

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Anne Marie Hanner

(Plaintiff)

1005 Green Glen Dr.

(Street Address)

DuBois, PA. 15801

(City, State ZIP)

VS.

Kyle Marshall

(Defendant)

254 Northwood Ave.

(Street Address)

DuBois, PA. 15801

(City, State ZIP)

CIVIL ACTION

No. 2007-306-CD

Type of Case: Civil

Type of Pleading: Notice of Appeal from
District Justice Judgment

Filed on Behalf of:

Defendant

(Plaintiff/Defendant)

FILED

MAR 01 2007

0/12:40/ am
William A. Shaw
Prothonotary/Clerk of Courts
NOTICE & RETURN
TO MOS GARY
OFF. &
ATTY MARSHALL

Michael Marshall, Esq.
(Filed by)

254 Northwood Ave. DuBois PA.
(Address)

(814) 591-7266
(Phone)

[Signature]
(Signature)

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

46TH
Judicial District, County of Clearfield

NOTICE OF APPEAL


FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. 2007-306 CD

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case referenced below.

NAME OF APPELLANT Kyle Marshall	MAG. DIST. NO. 46-3-01	NAME OF D.J. Patrick N. Ford
ADDRESS OF APPELLANT 254 Northwood Ave.	CITY DuBois	STATE PA
DATE OF JUDGMENT 2-1-07	IN THE CASE OF (Plaintiff) Anne Marie Hanner vs (Defendant) Kyle Marshall	
DOCKET No. CV-626-06	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT 	

This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B.

This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.

FILED

MAR 01 2007

01/22/07

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.D.J. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon Anne Marie Hanner appellee(s), to file a complaint in this appeal

Name of appellee(s)

(Common Pleas No. 2007-306 CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.RULE: To ANNE MARIE HANNER, appellee(s)

Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: MARCH 1, 2007

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing of the notice of appeal. Check applicable boxes.)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; ss

AFFIDAVIT: I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on
(date of service) _____, 20____, ☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto, and upon the appellee, (name) _____, on
_____, 20____ ☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 20____

Signature of affiant

Signature of official before whom affidavit was made

Title of official

My commission expires on _____, 20____

FILED
MAR 01 2007
William A. Shaw
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-01

MDJ Name: Hon.

PATRICK N. FORD

Address: **309 MAPLE AVENUE**

PO BOX 452

DUBOIS, PA

Telephone: **(814) 371-5321** **15801**

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

NAME and ADDRESS

HANNER, ANNE MARIE
1005 GREEN GLEN DR.
DUBOIS, PA 15801

VS.

DEFENDANT:

NAME and ADDRESS

MARSHALL, KYLE
237 NORTHWOOD AVE.
DUBOIS, PA 15801

KYLE MARSHALL
237 NORTHWOOD AVE.
DUBOIS, PA 15801

Docket No.: **CV-0000626-06**
Date Filed: **12/21/06**



THIS IS TO NOTIFY YOU THAT:

Judgment: **DEFAULT JUDGMENT PLTF** (Date of Judgment) **2/01/07**

☒ Judgment was entered for: (Name) **HANNER, ANNE MARIE**

☒ Judgment was entered against: (Name) **MARSHALL, KYLE**
in the amount of \$ **1,042.43**

☐ Defendants are jointly and severally liable:

☐ Damages will be assessed on Date & Time _____

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127
\$ _____

☐ Portion of Judgment for physical damages arising out of
residential lease \$ _____

Amount of Judgment	\$ 966.93
Judgment Costs	\$ 75.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 1,042.43
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total	\$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

2-1-07 Date Patrick N. Ford - PSF, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

_____, Date _____, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

AOPC 315-06

DATE PRINTED: 2/01/07 9:16:00 AM

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-01

MDJ Name: Hon.

PATRICK N. FORD

Address: **309 MAPLE AVENUE**

PO BOX 452

DUBOIS, PA

Telephone: **(814) 371-5321 15801**

**PATRICK N. FORD
309 MAPLE AVENUE
PO BOX 452
DUBOIS, PA 15801**

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

NAME and ADDRESS

**HANNER, ANNE MARIE
1005 GREEN GLEN DR.
DUBOIS, PA 15801**

DEFENDANT:

VS.

NAME and ADDRESS

**MARSHALL, KYLE
237 NORTHWOOD AVE.
DUBOIS, PA 15801**

Docket No.: **CV-0000626-06**

Date Filed: **12/21/06**



THIS IS TO NOTIFY YOU THAT:

Judgment: **DEFAULT JUDGMENT PLTF** (Date of Judgment) **2/01/07**

☒ Judgment was entered for: (Name) **HANNER, ANNE MARIE**

☒ Judgment was entered against: (Name) **MARSHALL, KYLE**
in the amount of \$ **1,042.43**

☐ Defendants are jointly and severally liable.

☐ Damages will be assessed on Date & Time _____

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127
\$ _____

☐ Portion of Judgment for physical damages arising out of
residential lease \$ _____

Amount of Judgment	\$ 966.93
Judgment Costs	\$ 75.50
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Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total	\$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

FILED

MAR 06 2007

William A. Shaw
Prothonotary/Clerk of Courts

2-1-07 Date **Patrick N. Ford-PNF**, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

_____, Date _____, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

AOPC 315-06

DATE PRINTED: **2/01/07 9:16:00 AM**

CIVIL COMPLAINT

Mag. Dist. No.:

46-3-01

MDJ Name: Hon.

PATRICK N. FORD

Address: **309 MAPLE AVENUE**

PO BOX 452

DUBOIS, PA

15801

Telephone: **(814) 371-5321**

PLAINTIFF:

NAME and ADDRESS

Anne Marie Harper
1005 Green Glen Dr.
DuBois PA 15801

VS.

DEFENDANT:

NAME and ADDRESS

Kyle Marshall
237 Northwood Ave.
DuBois, PA 15801

	AMOUNT	DATE PAID
FILING COSTS \$	<i>75.50</i>	<i>12/21/06</i>
POSTAGE \$		<i>1/1</i>
SERVICE COSTS \$		<i>1/1</i>
CONSTABLE ED. \$		<i>1/1</i>
 TOTAL \$		<i>1/1</i>

Docket No.: *CV-62606*
Date Filed: *12-21-06*



Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ *966.93* together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Kyle Marshall set fire to my 2001 Sebring after a gas can had been in the trunk of the car and leaked. He lit a lighter to see what would happen. The fire was put out by my son with a garden hose. My son had been mowing grass prior to the incident.

I, *Anne Marie Harper* verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

Anne Marie Harper
(Signature of Plaintiff or Authorized Agent)

Plaintiff's
Attorney:

Address:

Telephone:

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
individual,
DEFENDANT.

No. 07- 306 -CD

Type of Pleading:

CIVIL COMPLAINT

Filed By:

Plaintiff

Counsel of Record:

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

FILED *no cc*
3/13/07
MAR 21 2007 *CK*

William A. Shaw
Prothonotary/Clerk of Courts

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
individual,
DEFENDANT.

No. 07- 306 -CD

CIVIL COMPLAINT

NOW COMES the Plaintiff, ANNE M. HANNER, by and through her counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of her CIVIL COMPLAINT:

The Parties

1. That Plaintiff is ANNE M. HANNER, an adult individual who does, and at all relevant and material times did reside in Clearfield County, Pennsylvania, at the address of 1005 Green Glenn Drive, DuBois, 15801.
2. That defendant is Kyle Marshall, hereinafter "Marshall", who upon information and belief, does currently reside at and at all relevant and material times did reside at 254 Northwood Avenue, DuBois, Clearfield County, Pennsylvania 15801.

Background

3. That Ms. Hanner has a son Ryan Hanner.
4. That Ryan Hanner and Defendant Marshall are of the same approximate age, 18 years old, and were friends for many years leading up to the events herein complained.

Count I: Negligence

5. That the averments of paragraphs 1 - 4 inclusive are hereby incorporated as if again fully set forth at length.
6. That on or about August 6, 2006, at approximately 12:00 A.M., Ryan Hanner was cleaning out the trunk of his car, owned by Plaintiff herein, being a Chrysler Sebring type vehicle that Ryan often drove.
7. That earlier in the day, Ryan had transported a lawnmower and gasoline can which he used to facilitate a summer time business enterprise of mowing lawns.
8. That some of the gasoline in the can had spilled in the trunk of his vehicle, which is why he was attempting to clean out his trunk.
9. That while doing as such, Defendant Marshall, as well as some other mutual friends were present.
10. Defendant Marshall lit a Bic lighter in the trunk area, causing the trunk to become fully engaged in flames.
11. That Ryan Hanner immediately grabbed a garden hose which was in the vicinity and was able to extinguish the flames.
12. That Defendant Marshall was negligent by lighting a lighter in an a confined area in which gasoline and/or gasoline fumes was contained.
13. That as a direct and proximate result of Defendant Marshall's aforementioned negligence, Ms. Hanner suffered damaged to her vehicle which included damage to the trunk, in the approximate amount of \$966.93, to be more fully determined at time of trial.

WHEREFORE, Plaintiff requests JUDGMENT in her favor and against Defendant in an amount to be determined at time of trial, but less than \$20,000, plus costs and interest.

COUNT II: Recklessness

14. That the averments of paragraphs 1 - 13 inclusive are hereby incorporated as if again fully set forth at length.

15. That after the aforementioned incident, Ryan Hanner inquired of Defendant Marshall why he ignited the lighter to which Defendant Marshall replied he wanted to see what would happen.

16. That the act of igniting a lighter in the area of a vehicle trunk which contained spilled gasoline is also reckless.

17. That in addition to the aforementioned damages, Defendant Marshall should pay punitive damages, in an amount to be determined at time of hearing, to prevent him, and others, from further acting in such a manner to prevent events which could lead to catastrophic injury.

WHEREFORE, Plaintiff requests JUDGMENT in her favor and against Defendant in an amount to be determined at time of trial, but less than \$20,000, plus punitive damages, costs and interest.

Count III: Negligence

18. That the averments of paragraphs 1 - 17 inclusive are hereby incorporated as if again fully set forth at length.

19. That on, or about, October 5, 2006, Defendant Marshall was driving another vehicle owned by Ms. Hanner, a Mercury Sable, which her son Ryan had left at Defendant's house the night before in order to facilitate its return to Ryan.

20. While in the vicinity of Ms. Hanner's home, and while operating the Mercury Sable, Defendant Marshall was examining a new cell phone he had acquired and proceeded to

drive the car off of the road, striking a neighbor's fence post and causing damage to the neighbor's yard as well as the Mercury Sable.

21. That Defendant Marshall was negligent in the operation of the Mercury Sable in that he was not paying adequate attention to his activities.

22. That as a direct and proximate result of his negligence, the Mercury Sable also suffered damage, all of which has been paid by Defendant Marshall's insurance carrier, excepting a \$500 "deductible", for which Ms. Hanner should be reimbursed.

WHEREFORE, Plaintiff requests JUDGMENT in her favor and against Defendant in an amount to be determined at time of trial, but less than \$20,000, plus costs and interest.

Miscellaneous Averments

23. That jurisdiction is proper.

24. That venue is proper.

WHEREFORE, Plaintiff requests judgment in her favor and against defendant, in an amount less than \$20,000, together with interest, costs of prosecution, and if determined to be reckless conduct, punitive damages, in amounts to be determined at time of trial.

Respectfully Submitted,



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

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
individual,

DEFENDANT.

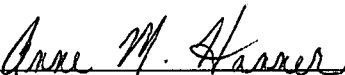
No. 07- 306 -CD

VERIFICATION

I, Anne M. Hanner, Plaintiff, do hereby swear and affirm that I have read the foregoing CIVIL COMPLAINT and that the averments therein contained are true and correct to the best of my knowledge, information and belief. Furthermore, I am over the age of 18 years of age and give this unsworn statement knowing it is to authorities and subject to the penalties of 18 Pa.C.S.A. 4904.

So made this 17th day of March, 2007.

By,



Anne M. Hanner, Plaintiff

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
individual,
DEFENDANT.

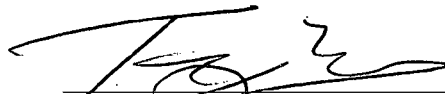
No. 07- 306 -CD

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire of Ferraraccio & Noble, counsel for Plaintiff, does hereby certify this 20th day of March, 2007, that I did serve a true and correct copy of the CIVIL COMPLAINT, to the below indicated person, being counsel of record for Defendant, via United States Mail, first class, postage prepaid, as follows.

Mike Marshall, Esquire
254 Northwood Avenue
DuBois, PA 15801

Respectfully Submitted,



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

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

ANNE M. HANNER,
an adult individual

Plaintiff

v.

KYLE MARSHALL,
an adult individual

Defendant

NO. 07-306-CD

Type Action:
Civil

Type of Pleading:
Answer and New Matter

Filed by:
Defendant

Attorney for Defendant:

Michael S. Marshall, Esquire
254 Northwood Avenue
DuBois, PA 15801
(814) 591-7266

Supreme Court No. 64087

FILED

0 2:56 PM GK

APR 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

2 CC TO ATTY
(GK)

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

ANNE M. HANNER,
an adult individual

Plaintiff

v.

KYLE MARSHALL,
an adult individual

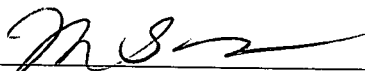
Defendant

NO. 07-306-CD

NOTICE TO PLEAD

To: Anne M. Hanner, Plaintiff

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.



Michael S. Marshall, Esquire
Attorney for Defendant

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

ANNE M. HANNER,
an adult individual

Plaintiff

v.

KYLE MARSHALL,
an adult individual

Defendant

NO. 07-306-CD

ANSWER AND NEW MATTER

NOW COMES, the Defendant, Kyle Marshall, by and through his attorney,
Michael S. Marshall, Esquire, who files this Answer and New Matter, and in support
thereof avers the following:

ANSWER

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

Count I: Negligence

5. This paragraph contains no factual averments to which a responsive
pleading is required.

6. Admitted in part. It is admitted that Ryan Hanner did drive the Chrysler
Sebring. It denied that Ryan Hanner was cleaning out the trunk of said vehicle at 12:00
a.m. To the best of Defendant's knowledge and belief the trunk was cleaned out, if at all,

prior to that time. After reasonable investigation Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment regarding ownership of the Chrysler Sebring.

7. Admitted.

8. Admitted, subject to the response set forth in Paragraph 6 above.

9. Admitted, subject to the response set forth in Paragraph 6 above.

10. Admitted.

11. It is admitted that Ryan Hanner extinguished the fire, with the assistance of Defendant.

12. This paragraph contains no factual averments to which a responsive pleading is required.

13. Denied generally pursuant to Pa.R.C.P. 1029(e).

WHEREFORE, Defendant requests judgment in his favor and against Plaintiff.

Count II: Recklessness

14. The responses to paragraphs 1 through 13 above are hereby incorporated by reference as though fully set forth herein.

15. Denied. To the contrary, Defendant informed Ryan Hanner that he lit the lighter so that he could see inside the trunk.

16. This paragraph contains no factual averments to which a responsive pleading is required.

17. This paragraph contains no factual averments to which a responsive pleading is required.

WHEREFORE, Defendant requests judgment in his favor and against Plaintiff.

Count III: Negligence

18. The responses to paragraphs 1 through 17 above are hereby incorporated by reference as though fully set forth herein.

19. Admitted in part. The averments of this paragraph are admitted, except for the averment that the Mercury Sable was owned by Plaintiff. After reasonable investigation Defendant is without knowledge or information sufficient to form a belief as to the truth of this specific averment.

20. Admitted.

21. This paragraph contains no factual averments to which a responsive pleading is required.

22. Admitted in part. It is admitted that the Mercury Sable was damaged and that Plaintiff has been paid by Defendant's insurance carrier. After reasonable investigation Defendant is without knowledge or information sufficient to form a belief as to the truth of the averment that Plaintiff has suffered any financial loss beyond what she has been paid by Defendant's insurance company, for which she is entitled to be reimbursed. Any remaining averments in this paragraph are legal conclusions and contain no factual averments to which a responsive pleading is required.

WHEREFORE, Defendant requests judgment in his favor and against Plaintiff.

23. This paragraph contains no factual averments to which a responsive pleading is required.

24. This paragraph contains no factual averments to which a responsive pleading is required.

WHEREFORE, Defendant requests judgment in his favor and against Plaintiff.

NEW MATTER

1. The Mercury Sable referred to in Count III of Plaintiff's Complaint was left overnight at Defendant's residence for the convenience of Plaintiff's son, Ryan Hanner.

2. Defendant was operating said Mercury Sable the next day at the request of Ryan Hanner, in order to return the vehicle to Plaintiff's residence, and for no other purpose.

3. Defendant was operating said Mercury Sable as a gratuitous bailee for the sole benefit of Plaintiff and her son, and Defendant is therefore not liable for any damage caused to said vehicle unless he was grossly negligent.

4. Count III of Plaintiff's Complaint contains only an allegation of ordinary negligence and therefore this count fails to state a claim upon which relief can be granted.

5. Plaintiffs' son, Ryan Hanner was negligent in allowing gasoline to spill in the trunk of Plaintiff's Chrysler Sebring, and for failing to promptly remove the gasoline from said trunk.

6. Ryan Hanner informed Defendant that he had cleaned up the gasoline from the trunk, causing Defendant to believe that it was safe to ignite a lighter in the area of the trunk.

7. Ryan Hanner is solely liable, liable over to Defendant and/or jointly or severally liable with Defendant on Plaintiff's cause of action.

8. Defendant suffered burns to various parts of his body, as well as substantial fright and emotional distress as the result of the gasoline igniting.

9. Ryan Hanner is liable to Defendant for physical and emotional injuries suffered by Defendant.


Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'MS' followed by a stylized flourish.

Michael S. Marshall, Esquire
Attorney for Defendant

VERIFICATION

I hereby verify that the averments contained in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to unsworn falsification to authorities.



Kyle Marshall, Defendant

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

ANNE M. HANNER,
an adult individual

Plaintiff

v.

KYLE MARSHALL,
an adult individual

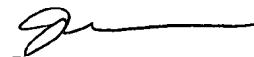
Defendant

NO. 07-306-CD

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of April, 2007, a true and correct copy of the foregoing Answer and New Matter was served upon Plaintiff's Attorney of record by hand delivery as follows:

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



Michael S. Marshall, Esquire
Attorney for Defendant

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
individual,
DEFENDANT.

No. 07- 306 -CD

Type of Pleading:

REPLY TO NEW MATTER

Filed By:

Plaintiff

Counsel of Record:

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

FILED *no cc*
m 10:57 AM
MAY 10 2007 *(ex)*

William A. Shaw
Prothonotary/Clerk of Courts

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
individual,

DEFENDANT.

No. 07- 306 -CD

REPLY TO NEW MATTER

NOW COMES the Plaintiff, ANNE M. HANNER, by and through her counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of her REPLY TO NEW MATTER:

1. Admitted.
2. Admitted.
3. The same is a legal conclusion for which no response is deemed necessary. To the extent such a response is deemed necessary, the same is DENIED in that (i) the return of the vehicle was not solely for Ryan Hanner's benefit in that Ryan and the Defendant were going to perform some activity in which Ryan was going to drive said vehicle but needed the vehicle to do so; and (ii) the level of liability on Defendant's part is, as pled in Plaintiff's CIVIL COMPLAINT, certainly sufficient to establish liability even if he is deemed to be a "gratuitous bailee". Strict proof is demanded at time of trial.
4. The same is a legal conclusion for which no response is deemed necessary.
5. Denied. It is specifically denied that Ryan Hanner was negligent in spilling gasoline in the vehicle or that he was negligent in removal of the same. Strict proof of the same is

demanded at time of trial.

6. Denied. It is DENIED that Ryan Hanner had either (i) entirely cleaned the spilled gasoline as he was in the process of doing so; or (ii) informed defendant he had cleaned the spilled gasoline. Strict proof of the same is demanded at time of trial.

7. The same is a legal conclusion for which no response is deemed necessary.

8. Denied. The same is immaterial and irrelevant and in any event the same is DENIED and strict proof is demanded at time of trial if determined to be relevant or material.

9. Denied. The same is immaterial and irrelevant and in any event the same is DENIED and strict proof is demanded at time of trial if determined to be relevant or material.

WHEREFORE, Plaintiff requests judgment in her favor and against defendant, in an amount less than \$20,000, together with interest, costs of prosecution, and if determined to be reckless conduct, punitive damages, in amounts to be determined at time of trial.

Respectfully Submitted,



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

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
individual,

DEFENDANT.

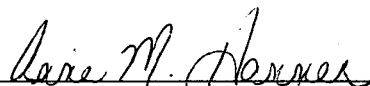
No. 07- 306 -CD

VERIFICATION

I, Anne M. Hanner, Plaintiff, do hereby swear and affirm that I have read the foregoing REPLY TO NEW MATTER and that the averments therein contained are true and correct to the best of my knowledge, information and belief. Furthermore, I am over the age of 18 years of age and give this unsworn statement knowing it is to authorities and subject to the penalties of 18 Pa.C.S.A. 4904.

So made this 7th day of May, 2007.

By,



Anne M. Hanner, Plaintiff

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
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DEFENDANT.

No. 07- 306 -CD

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire of Ferraraccio & Noble, counsel for Plaintiff, does hereby certify this 9th day of MAY, 2007, that I did serve a true and correct copy of the Plaintiff's REPLY TO NEW MATTER, to the below indicated person, being counsel of record for Defendant, via United States Mail, first class, postage prepaid, as follows.

Mike Marshall, Esquire
254 Northwood Avenue
DuBois, PA 15801

Respectfully Submitted,



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

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

KYLE MARSHALL, an adult
individual,

DEFENDANT.

FILED

DEC 10 2007

William A. Shaw
Prothonotary/Clerk of Courts

No. 07- 306 -CD

Type of Pleading:

**PRAECIPE TO SETTLE
AND DISCONTINUE**

Filed By:

Plaintiff

Counsel of Record:

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

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

ANNE M. HANNER,
an adult individual;

PLAINTIFF,

v.

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No. 07- 306 -CD

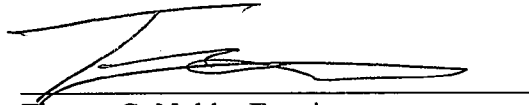
PRAECIPE TO SETTLE AND DISCONTINUE

To: William A. Shaw, Prothonotary

Date: December 7, 2007

Please mark the above captioned matter, ended, settled and forever discontinued, with
prejudice.

Respectfully Submitted,



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

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY,
PENNSYLVANIA
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ANNE M. HANNER,
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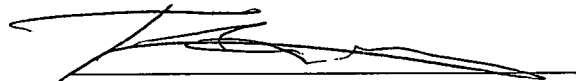
No. 07- 306 -CD

CERTIFICATE OF SERVICE

I, Theron G. Noble, Esquire of Ferraraccio & Noble, counsel for Plaintiff, does hereby certify this 7th day of December, 2007, that I did serve a true and correct copy of the PRAECIPE TO SETTLE AND DISCONTINUE, to the below indicated person, being counsel of record for Defendant, via United States Mail, first class, postage prepaid, as follows.

Mike Marshall, Esquire
254 Northwood Avenue
DuBois, PA 15801

Respectfully Submitted,



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

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Anne Marie Hanner

Vs.

No. 2007-00306-CD

Kyle Marshall

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 December 10, 2007, marked:

Ended, Settled and forever discontinued, with prejudice

Record costs in the sum of \$85.00 have been paid in full by Kyle Marshall.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 10th day of December A.D. 2007.

William A. Shaw, Prothonotary