
24    think, myself, this is my opinion, I  
25    think he hit the limb and it threw the

1 motorcycle and I think it hit the tree  
2 and there was a --- it used to be a  
3 mulberry tree there and it threw him  
4 off the bike and he went in motion  
5 from there. But I think he was  
6 getting control of it at that  
7 particular time and hit that limb and  
8 that ended the whole situation.

9 Q. What makes you believe that it  
10 was hydraulic fluid that you observed  
11 on the road?

12 A. Because it was clear.

13 Q. Where on the road was this  
14 located at?

15 A. You mean as the edge, the  
16 middle or --- it was on the curve and  
17 it was probably not quite halfway out,  
18 not quite halfway out on the road. It  
19 was on the --- coming up the hill, it  
20 would be the right-hand lane.

21 Q. Just to make sure that I'm  
22 understanding you correctly, it was  
23 located on the road in the area where  
24 there is a curve?

25 A. Right.

1 Q. And it was in the right-hand  
2 lane?

3 A. It was in the right-hand lane  
4 approximately in the middle of that  
5 lane.

6 Q. Of the right-hand lane?

7 A. (Indicates yes).

8 Q. Can you in any manner, Mr.  
9 Mock, describe how much fluid was on  
10 the road?

11 A. No, I can't. I can't remember.  
12 There was a pretty good splash of it  
13 there. In fact, I think it was like  
14 something had broken and it come up to  
15 that spot in a pretty good spot, you  
16 know, there was a pretty good spot of  
17 it.

18 Q. How about as far as the length  
19 of this spot?

20 A. The big spot, it was probably  
21 about six to eight feet,  
22 approximately.

23 Q. Now, did you say the big spot  
24 of it was six, eight feet and there  
25 was more than the big spot there?

1 A. No, it ---- there was a tail on  
2 it that went like something came loose  
3 and then it went up to this spot. And  
4 I think the motorcycle got up and hit  
5 that spot because this location where  
6 that was, why, it was right on the  
7 curve and I think it just started to  
8 go out from under him.

9 Q. In relationship to the entrance  
10 to the Runk job site where was the  
11 spot of what you believed to be  
12 hydraulic fluid?

13 A. I'd say that your somewhere in  
14 the neighborhood --- I'm no good at  
15 feet, but I would say somewhere in the  
16 neighborhood of 100 yards --- it was  
17 about 100 yards.

18 Q. 100 yards in which direction,  
19 towards the top or the bottom ---

20 A. Towards the top.

21 Q. --- of the hill?

22 ATTORNEY BELL:

23 Excuse me. I'm not sure  
24 where he's measuring from. Is  
25 this from --- from what is 100

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

Plaintiff,

v.

CIVIL DIVISION

No. 03-1240-CD

No. 02-262-CD

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

**ORDER OF COURT**

No. 03-1240 - CD

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

Plaintiff,

v.

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

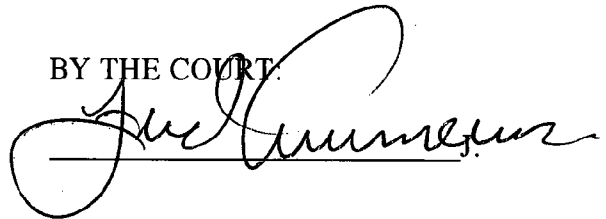
No. 02-962 CD

**ORDER OF COURT**

AND NOW this 10<sup>th</sup> day of May, ~~2004~~ <sup>2005</sup>, it is hereby

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

BY THE COURT:



**FILED**

MAY 20 2005

William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within MOTION FOR SUMMARY JUDGMENT was forwarded to counsel below named by United States Mail on the 5<sup>th</sup> day of Nov., 2004:

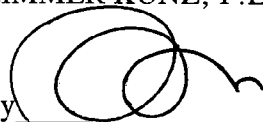
Thereon G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Richard A. Bell, Esquire  
Bell, Silverblatt & Wood  
318 E. Locust Street  
P.O. Box 670  
Clearfield, PA 16830  
(Attorney for Defendant,  
Junior Coal Contracting, Inc.)

David F. Wilk, Esquire  
Marshall, Dennehey, Warner, Coleman  
& Goggin  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
(Attorney for Defendant,  
Senex Explosives, Inc..)

Robert R. Leight, Esquire  
Pietragallo Bosick & Gordon  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 16219  
(Attorney for Defendant,  
Albert Green Trucking.)

ZIMMER KUNZ, P.L.L.C.

By 

JEFFEREY A. RAMALEY, ESQUIRE



**FILED**

**NOV 17 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

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

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

Plaintiff,

v.

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

Defendants.

No. 03-1240 CD

FILED

FEB 23 2004

William A. Shaw  
Prothonotary/Clerk of Courts

\*\*\*\*\*

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

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC.,  
a Pennsylvania corporation,

Defendant.

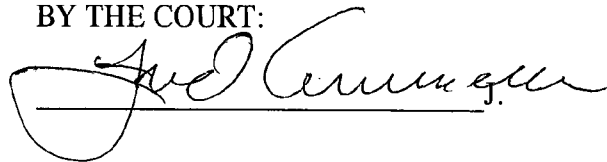
No. 02-962 CD

ORDER OF COURT

AND NOW, this 23 day of February, 2004, IT IS HEREBY

ORDERED that the two civil actions listed above are hereby consolidated for the purpose of  
discovery and trial at Docket No. 03-1240-CD.

BY THE COURT:



FILED  
cc: Mrs. Noble, Butcher, Leigh,  
Wilk, R. Bell  
FEB 23 2004

William A. Shaw  
Prothonotary/Clerk of Courts

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

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

Plaintiff,

v.

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

Defendants.

No. 03-1240 CD

\*\*\*\*\*

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

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC.,  
a Pennsylvania corporation,

Defendant.

No. 02-962 CD

FILED

JAN 28 2004

William A. Shaw  
Prothonotary/Clerk of Courts

SCHEDULING ORDER

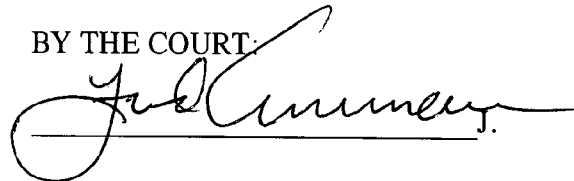
AND NOW, this 26 day of Jan., 2004, IT IS HEREBY

ORDERED that oral argument on the MOTION TO CONSOLIDATE filed by Defendant, Gary

Baldwin, t/d/b/a Gary Baldwin Trucking, shall be heard on the 23 day of February,

2004 at 10:30 A.m.

BY THE COURT:



FILED<sup>ice</sup>  
01/11/14  
JAN 28 2004  
Aykamaley

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

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

Plaintiff,

v.

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

No. 03-1240 - CD

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

Plaintiff,

v.

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

No. 02-962 CD

**JURY TRIAL DEMANDED**

CIVIL DIVISION

No. 03-1240-CD

No. ~~02-262~~-CD

02-962-CD

**MOTION TO CONSOLIDATE**

Filed on behalf of:

Defendant, GARY BALDWIN, t/d/b/a  
GARY BALDWIN TRUCKING

Counsel of Record for this party:

**JEFFREY A. RAMALEY, ESQUIRE**

Pa. I.D. #41559

**JOSEPH F. BUTCHER, ESQUIRE**

Pa. I.D. #86464

**ZIMMER KUNZ**

**PROFESSIONAL LIMITED LIABILITY  
COMPANY**

Firm #920

3300 U. S. Steel Tower  
Pittsburgh, PA 15219

(412) 281-8000

**FILED**

**JAN 26 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

#24

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

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

Plaintiff,

v.

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

Defendants.

No. 03-1240 CD

\*\*\*\*\*

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

Plaintiff,

v.

JUNIOR COAL CONTRACTING, INC.,  
a Pennsylvania corporation,

Defendant.

No. 02-962 CD

**MOTION TO CONSOLIDATE**

Defendant, GARY BALDWIN, t/d/b/a GARY BALDWIN TRUCKING, by his  
attorneys, ZIMMER KUNZ, P.L.L.C. and files the following MOTION TO CONSOLIDATE  
the two (2) Civil Actions listed above for the purposes of discovery and trial pursuant to Pa.  
R.C.P. 213(a) and, in support thereof, avers as follows:

1. Plaintiff, Martin R. Slifko, Jr., at docket number 02-962 CD filed a civil  
action against Defendant Junior Coal Contracting, Inc., a Pennsylvania corporation.

2. In the civil action brought by Plaintiff Slifko v. Defendant, Junior Coal Contracting, Inc., Plaintiff alleges that he sustained injuries and damages as a result of a motorcycle accident on September 8, 2001 where he allegedly passed through an oil slick on State Route 2024 in Decatur Township, Clearfield County, Pennsylvania.

3. Plaintiff alleges in his Complaint that the Defendant, Junior Coal Contracting, Inc. maintained a job site known as the "Runk Job" site located off of State route 2024 and that the Defendant allegedly caused oil to be on the road and failed to detect the oil slick and correct it or warn Plaintiff of the oil slick prior to his motorcycle accident.

4. Plaintiff, Martin R. Slifko, Jr. also filed an action against Defendants, Gary Baldwin, t/d/b/a Gary Baldwin Trucking, Albert Green Trucking, Inc., a Pennsylvania corporation and Senex Explosives, Inc., a Pennsylvania corporation at Docket No. 03-1240 CD.

5. In Plaintiff's Complaint he alleges that the Defendants, Gary Baldwin, t/d/b/a/ Gary Baldwin Trucking, Albert Green Trucking, Inc., a Pennsylvania corporation and Senex Explosives, Inc., a Pennsylvania corporation each maintained and operated vehicles which entered or left the "Runk" job site and allegedly placed oil or fuel on State Route 2024.

6. Defendant submits that the two civil actions listed above involved common questions of law and fact and arise from the same transaction or occurrence. Defendant further submits that a consolidation of the two civil actions listed above would avoid unnecessary cost and/or delay.


7. Consolidation of these two cases is permitted by the Pennsylvania Rule of Civil Procedure 213(a).



WHEREFORE, for the reasons set forth above, Defendant requests that the Court enter an Order consolidating the two civil actions listed above the purpose of discovery and trial.

Respectfully submitted,

**ZIMMER KUNZ, P.L.L.C.**

BY:   
\_\_\_\_\_  
Jeffrey A. Ramaley, Esquire  
Pa. I.D. No. 41559  
Joseph F. Butcher, Esquire  
Pa. I.D. No. 86464  
Attorneys for Gary Baldwin,  
t/d/b/a Gary Baldwin Trucking  
3300 U. S. Steel Tower  
Pittsburgh, PA 15219

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the within MOTION TO CONSOLIDATE, has been sent to all counsel of record, via U.S. First Class Mail, postage prepaid, this \_\_\_\_ day of \_\_\_\_\_, 2004, as follows:

Theron G. Noble, Esquire  
Ferraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
*Counsel for Plaintiff*

Richard A. Bell, Esquire  
Bell, Silverblatt & Wood  
318 E. Locust Street  
P. O. Box 670  
Clearfield, PA 16830  
*Counsel for Junior Coal Contracting, Inc.*

David F. Wilk, Esquire  
Marshall, Dennehey, Warner, Coleman  
& Goggin  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
*Counsel for Senex Explosives, Inc.*

Robert Leight, Esquire  
Pietragallo, Bosick & Gordon  
One Oxford Centre, 38<sup>th</sup> Floor  
301 Grant Street  
Pittsburgh, PA 15219  
*Counsel for Albert Green Trucking*

ZIMMER KUNZ, P.L.L.C.

BY 

Jeffrey A. Ramaley, Esquire  
Pa. I.D. No. 41559  
Joseph F. Butcher, Esquire  
Pa. I.D. No. 86464

FILED No  
cc  
M/10:31 PM  
JAN 26 2004  
William A. Shaw  
Prothonotary/Clerk of Courts

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

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

Plaintiff

v.

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

No. 03-1240-CD

JURY TRIAL DEMANDED

**NOTICE OF SERVING DISCOVERY**

TO THE PROTHONOTARY:

Please take notice that Defendant, Senex Explosives, Inc., has served Answers to Interrogatories and Responses to Request for Production of Documents addressed to Theron G. Noble, Esquire, Attorney for Plaintiff, pursuant to the Pennsylvania Rules of Civil Procedure, by mail, postage prepaid, this 1<sup>st</sup> day of December, 2003.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN

BY 

David F. Wilk, Esquire  
Attorney for Defendant, Senex Explosives, Inc.  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
Telephone (570) 326-9069

Cc: Jeffrey A. Ramaley, Esquire  
Paul J. Walsh, Esquire

**FILED**

DEC 02 2003

William A. Shaw  
Prothonotary/Clerk of Courts

23

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

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

Plaintiff

v.

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

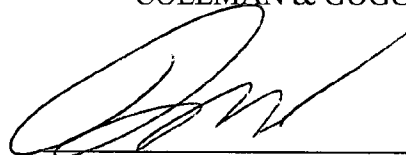
No. 03-1240-CD

**SUBSTITUTION OF COUNSEL**

TO THE PROTHONOTARY:

Kindly substitute my appearance for that of Sharon O'Donnell, Esquire of MARSHALL,  
DENNEHEY, WARNER, COLEMAN & GOGGIN on behalf of Defendant Senex Explosives, Inc.  
in the above-captioned matter.

MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN



David F. Wilk, Esquire  
Attorney for Defendant Guelich Explosive  
I.D. No.: 65992  
33 West Third Street, Suite 200  
Williamsport, PA 17701  
(570) 326-9091

c: Theron G. Noble, Esquire  
Jeffrey A. Ramaley, Esquire  
Paul J. Walsh, III, Esquire  
Ron LaVoie - Claim #: 12305-01-05)

FILED

NOV 26 2003

William A. Shaw  
Prothonotary

22

FILED

11/21/04 10:25 AM WDK

NOV 26 2003

11/21

William A. Shaw  
Prothonotary

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

Type of Pleading:

**REPLY TO NEW MATTER**  
(as to Albert Green Trucking, Inc)

Filed By:

Plaintiff

Counsel of Record:

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

**FILED**

**NOV 12 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

(#2)

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

**PLAINTIFF'S REPLY TO NEW MATTER OF DEFENDANT GREEN**

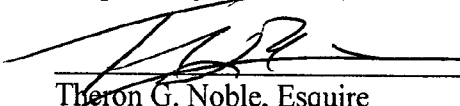
AND NOW, comes the Plaintiff, Martin Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who responds as follows to Defendant Albert Green Trucking, Inc., NEW MATTER:

9 - 20. The same are legal conclusions for which no response is deemed necessary.

21. The same is directed at other parties in this litigation for which no response is deemed necessary by this answering party.

WHEREFORE, Plaintiff requests judgment be entered in his favor as per his CIVIL COMPLAINT.

Respectfully Submitted,

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



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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

**PLAINTIFF'S NOTICE OF SERVICE**

To: William A. Shaw, Prothonotary

Date: November 12, 2003

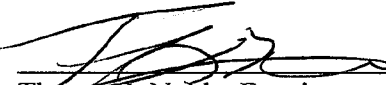
I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 12th day of November, 2003, that I did mail a true and correct copy of Plaintiffs' REPLY TO NEW MATTER of Defendant Albert Green Trucking, Inc., to the below indicated persons, being Defendants' counsels of record, via United States Mail, postage prepaid, first class:

Jeffrey A. Ramaley, Esq.  
Zimmer Kuntz  
3300 U.S. Steel Tower  
Pittsburgh, PA 15219-2702

Paul J. Walsh, III, Esq.  
Summers, McDonnell, Walsh & Skeel  
Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

Sharon M. O'Donnell, Esq.  
Marshall, Dennehey, Warner, Coelman & Goggin  
4200 Crums Mill Rd, Suite B  
Harrisburg, PA 17112

Respectfully Submitted,

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

FILED

NOV 12 2003

William A. Shaw  
Prothonotary/Clerk of Courts

NO  
cc  
get

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

Plaintiff,

vs.

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

Defendants.

CIVIL DIVISION

Docket No.: 03-1240 CD

**PRAECIPE FOR WITHDRAWAL OF  
APPEARANCE**

PAUL J. WALSH III, ESQUIRE  
PA I.D. # 58843

SUMMERS, McDONNELL, WALSH & SKEEL  
Firm #911

The Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

(412) 261-3232

#11886

**FILED**

**NOV 10 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

20

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 03-1240 CD

vs.

(Jury Trial Demanded)

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

Defendants.

**PRAECIFE FOR WITHDRAWAL OF APPEARANCE**

TO: THE PROTHONOTARY

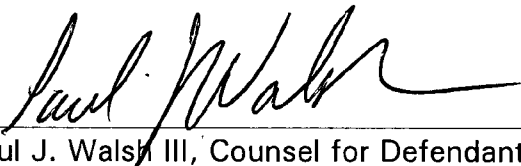
Kindly withdraw the Appearance of the undersigned, Paul J. Walsh III, Esquire, of the law firm of Summers, McDonnell, Walsh & Skeel, on behalf of the Defendant, Albert Green Trucking, Inc., in the above case.

**JURY TRIAL DEMANDED**

Respectfully submitted,

SUMMERS, McDONNELL, WALSH & SKEEL

By



Paul J. Walsh III, Counsel for Defendant  
Albert Green Trucking, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Praecipe for Withdrawal of Appearance has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 6th day of November, 2003.

Theron Noble, Esquire  
301 East Pine St.  
Clearfield, PA 16830  
(Counsel for Plaintiff)

Sharon M. O'Donnell, Esquire  
4200 Crums Mill Rd., Ste. B  
Harrisburg, PA 17112  
(Counsel for Defendant, Senex Explosives)

Jeffrey A. Ramaley, Esquire  
3300 USX Twr.  
600 Grant St.  
Pittsburgh, PA 15219  
(Counsel for Defendant, Gary Baldwin t/d/b/a  
Gary Baldwin Trucking)

Robert Leight, Esquire  
Pietragallo, Bosick & Gordon  
One Oxford Centre, 38<sup>th</sup> Fl.  
301 Grant Street  
Pittsburgh, PA 15219  
(Counsel for Defendant, Albert Green Trucking)

SUMMERS, McDONNELL, WALSH & SKEEL

By 

Paul J. Walsh III, Counsel for Defendant  
Albert Green Trucking, Inc.

William A. Shaw  
Prothonotary/Clerk of Courts

FILED  
NOV 10 2003

cc

copy to C/A

~~cc~~

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

Plaintiff,

v.

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

Defendants.

CIVIL DIVISION

No.: 03-1240-CD

**REPLY TO NEW MATTER**

Filed on behalf of:  
DEFENDANT,  
GARY BALDWIN, t/d/b/a GARY  
BALDWIN TRUCKING, only

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ, P.L.L.C.**  
Firm #920  
3300 U.S. Steel Tower  
Pittsburgh, PA 15219

**JURY TRIAL DEMANDED**

(412) 281-8000

**FILED**

**OCT 31 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

CIVIL DIVISION

No.: 03-1240-CD

Plaintiff,

v.

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

Defendants.

**REPLY TO NEW MATTER**

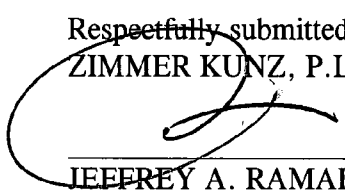
AND NOW comes Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking, by and through his attorneys, Zimmer Kunz, P.L.L.C., and files the following Reply to Defendant Albert Green's New Matter pursuant to Rule 2252(d) and, in support thereof, avers as follows:

1. The allegations contained in paragraphs 21 and 22 of Defendant's New Matter are denied. In support of said denial, Defendant incorporates herein by reference as if set forth at length the averments contained in the pleadings previously filed on his behalf.



WHEREFORE, Defendant requests that judgment be entered in his behalf and against all other parties to this civil action.

Respectfully submitted,  
ZIMMER KUNZ, P.L.L.C.



---

JEFFREY A. RAMALEY, ESQUIRE  
Attorneys for Defendant,  
GARY BALDWIN, t/d/b/a GARY  
BALDWIN TRUCKING, only

VERIFICATION

I, JEFFREY A. RAMALEY, verify that the statements of fact made in the foregoing REPLY TO NEW MATTER are true and correct to the best of my knowledge, information and belief; that I am making this verification on the basis of information provided to me by others which I believe to be true and correct; that this verification is being made because the defendants' affidavits cannot be obtained within the time allowed for the filing of this answer and new matter; that I am authorized to execute this verification as attorney for defendants; and that I understand that any false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

10-29-03



\_\_\_\_\_  
JEFFREY A. RAMALEY

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the within REPLY TO NEW MATTER  
was forwarded to counsel below named by United States Mail on the 29<sup>th</sup> day of October,  
2003:

Thereon G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Paul J. Walsh, III, Esquire  
Summers, McDonnell, Walsh & Skeel  
Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219  
(Attorney for Defendant,  
Albert Green Trucking, Inc.)

Sharon M. O'Donnell, Esquire  
Marshall, Dennehey, Warner, Coleman & Goggin  
4200 Crums Mill Road  
Suite B  
Harrisburg, PA 17112  
(Attorney for Defendant,  
Senex Explosives, Inc.)

ZIMMER KUNZ, P.D.L.C.

By 

JEFFREY A. RAMALEY, ESQUIRE

FILED No CC

~~10/10:41:20~~  
OCT 31 2003

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

Plaintiff,

vs.

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

Defendants.

CIVIL DIVISION

Docket No.: 03-1240 CD

**ANSWER, NEW MATTER AND  
NEW MATTER PURSUANT TO  
RULE 2252(d)**

(Jury Trial Demanded)

Filed on Behalf of the Defendant:  
Albert Green Trucking

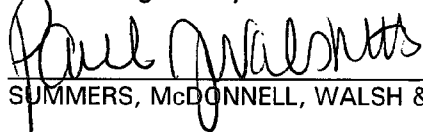
Counsel of Record for This Party:

PAUL J. WALSH III, ESQUIRE  
PA I.D. # 58843

GINA M. ZUMPELLA, ESQUIRE  
PA I.D. # 87774

TO: PLAINTIFF/CO-DEFENDANTS

You are hereby notified to file a written  
response to the enclosed Answer, New  
Matter, and New Matter Pursuant to Rule  
2252(d) within twenty (20) days from  
service hereof or a judgment may be  
entered against you.

  
SUMMERS, McDONNELL, WALSH & SKEEL

SUMMERS, McDONNELL, WALSH & SKEEL  
Firm #911

The Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

(412) 261-3232

#11886

**FILED**

**OCT 24 2003**

William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 03-1240 CD

vs.

(Jury Trial Demanded)

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

Defendants.

**ANSWER, NEW MATTER & NEW MATTER PURSUANT TO RULE 2252(d)**

AND NOW, comes the Defendant, Albert Green Trucking, Inc., by and through its undersigned attorneys, Summers, McDonnell, Walsh & Skeel, and Paul J. Walsh III, Esquire, and files the following Answer, New Matter & New Matter Pursuant to Rule 2252(d) and avers as follows:

**I. ANSWER**

1. Paragraph 1 of the Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averment is denied pursuant to Pa.R.C.P. 1029(c) and (e). After reasonable investigation, this Defendant has insufficient knowledge or information as to the truth or falsity of said averment and therefore, said averment is denied and strict proof thereof is demanded at the time of trial.

2. Paragraph 2 of the Plaintiff's Complaint is not directed towards this Defendant and therefore requires no response. To the extent that a response is

deemed necessary, said averment denied pursuant to Pa.R.C.P. 1029(c) and (e). After reasonable investigation, this Defendant has insufficient knowledge or information as to the truth or falsity of said averment and therefore, said averment is denied and strict proof thereof is demanded at the time of trial.

3. Paragraph 3 of the Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averment is admitted.

4. Paragraphs 4 through 6 of the Plaintiff's Complaint are not directed towards this Defendant and therefore require no responses. To the extent that responses are deemed necessary, said averments are denied pursuant to Pa.R.C.P. 1029(c) and (e). After reasonable investigation, this Defendant has insufficient knowledge or information as to the truth or falsity of said averments and therefore, said averments are denied and strict proof thereof is demanded at the time of trial.

5. Paragraphs 7 through 23 of the Plaintiff's Complaint state legal conclusions to which no responses are required. To the extent that said averments are deemed directed towards this Defendant and responses are deemed necessary, said averments are denied pursuant to Pa.R.C.P. 1029(c) and (e). After reasonable investigation, this Defendant has insufficient knowledge or information as to the truth or falsity of said averments and therefore, said averments are denied and strict proof thereof is demanded at the time of trial. By way of further answer, this Defendant herein refers to and incorporates its hereinafter set forth responses, New Matter and New Matter Pursuant to Rule 2252(d).

Count I: Negligence

6. paragraph 24 of the Plaintiff's Complaint requires. To the extent that a response is deemed necessary, this Defendant herein refers to and incorporates its previously set forth responses.

7. Paragraph 25 of the Plaintiff's Complaint states a legal conclusion to which no response is required. To the extent that a response is deemed necessary and is directed towards this Defendant, said averment is denied as stated. This Defendant avers the law speaks for itself. By way of further answer, this Defendant herein refers to and incorporates its previously set forth, hereinafter set forth responses, New Matter and New Matter Pursuant to Rule 2252(d).

8. Paragraphs 26 through 31 of the Plaintiff's Complaint state legal conclusions to which no responses are required. To the extent that said averments are deemed directed towards this Defendant and responses are deemed necessary, said averments are denied pursuant to Pa.R.C.P. 1029(c) and (e). After reasonable investigation, this Defendant has insufficient knowledge or information as to the truth or falsity of said averments and therefore, said averments are denied and strict proof thereof is demanded at the time of trial. By way of further answer, this Defendant herein refers to and incorporates its previously set forth responses, hereinafter set forth responses, New Matter and New Matter Pursuant to Rule 2252(d).



WHEREFORE, the Defendant, Albert Green Trucking, Inc., denies that it is liable to the Plaintiff in the sum demanded or for any sum whatsoever and therefore, requests this Honorable Court to enter judgment in its favor and against the Plaintiff with costs and prejudice imposed.

## **II. NEW MATTER**

9. Paragraphs 1 through 8 are herein referred to and incorporated as if set forth fully at length.

10. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, this Defendant avers that the Plaintiff has failed to state a claim for which relief may be granted.

11. To the extent justified by evidence developed in discovery or the testimony at the time of trial, this Defendant pleads the voluntary assumption of the risk of the Plaintiff as a complete or partial bar to any recovery by the Plaintiff in this action.

12. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, the Plaintiff's Complaint is barred in whole or in part by the applicable provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law.

13. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, any injuries and/or damages alleged by the Plaintiff were the result of superseding, intervening, and/or independent causes over which this Defendant had no control and in no way participated.

14. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, this Defendant pleads the contributory, causal negligence of the Plaintiff and the provisions of the Pennsylvania Comparative Negligence Act as a complete or partial bar to any recovery by the Plaintiff in this action.

15. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, this Defendant raises all affirmative defenses set forth in Pa.R.C.P. 1030 to the Plaintiff's claims, including the legal doctrines of payment, accord and satisfaction, release, waiver, estoppel, and the statute of limitations.

16. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, this Defendant avers the injuries and damages alleged by the Plaintiff were the result of a pre-existing condition unrelated to this accident and/or occurrence.

17. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, this Defendant avers that Plaintiff failed to mitigate his/her damages by ignoring the advice of medical providers.

18. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, this Defendant avers it is entitled to a set-off reduction of the Plaintiff's claim for reimbursement of medical expenses in an amount reflecting payment of any and all Med Pay benefits paid by this Defendant on behalf of the Plaintiff.

19. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, this Defendant avers that any medical expenses not precluded per 75 Pa.C.S.A. § 1722 must be reduced in accordance with Moorhead v. Crozer Medical Center.

20. To the extent justified by the evidence developed in discovery or the testimony at the time of trial, this Defendant reserves the right to assert any and all other affirmative defenses which discovery may reveal appropriate and/or proper.

WHEREFORE, the Defendant, Albert Green Trucking, Inc., denies that it is liable to the Plaintiff in the sum demanded or for any sum whatsoever and therefore, requests this Honorable Court to enter judgment in its favor and against the Plaintiff with costs and prejudice imposed.

### **III. NEW MATTER PURSUANT TO RULE 2252(d)**

21. Paragraphs 1 through 20 are herein referred to and incorporated as if set forth fully at length.

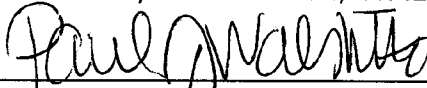
22. This Defendant denies and continues to deny that it is liable to the Plaintiff upon any theory. Should the Plaintiff be entitled to recover from this Defendant, although it is denied that the Plaintiff is so entitled, then this Defendant is entitled to indemnification and/or contribution from the Defendants, Gary Baldwin, t/d/b/a Gary Baldwin Trucking and Senex Explosives, Inc., or other co-defendants and/or additional defendants who may hereafter be named in this action. For purposes of asserting such rights of indemnification and contribution, this Defendant herein refers to and incorporates the Plaintiff's Complaint, although by making such

reference, this Defendant makes no admission as to the truth or falsity of any factual allegations contained therein.

WHEREFORE, the Defendant, Albert Green Trucking, Inc., avers that the Defendants, Gary Baldwin, t/d/b/a Gary Baldwin Trucking and Senex Explosives, Inc., are solely liable to the Plaintiff or, in the alternative, while denying liability on the part of this Defendant, the Defendants, Gary Baldwin, t/d/b/a Gary Baldwin Trucking and Senex Explosives, Inc., are liable over to this Defendant for indemnity and/or contribution for any monies which this Defendant may be found liable and/or responsible to the Plaintiff or to other parties in this suit.

Respectfully submitted,

SUMMERS, McDONNELL, WALSH & SKEEL

By   
Paul J. Walsh III, Counsel for Defendant  
Albert Green Trucking, Inc.

VERIFICATION

I, Albert Green, verify that I am the President of Albert Green Trucking, Inc., and I am authorized to execute this verification on behalf the Defendant, Albert Green Trucking, Inc., and the statements made in the foregoing Answer, New Matter & New Matter Pursuant to Rule 2252(d) are true and correct to the best of my knowledge, information and belief. To the extent that the content of the Answer, New Matter & New Matter Pursuant to Rule 2252(d) is permitted by Pennsylvania Rules of Civil Procedure, I have relied upon counsel in verifying the same.

10-13-2003

(Date)

Albert Green

(Name)

#11886

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer, New Matter & New Matter Pursuant 2252(d) has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 22<sup>nd</sup> day of October, 2003.

Theron Noble, Esquire  
301 East Pine St.  
Clearfield, PA 16830  
(Counsel for Plaintiff)

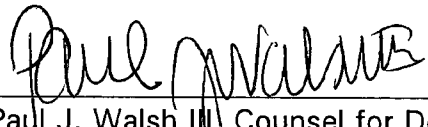
Sharon M. O'Donnell, Esquire  
4200 Crums Mill Rd., Ste. B  
Harrisburg, PA 17112  
(Counsel for Defendant, Senex Explosives)

Jeffrey A. Ramaley, Esquire  
3300 USX Twr.  
600 Grant St.  
Pittsburgh, PA 15219  
(Counsel for Defendant; Gary Baldwin t/d/b/a  
Gary Baldwin Trucking)

Robert Leight, Esquire  
Pietragallo, Bosick & Gordon  
One Oxford Centre, 38<sup>th</sup> Fl.  
301 Grant Street  
Pittsburgh, PA 25219

SUMMERS, McDONNELL, WALSH & SKEEL

By

  
Paul J. Walsh III, Counsel for Defendant  
Albert Green Trucking, Inc.

FILED

icc

m/8:11<sup>48</sup>  
OCT 24 2003

Atty Walsh

*W*  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

Plaintiff,

vs.

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

Defendants.

CIVIL DIVISION

Docket No.: 03-1240 CD

**REPLY TO NEW MATTER UNDER  
RULE 2252(d) OF DEFENDANT,  
GARY BALDWIN, t/d/b/a GARY  
BALDWIN TRUCKING**  
(Jury Trial Demanded)

Filed on Behalf of the Defendant:  
Albert Green Trucking

Counsel of Record for This Party:

PAUL J. WALSH III, ESQUIRE  
PA I.D. # 58843

GINA M. ZUMPELLA, ESQUIRE  
PA I.D. # 87774

SUMMERS, McDONNELL, WALSH & SKEEL  
Firm #911

The Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

(412) 261-3232

#11886

**FILED**

**OCT 24 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

#17



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 03-1240 CD

vs.

(Jury Trial Demanded)

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

Defendants.

**REPLY TO NEW MATTER UNDER RULE 2252(d) OF DEFENDANT,  
GARY BALDWIN, t/d/b/a GARY BALDWIN TRUCKING**

AND NOW, comes the Defendant, Albert Green Trucking, Inc. by and through their undersigned attorneys, Summers, McDonnell, Walsh & Skeel, and Paul J. Walsh III, Esquire, and files the following Reply to New Matter Under Rule 2252(d) of Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking, and avers as follows:

1. Paragraph 9 of the Co-Defendant's New Matter Pursuant to Rule 2252(d) states a legal conclusion to which no response is required. To the extent that a response is deemed necessary, said averment is denied. To the contrary and in response thereto, this Defendant herein refers to and incorporates its previously filed responsive pleading.

WHEREFORE, the Defendant, Albert Green Trucking, Inc., denies that it is liable to the Plaintiff and/or the Co-Defendants for the sum demanded or for any

sum whatsoever and therefore, request this Honorable Court to enter judgment in its favor and against the Plaintiff and Co-Defendants with costs and prejudice imposed.

Respectfully submitted,

SUMMERS, McDONNELL, WALSH & SKEEL

By

A handwritten signature in black ink, appearing to read "Paul J. Walsh III", written over a horizontal line.

Paul J. Walsh III, Counsel for Defendant  
Albert Green Trucking, Inc.

**VERIFICATION**

I, Albert Green, verify that I am the President of Albert Green Trucking, Inc., and I am authorized to execute this verification on behalf the Defendant, Albert Green Trucking, Inc., and the statements made in the foregoing Reply to New Matter Under Rule 2252(d) of Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking are true and correct to the best of my knowledge, information and belief. To the extent that the content of the Reply to New Matter Under Rule 2252(d) of Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking is permitted by Pennsylvania Rules of Civil Procedure, I have relied upon counsel in verifying the same.

10-13-2003

(Date)

Albert Green

(Name)

#11886

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Reply to New Matter Under Rule 2252(d) of Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 22<sup>nd</sup> day of October, 2003.

Theron Noble, Esquire  
301 East Pine St.  
Clearfield, PA 16830  
(Counsel for Plaintiff)

Sharon M. O'Donnell, Esquire  
4200 Crums Mill Rd., Ste. B  
Harrisburg, PA 17112  
(Counsel for Defendant, Senex Explosives)

Jeffrey A. Ramaley, Esquire  
3300 USX Twr.  
600 Grant St.  
Pittsburgh, PA 15219  
(Counsel for Defendant, Gary Baldwin t/d/b/a  
Gary Baldwin Trucking)

Robert Leight, Esquire  
Pietragallo, Bosick & Gordon  
One Oxford Centre, 38<sup>th</sup> Fl.  
301 Grant Street  
Pittsburgh, PA 25219

SUMMERS, McDONNELL, WALSH & SKEEL

By 

Paul J. Walsh III, Counsel for Defendant  
Albert Green Trucking, Inc.

FILED 10.

NOV 21 2003

Atty Walsh

Prothonotary/Clerk of Courts  
William A. Shaw

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

Type of Pleading:

**REPLY TO NEW MATTER**  
(as to Defendant Senex Explosives, Inc)

Filed By:

Plaintiff

Counsel of Record:

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

**FILED**

**OCT 17 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

#16

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

**PLAINTIFF'S NOTICE OF SERVICE**

To: William A. Shaw, Prothonotary

Date: October 16, 2003

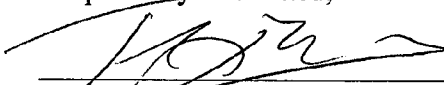
I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 16th day of October, 2003, that I did mail a true and correct copy of Plaintiffs' REPLY TO NEW MATTER of Defendant Senex Explosives, Inc., to the below indicated persons, being Defendants' counsels of record, via United States Mail, postage prepaid, first class:

Jeffrey A. Ramaley, Esq.  
Zimmer Kuntz  
3300 U.S. Steel Tower  
Pittsburgh, PA 15219-2702

Paul J. Walsh, III, Esq.  
Summers, McDonnell, Walsh & Skeel  
Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

Sharon M. O'Donnell, Esq.  
Marshall, Dennehey, Warner, Coelman & Goggin  
4200 Crums Mill Rd, Suite B  
Harrisburg, PA 17112

Respectfully Submitted,

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

FILED  
OCT 17 2003

William A. Shaw  
Prothonotary/Clerk of Courts

Wb  
cc  
Q  
K101



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

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

Plaintiff

v.

No. 03-1240-CD

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

**NOTICE TO PLEAD**

TO: Martin R. Slifko, Jr.  
c/o Theron G. Noble, Esquire  
FERRARACCIO & NOBLE  
301 East Pine Street  
Clearfield, PA 16830

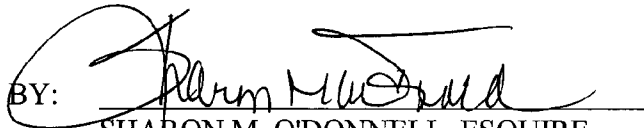
You are hereby notified to plead to the enclosed Answer with New Matter within twenty  
(20) days from service hereof or a default judgment may be filed against you.

Respectfully Submitted,

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**

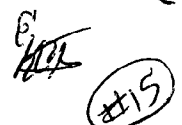
DATE: 10-8-03

BY:

  
SHARON M. O'DONNELL, ESQUIRE  
I.D. NO. 79457  
4200 Crums Mill Road, Suite B  
Harrisburg, PA 17112  
(717) 651-3503

*Attorneys for Defendant,  
Senex Explosives, Inc.*

**FILED**

OCT 10 2003  
11:30 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
2 SENT TO ATT  


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

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

Plaintiff

v.

No. 03-1240-CD

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

**ANSWER WITH NEW MATTER ON BEHALF OF DEFENDANT,  
SENEX EXPLOSIVES, INC., A PENNSYLVANIA CORPORATION  
TO PLAINTIFF'S COMPLAINT**

The Defendant, Senex Explosives, Inc., by and through its counsel, Marshall, Dennehey, Warner, Coleman & Goggin, hereby makes Answer to the Plaintiff's Complaint and in support thereof states the following:

1. Admitted upon information and belief.
2. The allegations and averments of Paragraph 2 of Plaintiff's Complaint are not directed to the Answering Defendant and no response is made thereto.
3. The allegations and averments of Paragraph 3 of Plaintiff's Complaint are not directed to the Answering Defendant and no response is made thereto.
4. Admitted.

5. The allegations and averments of Paragraph 5 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

6. The allegations and averments of Paragraph 6 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

7. The allegations and averments of Paragraph 7 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

8. The allegations and averments of Paragraph 8 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

9. The allegations and averments of Paragraph 9 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

10. The allegations and averments of Paragraph 10 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

11. The allegations and averments of Paragraph 11 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

12. The allegations and averments of Paragraph 12 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

13. The allegations and averments of Paragraph 13 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

14. The allegations and averments of Paragraph 14 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

15. The allegations and averments of Paragraph 15 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

16. The allegations and averments of Paragraph 16 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

17. The allegations and averments of Paragraph 17 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

18. The allegations and averments of Paragraph 18 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

19. The allegations and averments of Paragraph 19 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

20. The allegations and averments of Paragraph 20 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

21. The allegations and averments of Paragraph 21 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

22. The allegations and averments of Paragraph 22 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

23. The allegations and averments of Paragraph 23 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

#### **COUNT I – NEGLIGENCE**

24. The Answering Defendant incorporates herein by reference its responses to Paragraphs 1-23 above as fully as if the same were herein set forth at length.

25. Denied. The allegations and averments of Paragraph 25 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C.P. 1029 (e).

26. (A. – D.) Denied. It is specifically denied that the Answering Defendant breached any duty of care owed to the Plaintiff and/or that the Answering Defendant was negligent in any manner. Moreover, it is specifically denied that the owners, agents, servants or employees, of the Answering Defendant operate their trucks and/or equipment in such a manner as to place oil or fuel on State Route 2024 as alleged in Plaintiff's Complaint. It is further denied that the Answering Defendant failed to detect that their business operations caused a dangerous condition to others, including Mr. Slifko. To the contrary, at all times material to Plaintiff's alleged cause of action, the Answering Defendant conducted their business operations in a safe and professional manner and without causing any dangerous condition to others, including the Plaintiff. By way of further response, it is denied that the Answering Defendant failed to correct a dangerous condition, if any, of an oil slick on State Route 2024 and further denied that the performance of Answering Defendant's business operation caused a dangerous condition in the nature of an oil slick on the roadway at any time material to Plaintiff's cause of action. Finally, it is specifically denied that the Answering Defendant had a duty to warn the Plaintiff, and others, of any dangerous condition that may have existed on the roadway at or near the time of Plaintiff's injury. By way of further response, the Answering Defendant was not negligent in failing to warn the Plaintiff, or others, of said dangerous condition, the same being denied. Strict proof thereof is demanded at the time of trial.

27. Denied. The allegations and averments of Paragraph 27 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C. P. 1029 (e).

28. Denied. The allegations and averments of Paragraph 28 of Plaintiff's Complaint are denied pursuant to the provisions of Pa. R.C. P. 1029 (e).

29. Admitted.

30. Admitted.

31. Denied. It is specifically denied that the Answering Defendant has joint and/or several liability with any of the other Defendants in this matter. By way of further response, the allegations and averments of Paragraph 31 of Plaintiff's Complaint are denied as conclusions of law to which no further response is required.

**WHEREFORE,** The Answering Defendant, Senex Explosives, Inc., hereby requests that this Honorable Court dismiss Plaintiff's Complaint and enter judgment in its favor, together with such other relief as the Court may deem appropriate.

**NEW MATTER**

32. The Plaintiff has failed to state a cause of action upon which relief may be granted against Answering Defendant.

33. Plaintiff's injuries, the same being expressly denied, were caused by the Plaintiff's own acts or omissions, the same giving rise to Plaintiff's comparative negligence pursuant to the Pennsylvania Comparative Negligence Act, as amended.

34. Plaintiff's injuries were caused by his own assumption of the risk of his own injuries.

35. Plaintiff's claims may be or are barred by the relevant statutes of limitations.

36. No act and/or omission of the Answering Defendant caused and/or contributed to Plaintiff's injuries, the same being expressly denied.

37. Plaintiff's damages, as alleged, the same being expressly denied, may have been caused by an intervening and/or superseding acts of others over whom the Answering Defendant had no control or right to control.

38. The Answering Defendant reserves the right to amend its New Matter Defenses, including but not limited to those defenses available under Pa. R.C.P. 1030 at any time prior to, or subsequent to trial as the evidence may warrant.

Respectfully Submitted,

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**

DATE: 10-8-03

BY:



SHARON M. O'DONNELL, ESQUIRE

I.D. NO. 79457

4200 Crums Mill Road, Suite B

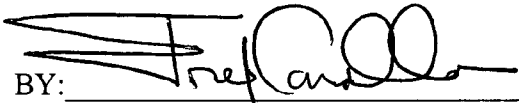
Harrisburg, PA 17112

(717) 651-3503

*Attorneys for Defendant,  
Senex Explosives, Inc.*

**VERIFICATION**

The undersigned hereby verifies that the statements in the foregoing Answer with New Matter are based upon information which has been furnished to counsel by me and information which has been gathered by counsel in the preparation of the defense of this lawsuit. The language of the Answer with New Matter is that of counsel and not my own. I have read the Answer with New Matter, and to the extent that it is based upon information which I have given to counsel, it is true and correct to the best of my knowledge, information and belief. To the extent that the contents of the Answer with New Matter are that of counsel, I have relied upon my counsel in making this verification. The undersigned also understands that the statements therein are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

BY:   
Fred Cardillo  
Senex Explosives, Inc.

DATE:



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

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

Plaintiff

v.

No. 03-1240-CD

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

Defendants

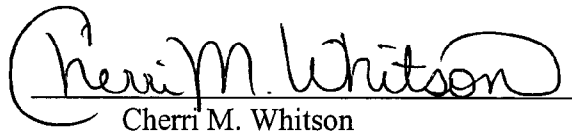
**CERTIFICATE OF SERVICE**

I, Cherri M. Whitson, an employee of Marshall, Dennehey, Warner, Coleman & Goggin,  
do hereby certify that on this 8th day of October, 2003, I served a true and correct copy of  
the foregoing document via First Class United States Mail, postage pre-paid as follows:

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

Dwight Koerber, Jr., Esquire  
110 N. 2nd Street  
P.O. Box 1320  
Clearfield, PA 16830  
***Attorney for Albert Green Trucking***

Gary Baldwin t/d/b/a Gary Baldwin Trucking  
638 Morrison Road  
Clearfield, PA 16830  
***Pro Se Defendant***

  
Cherri M. Whitson

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

Type of Pleading:

**REPLY TO NEW MATTER**  
(as to Defendant Baldwin)

Filed By:

Plaintiff

Counsel of Record:

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

**FILED**  
m/2:00/um  
OCT 06 2003

William A. Shaw  
Prothonotary/Clerk of Courts  
no CFM

#14

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

**PLAINTIFF'S REPLY TO NEW MATTER OF DEFENDANT BALDWIN**

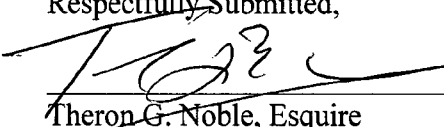
AND NOW, comes the Plaintiff, Martin Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who responds as follows to Defendant Baldwin's NEW MATTER:

6 - 8. The same are legal conclusions for which no response is deemed necessary.

10. The same is directed at other parties in this litigation for which no response is deemed necessary by this answering party.

WHEREFORE, Plaintiff requests judgment be entered in his favor as per his CIVIL COMPLAINT.

Respectfully Submitted,

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

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

**PLAINTIFF'S NOTICE OF SERVICE**

To: William A. Shaw, Prothonotary

Date: October 3, 2003

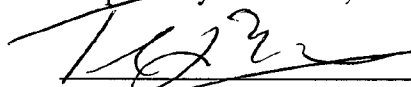
I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 3rd day of October, 2003, that I did mail a true and correct copy of Plaintiffs' REPLY TO NEW MATTER of Defendant Baldwin, to the below indicated persons, being Defendants' counsels of record, via United States Mail, postage prepaid, first class:

Jeffrey A. Ramaley, Esq.  
Zimmer Kuntz  
3300 U.S. Steel Tower  
Pittsburgh, PA 15219-2702

Paul J. Walsh, III, Esq.  
Summers, McDonnell, Walsh & Skeel  
Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

Sharon M. O'Donnell, Esq.  
Marshall, Dennehey, Warner, Coelman & Goggin  
4200 Crums Mill Rd, Suite B  
Harrisburg, PA 17112

Respectfully Submitted,



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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

CIVIL DIVISION

No.: 03-1240-CD

Plaintiff,

v.

**ANSWER, NEW MATTER AND NEW  
MATTER UNDER RULE 2252(D)**

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

Filed on behalf of:  
DEFENDANT,  
GARY BALDWIN, t/d/b/a GARY  
BALDWIN TRUCKING, only

Defendants.

**NOTICE TO PLEAD:**

YOU ARE HEREBY NOTIFIED TO FILE A RESPONSIVE  
PLEADING TO THE WITHIN ANSWER, NEW MATTER  
AND NEW MATTER UNDER RULE 2252(D) WITHIN 20  
DAYS OF SERVICE HEREOF OR A JUDGMENT MAY  
BE ENTERED AGAINST YOU.

  
\_\_\_\_\_  
JEFFREY A. RAMALEY, ESQUIRE  
ATTORNEY FOR DEFENDANT

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ, P.L.L.C.**  
Firm #920  
3300 U.S. Steel Tower  
Pittsburgh, PA 15219

**JURY TRIAL DEMANDED**

(412) 281-8000

**FILED**

**SEP 30 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

CIVIL DIVISION

No.: 03-1240-CD

Plaintiff,

v.

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

Defendants.

**ANSWER, NEW MATTER AND NEW MATTER UNDER RULE 2252(D)**

AND NOW comes Defendant, Gary Baldwin, t/d/b/a Gary Baldwin Trucking, by and through his attorneys, Zimmer Kunz, P.L.L.C., and files the following Answer, New Matter and New Matter Under Rule 2252(d) and, in support thereof, avers as follows:

1. After reasonable investigation, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraphs 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 28 of Plaintiff's Complaint and, as such, same are deemed to be denied and strict proof thereof is demanded.
2. The averments contained in paragraphs 2 and 29 of Plaintiff's Complaint are admitted.

3. In response to paragraph 23, it is admitted that Defendant's vehicles entered and exited the "Runco job" once that day. It is denied that they made or created any oil slick.

4. The averments contained in paragraphs 25, 26, 27, 30 and 31 of Plaintiff's Complaint are denied.

5. In response to paragraphs 24 and 29 of Plaintiff's Complaint, which incorporates the preceding paragraphs of said Complaint, Defendant, in response thereto, incorporates herein by reference as if set forth at length the averments contained in this Answer.

WHEREFORE, Defendant requests that judgment be entered in his behalf and against the Plaintiff.

#### **NEW MATTER**

6. If it is determined through discovery in this matter that the Plaintiff elected and/or is deemed to have elected the limited tort option under §1705 of the Pennsylvania Motor Vehicle Financial Responsibility Law, then Defendant reserve the right to plead that the Plaintiff is barred from making any claims other than for "economic damages" as that term is defined under §1705.

7. Plaintiff is barred from pleading, proving and/or recovering the amount of any benefits paid or payable as set forth in §§1719 and 1722 of the Pennsylvania Motor Vehicle Financial Responsibility Law.

8. In the event that it is determined that Plaintiff suffered injuries and damages, then same were sole and proximate result of the negligence of Junior Coal Contracting, Inc.

WHEREFORE, Defendant requests that judgment be entered in his favor and against Plaintiff.

**NEW MATTER UNDER RULE 2252(d)**

9. In the event that it is determined that Plaintiff suffered injuries and damages, which is denied by this Defendant, then Defendant sets forth herein his claim for contribution, indemnity, sole liability and/or liability over as to the Co-defendants.

WHEREFORE, Defendant requests that judgment be entered in his behalf and against all other parties.

Respectfully submitted,  
ZIMMER KUNZ, P.L.L.C.



---

JEFFREY A. RAMALEY, ESQUIRE  
Attorneys for Defendant,  
GARY BALDWIN, t/d/b/a GARY  
BALDWIN TRUCKING, only



VERIFICATION

I, GARY BALDWIN t/d/b/a GARY BALDWIN TRUCKING, have read the foregoing ANSWER, NEW MATTER AND NEW MATTER UNDER RULE 2252(d). The statements contained therein are true and correct to the best of my personal knowledge, information and belief.

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

DATE: 9.18.03

Gary L. Baldwin  
GARY BALDWIN  
t/d/b/a GARY BALDWIN TRUCKING

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within ANSWER, NEW MATTER  
AND NEW MATTER UNDER RULE 2252(d) was forwarded to counsel below named by  
United States Mail on the 26<sup>th</sup> day of September, 2003:

Thereon G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Paul J. Walsh, III, Esquire  
Summers, McDonnell, Walsh & Skeel  
Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219  
(Attorney for Defendant,  
Albert Green Trucking, Inc.)

Robert R. Leight, Esquire  
Pietragallo Bosick & Gordon  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 16219  
(Attorney for Defendant,  
Senex Explosives, Inc.)

ZIMMER KUNZ, P.L.L.C.

By   
JEFFREY A. RAMALEY, ESQUIRE

FILED  
M 10:40 AM  
SEP 30 2003

William A. Shaw  
Prothonotary/Clerk of Courts

100 Atty Ramsey  
E. J. [Signature]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

Plaintiff,

vs.

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

Defendants.

CIVIL DIVISION

Docket No.: 03-1240 CD

**NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUEST FOR  
PRODUCTION OF DOCUMENTS  
DIRECTED TO PLAINTIFF**  
(Jury Trial Demanded)

Filed on Behalf of the Defendant:  
Albert Green Trucking

Counsel of Record for This Party:

PAUL J. WALSH III, ESQUIRE  
PA I.D. # 58843

GINA M. ZUMPELLA, ESQUIRE  
PA I.D. # 87774

SUMMERS, McDONNELL, WALSH & SKEEL  
Firm #911

The Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

(412) 261-3232

#11886

**FILED**

SEP 24 2003

m112501

William A. Shaw

Prothonotary/Clerk of Courts

no case

#12

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 03-1240 CD

vs.

(Jury Trial Demanded)

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

Defendants.

**NOTICE OF SERVICE**

TO: THE PROTHONOTARY

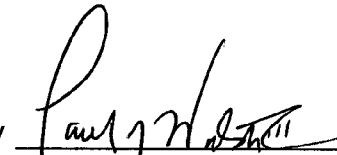
Please take notice that on September 18, 2003, the Defendant, Albert Green Trucking, Inc., served upon the Plaintiff, Martin R. Slifko, Jr., Interrogatories and Requests for Production of Documents.

**JURY TRIAL DEMANDED**

Respectfully submitted,

SUMMERS, McDONNELL, WALSH & SKEEL

By



Paul J. Walsh III, Counsel for Defendant  
Albert Green Trucking, Inc.

**CERTIFICATE OF SERVICE**

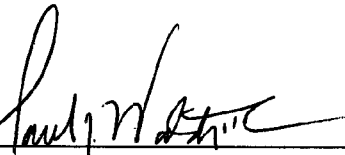
I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Service has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 18<sup>th</sup> of September, 2003.

Theron Noble, Esquire  
301 East Pine St.  
Clearfield, PA 16830  
(Counsel for Plaintiff)

Sharon M. O'Donnell, Esquire  
4200 Crums Mill Rd., Ste. B  
Harrisburg, PA 17112  
(Counsel for Defendant, Senex Explosives)

Jeffrey A. Ramaley, Esquire  
3300 USX Twr.  
600 Grant St.  
Pittsburgh, PA 15219  
(Counsel for Defendant, Gary Baldwin t/d/b/a  
Gary Baldwin Trucking)

SUMMERS, McDONNELL, WALSH & SKEEL

By   
Paul J. Walsh III, Counsel for Defendant <sup>2</sup>  
Albert Green Trucking, Inc.

**FILED**

**SEP 24 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

Plaintiff,

vs.

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

Defendants.

CIVIL DIVISION

Docket No.: 03-1240 CD

**NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUEST FOR  
PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANT, GARY  
BALDWIN t/d/b/a  
GARY BALDWIN TRUCKING  
(Jury Trial Demanded)**

Filed on Behalf of the Defendant:  
Albert Green Trucking

Counsel of Record for This Party:

PAUL J. WALSH III, ESQUIRE  
PA I.D. # 58843

GINA M. ZUMPELLA, ESQUIRE  
PA I.D. # 87774

SUMMERS, McDONNELL, WALSH & SKEEL  
Firm #911

The Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

(412) 261-3232

#11886

**FILED**

SEP 24 2003  
m/12:50/12  
William A. Shaw  
Prothonotary/Clerk of Courts  
W. C. ENT.

#11



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 03-1240 CD

vs.

(Jury Trial Demanded)

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

Defendants.

**NOTICE OF SERVICE**

TO: THE PROTHONOTARY

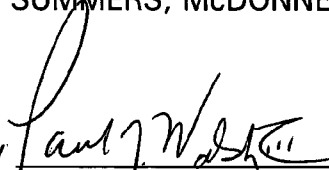
Please take notice that on September 18, 2003, the Defendant, Albert Green Trucking, Inc., served upon the Defendant, Gary Baldwin t/d/b/a Gary Baldwin Trucking, Interrogatories and Requests for Production of Documents.

**JURY TRIAL DEMANDED**

Respectfully submitted,

SUMMERS, McDONNELL, WALSH & SKEEL

By



Paul J. Walsh III, Counsel for Defendant *KC*  
Albert Green Trucking, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Service has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 18<sup>th</sup> of September, 2003.

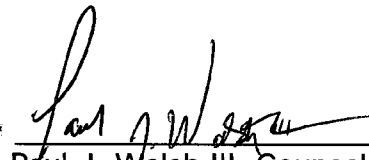
Theron Noble, Esquire  
301 East Pine St.  
Clearfield, PA 16830  
(Counsel for Plaintiff)

Sharon M. O'Donnell, Esquire  
4200 Crums Mill Rd., Ste. B  
Harrisburg, PA 17112  
(Counsel for Defendant, Senex Explosives)

Jeffrey A. Ramaley, Esquire  
3300 USX Twr.  
600 Grant St.  
Pittsburgh, PA 15219  
(Counsel for Defendant, Gary Baldwin t/d/b/a  
Gary Baldwin Trucking)

SUMMERS, McDONNELL, WALSH & SKEEL

By



Paul J. Walsh III, Counsel for Defendant,  
Albert Green Trucking, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

Plaintiff,

vs.

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

Defendants.

CIVIL DIVISION

Docket No.: 03-1240 CD

**NOTICE OF SERVICE OF  
INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO DEFENDANT, SENEX  
EXPLOSIVES, INC.**

(Jury Trial Demanded)

Filed on Behalf of the Defendant:  
Albert Green Trucking

Counsel of Record for This Party:

PAUL J. WALSH III, ESQUIRE  
PA I.D. # 58843

GINA M. ZUMPELLA, ESQUIRE  
PA I.D. # 87774

SUMMERS, McDONNELL, WALSH & SKEEL  
Firm #911

The Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

(412) 261-3232

#11886

**FILED**

SEP 24 2003

m/12/20/c

William A. Shaw

Prothonotary/Clerk of Courts  
NO CERT.

#10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 03-1240 CD

vs.

(Jury Trial Demanded)

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

Defendants.

**NOTICE OF SERVICE**

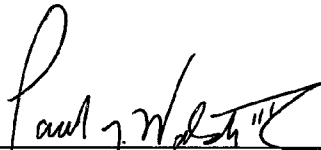

TO: THE PROTHONOTARY

Please take notice that on September 18, 2003, the Defendant, Albert Green Trucking, Inc., served upon the Defendant, Senex Explosives, Inc., Interrogatories and Requests for Production of Documents.

**JURY TRIAL DEMANDED**

Respectfully submitted,

SUMMERS, McDONNELL, WALSH & SKEEL

By   
Paul J. Walsh III, Counsel for Defendant/  
Albert Green Trucking, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Service has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 18<sup>th</sup> of September, 2003.

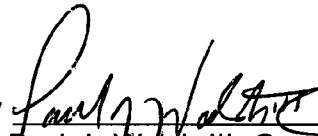
Theron Noble, Esquire  
301 East Pine St.  
Clearfield, PA 16830  
(Counsel for Plaintiff)

Sharon M. O'Donnell, Esquire  
4200 Crums Mill Rd., Ste. B  
Harrisburg, PA 17112  
(Counsel for Defendant, Senex Explosives)

Jeffrey A. Ramaley, Esquire  
3300 USX Twr.  
600 Grant St.  
Pittsburgh, PA 15219  
(Counsel for Defendant, Gary Baldwin t/d/b/a  
Gary Baldwin Trucking)

SUMMERS, McDONNELL, WALSH & SKEEL

By



Paul J. Walsh III, Counsel for Defencant,  
Albert Green Trucking, Inc.

**FILED**

**SEP 24 2003**

William A. [unclear]  
Prothonotary/Clerk of Courts

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

SLIFKO, MARTIN R. JR.

Sheriff Docket # 14453

VS.

03-1240-CD

BALDWIN, GARY t/d/b/a GARY BALDWIN TRUCKING al

**COMPLAINT**

**SHERIFF RETURNS**

NOW AUGUST 27, 2003 AT 9:36 AM SERVED THE WITHIN COMPLAINT ON ALBERT GREEN TRUCKING INC., DEFENDANT AT RESIDENCE/EMPLOYMENT, RD#1 BOX 274, WOODLAND, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO CYNTHIA GREEN, SEC/TREAS. A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.  
SERVED BY: NEVLING.

NOW SEPTEMBER 2, 2003 AT 9:35 AM SERVED THE WITHIN COMPLAINT ON GARY BALDWIN t/d/b/a GARY BALDWIN TRUCKING, DEFENDANT AT RESIDENCE, 638 MORRISON ROAD, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO ROBIN BALDWIN, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.  
SERVED BY: COUDRIET/RYEN

NOW AUGUST 21, 2003, PETER DEFAZIO, SHERIFF OF ALLEGHENY COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON SENEX EXPLOSIVES INC., DEFENDANT.

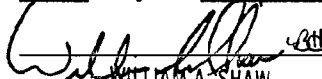
NOW SEPTEMBER 2, 2003 SERVED THE WITHIN COMPLAINT ON SENEX EXPLOSIVES INC., DEFENDANT BY DEPUTIZING THE SHERIFF OF ALLEGHENY COUNTY. THE RETURN OF SHERIFF DEFAZIO IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED FRED CARDELLO, AGENT FOR DEFENDANT.

**Return Costs**

| Cost  | Description                            |
|-------|--|
| 47.57 | SHERIFF HAWKINS PAID BY: ATTY CK# 1052 |
| 30.00 | SURCHARGE PAID BY: ATTY CK# 1053       |
| 50.00 | ALLEGHENY CO. SHFF. PAID BY: ATTY      |
| 3.00  | SHEILA O'BRIEN, NOTARY PAID BY: ATTY   |

Sworn to Before Me This

24<sup>th</sup> Day Of Sept. 2003

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

So Answers,



Chester A. Hawkins  
Sheriff

**FILED**

SEP 24 2003

William A. Shaw  
Prothonotary/Clerk of Courts

49

PETER R. DEFAZIO  
Sheriff

**ALLEGHENY COUNTY SHERIFF'S DEPARTMENT**

436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700

DENNIS SKOSNIK  
Chief Deputy

PLAINTIFF MARTIN R. SLIFKO JR.

VS.

DEFT. GARY BALDWIN a1

ADD. DEFT. SERVE: SENEX EXPLOSIVES INC

ADD. DEFT. 710 Millers Run Road

GARNISHEE Cuddy, Pa. 15031

ADDRESS \_\_\_\_\_

CASE# 03-1240-CD

EXPIRES 9/20/03

☐ SUMMONS/PRAECIPE

☐ SEIZURE OR POSSESSION

☒ NOTICE AND COMPLAINT

☐ REVIVAL of SCI FA

☐ INTERROGATORIES

☐ EXECUTION - LEVY OR GARNISHEE

☐ OTHER

MUNICIPALITY or CITY WARD SOUTH FAYETTE ATTY. THELON NOBLE

DATE: 19

ADDRESS CLEARFIELD CO

ATTY'S Phone (814) 375-2221

INDICATE TYPE OF SERVICE: ☐ PERSONAL ☐ PERSON IN CHARGE ☒ DEPUTIZE ☐ CERT. MAIL ☐ POSTED ☐ OTHER ☐ LEVY ☐ SEIZED & STORE

Now, Aug. 21, 2003 10 I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby deputize the Sheriff of

ALLEGHENY

County to execute this Writ and make return thereof according to law

**NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN** - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at: \_\_\_\_\_

MAKE

MODEL

MOTOR NUMBER

SERIAL NUMBER

LICENSE NUMBER

**SHERIFF'S OFFICE USE ONLY**

I hereby CERTIFY AND RETURN that on the 2 day of SEPTEMBER, 2003 at 140 o'clock A.M./P.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below:

☐ Defendant(s) personally served.

☐ Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_

☐ Adult in charge of Defendant's residence who refused to give name or relationship.

☐ Manager/Clerk of place of lodging in which Defendant(s) reside(s).

☒ Agent or person in charge of Defendant(s) office or usual place of business. FRED CARDELL

☐ Other \_\_\_\_\_

☐ Property Posted

Defendant not found because: ☐ Moved ☐ Unknown ☐ No Answer ☐ Vacant ☐ Other \_\_\_\_\_

☐ Certified Mail ☐ Receipt \_\_\_\_\_

☐ Envelope Returned \_\_\_\_\_

☐ Neither receipt or envelope returned: writ expired \_\_\_\_\_

☐ Regular Mail Why \_\_\_\_\_

SEP 12 2003

Sheila R. O'Brien

Notarial Seal  
Sheila R. O'Brien, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires June 19, 2004

Member, Pennsylvania Association of Notaries

You are hereby notified that on \_\_\_\_\_, 19\_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_, 19\_\_\_\_\_ at \_\_\_\_\_ o'clock.

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_

**PETER R. DEFAZIO, Sheriff**

By [Signature] Deputy

District 2

Additional Costs Due \$\_\_\_\_\_. This is placed  
on writ when returned to Prothonotary. Please check before  
satisfying case.

White Copy - Sheriff

Yellow - Sheriff

Pink Copy - Attorney



PETER R. DEFAZIO  
Sheriff

**ALLEGHENY COUNTY SHERIFF'S DEPARTMENT**

436 GRANT STREET  
PITTSBURGH, PA 15219-2496  
PHONE (412) 350-4700

DENNIS SKOSNIK  
Chief Deputy

PLAINTIFF MARTIN R. SLIFKO JR.

VS.

DEFT. GARY BALDWIN a1

ADD. DEFT. SERVE: SENEX EXPLOSIVES INC

ADD. DEFT. 710 Millers Run Road

GARNISHEE Cuddy, Pa. 15031

ADDRESS \_\_\_\_\_

MUNICIPALITY or CITY WARD SOUTHFAVELLE ATTY. \_\_\_\_\_

DATE: \_\_\_\_\_ 19 \_\_\_\_\_

ATTY'S Phone (814) 375-2221

ADDRESS \_\_\_\_\_

CASE# 03-1240-CD

EXPIRES 9/20/03

☐ SUMMONS/PRAECIPE

☐ SEIZURE OR POSSESSION

☒ NOTICE AND COMPLAINT

☐ REVIVAL of SCI FA

☐ INTERROGATORIES

☐ EXECUTION - LEVY OR GARNISHEE

☐ OTHER \_\_\_\_\_

INDICATE TYPE OF SERVICE: ☐ PERSONAL ☐ PERSON IN CHARGE ☒ DEPUTIZE ☐ CERT. MAIL ☐ POSTED ☐ OTHER ☐ LEVY ☐ SEIZED & STORE

Now, Aug. 21, 2003 12 Clearfield I, SHERIFF OF ALLEGHENY COUNTY, PA do hereby deputize the Sheriff of

ALLEGHENY

County to execute this Writ and make return thereof according to law

**NOTE: ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN** - Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person or attachment without liability on the part of such deputy herein for any loss, destruction or removal of any property before sheriff's sale thereof.

Seize, levy, advertise and sell all the personal property of the defendant on the premises located at: \_\_\_\_\_

MAKE

MODEL

MOTOR NUMBER

SERIAL NUMBER

LICENSE NUMBER

**SHERIFF'S OFFICE USE ONLY**

I hereby CERTIFY AND RETURN that on the 140 2 day of SEPTEMBER, 19 2003 at \_\_\_\_\_ o'clock A.M./P.M. Address Above/Address Below. County of Allegheny, Pennsylvania

I have served in the manner described below: \_\_\_\_\_

☐ Defendant(s) personally served.

☐ Adult family member with whom said Defendant(s) reside(s). Name & Relationship \_\_\_\_\_

☐ Adult in charge of Defendant's residence who refused to give name or relationship.

☐ Manager/Clerk of place of lodging in which Defendant(s) reside(s).

☒ Agent or person in charge of Defendant(s) office or usual place of business. FRED CAROCCIO

☐ Other \_\_\_\_\_

☒ Property Posted

Defendant not found because: ☐ Moved ☐ Unknown ☐ No Answer ☐ Vacant ☐ Other \_\_\_\_\_

☐ Certified Mail ☐ Receipt \_\_\_\_\_ ☐ Envelope Returned \_\_\_\_\_ ☐ Neither receipt or envelope returned: writ expired \_\_\_\_\_

☐ Regular Mail Why \_\_\_\_\_

You are hereby notified that on \_\_\_\_\_, 19\_\_\_\_\_, levy was made in the case of \_\_\_\_\_  
Possession/Sale has been set for \_\_\_\_\_, 19\_\_\_\_\_ at \_\_\_\_\_ o'clock.

**YOU MUST CALL DEPUTY ON THE MORNING OF SALE/POSSESSION BETWEEN 8:30 - 9:30 A.M.**

ATTEMPTS \_\_\_\_\_

**PETER R. DEFAZIO, Sheriff**

By \_\_\_\_\_

Deputy

District \_\_\_\_\_

Additional Costs Due \$ \_\_\_\_\_, This is placed  
on writ when returned to Prothonotary. Please check before  
satisfying case.

White Copy - Sheriff

Yellow - Sheriff

Pink Copy - Attorney



CHESTER A. HAWKINS  
SHERIFF

# Sheriff's Office Clearfield County

COURTHOUSE  
1 NORTH SECOND STREET, SUITE 116  
CLEARFIELD, PENNSYLVANIA 16830

OFFICE (814) 765-2641 EXT. 5986  
AFTER 4:00 P.M. (814) 765-1533  
FAX (814) 765-5915

ROBERT SNYDER  
CHIEF DEPUTY

CYNTHIA AUGHENBAUGH  
OFFICE MANAGER

MARILYN HAMM  
DEPT. CLERK

PETER F. SMITH  
SOLICITOR

## DEPUTATION

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

PAGE 14453

MARTIN R. SLIFKO JR.

VS

GARY BALDWIN al

TERM & NO. 03-1240-CD

DOCUMENT TO BE SERVED:

COMPLAINT

SERVE BY: 09/20/2003


**MAKE REFUND PAYABLE TO:** THERON G. NOBLE, ESQ.

**SERVE:** SENEX EXPLOSIVES INC.

**ADDRESS:** 710 MILLERS RUN ROAD, CUDDY, PA. 15031

Know all men by these presents, that I, CHESTER A. HAWKINS, HIGH SHERIFF of  
CLEARFIELD COUNTY, State of Pennsylvania, do hereby deputize the SHERIFF OF  
ALLEGHENY COUNTY, Pennsylvania to execute this writ. This  
Deputation being made at the request and risk of the Plaintiff this 21st Day of  
AUGUST 2003

Respectfully,

  
CHESTER A. HAWKINS,  
SHERIFF OF CLEARFIELD COUNTY

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

Martin R. Slifko, Jr.  
Plaintiff

\*

\*

-VS-

\*

Docket No. 03-1240-CD

Gary Baldwin t/d/b/a Gary Baldwin  
Trucking; Albert Green Trucking, Inc.,  
a Pennsylvania Corporation; and Senex  
Explosives, Inc., a Pennsylvania Corporation  
Defendants

\*

\*

\*

Type of Pleading:  
PRAECIPE TO WITHDRAW

Filed on behalf of:  
Defendant:  
Albert Green Trucking, Inc.

Counsel of record for  
this party:

Dwight L. Koerber, Jr., Esquire  
PA I.D. No. 16332

**FILED**

SEP 23 2003

William A. Shaw  
Prothonotary/Clerk of Courts

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

8

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

Martin R. Slifko, Jr.  
Plaintiff

\*

\*

-VS-

\*

Docket No. 03-1240-CD

Gary Baldwin t/d/b/a Gary Baldwin  
Trucking; Albert Green Trucking, Inc.,  
a Pennsylvania Corporation; and Senex  
Explosives, Inc., a Pennsylvania Corporation  
Defendants

\*

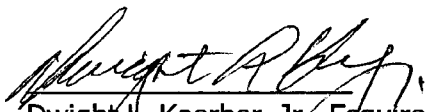
\*

\*

**PRAECIPE TO WITHDRAW**

Please withdraw my appearance on behalf of Albert Green Trucking Inc.,  
Defendant, in the above-referenced matter.

Respectfully Submitted,

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Defendant,  
Albert Green Trucking, Inc.

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

Martin R. Slifko, Jr.  
Plaintiff

-VS-

Gary Baldwin t/d/b/a Gary Baldwin  
Trucking; Albert Green Trucking, Inc.,  
a Pennsylvania Corporation; and Senex  
Explosives, Inc., a Pennsylvania Corporation  
Defendants

\*

\*

\*

\*

\*

Docket No. 03-1240-CD

**CERTIFICATE OF SERVICE**

This is to certify that on the 23<sup>rd</sup> day of September, 2003 the undersigned served a true and correct copy of the PRAECIPE TO WITHDRAW in the above captioned matter upon the following via United States First Class Mail:

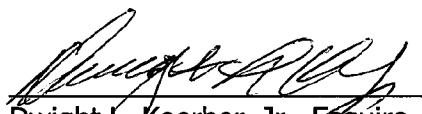
Theron G. Noble, Esquire  
FERRARACCIO & NOBLE  
301 East Pine Street  
Clearfield, PA 16830

Mr. Gary Baldwin  
GARY BLADWIN TRUCKING  
638 Morrison Road  
Clearfield, PA 16830

Robert R. Leight, Esquire  
PIETRAGALLO, BOSICK,  
& GORDON  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219

Sharon M. O'Donnell, Esquire  
MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN  
4200 Crums Mill Road, Suite B  
Harrisburg, PA 17112

Paul J. Walsh, III  
SUMMERS, MCDONNELL, WALSH  
& SKEEL, L.L.P.  
Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

  
Dwight L. Koerber, Jr., Esquire  
Attorney for Defendant:  
Albert Green Trucking, Inc.

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
DOCKET NO: 03-1240-CD

Martin R. Slifko, Jr.

-VS-

Gary Baldwin t/d/b/a Gary Baldwin  
Trucking; Albert Green Trucking,  
Inc., a Pennsylvania Corporation;  
and Senex Explosives, Inc., a  
Pennsylvania Corporation

PRAECIPE TO WITHDRAW

PROthonary Office

FILED  
SEP 23 2003

700

Att'y Koerber

LAW OFFICE

DWIGHT KOERBER, JR.

ATTORNEY-AT-LAW

110 NORTH SECOND STREET

P. O. BOX 1330

CLEARFIELD, PENNSYLVANIA 16830

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

**PLAINTIFF'S NOTICE OF SERVICE**

To: William A. Shaw, Prothonotary

Date: September 17, 2003

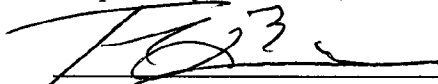
I, Theron G. Noble, Esquire, counsel for Plaintiff, does hereby certify this 17th day of September, 2003, that I did mail a true and correct copy of Plaintiffs' NOTICE OF SERVICE, along with his first set of discovery requests, to the below indicated persons, being Defendants' counsels of record, via United States Mail, postage prepaid, first class:

Jeffrey A. Ramaley, Esq.  
Zimmer Kuntz  
3300 U.S. Steel Tower  
Pittsburgh, PA 15219-2702

Paul J. Walsh, III, Esq.  
Summers, McDonnell, Walsh & Skeel  
Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

Sharon M. O'Donnell, Esq.  
Marshall, Dennehey, Warner, Coelman & Goggin  
4200 Crums Mill Rd, Suite B  
Harrisburg, PA 17112

Respectfully Submitted,



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

**FILED** NO  
m1:22-61 CC  
SEP 18 2003  
Q  
Kus

William A. Shaw  
Prothonotary/Clerk of Courts

7

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

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

Plaintiff,

v.

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

Defendants.

CIVIL DIVISION

No.: 03-1240-CD

**PRAECIPE FOR ENTRY OF  
APPEARANCE**

Filed on Behalf of Defendant  
ALBERT GREEN TRUCKING, INC.

Counsel of Record for this Party:

Robert R. Leight, Esquire  
PA I.D. No. 33733

Pietragallo, Bosick & Gordon  
One Oxford Centre, 38th Floor  
Pittsburgh, PA 15219

(412) 263-2000

**FILED**

**SEP 18 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

#6



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

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

CIVIL DIVISION

Plaintiff,

No.: 03-1240-CD

v.

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

Defendants.

**PRAECIPE FOR ENTRY OF APPEARANCE**

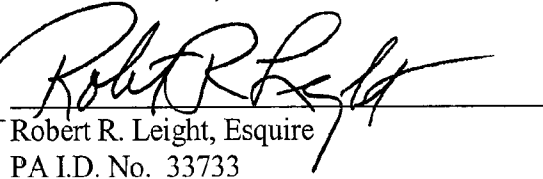
TO: PROTHONOTARY OF CLEARFIELD COUNTY

Kindly enter my appearance as counsel of record for Defendant, ALBERT GREEN  
TRUCKING, INC., in the above-captioned case.

Respectfully submitted,

PIETRAGALLO, BOSICK & GORDON

By:

  
Robert R. Leight, Esquire  
PA I.D. No. 33733

One Oxford Centre, 38th Floor  
Pittsburgh, PA 15219

(412) 263-2000

*Counsel for Defendant ALBERT GREEN  
TRUCKING, INC.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Praeipie for Entry of Appearance** has been served on the following via U.S. First Class Mail, postage pre-paid, this 17<sup>th</sup> day of September, 2003:

Theron G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(*Counsel for Plaintiff*)

Gary Baldwin  
Gary Baldwin Trucking  
638 Morrison Road  
Clearfield, PA 16830

Senex Explosives, Inc.  
710 Millers Run Road  
Cuddy, PA 15031

PIETRAGALLO, BOSICK & GORDON

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

  
Robert R. Leight, Esquire

FILED NO  
m 1328 2014  
SEP 18 2003

William A. Shaw  
Prothonotary/Clerk of Courts

cc  
[Signature]

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

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

Plaintiff

v.

No. 03-1240-CD

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

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter the appearance of the undersigned on behalf of Defendant, Senex  
Explosives, Inc. **ONLY** in the above captioned matter.

Respectfully Submitted,

**MARSHALL, DENNEHEY, WARNER,  
COLEMAN & GOGGIN**

DATE: **9-11-03**

BY: 

SHARON M. O'DONNELL, ESQUIRE  
I.D. NO. 79457  
4200 Crums Mill Road, Suite B  
Harrisburg, PA 17112  
(717) 651-3503

*Attorneys for Defendant,  
Senex Explosives, Inc.*

\\05\_A\\LIAB\\SMO\\LLPG\\132952\\CYW\\19161\\50000

**FILED**

**SEP 15 2003**

William A. Shaw  
Prothonotary/Clerk of Courts



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

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

Plaintiff

v.

No. 03-1240-CD

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

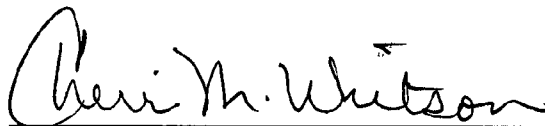
Defendants

**CERTIFICATE OF SERVICE**

I, Cherri M. Whitson, an employee of Marshall, Dennehey, Warner, Coleman & Goggin,  
do hereby certify that on Thursday, September 11, 2003, I served a true and correct copy of the  
foregoing document via First Class United States Mail, postage pre-paid as follows:

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

Dwight Koerber, Jr., Esquire  
110 N. 2nd Street  
P.O. Box 1320  
Clearfield, PA 16830  
*Attorney for Albert Green Trucking*



Cherri M. Whitson

FILED NO  
m1137/81  
SEP 15 2003  
cc  
8/24

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

Plaintiff,

vs.

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

Defendants.

CIVIL DIVISION

Docket No.: 03-1240 CD

**PRAECIPE FOR APPEARANCE**  
(Jury Trial Demanded)

Filed on Behalf of the Defendant:  
Albert Green Trucking

Counsel of Record for This Party:

PAUL J. WALSH III, ESQUIRE  
PA I.D. # 58843

SUMMERS, McDONNELL, WALSH & SKEEL  
Firm #911

The Gulf Tower, Suite 2400  
707 Grant Street  
Pittsburgh, PA 15219

(412) 261-3232

#11886

**FILED**

**SEP 15 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

#4

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MARTIN R. SLIFKO, JR.,

CIVIL DIVISION

Plaintiff,

Docket No.: 03-1240 CD

vs.

(Jury Trial Demanded)

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

Defendants.

**PRAECIPE FOR APPEARANCE**

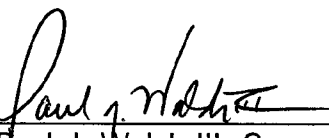
TO: THE PROTHONOTARY

Kindly enter the Appearance of the undersigned, Paul J. Walsh III, Esquire, of the law firm of Summers, McDonnell, Walsh & Skeel, on behalf of the Defendant, Albert Green Trucking, Inc., in the above case.

**JURY TRIAL DEMANDED**

Respectfully submitted,

SUMMERS, McDONNELL, WALSH & SKEEL

By   
Paul J. Walsh III, Counsel for Defendant <sup>et</sup>  
Albert Green Trucking, Inc.



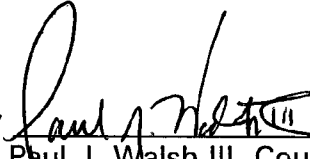
**CERTIFICATE OF SERVICE**


I HEREBY CERTIFY that a true and correct copy of the foregoing Praecipe for Appearance has been mailed by U.S. Mail to counsel of record via first class mail, postage pre-paid, this 12th day of September, 2003.

Theron Noble, Esquire  
301 East Pine St.  
Clearfield, PA 16830

SUMMERS, McDONNELL, WALSH & SKEEL

By



Paul J. Walsh III, Counsel for Defendant   
Albert Green Trucking, Inc.

FILED

NO  
M11:31  
SEP 15 2003  
CC

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

CIVIL DIVISION

No.: 03-1240-CD

Plaintiff,

v.

**PRAECIPE FOR APPEARANCE**

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

Filed on behalf of:  
DEFENDANT,  
GARY BALDWIN, t/d/b/a GARY BALDWIN  
TRUCKING, only

Defendants.

Counsel of Record for this party:  
**JEFFREY A. RAMALEY, ESQUIRE**  
Pa. I.D. #41559

**ZIMMER KUNZ, P.L.L.C.**  
Firm #920  
3300 U.S. Steel Tower  
Pittsburgh, PA 15219

**JURY TRIAL DEMANDED**

(412) 281-8000

**FILED**

**SEP 11 2003**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

CIVIL DIVISION

No.: 03-1240-CD

Plaintiff,

v.

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

Defendants.

PRAECIPE FOR APPEARANCE

TO: THE PROTHONOTARY OF CLEARFIELD COUNTY

Kindly enter my appearance on behalf of the Defendant, GARY BALDWIN,  
t/d/b/a GARY BALDWIN TRUCKING, only in the civil action listed above.

Respectfully submitted,

ZIMMER KUNZ, P.L.L.C.

By 

JEFFREY A. RAMALEY, ESQUIRE  
ATTORNEY FOR DEFENDANT,  
GARY BALDWIN, t/d/b/a GARY  
BALDWIN TRUCKING, only

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

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

CIVIL DIVISION

Plaintiff,

v.

No.: 03-1240-CD

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

Defendants.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the within PRAECIPE FOR  
APPEARANCE was forwarded to counsel below named by United States Mail on the 8<sup>th</sup>

day of Sept., 2003:

Thereon G. Noble, Esquire  
Ferraraccio & Noble  
301 East Pine Street  
Clearfield, PA 16830  
(Attorney for Plaintiff)

Albert Green Trucking, Inc.  
RD #1, Box 274  
Woodland, PA 16881  
(Defendant)

Senex Explosives, Inc.  
710 Millers Run Road  
Cuddy, PA 15031  
(Defendant)

ZIMMER-KUNZ, P.L.L.C.

By 

JEFFREY A. RAMALEY, ESQUIRE

FILED  
M10:30 AM  
SEP 11 2003

William A. Shaw  
Prothonotary/Clerk of Courts

*[Handwritten signature]*

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

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

-vs-

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

Docket No. 03-1240-CD

Type of pleading:  
PRAECIPE TO ENTER  
APPEARANCE

Filed on behalf of:  
DEFENDANT, Albert D.  
Green Trucking, Inc.

Counsel of record for  
this party:

Dwight L. Koerber, Jr.,  
Esquire  
PA I.D. No. 16332

110 North Second Street  
P. O. Box 1320  
Clearfield, PA 16830  
(814) 765-9611

FILED

SEP 02 2003

William A. Shaw  
Prothonotary/Clerk of Courts

#2

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

\*

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

\*

\*

-vs-

\*

Docket No. 03-1240-CD

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

\*

\*

\*

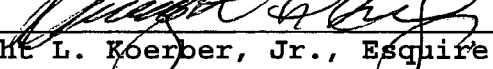
\*

PRAECIPE TO ENTER APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of Defendant Albert D.  
Green Trucking, Inc.

Respectfully submitted,


By:   
Dwight L. Koerber, Jr., Esquire  
DATE: September 2, 2003



CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of September, 2003, a copy of the foregoing Praecipe to Enter Appearance has been served by United States First Class Mail upon the following:

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

  
Dwight L. Koerber, Jr., Esquire

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
Docket No. 03-1240-CD

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

-VS-

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

PRAECIPE TO ENTER APPEARANCE

FILED  
SEP 02 2003

William A. Shaw

Prothonotary/Clerk of Courts

LAW OFFICE

DWIGHT KOERBER, JR.

ATTORNEY-AT-LAW

110 NORTH SECOND STREET

P. O. BOX 1320

CLEARFIELD, PENNSYLVANIA 16830

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03- 1240 -CD

Type of Pleading:

**CIVIL COMPLAINT**

Filed By:

Plaintiff

Counsel of Record:

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

**FILED**

AUG 21 2003

William A. Shaw  
Prothonotary

#1

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03-\_\_\_\_\_-CD

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIM SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY CLAIM IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF(S). YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE AN ATTORNEY, OR CANNOT FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

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

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

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

PLAINTIFF,

v.

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

DEFENDANTS.

No. 03-\_\_\_\_\_-CD

**CIVIL COMPLAINT**

**NOW COMES the Plaintiff, Martin R. Slifko, Jr., by and through his counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of his CIVIL COMPLAINT:**

**The Parties**

1. Plaintiff is Martin R. Slifko, Jr., an adult individual, who does, and at all material times, does reside at 34 Railroad Street, Morann, Clearfield County, , Pennsylvania 16663.
2. That first defendant is Gary Baldwin, t/d/b/a Gary Baldwin Trucking, upon information and belief an adult individual engaged in the business of trucking with a business address of 638 Morrison Road, Clearfield, Clearfield County, Pennsylvania 16830.
3. That second defendant is Albert Green Trucking, Inc., upon information and belief a duly formed and existing Pennsylvania corporation, also engaged in the business of trucking, with a principal business address of RD #1, Box 274, Woodland, Clearfield County, Pennsylvania 16881.
4. That third defendant is Senex Explosives, Inc., upon information and belief a duly formed and

existing Pennsylvania corporation, engaged in the business of providing commercial explosives, with a principal business address of 710 Millers Run Road, Cuddy, Allegheny County, Pennsylvania 15031.

#### Background

5. That Junior Coal Contracting, Inc., did have a job site known as the "Runk Job", located off of State Route 2024, in Decatur Township, Clearfield County, Pennsylvania.

6. That, upon information and belief, the only reasonable ingress and egress to and from the "Runk Job" is via an entrance to a private road which intersects with the aforementioned State Route 2024.

7. That on September 18, 2001, Mr. Slifko was taking a leisurely ride and safely operating his motorcycle in a westerly direction along State Route 2024, approximately 1.5 miles to the east of Decatur Township, Clearfield County, Pennsylvania, in the vicinity of the entranceway to the "Runk Job".

8. That a substance, best described as an oil slick, leading from the aforementioned entranceway onto State Route 2024, was on the west bound lane of State Route 2024.

9. That as he passed through the oil slick Mr. Slifko did start to loose control of his motorcycle and shortly thereafter it left the roadway, traveling through a grassy area, throwing Mr. Slifko from the motorcycle.

10. That as a result of the aforementioned accident, Mr. Slifko did suffer numerous injuries to his person, including, but not limited to multiple contusions, segmental fracture of the left clavicle and severe dislocated fracture of the right elbow.

11. That as a result of the aforementioned injuries, Mr. Slifko was taken to the Philipsburg Hospital where he was treated, which included surgery to repair said fractures.

12. That in addition to the hospitalization, Mr. Slifko did receive other medical care which included physical therapy.

13. That Mr. Slifko remains under the care of Dr. Rodolfo S. Polintan, the orthopedic surgeon who performed the surgery.

14. Mr. Slifko have an additional surgery remove some of the metal rods placed in him during the aforementioned surgery and then another battery of physical therapy following said surgery.

15. That Mr. Slifko's medical bills for these treatments did approximate \$100,000, in an amount to be more fully and accurately determined at time of trial for past and possibly future treatment.

16. That Mr. Slifko also missed work from the date of the accident until January 3rd, suffering an approximate loss of income in the amount of \$10,000 in an amount to be more fully determined at time of trial.

17. That although he is mostly recovered, Mr. Slifko did suffer severe pain from these injuries and still suffers significant pain at different times and should be compensated in an amount to be determined at time of trial for such pain.

18. That Mr. Slifko was not able to enjoy life in the same capacity as before the accident and should be compensated for his loss of enjoyment of life in an amount to be determined at time of trial.

19. That Mr. Slifko has also suffered scarring and should be compensated for the same in an amount to be determined at time of trial.

20. That while he was initially recuperating from these injuries, Mr. Slifko needed tremendous assistance with his day to day living needs which required the care and attention of his parents whom should be compensated in an amount to be determined at time of trial.

21. That Mr. Slifko initiated suit against Junior Coal Contracting, Inc., filed at 02-962-CD, Clearfield County, which is still on going, concerning this matter.

22. That during the course of investigation it was learned and now therefore averred, that Junior Coal Contracting, Inc., did not have vehicles which entered or left the "Runk Job Site" on the day of the accident.

23. That the defendants herein named did have vehicles enter and exit the "Runk Job Site" at the aforementioned location with vehicles capable of making or creating the aforementioned oil slick.

Count I: Negligence

24. That the averments of paragraphs 1 - 23 inclusive, are hereby incorporated as if again fully set forth at length.

25. That Defendants owed Mr. Slifko a duty of care as a person on the highway, roadway or

traffic ways of this Commonwealth.

26. That Defendants breached this duty of care owed to Mr. Slifko in that, upon information and belief, Defendants were negligent as follows:

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

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

C. They failed to correct the dangerous condition of an oil slick their business operations caused on State Route 2024; and/or

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

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

28. That associated with this incident, Mr. Slifko did also suffer damage to some personal property for which he should be compensated at time of trial in an amount to be determined.

Miscellaneous

29. That venue is proper.

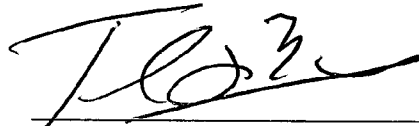
30. That jurisdiction is proper.

31. That defendants have joint and several liability.



**WHEREFORE, Plaintiff requests that judgment be entered in his favor, and against defendants, jointly and severally, in an amount in excess of Twenty-Five Thousand Dollars, together with costs and interest.**

Respectfully Submitted,

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

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

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

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

PLAINTIFF,

v.

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

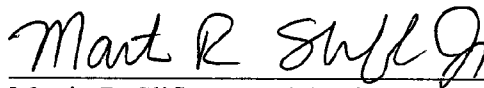
DEFENDANTS.

No. 03-\_\_\_\_\_-CD

**VERIFICATION**

I, Martin L. Slifko, Jr., Plaintiff, does hereby swear and affirm that I have read the foregoing and attached CIVIL COMPLAINT in the above captioned matter, and that to the best of my information, knowledge and belief, the facts as set forth therein are true and correct. Furthermore, that I make this statement subject to the penalties of 18 Pa.C.S.A. 4101, relating to unsworn falsification to authorities.

So made this 4<sup>th</sup> day of August, 2003.



Martin R. Slifko, Jr., Plaintiff

FILED

10:32 AM 5:00 PM Wille  
AUG 21 2003

William A. Shaw  
Prothonotary

**The Superior Court of Pennsylvania**  
**Sitting at Pittsburgh**

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

**FILED**

**NOV 15 2006**

(6K)

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

*m/12-45/2*  
**William A. Shaw**  
Prothonotary/Clerk of Courts

**PENNSYLVANIA RULES OF APPELLATE PROCEDURE 2571 AND 2572**

*copy to*  
*Sub. Ct.*

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

As remanded from said court in the following matter:

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

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

In compliance with Pennsylvania Rules of Appellate Procedure 2571.

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

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

DEPUTY PROTHONOTARY

RECORD, ETC. RECEIVED:

DATE: Nov. 15, 2006

  
(Signature & Title)

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

J. A06027/06

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

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

Appellant

v.

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

Appellee

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

**FILED**

NOV 15 2006 <sup>CP</sup>

William A. Shaw  
Prothonotary/Clerk of Courts

No. 1617 WDA 2005

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

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

Appellant

v.

JUNIOR COAL CONTRACTING, INC.,

Appellee

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1618 WDA 2005

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

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

MEMORANDUM:

FILED: July 24, 2006

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

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

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

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

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

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

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

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

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

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

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




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

Order reversed. Case remanded. Jurisdiction relinquished.

Joyce, J. files a Dissenting Statement.

Judgment Entered:

  
Deputy Prothonotary

DATE: July 24, 2006

MARTIN SLIFKO, JR.,  
AN ADULT INDIVIDUAL,

**Appellant**

V.

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

## Appellees

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1617 WDA 2005

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

MARTIN SLIFKO, JR.,  
AN ADULT INDIVIDUAL,

Appellant

V.

JUNIOR COAL CONTRACTING, INC.,

Appellee

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1618 WDA 2005

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

DISSENTING STATEMENT:

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

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

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

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

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

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

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

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

I agree with the trial court that Appellant has failed come to forward with sufficient evidence to establish two material issues to the case, *i.e.*, the existence of a duty or causation. As the trial court observed, "[t]he evidence established through discovery shows that it is just as likely as not the substance came to be on the public road from a vehicle not related to [Appellee] or [its] agents." Trial Court Opinion, 8/24/05, at 8.<sup>1</sup>

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

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

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

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