

03-1905-CD
E.M. BROWN, INC. vs. DEVONTAN RESOURCES, INC. et al.



**OFFICE OF COURT ADMINISTRATOR
FORTY-SIXTH JUDICIAL DISTRICT OF PENNSYLVANIA**

**CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830**

**DAVID S. MEHOLICK
COURT ADMINISTRATOR**

**PHONE: (814) 765-2641
FAX: 1-814-765-6089**

**MARCY KELLEY
DEPUTY COURT ADMINISTRATOR**

MEMO: To all parties filing Petitions/Motions in Clearfield County:

Please make note of the following:

Rule 206(f) The party who has obtained the issuance of a Rule to Show Cause shall forthwith serve a true and correct copy of both the Court Order entering the Rule and specifying a return date, and the underlying Petition or Motion, upon every other party to the proceeding in the manner prescribed by the Pennsylvania Rules of Civil Procedure (see PA. R.C.P. 440) and upon the Court Administrator.

Rule 206(g) The party who has obtained the issuance of a Rule to Show Cause shall file with the Prothonotary, within seven (7) days of the issuance of the Rule, an Affidavit of Service indicating the time, place and manner of service. Failure to comply with this provision may constitute sufficient basis for the Court to deny the prayer of the Petition or Motion.

Civil Other

Date	Judge	
12/31/2003	No Judge	Filing: Civil Complaint Paid by: Durant, Timothy E. (attorney for E.M. Brown, Inc.) Receipt number: 1871302 Dated: 12/31/2003 Amount: \$85.00 (Check) 4 cc to Atty.
01/28/2004	No Judge	Answer and New Matter filed by Atty. Altomare
02/17/2004	No Judge	No Cert. Copies. Reply To New Matter And Answer To Counterclaim. filed by, s/Timothy E. Durant, Esquire Certificate of Service 3 cc to Attorney
03/11/2004	No Judge	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm
03/26/2004	No Judge	Certificate of Service, Defendants' First Set of Interrogatories Directed to Plaintiff and documents in response to Defendants' First Request For Production of Documents Directed To Plaintiff upon Joseph E. Altomare, Esq. filed by, s/Timothy E. Durant, Esq. no cc
09/08/2004	No Judge	Praecipe to Place Matter on Trial List, filed by Atty. Durant 2 cc. to Atty. and copy to C/A
09/15/2004	No Judge	Defendants' Motion to Strike from Trial List, filed by s/Joseph Altomare, Esq. No CC
09/17/2004		Order, filed 2 Cert. to Atty. with RSC letter AND NOW, this 17th day of September, 2004 Re: Argument on Motion to Strike from Trial List scheduled for Oct. 20th, 2004
09/24/2004	Fredric Joseph Ammerman	Affidavit of Service, a copy of each of Defendants' Motion to Strike from the Trial List, and the Order of the Court setting the argument date, on counsel for the Plaintiff, Timothy E. Durant, Esquire. Filed by s/ Joseph E. Altomare, Esquire. No CC.
09/28/2004	Fredric Joseph Ammerman	Order AND NOW, this 27th day of September, 2004, it is the Order of the Court that argument of Defendants' Motion to Strike from trial List in the above-captioned matter has been rescheduled from October 20, 2004 to Wednesday, November 3, 2004 at 2:00 P.M. in Courtroom No. 1, Cld. Co. Courthouse. BY THE COURT: /s/ Fredric J. Ammerman, President Judge. 1 CC Attys: Durant, Altomare.

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

E. M. BROWN, INC.

Plaintiff,

No. 2003- -CD

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

TO: BOTH DEFENDANTS NAMED ABOVE:

**DEVONIAN RESOURCES, INC., and
S. G. THOMPSON**
P.O. Box 329,
Pleasantville,
Venango County, PA 16341.

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within **twenty (20) days** after this Complaint and Notice are served by entering a written appearance personally or by 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 and 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 AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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

E. M. BROWN, INC.

Plaintiff,

No. 2003- *1905* -CD

vs.

COMPLAINT

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

Filed on behalf of:

E.M. BROWN, INC., Plaintiff

Counsel of Record for
this party:

TIMOTHY E. DURANT
PA I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

FILED

DEC 31 2003

William A. Shaw
Prothonotary

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

E. M. BROWN, INC.

Plaintiff,

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

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No. 2003-

-CD

COMPLAINT

1. Plaintiff **E. M. BROWN, INC.**, (hereinafter "Brown") is a Pennsylvania corporation organized and existing under the laws of said Commonwealth with its principal place of business located in Clearfield County, Pennsylvania with a mailing address of P.O. Box 767, Clearfield, PA 16830.

2. Defendant **S. G. THOMPSON** (hereinafter "Thompson") is a competent adult individual whose address is P.O. Box 329, Pleasantville, Venango County, PA 16341.

3. Defendant **DEVONIAN RESOURCES, INC.**, (hereinafter "Devonian") is a corporation believed to be organized and existing under the laws of the Commonwealth of Pennsylvania having a place of business located in Pennsylvania with a mailing address of P.O. Box 329, Pleasantville, Venango County, PA 16341.

4. On or about September 1, 2000 the parties by their duly authorized agents, servants and employees entered into an Oil and Gas Lease with attached Exhibits "A", "B" and "C" (hereinafter "Lease") whereby Plaintiff leased approximately 5,510 acres situate in Cooper Township, Clearfield County, Commonwealth of Pennsylvania to S.G. Thompson. A true and correct copy of the said Lease and its exhibits is attached hereto as Plaintiff's Exhibit "A", and incorporated herein as if set out in full.



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230 EAST MARKET STREET
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Current Judge: Fredric Joseph Ammerman
 E.M. Brown, Inc. vs. Devonian Resources, Inc., S. G. Thompson

Civil Other

Date	Judge	
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Fredric Joseph Ammerman

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

E. M. BROWN, INC.
Plaintiff,

No. 2003- *1905* -CD

vs.

COMPLAINT

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**
Defendants

Filed on behalf of:

E.M. BROWN, INC., Plaintiff

Counsel of Record for
this party:

TIMOTHY E. DURANT
PA I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

FILED

DEC 31 2003

William A. Shaw
Prothonotary

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

E. M. BROWN, INC.

Plaintiff,

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

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No. 2003-

-CD

TO: BOTH DEFENDANTS NAMED ABOVE:

**DEVONIAN RESOURCES, INC., and
S. G. THOMPSON**

P.O. Box 329,
Pleasantville,
Venango County, PA 16341.

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within **twenty (20) days** after this Complaint and Notice are served by entering a written appearance personally or by 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 and for any other claims or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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Court Administrator
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

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

E. M. BROWN, INC.

Plaintiff,

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

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No. 2003-

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COMPLAINT

1. Plaintiff **E. M. BROWN, INC.**, (hereinafter "Brown") is a Pennsylvania corporation organized and existing under the laws of said Commonwealth with its principal place of business located in Clearfield County, Pennsylvania with a mailing address of P.O. Box 767, Clearfield, PA 16830.

2. Defendant **S. G. THOMPSON** (hereinafter "Thompson") is a competent adult individual whose address is P.O. Box 329, Pleasantville, Venango County, PA 16341.

3. Defendant **DEVONIAN RESOURCES, INC.**, (hereinafter "Devonian") is a corporation believed to be organized and existing under the laws of the Commonwealth of Pennsylvania having a place of business located in Pennsylvania with a mailing address of P.O. Box 329, Pleasantville, Venango County, PA 16341.

4. On or about September 1, 2000 the parties by their duly authorized agents, servants and employees entered into an Oil and Gas Lease with attached Exhibits "A", "B" and "C" (hereinafter "Lease") whereby Plaintiff leased approximately 5,510 acres situate in Cooper Township, Clearfield County, Commonwealth of Pennsylvania to S.G. Thompson. A true and correct copy of the said Lease and its exhibits is attached hereto as Plaintiff's Exhibit "A", and incorporated herein as if set out in full.

5. The term of the lease was to be two years and, "...as long thereafter as the land is operated thereafter by Lessee for the production of oil and gas".

6. At some point known to defendants the aforesaid Lease was assigned by Thompson to Devonian.

7. The Lease and its exhibits state that Thompson shall continue to have obligation and liability to Brown even if an assignment of Lease shall take place.

8. The minimum royalty payable by Thompson to Brown was \$24,000.00 per year payable in advance on September 1, 2000, on September 1, 2001, and on September 1, 2002.

9. To date Brown has been paid the minimum royalty only for September 1, 2000 and no royalty has been paid or received by Brown from either defendant for September 1, 2001, nor for September 1, 2002.

10. Brown's Lease was not cancelled or abandoned by either defendant until notification of non performance was made by letter from Devonian signed by S. R. Thompson and postmarked May 13, 2003.

11. The subject Lease remained in effect until May 13, 2003.

12. Brown is owed \$48,000.00 for unpaid royalty plus interest at the rate of 10% per annum (for any royalty remaining unpaid for 31 or more days) as provided in Exhibit "C" of the aforesaid Lease, as well as the costs of this suit and all of Plaintiff's actual counsel fees and other expenses reasonably incurred.

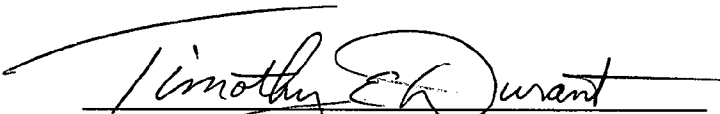
13. The defendants have joint and several liability as to all funds due Brown.

14. The unpaid royalty has been in arrears since September 2, 2001.

15. In spite of Plaintiff's demand for payment, Defendants jointly have steadfastly refused to pay the \$48,000.00 plus interest or any part thereof and remain in default of the provisions of the aforesaid Lease.

WHEREFORE, plaintiff, **E. M. BROWN, INC.**, demands judgment against defendants in the amount of \$48,000.00, plus interest at the rate of 10% per annum from the 31st day past the due


date of each payment, costs of this suit, other expenses reasonably incurred, and actual counsel fees reasonably incurred all as provided in the subject Lease.


Timothy E. Durant, Esquire, Attorney for Plaintiff

DATE: December 31, 2003

VERIFICATION

I, **ROBERT E. BROWN**, President of **E. M. BROWN, INC.**, being authorized to do so, verify that the statements made in this Complaint are true and correct to the best of my knowledge, information and belief. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa .C. S. §4904, relating to unsworn falsification to authorities.


Robert E. Brown, President of **E. M. BROWN, INC.**,
Plaintiff

Dated: December 31, 2003

OIL AND GAS LEASE/ WITH ATTACHED EXHIBIT "A" AND "B"

hereinafter called Lessor (whether one or more), and S.G. Thompson P.O. Box 329, Pleasantville
Pennsylvania 16341

County of Clearfield, State of Pennsylvania, and bounded substantially as follows:

One the East by lands of

On the South by lands of

On the West by lands of

and containing, for the purpose of calculating rentals, 5,510 +- acres of land whether actually containing more or less; and part of all of said land is described in that certain deed to Lessor from

Clearfield Bituminous Coal dated June 1, 1977

recorded in Book 745, Page 131, in the Recorder's Office of said County, being the index
~~of said instrument and hands owned by the donor in said County.~~

1. It is agreed that this lease shall remain in force for a primary term of Two (2) years from the date hereof and as long thereafter as the said land is operated by Lessee for the production of oil or gas.

(b) Lessee covenants and agrees to pay Lessor as a royalty for the native gas from each and every well drilled on said premises, an amount equal to ~~one eighth of the~~ five thirty seconds (5/32) of the gas produced and saved from the leased premises.

(b) Lessee covenants and agrees to pay Lessor as a royalty for the native gas from each and every well drilled on said premises producing native gas, an amount equal to one eighth (1/8) of the gross proceeds received from the sale of same at the prevailing price for gas sold at the well, for all native gas saved and marketed from the said premises. five thirty seconds (5/3)

[illegible]

4. All payments under this lease shall be made by check mailed to Lessor at E.M. Brown, Inc.

P.O. Box 767, Clearfield, Pennsylvania 16330

run all 16. It is an

XXXXXX LESSOR hereby represents and warrants that the land hereunder is owned by him or her and is not subject to any lease, mortgage, lien or other encumbrance, and that he or she is the sole owner of the same. Lessor hereby agrees to execute and deliver to Lessee all such instruments as may be required to carry out the purposes of this lease, and to execute and deliver to Lessee all such instruments as may be required to carry out the purposes of this lease, and to execute and deliver to Lessee all such instruments as may be required to carry out the purposes of this lease.

6. If Lessor's interest in the leased premises is, or shall prove to be less than the entire fee simple estate therein, or if the acreage herein recited is in excess of the true quantity of land in said premises, Lessor covenants and agrees upon demand to refund excess rentals or royalties paid, and the rentals and royalties hereinabove provided shall be paid only in the proportion which the interest therein, if any, owned by the Lessor, and leased hereunder, bears to the entire and undivided fee simple estate therein with full leasing rights.

7. In addition to the covenants of Lessor hereinabove contained, Lessor covenants and agrees, (a) that if Lessor's title to the leased premises shall come into dispute or litigation, or if, in the judgment of Lessee, there are bona fide adverse claims to the rentals or royalties hereinabove provided for, then Lessee, at its option, may withhold the payment of said rentals or royalties until final adjudication or other settlement of such dispute, litigation, claim or claims; and (b) that Lessee, at its option, may pay and discharge any taxes, mortgages or other lien or liens, existing, levied, assessed or which may hereafter come into existence or be levied or assessed on or against the leased premises, and, in the event it exercises such option, Lessee shall be subrogated to the lien and any and all rights of any holder or holders thereof, and may reimburse itself by applying to the discharge of any such mortgage, tax, or other lien or liens, any rental or royalty accruing hereunder.

8. If and when drilling or other operations hereunder are delayed or interrupted by lack of water, labor or material, or by fire, storm, flood, war, rebellion, insurrection, riot, strike, differences with workmen, or failure of carriers to transport or furnish facilities for transportation, or as result of some order, rule, regulation, requisition or necessity of the government, or as the result of any other cause whatsoever beyond the control of Lessee, the time of such delay or interruption shall not be counted against Lessee, anything in this lease to the contrary notwithstanding. All express or implied covenants of this lease shall be subject to all Federal and State Laws, Executive Orders, Rules or Regulations, and this lease shall not be terminated, in whole or part, nor Lessee held liable for damages caused by failure to comply therewith, if compliance is prevented by, or if such failure is the result of any such Law, Order, Rule or Regulation.

9. Lessee shall have the right at any time during the term of this lease or after the expiration or termination thereof to remove all machinery, fixtures, pipe lines, houses, buildings, and other structures placed on said premises, including the right to pull and remove all casing and tubing.

10. If the Lessee shall begin operations for the commencement of a well during the term of this lease or any extension thereof, the Lessee shall then have the right to complete the drilling of such wells, and if oil or gas or either of them are found in paying quantities, this lease shall continue to be in force and with like effect as if such well had been completed within the term first herein mentioned.

XXXXXX Lessee shall have the right to assign this lease or any interest in any portion of the acreage covered hereby in which last event Lessee shall be liable only for royalties according to the operations on the acreage assigned, and shall be liable only for such proportion of the rentals and royalties as the acreage assigned by Lessee bears to the total acreage covered hereby, and the assignee of Lessee shall have corresponding rights, privileges, and obligations with respect to said royalties and rentals as to the acreage assigned to it.

XXXXXX For the purpose of insuring the interest of the parties hereto and promoting said premises, and the oil or gas held within which the same are contained, and to avoid any and all waste and undue depletion of its resources, Lessor further grants to the Lessee, its heirs and assigns, the right to consolidate and have developed premises or any part thereof at the option of Lessee with others to form a unit not to exceed 640 acres for development to the common advantage of said premises together with others in the area had been jointly leased by various lessors to the Lessee as a single unit, and to such unit Lessor agrees to accept, in lieu of the royalty hereinafter provided, such proportion of one eighth (1/8) of the oil or gas marketed from the unitized area as his acreage included therein bears to the total acreage of the unitized area. Lessee may give notice to Lessor of such consolidation by mail to the above address or by filing a declaration of record describing the properties so consolidated or unitized. Said unit not to exceed 640 acres.

XXXXXX Lessee shall, upon completion of the productive well upon said premises make a diligent effort to obtain a pipeline connection, but any delay shall not be considered an excuse if Lessee provides Lessee shall resume the duty to pay the royalty or rental payments beginning one year from the date that the last productive well shall be completed until said first well shall be connected to a pipeline.

14. Lessee may, at any time during the term hereof, cancel and surrender this lease, as a whole or any portion thereof, and be relieved of any and all obligations, payments and liabilities thereafter to accrue as to the whole of the leased premises, or as to that portion thereof so surrendered by the mailing of a notice and a check covering all rentals, if any, due up to the date of such cancellation or surrender.

XXXXXX It is agreed that said Lessee may drill and produce oil and gas on the land as it may elect, and the consideration and rentals paid and to be paid hereunder constitute adequate compensation for such privilege.

Notary Public

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____

SS:

On this, the _____ day of _____, 19____, before me
_____, the undersigned officer,
personally appeared _____

satisfactorily proven to me to be the person _____ whose name _____ subscribed to the within
instrument, and acknowledged that _____ executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

Notary Public

CORPORATE ACKNOWLEDGEMENT

STATE OF PENNSYLVANIA

COUNTY OF CLEARFIELD

SS:

On this, the 7th day of September, 19 2000, before me
_____, a Notary Public
personally appeared Robert E. Brown

who acknowledged himself to be the President of E.M. Brown, Inc.
a corporation, and that he as such President being authorized to do so, executed
the foregoing instrument for the purposes contained by signing the name of the corporation by himself as
President

In witness whereof, I hereunto set my hand and official seal.

Maggie S. Courbet

Notary Public
MAGGIE S. COURBET, Notary Public
Clearfield Co., Clearfield County, PA
My Commission Expires October 21, 2002

Exhibit "A"

To Oil & Gas Lease dated September 1, 2000, between E.M. Brown, Inc. (Lessor) and S.G. Thompson (Lessee).

1.) Royalty payment in Paragraph 2. (a) and (b) of the base lease will be (5/32) 15.6250%.

2.) Lessee agrees to pay Lessor a minimum royalty of Twenty-Four Thousand Dollars (\$24,000.00) per year. x

3.) Lessee shall continue to be responsible to Lessor should Lessee make any assignments of leasehold rights to any outside party. Responsibility clause can be waived by Lessor.

4.) Lessor shall have the approval rights for well site locations and will be notified in advance prior to Lessee's location survey's.

5.) Lessee agrees to drill a minimum of eight (8) wells within the primary term of this lease, then four (4) wells per year thereafter.

6.) In the event Lessee surrenders the undrilled acreage, Lessee will retain seventy (70) acres surrounding each well drilled in the form of a circle, with the well in the center, and have all the rights earned under the Oil and Gas Lease in force.

7.) In the event Lessee surrenders the undrilled acreage, the Twenty Four Thousand Dollars (\$24,000.00) per year minimum royalty payment to the Lessor will no longer apply, and the Lessor will receive (5/32) 15.6250% of the gross revenue received from the sale of gas or oil from the well(s) producing on the leased acreage.

8.) It is understood and agreed that Lessee shall have the exclusive right to employ in whole or in part, any and all depleted oil or gas Strata underlying the premises for the storage of gas and may for this purpose reopen and restore to operation any and all abandoned wells on the premises which may have penetrated said Strata, or may drill new wells thereon for the purpose of freely introducing and storing gas in such Strata and recovering the same therefrom. As full compensation for the storage rights herein granted and in lieu of all delay rental or royalty due or to become due to the right to produce or for the production of gas from leased premises, Lessee agrees to pay Lessor an annual storage rental at the rate of Two (\$2.00) per acre, in advance, commencing with the date of utilization of any such Stratum for storage purposes and for as long thereafter as the Stratum is so utilized. Lessee agrees to give Lessor written notice of the use of leased premises or any wells drilled thereon for the storage of gas. It is further understood and agreed that the utilization of any such Stratum for the storage of gas shall not terminate, supercede, diminish or otherwise affect the effectiveness of the rights granted to Lessee under the terms and provisions of this Oil and Gas Lease as such pertains to other Strata or the surface of the premises.

Exhibit "B" (Page 1 of 4)
To Oil & Gas Lease Dated September 1, 2000 between E.M. Brown, Inc.
(Lessor) and S.G. Thompson (Lessee)
VOL 745 PAGE 142

95. JAMES IRVIN. All that tract of land containing 179 acres and 2 perches in Morris Township, as particularly described under "TWENTY FIRST" in the Pardee deeds above recited; EXCEPTING AND RESERVING to prior owners the surface and soil to the extent set forth in said deeds. ALSO EXCEPTING AND RESERVING all the coal of the Middle Kittanning or "C" seam and of all seams lying above the said Middle Kittanning or "C" seam, together with mining rights and releases, as conveyed by the Grantor to Halden Johnson et al. by deed dated September 8, 1976.

96. STEPHEN HENDERSHOT. All that tract of land containing 10 acres in Morris Township, as particularly described under "TWENTY SECOND" in the Pardee deeds above recited; EXCEPTING AND RESERVING to prior owners the surface and soil to the extent set forth in said deeds.

97. STEPHEN HENDERSHOT. All that tract of land containing 6 acres in Morris Township, as particularly described under "TWENTY THIRD" in the Pardee deeds above recited; EXCEPTING AND RESERVING to prior owners the surface and soil to the extent set forth in said deeds.

98. ADAM MOYER. All that tract of land containing 87 acres and 109 perches in Morris and Cooper Townships, as particularly described under "TWENTY SIXTH" in the Pardee deeds above recited; EXCEPTING AND RESERVING such portions thereof as were conveyed by the Grantor by the following deeds: To the Pennsylvania Department of Highways for 2.85 acres of surface and support coal, by deed of release and quitclaim dated June 4, 1962; to the Pennsylvania Department of Highways for 1.16 acres by instrument dated September 21, 1966; to Humble Oil & Refining Company for 1.908 acres, reserving oil and gas, the right to use existing headings in the "B" seam of coal, and the right to drive entries in underlying coal and fireclay seam; by deed dated June 8, 1970; to William W. Strange et al. for 0.62 acre, reserving oil and gas, the right to use existing headings in the "B" seam of coal, and the right to drive entries in underlying coal and fireclay seams, by deed dated December 30, 1970; and to Kettle Creek Corporation for all the remaining surface of said tract, as well as certain coal and other minerals, reserving oil, gas, fireclay, and coal and other minerals below the "B" seam, with removal rights but without the right to enter upon the surface, and reserving also the right to use spaces created by removal in the past of "B" seam coal underlying so much of said tract as lies in Cooper Township.

99. JOHN A. WOOLISLAGE. All that tract of land containing 12.7 acres in Cooper Township, as particularly described under "TWENTY EIGHTH" in the Pardee deeds above recited; EXCEPTING AND RESERVING to prior owners the surface thereof, to the extent set forth in said deeds.

100. LEONARD KYLER. All the coal in, under and upon a tract of land containing 10 acres, more or less, in Morris Township, as particularly described under "THIRTIETH" in the deed to the Grantor dated February 4, 1954, recorded in Deed Book Vol. 476, Page 201.

101. LEONARD KYLER. All the coal in, under and upon all those two tracts of land, one containing 118.27 acres, more or less, and the other containing 145.69 acres, more or less, reserving about 10 acres in the southeast corner claimed by Peter Hoffman, both of said tract situate in Graham Township, as particularly described under "THIRTY FIRST" in the deed to the Grantor dated February 4, 1954, recorded in Deed Book Vol. 476, Page 201.

SECOND. Also, all the following tract of land situate in the said Township of Cooper, bounded and described as follows:

BEGINNING at a point in Moshannon Creek on the line between Clearfield and Centre Counties, said point being on the line between the George Campbell Warrant of the Grantor and the Captain Lowden & Co. (Prentiss Lands) Warrant now or formerly of Ray Walker; thence by the lines of the Captain Lowden & Co. Warrant and the Robert Rainey Warrant, North 6°-49' East 4701 feet, more or less, to the common corner of the Robert Gray, George Meade, and Patrick Moore Warrants of the Grantor and the Robert Rainey Warrant now or formerly of Adam Moyer, Sr., and others, said corner now being within the right-of-way of Interstate Route 80; thence by the

To Oil & Gas Lease dated September 1, 2000 between
E.M. Brown, Inc. (Lessor) and S.G. Thompson (Lessee)

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line of the Robert Rainey Warrant, North 83°-35' West 5282.9 feet to a concrete post (formerly a white pine stump), the common corner of the Patrick Moore Warrant of the Grantor, the Robert Rainey Warrant, Captain Lowden & Co. Warrant, and lands formerly of Mrs. Martha E. Snyder Estate; thence by the line of lands formerly of Mrs. Martha E. Snyder Estate, crossing Interstate Route 80, North 6°-21' East 2279.4 feet to stones, corner of the Richard Humpton 150 acre tract; thence by the line of said Humpton tract, South 83°-39' East 2169.7 feet to a concrete post corner, and North 6°-11' East 3330.5 feet to stones on line of land formerly of Mrs. Abbie Knox; thence by said Knox lands and lands formerly of Stephen Gould, now Hoover surface, South 84°-00' East 1145.6 feet to post, rock oak witness; thence by said Gould lands, North 6°-15' East 2641.9 feet to post corner; thence still by said Gould lands and lands formerly of Mrs. Abbie Knox, North 85°-43' West 3322.0 feet to post on line of lands now or formerly of Henry Hoover; thence by said Hoover lands and lands now or formerly of George Ardry Estate, North 5°-50' East 3100.5 feet to a post, corner of lands now or formerly of Fred Berg; thence by said Berg lands, South 83°-06' East 1680.3 feet to post, and North 5°-54' East 727.05 feet, more or less, to corner of a 15.2 acre parcel deeded by the Grantor to Sam Petro; thence by said Petro parcel the three following courses and distances as used in said deed: South 88°-30' East 1062.5 feet to a post, North 1°-30' East 621.95 feet to a post, and North 88°-30' West 1062.5 feet to a concrete post, the northeast corner of the aforesaid Berg lands; thence by said Berg lands, North 83°-28' West 1660.0 feet to a post on line of lands now or formerly of Jacob Potter Estate; thence by said Potter lands, lands now or formerly of A. D. Johnson, and lands now or formerly of S. & A. Hoover (John Linder), North 6°-40' East 3423.0 feet to post, corner of lands now or formerly of Albert Snyder (A. Rydberg); thence by said Snyder lands, South 84°-27' East 1653.8 feet to a post, North 6°-28' East 1324.1 feet to a post, and North 84°-19' West 1646.2 feet to a post, corner of lands now or formerly of Lewis Peiffer; thence by said Peiffer lands, North 6°-29' East 1922.6 feet to a stone, the common corner of the Mary Morris Warrant, lands now or formerly of Lewis Peiffer, lands now or formerly of Joseph Snyder, and lands formerly of Joseph Steinkechner; thence by the line between the Mary Morris Warrant and lands formerly of Joseph Steinkechner and George Steinkechner Estate, South 84°-19' East 3203.6 feet to corner of lands now or formerly of David Wagner (Jacob Moyer); thence by said Wagner lands, South 6°-05' West 1152.4 feet to a post, South 83°-53' East 2011.9 feet to a post, and North 6°-05' East 1146.0 feet to a post on line of lands formerly of George Steinkechner Estate; thence by said Steinkechner lands, South 83°-55' East 164.6 feet to a post, and North 6°-05' East 367.2 feet to an oak stump, corner of lands formerly of Albert Swartzle; thence by said Swartzle lands, South 84°-01' East 2001.2 feet to stones, North 5°-36' East 1675.0 feet to a y. p. stump, and North 83°-49' West 1993.4 feet to a post on line of lands now or formerly of J. Z. Folmar; thence by said Folmar lands, lands now or formerly of Frank J. Folmar, and lands now or formerly of John and Mary Schneall (Snell), North 6°-03' East 4045.6 feet to a post on line of lands now or formerly of Leopold Nashwanter; thence by said Nashwanter lands, South 83°-55' East 2986.5 feet to a post, and North 6°-05' East 1493.8 feet to a post on the south line of the John Vaughn Warrant (Hartle lands); thence by said Vaughn Warrant, South 83°-52' East 2485.9 feet to a post and stones, corner of lands now or formerly of O. L. Schoonover Estate; thence by said Schoonover lands, South 84°-01' East 5200 feet, more or less, to a point in Moshannon Creek on the line between Clearfield and Centre Counties; thence up the said creek, by its meanderings, following the Clearfield-Centre County line, a distance of 67050 feet, more or less, to the place of beginning. Containing 5510 acres, more or less, inclusive of the right-of-way of Interstate Route 80 and other road and railroad rights-of-way.

Except for the beginning distance and the last two mentioned distances, the courses and distances in the above description are taken from a survey made in 1920-21 by H. A. Reese, Engineer.

The above-described tract of land being all or portions of the Hetty Morris, Mary Morris, Samuel Merydeth, George Clymer, Thomas Cuthbert, Blair McClenahan, Robert Morris, William Morris, Thomas Morris, William Lewis, Nilbro Frazee, Paul Cox, N. A. Lucas, H. Beck, William Miller, Magnus Miller, Thomas Fitzimmons, Patrick Moore, George Meade, Robert Gray, and George Campbell Warrants, title to which became vested in the Grantor (a) by deed from Cornelius Vanderbilt et ux. et al. dated October 7, 1886, recorded in Clearfield County in Deed Book Vol. 42, Page 197; (b) by quitclaim deed from the Beech Creek Railroad Company and The New York Central Railroad Company dated May 28, 1940, recorded in Clearfield County in Deed Book Vol. 332, Page 302, and (c) by deed from Samuel Richard Peale et ux. dated May 24, 1887, recorded in Centre County in Deed Book Vol. 54, Page 149.

To Oil & Gas Lease dated September 1, 2000 between E.M. Brown, Inc. (Lessor) and S.G. Thompson (Lessee)

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EXCEPTING AND RESERVING from the tract of land described under "SECOND" above all lots, streets and alleys shown on the West Clymer lot plan recorded in Clearfield County in Misc. Book 16, Page 564, whether same be owned by the Grantor or by third parties.

ALSO EXCEPTING AND RESERVING therefrom such rights in a parcel of approximately five acres as may be outstanding in Jacob Moyer, his heirs and assigns, by virtue of adverse occupancy, said parcel being bounded on the north by lands formerly of George Steinknecher, on the east by lands now or formerly of David Wagner, on the south by other lands hereby conveyed, and on the west by a township road.

ALSO EXCEPTING AND RESERVING therefrom such rights as may be outstanding in certain lots and parcels in the village of Peale conveyed by the Grantor or its predecessors in title by deeds recorded in Clearfield County in Deed Book Vol. 48, Page 629, in Deed Book Vol. 37, Page 323, in Deed Book Vol. 33, Page 201, and in Deed Book Vol. 119, Page 500; it is believed, however, that Grantor subsequently acquired title and that said lots and parcels have been in continuous possession of the Grantor for more than 21 years.

AND, in addition, all remaining property rights that might be vested in the Grantor herein with respect to all of the hereinabove-mentioned and described real estate by virtue of any and all of the conveyances and of the exceptions and reservations herein mentioned.

This conveyance is made under and subject to the right-of-way of the Penn Central Transportation Company and its successors in title, of Interstate Route 80 and all other township and state roads, and of all electric, telephone, water, and other utility lines and apparatus; also under and subject to such diminutions of the underlying coal and other minerals, oil and gas, as may have occurred by reason of said rights-of-way.

Also, this conveyance is made under and subject to the following leases affecting various tracts hereinabove described, which leases are being assigned or, in the case of leases (4) and (6) described below covering additional lands, partially assigned by the Grantor to the Grantee by separate instruments of even date herewith: (1) A year-to-year lease dated September 1, 1972, from the Grantor to Grassflat Hockey Club covering a parcel approximately 400 feet by 600 feet on Moravian Run east of Grassflat, on which is located a pond known as the old ice-house pond, (2) a lease dated April 11, 1956, from the Grantor to Robert Allen et ux. for the right to take water from a certain spring on the Mary Morris Warrant, with the right to locate a pump, pipe line and power line in connection therewith, (3) a year-to-year lease dated June 6, 1941, from the Grantor to Mrs. Mary Henry for the right to maintain and occupy a dwelling house and other structures in the old village of Peale, (4) an oil and gas lease dated November 15, 1971, from the Grantor to C. E. Beck, duly assigned by Beck to Amoco Production Company, which lease is of record in Clearfield County in Misc. Book 162, Page 52, and which has been renewed for a five-year period ending November 15, 1981, said lease covering the tract of land described under "SECOND" above as well as other lands of the Grantor in Clearfield and Centre Counties, (5) a strip coal lease dated October 1, 1971, from the Grantor to Clair C. McGovern, t/a Clair C. McGovern Coal Company, (6) a strip coal lease dated September 1, 1976, from the Grantor to Ralph Thompson, t/a Pike Coal Company, covering Tracts 96 and 97 under "FIRST" above as well as other lands of the Grantor in Clearfield County, (7) a strip coal lease dated October 1, 1971, from the Grantor to Earl M. Brown et al., t/a Earl M. Brown Company, and (8) a strip coal lease dated March 25, 1974, from the Grantor to Earl M. Brown et al., t/a Earl M. Brown Company.

The Grantor makes no representations in respect to the number of acres of coal remaining in the lands and interest in lands herein described, and the Grantee, having examined the same, understands and by the acceptance of this deed agrees that substantial acreages of said coal have been mined in the past and accepts the same in the condition existing as of the date of this deed.

S.G. Thompson

To Oil & Gas Lease dated September 1, 2000 between E.M. Brown, Inc. (Lessor) and (Lessee)

Together with all and singular the said lands and interest in lands, improvements, ways, waters, water courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, claim and demand whatsoever of the Grantor, in law, equity, or otherwise howsoever, of, in and to the same and every part thereof.

TO HAVE AND TO HOLD the said lands and interest in lands, tenements, hereditaments and premises hereby granted or mentioned, and intended so to be, with the appurtenances, unto the Grantee, its successors and assigns, to and for its or their only proper use and behoof forever; subject, however, to all exceptions, reservations, restrictions, stipulations, easements, covenants, conditions and agreements contained in any and all former grants, deeds and conveyances affecting the lands and interest in land herein conveyed or apparent thereon.

AND the said Grantor hereby WARRANTS SPECIALLY the property hereby conveyed.

PURSUANT to Act No. 255 of September 10, 1965, amending the Act of July 17, 1957, P. L. 984, the following provision is included:

"THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT, OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT."

IN WITNESS WHEREOF, the said Grantor has caused its corporate name to be hereunto subscribed by its Executive Vice-President, and its corporate seal to be hereunto affixed, attested by its Secretary or one of its Assistant Secretaries, the day and year first above written.

ATTEST:

Philip H. Grantham
Secretary

CLEARFIELD BITUMINOUS COAL CORPORATION

By James H. DeHaven
Executive Vice-President

Exhibit "C"

ADDITIONAL PROVISIONS OF OIL AND GAS LEASE between E.M. Brown, Inc. of P.O. Box 767, Clearfield, PA. 16830 as (Lessor) and S.G. Thompson of P.O. Box 329, Pleasantville, PA. 16341 as (Lessee), with the effective date of Lease being September 1, 2000.

It is hereby agreed to the following:

The parties agree that jurisdiction and venue shall rest in the Court of Common Pleas of Clearfield County, Pennsylvania, for all suits, claims, controversies and other matters whatsoever. Lessee, for itself, its successors and assigns, hereby waives the right to remove all suits, claims, and controversies or other matters to federal court. The parties agree that this lease shall be governed by Pennsylvania Law. Lessee further agrees for itself, its successors and assigns, that in the event Lessor initiates legal proceedings under this lease, Lessor need only make service upon the original Lessee, notwithstanding any subsequent assignments. Thereafter, it shall be Lessee's responsibility to join any additional defendants, including but not limited to Lessee's assignees and, if Lessee does not file any appropriate pleading to join additional defendant(s) within ten (10) days after Lessee is served with the Complaint, the Lessee shall be deemed to have waived this right.

Upon completion of drilling operations on the leased premises, Lessee agrees to restore the premises to conditions representing those prior to the commencement of any drilling operations. Any access roads will be closed at Lessor's option after all production has ceased and all wells are abandoned. Lessor agrees to give ninety (90) days written notice by certified mail to Lessee of such requires.

Lessor and any coal Lessee will have final approval of all well sites, access roads and pipeline locations.

Lessee will hold Lessor harmless from and indemnify Lessor against any suits, damages (including those for death or personal injury); liabilities, claims, liens, penalties, etc. arising from Lessee's operations, conduct or presence on the leased premises.

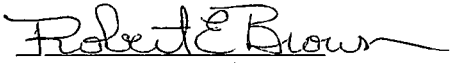
It is hereby agreed that any levy and sale on execution in bankruptcy; any declaration or filing of bankruptcy, as well as any transfer in bankruptcy or sale in bankruptcy or insolvency, or under any other compulsory proceeding or any receivership created, shall, at the option of the Lessor, work an immediate forfeiture without notice of all undeveloped acreage, as defined above. Thereafter, possession may be immediately taken by the Lessor of said undeveloped acreage without further formality.

Any amounts due under the terms of this lease to Lessor shall accrue interest at 10% per annum if they become more than 30 days past due. In the event of litigation, arbitration or other dispute, Lessor shall be entitled to collect as a part of its damages all its counsel fees, court costs, and other expenses actually and reasonably incurred in respect to said litigation, arbitration or other dispute but only if Lessor is the prevailing party.

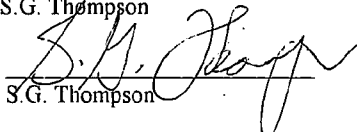
Lessee agrees to erect locked gates at the beginning of each road which it constructs on the premises. A key to each lock shall be supplied to Lessor, and all gates shall be kept locked except for such times when the road is in use by the parties or their agents.

While Lessee is granted the exclusive right to drill, produce, and operate for oil and gas on the premises, this right shall not be construed to prohibit Lessor from granting other parties the right to construct pipelines, roads or other facilities across the premises.

Lessor: E.M. Brown, Inc.

By: 
Robert E. Brown, President

Lessee: S.G. Thompson

By: 
S.G. Thompson

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

E. M. BROWN, INC.

Plaintiff,

No. 2003-1905-CD

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

**REPLY TO NEW MATTER AND
ANSWER TO COUNTERCLAIM**

Filed on behalf of:

E.M. BROWN, INC., Plaintiff

Counsel of Record for this
party:

TIMOTHY E. DURANT
PA I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Opposing Counsel:

JOSEPH E. ALTOMARE, ESQ.
PA I. D. No. 17156
228 E. Central Ave.
P.O. Box 373
Titusville, PA 16354
(814) 827-9626

FILED

FEB 17 2004

William A. Shaw
Prothonotary

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

E. M. BROWN, INC.

Plaintiff,

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

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No. 2003-1905-CD

REPLY TO NEW MATTER

AND NOW comes the plaintiff, E. M. BROWN, INC., by and through its attorney, Timothy E. Durant, Esquire and replies to the defendants' New Matter as follows:

16. Denied. On the contrary, after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. On the contrary, it is believed and therefore averred that the location and manner of drilling wells and the determination of commercial viability before and after drilling was solely within the control of the defendants.

Plaintiff further avers that if defendants only drilled two wells they were in default under the provisions of the Lease as they specifically violated paragraph "5" of Exhibit "A" of the Lease which states,

"5.) Lessee agrees to drill a minimum of eight (8) wells within the primary term of this lease, then four (4) wells per year thereafter."

The primary term of the Lease as defined by paragraph 1 thereof is two years beginning on September 1, 2000.

17. Denied. On the contrary, after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. On the contrary, it is believed and therefore averred that the cost to the

Defendants of drilling Gas Wells is irrelevant and solely within their control and certainly foreseeable when they made a business decision to contract to drill eight of them within two years on Lessors' ground.

It is believed and therefore averred that the location and manner of drilling wells and the determination of commercial viability before and after drilling was solely within the control of the defendants. Defendants knowingly, deliberately and freely entered into the Lease with the Plaintiff.

1st A.D. - Discharge by Impossibility/Frustration of Purpose

18. Denied. On the contrary, after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. On the contrary, whether the wells were commercially productive or were abandoned by defendants as dry holes was unknown to plaintiff and dry holes are a risk that persons and entities in the position of drilling and producing and otherwise operating for oil and gas (i.e. Lessees) routinely take.

19. Denied. On the contrary, after reasonable investigation Plaintiff is without knowledge or information sufficient to form a belief as to the truth of this averment. Strict proof thereof is demanded at trial if relevant. The assumptions of the parties are clearly set out in the Lease - plaintiff and defendants agreed that defendants would be allowed to prospect for oil and gas on 5,500 acres belonging to plaintiff and plaintiff would be paid a minimum royalty of \$24,000 per year to permit this prospecting, if oil or gas was found in commercial quantities plaintiff would be paid a royalty of $5/32^{\text{nds}}$ (15.625%) of the production and defendants would jointly receive $27/32^{\text{nds}}$ (84.375%) of the production. The Lease contains an integration clause which states, "...no representations other than those herein contained shall be binding on either party." The four corners of the Lease contain all the facts and information necessary to determine this action.

20. This is a conclusion of law and no answer is required. To the extent that an answer may be required it is denied that there are any facts which require the termination of this Lease by operation of law. Defendants clearly bore the risk of their own failure in the exploration for oil and

gas.

21. Denied. On the contrary, defendants were required to pay and have admitted that they failed to pay the minimum royalty of \$24,000 on September 1, 2001 and also on September 1, 2002.

2nd A.D. - Termination by Agreement

22. This is a conclusion of law and no answer is required. To the extent that an answer may be required it is denied that plaintiff agreed and acquiesced to the discharge of the defendants from further obligation. Plaintiff did not acquiesce by waiting until March 17, 2003 to ask why the payments for September 1, 2001 and September 1, 2002 had not been made. This is a boot strap argument which must fail for the reasons set out below. Furthermore this suit has been brought against defendants well within the four (4) year statute of limitations.

(a) The fact is admitted but the implication is denied. Failure to inquire for 18 months does not constitute agreement or acquiescence to not being paid. No statement was made nor notice given by defendants that they were not going to pay and that silence for any given period of time would constitute an assent.

(b) Denied. On the contrary, the letter of March 17, 2003 says what is self evident by a fair reading thereof. The letter of March 17, 2003 requested the amount due consistent with the suit filed in this matter and further informed defendants that failure to pay this money would work a termination of the Lease and in no way waived the right to receive any money due under the Lease.

The last portion of the last sentence in paragraph 4 of the Lease states in relevant part,

"...and this lease shall not be forfeited for Lessee's failure to pay rentals or royalties until Lessee has received written notice by registered mail of such default and shall fail, for a period of thirty (30) days after receipt of such notice to pay same.

Thus, defendants' Lease prohibits the termination, cancellation or forfeiture of the terms of the lease by their own failure to pay the royalties. The Lease requires the Lessor to give written notice by registered mail to even begin to set the forfeiture in motion.

3rd A.D. - Cancellation by Agreement

23. Denied. On the contrary, paragraph 14 of the Lease allows Lessee/defendants themselves

to cancel and surrender the Lease but only after giving written notice of such cancellation or surrender (total or partial) to the Lessor/plaintiff and also forwarding therewith a check for any rentals due up to the date of such cancellation or surrender. As stated in paragraph 10. of the Complaint this Lease was not cancelled or abandoned by either defendant until notification of non performance was made by letter from Devonian signed by S. R. Thompson and postmarked May 13, 2003. No payment of royalties or rentals was made with said letter.

24. This is a conclusion of law and no answer is required. To the extent that an answer may be required it is denied that the requirement of written notice of cancellation has been waived for all the reasons as set out in the Reply to paragraph 22 as set out above which Reply is incorporated herein as if set out in full herein.

4th A.D. - Cancellation by Estoppel

25. Denied, on the contrary if defendants had the intent to cancel or surrender the lease they could have done that pursuant to paragraph 14 of the Lease. Defendants failed to cancel or surrender to Lease with the obvious consequence that the Lease continued for all purposes as to all parties. Had the Defendants wished to terminate the lease they had ample time from the drilling of their last well (reputed to be July 9, 2001) until the second payment was due on September 1, 2001, to notify plaintiff that they were not going to pay royalties or drill any more holes. Furthermore, Defendants remained silent as to their intentions until two months after demand for payment was made by plaintiff on March 17, 2003. Until May 13, 2003 defendants retained a valuable asset, i.e. the exclusive right to explore for oil and gas on 5,500 acres of plaintiff's Clearfield County real estate.

ANSWER TO COUNTERCLAIM

26. The Reply to New Matter set out in paragraphs 16-20 above are incorporated herein by reference as if fully set forth herein.

27. Denied. On the contrary Exhibit "A" paragraph 2.) of the Lease states, "Lessee agrees to pay Lessor a minimum royalty of Twenty-Four Thousand Dollars (\$24,000.00) per year."

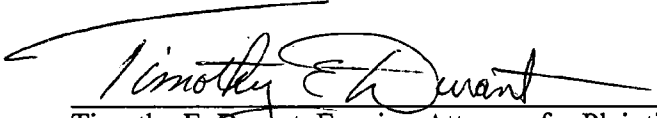
28. This is a conclusion of law and no answer is required. To the extent that an answer may

be required it is denied that there was a frustration of purpose for the reasons as set forth above in Reply to New Matter. Apparently it is the theory of these defendants that the Lessor/plaintiff bears the risk of Lessee/defendants inability to find oil and gas. The Lease and its Exhibits are contrary to this theory.

29. This is a conclusion of law and no answer is required. To the extent that an answer may be required it is denied that there has been a failure of consideration. Defendants clearly bore the risk of their own failure in the exploration for oil and gas. The consideration was that defendants would be allowed to prospect for oil and gas on 5,500 acres in Clearfield County belonging to plaintiff and plaintiff would be paid a minimum royalty of \$24,000 per year to permit this prospecting, if oil or gas was found in commercial quantities plaintiff would be paid a royalty of $5/32^{\text{nds}}$ (15.625%) of the production and defendants would jointly receive $27/32^{\text{nds}}$ (84.375%) of the production.

The sixth paragraph of Exhibit "C" of the Lease states, "*Lessee will hold Lessor harmless from and indemnify Lessor against any suits, damages (including those for death or personal injury); liabilities, claims, liens, penalties, etc. arising from Lessee's operations, conduct or presence on the leased premises.*" This provision of the Lease requires defendants to indemnify and hold plaintiff harmless against this counterclaim as it is a claim arising from Lessee's operations, conduct or presence on the leased premises.

WHEREFORE, plaintiff, **E. M. BROWN, INC.**, asks This Court to dismiss the Counterclaim and grant judgment against defendants jointly and severally in the amount of \$48,000.00, plus interest at the rate of 10% per annum from the 31st day past the due date of each payment, costs of this suit, other expenses reasonably incurred, and actual counsel fees reasonably incurred all as provided in the subject Lease.

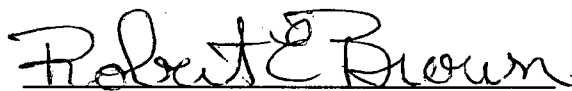

Timothy E. Durant, Esquire, Attorney for Plaintiff

DATE: February 16, 2004

VERIFICATION

I **ROBERT E. BROWN** verify that the statements made in this Pleading are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

DATED: February 16, 2004


Robert E Brown, **President of**
E.M. BROWN, INC., Plaintiff

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

E. M. BROWN, INC.

Plaintiff,

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

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No. 2003-1905-CD

CERTIFICATE OF SERVICE

I, MICHAEL LUONGO, verify that on February 17, 2004, I did deposit in the United States First Class Mail certified copies of the Plaintiff's Reply To New Matter and Answer TO Counterclaim of Defendants'. The said documents were sent to counsel for Defendants':

Joseph E. Altomare, ESQ.
228 E. Central Ave.
P.O. Box 373
Titusville, PA 16354

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Dated: 2/17/04

Michael Luongo
Michael Luongo
201 North Second Street
Clearfield, PA 16830

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

E. M. BROWN, Inc.

Plaintiff

vs.

DEVONIAN RESOURCES, INC., and
S. G. THOMPSON

Defendants

Civil Action - Law

No. 2003 – 1905 - CD

ANSWER, NEW MATTER
and COUNTERCLAIM

Filed on behalf of Defendant
Counsel of Record for
Defendant:
Joseph E. Altomare, Esquire
Supreme Court ID#17156
228 E. Central Avenue
P.O. Box 373
Titusville, PA 16354
(814) 827-9626
(814) 827-9143 – Fax
jaltomar@msn.com

FILED 

JAN 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

E. M. BROWN, Inc.	:	Civil Action - Law
	:	
Plaintiff	:	No. 2003 – 1905 - CD
vs.	:	
	:	
DEVONIAN RESOURCES, INC., and	:	
S. G. THOMPSON	:	
Defendants	:	

NOTICE TO PLEAD

You are hereby notified to file a written response to the enclosed new matter and Counterclaim within 20 days from service hereof or a judgment may be entered against you.



Joseph E. Altomare
Attorney for Defendants
228 E. Central Avenue
P.O. Box 373
Titusville, PA 16354
(814) 827-9626
(814) 827-9143 – Fax
jaltomar@msn.com

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

E. M. BROWN, Inc.	:	Civil Action - Law
	:	
Plaintiff	:	No. 2003 – 1905 - CD
vs.	:	
	:	
DEVONIAN RESOURCES, INC., and	:	
S. G. THOMPSON	:	
Defendants	:	

ANSWER, NEW MATTER AND COUNTERCLAIM

AND NOW, come the Defendants, by and through their counsel, undersigned, setting forth the following Answer and New Matter to the above captioned Complaint:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied. The lease speaks for itself.
6. Admitted.
7. Denied. The lease speaks for itself.
8. Denied. The lease speaks for itself.

9. Admitted.

10. Denied as a conclusion of law. By way of further answer, and based on the allegations set forth in the New Matter and Counterclaim hereunder set forth, the same being incorporated herein by reference, the lease became terminated by operation of law, if not sooner, in or about July 2001.

11. Denied as a conclusion of law. By way of further answer, and based on the allegations set forth in the New Matter and Counterclaim hereunder set forth, the same being incorporated herein by reference, the lease became terminated by operation of law, if not sooner, in or about July 2001.

12. Denied, and on the contrary, based on the allegations set forth in the New Matter and Counterclaim hereunder set forth, the same being incorporated herein by reference, Defendants are entitled to a refund of the minimum royalties paid in advance for the first year of the lease.

13. Denied as a conclusion of law.

14. Denied, and on the contrary, based on the allegations set forth in the New Matter and Counterclaim hereunder set forth, the same being incorporated herein by reference, Defendants are entitled to a refund of the minimum royalties paid in advance for the first year of the lease.

15. Denied that Defendants are anyway in default. Admitted that Defendants have steadfastly refused the Plaintiff's demand for payment.

NEW MATTER

16. Between September 1, 2000 and July 31, 2001, Defendants drilled two exploratory wells (the "Exploratory Wells") on the leased premises for the purpose of determining whether the leasehold premise was commercially developable.

17. The Exploratory Wells were drilled and tested at a cost to Defendants of in excess of \$281,000.

First Affirmative Defense
Discharge by Impossibility/Frustration of Purpose

18. Neither of the Exploratory Wells were commercially productive and were abandoned by Defendants as dry holes.

19. By reason of the foregoing the leasehold premises were, contrary to the underlying assumptions and intentions of the parties as evidenced in the entirety of the lease, found not to be gas bearing in commercially developable quantities.

20. The obligations of the both parties under the lease were accordingly discharged by impossibility of performance and frustration of purpose, and the lease became thereby terminated by operation of law.

21. By reason of the foregoing, the Defendants were not required to, and did not make payment of the minimum royalty of \$24,000 as would otherwise have been due on September 1, 2001.

Second Affirmative Defense
Termination by Agreement

22. Even if the lease was not terminated by operation of law as described at paragraph 20, Plaintiff agreed and acquiesced to the discharge of Defendant from further obligation thereunder by the following specific conduct:

(a) despite non-payment of the substantial sum of \$24,000 otherwise due on September 1, 2001, Plaintiff made no inquiry or demand for 18 months; and,

(b) when Plaintiff did make inquiry by letter of March 17, 2003, it was to advise Defendants that payment of then accrued but unpaid minimum royalties would only be required if Plaintiff desired to continue the lease. A copy of said letter is attached hereto and incorporated herein by reference as Exhibit "A".

Third Affirmative Defense
Cancellation by Agreement

23. Even if the lease was not terminated by operation of law as hereinabove described, paragraph 14 of the lease otherwise permits Defendant to cancel the lease at any time upon notice in writing.

24. By its conduct described at paragraph 22 hereinabove, Plaintiff has waived the requirement of written notice of cancellation of the lease.

Fourth Affirmative Defense
Cancellation by Estoppel

25. Even if Plaintiff has not waived the requirement of notice by its conduct described at paragraph 22 hereinabove, it is in the alternative estopped from denying same in that Plaintiff's intentional silence for 18 months during which it allowed royalties to accrue, inequitably lulled Defendants into the belief that Plaintiff had actually acquiesced to termination and that cancellation by written notice pursuant to paragraph 14 of the lease (which otherwise would have just as effectively obviated Defendant's obligation to pay any further minimum royalties) was unnecessary.

WHEREFORE, Defendants demand judgment in their favor as to the Plaintiff's Complaint.

COUNTERCLAIM

26. The allegations of paragraphs 16 through 20 of the New Matter hereinabove set forth are incorporated herein by reference as if herein fully set forth.

27. On or about September 1, 2000, Defendant paid to Plaintiff minimum advance royalties covering the lease period September 1, 2000 to August 31, 2001 in the amount of \$24,000.

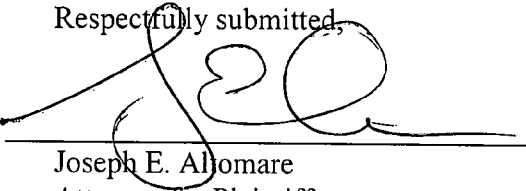
28. By virtue of the frustration of the purpose of the lease there could have been no production as to which those minimum royalties would apply.

29. By reason of the foregoing there is a failure of consideration supporting the payment of the minimum advance royalties so paid.

WHEREFORE, Defendants demand judgment in their favor as to this Counterclaim in the amount of \$24,000 plus interest from September 1, 2000, interest on the aggregate thereof from date of judgment, and costs.

Respectfully submitted,

By

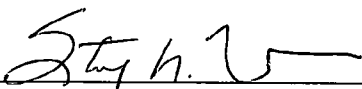


Joseph E. Altomare
Attorney for Plaintiffs
228 E. Central Avenue
P.O. Box 373
Titusville, PA 16354
(814) 827-9626
(814) 827-9143 – Fax
jaltomar@msn.com

VERIFICATION

I, Stanley R. Thompson, President of Devonian Resources, Inc., verify that the statements made in the foregoing pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Dated: JANUARY 23, 2004



Stanley R. Thompson

E.M. Brown, Inc.

P.O. BOX 767
CLEARFIELD, PENNSYLVANIA 16830
PHONE: 814-765-7519 or 765-3461
F A X 814-765-4101

HIGHWAY CONSTRUCTION
TRANSIT MIX CONCRETE
EXCAVATING & GRADING
BITUMINOUS COAL MINING

March 17, 2003

Devonian Resources
PO Box 329
Pleasantville, PA 16341

Re: Devonian Resources Lease
Dated September 1, 2000

Gentlemen

After reviewing the Devonian Lease dated September 1, 2000, our accountant has-questioned, based on the term of said agreement, why we have not received any minimum yearly royalty payments for the calendar years 2001 and 2002.

Based on the terms of this agreement, payments of \$24,000 per year would have been due in September of 2001, and September of 2002. If this lease is to continue, these amounts must be paid immediately, plus interest

Please review your records and let me know the status of this agreement as soon as possible.

Sincerely

E. M. BROWN, INC.

Robert E. Brown

Robert E. Brown
President

MAR 20 2003

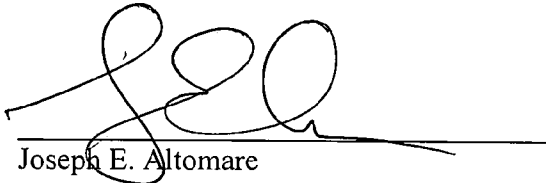
EXHIBIT "A"

CERTIFICATION OF MAILING

I certify that a true and correct copy of the foregoing Answer, New Matter and Counterclaim was this date mailed by First Class U.S. Mail, postage prepaid, to counsel for Plaintiff addressed as follows:

Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Dated: Jan 26, 2004


Joseph E. Altomare

In The Court of Common Pleas of Clearfield County, Pennsylvania

E.M. BROWN INC.

VS.

DEVONIAN RESOURCES, INC and S.G. THOMPSON

COMPLAINT

Sheriff Docket #

15000

03-1905-CD

SHERIFF RETURNS

NOW JANUARY 7, 2004 GENE PRICE, SHERIFF OF VENANGO COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ON DEVONIAN RESOURCES, INC. and S.G. THOMPSON, DEFENDANTS.

NOW JANUARY 12, 2004 SERVED THE WITHIN COMPLAINT ON S.G. THOMPSON and DEVONIAN RESOURCES INC., DEFENDANTS BY DEPUTIZING THE SHERIFF OF VENANGO COUNTY. THE RETURNS OF SHERIFF PRICE ARE HERETO ATTACHED AND MADE A PART OF THIS RETURN STATING THAT HE SERVED BOTH COPIES ON C. ADAMS, AGENT IN CHARGE, EX. ASST.

Return Costs


Cost	Description
34.89	SHERIFF HAWKINS PAID BY: ATTY CK# 5032
20.00	SURCHARGE PAID BY: ATTY CK# 5033
52.00	VENANGO COUNTY PAID BY: ATTY CK#5030

Sworn to Before Me This

11 Day Of March 2004



So Answers,


Chester A. Hawkins
Sheriff

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

FILED

MAR 11 2004

01/31/04
William A. Shaw

Prothonotary/Clerk of Courts

15000

AFFIDAVIT OF SERVICE
VENANGO COUNTY SHERIFF'S OFFICE

E.M. Brown, Inc.
Plaintiff

2003-1905-cd

Vs.

Devonian Resources, Inc., et. al.
Defendant

Before me the undersigned authority, personally appeared **Eric Foy**, Deputy Sheriff, who being duly sworn according to law, deposes and says that on the **12th** day of **January 2003** at **0950 HRS** he served the within **Complaint, 2003-1905-cd** upon **S. G. Thompson** by handing one true and certified copy of the said documents to **C. Adams, Agent In Charge, Executive Assistant** located at **P.O. Box 329, Pleasantville, PA 16341** place of **Employment** and by making known to **him** the contents thereof. The certified copy of the said **Complaint** was received from **Clearfield County Sheriff's Office, Clearfield, PA.**

Venango County Costs: \$52.00

Paid: \$75.00

14JAN04

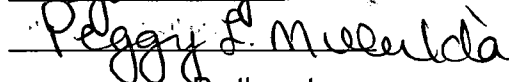

Eric, Foy, Deputy Sheriff


Gene Price, Sheriff of Venango County

Sworn to and subscribed before

me this 13th day of

January, 2004


Prothonotary

MY COMMISSION EXPIRES
THE FIRST MONDAY OF JAN. 2008.

AFFIDAVIT OF SERVICE
VENANGO COUNTY SHERIFF'S OFFICE

E.M. Brown, Inc.
Plaintiff

2003-1905-cd

Vs.

Devonian Resources, Inc., et. al.
Defendant


Before me the undersigned authority, personally appeared **Eric Foy**, Deputy Sheriff, who being duly sworn according to law, deposes and says that on the **12th** day of **January 2003** at **0950 HRS** he served the within **Complaint, 2003-1905-cd** upon **Devonian Resources, Inc.** by handing one true and certified copy of the said documents to **C. Adams, Agent In Charge, Executive Assistant** located at **P.O. Box 329, Pleasantville, PA 16341** place of **Employment** and by making known to **him** the contents thereof. The certified copy of the said **Complaint** was received from **Clearfield County Sheriff's Office, Clearfield, PA.**

Venango County Costs: \$52.00

Paid: \$75.00

14JAN04

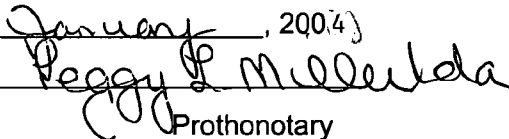

Eric Foy, Deputy Sheriff


Gene Price, Sheriff of Venango County

Sworn to and subscribed before

me this 13th day of

January, 2004


Peggy L. Miller
Prothonotary

MY COMMISSION EXPIRES
THE FIRST MONDAY OF JAN. 2008

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

E. M. BROWN, INC.

Plaintiff,

vs.

DEVONIAN RESOURCES, INC. and
S. G. THOMPSON

Defendants

No. 2003-1905-CD

FILED

MAR 26 2004

William A. Shaw
Promotional/Clerk of Courts

CERTIFICATE OF SERVICE

I, TIMOTHY E. DURANT, ESQUIRE, verify that on March 25, 2004, I did deposit in the United States First Class Mail Answers To Defendants' First Set of Interrogatories Directed To Plaintiff and documents in response to Defendants' First Request For Production of Documents Directed To Plaintiff in the above referenced matter.

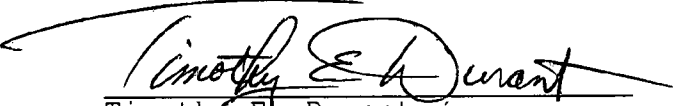
The said documents were sent to counsel for Defendants':

Joseph E. Altomare, ESQ.
228 E. Central Ave.
P.O. Box 373
Titusville, PA 16354

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Dated:

3/25/04


Timothy E. Durant
201 North Second Street
Clearfield, PA 16830

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

E. M. BROWN, INC.

Plaintiff,

No. 2003-1905-CD

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

**PRAECIPE TO PLACE MATTER
ON TRIAL LIST**

Filed on behalf of:

E.M. BROWN, INC., Plaintiff

Counsel of Record for this
party:

TIMOTHY E. DURANT
PA I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Opposing Counsel:

JOSEPH E. ALTOMARE, ESQ.
PA I. D. No. 17156
228 E. Central Ave.
P.O. Box 373
Titusville, PA 16354
(814) 827-9626

FILED (fy)

SEP 08 2004

073:30/4
William A. Shaw

Prothonotary/Clerk of Courts

2 CENT TO ATT
COPY TO C/A

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

E. M. BROWN, INC.

Plaintiff,

vs.

DEVONIAN RESOURCES, INC. and
S. G. THOMPSON

Defendants

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No. 2003-1905-CD

TO: WILLIAM A. SHAW, PROTHONOTARY

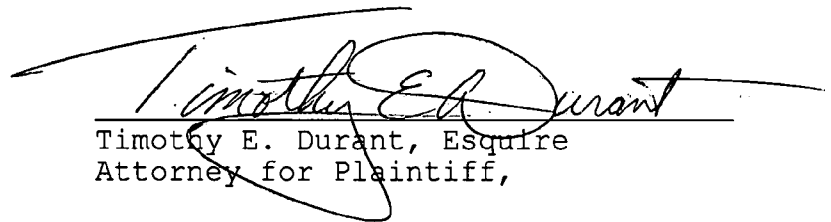
PRAECIPE TO PLACE MATTER ON TRIAL LIST

Kindly schedule the above-captioned matter for Jury Trial.

Estimated time for trial: two (2) days.

Pursuant to Local Rule 202, I hereby certify that:

1. this matter has been at issue for more than twenty (20) days;
2. all discovery has been completed;
3. there are no outstanding pre-trial motions;
4. this matter is not subject to compulsory arbitration nor has it been appealed therefrom;


Timothy E. Durant, Esquire
Attorney for Plaintiff,

DATED: September 8, 2004

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

E. M. BROWN, Inc.

Plaintiff

vs.

DEVONIAN RESOURCES, INC., and
S. G. THOMPSON

Defendants

Civil Action - Law

No. 2003 – 1905 - CD

Defendant's Motion to Strike
From Trial List

Filed on Behalf of Defendants

Counsel of Record for Defendants:

Joseph E. Altomare, Esquire
PA I.D. No. 17156
228 E. Central Avenue
P.O. Box 373
Titusville, PA 16354
(814) 827-9626
(814) 827-9143 – Fax

Opposing Counsel:

Timothy E. Durant, Esquire
PA I.D. No. 21352
201 N. Second Street
Clearfield, PA 16830
(814) 765-1711

FILED
m/11.2187
SEP 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

E. M. BROWN, Inc.	:	Civil Action - Law
	:	
Plaintiff	:	No. 2003 – 1905 - CD
vs.	:	
	:	
DEVONIAN RESOURCES, INC., and S. G. THOMPSON	:	
Defendants	:	
	:	

DEFENDANTS' MOTION TO STRIKE FROM TRIAL LIST

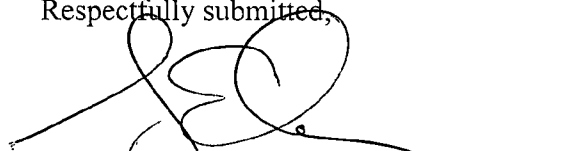
Defendants Devonian Resources, Inc and S.G. Thompson, by and through counsel, undersigned, move hereby pursuant to L.R. 212.2(b) to strike the above case from the trial list, and in support hereof respectfully represent as follows:

1. On September 8, 2004, Plaintiff filed a Praecipe to list the matter for trial without complying with L.R. 212.2(a)(1) and (2) in that:

(a) Discovery has not been completed as Defendants intend to take depositions;

(b) No order of Court has been entered limiting the discovery period.

Respectfully submitted,



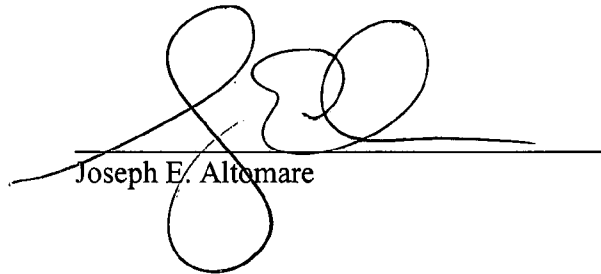
Joseph E. Altomare
Attorney for Plaintiffs
228 E. Central Avenue
PO Box 373
Titusville, PA 16354
Phone: (814) 827-9626
Fax: (814)-827-9143
jaltomar@msn.com

CERTIFICATION OF MAILING

I certify that a true and correct copy of the foregoing pleading was this date mailed by First Class U.S. Mail, postage prepaid, to counsel for Plaintiff addressed as follows:

Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Dated: 9/13, 2004



Joseph E. Altomare

CA

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

E. M. BROWN, INC.

vs.

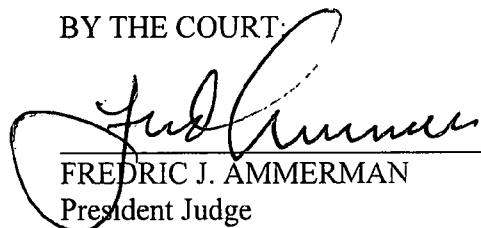
DEVONIAN RESOURCES, INC., and
S. G. THOMPSON

:
:
: No. 03-1905-CD
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:

ORDER

AND NOW, this 17 day of September, 2004, upon
consideration of Defendant's Motion to Strike from Trial List in the above matter,
it is the ORDER of the Court that argument on said Motion has been scheduled for
the 20 day of October, 2004, at 1:30 P.M, in
Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED ^W

SEP 17 2004

6/3:30 ^W

William A. Shaw

Prothonotary/Clerk of Courts

2 SENT TO ATT

W/ R.S.C. LETTER

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

E. M. BROWN, Inc.

Plaintiff

vs.

DEVONIAN RESOURCES, INC., and
S. G. THOMPSON

Defendants

Civil Action - Law

No. 2003 – 1905 - CD

AFFIDAVIT OF SERVICE

Filed on Behalf of Defendants

Counsel of Record for Defendants:

Joseph E. Altomare, Esquire
PA I.D. No. 17156
228 E. Central Avenue
P.O. Box 373
Titusville, PA 16354
(814) 827-9626
(814) 827-9143 – Fax

Opposing Counsel:

Timothy E. Durant, Esquire
PA I.D. No. 21352
201 N. Second Street
Clearfield, PA 16830
(814) 765-1711

FILED^{E6K}

SEP 24 2004

Wf 12:00/um,
William A. Shaw

Prothonotary/Clerk of Courts

Ww C/C

My Commission Expires Aug. 12, 2005

CA

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

E. M. BROWN, INC.

vs.

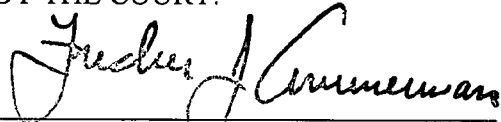
DEVONIAN RESOURCES, INC.
and S. G. THOMPSON

:
:
: No. 03-1905-CD
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ORDER

AND NOW, this 27th day of September, 2004, it is the Order of the Court that argument on Defendants' Motion to Strike from trial List in the above-captioned matter has been rescheduled from October 20, 2004 to **Wednesday, November 3, 2004 at 2:00 P.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

FILED^{EGV}
ICC

2/10:07/01
SEP 28 2004
Atty: Durant
Altomase

William A Shaw
Prothonotary/Clerk of Courts
CIA envelopes

CA

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

E.M. BROWN, INC.

-VS-

DEVONIAN RESOURCES, INC.
and S.G. THOMPSON

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No. 03-1905-CD

O R D E R

NOW, this 3rd day of November, 2004, this being the date set for argument relative the Defendants' Motion to Strike from Trial List; counsel for the parties having reached an agreement, it is the ORDER of this Court as follows:

1. The case is removed from the winter 2004 Trial List;
2. The parties shall complete all Discovery by no later than February 28, 2005;
3. The Court Administrator shall place the case on the Spring 2005 Trial List.

FILED

01/11/25/04
NOV 04 2004 *EBK*

William A. Shaw
Prothonotary/Clerk of Courts
2 CC Atty Durant
2 CC Atty Attomare

BY THE COURT,

Frederick J. Cunningham

President Judge

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

E. M. BROWN, INC.

Plaintiff,

No. 2003-1905-CD

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

FILED

MAR 28 2005

William A. Shaw

Prothonotary/Clerk of Courts

1 CENT TO ATT

**JOINT MOTION FOR
CONTINUANCE**

Filed on behalf of:

E.M. BROWN, INC., Plaintiff

Counsel of Record for this
party:

TIMOTHY E. DURANT
PA I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

As Well As

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Counsel of Record for These Parties:

JOSEPH E. ALTOMARE, ESQ.
PA I. D. No. 17156
228 E. Central Ave.
P.O. Box 373
Titusville, PA 16354
(814) 827-9626

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

E. M. BROWN, INC.

Plaintiff,

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

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No. 2003-1905-CD

JOINT MOTION FOR CONTINUANCE

AND NOW comes the plaintiff, **E. M. BROWN, INC.**, and the defendants **DEVONIAN RESOURCES, INC. and S. G. THOMPSON** together with their respective counsel and file this joint motion for continuance for the purposes as hereinafter set out:

1. On February 16, 2005 parties and their counsel met for depositions and settlement discussions in Clearfield, Pennsylvania.

2. As a result of the settlement discussions parties reached an understanding of how this matter would be resolved.

3. Defendants are making monthly payments to the plaintiff and such payments are not scheduled to be completed until February 15, 2006.

4. Plaintiff desires and defendants agree to remove this matter from the trial list and continue this matter generally until all the amounts due are fully paid.

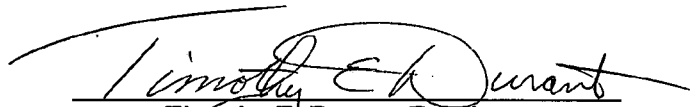
5. If payments are not timely or fully made plaintiffs reserve the right to file a Praecipe to return this matter to the trial list.

6. Upon full payment being made the parties have agreed to forthwith file a joint Praecipe to Settle Discontinue and End this case With Prejudice.

WHEREFORE, plaintiff, **E. M. BROWN, INC.**, and defendants, **DEVONIAN RESOURCES, INC. and S. G. THOMPSON** with their counsel jointly pray that this court remove this


matter from the trial list and grant them a general continuance in accordance with the reasoning and purposes set out in the above motion.

DATE: March 17, 2005



Timothy E. Durant, Esquire,
Attorney for Plaintiff

DATE: March 23, 2005



Joseph E. Altomare, Esquire,
Attorney for Defendants

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

E. M. BROWN, INC.

Plaintiff,

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

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No. 2003-1905-CD

ORDER

NOW this ¹⁴8th day of March, 2005 upon review of the Joint Motion for Continuance signed by counsel for the parties and presented to the Court it is the Order of this Court that this matter shall be removed from the trial list and continued generally.

If plaintiff does not receive timely and full payments from defendants in accordance with the February 16, 2005 written agreement of the parties it may file a Praecipe to once again place this matter on the trial list.

Upon payments being fully made the parties shall forthwith file a Praecipe to Settle, Discontinue and End this case With Prejudice.

By the Court


Judge

FILED
01:50 PM
MAR 29 2005

ICC
Amy Durant
GR

William A. Shaw
Prothonotary/Clerk of Courts

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

E. M. BROWN, INC.

Plaintiff,

No. 2003-1905-CD

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

**PRAECIPE TO SETTLE, DISCONTINUE
AND END WITH PREJUDICE**

Filed on behalf of:

E.M. BROWN, INC., Plaintiff

Counsel of Record for this
party:

TIMOTHY E. DURANT
PA I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

As Well As

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Counsel of Record for These Parties:

JOSEPH E. ALTOMARE, ESQ.
PA I. D. No. 17156
228 E. Central Ave.
P.O. Box 373
Titusville, PA 16354
(814) 827-9626

Filed by:



Joseph E. ALTOMARE, Esq.

FILED

*m/11:42am NuCC
Cert of disc to
FEB 08 2006 ASy ALTOMARE & Durant
copy to C/A*

William A. Shaw
Prothonotary

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

E. M. BROWN, INC.

Plaintiff,

vs.

**DEVONIAN RESOURCES, INC. and
S. G. THOMPSON**

Defendants

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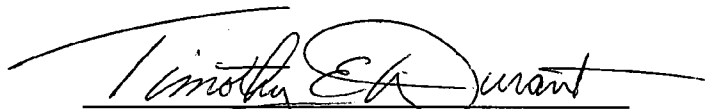
No. 2003-1905-CD

TO THE PROTHONOTARY:


**PRAECIPE TO SETTLE, DISCONTINUE
AND END WITH PREJUDICE**

Please mark the above-captioned action, discontinued, settled and ended for all time, with
prejudice.

DATE: Jan. 26, 2006


Timothy E. Durant, Esquire,
Attorney for Plaintiff

DATE: Feb. 6 2006


Joseph E. Altomare, Esquire,
Attorney for Defendants

JOSEPH E. ALTOMARE

ATTORNEY AT LAW



Admitted in PA & OH

228 E. Central Avenue
P.O. Box 373
Titusville, PA 16354

Telephone 814-827-9626
Fax 814-827-9143
Email: jaltomar@msn.com

February 6, 2006

Clearfield County Prothonotary
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

Re: E. M. Brown, Inc. vs. Devonian Resources, Inc., et al
No. 2003 - 1905 - CD

Dear Prothonotary:

Enclosed for immediate filing please find a Praeipce to marke the above case settled with prejudice.

If you have any questions, please don't hesitate to contact the undersigned. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to be 'JEA', written over a horizontal line.

Joseph E. Altomare

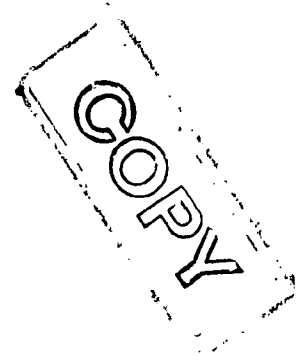
JEA/ch
Enclosure

cc: Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

Stan Thompson

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION



E.M. Brown, Inc.

Vs.

No. 2003-01905-CD

Devonian Resources, Inc. and
S. G. Thompson

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 8, 2006, marked:

Discontinued, settled and ended with prejudice

Record costs in the sum of \$85.00 have been paid in full by Timothy E. Durant Esq..

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 8th day of February A.D. 2006.

William A. Shaw, Prothonotary