

03-669-CD
JAMES E. DOHNER, ETAL VS. SHANER ENERGY, INC.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

JAMES E. DOHNER and
LISA M. DOHNER,
334 Turnpike Avenue
Clearfield, PA 16830

Plaintiffs : File No. 03-669-CD

vs.

SHANER ENERGY, INC. d/b/a
SHANER ENERGY,
40 Pennsylvania Avenue
Huntingdon, PA 16652

Defendant :

Civil Action - Law

FILED

MAY 02 2003

William A. Shaw
Prothonotary

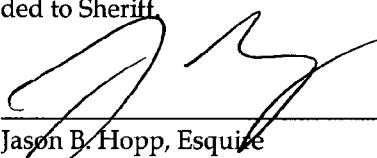
PRAECIPE FOR SUMMONS

TO THE PROTHONOTARY/CLERK OF SAID COURT:

Issue summons in civil action in the above case.

XX Writ of Summons shall be issued and forwarded to Sheriff.

Date: 4-29-03



Jason B. Hopp, Esquire
KOZLOFF STOUDT
2640 Westview Drive
P. O. Box 6286
Wyomissing, PA 19610
Attorney I.D. No. 80258
Attorneys for Plaintiffs

SUMMONS IN CIVIL ACTION

TO: SHANER ENERGY, INC. d/b/a SHANER ENERGY

YOU ARE NOTIFIED THAT THE ABOVE-NAMED PLAINTIFFS HAVE COMMENCED AN ACTION
AGAINST YOU.

WILLIAM SHAW, PROTHONOTARY

Clearfield County Prothonotary

By: Will Shaw
Deputy Prothonotary

Date: 5/2/03

FILED

1ccardit
to Sheriff
MAY 11 2003
MAY 02 2003 A44 pd 85.00

William A. Shaw
Pfethemetary

In The Court of Common Pleas of Clearfield County, Pennsylvania

DOHNER, JAMES E. & LISA M.

VS.

SHANER ENERGY, INC. d/b/a SHANER ENERGY

PRAECIPE, SUMMONS & REQUEST FOR PRODUCTION OF DOCUMENTS

Sheriff Docket # 14026

03-669-CD

SHERIFF RETURNS

NOW MAY 5, 2003, WILLIAM WALTERS, SHERIFF OF HUNTINGDON COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN PRAECIPE, SUMMONS & REQUEST FOR PRODUCTION OF DOCUMENTS ON SHANER ENERGY INC. D/B/A SHANER ENERGY, DEFENDANT.

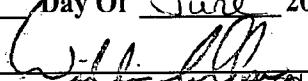
NOW MAY 7, 2003 SERVED THE WITHIN PRAECIPE, SUMMONS & REQUEST FOR PRODUCTION OF DOCUMENTS ON SHANER ENERGY INC. D/B/A SHANER ENERGY, DEFENDANT BY DEPUTIZING THE SHERIFF OF HUNTINGDON COUNTY. THE RETURN OF SHERIFF WALTERS IS HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED ELIZABETH BURKE, CHIEF FINANCIAL OFFICER.

Return Costs

Cost	Description
28.20	SHERIFF HAWKINS PAID BY: ATTY CK# 82340
10.00	SURCHARGE PAID BY: ATTY CK# 82341
25.00	HUNTINGDON CO. SHFF. PAI BY: ATTY

Sworn to Before Me This

9th Day Of June 2003


WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,


Chester A. Hawkins
Sheriff

FILED

*pl 9:16-81
JUN 09 2003 C
GAS*

William A. Shaw
Prothonotary



SHERIFF'S OFFICE

HUNTINGDON COUNTY, PENNSYLVANIA

241 Mifflin Street
 Huntingdon, PA 16652
 Telephone: 814-643-0880
 William G. Walters, Sheriff

James E. Dohner and Lisa M. Dohner

NO. 699 CD TERM 2003

VS:

Shaner Energy, Inc. d/b/a Shaner Energy

NOW, May 7, 2003, AT 1453 A.M./P.M. I SERVED THE WITHIN

Summons and Request for Production of Documents UPON

Shaner Energy, Inc. d/b/a Shaner Energy AT

40 Pennsylvania Ave, Huntingdon, PA 16652

BY HANDING TO Elizabeth Burke, CFO - Chief Financial Officer

one TRUE AND CORRECT COPY/COPIES OF THE WITHIN Summons and Request for Production of

Documents AND MADE KNOWN TO Elizabeth

THE CONTENTS THEREOF.

SWORN AND SUBSCRIBED TO

BEFORE ME THIS 9th

DAY OF May

2003 A.D.

Tammy S. Coons
 PROFESSIONAL NOTARY PUBLIC

Notarial Seal
 Tammy S. Coons, Notary Public
 Huntingdon Boro, Huntingdon County
 My Commission Expires Oct. 21, 2006
 Member, Pennsylvania Association of Notaries

SO ANSWERS,

William G. Walters

WILLIAM G. WALTERS, SHERIFF

Deputy Christopher K. Skipper

Deputy Christopher K. Skipper

CHIEF DEPUTY/DEPUTY

COSTS:

REC & DOC	9.00
SERVICE	9.00
MILEAGE/POSTAGE	4.00
SURCHARGE	---
AFFIDAVIT	3.00
MISCELLANEOUS	---

TOTAL COSTS

25.00 Paid

ORIGINAL
FILED

FEB 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

JAMES E. DOHNER and LISA M.
DOHNER,

Plaintiffs

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

vs.

:

: DOCKET NO. 03-669-CD

SHANER ENERGY, INC. d/b/a

:

SHANER ENERGY,

:

Defendant

:

PLAINTIFFS' COMPLAINT

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 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 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.**

David S. Meholic, Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

1. The amount in controversy in this action does not exceed the amount requiring submission to compulsory arbitration under the applicable local rules of court.

2. The Plaintiffs are James E. Dohner and Lisa M. Dohner, husband and wife, adult individuals, with an address of 334 Turnpike Avenue, Clearfield, Clearfield County, Pennsylvania.

3. The Defendant is Shaner Energy, Inc., d/b/a Shaner Energy, a Pennsylvania corporation with a business address of 40 Pennsylvania Avenue, Huntingdon, Huntingdon County, Pennsylvania.

4. At all times relevant and material hereto, Plaintiffs were the owner of a residential apartment building ("Building") located at 334 Turnpike Avenue, Clearfield, Clearfield County, Pennsylvania.

5. On or about February 10, 2001, Plaintiffs contracted with Defendant to install in a reasonable and workmanlike manner a furnace, tank and fuel line, which included an oil burner ("Oil Burner"). Plaintiffs are currently not in possession of the contract and have therefore not attached said contract to Plaintiffs' Complaint, but Plaintiffs believe and therefore aver that Defendant is in possession of said contract.

6. On or about February 10, 2001, Defendant installed a one-line fuel delivery system ("Fuel Delivery System") from the top of the storage tank for the Oil Burner.

7. Subsequent to the Fuel Delivery System being installed by Defendant in the Building and prior to December 31, 2001, the Fuel Delivery System repeatedly failed

causing heat loss to the Building, which failure of the Fuel Delivery System was reported to Defendants.

8. At all times relevant and material hereto, Defendant was responsible for the design, planning, labor, materials, equipment, and installation to perform and install the Fuel Delivery System and Oil Burner.

9. On or about December 31, 2001, the Fuel Delivery System failed, which directly and proximately resulted in the furnace malfunctioning and corresponding heat loss to the Building.

10. As a direct and proximate result of the heat loss to the Building, plumbing lines and radiators froze in the Building causing water/plumbing lines to break and/or crack resulting in extensive water damage to the Building in the amount of Twenty-One Thousand Five Hundred Ninety-Three and Ninety-Seven Cents (\$21,593.97).

11. The aforesaid damages in the amount of Twenty-One Thousand Five Hundred Ninety-Three and Ninety-Seven Cents (\$21,593.97) sustained by Plaintiffs due to the actions and/or inactions of Defendant directly and proximately resulted from the negligence, carelessness and breach of contract on the part of Defendant which consisted of the following:

- a. Failing to properly design the Fuel Delivery System;
- b. Failing to properly observe the construction and/or installation of the Fuel Delivery System;

- c. Failing to properly inspect the assembly, construction and/or installation of the Fuel Delivery System;
- d. Failing to be vigilant and observant in the design, planning, construction and/or installation of the Fuel Delivery System;
- e. Failing to observe and appreciate the defects and/or negligent design and installation of the Fuel Delivery System;
- f. Failing to take timely and reasonable measures to correct and eliminate the defective and negligent design and installation of the Fuel Delivery System;
- g. Permitting the design and installation of the Fuel Delivery System in a manner which Defendant knew or should have known that said design and installation of the Fuel Delivery System was defective, negligent and not in compliance with industry and engineering standards;
- h. Failing to properly install the fuel oil piping from the fuel oil storage tank to the burner;
- i. Failing to connect the one-pipe fuel oil system to the bottom of the fuel oil tank;
- j. Failing to use a two pipe fuel oil system;
- k. Failing to properly identify and/or resolve problems with the fuel oil delivery system during service calls;

- l. Failing to repair the defective fuel oil delivery system during service calls;
 - m. Failing to recognize that the one-pipe fuel oil delivery system was the cause of repeated problems with the Oil Burner installation;
 - n. Using a one-pipe fuel oil delivery system in an installation that is not gravity fed;
 - o. Installing a one-pipe fuel oil delivery system to remove oil from the top of the fuel tank, route it up to the basement ceiling and then down to the Oil Burner;
 - p. Failing to reasonably supervise installation of the fuel delivery system;
 - q. Failing to identify improper installation and design of the fuel delivery system;
 - r. Failing to observe work on the fuel delivery system and note patent deficiencies in the design and installation of the fuel delivery system;
 - s. Failing to assure reasonable installation and design of the fuel delivery system;
 - t. Failing to follow normal and established procedures in engineering and applicable industries;
 - u. Failing to follow normal and established concepts as to the design and installation of the fuel delivery system;

v. Failing to provide in a reasonable and workmanlike manner the services that Defendant had undertaken to provide to the Plaintiffs;

w. Being inattentive;

x. Violating applicable statutes, codes, regulations, and ordinances; and

y. Being otherwise careless and negligent as further discovery and investigation may reveal.

COUNT I
Negligence

12. The averments contained in paragraphs 1 through 11 above are incorporated herein by reference as if the same were set forth at length herein.

13. The negligence of the Defendant as aforesaid was a substantial factor in causing the damages the Plaintiffs allege to have occurred as a result of the aforesaid actions and/or inactions.

WHEREFORE, Plaintiffs demand judgment against the Defendant in the amount of Twenty-One Thousand Five Hundred Ninety-Three and Ninety-Seven Cents (\$21,593.97), together with delay damages and costs of suit.

COUNT II
Breach of Contract

14. The averments contained in paragraphs 1 through 13 above are incorporated herein by reference as though the same were set forth at length herein.

15. The Defendant breached its contract with the Plaintiffs.

16. The Defendant's breach of contract was the cause of the Plaintiffs' damages as more fully set forth above.

WHEREFORE, Plaintiffs demand judgment against the Defendant in the amount of Twenty-One Thousand Five Hundred Ninety-Three and Ninety-Seven Cents (\$21,593.97), together with costs of suit.

COUNT III
Breach of Implied Warranty

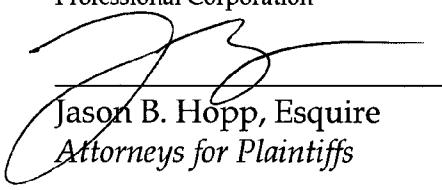
17. The averments contained in paragraphs 1 through 16 above are incorporated herein by reference as though the same were set forth at length herein.

18. At the time the Plaintiffs entered into the contract with Defendant, the Defendant impliedly warranted that it would diligently and reasonably provide for the services set forth in the contract between Plaintiffs and Defendant.

19. The Defendant breached its implied warranties as aforesaid.

WHEREFORE, Plaintiffs demand judgment against the Defendant in the amount of Twenty-One Thousand Five Hundred Ninety-Three and Ninety-Seven Cents (\$21,593.97), together with costs of suit.

KOZLOFF STOUDT
Professional Corporation


Jason B. Hopp, Esquire
Attorneys for Plaintiffs

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

JAMES E. DOHNER and LISA M.
DOHNER,

Plaintiffs

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

vs.

:

: DOCKET NO. 03-669-CD

SHANER ENERGY, INC. d/b/a

SHANER ENERGY,

Defendant

:

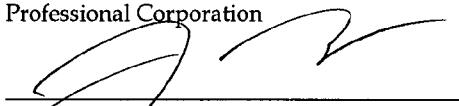
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VERIFICATION

Jason B. Hopp, Esquire verifies that he is counsel for Plaintiffs, James E. Dohner and Lisa M. Dohner, in the within pleading, that as such he is authorized to execute this Verification on his behalf, that time is of the essence and verification of the Plaintiff cannot be obtained within the time for filing the *Complaint*, and that the facts set forth in the withing pleading are true and correct to the best of his knowledge, information and belief. He understands that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Kozloff Stoudt
Professional Corporation

Dated: 2/2/04



Jason B. Hopp, Esquire
Attorneys for Plaintiffs

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

JAMES E. DOHNER and LISA M.
DOHNER,

Plaintiffs

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

vs.

: DOCKET NO. 03-669-CD

SHANER ENERGY, INC. d/b/a

SHANER ENERGY,

Defendant

:

CERTIFICATE OF SERVICE

I, Jason B. Hopp, Esquire, attorney for Plaintiffs, James E. Dohner and Lisa M. Dohner, certify that on February 2, 2004, a copy of the attached *Complaint* was served upon the following party by first class mail, postage prepaid:

Matthew W. Lent, Esquire
Sullivan, Forr, Stokan & Huff
1701 Fifth Avenue
Altoona, PA 16602-2319

This Certificate is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

KOZLOFF STOUDT
Professional Corporation



Jason B. Hopp, Esquire
Attorneys for Plaintiffs

FILED NO CC
M 1:50 PM
FEB 04 2004
EKA
William A. Shaw
Prothonotary/Clerk of Courts

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

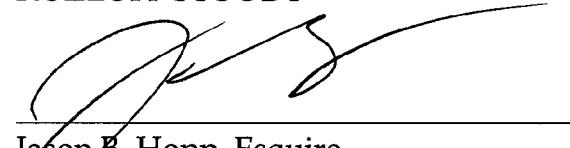
JAMES E. DOHNER and LISA M. : IN THE COURT OF COMMON PLEAS
DOHNER, : OF CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiffs : CIVIL ACTION - LAW
:
vs. :
: DOCKET NO. 03-669-CD
SHANER ENERGY, INC. d/b/a :
SHANER ENERGY, :
Defendant :
:

PRAECIPE TO SUBSTITUTE VERIFICATION

TO THE PROTHONOTARY:

Kindly substitute the attached Verification signed by our clients for the originally filed Verification signed by Jason B. Hopp, Esquire attached to Plaintiffs' Complaint.

KOZLOFF STOUDT



Jason B. Hopp, Esquire
2640 Westview Drive
P. O. Box 6286
Wyomissing, PA 19610
(610) 670-2552
I.D. #80258

Dated: 2/4/04

FILED

FEB 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

JAMES E. DOHNER and LISA M.
DOHNER,
Plaintiffs

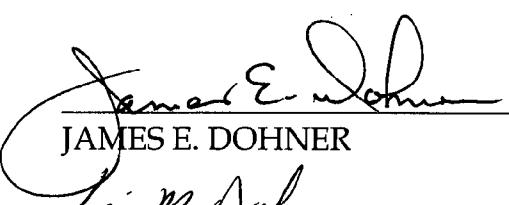
: IN THE COURT OF COMMON PLEAS
: OF CLEARFIELD COUNTY, PENNSYLVANIA
: CIVIL ACTION - LAW

vs.
SHANER ENERGY, INC. d/b/a
SHANER ENERGY,
Defendant

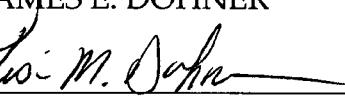
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: DOCKET NO. 03-669-CD
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VERIFICATION

The undersigned, having read the attached Complaint, hereby verifies that the attached pleading is based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the pleading is that of counsel and not of the undersigned. The undersigned verifies that they have read the attached pleading and that it is true and correct to the best of their information and belief. To the extent that the contents of the pleading is that of counsel, the undersigned has relied upon counsel in taking this Verification. This Verification is made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.



JAMES E. DOHNER



LISA M. DOHNER

Dated: 1-28-04

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

JAMES E. DOHNER and LISA M. DOHNER, Plaintiffs	:	IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA CIVIL ACTION - LAW
vs.	:	
SHANER ENERGY, INC. d/b/a SHANER ENERGY, Defendant	:	DOCKET NO. 03-669-CD
	:	
	:	
	:	

CERTIFICATE OF SERVICE

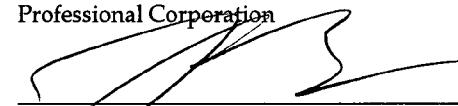
I, Jason B. Hopp, Esquire, attorney for Plaintiffs, James E. Dohner and Lisa M. Dohner, certify that on February 4, 2004, a copy of the attached *Praecipe to Substitute Verification* was served upon the following party by first class mail, postage prepaid:

Matthew W. Lent, Esquire
Sullivan, Forr, Stokan & Huff
1701 Fifth Avenue
Altoona, PA 16602-2319

This Certificate is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

KOZLOFF STOUDT

Professional Corporation



Jason B. Hopp, Esquire
Attorneys for Plaintiffs

FILED
m 11-26-04 NO 2
FEB 08 2004
William A. Shaw
Prothonotary/Clerk of Courts
RAB

JAMES E. DOHNER and LISA M. DOHNER, : IN THE COURT OF COMMON PLEAS OF
Plaintiffs : CLEARFIELD COUNTY, PENNSYLVANIA
:
vs. : CIVIL ACTION - LAW
:
SHANER ENERGY, INC. d/b/a : NO.: 03-669-CD
SHANER ENERGY, :
Defendant :
:

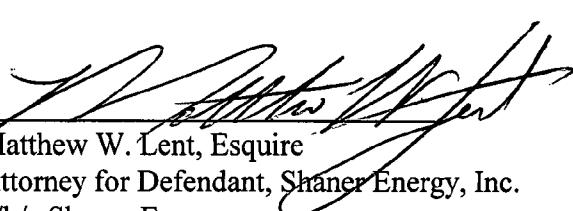
NOTICE TO PLEAD

TO: JAMES E. DOHNER and LISA M. DOHNER

IN ACCORDANCE WITH RULES 1026 AND 1361 OF THE PENNSYLVANIA
RULES OF CIVIL PROCEDURE, YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN
RESPONSE TO THE ENCLOSED ANSWER AND NEW MATTER WITHIN TWENTY (20)
DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.

SULLIVAN, FORR, STOKAN & HUFF

BY:


Matthew W. Lent, Esquire
Attorney for Defendant, Shaner Energy, Inc.
d/b/a Shaner Energy
SULLIVAN, FORR, STOKAN AND HUFF
1701 Fifth Avenue
Altoona, PA 16602
(814) 946-4316
STATE I.D. # 73454

DATE: 2/26/04

Pa. R.C.P. 1361
Rev. 7/1/85

FILED

MAR 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

JAMES E. DOHNER and LISA M. DOHNER, : IN THE COURT OF COMMON PLEAS OF
Plaintiffs : CLEARFIELD COUNTY, PENNSYLVANIA
:
vs. : CIVIL ACTION - LAW
:
SHANER ENERGY, INC. d/b/a : NO.: 03-669-CD
SHANER ENERGY, :
Defendant :
:

ANSWER AND NEW MATTER

AND NOW, comes the Defendant, Shaner Energy, Inc. d/b/a Shaner Energy, by
and through its attorneys, SULLIVAN, FORR, STOKAN AND HUFF, and files this its Answer
and New Matter to Plaintiffs' Complaint and states as follows:

ANSWER

1.

Admitted.

2.

Admitted.

3.

Admitted.

4.

After reasonable investigation, the Defendant is without knowledge or
information sufficient to form a belief as to the truth of the averment and, as such, the same is
denied and strict proof thereof is demanded at time of trial.

5.

Admitted in part and denied in part. It is admitted that the Plaintiffs' contract with Defendant was to install in a reasonable and workmanlike manner a 137 BTU cast iron boiler with domestic coil which included a cast iron boiler. It is denied that the contract was dated February 10, 2001 as the actual contract date was January 6, 2000. A copy of the proposal and contract dated January 6, 2000 is attached, marked as Exhibit "A" and incorporated by reference.

6.

Denied by virtue of and pursuant to Pa. R.C.P. 1029(e). By way of further answer, it is denied that on February 10, 2001 Defendant installed a one line fuel delivery system from the top of the storage tank for the oil burner. To the contrary, a fuel oil tank was supplied by the Plaintiffs and the Defendant supplied and connected the fuel line from the tank to the furnace.

7.

Denied by virtue of and pursuant to Pa. R.C.P. 1029(e). By way of further answer, it is denied that any fuel delivery system installed by Defendant repeatedly failed causing heat loss to the building, which failure of the fuel delivery system was reported to Defendants. To the contrary, the oil supply to the furnace was a one line system coming out of the top of the

fuel tank and was connected to the furnace which operated properly. Further, the Plaintiffs never reported a repeated failure of the fuel delivery system to the Defendant as there was only one service call on the furnace on October 27, 2000, several months after the furnace was installed on February 10, 2000.

8.

Denied by virtue of and pursuant to Pa. R.C.P. 1029(e). By way of further answer, the Defendant's obligations are set forth in the proposal and contract dated January 6, 2000, attached hereto as Exhibit "A".

9.

Denied by virtue of and pursuant to Pa. R.C.P. 1029(e). By way of further answer, after reasonable investigation, the Defendant is without knowledge or information sufficient to form a belief as to the truth of whether the fuel delivery system on the furnace malfunctioned resulting in corresponding heat loss and, as such, strict proof thereof is demanded at time of trial. Further, it is denied that the Defendant is responsible for any of Plaintiffs' damages.

10.

Denied by virtue of and pursuant to Pa. R.C.P. 1029(e). By way of further answer, any water damage which occurred is solely due to the Plaintiffs' failure to report any malfunction or loss of heat to the Defendant in a timely manner and it is specifically denied that the Defendant is responsible for any of Plaintiffs' alleged losses.

11. (a) through (y)

Denied by virtue of and pursuant to Pa. R.C.P. 1029(e). By way of further answer, paragraph 11 contains legal conclusions to which no response is necessary. To the extent a response is necessary, it is denied that any of Plaintiffs' alleged damages are due to the action and/or inaction of the Defendant or that the Defendant directly and proximately caused any of Plaintiffs' damages by and through any negligence, carelessness or breach of contract on the part of the Defendant.

COUNT I - NEGLIGENCE

12.

The Defendant incorporates by reference its answers to paragraphs 1 through 11 of Plaintiffs' Complaint as if fully set forth at length herein.

13.

Paragraph 13 contains legal conclusions to which no response is necessary. To the extent a response is necessary, the same are denied by virtue of and pursuant to Pa. R.C.P. 1029(e)

WHEREFORE, the Defendant, Shaner Energy, Inc. d/b/a Shaner Energy, demands judgment in its favor and against the Plaintiffs, James E. Dohner and Lissa M. Dohner, and respectfully requests that Plaintiffs' Complaint be dismissed with prejudice.

COUNT II - BREACH OF CONTRACT

14.

The Defendant incorporates by reference its answers to paragraphs 1 through 13 of Plaintiffs' Complaint as if fully set forth at length herein.

15.

Paragraph 15 contains a legal conclusion to which no response is necessary. To the extent a response is necessary, the same is denied by virtue of and pursuant to Pa. R.C.P. 1029(e).

16.

Paragraph 16 contains legal conclusions to which no response is necessary. To the extent a response is necessary, the same are denied by virtue of and pursuant to Pa. R.C.P. 1029(e).

WHEREFORE, the Defendant, Shaner Energy, Inc. d/b/a Shaner Energy, demands judgment in its favor and against the Plaintiffs, James E. Dohner and Lisa M. Dohner, and respectfully requests that Plaintiffs' Complaint be dismissed with prejudice.

COUNT III - BREACH OF IMPLIED WARRANTY

17.

The Defendant incorporates by reference its answers to paragraphs 1 through 16 of Plaintiffs' Complaint as if fully set forth at length herein.

18.

Admitted.

19.

Paragraph 19 contains a legal conclusion to which no response is necessary. To the extent a response is necessary, the same is denied by virtue of and pursuant to Pa. R.C.P. 1029(e).

WHEREFORE, the Defendant, Shaner Energy, Inc. d/b/a Shaner Energy, demands judgment in its favor and against the Plaintiffs, James E. Dohner and Lisa M. Dohner, and respectfully requests that Plaintiffs' Complaint be dismissed with prejudice.

NEW MATTER

1.

The Defendant incorporates by reference his answers to paragraphs 1 through 19 of Plaintiff's Complaint as if fully set forth at length herein.

2.

The Plaintiffs never reported to the Defendant a repeated failure of the fuel delivery system and, to the contrary, the Defendant never received any complaint regarding the heating unit and there was only a routine service call on the furnace on October 27, 2000, several months after the furnace was installed on February 10, 2000.

3.

Any damages that occurred to Plaintiffs' premises occurred solely due to Plaintiffs' own failure to report any malfunction or loss of heat to the Defendant in a timely manner.

4.

Any damage which occurred to the Plaintiffs' property resulted solely due to Plaintiffs' own negligence and carelessness in leaving the premises unoccupied and with the heating unit shut off for an extended period of time which directly caused the freezing of the pipes and radiators in the Plaintiffs' premises.

5.

Other than the routine service call which was conducted on October 27, 2000, the Defendant was at no time notified of any problem with the furnace, boiler or any other part of the heating unit until the alleged date of loss.

6.

Oil was delivered to the Plaintiffs on November 9, 2001 at which time 213.7 gallons were supplied.

7.

The next automatic oil delivery to Plaintiffs took place on December 21, 2001 at which time the oil tank accepted only 12.5 gallons of oil, an amount that would only run the boiler for approximately one to two days.

8.

As a result of the amount of oil utilized by the heating system between November 9, 2001 and December 21, 2001, it is believed and therefore averred that the Plaintiffs' premises was left unoccupied without heat for an extended period of time which directly caused the damage to Plaintiffs' property.

9.

Due to the Claimants' own negligence in leaving the property unoccupied and without heat for an extended period of time, the Plaintiffs failed to exercise due diligence in protecting his own property and the damages that took place on December 31, 2001 are directly related to such negligence on the part of the Plaintiffs.

10.

The Plaintiffs' action is barred by the applicable statute of limitations which is herein and hereby raised as an affirmative offense.

11.

Due to the Plaintiffs' own conduct in causing his own damages and his failure to report any ongoing problem with the furnace to the Defendant prior to the date of loss, the Plaintiffs' action is barred by the doctrines of estoppel and laches which is herein and hereby raised as affirmative defenses.

WHEREFORE, the Defendant, Shaner Energy, Inc. d/b/a Shaner Energy, demands judgment in its favor and against the Plaintiffs, James E. Dohner and Lisa M. Dohner, and respectfully requests that Plaintiffs Complaint be dismissed with prejudice.

Respectfully submitted,

SULLIVAN, FORR, STOKAN & HUFF


BY: Matthew W. Lent, Esquire
Attorney for Defendant, Shaner Energy, Inc.
d/b/a Shaner Energy
PA I.D. #73454
1701 Fifth Avenue
Altoona, Pa. 16602
(814) 946-4316



OFFICE COPY

SHANER ENERGY

A FULL SERVICE HEATING & AIR CONDITIONING COMPANY

PROPOSAL AND CONTRACT

TO: JAMES E. DOHNER
334 TURNPIKE AVENUE
CLEARFIELD, PA.

16830

DATE: 01/06/2000
PHONE: 765-1437

SCOPE OF WORK: 137,000 BTU CAST IRON BOILER WITH DOMESTIC COIL

INCLUDES:

-- MIXING VALVE
-- WATER FEEDER
-- SMOKE PIPE

-- FUEL LINE
-- VENT ALARM GAUGE
-- MISC. FITTINGS

OPTIONS:
TERMS: (Circle One)

* BURNHAM CAST IRON BOILER = \$2569.00
* ENERJET CAST IRON BOILER = \$2369.00 *

PLAN A: 20% down upon signing, balance due within ten (10) days of completion.

PLAN B & C: *You must be an Automatic Delivery Customer.*

Plan B: - 20% down upon signing, balance due at 0% interest in twelve equal monthly payments (1 year, 0%)

Plan C: - 20% down upon signing, balance due at 8% interest in twenty four equal monthly payments.
(2 years, 8%)

SPECIAL TERMS: (specify) - INCLUDES REMOVAL OF OLD EQUIPMENT IF APPLIES

PRICE: For the total sum of SEE ABOVE *This price is good for thirty (30) days only; includes discount.*

NOTE: Chimney liner may need to be installed at home owners expense due to low flue temperature causing condensation in the chimney.

CONDITIONS: All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

This Proposal is submitted in duplicate. The return to us of one copy with your signature shall constitute a contract.

SUBMITTED: Ron Bucha
Ron Bucha / Service Manager

ACCEPTED BY: James E. Dohner

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

GRIFFITH OIL
40 Pennsylvania Avenue
P. O. Box 873
Huntingdon, PA 16652
(814) 643-2208
Fax (814) 643-3380

BEARD OIL
R. D. 4 - Washington Avenue
P. O. Box 628
Clearfield, PA 16830
(814) 768-7811
Fax (814) 768-6811

HORNING OIL
R. R. 2 - Route 333
P. O. Box 420
Port Royal, PA 17082
(717) 527-4124
Fax (717) 527-2456

DEFENDANT'S
EXHIBIT
"A"

VERIFICATION

The undersigned avers that the statements of fact set forth and contained in the foregoing **Answer and New Matter** are true and correct to the best of her knowledge, information and belief and are made subject to and in recognition of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Deborah M. McHugh
Deborah McHugh, Risk Manager
Shaner Energy, Inc.

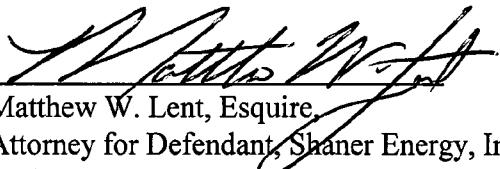
DATED: 2/26/04

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the Answer and New Matter by
First Class Mail, postage prepaid, on the 26th day of February, A.D., 2004, as
follows:

Jason B. Hopp, Esquire
Kozloff Stoudt
2640 Westview Drive
P.O. Box 6286
Wyomissing, PA 19610

SULLIVAN, FORR, STOKAN & HUFF,

BY: 

Matthew W. Lent, Esquire,
Attorney for Defendant, Shaner Energy, Inc.
d/b/a Shaner Energy

Matthew W. Lent, Esquire
1701 Fifth Avenue
Altoona, PA 16602-2319
(814) 946-4316
State I.D. #73454

FILED NO
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WES

William A. Shaw
Prothonotary/Clerk of Courts

JAMES E. DOHNER and LISA M. DOHNER, : IN THE COURT OF COMMON PLEAS OF
Plaintiffs : CLEARFIELD COUNTY, PENNSYLVANIA
VS. :
: CIVIL ACTION - LAW
SHANER ENERGY, INC. d/b/a SHANER : DOCKET NO.: 03-669-C0
ENERGY, :
Defendant :
:

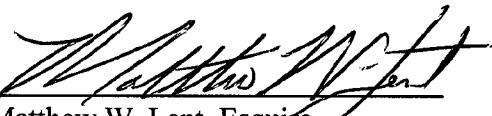
CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the **Reply to Plaintiffs' Request for Production of Documents Addressed to the Defendant, Set No. 1** by First Class Mail, postage prepaid, on the 26th day of February, A.D., 2004, as follows:

Jason B. Hopp, Esquire
Kozloff Stoudt
2640 Westview Drive
P.O. Box 6286
Wyomissing, PA 19610

SULLIVAN, FORR, STOKAN & HUFF,

BY:


Matthew W. Lent, Esquire,
Attorney for Defendant, Shaner Energy, Inc.
d/b/a Shaner Energy

Matthew W. Lent, Esquire
1701 Fifth Avenue
Altoona, PA 16602-2319
(814) 946-4316
State I.D. #73454

FILED

MAR 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

NO

CC

MAR 12 2004

E. K. Shaw

William A. Shaw
Prothonotary/Clerk of Courts

ORIGINAL

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

JAMES E. DOHNER and LISA M. : IN THE COURT OF COMMON PLEAS
DOHNER, : OF CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiffs : CIVIL ACTION - LAW
:
vs. :
: DOCKET NO. 03-669-CD
SHANER ENERGY, INC. d/b/a :
SHANER ENERGY, :
Defendant :
:

FILED

APR 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

ANSWER OF PLAINTIFFS TO DEFENDANT'S NEW MATTER

1. Plaintiff incorporates by reference as if set forth at length herein paragraphs 1 through 19 of Plaintiffs' Complaint.
2. Denied. Plaintiffs' complained to Defendant about failure of the heating unit and fuel delivery system prior to the damages sustained by Plaintiffs.
3. Denied. The averments contained in paragraph 3 are generally denied pursuant to Pa. R.C.P. 1029(e).
4. Denied. The averments contained in paragraph 4 are generally denied pursuant to Pa. R.C.P. 1029(e).
5. Denied. Plaintiffs' complained to Defendant about failure of the heating unit and fuel delivery system prior to the damages sustained by Plaintiffs.

6. Denied. The averments contained in paragraph 6 are generally denied pursuant to Pa. R.C.P. 1029(e).

7. Denied. The averments contained in paragraph 7 are generally denied pursuant to Pa. R.C.P. 1029(e).

8. Denied. The averments contained in paragraph 8 are generally denied pursuant to Pa. R.C.P. 1029(e).

9. Denied. The averments contained in paragraph 9 of Defendant's New Matter are averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required.

10. Denied. The averments contained in paragraph 10 of Defendant's New Matter are averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required.

11. Denied. The averments contained in paragraph 11 of Defendant's New Matter are averments of law, conclusions of law, or conclusions of fact to which no responsive pleading is required.

WHEREFORE, Plaintiffs, James E. Dohner and Lisa M. Dohner request that this Honorable Court enter judgment in their favor and against Defendant.

KOZLOFF STOUDT



Jason B. Hopp, Esquire
2640 Westview Drive

Jason B. Hopp, Esquire
2640 Westview Drive
P. O. Box 6286
Wyomissing, PA 19610
(610) 670-2552
I.D. #80258

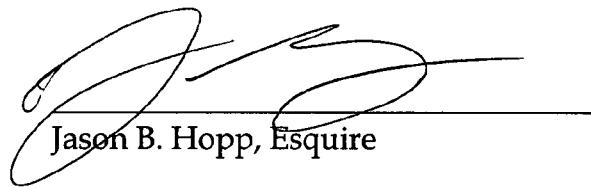
Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

JAMES E. DOHNER and LISA M. : IN THE COURT OF COMMON PLEAS
DOHNER, : OF CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiffs : CIVIL ACTION - LAW
:
vs. :
:
SHANER ENERGY, INC. d/b/a : DOCKET NO. 03-669-CD
SHANER ENERGY, :
Defendant :
:

VERIFICATION

The undersigned, having read the attached *Answer to New Matter*, hereby verifies that the attached pleading is based on information which has been gathered by counsel in the course of this lawsuit. The language of the pleading is that of counsel. Furthermore, the matters contained in this pleading are of a procedural nature only among counsel and the court. The undersigned verifies that he has read the attached pleading and that it is true and correct to the best of his information and belief. This Verification is made subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.



Jason B. Hopp, Esquire

Dated: 4/22/04

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

JAMES E. DOHNER and LISA M. : IN THE COURT OF COMMON PLEAS
DOHNER, : OF CLEARFIELD COUNTY, PENNSYLVANIA
Plaintiffs : CIVIL ACTION - LAW
:
vs. :
:
SHANER ENERGY, INC. d/b/a : DOCKET NO. 03-669-CD
SHANER ENERGY, :
Defendant :
:

CERTIFICATE OF SERVICE

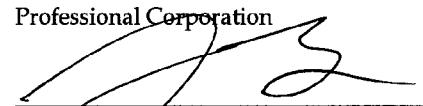
I, Jason B. Hopp, Esquire, attorney for Plaintiffs, James E. Dohner and Lisa M. Dohner, certify that on April 23, 2004, a copy of the attached *Answer to New Matter* was served upon the following party by first class mail, postage prepaid:

Matthew W. Lent, Esquire
Sullivan, Forr, Stokan & Huff
1701 Fifth Avenue
Altoona, PA 16602-2319

This Certificate is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

KOZLOFF STOUDT

Professional Corporation



Jason B. Hopp, Esquire
Attorneys for Plaintiffs

FILED
MAY 3 2004
APR 26 2004
NO CC
ED
William A. Shaw
Prothonotary/Clerk of Courts
[Handwritten signature]

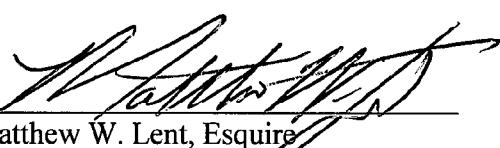
JAMES E. DOHNER and LISA M. DOHNER, : IN THE COURT OF COMMON PLEAS OF
Plaintiffs : CLEARFIELD COUNTY, PENNSYLVANIA
:
vs. : CIVIL ACTION - LAW
:
SHANER ENERGY, INC. d/b/a : NO.: 03-669-CD
SHANER ENERGY, :
Defendant :
:

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the **Interrogatories and Request for Production of Documents Directed to the Plaintiffs, James E. Dohner and Lisa M. Dohner** the by First Class Mail, postage prepaid, on the 7th day of June, A.D., 2004, as follows:

Jason B. Hopp, Esquire
Kozloff Stoudt
2640 Westview Drive
P.O. Box 6286
Wyomissing, PA 19610

SULLIVAN, FORR, STOKAN & HUFF,

BY: 

Matthew W. Lent, Esquire
Attorney for Defendant, Shaner Energy, Inc.
d/b/a Shaner Energy

Matthew W. Lent, Esquire
1701 Fifth Avenue
Altoona, PA 16602-2319
(814) 946-4316
State I.D. #73454

FILED

JUN 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

Jason B. Hopp, Esquire
Attorney I.D. No. 80258
Kozloff Stoudt
2640 Westview Drive
Wyomissing, PA 19610
(610) 670-2552

Attorneys for Plaintiffs

JAMES E. DOHNER and LISA M.
DOHNER,

Plaintiffs

vs.

SHANER ENERGY, INC. d/b/a:

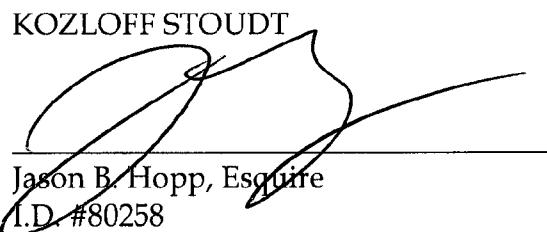
SHANER ENERGY,
Defendant

: IN THE COURT OF COMMON PLEAS
: OF CLEARFIELD COUNTY, PENNSYLVANIA
: CIVIL ACTION - LAW
:
:
: DOCKET NO. 03-669-CD
:
:

PRAECIPE TO SETTLE, DISCONTINUE AND END

TO THE PROTHONOTARY:

Kindly mark the above-captioned matter "Settled, Discontinued and Ended with
Prejudice."

KOZLOFF STOUDT

Jason B. Hopp, Esquire
I.D. #80258

FILED
in 12:09 AM on 2/17/2005
Copy to C.R.
FEB 17 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

James E. Dohner
Lisa M. Dohner

Vs. No. 2003-00669-CD
Shaner Energy, Inc.

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 February 17, 2005, marked:

Discontinued, Settled and Ended

Record costs in the sum of \$148.00 have been paid in full by Attorney Jason B. Hopp.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 17th day of February A.D. 2005.

William A. Shaw, Prothonotary