

SERVICE AND PROCESSING OF CLAIMS

Plaintiff or Claimant: _____

Date: 9-7-18

In-person

Process Server

Claimant

Other _____

By mail

By email

By fax

Received by: _____

attyo office - 9/6
We accepted
receipt of this
call document.
GW on behalf
of Mayor

Original
Claim
denied
12/5/17
2017-0649

- Hand deliver to: Ann Marie or Janel
- Forwarded to Attorney's Office by Ann Marie or Janel include Nick Cerwin on email
- Response from Attorney's Office
- Common Council Agenda: Yes No

Kris Palmer brought this down.
Apparently it was served in the Mayor's Office
& sent to Atty. Kris says introduce to Council

Jonathan Gruhl 9/6/18
Mayor's office 7525 W. Greenfield Ave.
West Allis, WI 53214 2:13 pm
Jeanette Wandinski

FILED
06-11-2018
John Barrett
Clerk of Circuit Court
2018CV004938
Honorable Mary
Triggiano-13
Branch 13

STATE OF WISCONSIN

CIRCUIT COURT
CIVIL DIVISION

MILWAUKEE COUNTY

Tempco Heating & Air Conditioning, Inc.
5707 W. National Ave.
West Allis, WI 53154

Plaintiff,

v.

Case Code: 30201

Auto-Owners Insurance Company
6101 Anacapi Blvd
Lansing, MI 48917

City of West Allis
7525 W. Greenfield Ave.
West Allis, WI 53214

American Sewer Service, Inc.
N2768 County Road P
Rubicon, WI 53078

ABC Insurance Company for City of West Allis

XYZ Insurance Company for American Sewer Service, Inc.

Defendants.

RECEIVED
SEP 06 2018
WEST ALLIS
CITY ATTORNEY

SUMMONS

THE STATE OF WISCONSIN

To Each Person or Entity Named Above as a Defendant:

YOU ARE HEREBY NOTIFIED that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is: 901 N. 9th St., Milwaukee, WI 53233 and to Gruhl Law Firm, LLC, Plaintiff's attorney, whose address is 4633 N. River Park Blvd., Glendale, WI 53209. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 11th day of June, 2018.

Gruhl Law Firm, LLC
Attorney for Plaintiff Tempco Heating & Air Conditioning, Inc.

Electronically signed by Jonathan A. Gruhl

Jonathan A. Gruhl
State Bar No.: 1037156
414.394.5154
4633 N. River Park Blvd.
Glendale, WI 53209

FILED
06-11-2018
John Barrett
Clerk of Circuit Court
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Defendants.

COMPLAINT

NOW COMES Plaintiff, Tempco Heating & Air Conditioning, Inc. ("Tempco"), through its counsel, Attorney Jonathan A. Gruhl, of Gruhl Law Firm, LLC and as and for a cause of action, alleges and shows to the Court as follows.

ISSUES OF FORUM AND VENUE

1. Plaintiff, Tempco, at all times relevant, was and is a domestic corporation engaged in the business of heating and air conditioning systems with its principal Wisconsin

office located at 5707 W. National Ave., West Allis, WI 53214 and with a registered agent for service of process in the State of Wisconsin being Mirza Beg, located at 5707 W. National Ave., West Allis, WI 53214.

2. Defendant Auto-Owners Insurance Company, at all times relevant, was and is a foreign insurance company, the insurance company for Plaintiff Tempco, engaged in the business of insurance coverage with its principal Wisconsin Office located at 6101 Anacapi Blvd, Lansing, MI 48917 and with a registered agent for service of process in the State of Wisconsin being CT Corporation System, 301 S. Bedford St. Ste. 1, Madison, WI 53703.
3. Defendant City of West Allis, at all times relevant, was and is a Wisconsin municipality, with a municipal center located at West Allis City Hall, 7525 W. Greenfield Ave., West Allis, WI 53214 and with an agent for service of process in the State of Wisconsin being Registered Agent Mayor Daniel Devine, West Allis City Hall, 7525 W. Greenfield Ave., West Allis, WI 53214.
4. Defendant American Sewer Service, Inc., at all times relevant, was and is a domestic corporation engaged in the business of sewer issues with its principal Wisconsin office located at N2768 County Road P, Rubicon, WI 53078 and a registered agent for service of process in the State of Wisconsin being Dennis Biondich, located at N2768 County Road P, Rubicon, WI 53078.
5. A Notice of Claim was properly served by Plaintiff to the City of West Allis on September 29, 2017.

GENERAL ALLEGATIONS

6. On July 12, 2017 Tempco had their basement flooded with 2-3 feet from water

backing up through the sewer.

7. Upon information and belief, road construction was occurring near Tempco during this time as directed by the City of West Allis and completed, in part, by American Sewer Service, Inc.
8. The City of West Allis pumped the water out of Tempco's basement from this event.
9. Tempco uses its basement to store a large assortment of heating and air conditioning parts, supplies and tools.
10. Tempco also has its own heating and air conditioning system in the basement of their business.
11. Tempco has shelving, carpentry, stairs, and other facilities built into the basement of their business.
12. The tools, air conditioning parts and supplies, heating and air conditioning unit, and facilities in their basement were damaged by being submerged and/or exposed to excessive humidity.
13. The damages to Tempco's property and real estate amount to, upon information and belief, over \$32,000.
14. Auto-Owners Insurance is the insurance company for Tempco, and is a Defendant at this time, and by information and belief, may cover the damages from this incident under Tempco's policy with them that was and is currently in force.
15. ABC Insurance Company, unknown at this time, is the insurance company that may be in place with the City of West Allis and this claim may be covered under their insurance policy.
16. XYZ Insurance Company, unknown at this time, is the insurance company that may

be covering this claim against American Sewer Service, Inc. under a policy.

Cause of Action – Negligent Damage to Property and Real Estate

17. Plaintiff re alleges and incorporates by reference Paragraphs 1-16 as if fully set forth herein.
18. The construction work that was negligently performed by the City of West Allis and American Sewer Service, Inc. caused a backup in the sewer to Tempco, which resulted in flooding that damaged the property of Plaintiff Tempco.
19. These entities had a duty to Tempco to not damage its property while performing construction work, they breached this duty and caused damage to Tempco's property.

Cause of Action for Specific Performance Against Auto-Owners Insurance

20. Plaintiff re alleges and incorporates by reference Paragraphs 1-16 as if fully set forth herein.
21. Upon information and belief, Defendant Auto-Owners Insurance Company may have a duty to pay for damages and/or represent Plaintiff in this matter.

WHEREFORE, Plaintiff, Tempco, demands judgment against Defendants City of West Allis and American Sewer Service and their insurers and a finding determining the amount of actual damages awarding a money judgment in that amount plus costs and fees and any other just and equitable remedies ordered by the Court. Plaintiff also requests judgement against Defendant Auto-Owners Insurance Company of specific performance requiring them to pay the damages as determined by the Court and performance of any relevant contractual obligations under the insurance contract.

Respectfully submitted by mail this 11th day of June, 2018.

Electronically Signed by Jonathan A. Gruhl

Jonathan A. Gruhl, Bar Number: 1037156
Attorneys for Plaintiff: Tempco Heating & Air
Conditioning, Inc.
Gruhl Law Firm, LLC
(for mailing only) 4633 N. River Park Blvd.
Glendale, WI 53209
Telephone: 414.354.5154
Email: JAGruhl@GruhlLaw.com