

06-85-CD
Keith Warner vs Curtis Ellis et al

2006-85-CD
Keith Warner vs Curtis Ellis et al

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

KEITH B. WARNER,

: No. 06-85-CD

Plaintiff,

v.

CURTIS ELLIS, WERNER ENTERPRISES,
AND JOHN M. CAMPBELL,

Defendants.

: TYPE OF PLEADING:
**PRAECIPE FOR ISSUANCE
OF WRIT OF SUMMONS**

: TYPE OF CASE: CIVIL

: FILED ON BEHALF OF:
PLAINTIFF KEITH B. WARNER

: COUNSEL OF RECORD FOR
FOR THIS PARTY:
CHENA L. GLENN-HART, ESQ.
I.D. NO. 82750
JAMES M. HORNE, ESQ.
I.D. NO. 26908
KATHERINE V. OLIVER, ESQ.
I.D. NO. 77069
McQUAIDE, BLASKO, SCHWARTZ,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
PH# (814) 238-4926

FILED
MTH: 50/62 (John Campbell)
JAN 18 2006 to Shaw
Writs to
William A. Shaw
Prothonotary/Clerk of Courts
Werner & Ellis
to Atty
Atty pd. 85.00

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

KEITH B. WARNER, : No. _____
: _____
Plaintiff, :
: _____
v. :
: _____
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
: _____
Defendants. :
: _____

PRAECIPE FOR ISSUANCE OF WRIT OF SUMMONS

TO THE PROTHONOTARY:

Please issue a Writ of Summons on behalf of Plaintiff Keith B. Warner and against the following Defendants:

John M. Campbell 135 Frederick Road Altoona, PA 16603	Werner Enterprises 14507 Frontier Road Omaha, NE 68138	Curtis Ellis 1815 60 Oaks Lane Vero Beach, FL 32960
---	--	---

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

Dated: January 17, 2006

By: Chena L. Glenn-Hart
Chena L. Glenn-Hart, Esquire
I.D. No. 82750
Katherine V. Oliver, Esquire
I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendants

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

KEITH B. WARNER, : No. 06-85-CD
Plaintiff, :
v. :
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
Defendants. :
:

 COPY

WRIT OF SUMMONS

To: Werner Enterprises
14507 Frontier Road
Omaha, NE 68138

You are hereby notified that Plaintiff Keith B. Warner has commenced an action against you which you are required to defend or a default judgment may be entered against you.

11/18/06
Date

William Shaw
William Shaw, Prothonotary
[SEAL]

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

KEITH B. WARNER,

: No. de 85-cd



Copy

Plaintiff,

v.

CURTIS ELLIS, WERNER ENTERPRISES,
AND JOHN M. CAMPBELL,

Defendants.

WRIT OF SUMMONS

To: Curtis Ellis
1815 60 Oaks Lane
Vero Beach, FL 32960

You are hereby notified that Plaintiff Keith B. Warner has commenced an action against you which you are required to defend or a default judgment may be entered against you.

11/18/06
Date

William Shaw, Prothonotary
[SEAL]

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

KEITH B. WARNER,

No. Ole-85-CD

Plaintiff,

v.

CURTIS ELLIS, WERNER ENTERPRISES,
AND JOHN M. CAMPBELL,

Defendants.

CCNY

WRIT OF SUMMONS

To: John M. Campbell
135 Frederick Road
Altoona, PA 16603

You are hereby notified that Plaintiff Keith B. Warner has commenced an action against you which you are required to defend or a default judgment may be entered against you.

1/18/06
Date

William Shaw
William Shaw, Prothonotary
[SEAL]

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

KEITH B. WARNER,

: No. 06-85-C.D.

Plaintiff,

:
: TYPE OF PLEADING:
RETURN OF SERVICE

v.

CURTIS ELLIS, WERNER ENTERPRISES,
AND JOHN M. CAMPBELL,

: TYPE OF CASE: CIVIL

Defendants.

: FILED ON BEHALF OF:
PLAINTIFF KEITH B. WARNER

:
: COUNSEL OF RECORD FOR
FOR THIS PARTY:
CHENA L. GLENN-HART, ESQ.
I.D. NO. 82750
JAMES M. HORNE, ESQ.
I.D. NO. 26908
KATHERINE V. OLIVER, ESQ.
I.D. NO. 77069
McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.
811 University Drive
State College, PA 16801
PH# (814) 238-4926

FILED NOCC
m 12 23 04
MAR 06 2004
WM

William A. Shaw
Prothonotary/Clerk of Courts

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

KEITH B. WARNER, : No. 06-85-C.D.
: Plaintiff,
: v.
: CURTIS ELLIS, WERNER ENTERPRISES,
: AND JOHN M. CAMPBELL,
: Defendants.

RETURN OF SERVICE

To: William Shaw, Prothonotary
Clearfield County Courthouse
231 East Market Street
Clearfield, PA 16830

Please take notice that on the 23rd day of January, 2006, pursuant to Pa.R.C.P. 404(2), the undersigned served Defendant Keith B. Warner's Writ of Summons on Defendant Werner Enterprises, by First Class Mail, certified, return receipt requests, at the following address: 14507 Frontier Road, Omaha, Nebraska 68138. Attached hereto as Exhibit "A" is the original Return Receipt.

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: Chena L. Glenn-Hart

Chena L. Glenn-Hart
Attorney I.D. No. 82750
James M. Horne
Attorney I.D. No. 26908
Katherine V. Oliver
Attorney I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
Keith B. Warner

Dated: March 1, 2006

2. Article Number



7160 3901 9842 8969 9524

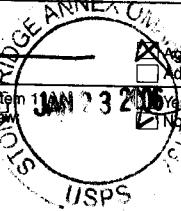
3. Service Type CERTIFIED MAIL

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Werner Enterprises
 14507 Frontier Road
 Omaha, NE 68138

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) <i>R Jenkins</i>	B. Date of Delivery
C. Signature	
<i>X R Jenkins</i> 	
D. Is delivery address different from item 1? If YES, enter delivery address below <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

PS Form 3811, January 2005

Domestic Return Receipt

CON/REC - PDI-Campbell

EXHIBIT "A"

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

KEITH B. WARNER, : No. 06-85-C.D.
Plaintiff, :
v. :
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
Defendants. :

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Return of Service in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 1st day of March, 2006, to the attorney(s)/parties of record as indicated below:

John M. Campbell 135 Frederick Road Altoona, PA 16603	Werner Enterprises 14507 Frontier Road Omaha, NE 68138	Curtis Ellis 1815 60 Oaks Lane Vero Beach, FL 32960
---	--	---

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: Chena L. Glenn-Hart
Chena L. Glenn-Hart
Attorney I.D. No. 82750
James M. Horne
Attorney I.D. No. 26908
Katherine V. Oliver
Attorney I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
Keith B. Warner

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

KEITH B. WARNER, : No. 06-85-C.D.
Plaintiff, :
v. : TYPE OF PLEADING:
CURTIS ELLIS, WERNER ENTERPRISES, : **RETURN OF SERVICE**
AND JOHN M. CAMPBELL, :
Defendants. :
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: PLAINTIFF KEITH B. WARNER
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: CHENA L. GLENN-HART, ESQ.
: I.D. NO. 82750
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED NO CC
MIA:2301
MAR 06 2006
WM
William A. Shaw
Prothonotary/Clerk of Courts

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

KEITH B. WARNER, : No. 06-85-C.D.
Plaintiff, :
v. :
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
Defendants. :
:

RETURN OF SERVICE

To: William Shaw, Prothonotary
Clearfield County Courthouse
231 East Market Street
Clearfield, PA 16830

Please take notice that on the 24th day of January, 2006, pursuant to Pa.R.C.P. 404(2), the undersigned served Defendant Keith B. Warner's Writ of Summons on Additional Defendant Curtis Ellis, by First Class Mail, certified, return receipt requests, at the following address: 1815 60 Oaks Lane, Vero Beach, Florida 32960. Attached hereto as Exhibit "A" is the original Return Receipt signed by the Additional Defendant, Curtis Ellis.

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 

Chena L. Glenn-Hart
Attorney I.D. No. 82750
James M. Horne
Attorney I.D. No. 26908
Katherine V. Oliver
Attorney I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
Keith B. Warner

Dated: March 1, 2006

2. Article Number



7160 3901 9842 8969 9531

3. Service Type **CERTIFIED MAIL**4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

Curtis Ellis
 1815 60 Oaks Lane
 Vero Beach, FL
 32960

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

Curtis Ellis

B. Date of Delivery

1-29-06

C. Signature

Agent
 Addressee

D. Is delivery address different from item 1?
 If YES, enter delivery address below:

Yes
 No

PS Form 3811, January 2005

Domestic Return Receipt

CH/nc - PA - Casper

EXHIBIT "A"

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

KEITH B. WARNER,

: No. 06-85-C.D.

Plaintiff,

v.

CURTIS ELLIS, WERNER ENTERPRISES,
AND JOHN M. CAMPBELL,

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Return of Service in the above-captioned matter was mailed by regular mail, postage prepaid, at the Post Office, State College, Pennsylvania, on this 1st day of March, 2006, to the attorney(s)/parties of record as indicated below:

John M. Campbell
135 Frederick Road
Altoona, PA 16603

Werner Enterprises
14507 Frontier Road
Omaha, NE 68138

Curtis Ellis
1815 60 Oaks Lane
Vero Beach, FL 32960

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: Chena L. Glenn-Hart

Chena L. Glenn-Hart
Attorney I.D. No. 82750
James M. Horne
Attorney I.D. No. 26908
Katherine V. Oliver
Attorney I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
Keith B. Warner

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

KEITH B. WARNER, : No. 06-85-CD
Plaintiff, :
v. :
CURTIS ELLIS, WERNER ENTERPRISES, : TYPE OF PLEADING:
AND JOHN M. CAMPBELL, : COMPLAINT
Defendants. :
: TYPE OF CASE: CIVIL
: FILED ON BEHALF OF:
: PLAINTIFF KEITH B. WARNER
:
: COUNSEL OF RECORD FOR
: FOR THIS PARTY:
: CHENA L. GLENN-HART, ESQ.
: I.D. NO. 82750
: JAMES M. HORNE, ESQ.
: I.D. NO. 26908
: KATHERINE V. OLIVER, ESQ.
: I.D. NO. 77069
: McQUAIDE, BLASKO, SCHWARTZ,
: FLEMING & FAULKNER, INC.
: 811 University Drive
: State College, PA 16801
: PH# (814) 238-4926

FILED
MARCH 09 2006
NO CC
JM

William A. Shaw
Prothonotary/Clerk of Courts

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

KEITH B. WARNER, : No. 06-85-CD
Plaintiff, :
v. :
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
Defendants. :
:

NOTICE TO PLEAD

TO: Curtis Ellis
1815 60 Oaks Lane
Vero Beach, FL 32960

YOU ARE HEREBY notified to file a written response to the enclosed Complaint within twenty (20) days from the date of service hereof or a judgment may be entered against you.

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 
Chena L. Glenn-Hart
Attorney I.D. No. 82750
James M. Horne
Attorney I.D. No. 26908
Katherine V. Oliver
Attorney I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
Keith B. Warner

Dated: March 6, 2006

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

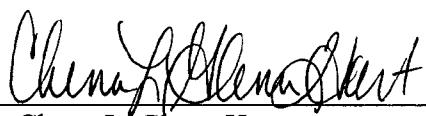
KEITH B. WARNER, : No. 06-85-CD
:
Plaintiff, :
:
v. :
:
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
:
Defendants. :
:

NOTICE TO PLEAD

TO: Werner Enterprises
14507 Frontier Road
Omaha, NE 68138

YOU ARE HEREBY notified to file a written response to the enclosed Complaint within twenty (20) days from the date of service hereof or a judgment may be entered against you.

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 
Chena L. Glenn-Hart
Attorney I.D. No. 82750
James M. Horne
Attorney I.D. No. 26908
Katherine V. Oliver
Attorney I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
Keith B. Warner

Dated: March 6, 2006

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

KEITH B. WARNER, : No. 06-85-CD
:
Plaintiff, :
:
v. :
:
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
:
Defendants. :
:

NOTICE TO PLEAD

TO: John M. Campbell
135 Frederick Road
Altoona, PA 16603

YOU ARE HEREBY notified to file a written response to the enclosed Complaint within twenty (20) days from the date of service hereof or a judgment may be entered against you.

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: Chena L. Glenn-Hart
Chena L. Glenn-Hart
Attorney I.D. No. 82750
James M. Horne
Attorney I.D. No. 26908
Katherine V. Oliver
Attorney I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Dated: March 6, 2006

Attorneys for Defendant
Keith B. Warner

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

KEITH B. WARNER,	:	No. 06-85-CD
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
CURTIS ELLIS, WERNER ENTERPRISES,	:	
AND JOHN M. CAMPBELL,	:	
	:	
Defendants.	:	

COMPLAINT

AND NOW, comes Plaintiff, Keith B. Warner, by and through his undersigned attorneys, McQuaide, Blasko, Fleming & Faulkner, Inc., and files the following Complaint and in support thereof avers as follows:

1. Plaintiff is Keith B. Warner, an adult individual residing at 400 West Fourth Street, Nescopeck, Pennsylvania 18635.
2. Defendant Curtis Ellis is an adult individual last known to be residing at 2635 11th Court, Vero Beach, Florida 32960.
3. Defendant Werner Enterprises is a business entity with a principle place of business at 14507 Frontier Road, Omaha, Nebraska 68138.
4. Defendant John M. Campbell is an adult individual last known to be residing at 135 Frederick Road, Altoona, Pennsylvania 16603.
5. At all times relevant to the instant action, Defendant Curtis Ellis was operating a 2002 tractor trailer (NE Tag 15542) which was owned by Co-Defendant Werner Enterprises.
6. At all times relevant to the instant action, Defendant Ellis was acting as an employee, servant, agent, and/or representative of Defendant Werner Enterprises.

7. On or about February 7, 2004, Plaintiff was the owner of a 1993 Plymouth Voyager which he was driving in a westerly direction on SR 80 approaching DuBois in Clearfield County, Pennsylvania in the right hand lane.

8. On or about February 7, 2004, Defendant Curtis Ellis was operating a 2002 tractor trailer also in a westerly direction on SR 80 in the left hand lane.

8. On or about February 7, 2004, Defendant John M. Campbell was the owner of a 2000 Cadillac which he was operating in a westerly direction on Interstate 80 behind Plaintiff's vehicle.

9. It was snowing heavily at the time and the road was covered with snow.

10. In addition, traffic was moving slowly as it was approaching a motor vehicle accident ahead.

11. Given this, Plaintiff was carefully and cautiously operating his vehicle at an appropriate pace with his four way flashers activated.

12. As Plaintiff carefully and cautiously operated his vehicle on Interstate 80, the tractor trailer operated by Defendant Ellis passed Plaintiff's vehicle in the left lane.

13. As Defendant Ellis' tractor trailer passed Plaintiff, the tractor trailer suddenly and without warning swerved into the right lane directly into the path of Plaintiff's vehicle and striking the front end of Plaintiff's vehicle.

14. Due to the sudden nature of Defendant Ellis' tractor trailer swerving into Plaintiff's lane of travel directly in front of Plaintiff's vehicle, Plaintiff was unable to avoid colliding with Defendant's tractor trailer.

15. As a result of the impact with Defendant Ellis' tractor trailer, Plaintiff's vehicle began spinning out of control despite Plaintiff's efforts to bring it to a stop by applying his brakes.

16. Plaintiff's vehicle had practically come to a complete stop on the left side of the interstate when Defendant Campbell's Cadillac collided with it.

COUNT I
KEITH B. WARNER v. CURTIS ELLIS AND WERNER ENTERPRISES

17. The accident at issue was directly caused by the negligence, recklessness and carelessness of Defendant Ellis in that he attempted to pass Plaintiff's vehicle in the left westbound lane of Interstate 80 at a speed unsafe for conditions at the time, resulting in his tractor trailer swerving into Plaintiff's lane of travel, thereby resulting in the initial collision.

18. The initial collision in this accident was caused solely by the negligent, reckless and careless conduct of Defendant Curtis Ellis in that:

- a. He operated his tractor trailer without due regard for the rights, safety and position of Plaintiff's vehicle;
- b. He failed to keep his tractor trailer under proper and adequate control;
- c. He was inattentive and failed to maintain a sharp lookout of the road and condition of traffic around, beside and behind him;
- d. He failed to observe the rights, safety and position of Plaintiff's vehicle;
- e. He failed to be observant of Plaintiff's vehicle;
- f. He failed to keep proper lookout;
- g. He failed to make proper observations of the position of Plaintiff's vehicle;
- h. He failed to be observant of traffic and road conditions;
- i. He failed to take all reasonable measure to avoid colliding with the motor vehicle being operated by Plaintiff;

- j. He violated the statutes of the Commonwealth of Pennsylvania relating to the operation of motor vehicles on public roadways; and
- k. He was otherwise negligent, reckless and careless under the circumstances then and there existing.

19. By virtue of the fact that Defendant Ellis was an agent, representative and employee of Defendant Werner Enterprises at all times relevant to the accident at issue, Defendant Werner Enterprises is vicariously liable for the negligence, recklessness and carelessness of Defendant Ellis as described hereinabove.

20. As a direct and proximate result of the negligence, recklessness and carelessness of Defendant Ellis, Plaintiff sustained damages in the amount of \$2,846.20, which represents the value of Plaintiff's vehicle at the time of loss, less the salvage value, and fees incurred in towing and storage of the vehicle.

WHEREFORE, Plaintiff Keith B. Warner demands judgment against Defendants Curtis Ellis and Werner Enterprises in the amount of \$2,846.20, plus cost, interest and any such other relief as deemed appropriate.

COUNT II
KEITH B. WARNER v. JOHN M. CAMPBELL

21. Paragraphs 1 through 20 are incorporated by reference as though set forth at length herein.

22. The accident at issue was directly caused by the negligence, recklessness and carelessness of Defendant Campbell in that he failed to maintain proper lookout and proper control of his vehicle with respect to the traffic ahead of him, namely the initial collision between Defendant Ellis' tractor trailer and Plaintiff's vehicle, thereby resulting in the second collision.

23. The second collision in this accident was caused solely by the negligent, reckless and careless conduct of Defendant Campbell in that:

- a. He operated his vehicle without due regard for the rights, safety and position of Plaintiff's vehicle;
- b. He failed to keep his vehicle under proper and adequate control;
- c. He was inattentive and failed to maintain a sharp lookout of the road and condition of traffic around, beside and behind him;
- d. He failed to observe the rights, safety and position of Plaintiff's vehicle;
- e. He failed to be observant of Plaintiff's vehicle;
- f. He failed to keep proper lookout;
- g. He failed to make proper observations of the position of Plaintiff's vehicle;
- h. He failed to be observant of traffic and road conditions;
- i. He failed to take all reasonable measure to avoid colliding with the motor vehicle being operated by Plaintiff;
- j. He violated the statutes of the Commonwealth of Pennsylvania relating to the operation of motor vehicles on public roadways;
- k. He failed to maintain an assured clear distance between his vehicle and Plaintiff's vehicle; and
- l. He was otherwise negligent, reckless and careless under the circumstances then and there existing.

24. As a direct and proximate result of the negligence, recklessness and carelessness of Defendant Campbell, Plaintiff sustained damages in the amount of \$2,846.20, which

represents the value of Plaintiff's vehicle at the time of loss, less the salvage value, and fees incurred in towing and storage of the vehicle.

WHEREFORE, Plaintiff Keith B. Warner demands judgment against Defendant John M. Campbell in the amount of \$2,846.20, plus cost, interest and any such other relief as deemed appropriate.

Respectfully submitted,

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: 
Chena L. Glenn-Hart
Attorney I.D. No. 82750
James M. Horne
Attorney I.D. No. 26908
Katherine V. Oliver
Attorney I.D. No. 77069
811 University Drive
State College, PA 16801
(814) 238-4926

Attorneys for Defendant
Keith B. Warner

Dated: March 6, 2006

VERIFICATION

The undersigned verifies that he is authorized to make this Verification on his own behalf, and that the statements made in the foregoing Complaint are true and correct to the best of his knowledge, information and belief. The undersigned understand that false statements herein are subject to the penalties of 18 Pa. C.S.A. § 4904, related to unsworn falsification to authority.



Keith B. Warner
Keith B. Warner

Dated: 2-28-06

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

KEITH B. WARNER,	:	No. 06-85-CD
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
CURTIS ELLIS, WERNER ENTERPRISES,	:	
AND JOHN M. CAMPBELL,	:	
	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Plaintiff's Complaint in the above-captioned matter was mailed by regular mail, postage prepaid, or by certified mail (return receipt requested) at the Post Office, State College, Pennsylvania, on this 6th day of March, 2006, to the attorney(s)/party(ies) of record as indicated below:

Brian J. Walker, Esquire Hennessy & Walker Group, P.C. 142 W. Market Street West Chester, PA 19382 (via regular mail)	Werner Enterprises 14507 Frontier Road Omaha, NE 68138 (via regular mail)	Curtis Ellis 2635 11 th Court Vero Beach, FL 32960 (via regular mail)
---	--	---

Gary N. Stewart, Esquire Rawle & Henderson, LLP 25 North Front Street, First Floor Harrisburg, PA 17101 (via regular mail)	John M. Campbell 135 Frederick Road Altoona, PA 16603 (via regular mail)
--	---

McQUAIDE, BLASKO,
FLEMING & FAULKNER, INC.

By: Chena L. Glenn-Hart
Chena L. Glenn-Hart

Attorney I.D. No. 82750

James M. Horne

Attorney I.D. No. 26908

Katherine V. Oliver

Attorney I.D. No. 77069

811 University Drive

State College, PA 16801

(814) 238-4926

Attorneys for Defendant

Keith B. Warner

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101176
NO: 06-85-CD
SERVICE # 1 OF 1
WRIT OF SUMMONS

PLAINTIFF: KEITH B. WARNER

vs.

DEFENDANT: CURTIS ELLIS, WERNER ENTERPRISES, and JOHN M. CAMPBELL

SHERIFF RETURN

NOW, January 25, 2006, SHERIFF OF BLAIR COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN WRIT OF SUMMONS ON JOHN M. CAMPBELL.

NOW, February 13, 2006 ATTEMPTED TO SERVE THE WITHIN WRIT OF SUMMONS ON JOHN M. CAMPBELL, DEFENDANT. THE RETURN OF BLAIR COUNTY IS HERETO ATTACHED AND MADE PART OF THIS RETURN MARKED "NOT FOUND".

019-12-01 NO CC
S
RECEIVED
FEB 13 2006
CLEARFIELD COUNTY SHERIFF'S OFFICE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101176
NO: 06-85-CD
SERVICES 1
WRIT OF SUMMONS

PLAINTIFF: KEITH B. WARNER

vs.

DEFENDANT: CURTIS ELLIS, WERNER ENTERPRISES, and JOHN M. CAMPBELL

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	MCQUAIDE	96784	10.00
SHERIFF HAWKINS	MCQUAIDE	96784	23.39
BLAIR CO.	MCQUAIDE	96785	26.50

Sworn to Before Me This

So Answers,

____ Day of _____ 2006


Chester A. Hawkins
Sheriff

Address Doesn't Exist

DATE RECEIVED

2/10/06 2AF/RAC

DATE PROCESSED

SHERIFF'S DEPARTMENT

BLAIR COUNTY, PENNSYLVANIA
COURTHOUSE, HOLLIDAYSBURG, PA. 16648

SHERIFF SERVICE PROCESS RECEIPT, and AFFIDAVIT OF RETURN

INSTRUCTIONS:

Print legibly, insuring readability of all copies.

Do not detach any copies. BCSD ENV. #

1. PLAINTIFF / S /

Keith B Warner

2. COURT NUMBER

06-85cp/61885T-06

3. DEFENDANT / S /

Curtis Ellis et al

4. TYPE OF WRIT OR COMPLAINT

Writ of Summons

SERVE



5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVICE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD.

John M Campbell

AT

6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)

135 Frederick Road Altoona, PA 16603

7. INDICATE UNUSUAL SERVICE:

PERSONAL PERSON IN CHARGE DEPUTIZE CERT. MAIL REGISTERED MAIL POSTED OTHER

NOW, _____, I, SHERIFF OF BLAIR COUNTY, PA., do hereby depose the Sheriff of County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

SHERIFF OF BLAIR COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

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 of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriffs' sale thereof.

9. SIGNATURE of ATTORNEY or other ORIGINATOR requesting service on behalf of:

10. TELEPHONE NUMBER

11. DATE

McQuade Blaske (Clearfield Co.) PLAINTIFF DEFENDANT

765-2641 X 5986

SPACE BELOW FOR USE OF SHERIFF ONLY — DO NOT WRITE BELOW THIS LINE

12. I acknowledge receipt of the writ or complaint as indicated above.

SIGNATURE of Authorized BCSD Deputy or Clerk and Title

13. Date Received

14. Expiration/Hearing date

1-26-06

2-16-06

15. I hereby CERTIFY and RETURN that I have personally served, have served person in charge, have legal evidence of service as shown in "Remarks" (on reverse) have posted the above described property with the writ or complaint described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below by hand ing or Posting a TRUE and ATTESTED COPY thereof.

16. I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)

17. Name and title of individual served

18. A person of suitable age and discretion then residing in the defendant's usual place of abode.

Read Order

19. Address of where served (complete only if different than shown above) (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code)

20. Date of Service

21. Time

22. ATTEMPTS Date Miles Dep. Int. Date Miles Dep. Int. Date Miles Dep. Int. Date Miles Dep. Int.

Shl No 4

27. Total Costs

26.50

28. COST DUE OR REFUND

123.50

23. Advance Costs ²⁴ ²⁵ ²⁶ 150.00 Rec # 118257 21.50 5.00

30. REMARKS

address does not exist

AFFIRMED and subscribed to before me this

13th

SO ANSWER.

By (Sheriff/Dep. Sheriff) (Please Print or Type)

Date

day of

February, 2006

Signature of Sheriff

Date

Carol W. Reed, Notary Public
Hollidaysburg Boro, Blair County

SHERIFF OF BLAIR COUNTY

MY COMMISSION EXPIRES APR. 3, 2007

I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE
OF AUTHORIZED ISSUING AUTHORITY AND TITLE.

39. Date Received

SHERIFF'S RETURN OF SERVICE

(1) The within _____ upon _____, the within named defendant by mailing to _____ by _____ mail, return receipt requested, postage prepaid _____ on the _____, a true and attested copy thereof at _____

The return receipt signed by _____ defendant on the _____ is hereto attached and made part of this return.

(2) Outside the Commonwealth, pursuant to Pa. R.C.P. 405 (c) (1) (2), by mailing a true and attested copy thereof at _____ in the following manner.

(a) To the defendant by () registered () certified mail, return receipt requested, postage prepaid, addressee only on the _____, said receipt being returned NOT signed by defendant, but with a notation by the Postal Authorities that defendant refused to accept the same. The returned receipt and envelope is attached hereto and made part of this return.

And thereafter:

(b) To the defendant by ordinary mail addressed to defendant at same address, with the return address of the Sheriff appearing thereon, on the _____

I further certify that after fifteen (15) days from the mailing date, I have not received said envelope back from the Postal Authorities. A certificate of mailing is hereto attached as a proof of mailing.

(3) By publication in a daily publication of general circulation in the County of Blair, Commonwealth of Pennsylvania, _____ time (s) with publication appearing _____

The affidavit from said publication is hereto attached.

(4) By mailing to _____ by _____ mail, return receipt requested, postage prepaid, on the _____, a true and attested copy thereof at _____

The _____ returned by the Postal Authorities marked _____ is hereto attached.

(5) Other _____

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

KEITH B. WARNER, : No. Ole 85-CD
Plaintiff, :
v. :
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
Defendants. :
:

WRIT OF SUMMONS

To: John M. Campbell
135 Frederick Road
Altoona, PA 16603

You are hereby notified that Plaintiff Keith B. Warner has commenced an action against you which you are required to defend or a default judgment may be entered against you.

1/18/06
Date

William Shaw
William Shaw, Prothonotary
[SEAL]

BLAIR CO. SHERIFF'S OFFICE

2006 JAN 26 P 1:30

RECEIVED

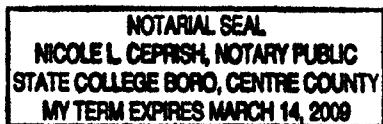
Pennsylvania State Constable
James R. Millinder
PO Box 112
Bellefonte, PA 16823
(814) 574-1270

And Now, this 30, day of MARCH, 2006, at 10:20 A.M. I served the within civil Complaint upon John M Campbell at 180 Henry St. Avis PA 17721 by posting/handing to Defendant a true and correct copy to the within _____

and made known to _____ the contents thereof.

Sworn and subscribed to before me this 10th day of April 2006, A.D.

Nicole L. Cepriash
 Notary



Costs:

Service \$100.00
 Mileage/Postage —
 Miscellaneous —
 Total Costs \$100.00

FILED ^{NO CC}
 APR 07 2006

William A. Shaw
 Prothonotary/Clerk of Courts

MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

(814) 238-4926

FAX (814) 234-5620
www.mqblaw.com

April 6, 2006

William Shaw, Prothonotary
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Re: Keith B. Warner v. Curtis Ellis, Werner Enterprises and John M. Campbell
Clearfield County No. 06-85-C.D.

Dear Mr. Shaw:

Enclosed for filing please find an original Affidavit of Service with regard to the above-captioned matter.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

McQUAIDE BLASKO

By:



Chena Glenn-Hart

CGH/nlc

Enclosure

cc: Judy Spencer (Claim No. 38-K379-427)
Brian J. Walker, Esquire (via facsimile & regular mail)
Gary N. Stewart, Esquire (via facsimile & regular mail)

MCQUAIDE, BLASKO, FLEMING & FAULKNER, INC.

State College Office: John W. Blasko R. Mark Faulkner David M. Weixel Steven S. Hurvitz James M. Horne Wendell V. Courtney Darryl R. Slimak Mark Righter Daniel E. Bright Paul J. Tomczuk Janine C. Gismondi John A. Snyder April C. Simpson Allen P. Neely Pamela A. Ruest Katherine V. Oliver Katherine M. Allen Wayne L. Mowery, Jr. Chena L. Glenn-Hart Livinia N. Jones Cristin R. Long Matthew T. Rogers Frederick R. Battaglia Anthony A. Simon

Hershey Office: Grant H. Fleming Maureen A. Gallagher Michael J. Mohr Jonathan B. Stepanian Britt D. Russell

Hollidaysburg Office: Thomas M. Reese J. Benjamin Yeager Sean M. Burke Michael P. Routh

John G. Love (1893-1966) Roy Wilkinson, Jr. (1915-1995) Delbert J. McQuaide (1936-1997)

Brian J. Walker, Esquire, AIC
Hennessy & Walker
142 West Market Street
West Chester, PA 19382
610-431-2727
Attorney I.D. 71927

Attorney for Defendant
John M. Campbell

Keith B. Warner : In The Court of Common Pleas
vs. : Clearfield County, Pennsylvania
Curtis Ellis, Werner Enterprises : Civil Action Law
and John M. Campbell : No: 06-85-CD

Entry of Appearance

To the Prothonotary:

Please enter my appearance for Defendant, John M. Campbell in the above
captioned case.



Brian J. Walker, Esquire, AIC
Hennessy & Walker

FILED NO C
APR 12 2006
APR 20 2006 S

William A. Shaw
Prothonotary/Clerk of Courts

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

PENN NATIONAL INSURANCE CO., : No. 04-1945-C.D.
A/S/O JOHN M. CAMPBELL : 06-85-C.D.

V.

WERNER ENTERPRISES and : TYPE OF CASE: CIVIL
KEITH B. WARNER, : FILED ON BEHALF OF:
 : **DEFENDANT KEITH B. WARNER**

Defendants,

v. : COUNSEL OF RECORD FOR
CURTIS ELLIS, : FOR THIS PARTY:
 : CHENA L. GLENN-HART, ESQ.

Additional Defendant

: COUNSEL OF RECORD FOR
FOR THIS PARTY.

FOR THIS PARTY:
GUENAU GLENN HART, ESO

CHENA L. GLE

I.D. NO. 82750
JAMES M. HORNE, ESO

37 EAMES M. HORN
ID NO. 36008

K.D. NO. 20908

LD. NO. 77069

McQUAIDE BLASKO

FLEMING & FA

811 University Drive

101 University Driv

PH# (814) 238-4926

Y.

CURTIS ELLIS, WERNER ENTERPRISES,
AND JOHN M. CAMPBELL.

Defendants.

! (6x)
FILED
m10-0031X NO CC
MAY 11 2006

William A. Shaw
Prothonotary/Clerk of Courts

Org. filed
to 04-1945-CD

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

PENN NATIONAL INSURANCE CO. :
A/S/O JOHN M. CAMPBELL, :
Plaintiffs, : No. 04-1945-C.D.
v. :
WERNER ENTERPRISES and :
KEITH B. WARNER, :
Defendants. :
v. :
CURTIS ELLIS, :
Additional Defendant. :

KEITH B. WARNER, : No. 06-85-CD

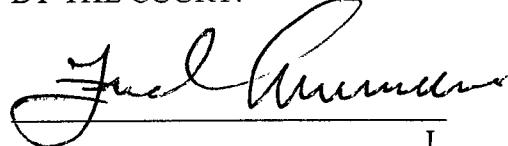
Plaintiff, :
v. :
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
Defendants. :

FILED
09:33am MAY 12 2006
UCC Atty Glenn Hart
William A. Shaw
Prothonotary Orig. to
04-1945 CD

ORDER

AND NOW, this 11 day of May, 2006, upon consideration of Plaintiff Keith B. Warner's Motion to Consolidate, said Motion is hereby GRANTED. It is further ORDERED that the civil actions at Clearfield County Docket Nos. 04-1945-CD and 06-85-CD shall be consolidated for purposes of litigation inclusive of discovery, through arbitration, at Docket No. 04-1945-CD.

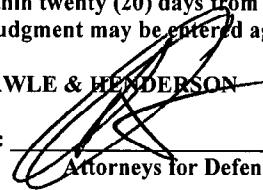
BY THE COURT:


J.

TO PLAINTIFFS:

You are hereby notified to file a written response to the enclosed NEW MATTER within twenty (20) days from service hereof or a judgment may be entered against you .

RAWLE & HENDERSON

By: 

Attnorneys for Defendants

RAWLE & HENDERSON LLP

By: Gary N. Stewart
Identification No.: 67353
By: Jeffrey C. Mickletz
Identification No.: 87531
25 North Front Street, First Floor
Harrisburg, Pennsylvania 17101
(717) 234-7700

Attnorneys for Defendants,
Werner Enterprises, Inc.
and Curtis Ellis

KEITH B. WARNER	:	COURT OF COMMON PLEAS OF
	:	
Plaintiff,	:	CLEARFIELD COUNTY
	:	
vs.	:	NO: 06-85-CD
	:	
CURTIS ELLIS,	:	
WERNER ENTERPRISES, and	:	
JOHN M. CAMPBELL	:	
	:	
Defendants,	:	
	:	

FILED
MAY 18 2006
cc
MAY 18 2006

William A. Shaw
Prothonotary/Clerk of Courts

DEFENDANTS WERNER ENTERPRISES, INC.'S AND CURTIS ELLIS'
ANSWER TO PLAINTIFF'S COMPLAINT WITH NEW MATTER

Defendants Werner Enterprises, Inc. (improperly identified in the complaint as Werner Enterprise) and Curtis Ellis, by and through their attorneys, Rawle & Henderson LLP, file the within answer to plaintiff's complaint and state as follows:

1. Admitted in part, denied in part. It is admitted only that plaintiff is an adult individual. Defendants have insufficient knowledge or information upon which to

form a belief as to the truth of the remaining averments contained in paragraph 1 of the complaint.

2. Admitted in part, denied in part. It is admitted only that defendant Curtis Ellis is an adult individual. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 2 of the complaint.

3. Admitted.

4. Paragraph 4 of the complaint is addressed to another defendant and thus no responsive pleading is required.

5. Admitted. Werner admits that it was the owner or lessee of the tractor involved in the accident and that the driver was operating the tractor trailer while performing duties as an employee or agent of Werner Enterprises, Inc. with instruction to operate the tractor trailer while using reasonable and due care and in compliance with all other applicable laws.

6. Admitted in part, denied in part. It is admitted only that Werner was the owner or lessee of the tractor involved in the accident and that the driver was operating the tractor trailer while performing duties as an employee or agent of Werner Enterprises, Inc. with instruction to operate the tractor trailer while using reasonable and due care and in compliance with all other applicable laws. This averment contains conclusions of law to which no responsive pleading is required. By way of further answer and without waiver of the foregoing, said averment is denied as stated. The remaining averments are denied. Denied. Defendant has insufficient knowledge or information upon which to

form a belief as to the truth of the remaining averments contained in paragraph 6 of the complaint.

7. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 7 of the complaint.

8. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 8 of the complaint.

8. (sic) Paragraph 8 of the complaint is addressed to another defendant and thus no responsive pleading is required.

9. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 9 of the complaint.

10. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 10 of the complaint.

11. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 11 of the complaint.

12. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 12 of the complaint.

13. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 13 of the complaint.

14. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 14 of the complaint.

15. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 15 of the complaint.

16. Denied. Defendant has insufficient knowledge or information upon which to form a belief as to the truth of the remaining averments contained in paragraph 16 of the complaint.

COUNT I
KEITH B. WARNER v. CURTIS ELLIS AND WERNER ENTERPRISES

17. Denied. Paragraph 17 of the complaint contains conclusions of law to which no responsive pleading is required and to the extent that they are deemed otherwise, they are denied. Defendants specifically deny any and all negligence, carelessness and/or recklessness. Strict proof is demanded at the time of trial.

18. (a. – k.) Denied. Paragraph 18 and its subparts of the complaint contain conclusions of law to which no responsive pleading is required and to the extent that they are deemed otherwise, they are denied. Defendants specifically deny any and all negligence, carelessness and/or recklessness. Strict proof is demanded at the time of trial.

19. Admitted in part, denied in part. It is admitted that Werner was the owner or lessee of the tractor involved in the accident and that the driver was operating the

tractor trailer while performing duties as an employee or agent of Werner Enterprises, Inc. with instruction to operate the tractor trailer while using reasonable and due care and in compliance with all other applicable laws. Defendants specifically deny any and all negligence, carelessness and/or recklessness. Strict proof is demanded at the time of trial.

20. Denied. Paragraph 20 of the complaint contains conclusions of law to which no responsive pleading is required and to the extent that they are deemed otherwise, they are denied. Defendants specifically deny any and all negligence, carelessness and/or recklessness. Strict proof is demanded at the time of trial.

WHEREFORE, defendants respectfully request that this Honorable Court dismiss plaintiffs' complaint with prejudice, deny the relief requested therein, grant judgment in favor of defendants and against the plaintiff, and grant such other and further relief as this Honorable Court deems just and proper.

COUNT II
KEITH B. WARNER v. JOHN M. CAMPBELL

19. Defendants hereby incorporate their answers to paragraphs 1 through 20 of the complaint as though the same were set forth at length herein.

22. - 24. These Paragraphs of the complaint are addressed to another defendant and thus no responsive pleading is required.

WHEREFORE, defendants respectfully request that this Honorable Court dismiss plaintiffs' complaint with prejudice, deny the relief requested therein, grant judgment in favor of defendants and against the plaintiff, and grant such other and further relief as this Honorable Court deems just and proper.

NEW MATTER DIRECTED TO PLAINTIFFS

25. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

26. No omissions or conduct on the part of defendant contributed to plaintiff's damages, if any.

27. Plaintiff failed to mitigate his damages.

28. The damages complained of by plaintiff pre-existed or are unrelated to the accident which is the subject matter of this Complaint.

29. The negligence of plaintiff's insured either bars its right to recover completely, or reduces its claims based upon the extent of plaintiff's negligence under the doctrine of comparative negligence.

30. Plaintiff's alleged damages, if any, were the result of an unavoidable accident or sudden emergency.

31. Plaintiff's alleged damages, if any, were proximately caused, in whole or in part, by the fault of third parties for whom defendants are not legally responsible.

32. Plaintiff's claims are barred by the applicable statute of limitations.

33. Service of process was improper and/or insufficient.

34. This Honorable Court lacks jurisdiction over defendant.

35. It is further specifically denied that any act or omission on the part of defendant was the sole or proximate cause of plaintiff's alleged damages.

36. Plaintiff's claims are barred by the doctrine of spoliation.

37. At all times relevant herein, defendant acted in accordance with the applicable state and federal laws.

38. Plaintiff's claims for damage are excessive and unsupported and, therefore, must be barred or reduced.

39. Inasmuch as Pa.R.C.P. 1032 provides that a party waives all defenses not presented by way of answer, defendant, upon advice of counsel, hereby assert all of the affirmative defenses set forth in Pa.R.C.P. 1010(a).

WHEREFORE, defendant, Werner Enterprises, Inc., respectfully request that this Honorable Court dismiss plaintiff's Complaint with prejudice, deny the relief requested therein, and grant judgment in favor of defendants and against plaintiffs and grant other and further relief as this Honorable Court deems just and proper.

RAWLE & HENDERSON LLP

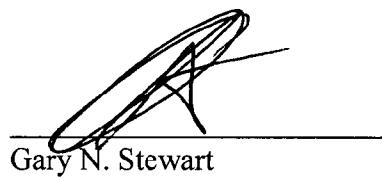
By: 

Gary N. Stewart, Esquire
Jeffrey C. Mickletz, Esquire
Attorney for Defendants,
Werner Enterprises, Inc. and
Curtis Ellis

Date: 5/16/06

VERIFICATION

GARY N. STEWART, hereby verifies that the statements made in the foregoing defendant Werner Enterprises, Inc.'s answer to new matter of codefendant, Keith B. Warner, are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements set forth in said pleading are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.



Gary N. Stewart

Dated: 5-16-06

VERIFICATION

GARY N. STEWART, hereby verifies that the statements made in the foregoing defendant Curtis Ellis' answer to new matter of codefendant, Keith B. Warner, are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements set forth in said pleading are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.



Gary N. Stewart

Dated: 5-16-06

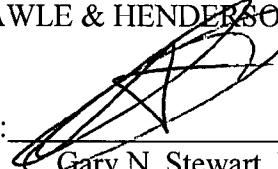
CERTIFICATE OF SERVICE

I hereby certify that on today's date, a true and correct copy of the foregoing pleading was served by first-class mail, postage prepaid, upon all attorneys of record, addressed as follows:

Brian J. Walker, Esquire
Hennessy & Walker Group, P.C.
142 W. Market Street
West Chester, PA 19382

Chena L. Glenn-Hart
McQuaide Blasko
811 University Drive
State College, PA 16801-6699

RAWLE & HENDERSON LLP

By: 

Gary N. Stewart, Esquire
Attorneys for Defendants,
Werner Enterprises, Inc. and
Curtis Ellis

Date: 5-16-06

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

PENN NATIONAL INSURANCE CO., : No. 04-1945-C.D.
A/S/O JOHN M. CAMPBELL : 06-85-C.D.

Plaintiff, : TYPE OF PLEADING:
: CERTIFICATE OF SERVICE

V.

WERNER ENTERPRISES and : TYPE OF CASE: CIVIL
KEITH B. WARNER, : FILED ON BEHALF OF:
 : DEFENDANT KEITH B. WARNER

Defendants,

V.

CURTIS ELLIS,

Additional Defendant.

KEITH B. WARNER,

Plaintiff,

Y.

CURTIS ELLIS, WERNER ENTERPRISES,
AND JOHN M. CAMPBELL.

Defendants.

FILED

MAY 18 2006

1974/2:001

William A. Shaw
Prothonotary/Clerk of Courts

no ϵ/ϵ

Original

04-1945-10

A-4

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

PENN NATIONAL INSURANCE CO. :
A/S/O JOHN M. CAMPBELL, :
:
Plaintiffs, : No. 04-1945-C.D.
:
v. :
:
WERNER ENTERPRISES and :
KEITH B. WARNER, :
:
Defendants. :
:
v. :
:
CURTIS ELLIS, :
:
Additional Defendant. :

KEITH B. WARNER, : No. 06-85-CD
:
Plaintiff, :
:
v. :
:
CURTIS ELLIS, WERNER ENTERPRISES, :
AND JOHN M. CAMPBELL, :
:
Defendants. :

64-1945-C.D
MAY 18 2006
11/2:00 PM
William A. Shaw
Prothonotary/Clerk of Courts
No. C/C (60)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Pre-Arbitration Memorandum of
Plaintiff Keith B. Warner in the above-captioned matter was sent via facsimile and regular mail,
postage prepaid at the Post Office, State College, Pennsylvania, on this 17th day of May, 2006, to
the attorney(s)/party(ies) of record as indicated below:

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

PENN NATIONAL INSURANCE CO.,
A/S/O JOHN M. CAMPBELL

: No. 04-1945-C.D.
: 06-85-C.D.

Plaintiff,

v.

WERNER ENTERPRISES and
KEITH B. WARNER,

Defendants,

v.

CURTIS ELLIS,

Additional Defendant.

KEITH B. WARNER,

Plaintiff,

v.

CURTIS ELLIS, WERNER ENTERPRISES,
AND JOHN M. CAMPBELL,

Defendants.

: TYPE OF PLEADING:

: PLAINTIFF KEITH B. WARNER'S
: REPLY TO NEW MATTER OF
: DEFENDANTS WERNER ENTERPRISES
: INC. AND CURTIS ELLIS

: TYPE OF CASE: CIVIL

: FILED ON BEHALF OF:

: PLAINTIFF KEITH B. WARNER

: COUNSEL OF RECORD FOR

: FOR THIS PARTY:

: CHENA L. GLENN-HART, ESQ.

: I.D. NO. 82750

: JAMES M. HORNE, ESQ.

: I.D. NO. 26908

: KATHERINE V. OLIVER, ESQ.

: I.D. NO. 77069

: McQUAIDE, BLASKO,

: FLEMING & FAULKNER, INC.

: 811 University Drive

: State College, PA 16801

: PH# (814) 238-4926

FILED
MAY 19 2006
William A. Shaw
Prothonotary/Clerk of Courts
Orig. to 04-1945CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Penn National Insurance a/s/o and John M. Campbell

Vs.

No. 04-1945-CD

Werner Enterprises and Keith B. Werner
AND

Keith B. Warner

Vs.

No. 06-85-CD

Curtis Ellis, Werner Enterprises, and John M. Campbell

FILED

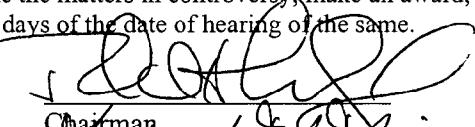
May 25 2006

William A. Shaw
Prothonotary/Clerk of Courts
Notice to all Attnys
(see Notice)

OATH OR AFFIRMATION OF ARBITRATORS

Now, this 25th day of May, 2006, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

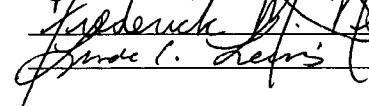
Richard H. Milgrub, Esq.


Chairman

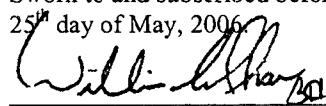
Frederick M. Neiswender, Esq.


Frederick M. Neiswender

Linda C. Lewis, Esq.


Linda C. Lewis

Sworn to and subscribed before me this
25th day of May, 2006.


Prothonotary

AWARD OF ARBITRATORS

Now, this 25th day of May, 2006, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

In favor of Plaintiff against Defendant Curtis Ellis and Werner Enterprises in the amount of \$2,846.20.

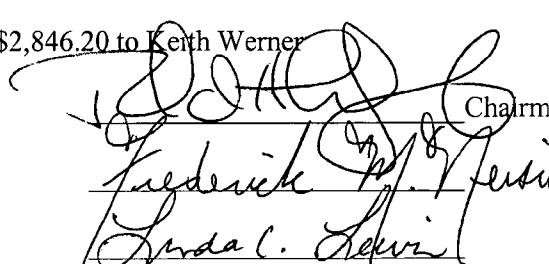
In favor of Defendant John Campbell.

Summary: 04-1945-CD and 06-85-CD

Werner Enterprises to pay

\$6,424.95 to John Campbell

\$2,846.20 to Keith Werner


Chairman

ENTRY OF AWARD

Now, this 25th day of May, 2006, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

WITNESS MY HAND AND THE SEAL OF THE COURT


Prothonotary

By _____

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

Penn National Insurance a/s/o and John M. Campbell

V_S

No. 04-1945-CD

Werner Enterprises and Keith B. Werner

AND

Keith B. Warner

V_S

No. 06-85-CD

Curtis Ellis, Werner Enterprises, and John M. Campbell

OATH OR AFFIRMATION OF ARBITRATORS

Now, this 25th day of May, 2006, we the undersigned, having been appointed arbitrators in the above case do hereby swear, or affirm, that we will hear the evidence and allegations of the parties and justly and equitably try all matters in variance submitted to us, determine the matters in controversy, make an award, and transmit the same to the Prothonotary within twenty (20) days of the date of hearing of the same.

Richard H. Milgrub, Esq.

Frederick M. Neiswender, Esq.

Linda C. Lewis, Esq.

the Prothonotary within twenty (20) days.

Al Orlitz

Chairman

Frederick M. Perswender

Linda C. Elkins

Sworn to and subscribed before me this
25th/day of May, 2006. *M*

Prothonotary

AWARD OF ARBITRATORS

Now, this 25 day of May, 2016, we the undersigned arbitrators appointed in this case, after being duly sworn, and having heard the evidence and allegations of the parties, do award and find as follows:

Werner Enterprises to pay
\$ 6424.95 to John Campbell
\$ 2846.70 to Beeth Werner
✓ Lock & M. L. Johnson chairman
Frederick W. Neiswender
Wendell A. Davis
e if needed on reverse.)

(Continue if needed on reverse.)

ENTRY OF AWARD

Now, this _____ day of _____, _____, I hereby certify that the above award was entered of record this date in the proper dockets and notice by mail of the return and entry of said award duly given to the parties or their attorneys.

WITNESS MY HAND AND THE SEAL OF THE COURT

Prothonotary

By

No. 04-1945 C.O

In favor of ^(Campbell) II against A Werner
Enterprises #64 81.95
+ Curtis Ellis

In favor of A Keith Werner

No. 06-85-CO

In favor of II against A
Curtis Ellis + Werner Enterprises
2846.20

In favor of A John Campbell


Frederick M. Newmeyer
Dinda C. Blevis

Keith B. Warner

Vs.

Curtis Ellis, Werner Enterprises, and
John M. Campbell

: IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY
: No. 2006-00085-CD

:

NOTICE OF AWARD

TO: Brian J. Walker, Esq.

Gary N. Stewart, Esq., Brian M. Marriott, Esq., Jeffrey C. Mickletz, Esq.

James M. Horne, Esq., Katherine V. Oliver, Esq., Chena L. Glenn-Hart, Esq.

You are herewith notified that the Arbitrators appointed in the above case have filed their award in this office on May 25, 2006 and have awarded:

In favor of Plaintiff against Defendant Curtis Ellis and Werner Enterprises in the amount of \$2,846.20.

In favor of Defendant John Campbell.

Summary: 04-1945-CD and 06-85-CD

Werner Enterprises to pay \$6,424.95 to John Campbell \$2,846.20 to Keith Werner

William A. Shaw
Prothonotary
By William A. Shaw

May 25, 2006

Date

In the event of an Appeal from Award of Arbitration within thirty (30) days of date of award.