

04-401-22  
DANIEL W. HIRSCHBIEL et al -vs- GENERAL ELECTRIC COMPANY

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,  
Plaintiffs

vs.

GENERAL ELECTRIC COMPANY,  
Defendant

CIVIL ACTION - AT LAW

No. 01-1587-CD

Type of pleading:

COMPLAINT

Filed on behalf of:

PLAINTIFF

Counsel of record for this  
party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801

814-371-7768

JURY TRIAL DEMANDED

**FILED**

SEP 24 2001

John A. Shaw  
Clerk

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL W. HIRSCHBIEL and	:	CIVIL ACTION - AT LAW
DONNA L. HIRSCHBIEL,	:	
Plaintiffs	:	
	:	
vs.	:	No.
	:	
GENERAL ELECTRIC COMPANY,	:	
Defendant	:	

NOTICE

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

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

Court Administrator  
Clearfield County Courthouse  
One North Second Street  
Clearfield, PA 16830

(814) 765-2641 Ext. 1303

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,  
Plaintiffs

vs.

GENERAL ELECTRIC COMPANY,  
Defendant

CIVIL ACTION - AT LAW

No.

**COMPLAINT**

AND NOW, come the Plaintiffs, Daniel W. Hirschbiel and Donna L. Hirschbiel, by their attorneys, Hanak, Guido and Taladay, and hereby bring the within Complaint averring in support thereof as follows:

1. Plaintiffs are Daniel W. and Donna L. Hirschbiel, husband and wife, who reside at R.D. #3, Box 142, Rader Road, Philipsburg, Clearfield County, Pennsylvania.
2. Defendant is General Electric Company, a corporation doing business within the Commonwealth of Pennsylvania whose address is verily believed to be AppliCance Park, Louisville, Kentucky 40225.
3. On or about September 27, 1998, Plaintiffs purchased a General Electric clothes dryer from the Sam's Club Store located at 381 Benner Pike, State College, Pennsylvania.
4. The General Electric clothes dryer was transported to the Hirschbiel's home and was properly installed and vented.

5. The General Electric clothes dryer was not modified or altered in any way.

6. On February 11, 2000, a fire occurred in the home of Daniel and Donna Hirschbiel, with the point of origin of the fire being the left side of the control panel of the General Electric dryer. At the time the fire originated, the clothes dryer was not in operation.

7. The fire in the Hirschbiel home is solely and proximately the responsibility of General Electric Company as more fully set forth herein.

**COUNT I**  
**NEGLIGENCE**

8. Fire related damages sustained by the Plaintiffs are solely and proximately caused by the negligence of the Defendant, General Electric Company, which is as follows:

- (a) In designing, manufacturing and/or selling a clothes dryer that contained a defect which could and did start a fire;
- (b) In designing, manufacturing and/or selling a clothes dryer that did not contain all features necessary for its safe ownership and usage; and
- (c) In designing, manufacturing and/or selling a clothes dryer which it knew or in the exercise of reasonable care should have known presented an unreasonable risk of causing a fire.

WHEREFORE, Plaintiffs demand judgment in their favor.

**COUNT II**  
**STRICT LIABILITY**

9. The clothes dryer manufactured and sold by General Electric Company and purchased by the Hirschbiels was in a defective condition and unreasonably dangerous when it left the control of Defendant, and in particular as follows:

- (a) The product lacked all features necessary for its safe ownership, maintenance and operation;
- (b) The product lacked adequate safeguards and warnings of its defect;
- (c) The product presented an unreasonable risk of causing of fire;
- (d) The product malfunctioned in such a manner that in the absence of a defect would not have occurred;

10. Defendants had, or in the exercise of reasonable care, should have had notice of the defective condition of their product.

11. Plaintiffs did not have and, in the exercise of reasonable care, could not have had notice of the defective condition of the clothes dryer.

12. Defendant is liable to Plaintiffs under Section 402(a) of the Restatement of Torts Second as adopted by the Courts of this Commonwealth.

WHEREFORE, Plaintiffs demand judgment in their favor.

**COUNT III**  
**DAMAGES**

13. As a sole and proximate result of the acts, omissions and breaches of Defendant set forth above, Plaintiffs have sustained damages as follows:

(a)	Structural damage	\$ 46,478.08
(b)	Personal property	39,340.60
(c)	Additional living expense	<u>9,000.84</u>

Total Damages	\$ 94,819.52
---------------	--------------

WHEREFORE, Plaintiffs demand judgment against Defendants in the amount of \$94,819.52 plus interest, costs, and such other damages as the Court may deem appropriate.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

HANAK, GUIDO AND TALADAY

By

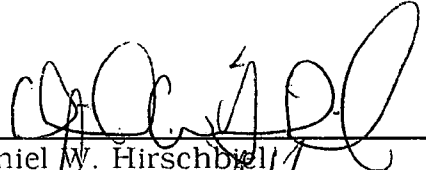
  
Matthew B. Taladay

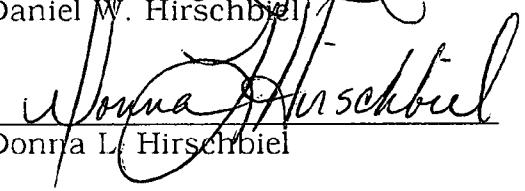
**VERIFICATION**

I, DANIEL W. HIRSCHBIEL and DONNA L. HIRSCHBIEL,  
do hereby verify that I 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 are made subject to the  
penalties of 18 Pa.C.S. Section 4904 relating to unsworn fabrication to  
authorities, which provides that if I make knowingly false averments  
I may be subject to criminal penalties.

Date: 9/15/01

  
\_\_\_\_\_  
Daniel W. Hirschbiel

  
\_\_\_\_\_  
Donna L. Hirschbiel



FILED

SEP 24 2001

*William A. Shaw*  
Prothonotary

*\$80.00*

*cc atty Taladay*

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,  
Plaintiffs

vs.

GENERAL ELECTRIC COMPANY,  
Defendant

CIVIL ACTION - AT LAW

No. 01-1587-CD

Type of pleading:

AFFIDAVIT OF SERVICE

Filed on behalf of:

PLAINTIFF

Counsel of record for this  
party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801

814-371-7768

JURY TRIAL DEMANDED

**FILED**

OCT 02 2001

William A. Shaw  
Prothonotary

*[Handwritten signature]*

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,  
Plaintiffs

vs.

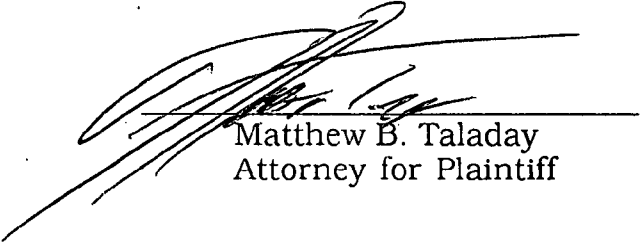
GENERAL ELECTRIC COMPANY,  
Defendant

CIVIL ACTION - AT LAW

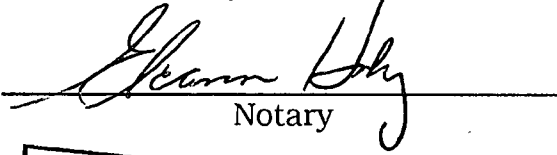
No. 01-1587-CD

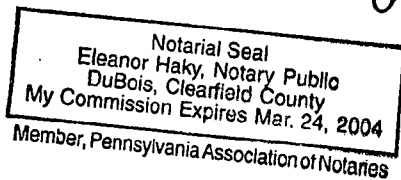
**AFFIDAVIT OF SERVICE**

I hereby certify that on September 28, 2001, I served by  
Certified Mail No. 7099 3220 0011 0187 7986, Return Receipt  
Requested, a Court certified copy of Complaint upon General Electric  
Company, Appliance Park, Louisville, Kentucky 40225. Return  
Receipt Card is attached hereto as Exhibit "A".

  
Matthew B. Taladay  
Attorney for Plaintiff

Sworn to and subscribed before  
me this 1st day of October, 2001.

  
Notary



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GENERAL ELECTRIC COMPANY  
APPLIANCE PARK  
LOUISVILLE KY 40225

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery

*Niles Belleville* *9-28-01*

C. Signature

*Niles Belleville* ☒ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

SEP 28 2001

3. Service Type

- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

7099 3220 0011 0187 7986

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

HIRSCHBIEL

EXHIBIT "A"

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

**DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,**

**Plaintiffs,**

**v.**

**GENERAL ELECTRIC COMPANY,**

**Defendant.**

**CIVIL ACTION – AT LAW**

**NO.: 01-1587-C.D.**

**PRAECIPE FOR APPEARANCE**

**Filed on Behalf of: Defendant General  
Electric Company**

**Counsel of Record for This Party:**

**Nora Barry Fischer, Esquire  
Pa. I.D. No. 25455  
Michael A. Cohen, Esquire  
Pa. I.D. No. 53446**

**PIETRAGALLO, BOSICK & GORDON  
Firm Pa. I.D. No. 834  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 263-2000**

**JURY TRIAL DEMANDED**

**FILED**

**OCT 12 2001**

**William A. Shaw  
Prothonotary**

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

**DANIEL W. HIRSCHBIEL, et ux.,**

**CIVIL ACTION – AT LAW**

**Plaintiffs,**

**No.: 01-1587-CD**

**v.**

**GENERAL ELECTRIC COMPANY,**

**Defendant.**

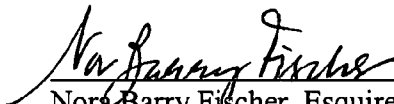
**PRAECIPE FOR APPEARANCE**

To: William A. Shaw  
Clerk of Courts & Prothonotary

Kindly enter the appearance of Nora Barry Fischer, Esquire, and Michael A. Cohen, Esquire, Pietragallo, Bosick & Gordon, One Oxford Center, 38<sup>th</sup> Floor, Pittsburgh, Pennsylvania 15219, for Defendant General Electric Company in regard to the above-captioned matter.

Respectfully submitted,

PIETRAGALLO, BOSICK & GORDON

By:   
Nora Barry Fischer, Esquire  
Pa. I.D. No. 25455  
Michael A. Cohen, Esquire  
Pa. I.D. No. 53446  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 263-2000

Attorneys for Defendant General Electric Co.


**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Praecipe for Appearance** has been served this 10<sup>th</sup> day of October 2001, via ordinary U.S. mail, postage prepaid, upon:

Matthew B. Taladay, Esquire  
HANAK, GUIDO and TALADAY  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801

**(Attorney for Plaintiffs)**

By:

  
Nora Barry Fischer

**FILED**  
OCT 12 2001  
M 10 59 AM  
William A. Shaw  
Prothonotary

(1-25)

NOTICE OF  
FILING  
OF  
DEEDS  
AND  
MORTGAGES



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

**DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,**

**Plaintiffs,**

**v.**

**GENERAL ELECTRIC COMPANY,**

**Defendant.**

**CIVIL ACTION – AT LAW**

**NO.: 01-1587-C.D.**

**NOTICE OF FILING OF NOTICE OF  
REMOVAL**

**Filed on Behalf of: Defendant General  
Electric Company**

**Counsel of Record for This Party:**

**Nora Barry Fischer, Esquire  
Pa. I.D. No. 25455  
Michael A. Cohen, Esquire  
Pa. I.D. No. 53446**

**PIETRAGALLO, BOSICK & GORDON  
Firm Pa. I.D. No. 834  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 263-2000**

**JURY TRIAL DEMANDED**

**FILED**

**OCT 15 2001**

**William A. Shaw  
Prothonotary**

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

**DANIEL W. HIRSCHBIEL, et ux.,**

**CIVIL ACTION – AT LAW**

**Plaintiffs,**

**No.: 01-1587-CD**

**v.**

**GENERAL ELECTRIC COMPANY,**

**Defendant.**

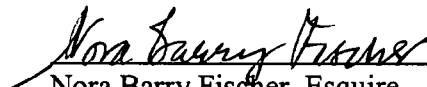
**NOTICE OF FILING OF NOTICE OF REMOVAL**

TO: William A. Shaw, Clerk of Court  
and Prothonotary

Attached hereto and marked as Exhibit #1 is a true and correct copy of the Notice of Removal filed on behalf of Defendant General Electric Company in the United States District Court for the Western District - Johnstown of Pennsylvania. Pursuant to 28 U.S.C. § 1446(d), any further proceedings in this Court are stayed unless and until the cause is remanded.

Respectfully submitted,

PIETRAGALLO, BOSICK & GORDON

By:   
Nora Barry Fischer, Esquire  
Pa. I.D. No. 25455  
Michael A. Cohen, Esquire  
Pa. I.D. No. 53446  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 263-2000

Attorneys for Defendant General Electric Co.

**EXHIBIT “A”**

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I (a) PLAINTIFFS

Daniel W. Hirschbiel and  
Donna L. Hirschbiel

## DEFENDANTS

General Electric Company

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Clearfield  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT New York  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Matthew B. Taladay, Esquire  
Hanak, Guido and Taladay  
498 Jeffers Street  
P.O. Box 487, DuBois, PA 15801

ATTORNEYS (IF KNOWN) Nora Barry Fischer & Michael  
A. Cohen, Pietragallo, Bosick & Gordon  
One Oxford Centre, 38th Floor  
Pittsburgh, PA 15219  
(412) 263-2000

## II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases, Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                                 | DEF                        |   | PTF                        | DEF                                   |
|---|-------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2          | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3          | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY: removal from the State Court to the District Court of the United States pursuant to 28 U.S.C. Section 1441(a) as a matter over which this Court has original jurisdiction, pursuant to 28 U.S.C. Section 1332 - diversity citizenship.

## V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Food & Drug <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc Security Act	<input type="checkbox"/> 422 Appeal <input type="checkbox"/> 28 USC 158 <input type="checkbox"/> 423 Withdrawal <input type="checkbox"/> 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC (405(g)) <input type="checkbox"/> 863 DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

## VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 Original Proceeding  
☒ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
☐ UNDER F.R.C.P. 23

DEMAND \$  
\$94,819.52

Check YES only if demanded in complaint:  
JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/12/01

SIGNATURE OF ATTORNEY OF RECORD

*Nora Barry Fischer*

UNITED STATES DISTRICT COURT

REVISED JANUARY, 1989

## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

## THIS CASE DESIGNATION SHEET MUST BE COMPLETED

## Part A

This case belongs on the (        Erie X        Johnstown        Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venango or Warren, AND any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset, AND any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in                                  County and that the                                  resides in                                  County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in Clearfield County and that the Plaintiffs resides in Clearfield County.

## Part B (You are to check ONE of the following)

1.        This case is related to Number                          Judge
2.        This case is not related to a pending or terminated case.

## DEFINITIONS OF RELATED CASES:

**CIVIL:** Civil cases are deemed related when a case filed relates to property included in another suit, or involves the same issues of fact or it grows out of the same transactions as another suit, or involves the validity or infringement of a patent involved in another suit.

**EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

**HABEAS CORPUS: CIVIL RIGHTS:** All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

## PART C

1. **CIVIL CATEGORY** (Place x in only one applicable category).
  1. ( ) Antitrust and Securities Act Cases
  2. ( ) Labor-Management Relations
  3. ( ) Habeas Corpus
  4. ( ) Civil Rights
  5. ( ) Patent, Copyright, and Trademark
  6. ( ) Eminent Domain
  7. ( ) All other federal question cases
  8. (XX) All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest.
  9. ( ) Insurance, indemnity, contract, and other diversity cases.
  10. ( ) Government Collection Cases (shall include HEW Student Loans (Education), VA Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. types), Mortgage Foreclosures, S.B.A. Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this case Designation Sheet are true and correct.

Date: 10/12/01

*Ken Barry Fick*  
ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH SIDES MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,**

**Plaintiffs,**

**GENERAL ELECTRIC COMPANY,**

**Defendant.**

:  
:  
:  
:  
:  
:  
:  
:

**No. \_\_\_\_\_**

**NOTICE OF REMOVAL**

AND NOW, comes the Defendant General Electric Company ("G.E."), by its counsel, Pietragallo, Bosick & Gordon, and filed this Notice of Removal pursuant to 28 U.S.C. § 1441. In support of this Notice of Removal, G.E. avers as follows:

1. The above action, docketed at No. 01-1587-C.D. in the Court of Common Pleas of Clearfield County, is a civil action brought by Plaintiffs purporting to set forth claims for negligence and strict liability.

2. This action was commenced by the filing of a Complaint in the Court of Common Pleas of Clearfield County, Pennsylvania on September 24, 2001.

3. Plaintiffs' Complaint was served by certified mail dated September 26, 2001 and received by G.E. on or about September 28, 2001.

4. The Complaint was the first pleading, which set forth Plaintiffs' cause of action and permitted this removal (a copy of Plaintiffs' Complaint is attached hereto, incorporated herein and marked as Petitioner's Exhibit "A").

5. The present lawsuit is removal from the State Court to the District Court of the United States pursuant to 28 U.S.C. § 1441(a) as a matter over which this Court has original jurisdiction, pursuant to 28 U.S.C. § 1332 – diversity of citizenship.

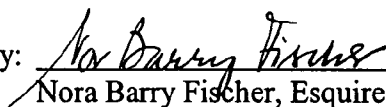
6. This is an action between citizens of different states, pursuant to 28 U.S.C. § 1332(a)(1): The Plaintiffs are citizens of Pennsylvania and the Defendant is incorporated in the state of New York.

7. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as evidenced by the allegations of the Complaint and the content of the Exhibit attached hereto.

8. This removal is timely, being filed within thirty (30) days of receipt by G.E., of a copy of the first pleading that sets forth Plaintiffs' claims for relief upon which this action is based.

WHEREFORE, notice is given that this action is removed from the Court of Common Pleas of Clearfield County, Pennsylvania to the United States District Court for the Western District of Pennsylvania in Johnstown.

Respectfully submitted,

By:   
Nora Barry Fischer, Esquire  
Pa. I.D. No. 25455  
Michael A. Cohen, Esquire  
Pa. I.D. No. 53446

PIETRAGALLO, BOSICK & GORDON  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219  
(412) 263-2000

Attorneys for Defendant General Electric Co.

**EXHIBIT "A"**



IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

9-26

DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,  
Plaintiffs

vs.

GENERAL ELECTRIC COMPANY,  
Defendant

CIVIL ACTION - AT LAW

No. 01-1587-CD

Type of pleading:

COMPLAINT

Filed on behalf of:

PLAINTIFF

Counsel of record for this  
party:

Matthew B. Taladay, Esq.  
Supreme Court No. 49663  
Hanak, Guido and Taladay  
498 Jeffers Street  
P. O. Box 487  
DuBois, PA 15801

814-371-7768

JURY TRIAL DEMANDED

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

SEP 24 2001

Attest:

  
Prothonotary

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL W. HIRSCHBIEL and  
DONNA L. HIRSCHBIEL,  
Plaintiffs

vs.

GENERAL ELECTRIC COMPANY,  
Defendant

CIVIL ACTION - AT LAW

No.

NOTICE

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

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

Court Administrator  
Clearfield County Courthouse  
One North Second Street  
Clearfield, PA 16830

(814) 765-2641 Ext. 1303

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

DANIEL W. HIRSCHBIEL and	:	CIVIL ACTION - AT LAW
DONNA L. HIRSCHBIEL,	:	
Plaintiffs	:	
	:	
vs.	:	No.
	:	
GENERAL ELECTRIC COMPANY,	:	
Defendant	:	

**COMPLAINT**

AND NOW, come the Plaintiffs, Daniel W. Hirschbiel and Donna L. Hirschbiel, by their attorneys, Hanak, Guido and Taladay, and hereby bring the within Complaint averring in support thereof as follows:

1. Plaintiffs are Daniel W. and Donna L. Hirschbiel, husband and wife, who reside at R.D. #3, Box 142, Rader Road, Philipsburg, Clearfield County, Pennsylvania.
2. Defendant is General Electric Company, a corporation doing business within the Commonwealth of Pennsylvania whose address is verily believed to be AppliCance Park, Louisville, Kentucky 40225.
3. On or about September 27, 1998, Plaintiffs purchased a General Electric clothes dryer from the Sam's Club Store located at 381 Benner Pike, State College, Pennsylvania.
4. The General Electric clothes dryer was transported to the Hirschbiel's home and was properly installed and vented.

5. The General Electric clothes dryer was not modified or altered in any way.

6. On February 11, 2000, a fire occurred in the home of Daniel and Donna Hirschbiel, with the point of origin of the fire being the left side of the control panel of the General Electric dryer. At the time the fire originated, the clothes dryer was not in operation.

7. The fire in the Hirschbiel home is solely and proximately the responsibility of General Electric Company as more fully set forth herein.

**COUNT I**  
**NEGLIGENCE**

8. Fire related damages sustained by the Plaintiffs are solely and proximately caused by the negligence of the Defendant, General Electric Company, which is as follows:

- (a) In designing, manufacturing and/or selling a clothes dryer that contained a defect which could and did start a fire;
- (b) In designing, manufacturing and/or selling a clothes dryer that did not contain all features necessary for its safe ownership and usage; and
- (c) In designing, manufacturing and/or selling a clothes dryer which it knew or in the exercise of reasonable care should have known presented an unreasonable risk of causing a fire.

WHEREFORE, Plaintiffs demand judgment in their favor.

**COUNT II**  
**STRICT LIABILITY**

9. The clothes dryer manufactured and sold by General Electric Company and purchased by the Hirschbiels was in a defective condition and unreasonably dangerous when it left the control of Defendant, and in particular as follows:

- (a) The product lacked all features necessary for its safe ownership, maintenance and operation;
- (b) The product lacked adequate safeguards and warnings of its defect;
- (c) The product presented an unreasonable risk of causing of fire;
- (d) The product malfunctioned in such a manner that in the absence of a defect would not have occurred;

10. Defendants had, or in the exercise of reasonable care, should have had notice of the defective condition of their product.

11. Plaintiffs did not have and, in the exercise of reasonable care, could not have had notice of the defective condition of the clothes dryer.

12. Defendant is liable to Plaintiffs under Section 402(a) of the Restatement of Torts Second as adopted by the Courts of this Commonwealth.

WHEREFORE, Plaintiffs demand judgment in their favor.

**COUNT III**  
**DAMAGES**

13. As a sole and proximate result of the acts, omissions and breaches of Defendant set forth above, Plaintiffs have sustained damages as follows:

(a)	Structural damage	\$ 46,478.08
(b)	Personal property	39,340.60
(c)	Additional living expense	<u>9,000.84</u>
	Total Damages	\$ 94,819.52

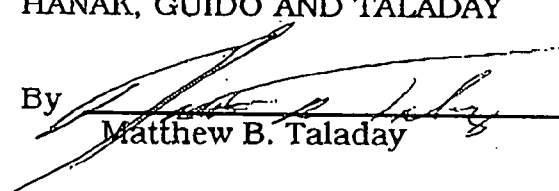
WHEREFORE, Plaintiffs demand judgment against Defendants in the amount of \$94,819.52 plus interest, costs, and such other damages as the Court may deem appropriate.

A JURY TRIAL IS DEMANDED.

Respectfully submitted,

HANAK, GUIDO AND TALADAY

By

  
Matthew B. Taladay

VERIFICATION

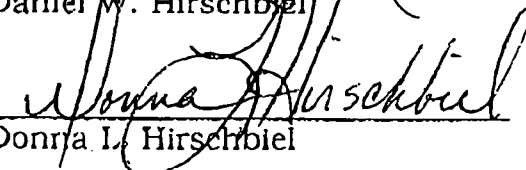
I, DANIEL W. HIRSCHBIEL and DONNA L. HIRSCHBIEL,  
do hereby verify that I have read the foregoing Complaint. The  
statements therein are correct to the best of my personal knowledge  
or information and belief.

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

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

9/15/01

  
\_\_\_\_\_  
Daniel W. Hirschbiel

  
\_\_\_\_\_  
Donna L. Hirschbiel

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Notice of Removal** has been served this 12<sup>th</sup> day of October 2001, via ordinary U.S. mail, postage prepaid, upon:

Matthew B. Taladay, Esquire  
HANAK, GUIDO and TALADAY  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801

**(Attorney for Plaintiffs)**

By:

  
\_\_\_\_\_  
Nora Barry Fischer



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **Notice of Filing of Notice of Removal** has been served this 12<sup>th</sup> day of October 2001, via ordinary U.S. mail, postage prepaid, upon:

Matthew B. Taladay, Esquire  
HANAK, GUIDO and TALADAY  
498 Jeffers Street  
P.O. Box 487  
DuBois, PA 15801

**(Attorney for Plaintiffs)**

By:

  
\_\_\_\_\_  
Nora Barry Fischer