

NOT  
Used

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. *2006-1892-CD*

Issue No.

**COMPLAINT**

Code:

Filed on behalf of Plaintiff

Counsel of record for this party:

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

David J. Morgan, Esquire  
PA I.D. # 201201

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

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

(412) 281-7272

**JURY TRIAL DEMANDED**

**FILED** *pd \$85.00 AH*  
*M/11:30 am ICC AH Pion*  
**NOV 15 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,	CIVIL DIVISION
 Plaintiff,	 G.D. No.
  v.	
MERIT TRANSPORTATION,	
 Defendant.	

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY, OR BY AN ATTORNEY, AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY CLAIM OR RELIEF REQUESTED BY THE DEFENDANT. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

Court Administrator  
Clearfield County Courthouse  
Second & Market Street  
Clearfield, PA 16830  
(814) 765-2641, ext. 50-51

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

Plaintiff,

G.D. No.

v.

MERIT TRANSPORTATION,

Defendant.

### COMPLAINT

AND NOW, comes the Defendant, Cowen Truck Line, Inc., by and through its counsel, Dickie, McCamey & Chilcote, P.C. and files the following Complaint:

#### **PARTIES AND FACTUAL BACKGROUND**

1. Plaintiff, Cowen Truck Line, Inc. ("Cowen") is an Ohio Corporation with its principle place of business at 2697 St. Rt. 39, P.O. Box 480, Perrysville, Ohio 44864.

2. Defendant, Merit Transportation Company, LLC ("Merit") is a Nebraska Corporation with its principle place of business at 10330 South 152<sup>nd</sup> Street, Omaha, Nebraska 68138.

3. On or about December 17, 2005, David Savine, a driver for Plaintiff's company was sitting in Defendant's vehicle at a truck stop parking lot.

4. While Plaintiff's vehicle was parked in the truck stop parking lot, a driver for Defendant's company, while in the course and scope of his employment, was operating a tractor trailer owned by Defendant.

5. While operating Defendant's vehicle and attempting to turn Defendant's vehicle around, Defendant's employee backed into Plaintiff's vehicle, causing damage.

**COUNT I – NEGLIGENCE**

6. Plaintiff restates all of the allegations set forth as if fully rewritten herein.

7. At all times relevant to the events set forth in this Complaint, Defendant Merit owned and controlled the vehicle driven by their employee.

8. At all times relevant to the events set forth in this Complaint, Defendant's employee was within the course and scope of agency and/or employment with Defendant Merit.

9. As such Defendant Merit is liable for the tortuous acts committed by its employee and all damages as set forth in this Complaint.

10. Defendant's employee negligently operated Defendant's tractor trailer in such a way that it struck the vehicle owned by Plaintiff.

11. As a direct and proximate result of Defendant's employees' negligence and as a direct and proximate result of the collision described above, Plaintiff's vehicle suffered damages.

12. As a direct and proximate result of Defendant's employee's negligence and as a direct and proximate result of the collision described above, Plaintiff's vehicle suffered damages in the amount of \$3,893.78 for labor and repairs.

13. As a direct and proximate result of Defendant's employee's negligence and as a direct and proximate result of the collision described above, Plaintiff's vehicle suffered damages in the amount of \$6,133.09 for replacement parts.

14. As a direct and proximate result of Defendant's employees, negligence and as a direct and proximate result of the collision described above, Plaintiff suffered damages in the amount of \$13,733.00 for downtime to the subject vehicle.


WHEREFORE, Plaintiff Cowen Truck Lines, Inc. prays for judgment on its claims against Defendant, for the amount of \$23,759.84. Additionally, Plaintiff demands

interest, its costs incurred herein and any and all other just and equitable relief to which it is entitled.

**JURY TRIAL DEMANDED**

Respectfully submitted,

Dickie, McCamey & Chilcote, P.C.

By  \_\_\_\_\_  
John T. Pion, Esquire

Attorney for Plaintiff

**VERIFICATION**

I, Tim Cowen, of Cowen Truck Lines, have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

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

  
\_\_\_\_\_  
Tim Cowen

DATED 11/2/06



David J. Morgan  
Attorney-at-Law  
Admitted in PA

Direct Fax: 412-392-5367  
dmorgan@dmclaw.com

November 10, 2006

William Shaw, Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
P.O. Box 549  
Clearfield, PA 16830

RE: Cowen Truck Lines v. Merit Transportation

Dear Mr. Shaw:

Enclosed please find the Complaint which I am requesting to be filed in the above captioned matter. I have enclosed our firm's draft in the amount of \$85.00 for filing of the Complaint. Also enclosed is a self-addressed stamped envelope for return of the Complaint to me so that I may have it served on the Defendants.

If you should have any questions, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be "DJM", written over the typed name "David J. Morgan".

David J. Morgan

DJM/dmvw  
Enclosure



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

Issue No.

**PROOF OF SERVICE**

Code:

Filed on behalf of Plaintiff

Counsel of record for this party:

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

David J. Morgan, Esquire  
PA I.D. # 201201

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

(412) 281-7272

**JURY TRIAL DEMANDED**

**FILED** NO CC  
m/10:37 AM  
NOV 30 2006 (SN)

William A. Shaw  
Prothonotary/Clerk of Courts

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

Plaintiff,

G.D. No.

v.

MERIT TRANSPORTATION,

Defendant.

**PROOF OF SERVICE**

JOHN T. PION, being duly sworn, does depose and say that he served the original within Complaint on Merit Transport Company on or about November 24, 2006, by certified mail. The original return receipt is attached hereto as Exhibit "A".

DICKIE, McCAMEY & CHILCOTE, P.C.

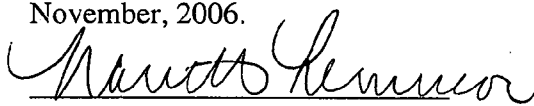
By: 

John T. Pion, Esquire  
Attorneys for Plaintiff

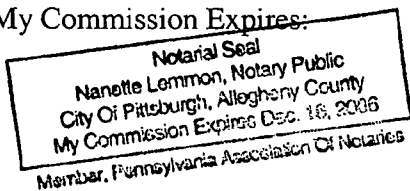
Sworn to and subscribed

before me this 21 day of

November, 2006.

  
Notary Public

My Commission Expires:



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>		<p>A. Signature  X <i>Susie Huff</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p><i>Merit Transport Co.</i>  <i>10330 South 152nd St.</i>  <i>Omaha NE</i>  <i>68138</i></p>		<p>B. Received by (Printed Name)  <i>SUSIE HUFF</i></p> <p>C. Date of Delivery  <i>11-24-06</i></p>	
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number  (Transfer from service label)</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
		<p>7005 1820 0002 1114 9212</p>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

**PRAECIPE FOR APPEARANCE**

Filed on behalf of the Defendant,  
**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3245

**JURY TRIAL DEMANDED**

**FILED** *NO CC*  
*01/15/06*  
**DEC 18 2006** *LM*

William A. Shaw  
Prothonotary/Clerk of Courts

No. 2006-1892 CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

No. 2006-1892 CD

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

**PRAECIPE FOR APPEARANCE**

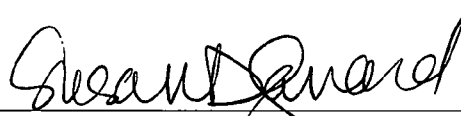
TO: WILLIAM A. SHAW, SR., PROTHONOTARY

Kindly enter my appearance on behalf of Defendant, Merit Transportation.

Papers may be served at the address set forth below:

Susan D. Garrard, Esquire  
PA I.D. 73727  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219  
(412) 338-3245  
Fax: (412) 471-8748

Date: December 12, 2006

  
\_\_\_\_\_  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

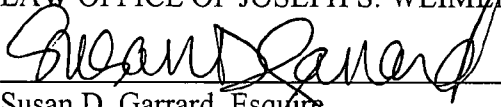
**CERTIFICATE OF SERVICE**

I, Susan D. Garrard, Esquire, do hereby certify that I have mailed a true and correct copy of the within Praecipe for Appearance by regular mail, postage pre-paid, to the following on this 12th day of December, 2006:

John T. Pion, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

LAW OFFICE OF JOSEPH S. WEIMER

BY:

  
\_\_\_\_\_  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

**FILED**

**DEC 18 2006**

William A. Shaw  
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

**PRELIMINARY OBJECTIONS**

Filed on behalf of the Defendant:

**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

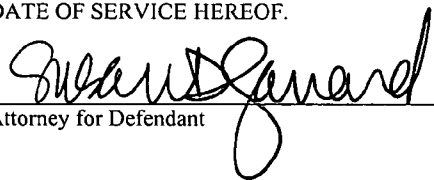
Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219


(412) 338-3245

**JURY TRIAL DEMANDED**

TO THE PLAINTIFF ABOVE NAMED:

YOU ARE HEREBY NOTIFIED TO PLEAD TO  
THE WITHIN PRELIMINARY OBJECTIONS  
WITHIN TWENTY (20) DAYS FROM THE  
DATE OF SERVICE HEREOF.

  
\_\_\_\_\_  
Attorney for Defendant

**FILED** No CC.  
M/3:25pm  
FEB 14 2007  
  
William A. Shaw  
Prothonotary/Clerk of Courts



**PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT**

**AND NOW**, comes the Defendant, MERIT TRANSPORTATION, by and through its counsel, **SUSAN D. GARRARD, ESQUIRE**, and the Law Offices of Joseph S. Weimer, and files these Preliminary Objections to Plaintiff's Complaint and in support thereof, Defendant avers as follows:

**MOTION TO STIKE  
GENERAL ALLEGATIONS OF NEGLIGENCE  
OR IN THE ALTERNATIVE,  
A MOTION FOR A MORE SPECIFIC PLEADING**

1. Plaintiff's filed a Complaint against the Defendant, Merit Transportation, alleging that on December 17, 2005, that while Plaintiff's vehicle was parked in a truck stop parking lot, an employee who was in the course and scope of employment with the Defendant, struck Plaintiff's vehicle. See copy of Plaintiff's Complaint attached hereto, made a part hereof and marked Exhibit "A".

2. In its present form, Plaintiff's Complaint fails to set forth sufficient facts to permit Defendant to respond to the Complaint.

3. Plaintiff's Complaint fails to identify the exact location of the accident proving proper jurisdiction/venue of this lawsuit, the time of the alleged accident, the identification of the driver/employee of Defendant's motor vehicle as well as identification of the tractor trailer which allegedly struck Plaintiff's vehicle.

4. Plaintiff's Complaint only sets forth boilerplate allegations which does not meet the requirements of fact pleading as mandated by Pennsylvania Rule of Civil Procedure 1019(a) and should be stricken from the Complaint.

5. Pennsylvania Rule of Civil Procedure 1019(a) requires that “[t]he material facts on which a cause of action . . . is based shall be stated in a concise and summary form”.

6. Pennsylvania Rule of Civil Procedure 1028(a)(1) permits the filing of Preliminary Objections when a pleading lacks the jurisdiction over the subject matter of the action, especially since Plaintiff’s Complaint fails to state the location of the alleged accident.

7. Pennsylvania Rule of Civil Procedure 1028(a)(3) permits the filing of Preliminary Objections when a pleading lacks insufficient specificity in a pleading.

8. Under Pennsylvania law, the purpose of a pleading is to notify defendants of the claims upon which they will defend. McClellan v. Health Maintenance Org. of Pennsylvania, 413 Pa. Super. 128, 604 A.2d 1053 (1992). See also: Rachlin v. Edmison, 2002 Pa. Super. 387, 813 A.2d 862, 870 (2002).

9. As a result of Plaintiff’s Complaint failing to state with specificity the claims against Defendant and facts upon which those claims are based, Plaintiff’s Complaint must be stricken, dismissed, or in the alternative, Plaintiff must be directed to file a more specific pleading.

WHEREFORE, Defendant, Merit Transportation, respectfully requests that this Honorable Court sustain the Preliminary Objections and strike Plaintiff’s Complaint as to Defendant, Merit Transportation, or, in the alternative, require the filing of a more specific pleading pursuant to Pennsylvania Rules of Civil Procedure 1028 and 1019 as described above.

**DEMURRER**

10. Plaintiff’s Complaint in its present form is vague and does not aver enough specificity in order to establish a cause of action against the Defendant, Merit Transportation.

11. Pennsylvania Rule of Civil Procedure 1019(f) requires that “averments of time, place and . . . shall be specifically stated” in a pleading.

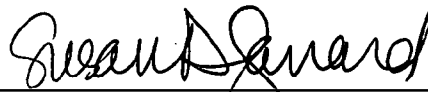
12. Under Pennsylvania law, claims against a party must be concise and state specifics or they fail.

13. Plaintiff's Complaint in its present form fails to meet such specificity as described above.

**WHEREFORE**, Defendant, Merit Transportation, respectfully requests that Plaintiff's Complaint be dismissed.

LAW OFFICE OF JOSEPH S. WEIMER

BY:


A handwritten signature in cursive script, appearing to read "Susan D. Garrard", is written over a horizontal line.

Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

**CERTIFICATE OF SERVICE**

I, Susan D. Garrard, Esquire, do hereby certify that I have mailed a true and correct copy of the within **PRELIMINARY OBJECTIONS** by regular mail, postage pre-paid, to the following on this 12<sup>th</sup> day of February, 2007:

John T. Pion, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

LAW OFFICE OF JOSEPH S. WEIMER  
BY:   
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

From:

11/2/06 15:02

#730 P.003/008

No.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892-CD

Issue No.

COMPLAINT

Code:

Filed on behalf of Plaintiff

Counsel of record for this party:

John T. Pion, Esquire  
PA ID. # 43675

David J. Morgan, Esquire  
PA ID. # 201201

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

(412) 281-7272

**JURY TRIAL DEMANDED**

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

NOV 15 2006

Attest.

*Lois L. G.*  
Prothonotary/  
Clerk of Courts

ALL-STATE LEGAL®  
DEFENDANT'S  
EXHIBIT

*A*

P.05/17

993 TO 914124718748

DEC 06 2006 12:12 FR NORTHLAND CLA



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

**COWEN TRUCK LINES,**

CIVIL DIVISION

**Plaintiff,**

G.D. No.

**V.**

**MERIT TRANSPORTATION.**

**Defendant.**

## COMPLAINT

AND NOW, comes the Defendant, Cowen Truck Line, Inc., by and through its counsel, Dickie, McCarney & Chilcote, P.C. and files the following Complaint:

## PARTIES AND FACTUAL BACKGROUND

*NAD* 1. Plaintiff, Cowen Truck Line, Inc. ("Cowen") is an Ohio Corporation with its principle place of business at 2697 St. Rt. 39, P.O. Box 480, Perrysville, Ohio 44864.

2. Defendant, Merit Transportation Company, LLC ("Merit") is a Nebraska Corporation with its principle place of business at 10330 South 152<sup>nd</sup> Street, Omaha, Nebraska 68138.

3. On or about December 17, 2005, David Savine, a driver for Plaintiff's company was sitting in Defendant's vehicle at a truck stop parking lot.

LC D 4. While Plaintiff's vehicle was parked in the truck stop parking lot, a driver for Defendant's company, while in the course and scope of his employment, was operating a tractor trailer owned by Defendant.

5. While operating Defendant's vehicle and attempting to turn Defendant's vehicle around, Defendant's employee backed into Plaintiff's vehicle, causing damage.

COUNT I - NEGLIGENCE

*inc*  
*owed by defendant*  
6. Plaintiff restates all of the allegations set forth as if fully rewritten herein.  
At all times relevant to the events set forth in this Complaint, Defendant Merit owned and controlled the vehicle driven by their employee.

*LC D not identified*  
8. At all times relevant to the events set forth in this Complaint, Defendant's employee was within the course and scope of agency and/or employment with Defendant Merit.

*LC D negligent*  
9. As such Defendant Merit is liable for the tortuous acts committed by its employee and all damages as set forth in this Complaint.

10. Defendant's employee negligently operated Defendant's tractor trailer in such a way that it struck the vehicle owned by Plaintiff.

11. As a direct and proximate result of Defendant's employees' negligence and as a direct and proximate result of the collision described above, Plaintiff's vehicle suffered damages.

12. As a direct and proximate result of Defendant's employee's negligence and as a direct and proximate result of the collision described above, Plaintiff's vehicle suffered damages in the amount of \$3,893.78 for labor and repairs.

13. As a direct and proximate result of Defendant's employee's negligence and as a direct and proximate result of the collision described above, Plaintiff's vehicle suffered damages in the amount of \$6,133.09 for replacement parts.

14. As a direct and proximate result of Defendant's employees, negligence and as a direct and proximate result of the collision described above, Plaintiff suffered damages in the amount of \$13,733.00 for downtime to the subject vehicle.

WHEREFORE, Plaintiff Cowen Truck Lines, Inc. prays for judgment on its claims against Defendant, for the amount of \$23,759.84. Additionally, Plaintiff demands



From:

11/27/2005 15:03

#790 P.007/008

No.

interest, its costs incurred herein and any and all other just and equitable relief to which it is entitled.

**JURY TRIAL DEMANDED**

Respectfully submitted,

Dickie, McCamey & Chilcote, P.C.

By



John T. Pion, Esquire

Attorney for Plaintiff

**VERIFICATION**

I, Tim Cowen, of Cowen Truck Lines, have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

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

  
\_\_\_\_\_  
Tim Cowen

DATED 11/2/06

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

CIVIL DIVISION

Plaintiff,

No. 2006-1892 CD

v.

MERIT TRANSPORTATION,

Defendant.

**ORDER OF COURT**

**AND NOW**, to-wit, upon consideration of Defendant Merit Transportation's Preliminary Objections, it is hereby **ORDERED, ADJUDGED** and **DECREED** that the within Preliminary Objections are **GRANTED**. Plaintiff's Complaint is dismissed against Defendant, Merit Transportation; or, in the alternative, require the filing of a more specific pleading by Plaintiff pursuant to Pennsylvania Rules of Civil Procedure 1028 and 1019.

**BY THE COURT:**

---

J.

LAW OFFICE OF  
**JOSEPH S. WEIMER**  
975 TWO CHATHAM CENTER  
PITTSBURGH, PENNSYLVANIA 15219  
(412) 338-3184  
FAX (412) 471-8748

Writer's Direct Dial: (412) 338-3245

JOSEPH S. WEIMER  
WALTER C. FADEREWSKI  
DANIEL T. MOSKAL  
F. DAVID DERMOTTA  
MICHAEL E. RELICH  
EDMOND R. JOYAL, JR.  
SUSAN D. GARRARD  
DAVID J. NICHOLS

February 12, 2007

William A. Shaw, Sr., Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

**RE: Cowen Truck Lines v. Merit Transportation**  
**No. 2006-1892 CD / Clearfield County**

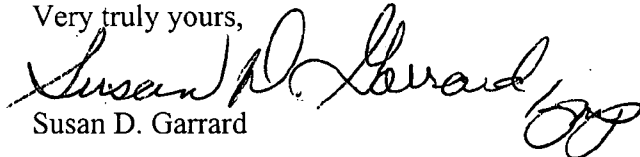
Dear Sir:

Kindly file the enclosed Preliminary Objections, Brief in Support of Preliminary Objections and Praeipce for Argument on behalf of the Defendant, Merit Transportation, pertaining to the above-captioned case. Please time stamp the extra cover sheets and return to me in the enclosed self-addressed, stamped envelope provided.

I am providing a copy of this letter and enclosures to the Court Administrator. I would request the Court Administrator to place this matter on the next available argument list for the Preliminary Objections.

If you have any questions, kindly contact my paralegal, Gina Petrulli, at 412/338-3186. Thank you for your assistance herein.

Very truly yours,

  
Susan D. Garrard

SDG/gmp  
Enclosures

cc: David S. Meholick, Court Administrator (w/encl.)  
John T. Pion, Esquire (w/encl.)  
Merit Transportation, Attn: Linda (w/encl.)  
Craig Perleberg, Northland Insurance Co. (w/encl.)  
Claim #21 TF462197

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

**PRAECIPE FOR ARGUMENT**

Filed on behalf of the Defendant:

**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3245

**JURY TRIAL DEMANDED**

**FILED** No CC.  
H/3:25um  
FEB 14 2007  
um

William A. Shaw  
Prothonotary/Clerk of Courts

No. 2006-1892 CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

No. 2006-1892 CD

Plaintiff,

v.

MERIT TRANSPORTATION,

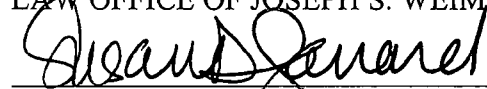
Defendant.

**PRAECIPE FOR ARGUMENT**

Kindly place the above-captioned case on the next available argument list for consideration of the Preliminary Objections filed on behalf of the Defendant, Merit Transportation.

LAW OFFICE OF JOSEPH S. WEIMER

BY:



Susan D. Garrard, Esquire

Attorney for Defendant, Merit Transportation

**CERTIFICATE OF SERVICE**

I, Susan D. Garrard, Esquire, do hereby certify that I have mailed a true and correct copy of the within **PRAECIPE FOR ARGUMENT** by regular mail, postage pre-paid, to the following on this 18<sup>th</sup> day of February, 2007:

John T. Pion, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

LAW OFFICE OF JOSEPH S. WEIMER

BY:

Susan D. Garrard  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

JA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

CIVIL DIVISION

Plaintiff,

No. 2006-1892 CD

v.

MERIT TRANSPORTATION,

**SCHEDULING ORDER**

Defendant.

Filed on behalf of the Defendant,  
**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3245

**JURY TRIAL DEMANDED**

FILED 4CC  
012:43201 Atty Garrard  
FEB 22 2007 (GN)

William A. Shaw  
Prothonotary/Clerk of Courts



No. 2006-1892 CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

No. 2006-1892 CD

Plaintiff,

v.

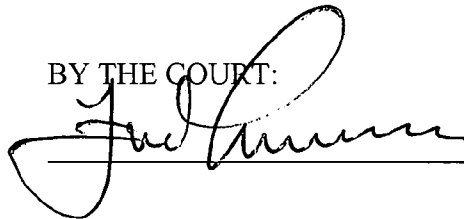
MERIT TRANSPORTATION,

Defendant.

**SCHEDULING ORDER**

AND NOW, this 22 day of February, 2007, argument on Defendant's Preliminary Objections is scheduled before Judge Ammerman in Courtroom 1 at 10:00 (A.M.) P.M. for the 14<sup>th</sup> day of March, 2007 in the Clearfield County Courthouse.

BY THE COURT:

 J.

DATE: 2/22/07

☒ You are responsible for serving all appropriate parties.

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

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

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

William A. Shaw  
Prothonotary/Clerk of Courts

FEB 22 2007

FILED

**FILED**

MAR 01 2007

m/10:05/ur

William A. Shaw  
Prothonotary/Clerk of Courts

no c/c

(6K)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

Issue No.

**AMENDED COMPLAINT**

Code:

Filed on behalf of Plaintiff

Counsel of record for this party:

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

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

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

(412) 281-7272

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
COWEN TRUCK LINES, CIVIL DIVISION

Plaintiff,

G.D. No. 2006-1892 CD

v.

MERIT TRANSPORTATION,

Defendant.

**NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY, OR BY AN ATTORNEY, AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY CLAIM OR RELIEF REQUESTED BY THE DEFENDANT. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

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

Court Administrator  
Clearfield County Courthouse  
Second & Market Street  
Clearfield, PA 16830  
(814) 765-2641, ext. 50-51



Transportation logo, was identified as Unit #4094. The trailer being hauled also bore the Merit Transportation logo and was identified as Unit #1128, bearing Nebraska license plate number 152241.

5. While operating Defendant's vehicle and attempting to turn Defendant's vehicle around, Defendant's employee/agent/servant backed into Plaintiff's vehicle, causing damage to the front of the Plaintiff's tractor.

6. After the collision, Mr. Sovine approached the Defendant's employee/servant/agent and advised him that he had struck the Plaintiff's vehicle.

7. Thereafter, Defendant's employee/agent/servant left the scene of the accident before the responding police officers arrived, without providing his name or any further identification.

#### **COUNT I – NEGLIGENCE**

8. Plaintiff restates all of the allegations set forth as if fully rewritten herein.

9. At all times relevant to the events set forth in this Complaint, Defendant Merit owned and controlled the vehicle driven by their employee.

10. At all times relevant to the events set forth in this Complaint, Defendant's employee was within the course and scope of agency and/or employment with Defendant Merit.

11. As such, Defendant Merit is liable for the tortious acts committed by its employee and all damages as set forth in this Complaint.

12. Defendant's employee negligently operated Defendant's tractor trailer in the following particulars:

- (a) Being inattentive and in failing to maintain a sharp observation of the parking lot and surrounding conditions;

- (b) In failing to watch or look where the motor vehicle was being operated;
- (c) In failing to watch the road and/or parking lot in front of him;
- (d) In leaving the scene of the accident;
- (e) Driving carelessly and recklessly;
- (f) In failing to sound warning of impending collision;
- (g) In failing to properly apply his brakes;
- (h) Driving his vehicle while being inattentive or tired; and
- (i) Operating his vehicle in violation of and without regard to the traffic laws and regulations of the local city, county, and/or Commonwealth of Pennsylvania.

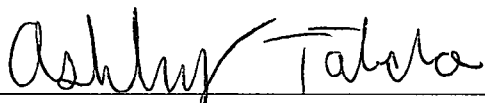
13. The negligence, carelessness and recklessness of Merit Transportation, by and through its employee/agent/servant, as set forth above, was the direct and proximate cause of Plaintiff's damages, totaling \$23,759.84 for labor and repairs, replacement parts, and down time to Plaintiff's vehicle.

WHEREFORE, Plaintiff, Cowen Truck Lines, Inc., prays for judgment on its claims against Defendant, for the amount of \$23,759.84. Additionally, Plaintiff demands interest, its costs incurred herein and any and all other just and equitable relief to which it is entitled.

**JURY TRIAL DEMANDED**

Respectfully submitted,

Dickie, McCamey & Chilcote, P.C.

By   
John T. Pion, Esquire  
Ashley A. Totodo, Esquire

Attorney for Plaintiff

Feb 22 2007 9:44AM Second Floor #1

No. 1000 r. 1

**VERIFICATION**

I, Tim Cowen, am in a position to sign this Verification on behalf of Cowen Truck Lines by way of my position as owner, and have read the foregoing Amended Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

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

Tim Cowen  
Tim Cowen

DATED 2/22/07



**CERTIFICATE OF SERVICE**

I, Ashley A. Totedo, Esquire, hereby certify that a true and correct copy of the foregoing Amended Complaint was served upon counsel of record by U.S. mail, postage prepaid, this 27 day of February, 2007, as follow:

Susan DiBiasio Garrard  
Law Office of Joseph S. Weimer  
Two Chatham Center  
112 Washington Place, Suite 975  
Pittsburgh, Pennsylvania 15219  
(*Counsel for Defendant*)

DICKIE, McCAMEY & CHILCOTE, P.C.

By Ashley Totedo  
John T. Pion, Esquire  
Ashley A. Totedo, Esquire

Two PPG Place, Suite 400  
Pittsburgh, PA 15222-5402  
(412) 281-7272

Counsel for Plaintiff

William A. Shaw  
Prothonotary/Clerk of Courts

MAR 01 2007

FILED

William A.  
Prothonotary/Clerk

MAR 01 2007

FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

G.D. No. 2006-01892

**CERTIFICATE PREREQUISITE TO  
SERVICE OF A SUBPOENA PURSUANT  
TO RULE 4009.22**

Code: 011 (Multiple Civil Actions)

Filed on behalf of Plaintiff, Cowen Truck  
Lines

Counsel of record for this party:

John T. Pion, Esquire  
DC I.D. # 47852

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

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

(412) 281-7272

**JURY TRIAL DEMANDED**

**FILED** *no cc*  
*m110:25401*  
MAR 14 2007 *UN*  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

) CIVIL DIVISION

)

) G.D. No. 2006-01892

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**CERTIFICATE PREREQUISITE TO SERVICE  
OF A SUBPOENA PURSUANT TO RULE 4009.22**

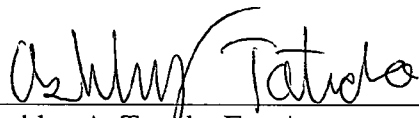
As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22, Defendant certifies that:

- (1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) counsel for plaintiff has waived objection to the subpoena per telephone message of March 8, 2007; and
- (4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

DICKIE, MCCAMEY & CHILCOTE, P.C.

Date: March 8, 2007

By:



Ashley A. Totolo, Esquire  
John T. Pion, Esquire

Attorneys for Plaintiff,  
Cowen Truck Lines

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendants.

CIVIL DIVISION

GD 2006-01892

Issue No.

**NOTICE OF INTENT TO SERVE  
SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR  
DISCOVERY PURSUANT TO  
RULE 4009.21**

Code: 001

Filed on behalf of Plaintiff

Counsel of record for this party:

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

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

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

(412) 281-7272

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendants.

) CIVIL DIVISION

)

)

) GD 2006-01892

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**NOTICE OF INTENT TO SERVE SUBPOENAS  
TO PRODUCE DOCUMENTS AND THINGS  
FOR DISCOVERY PURSUANT TO RULE 4009.21**

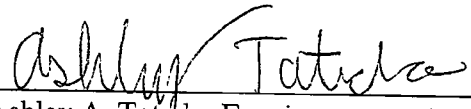
TO: Susan D. Garrard, Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

Plaintiff Cowen Truck Lines by and through their attorneys, John T. Pion, Esquire, Ashley A. Totedo, Esquire and Dickie, McCamey & Chilcote, P.C. intend to serve a subpoena identical to the one attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

DICKIE, MCCAMEY & CHILCOTE, P.C.

Date: February 28, 2007

By:

  
Ashley A. Totedo, Esquire  
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I, Ashley A. Totodo, Esquire, hereby certify that a true and correct copy of foregoing NOTICE OF INTENT TO SERVE SUBPOENAS TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21 has been served this 28 day of February, 2007, by U.S. first-class mail, postage prepaid, to counsel of record as follows:

Susan D. Garrard, Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

*Counsel for Defendant*

DICKIE, McCAMEY & CHILCOTE, P.C.

By: Ashley A. Totodo  
Ashley A. Totodo, Esquire  
Attorneys for Plaintiff  
Cowen Truck Lines

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Cowen Truck Lines  
Plaintiff(s)

Vs.

Merit Transportation  
Defendant(s)

No. 2006-01892-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Pennsylvania State Police Commissioner Jeffrey B. Miller  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

Copies of any and all photographs relative to incident No. 20051217M-3307  
copy of the accident report for incident No. 20051217M-3307, any and all  
witness statements, any and all reconstruction reports and all supplement(al) reports  
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Ashley A. Totedo, Esq.  
ADDRESS: Two PPG Place, Ste. 400  
Pittsburgh, PA 15222-5402  
TELEPHONE: 412-281-7272  
SUPREME COURT ID # 89757  
ATTORNEY FOR: Plaintiff

BY THE COURT:

William J. Sklar, Esq.  
Prothonotary/Clerk, Civil Division

DATE: Monday, February 26, 2007  
Seal of the Court

\_\_\_\_\_  
Deputy



**CERTIFICATE OF SERVICE**

I, Ashley A. Totedo, Esquire, hereby certify that a true and correct copy of the foregoing CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA PURSUANT TO RULE 4009.22 has been served this 9 day of March, 2007, by U.S. first-class mail, postage prepaid, to counsel of record as follows:

Susan D. Garrard, Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219  
(Counsel for Merit Transportation)

DICKIE, McCAMEY & CHILCOTE, P.C.

By: Ashley A. Totedo  
Ashley A. Totedo, Esquire  
John T. Pion, Esquire

Attorneys for Plaintiff,  
Cowen Truck Lines

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

CIVIL DIVISION

Plaintiff,

No. 2006-1892 CD

v.

MERIT TRANSPORTATION,

**ANSWER AND NEW MATTER  
TO AMENDED COMPLAINT**

Defendant.

Filed on behalf of the Defendant,  
**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3245

**JURY TRIAL DEMANDED**

TO THE PLAINTIFF:

YOU ARE HEREBY NOTIFIED TO PLEAD TO THE WITHIN  
ANSWER AND NEW MATTER WITHIN TWENTY (20) DAYS  
FROM THE DATE OF SERVICE HEREOF OR A DEFAULT  
JUDGMENT MAY BE ENTERED AGAINST YOU.

LAW OFFICE OF JOSEPH S. WEIMER

BY:

*Susan D. Garrard*  
SUSAN D. GARRARD, ESQUIRE

ATTORNEY FOR DEFENDANT, MERIT TRANSPORTATION

**FILED** *nee*  
*mjl:2501*  
APR 30 2007

William A. Shaw  
Prothonotary/Clerk of Courts

(610)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

No. 2006-1892 CD

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

**ANSWER AND NEW MATTER TO AMENDED COMPLAINT**

AND NOW, comes the Defendant, Merit Transportation, by and through their attorneys, Susan D. Garrard, Esquire and the Law Office of Joseph S. Weimer, and hereby files the following Answer and New Matter to the Plaintiff's Amended Complaint and avers as follows:

1. Defendant is without knowledge or information sufficient to ascertain the veracity of the allegations in paragraph 1. Accordingly the same is denied.

2. Admitted.

3. Defendant is without knowledge or information sufficient to ascertain the veracity of the allegation contained in paragraph 3. Accordingly, the same is denied and strict proof demanded at time of trial.

4. Defendant is without knowledge or information sufficient to ascertain the veracity of the allegation contained in paragraph 4. Accordingly, the same is denied and strict proof required at time of trial.

5. This paragraph states a legal conclusion to which no response is required. To the extent a response may be deemed necessary, the same is denied and strict proof required at time of trial.

6. Denied.

7. Denied.

**COUNT I - NEGLIGENCE**

8. Defendant incorporates 1 through 7 of its Answer and New Matter to Amended Complaint as though specifically restated herein.

9. It is admitted that Defendant Merit owns and controls its vehicles that are driven by its employees. However, it specifically denied that any of its vehicles were involved in an incident/accident as alleged by Plaintiff.

10. This paragraph states a legal conclusion to which no response is required. To the extent a response may be deemed necessary, Plaintiff has not identified the alleged employee and Defendant cannot admit the person is an employee. Further, Defendant denies such an incident took place. Accordingly, this Defendant specifically denies any and all allegations of negligence and damages in accordance with Pa. R.C.P. 1029(e).

11. This paragraph states a legal conclusion to which no response is required. To the extent a response may be deemed necessary, Plaintiff has not identified the alleged employee and therefore Defendant cannot admit the person was an employee. Accordingly, Defendant specifically denies any and all allegations of negligence and damages in accordance with Pa. R.C.P. 1029(e).

12(a) – (i). This paragraph and its sub-paragraphs state legal conclusions to which no response is required. To the extent a response may be deemed necessary, Plaintiff has not identified the driver involved and therefore, this Defendant is unable to ascertain whether or not its driver was actually involved in an accident. Further, it is not believed any such incident occurred as described by Plaintiff. Accordingly, all sub-paragraphs are denied in accordance with Pa. R.C.P. 1029(e). Further, strict proof is required at time of trial.

13. This paragraph states a legal conclusion to which no response is required. To the extent a response may be deemed necessary, this Defendant specifically denies any and all

allegations of negligence, carelessness, recklessness and damages in accordance with Pa. R.C.P. 1029(e). Strict proof is demanded at time of trial.

WHEREFORE, Defendant, Merit Transportation, demands judgment against Plaintiff, plus interest and costs of suit.

**NEW MATTER**

14. Defendant invokes as an affirmative defense the statute of limitations to the extent the same may be applicable.

15. This Defendant asserts that Plaintiff's alleged damages are due to the actions or inactions of a third party or parties, for whose conduct this Defendant is neither liable nor responsible.

16. Plaintiff's Complaint fails to state a cause of action against this Defendant upon which relief may be granted.

17. Although not necessary to do so, this Defendant pleads the affirmative defenses of comparative negligence, contributory negligence and assumption of the risk as a full and complete bar to Plaintiff's claims against this Defendant.

18. Defendant affirmatively pleads that Plaintiff has failed to mitigate its damages.

19. Plaintiff's alleged damages were pre-existing and not caused by, nor contributed to, by this accident.

20. Plaintiff has failed to join an indispensable party.

WHEREFORE, Defendant, Merit Transportation, demands judgment against Plaintiff, plus interest and costs of suit.

**LAW OFFICE OF JOSEPH S. WEIMER**

BY:



Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

**VERIFICATION**

I, Linda McCollum, as representative of Merit Transportation, Defendant in the within matter, verify that the statements contained in the within Answer and New Matter to Amended Complaint are true and correct to the best of my knowledge, information and belief.

I understand that false statements are made subject to penalty of Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

BY: Linda McCollum

DATE: 4-19-07

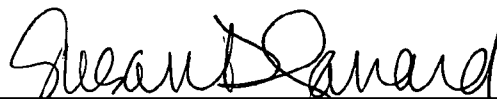
**CERTIFICATE OF SERVICE**

I, Susan D. Garrard, Esquire, do hereby certify that I have mailed a true and correct copy of the within **ANSWER AND NEW MATTER TO AMENDED COMPLAINT** by regular mail, postage pre-paid, to the following on this 25<sup>th</sup> day of April, 2007:

Ashley A. Totodo, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

**LAW OFFICE OF JOSEPH S. WEIMER**

BY:



Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

**FILED**

MAY 07 2007  
M/11:20/11  
William A. Shaw  
Prothonotary/Clerk of Courts  
W09C (GK)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

CIVIL DIVISION

Plaintiff,

No. 2006-1892 CD

v.

MERIT TRANSPORTATION,

Defendant.

**AFFIDAVIT OF SERVICE OF FIRST SET  
OF INTERROGATORIES AND FIRST  
REQUEST FOR PRODUCTION OF  
DOCUMENTS DIRECTED TO  
PLAINTIFF**

Filed on behalf of the Defendant:

**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3245

**JURY TRIAL DEMANDED**



**AFFIDAVIT OF SERVICE OF FIRST SET OF INTERROGATORIES AND  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

COMMONWEALTH OF PENNSYLVANIA, )  
 ) SS:  
COUNTY OF ALLEGHENY, )

BEFORE ME, the undersigned authority, personally appeared SUSAN D. GARRARD, ESQUIRE, who deposes and says that the First Set of Interrogatories and First Request for Production of Documents were served on counsel for Plaintiff on the 3rd day of May, 2007, by regular mail, postage pre-paid, and that the First Set of Interrogatories and First Request for Production of Documents contained a notice to said counsel to answer the First Set of Interrogatories and respond to the First Request for Production of Documents within thirty (30) days of the date of service.

**LAW OFFICE OF JOSEPH S. WEIMER**

BY:

Susan D. Garrard  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

Sworn to and subscribed before me this

3rd day of May, 2007.

Gina M. Petrulli  
Notary Public

Notarial Seal  
Gina M. Petrulli, Notary Public  
Pittsburgh, Allegheny County, PA  
My Commission Expires July 20, 2009

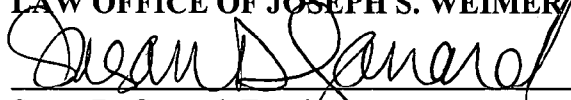
**CERTIFICATE OF SERVICE**

I, Susan D. Garrard, Esquire, do hereby certify that I have mailed a true and correct copy of the within **AFFIDAVIT OF SERVICE OF FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF** by regular mail, postage pre-paid, to the following on this 3<sup>rd</sup> day of May, 2007:

Ashley A. Totodo, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

**LAW OFFICE OF JOSEPH S. WEIMER**

BY:

  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

**FILED**

**MAY 07 2007**

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

CIVIL DIVISION

Plaintiff,

No. 2006-1892 CD

v.

MERIT TRANSPORTATION,

**AFFIDAVIT OF SERVICE OF SECOND  
SET OF INTERROGATORIES  
DIRECTED TO PLAINTIFF**

Defendant.

Filed on behalf of the Defendant:

**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3245

**JURY TRIAL DEMANDED**

**FILED**  
m/12:30  
AUG 29 2007  
William A. Shaw  
Prothonotary/Clerk of Courts

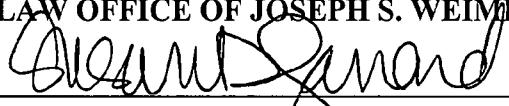
**AFFIDAVIT OF SERVICE OF SECOND SET OF INTERROGATORIES**

COMMONWEALTH OF PENNSYLVANIA, )  
 ) SS:  
COUNTY OF ALLEGHENY, )

BEFORE ME, the undersigned authority, personally appeared SUSAN D. GARRARD, ESQUIRE, who deposes and says that the Second Set of Interrogatories was served on counsel for Plaintiff on the 27<sup>th</sup> day of August, 2007, by regular mail, postage pre-paid, and that the Second Set of Interrogatories contained a notice to said counsel to answer the Second Set of Interrogatories within thirty (30) days of the date of service.


**LAW OFFICE OF JOSEPH S. WEIMER**

BY:

  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

Sworn to and subscribed before me this

27<sup>th</sup> day of August, 2007.

  
Notary Public

Notarial Seal  
Gina M. Petrulli, Notary Public  
Pittsburgh, Allegheny County, PA  
My Commission Expires July 20, 2009

**CERTIFICATE OF SERVICE**

I, Susan D. Garrard, Esquire, do hereby certify that I have mailed a true and correct copy of the within **AFFIDAVIT OF SERVICE OF SECOND SET OF INTERROGATORIES** **DIRECTED TO PLAINTIFF** by regular mail, postage pre-paid, to the following on this 27<sup>th</sup> day of August, 2007:

Ashley A. Totodo, Esquire  
**DICKIE MCCAMEY & CHILCOTE, P.C.**  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

**LAW OFFICE OF JOSEPH S. WEIMER**

BY: \_\_\_\_\_

Susan D. Garrard  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

**FILED**

**MAR 24 2008**

11:30 AM  
William A. Shaw  
Prothonotary/Clerk of Courts  
No. 610

**NOTICE OF DEPOSITION OF DAVID  
SOVINE**

Filed on behalf of the Defendant,  
**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3245

**JURY TRIAL DEMANDED**

**NOTICE OF DEPOSITION**


TO: David Sovine  
c/o Ashley A. Totedo, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

**PLEASE TAKE NOTICE** that the deposition of **David Sovine** has been scheduled to be taken on **Tuesday, April 15, 2008 at 1:30 p.m. at Dickie McCamey & Chilcote, P.C., Two PPG Place, Suite 400, Pittsburgh, PA 15222-5402**, at which time and place you are invited to appear and take part as shall be fitting and proper. The purpose of this deposition is for discovery and possible use at trial.

Respectfully submitted,

LAW OFFICE OF JOSEPH S. WEIMER

BY:

  
\_\_\_\_\_  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

Court Reporter:  
Powers, Garrison & Hughes  
332 Fifth Avenue  
600 Warner Centre  
Pittsburgh, PA 15222  
(412) 263-2088



**CERTIFICATE OF SERVICE**

I, Susan D. Garrard, Esquire, do hereby certify that I have mailed a true and correct copy of the within Notice of Deposition of David Sovine by regular mail, postage pre-paid, to the following on this 17<sup>th</sup> day of March, 2008:

Ashley A. Totodo, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

LAW OFFICE OF JOSEPH S. WEIMER

BY:



Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

**AMENDED NOTICE OF DEPOSITION  
OF DAVID SOVINE**

Filed on behalf of the Defendant,  
**MERIT TRANSPORTATION**

Counsel of Record for this Party:

Susan D. Garrard, Esquire  
PA I.D. 73727

Law Office of Joseph S. Weimer  
Firm #301  
975 Two Chatham Center  
Pittsburgh, PA 15219

(412) 338-3245

**JURY TRIAL DEMANDED**

**FILED** *no ce*  
*m11250324*  
**APR 03 2008** *@*

William A. Shaw  
Prothonotary/Clerk of Courts

**AMENDED NOTICE OF DEPOSITION**

TO: David Sovine  
c/o Ashley A. Totodo, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

**PLEASE TAKE NOTICE** that the deposition of **David Sovine** has been rescheduled to be taken on **Monday, April 21, 2008 at 1:30 p.m. at Dickie McCamey & Chilcote, P.C., Two PPG Place, Suite 400, Pittsburgh, PA 15222-5402**, at which time and place you are invited to appear and take part as shall be fitting and proper. The purpose of this deposition is for discovery and possible use at trial.

Respectfully submitted,

LAW OFFICE OF JOSEPH S. WEIMER

BY:



Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

Court Reporter:  
Pittsburgh Reporting Service  
1900 Lawyers Building  
Pittsburgh, PA 15219  
(412) 575-5830

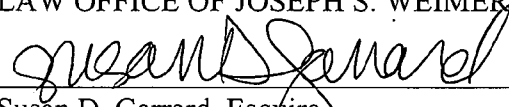
**CERTIFICATE OF SERVICE**

I, Susan D. Garrard, Esquire, do hereby certify that I have mailed a true and correct copy of the within Amended Notice of Deposition of David Sovine by regular mail, postage pre-paid, to the following on this 1<sup>st</sup> day of April, 2008:

Ashley A. Totodo, Esquire  
DICKIE MCCAMEY & CHILCOTE, P.C.  
Two PPG Place  
Suite 400  
Pittsburgh, PA 15222-5402

LAW OFFICE OF JOSEPH S. WEIMER

BY:

  
Susan D. Garrard, Esquire  
Attorney for Defendant, Merit Transportation

FILED

AUG 01 2008

M 9:45 AM

William A. Shaw  
Prothonotary/Clerk of Courts

No C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

Issue No.

**PRAECIPE FOR TRIAL**

Code:

Filed on behalf of Plaintiff

Counsel of record for this party:

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

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

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

(412) 281-7272

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,	)	CIVIL DIVISION
	)	
Plaintiff,	)	No. 2006-1892 CD
	)	
v.	)	
	)	
MERIT TRANSPORTATION,	)	
	)	
Defendant.	)	

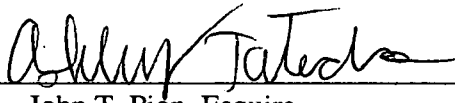
**PRAECIPE FOR TRIAL**

TO: Prothonotary

Kindly list the above-captioned matter for trial. The undersigned represents that no Motions are outstanding and discovery has been completed and the case is ready for trial. Plaintiff requests that this matter be heard by a jury. Counsel for the Defendant has received a copy of this Praecipe for Trial.

Respectfully submitted,

Dickie, McCamey & Chilcote, P.C.

By   
John T. Pion, Esquire  
Ashley A. Totedo, Esquire

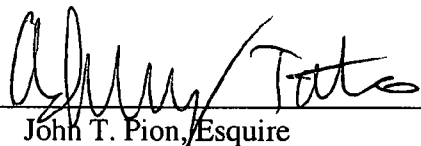
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I, Ashley A. Totedo, Esquire, hereby certify that a true and correct copy of the foregoing  
Praeipie for Trial was served upon counsel of record by U.S. mail, postage prepaid, this 29  
day of July, 2008, as follow:

Susan D. Garrard, Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

DICKIE, McCAMEY & CHILCOTE, P.C.

By   
John T. Pion, Esquire  
Ashley A. Totedo, Esquire

Two PPG Place, Suite 400  
Pittsburgh, PA 15222-5402  
(412) 281-7272

Counsel for Plaintiff

Prothonotary/Clerk of Courts  
William A. Shaw

AUG 01 2008

FILED

RECEIVED  
JUL 31 2008  
CLERK OF COURTS



UP

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

COWEN TRUCK LINES,

Plaintiff

vs.

MERIT TRANSPORTATION,

Defendant

NO. 06-1892-CD

ORDER

AND NOW, this 7<sup>th</sup> day of August, 2008, it is the ORDER of this Court that Pre-trial conference in the above matter shall be held on the 12<sup>th</sup> day of September, 2008 in Chambers at 2:00 p.m.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

FILED <sup>1CCAtty's:</sup>  
<sup>of 4:00 PM</sup> Pion  
AUG 07 2008 Garrard

William A. Shaw  
Prothonotary/Clerk of Courts

610

FILED

AUG 07 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 8/7/08

☐ You are responsible for serving all appropriate parties.

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

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

☐ Defendant(s) ☒ Defendant(s) Attorney

☐ Special Instructions:

FILED

AUG 04 2008

10:45  
William A. Shaw  
Prothonotary/Clerk of Courts  
No C/C

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

CIVIL DIVISION

Plaintiff,

No. 2006-1892 CD

v.

Issue No.

MERIT TRANSPORTATION,

**AMENDED PRAECIPE FOR TRIAL**

Defendant.

Code:

Filed on behalf of Plaintiff

Counsel of record for this party:

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

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

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

(412) 281-7272

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,	)	CIVIL DIVISION
	)	
Plaintiff,	)	No. 2006-1892 CD
	)	
v.	)	
	)	
MERIT TRANSPORTATION,	)	
	)	
Defendant.	)	

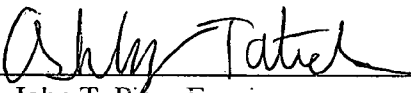
**AMENDED PRAECIPE FOR TRIAL**

TO: Prothonotary

Kindly list the above-captioned matter for trial. The undersigned represents that no Motions are outstanding and discovery has been completed and the case is ready for trial. Plaintiff does not request a jury trial. Counsel for the Defendant has received a copy of this Praecipe for Trial.

Respectfully submitted,

Dickie, McCamey & Chilcote, P.C.

By   
John T. Pion, Esquire  
Ashley A. Totedo, Esquire

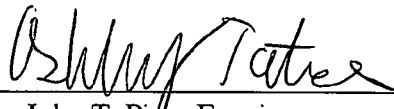
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I, Ashley A. Totedo, Esquire, hereby certify that a true and correct copy of the foregoing Amended Praecipe for Trial was served upon counsel of record by U.S. mail, postage prepaid, this 1 day of August, 2008, as follow:

Susan D. Garrard, Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

DICKIE, McCAMEY & CHILCOTE, P.C.

By   
John T. Pion, Esquire  
Ashley A. Totedo, Esquire

Two PPG Place, Suite 400  
Pittsburgh, PA 15222-5402  
(412) 281-7272

Counsel for Plaintiff

FILED  
AUG 04 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

FILED  
AUG 04 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

FILED 10041 Cert of  
m/11:10Lm disc issued to  
OCT 27 2008 Atty Totedo  
William A. Shaw  
Prothonotary/Clerk of Courts  
Copy to CIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

CIVIL DIVISION

No. 2006-1892 CD

Issue No.

**PRAECIPE TO SETTLE AND  
DISCONTINUE**

Code:

Filed on behalf of Plaintiff

Counsel of record for this party:

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

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

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

(412) 281-7272

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COWEN TRUCK LINES,

Plaintiff,

v.

MERIT TRANSPORTATION,

Defendant.

) CIVIL DIVISION  
)  
) No. 2006-1892 CD  
)  
)  
)  
)  
)

**PRAECIPE TO SETTLE AND DISCONTINUE**

Kindly mark the docket settled and discontinued in regards to the above-referenced matter.

Respectfully submitted,

Dickie, McCamey & Chilcote, P.C.

By Ashley A. Totodo  
John T. Pion, Esquire  
Ashley A. Totodo, Esquire

Attorneys for Plaintiff



**CERTIFICATE OF SERVICE**

I, hereby certify that a true and correct copy of the foregoing Praecept to Settle and Discontinue was served upon counsel of record by U.S. mail, postage prepaid, this 24 day of October, 2008, as follows:

Susan D. Garrard, Esquire  
Law Office of Joseph S. Weimer  
975 Two Chatham Center  
Pittsburgh, PA 15219

DICKIE, McCAMEY & CHILCOTE, P.C.

By Ashley A. Totodo  
John T. Pion, Esquire  
Ashley A. Totodo, Esquire

Two PPG Place, Suite 400  
Pittsburgh, PA 15222-5402  
(412) 281-7272

Counsel for Plaintiff

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

**CIVIL DIVISION**

COPY

**Cowen Truck Lines**

**Vs.**

**No. 2006-01892-CD**

**Merit Transportation**

**CERTIFICATE OF DISCONTINUATION**

Commonwealth of PA  
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on October 27, 2008, marked:

Settled and Discontinued

Record costs in the sum of \$85.00 have been paid in full by John T. Pion Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 27th day of October A.D. 2008.



lm

William A. Shaw, Prothonotary