

08-360-CD

LVNV Funding vs B. Gallaher

12/1980

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LUNV Funding LLC
(Plaintiff)

CIVIL ACTION

c/o 2417 Welsh Road Suite 21 #520

(Street Address)

No. 08-360-CD

Phila., PA 19114

(City, State ZIP)

Type of Case: CIVIL

Type of Pleading: COMPLAINT

VS.

Filed on Behalf of:

Brenda Gallahan
(Defendant)

LUNV Funding LLC
(Plaintiff/Defendant)

272 Witsend Ln
(Street Address)

ARVONA PA 16656
(City, State ZIP)

David J. Apothaker, Esquire

(Filed by)

2417. Welsh Road Suite 21 #520

(Address) Phila., PA 19114

215-634-8920

(Phone)

(Signature)

FILED

FEB 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

Att'y pd. \$95.00

4/21/980

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

LUNV Funding LLC
(Plaintiff)

CIVIL ACTION

c/o 2417 Welsh Road Suite 21 #520

(Street Address)

Phila., PA 19114

(City, State ZIP)

No. 08-360-CD

Type of Case: CIVIL

Type of Pleading: COMPLAINT

VS.

Filed on Behalf of:

Brenda GALLAHAN LUNV Funding LLC
(Defendant) (Plaintiff/Defendant)

272 Witsend Ln
(Street Address)

ARVONA PA 16650
(City, State ZIP)

David J. Apothaker, Esquire

(Filed by)

2417. Welsh Road Suite 21 #520

(Address) Phila., PA 19114

215-634-8920

(Phone)

(Signature)

FILED

FEB 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

Atty pd. \$95.00

Our File No.: 121980
APOTHAKE & ASSOCIATES, P.C.
BY: David J. Apothaker, Esq.
Attorney I.D.#38423
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorneys for Plaintiff

LVNV FUNDING, LLC
c/o Apothaker & Associates, P.C.
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
Plaintiff,

vs.

BRENDA GALLAHER
272 WITSEND LN
IRVONA, PA 16656
Defendant.

) COURT OF COMMON PLEAS
) CLEARFIELD COUNTY
)
) NO.:
)
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NOTICE

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

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

CLEARFIELD COUNTY BAR ASSOCIATION
Lawyer Referral and Information Service
814-765-2641

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o con un abogado y entregar a la corte en forma escrita sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del edemandante y requiere que usted compla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

CLEARFIELD COUNTY BAR ASSOCIATION
Lawyer Referral and Information Service
814-765-2641

Attorneys for Plaintiff

Defendant.

)

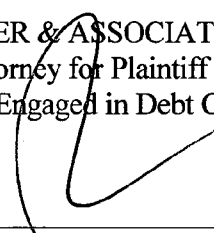
7. In addition, Plaintiff avers that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$4,979.92.

8. Although demand has been made, Defendant has failed to make payment of the amount due as above.

9. The original creditor is SEARS.

WHEREFORE, Plaintiff demands judgment in favor of Plaintiff and against Defendant(s) for the sum of \$4,979.92 and requests this Court award Plaintiff attorney's fees and costs to the extent permitted by applicable law.

APOTHAKE & ASSOCIATES, P.C.
Attorney for Plaintiff
A Law Firm Engaged in Debt Collection

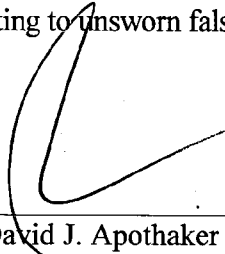
BY: 
David J. Apothaker

Dated: 2/12/2008

Our File No.: 121980

VERIFICATION

David J. Apothaker, Esq. hereby states that I am counsel for plaintiff in this action, and that I am authorized to take this Verification, and that the statements made in the foregoing Civil Action Complaint are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.



David J. Apothaker
Attorney for Plaintiff

DATE: 2/12/2008

LVNV FUNDING, LLC
c/o Apothaker & Associates, P.C.
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114

BRENDA GALLAHER
272 WITSEND LN
IRVONA, PA 16656

STATEMENT OF ACCOUNT

Debtor's Name:	BRENDA GALLAHER
Account Number:	5049948084523853
Original Creditor:	SEARS
Balance Due:	\$4,979.92

Our File No.: 121980

EXHIBIT "A"

FILED

FEB 29 2008

William A. Shaw
Prothonotary/Clerk of Courts

Our file No.: 121980
APOTHAKE & ASSOCIATES, P.C.
BY: Kimberly F. Scian, Esquire
Attorney I.D.#55140
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
215-634-8920
Attorneys for Plaintiff

FILED *acc*
m/12:47/01 Amy Scian
JUN 09 2008
William A. Shaw
Prothonotary/Clerk of Courts
(64)

LVNV FUNDING, LLC)	COURT OF COMMON PLEAS OF
)	CLEARFIELD COUNTY
)	
Plaintiff,)	DOCKET NO.: 08-360-CD
vs.)	
BRENDA GALLAHER)	Civil Action
)	
)	
Defendant.)	
)	

ANSWER TO NEW MATTER

Plaintiff, LVNV FUNDING, LLC, by and through their attorney, answers the following
New Matter:

10. No responsive pleading required.
11. Denied. Plaintiff acquired all rights of consideration and financial benefits through
it's purchase of this account.
12. Denied. The plaintiff's claim is not barred by the doctrines of accord and satisfaction.
13. Denied. The plaintiff's claim is not barred by the doctrine of estoppel.
14. Denied. Plaintiff's claim is not barred by the doctrine of failure of consideration.
15. Denied. Plaintiff has not perpetrated fraud.
16. Denied. This paragraph contains a conclusion of law to which no responsive pleading
is required. To the extent that an answer is required, after reasonable investigation, the

plaintiff is without knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 16 and strict proof thereof is demanded.

17. Denied. Plaintiff's claim is not barred by the doctrine of Laches.

18. Denied. This paragraph contains a conclusion of law to which no responsive pleading is required. To the extent that an answer is required, after reasonable investigation, the plaintiff is without knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 18 and strict proof thereof is demanded.

19. Denied. This paragraph contains a conclusion of law to which no responsive pleading is required. To the extent that an answer is required, after reasonable investigation, the plaintiff is without knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 19 and strict proof thereof is demanded.

20. Denied. This paragraph contains a conclusion of law to which no responsive pleading is required. To the extent that an answer is required, after reasonable investigation, the plaintiff is without knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 20 and strict proof thereof is demanded.

21. Denied. Plaintiff's claim is not barred by the statute of frauds.

22. Denied. The plaintiff's claim is not barred by the applicable statute of limitations.

23. Denied. The plaintiff's claim is not barred by the doctrines of waiver and truth.

WHEREFORE, Plaintiff demands that Defendant's New Matter be dismissed.

APOTHAKE & ASSOCIATES, P.C.
Attorneys for Plaintiff
A Law Firm Engaged in Debt Collection

BY: _____
Kimberly F. Scian, Esquire

DATED: June 4, 2008

ANSWER TO COUNTERCLAIM

Plaintiff, LVNV FUNDING, LLC, by and through their attorney, answers the following Counterclaim:

24. No responsive pleading required.

25. Denied. This paragraph contains a conclusion of law to which no responsive pleading is required. To the extent that an answer is required, after reasonable investigation, the plaintiff is without knowledge or information sufficient to form a belief as to the truth or veracity of the allegation set forth in paragraph 25 and strict proof thereof is demanded. It is specifically denied that plaintiff's complaint was filed solely for the purpose of causing expense, annoyance and harm to the defendant.

26. Denied. It is specifically denied that plaintiff's conduct in this matter has been arbitrary, vexatious or done in bad faith.

27. Denied. Defendant is not entitled to an award of counsel fees.

WHEREFORE, Plaintiff demands that Defendant's Counterclaim be dismissed.

APOTHAKE & ASSOCIATES, P.C.
Attorneys for Plaintiff
A Law Firm Engaged in Debt Collection

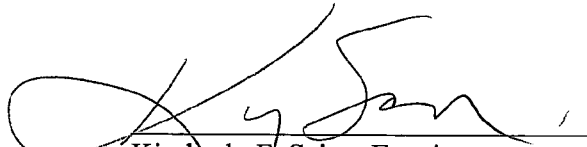
BY: 

Kimberly F. Scian, Esquire

DATED: June 4, 2008

VERIFICATION

Kimberly F. Scian, Esquire hereby states that I am counsel for plaintiff in this action, and that I am authorized to take this Verification, and that the statements made in the foregoing Answer to New Matter are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.



Kimberly F. Scian, Esquire
Attorney for Plaintiff

DATE: 6/4/2008

Our file No.: 121980
APOTHAKER & ASSOCIATES, P.C.
BY: Kimberly F. Scian, Esquire
Attorney I.D.#55140
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorney for Plaintiff

LVNV FUNDING, LLC

Plaintiff,

vs.

BRENDA GALLAHER

Defendant.

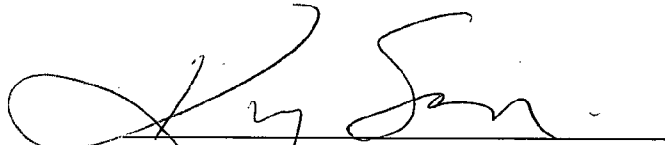
) COURT OF COMMON PLEAS
) CLEARFIELD COUNTY
)
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)

) NO.: 08-360-CD
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CERTIFICATION OF SERVICE

I, Kimberly F. Scian, Esquire, attorney for Plaintiff, certify that on 6/4/2008, I mailed a copy of the Answer to New Matter by Regular mail to

NEISWENDER & KUBISTA
ATTN: FREDERICK M NEISWENDER, ESQUIRE
211 ½ SECOND STREET
CLEARFIELD, PA 16830



Kimberly F. Scian, Esquire
Attorney for Plaintiff

Date: 6/4/2008

FILED

JUN 09 2008

William A. Shaw
Prothonotary/Clerk of Courts

ORIGINAL

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

LVNV FUNDING, LLC,

Plaintiff,

vs.

BRENDA GALLAHER,

Defendant.

No. 08-360-CD

Type of case: Civil

Type of pleading: **Answer, New Matter
and Counterclaim**

Filed on behalf of: Defendant,
Brenda Gallaher

Counsel for Defendant:
Frederick M. Neiswender, Esquire
Supreme Court No. 74456

NEISWENDER & KUBISTA
211½ North Second Street
Clearfield, Pennsylvania 16830
(814) 765-6500

FILED 3cc
013:4361
MAY 02 2008
Att'y Neiswender
GP

William A. Shaw
Prothonotary/Clerk of Courts

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

LVNV FUNDING, LLC,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	No. 08-360-CD
	:	
BRENDA GALLAHER,	:	
	:	
Defendant.	:	

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 or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

Court Administrator
Clearfield County Courthouse
230 East Market Street, Suite 228
Clearfield, Pennsylvania 16830
(814) 765-2641

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

LVNV FUNDING, LLC,

Plaintiff,

vs.

BRENDA GALLAHER,

Defendant.

No. 08-360-CD

ANSWER

NOW, comes the Defendant, BRENDA GALLAHER, by and through her attorneys,
NEISWENDER & KUBISTA and makes her Answer to Plaintiffs' Complaint as follows:

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is denied. It is denied that at the request of Defendant, Plaintiff sold and delivered to Defendant goods and/or services at the times, of the kinds, in the quantities, and for the prices set forth in Plaintiff's records. To the contrary, Defendant does not have, nor did she ever have a contractual arrangement with the Plaintiff and strict proof thereof is demanded.
4. Paragraph 4 is denied. It is denied that Defendant received and accepted the goods and/or services described in Exhibit "A". To the contrary, there are no goods and/or services described in Exhibit "A". Additionally, Defendant does not have, nor did she ever have a contractual arrangement with the Plaintiff and strict proof thereof is demanded.

5. Paragraph 5 is denied. It is denied that the prices set forth in Exhibit "A" are the fair, reasonable and market prices for said goods and/or services, and the prices which the Defendant agreed to pay. To the contrary, there are no prices, goods and/or services or agreement by the Defendant described in Exhibit "A". Additionally, Defendant does not have, nor did she ever have a contractual arrangement with the Plaintiff and strict proof thereof is demanded.
6. Paragraph 6 is denied. It is denied that all credits, if any to which the Defendant is entitled are set forth in Exhibit "A". To the contrary, there are credits to the Defendant described in Exhibit "A". Additionally, Defendant does not have, nor did she ever have a contractual arrangement with the Plaintiff and strict proof thereof is demanded.
7. Paragraph 7 is denied. It is denied that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$4,979.92. To the contrary, Defendant does not have, nor did she ever have a contractual arrangement with the Plaintiff and strict proof thereof is demanded.
8. Paragraph 8 is denied. It is denied that although demand has been made, Defendant has failed to make payment of the amount due as above. To the contrary, Defendant does not have, nor did she ever have a contractual arrangement with the Plaintiff and strict proof thereof is demanded.
9. Paragraph 9 is denied. It is denied that the original creditor is Sears. To the contrary, the document described as Exhibit "A" in Plaintiff's Complaint was produced by the Plaintiff and not by Sears. Additionally, Defendant does not have, nor did she ever have a contractual arrangement with the Plaintiff and strict proof thereof is demanded.

WHEREFORE, Defendant respectfully requests this Court dismiss Plaintiff's Complaint and enter judgment in favor of the Defendant.

NEW MATTER

NOW, comes the Defendant, BRENDA GALLAHER, by and through her attorneys, NEISWENDER & KUBISTA and avers as New Matter the following:

10. Defendant restates and incorporates Paragraphs 1 through 9 above as if stated at length herein.
11. Defendant does not have, nor did she ever have a contractual arrangement with the Plaintiff and strict proof thereof is demanded.
12. Plaintiff's cause of action is barred by the doctrine of accord and satisfaction.
13. Plaintiff's cause of action is barred by estoppel.
14. Plaintiff's cause of action is barred because Plaintiff failed to give consideration.
15. Plaintiff's cause of action is barred due to fraud perpetrated by the Plaintiff.
16. Defendant's actions were at all times justified.
17. Plaintiff's cause of action is barred by the doctrine of laches.
18. Defendant acted as a result of license given by the Plaintiff.
19. Defendant acted with privilege at all times.
20. Plaintiff's cause of action is barred because Defendant was released from obligation.
21. Plaintiff's cause of action is barred by the statute of frauds.
22. Plaintiff's cause of action is barred by the statute of limitations.
23. Plaintiff's cause of action is barred by the doctrine of truth and waiver.

WHEREFORE, Defendant respectfully requests this Court dismiss Plaintiff's Complaint and enter judgment in favor of the Defendant.

COUNTERCLAIM

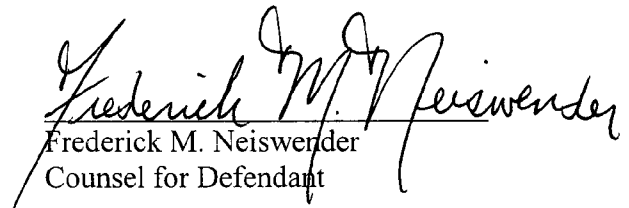
NOW, comes the Defendant, BRENDA GALLAHER, by and through her attorneys,
NEISWENDER & KUBISTA and avers as a Counterclaim the following:

EXPENSES, COSTS AND ATTORNEY'S FEES

24. Defendant restates and incorporates Paragraphs 1 through 23 above as if stated at length herein.
25. Defendant believes and therefore aver that Plaintiff's Complaint is clearly without basis in fact or law, and was filed by Plaintiff solely for the purpose of causing expense, annoyance and harm to the Defendant.
26. As such, the conduct of Plaintiff in commencing litigation as set forth in their Complaint is arbitrary, vexatious and in bad faith.
27. As a result, Defendant has been forced to retain counsel to defend this action, and is entitled to an award of counsel fees pursuant to 42 Pa. C.S.A. § 2503 (9).

WHEREFORE, Defendant demands judgment in their favor and against the Plaintiff in an amount less than \$20,000.00, plus interest and costs of the suit.

Respectfully submitted,


Frederick M. Neiswender
Counsel for Defendant

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

LVNV FUNDING, LLC,

Plaintiff,

vs.

BRENDA GALLAHER,

Defendant.

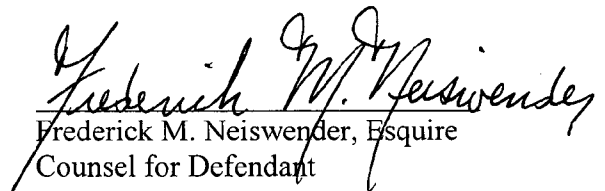
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No. 08-360-CD

CERTIFICATE OF SERVICE

I, Frederick M. Neiswender, Esquire, hereby certify that service of the foregoing Answer, New Matter and Counterclaim was made upon LVNV Funding, LLC, by mailing, first class, postage prepaid, a true copy to the office of their attorney of record, David J. Apothaker, Esquire, on May 2, 2008, at the following address:

David J. Apothaker, Esquire
2417 Welsh Road, Suite 21 #520
Philadelphia, Pennsylvania 15801


Frederick M. Neiswender, Esquire
Counsel for Defendant

NEISWENDER & KUBISTA
211½ North Second Street
Clearfield, Pennsylvania 16830

BRENDA GALLAHER hereby states that she is the Defendant in this action and that the statements of fact made in the foregoing Answer, New Matter and Counter-Claim are true and correct upon personal knowledge. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

DATE: 4-18-08


Brenda Gallaher

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103827
NO: 08-360-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: LVNV FUNDING LLC
vs.
DEFENDANT: BRENDA GALLAHER

SHERIFF RETURN

NOW, March 27, 2008 AT 11:25 AM SERVED THE WITHIN COMPLAINT ON BRENDA GALLAHER DEFENDANT AT 272 WITS END LN, IRVONA, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO BRENDA GALLAHER, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS / MORGILLO

FILED
0/3:40cm
JUN 25 2008
(LM)

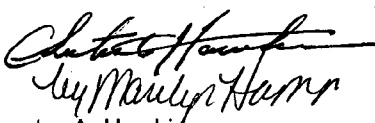
William A. Shaw
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	APOTHAHER	76487	10.00
SHERIFF HAWKINS	APOTHAHER	76487	45.27

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,


Chester A. Hawkins
Sheriff

Notice of Proposed Termination of Court Case

January 26, 2012

RE: 2008-00360-CD

LVNV Funding, LLC

Vs.

Brenda Gallaher

FILED

JAN 26 2012

[Signature]
William A. Shaw
Prothonotary/Clerk of Courts

To All Parties and Counsel:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **March 28, 2012**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,

[Signature]

F. Cortez Bell, III, Esq.
Court Administrator

Court of Common Pleas of Clearfield County, Pennsylvania
Civil Division

LVNV Funding, LLC

Vs.

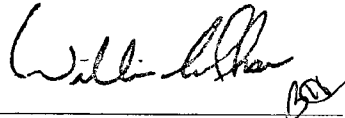
2008-00360-CD

Brenda Gallaher

FILED
JUL 27 2012
William A. Shaw
Prothonotary/Clerk of Courts
GK

Termination of Inactive Case

This case is hereby terminated with prejudice this July
27, 2012, as per Rule 230.2



William A. Shaw
Prothonotary