

United States District Court
District of North Dakota

Energy Heating, LLC, an Idaho limited liability company; Rocky
Mountain Oilfield Services, LLC, an Idaho limited liability company,
Plaintiff/Counterclaim Defendants,

vs.

Heat On-The-Fly, LLC, a Louisiana limited liability company, and Super
Heaters North Dakota, a North Dakota limited liability company,
Defendants,

and

Heat On-The-Fly, LLC, a Louisiana limited liability company,
Counterclaimant.

Heat On-The-Fly, LLC, a Louisiana limited liability company,
Third-Party Plaintiff/Counterclaim Defendant,

vs.

Marathon Oil Corporation,
Third-Party Defendants/Counterclaimant.

AMENDED
JUDGMENT IN A CIVIL CASE

Case No. 4:13-cv-10

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- ☒ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.
- ☐ **Decision on Motion.** This action came before the Court on motion. The issues have been considered and a decision rendered.
- ☐ **Stipulation.** This action came before the court on motion of the parties. The issues have been resolved.
- ☐ **Dismissal.** This action was voluntarily dismissed by Plaintiff pursuant to Fed. R. Civ. P. 41(a)(1)(ii).

IT IS ORDERED AND ADJUDGED:

Pursuant to the Order filed at Docket # 616:

1. The trademark for "Heat On-The-Fly" is **INVALID** and unenforceable as it is a generic term.
2. The claim for the tort of Deceit is **DISMISSED WITH PREJUDICE**.
3. **DAMAGES** in the amount of \$750,000 are **AWARDED** for the intentional tortious conduct of HOTF.
4. The court **DECLINES** to order prejudgment interest.

Pursuant to the Order filed at Docket # 619:

HOTF's inequitable conduct renders the '993 Patent unenforceable. Energy Heating and Marathon's claims for Declaratory Judgment on the issue of Inequitable Conduct are **GRANTED**.

Date: January 20, 2016

ROBERT J. ANSLEY, CLERK OF COURT

by: /s/ Ashley Sanders, Deputy Clerk