

03-1115-CD
MARGARET J. SNEAL-WILSON vs. HARVEY B UMBARGER, etal.

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

MARGARET J. SMEAL WILSON
Plaintiff

vs.

HARVEY BUMBARGER,
and ENERCORP, INC.
Defendant

:

: No. 03-1115-0

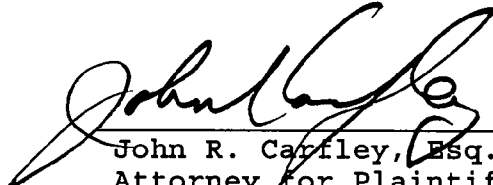
:

: Jury Trial Demanded

PRAECIPE

TO THE PROTHONOTARY:

PLEASE issue a Writ of Summons against defendants, Harvey
Bumbarger and Enercorp, Inc. whose addresses are R. D. 2,
Morrisdale, Clearfield County, Pennsylvania.


John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: July 29, 2003

FILED

JUL 31 2003

William A. Shaw
Prothonotary

FILED

012:03 64 pL 85:00

JUL 31 2003 2nd to 4th

William A. Shaw
Prothonotary

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

CCY

SUMMONS

Margaret J. Smeal-Wilson

Vs.

NO.: 2003-01115-CD

**Harvey Bumbarger
Enercorp, Inc.**

**TO: HARVEY BUMBARGER
ENERCORN, INC.**

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 07/31/2003

William A. Shaw
Prothonotary

Issuing Attorney:
John R. Carfley, Esq.
222 Presqueisle St.
Philipsburg, PA 16866

In The Court of Common Pleas of Clearfield County, Pennsylvania

SMEAL-WILSON, MARGARET J.

VS.

BUMBARGER, HARVEY and ENERCORP. INC.

SUMMONS

Sheriff Docket # 14379

03-1115-CD

SHERIFF RETURNS

NOW AUGUST 12, 2003 AT 2:30 PM SERVED THE WITHIN SUMMONS ON HARVEY BUMBARGER, DEFENDANT AT EMPLOYMENT, RD#2, MORRISDALE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO AMY RIVERA, DAUGHTER A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN


NOW AUGUST 12, 2003 AT 2:30 PM SERVED THE WITHIN SUMMONS ON ENERCORP, INC., DEFENDANT AT EMPLOYMENT, RD#2, MORRISDALE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO AMY RIVERA, DAUGHTER A TRUE AND ATTESTED COPY OF THE ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

Return Costs


Cost	Description
33.73	SHERIFF HAWKINS PAID BY: ATTY CK# 5835
20.00	SURCHARGE PAID BY: ATTY CK# 5834

Sworn to Before Me This

19 Day Of Sept. 2003


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

So Answers,


Chester A. Hawkins
Sheriff

FILED

SEP 19 2003
013:00h
William A. Shaw
Prothonotary/Clerk of Courts

MARGARET SMEAL a/k/a
MARGARET SMEAL WILSON
Plaintiff

HARVEY S. BUMBARGER and
CINDY J. BUMBARGER, Husband
and Wife, and t/d/b/a
ENERCOP, INC.
Defendant

:
:
:
:
: No. 2003-1115-CD
:
: Jury Trial Demanded
:
: Document filed: COMPLAINT
:
: Filed on behalf of: Plaintiff
: Margaret Smeal-Wilson
:
: Attorney for this party:
: John R. Carfley, Esq.
: P. O. Box 249
: Philipsburg, Pa., 16866
: (814) 342-5581
: ID# 17621

FILED

FEB 24 1964

William A. Shaw
Prothodontics

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

MARGARET SMEAL a/k/a
MARGARET SMEAL WILSON
Plaintiff

:
:

vs.

:

No. 2003-1115-CD

HARVEY S. BUMBARGER and
CINDY J. BUMBARGER, Husband
and Wife, and t/d/b/a
ENERCORP, INC.
Defendant

:
:
:
:
:

Jury Trial Demanded

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 claims 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 FIND ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
COURTHOUSE
CLEARFIELD, PA., 16830
(814) 765-2641, Extension 5982

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

MARGARET SMEAL a/k/a :
MARGARET SMEAL WILSON :
Plaintiff

vs. : No.

HARVEY S. BUMBARGER and :
CINDY J. BUMBARGER, Husband :
and Wife, and t/d/b/a :
ENERCORP, INC. :
Defendants :

COMPLAINT

AND NOW comes the plaintiff, MARGARET SMEAL a/k/a MARGARET SMEAL-WILSON, who by and through her attorney, John R. Carfley, Esquire, files this claim against the defendants and in support thereof avers as follows:

1. Plaintiff Margaret Smeal-Wilson is an adult individual who presently resides at 6058 Morrisdale-Allport Highway, Morrisdale, Clearfield County, Pennsylvania.

2. Defendants are Harvey S. Bumbarger and Cindy J. Bumbarger, Husband and Wife, adult individuals, who presently reside at RR 2, Box 236, Morrisdale, Clearfield County, Pennsylvania and who at the times and places relevant hereto traded and did business as Enercorp, Inc. believed to be a Pennsylvania corporation with its principal offices located at RR 2, Box 236, Morrisdale, Clearfield County, Pennsylvania, and which company, it is believed, at the times relevant hereto, engaged in coal mining operations in or near the lands of the Plaintiff as hereinafter described in Morris Township, Clearfield County, Pennsylvania.

3. At the times and places relevant hereto Plaintiff was the

owner of a tract of land consisting of 19.887 acres more or less situate, lying and being in Morris Township, Clearfield County, Pennsylvania, identified by Clearfield County Assessment Number 124-R9-21 which parcel was acquired by the Plaintiff in that deed entered for record in the Office of the Recorder of Deeds of Clearfield County, Pennsylvania in Deed Book 1681, Page 398.

4. At the times and places relevant hereto Defendants were the owners of the surface of that tract of land consisting of 14.27 acres more or less situate, lying and being in Morris Township, Clearfield County, Pennsylvania, identified by Clearfield County Assessment Number 124-R9-44 which parcel was acquired by the Defendants in that deed entered for record in the office of the Recorder of Deeds of Clearfield County, Pennsylvania, in Deed Book 1692, Page 34.

5. On or about the 1st day of January, 2003, defendants commenced coal mining operations at or near that property owned by the Plaintiff as aforesaid and in the process of said operations removed by strip mine and auger mining methods certain tonnage as evidenced by the retracement map and report attached hereto as Exhibit A.

6. As the survey map and report clearly attest a roadway exists over and through the property owned by the Plaintiff which roadway has been in use for a period in excess of 21 years and is clearly evident to all parties accessing the area.

7. It is believed and therefore averred that the location of this roadway represented a manmade boundary and barrier which should have alerted the defendants as to the possible encroachment

onto properties of another.

8. Notwithstanding these manmade barriers and the existence of survey maps and assessment maps to outline the respective boundaries of the properties herein identified, defendants engaged in a form of mining which permitted them to remove the mineral estate underlying the roadway to wit: auger mining which evidences a pre-existing knowledge of the location of the boundaries of the respective properties and an intentional strategy to remove the minerals from property which they knew or in the exercise of reasonable care and diligence should have known was owned by other individuals thus giving rise to a claim against the defendant for an intentional trespass which warrants the imposition of an award for punitive damages.

9. It is believed and therefore averred that the defendants upon approaching the existing roadway undertook no efforts to ascertain the true ownership of the property over and across which the roadway provided ingress and egress but rather utilized auger mining methods in order to remove substantial quantities of minerals without the direct knowledge and/or the consent of the Plaintiff/owner.

10. As a result of the negligent and/or intentional encroachment of the Defendant upon the lands of the Plaintiff, Plaintiff has incurred expenses and damages consistent with the royalty for the surface estate disrupted and the mineral estate extracted in an unliquidated amount in excess of \$10,000.00 for which demand is now made.

WHEREFORE, Plaintiff demands that judgment be entered in favor

of the Plaintiff and against the Defendants in an unliquidated amount in excess of \$10,000.00 together with interest thereon, delay damages and costs of this proceeding.

COUNT II - CLAIMS FOR WHEELAGE

11. Plaintiff incorporates by reference Paragraphs 1 through 10 of her complaint as fully as though set forth at length.

12. As a result of the negligent and/or intentional encroachment of the Defendants upon the lands of the Plaintiff, Plaintiff is entitled in addition to royalty for the disruption of the surface and the removal of minerals, wheelage for removal of other minerals extracted from adjoining properties and transported across the roadway outlined on the survey map attached hereto.

13. The tonnage removed in such a manner and the wheelage to which the Plaintiff is entitled cannot be calculated until records maintained by the Defendants are produced designating the amount of tonnage removed and the number of loads transported over and across said roadway which exists on Plaintiff's property.

WHEREFORE, Plaintiff demands that judgment be entered in favor of the Plaintiff and against the Defendants in an unliquidated amount in excess of \$10,000.00 together with interest, delay damages, and costs of this proceeding.

COUNT III - CLAIMS FOR PUNITIVE DAMAGES

14. Plaintiff hereby incorporates herein Paragraphs 1 through 13 of her complaint as fully as though set forth at length.

15. It is believed and averred that the Defendants by exercising reasonable investigative resources and inquiry should have known that the roadway outlined on the map affixed hereto

crossed the property of the Plaintiff and that any encroachment on and/or under the roadway was a direct and intentional trespass upon property belonging to the Plaintiff.

16. The Defendants made no effort to approach the Plaintiff and secure a lease agreement to access this property or to remove the mineral estate or otherwise utilize the roadway for purposes of ingress or egress or for transport of minerals from adjoining properties but rather directly and intentionally crossed under the area and extracted minerals without disrupting the surface and otherwise violating the Plaintiff's right to quiet enjoyment of her property.

17. The said Defendants are therefore liable to the Plaintiff for punitive damages consistent with the actions engaged in on said property.

WHEREFORE, Plaintiff demands that judgment be entered in favor of the Plaintiff and against the Defendants in an unliquidated amount in excess of \$10,000.00 together with interest, delay damages and costs of this proceeding.

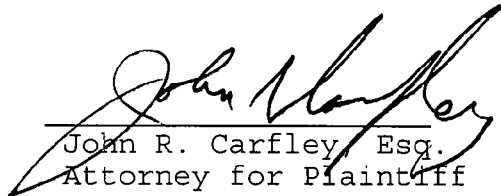
COUNT IV - STORAGE OF EQUIPMENT AND WASTE MATERIALS

18. Plaintiff hereby incorporates by reference Paragraphs 1 through 17 of her complaint as fully as though set forth at length.

19. During the course of the mining operations on the subject properties Defendants, without the knowledge, permission and consent of the Plaintiff, utilized other properties owned by the Plaintiff specifically that parcel referred to as bearing Assessment Number 124-R9-87 upon which he stored equipment and overburden removed from other mining sites all to the detriment of

Plaintiff's quiet enjoyment of her property and for which the Plaintiff should now be compensated.

WHEREFORE, Plaintiff demands that judgment be entered in favor of the Plaintiff and against the Defendants in an unliquidate amount in excess of \$10,000.00 together with interest, delay damages and costs of this proceeding.



John R. Carfley, Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
(814) 342-5581

Dated: January 26, 2004

VERIFICATION

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

Margaret Inez Wilson

Dated: January 22, 2004

EE

ROGER L. LARSON
AND
ALAN R. LARSON
1937/42

HARVEY S. BUMBARGER
AND
CHUDY J. BUMBARGER
1892/34

NOW OR FORMERLY
HARRY W.
AND
DOLLY E. HAND

HIGHWALL LOCATION

26' COAL SEAM = 2,150 TONS

1.607 ACRES

0.578 ACRES

21" TOTAL COAL AUGER AREA = 8,350 TONS
50% RECOVERY DURING AUGER PROCESS
ESTIMATED COAL REMOVAL IN AUGER AREA = 3,125 TONS

ROGER L. LARSON
AND
ALAN R. LARSON
1937/42

PREVIOUS STRIP MINE AREA

MARGARET J. SMEAL
3TH THEREOF

MARGARET J. SMEAL
3RD THEREOF

M₁ 82.61.98N

WT. 1" SQUARE PIN
(FOUND)

562.00'

S03°44'09"W

123-26

LINE LEGEND

- PROPERTY LINE
- CENTER LINE
- REFERENCE LINE
- RIGHT OF WAY LINE
- PROPERTY LINE OF THIS SURVEY
- CREEDS
- OLD STRIP MINE EXTENT
- CONTOUR MAIN
- CONTOUR MINOR

SYMBOL LEGEND

- 123/323
- DEED REFERENCE
- 3/4" REBAR (SET) WITH YELLOW CAP
- REBAR
- REINFORCEMENT BARS
- R/W
- RIGHT OF WAY
- C/L
- CENTER LINE
- P.C.
- POINT OF CURVE
- P.T.
- POINT OF TANGENCY
- N
- NORTH
- S
- SOUTH
- E
- EAST
- W
- WEST
-
- DEGREES
- MINUTES OR FEET
- SECONDS
- CB
- CHORD BEARING
- CD
- CHORD DISTANCE
- R
- RADIUS
- L
- LENGTH OF ARC
- STA.
- STATION
- Δ
- DELTA
- D
- DEGREE OF CURVE
- T
- TANGENT DISTANCE OF CURVE

MARGARET J. SMEAL

MORRIS TOWNSHIP

MAP SHOWING STRIP MINING ENCROACHMENTS

MORRIS TOWNSHIP
CLEARFIELD COUNTY



GARY L. TROSBY, PLS
NO. 10-48390-E
CURRY & ASSOCIATES
207 SOUTH THIRD STREET
(814) 765-7256

SURVEY DATE: JANUARY 20, 2003
FIELD BOOK: 81 PAGE 9
TAX MAP NUMBER: 124-89-47
FILE NUMBER: 741C
REVISED: DECEMBER 4, 2003

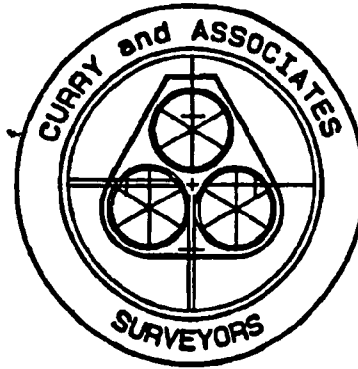
PENCAD-Beynon, M. J.

EXHIBIT

A

David J. Thorp, PLS
Gary L. Thorp, PLS

FAX: 814-765-1930



Ronald D. Thorp, Geologist

Phone 814-765-7226
814-765-4862

207 S. THIRD STREET
CLEARFIELD, PA 16830
December 5, 2003
345-5192

Margaret J. Smeal
6058 Morrisdale Allport Highway
Morrisdale, PA 16858

Dear Margaret:

Enclosed is the survey map showing the area that Bumbarger Coal Company has striped mined on to your parcel of land. I have completed a retracement survey on the property line that is adjacent to the strip mine activities. As the result of establishing your northern line, Bumbarger Coal Company has encroached his mining activity upon your lands.

A high-wall was visible at the time of surveying the property line. The survey was completed on January 20, 2003. The results of the survey are represented on the survey map attached. Also shown on the map is the location of the disturbed area that Bumbarger Coal Company has encroached on your property.

At the time the survey was completed I also observed that an auger was located on the open pit floor. I also observed that the coal seam was being auger into your property at the time of the survey. However, I did not know the extent in which the auger was extending into your property. The survey map shows an area of 100 feet from the existing high-wall onto your property that may have been augered.

The Coal seam was visible at the time of the survey and a measurement was taken. The coal seam was, on the average, 26" thick.

Calculations were made to estimate the coal removed on your property. The results of the coal removed are shown on the map. The formula in obtaining the estimate tonnage was as follows:

**AREA (in acres) x COAL THICKNESS (in feet) x 1,800 TONS PER ACER FEET
RESULTS IN TOTAL TONS REMOVED**

In calculated the amount of coal removed in the augered area the following formula was used.

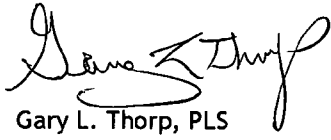
**AREA (in acres) x COAL THICKNESS (in feet) x 1,800 TONS PER ACER FEET DIVIDED BY 2
RESULTS IN TOTAL TONS REMOVED**

Due to the nature of augering coal there is a 50% recovery rated to retrieve the coal under this area. The total coal removed in this area may change if Bumbarger Coal Company has augered into your property by more that 100 feet.

The estimated amount of coal removed on your property was calculated at 8,500 tons removed on your parcel of land.

If there are any questions pertaining to any thing on this subdivision map please give me a call at the above telephone number.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary L. Thorp".

Gary L. Thorp, PLS

FILED

0 11:29 AM 1 cc to attorney

FEB 24 2004

(Signature)

William A. Shaw
Prothonotary

no c/c ~~g~~

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

MARGARET SMEAL, a/k/a
MARGARET SMEAL WILSON,
Plaintiff

-vs-

NO. 2003-1115-CD

HARVEY S. BUMBARGER, and
CINDY J. BUMBARGER, husband and
wife, and ENERCORP, INC.
Defendants

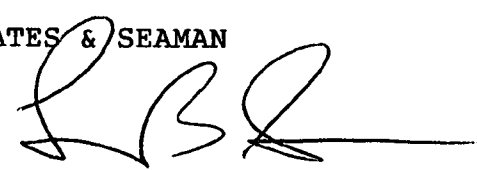
PRAECIPE

TO WILLIAM A. SHAW, PROTHONOTARY:

Please enter my appearance on behalf of Defendants, Harvey S. Bumbarger, Cindy J. Bumbarger and Enercorp, Inc., in the aforementioned action.

GATES & SEAMAN

BY:


Laurance B. Seaman, Esquire


Two North Front Street
P. O. Box 846
Clearfield, PA 16830
(814) 765-1766

Date: March 12, 2004

MARGARET SMEAL, a/k/a
MARGARET SMEAL WILSON
Plaintiff

**HARVEY S. BUMBARGER and
CINDY J. BUMBARGER, husband
and wife, and ENERCORP, INC.
Defendants**

GATES & SEAMAN
Attorneys at law
Two North Front Street
P. O. Box 846
Clearfield, Pennsylvania 16830
(814) 765-1766

no c/c 

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

MARGARET SMEAL, a/k/a
MARGARET SMEAL WILSON,
Plaintiff

-vs-

HARVEY S. BUMBARGER, and
CINDY J. BUMBARGER, husband and
wife, and ENERCORP, INC.
Defendants

NO. 2003-1115-CD


CERTIFICATE OF SERVICE

I hereby certify that service was made by mailing a true
and correct copy of the original Praecipe for Appearance on March
12, 2004 by regular mail, postage prepaid to:

John R. Carfley, Esquire
P.O. Box 249
Philipsburg, PA 16866

GATES & SEAMAN

By


Laurance B. Seaman, Esq.
Attorney for Defendants,
Harvey S. Bumbarger, Cindy J.
Bumbarger and Enercorp, Inc.

FILED

MAR 12 2004

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 2003- 1115 - CD
CIVIL ACTION - LAW

MARGARET SMEAL, a/k/a
MARGARET SMEAL WILSON,
Plaintiff

-vs-

HARVEY S. BUMBARGER and
CINDY J. BUMBARGER, Husband
and Wife, and t/d/b/a
ENERCOP, INC.,
Defendants

PRELIMINARY OBJECTION

01/21/13 Not Rec'd
Red

LAW OFFICES
GATES & SEAMAN
2 NORTH FRONT STREET
P.O. BOX 846
CLEARFIELD, PA. 16830

William A. Shaw
Prothonotary

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

MARGARET SMEAL, a/k/a MARGARET
SMEAL WILSON, Plaintiff

vs.

No. 2003-1115-CD

HARVEY S. BUMBARGER and CINDY J.
BUMBARGER, Husband and Wife, and
t/d/b/a ENERCORP, INC., Defendants

N O T I C E

To: John R. Carfley, Esquire
Attorney for Plaintiff
222 Presqueisle Street
P. O. Box 249
Philipsburg, PA 16866

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO
THE ENCLOSED PRELIMINARY OBJECTION WITHIN TWENTY (20)
DAYS FROM SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED
AGAINST YOU.

GATES & SEAMAN

By:



Laurance B. Seaman, Esquire
Attorney for Defendants,
Harvey S. Bumbarger and
Cindy J. Bumbarger

Date: April 6, 2004

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

MARGARET SMEAL, a/k/a MARGARET :
SMEAL WILSON, Plaintiff :
 :
vs. : No. 2003-1115-CD
 :
HARVEY S. BUMBARGER and CINDY J. :
BUMBARGER, Husband and Wife, and :
t/d/b/a ENERCORP, INC., Defendants :

PRELIMINARY OBJECTION

AND NOW, Defendants, HARVEY S. BUMBARGER and CINDY J. BUMBARGER, by and through their attorneys, Gates and Seaman, preliminarily object as follows:

I. IMPROPER SERVICE OF COMPLAINT

1. Plaintiff commenced this action on July 31, 2003 by the filing of a Praecipe for the issuance of a Writ of Summons, which was issued by the Prothonotary's Office on the same date.

2. The caption in the Writ of Summons is as follows:

Margaret J. Smeal-Wilson
Vs. NO.: 2003-01115-CD
Harvey Bumbarger
Enercorp, Inc.

A photocopy of the Summons is attached hereto and made a part hereof as Exhibit "A".

3. Service of the Summons was made by the Clearfield County Sheriff's Office on Harvey Bumbarger and Enercorp, Inc. by handing a copy of the Summons for each defendant to the daughter of Harvey S. Bumbarger at the corporation's place of business.

4. There are two (2) adult individuals with the name Harvey Bumbarger, both residing in Clearfield County,

Pennsylvania.

5. Enercorp, Inc. is a business corporation organized under the laws of the Commonwealth of Pennsylvania.

6. The caption in the Complaint names the parties as follows:

MARGARET SMEAL, a/k/a
MARGARET SMEAL WILSON
Plaintiff

vs.

: No. 2003-1115-CD
Jury Trial Demanded

HARVEY S. BUMBARGER and
CINDY J. BUMBARGER, Husband
and Wife, and t/d/b/a
ENERCOP, INC.
Defendant

7. Harvey S. Bumbarger and Cindy J. Bumbarger, residing in Clearfield County, Pennsylvania, are not named in the original Summons, nor is there any indication in the original Summons of any party trading or doing business as Enercorp, Inc.

8. Service of the Complaint upon Harvey S. Bumbarger and Cindy J. Bumbarger, husband and wife, and t/d/b/a Enercorp, Inc. was made by regular mail.

9. Rule 400(a) of Pa.R.C.P. provides, in an action such as this, that: ". . . original process shall be served within the Commonwealth only by the Sheriff."

10. The original Summons included only two defendants, "Harvey Bumbarger and Enercorp, Inc."

11. The Complaint names two different defendants: "Harvey S. Bumbarger and Cindy J. Bumbarger, Husband and Wife, and t/d/b/a Enercorp, Inc.". It does not name Enercorp, Inc. as a

separate party.

12. If the Complaint is meant to be an original process, it should have been assigned a different Court Term No., and it was not served properly.

13. If the Complaint is meant to be a pleading filed to the case already started, it should name the parties the same as in the Summons and it cannot add additional parties by itself.

WHEREFORE, Defendants respectfully requests this Honorable Court grant their Preliminary Objection and dismiss the Complaint.

GATES & SEAMAN

By: 

Laurance B. Seaman, Esquire
Attorneys for Defendants,
Harvey S. Bumbarger and
Cindy J. Bumbarger

Date: April 6, 2004

Two North Front Street
P. O. Box 846
Clearfield, PA 16830
(814) 765-1766

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

SUMMONS

Margaret J. Smeal-Wilson

Vs.

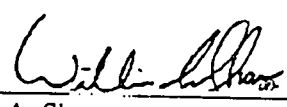
NO.: 2003-01115-CD

Harvey Bumbarger
Enercorp, Inc.

TO: HARVEY BUMBARGER
ENERCOP, INC.

To the above named Defendant(s) you are hereby notified that the above named Plaintiff(s) has/have commenced a Civil Action against you.

Date: 07/31/2003


William A. Shaw
Prothonotary

Issuing Attorney:
John R. Cartley, Esq.
222 Presqueisle St.
Philipsburg, PA 16866

EXHIBIT "A"

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

MARGARET SMEAL, a/k/a MARGARET
SMEAL WILSON, Plaintiff

vs.

No. 2003-1115-CD

HARVEY S. BUMBARGER and CINDY J.
BUMBARGER, Husband and Wife, and
t/d/b/a ENERCORP, INC., Defendants

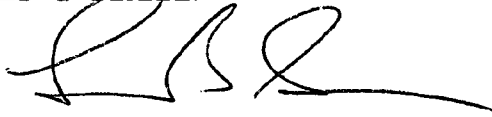
CERTIFICATE OF SERVICE

I hereby certify that I served by regular U. S. Mail,
postage prepaid, on the 6th day of April, 2004, a true and
correct copy of the original of the Preliminary Objection to:

John R. Carfley, Esquire
222 Presqueisle Street
P. O. Box 249
Philipsburg, PA 16866

GATES & SEAMAN

By


Laurance B. Seaman, Esquire,
Attorney for Defendants,
Harvey S. Bumbarger and
Cindy J. Bumbarger

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

MARGARET SMEAL a/k/a
MARGARET SMEAL WILSON
Plaintiff

:
:

vs.

:

No. 2003-1115-CD

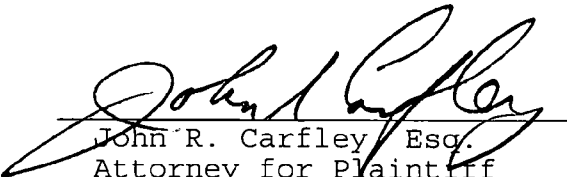
HARVEY S. BUMBARGER and
CINDY J. BUMBARGER, Husband
and Wife, and t/d/b/a
ENERCORP, INC.
Defendants

:
:
:
:
:

PRAECIPE

TO THE PROTHONOTARY:

PLEASE mark the above captioned matter settled, discontinued
and ended.


John R. Carfley Esq.
Attorney for Plaintiff
P. O. Box 249
Philipsburg, Pa., 16866
ID# 17621
(814) 342-5581

Dated: April 28, 2004

FILED
APR 29 2004
William A. Shaw
Prothonotary/Clerk of Courts

FILED

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Cert. of Disc.

to Atty Gen. Reg

copy to CIA

William A. Shaw
Prothonotary/Clerk of Courts

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

CIVIL DIVISION

COPY

Margaret J. Smeal-Wilson

Vs.

No. 2003-01115-CD

Harvey Bumbarger

Enercorp, Inc.

Cindy J. Bumbarger

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 April 29, 2003, marked:

Settled, Discontinued and Ended

Record costs in the sum of \$85.00 have been paid in full by John R. Carfley, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 29th day of April A.D. 2004.

William A. Shaw, Prothonotary