

DOCKET NO. 173

NUMBER	TERM	YEAR
<u>122</u>	<u>November</u>	<u>1960</u>

Commercial Credit Corporation

VERSUS

Robert G. Ohs

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 122 November Term, 1960
In Assumpsit

COMMERCIAL CREDIT CORP.

VS.

ROBERT G. OHS

ANSWER and NEW MATTER

TO THE WITHIN PLAINTIFF:

You are hereby required to
file defensive pleadings to
the within New Matter within
twenty days from service here-
of.

SMITH, SMITH & WORK

BY *W. L. Smith*
FOR DEFENDANT

FILED

DEC 20 1960
WM. T. HAGERTY
PROTHOMOTARY
SMITH, SMITH & WORK
ATTORNEYS-AT-LAW
CLEARFIELD, PA.

Lap-over Margin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION :

VS : No. 122 November Term, 1960

ROBERT G. OHS : In Assumpsit

A N S W E R

(1). The averment of Paragraph 1 is admitted.

(2). The averment of Paragraph 2 is admitted.

(3). The averments of Paragraph 3 are denied. In answer thereto, it is averred on July 7, 1960, the said Defendant did purchase a car from Killion Motors, said car being a 1960 Plymouth and not a 1960 Valiant. Said Defendant secured the money for purchasing the above identified car by paying down in cash \$1230.00, and by borrowing from the Houtzdale Bank the sum of \$2520.00. It is averred, further, that the Defendant did execute Plaintiff's Exhibit A, but the same execution was secured through fraud as will be averred more particularly under New Matter and there was no consideration therefor.

(4). After Defendant had purchased the 1960 Plymouth and paid therefor by money advanced by the Houtzdale Bank, and after the original Bailment Lease had been assigned to the Houtzdale Bank, Killion Motors Company, through its Sales-Manager, Richard J. Petrovich, secured Defendant's execution of additional bailment leases by fraud and for no consideration, the exact nature of which the Defendant cannot recall, but he avers that he believes the said Richard J. Petrovich through trick, device and fraud secured, unknown to him, his execution of more than one bailment lease and that he later assigned the additional copies to Plaintiff herein.

(5). It is admitted the Defendant has made no payments to Plaintiff. It is averred, however, that is because he is not

indebted to Plaintiff, and it is further averred that Defendant has made all payments required of him under his obligation for this car to the Houtzdale Bank, the party entitled to said payments.

(6). It is admitted the Plaintiff has demanded payment from Defendant, but it is denied said demands are just.

(7). It is denied the said Defendant is indebted to Plaintiff.

NEW MATTER

(1). It is averred on July 7, 1960, the Defendant purchased from Killion Motors Company of Philipsburg, Pennsylvania, a 1960 Plymouth car. As consideration therefor, the Defendant paid down in cash \$1230.00, and secured a loan from the Houtzdale Bank in the amount of \$2520.00.

(2). At the time of this transaction, the Defendant executed a Bailment Lease with Killion Motors Company which was assigned on the same date to the Houtzdale Bank. As a result of said assignment, the Defendant secured a title for said motor vehicle in his name with an encumbrance noted in favor of the Houtzdale Bank on July 15, 1960.

(3). The Defendant has been making all payments as required to and through the Houtzdale Bank.

(4). After Defendant had purchased this car and paid therefor by money advanced by the Houtzdale Bank, and after the original Bailment Lease had been assigned to the Houtzdale Bank, Killion Motors, through its Sales-Manager, Richard J. Petrovich, secured Defendant's execution of additional bailment leases by fraud, and for no consideration, the exact nature of which the Defendant cannot recall, but he avers that he believes the said Richard J. Petrovich through trick, device and fraud secured, unknown to him, his execution of more than one bailment lease and that he later assigned the additional copies to Plaintiff herein.

(5). The Defendant received no consideration or any other benefit from either Killion Motors or Commercial Credit Corporation, and, therefore, said contract, in addition to being invalid because of fraud, is also invalid because of lack of consideration.

(6). Plaintiff placed these cars with Killion Motors and under the terms of an agreement, the exact nature of which is unknown to the Defendant, the Defendant believes and, therefore, avers that the Plaintiff constituted Killion Motors its agent to sell said cars and placed the said Killion Motors Company in position to perpetrate said fraud. As such, Plaintiff is bound by the acts of Killion Motors. Further, Plaintiff prior to this transaction had knowledge, through its agents and employees, that Killion Motors was selling these cars and approved of said sales.

WHEREFORE, Defendant denies he is indebted to Plaintiff.

SMITH, SMITH & WORK

BY 
Attys. for Defendant

STATE OF PENNSYLVANIA: SS
COUNTY OF CLEARFIELD :

ROBERT G. OHS, being duly sworn according to law, deposes and says he is the Defendant in the foregoing proceedings, and the facts set forth in the foregoing Answer and New Matter are true and correct to the best of his knowledge, information and belief.

Robert G. Ohs
(Robert G. Ohs)

Sworn and subscribed to
before me this 19th day
of December, 1960.

Mrs. Mildred Gishy
NOTARY PUBLIC
My Commission Expires
JANUARY 7, 1962

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 122, 1960 Term, 1960
IN ASSUMPTION

COMMERCIAL CREDIT CORPORATION

vs.

ROBERT G. OHS

COMPLAINT

To the within named Defendant:

You are hereby notified to plead to
the within Twenty (20) days from service
hereof.

Robert G. Ohs
Attnorneys for Plaintiff

FILED

NOV 25 1960

WM. T. HAGERTY
FLEMING & LITKE
ATTORNEYS AT LAW
BELLEFONTE, PENNSYLVANIA

4500

W. T. HAGERTY

*Wm. T. HAGERTY, Esq., Nov 25, 1960
LAW OFFICES OF FLEMING & LITKE, BELLEFONTE, PENNSYLVANIA*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

COMMERCIAL CREDIT CORPORATION)
) No. 122, 2nd Term, 19
vs.)
)
ROBERT G. OHS) IN ASSUMPSIT

COMPLAINT

1. The Plaintiff herein is Commercial Credit Corporation, a corporation with place of business at 217 East Plank Road, Altoona, Blair County, Pennsylvania.

2. The Defendant herein is Robert G. Ohs, of Houtzdale, Clearfield County, Pennsylvania.

3. On July 6, 1960, Defendant, Robert G. Ohs, purchased a 1960 Valiant (made by Chrysler) 4-Door Sedan, Serial No. 1702-186976, automobile from Killion Motors, Philipsburg, Pennsylvania, and executed to said Killion Motors, as security for the financing of said purchase, a Lease Agreement, in the sum of \$2,617.20, payable in thirty-six (36) monthly instalments of \$72.70 each, the first instalment payable August 20, 1960. A true and correct copy of said agreement is hereto attached and marked "Plaintiff's Exhibit A".

4. On July 8, 1960, Plaintiff, Commercial Credit Corporation, purchased said obligation (Plaintiff's Exhibit A) of Defendant, Robert G. Ohs, and paid to Killion Motors in consideration therefor the sum of \$2,133.48, and assumed and paid the car insurance premium set forth in said agreement. Said Killion Motors

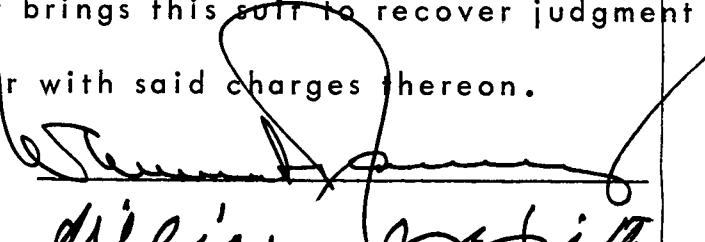
assigned said agreement of Defendant to Plaintiff for the consideration aforesaid.

5. Defendant has failed to pay the said monthly payments and is now in default of the entire sum of said transaction, namely, \$2,617.20, together with default charges thereon, as provided in said agreement, Plaintiff's Exhibit A.

6. Although Plaintiff has repeatedly demanded payment of said moneys due, Defendant has refused and continues to persist in his refusal to make payment under the terms of the said agreement.

7. Plaintiff alleges that the entire amount of said obligation, \$2,617.20, together with default charges thereon, is due and payable and Plaintiff is entitled thereto.

WHEREFORE, Plaintiff brings this suit to recover judgment for said sum, \$2,617.20, together with said charges thereon.


Celia M. Lucas
Attorneys for Plaintiff

COMMONWEALTH OF PENNSYLVANIA) SS:
COUNTY OF CENTRE)

C. B. McLAUGHLIN, being duly sworn according to law, deposes and says that he is Assistant Treasurer of Commercial Credit Corporation, with place of business in Altoona, Blair County, Pa., a corporation, and as such is authorized to take this affidavit, that he is personally acquainted with the facts set forth in the foregoing Complaint, and that the same are true and correct to the best of his knowledge, information and belief.

Sworn to and subscribed before)
me this 10th day of November, 1960.)

Celia M. Lucas)

C. B. McLaughlin

CElia M. LUCAS, Notary Public
BELLEFONTE, CENTRE CO., PA.

My Commission expires Mar. 3, 1968

TERMS AND CONDITIONS

Title to Car shall remain in Lessor until all amounts owing hereunder are fully paid in cash. This Lease may be assigned by Lessor or the payment thereof renewed or extended, without passing title to Car to Lessee. The loss, injury or destruction of Car shall not release Lessee from payment hereunder. Lessee agrees to obtain and keep in force fire, theft and collision insurance on Car and other insurance requested by Lessor. Such insurance shall be in form, amount and written by insurers satisfactory to Lessor. Lessor, as a creditor of Lessee, is authorized to purchase any and all such insurance, at Lessee's expense, whether or not included herein. If the cost of such insurance is not included in the Rental Time Balance, Lessee agrees to pay the same to Lessor on demand. Lessee hereby assigns to Lessor the proceeds of all such insurance (including any refund of premiums) to the extent of the unpaid portion of the Rental Time Balance, directs any insurer to make payment directly to Lessor, appoints Lessor as Attorney in Fact to endorse any draft, and authorizes Lessor to apply such proceeds to the payment of instalments due or to become due hereunder.

Lessee's Refund for Pre-payment: Unearned finance charges, (representing that portion of the total finance charge as the periodical time balances after the date of pre-payment bears to the sum of all the periodical time balances under the schedule of payments herein), will be refunded in cash or credited to the amount due on Lessee's obligation.

Lessee agrees: To pay promptly all taxes and assessments upon Car and/or for its use or operation and/or on this Lease; to keep Car free from liens; that all equipment, tires, accessories and parts shall become part of Car by accession; and not to sell, transfer or encumber Car or use it for hire or illegally. Time is of the essence hereof. Any notices to Lessee shall be sufficiently given if mailed to the address of Lessee shown herein. Lessee warrants that the automobile traded in, if any, is free from any encumbrance, and breach of this warranty shall be a breach of this Lease. This Lease may be assigned by Lessor, and when assigned, all rights of Lessor shall vest in its assignee.

If Lessee defaults on any obligation or breaches any agreement or warranty under this Lease, Lessor may, at its option, declare the unpaid portion of the Rental Time Balance to be due and payable forthwith, and may cause judgment to be entered against Lessee for such amount as hereinafter more fully provided, or Lessee shall, upon demand, deliver Car to Lessor. If Lessee fails to deliver Car to Lessor as aforesaid, Lessor may, without notice or demand, terminate this Lease and lawfully take possession of Car wherever found. In such event, Lessee hereby authorizes Lessor to use Lessee's license plates to drive Car to Lessor's place of storage. Any personal property in Car at time of repossession may be held temporarily by Lessor for Lessee,

without liability therefor. If Lessor repossesses Car, and Lessee fails to redeem Car as provided herein, Lessor may, at its option, upon not less than five (5) days' notice as to time and place of disposition, release the Car, or in lieu thereof, sell, assign or transfer title to Car, either by private or public sale, as provided by law. The proceeds of any such re-sale or resale, less all expenses, shall be credited on the amount payable hereunder, the Lessee to remain liable to Lessor for any unpaid balance in accordance with law.

Default Charge: Lessee will pay 2% per month on any instalment of rent not paid on its due date for each month or fractional part thereof in excess of 10 days that said instalment of rent remains unpaid. Such default charges, when earned, may be collected during term of this Lease or may be accumulated and collected at final maturity or time of final payment.

Redemption: Lessee has the right to redeem the Car and terminate this Lease within 15 days after repossession, or before disposition of Car by Lessor, by paying the unpaid portion of the Rental Time Balance, accrued default charges and other amounts lawfully due, and if default at time of repossession exceeds 15 days, costs of retaking, storing and repairing, less rebate of unearned finance charge. At option of Lessor, Lessee may reinstate this Lease and resume possession of Car, upon payment of all past due instalments, costs, etc., as provided above. If the Car is not redeemed as aforesaid, Lessee forfeits all claims thereto.

Any action to enforce payment hereunder or any indulgences or rearrangements granted Lessee shall not be a waiver of or affect any rights of Lessor. In any State where Certificates of Title are issued, Lessee, in application thereof, shall make reference to Lessor's rights under this Lease and, if permitted by law, Lessee shall deliver or cause to be delivered any such Certificate to Lessor, when received. Lessor hereby is authorized to correct patent errors or omissions in this Lease. In addition to all the rights retained by or given Lessor under this Lease, Lessor shall have the rights of a secured party under the Uniform Commercial Code (Pennsylvania). All rights and remedies hereunder are cumulative and not exclusive. Any part of this Lease contrary to the law of any State shall not invalidate other parts of this Lease in that State.

This Lease constitutes the entire agreement between the parties and no changes herein shall be valid unless in writing, signed by Lessee and the owner hereof. Car is accepted without any expressed or implied warranties, except as expressly set forth herein.

This Lease is subject to, and enforceable in accordance with, the provisions of the Motor Vehicle Sales Finance Act of 1947 of the Commonwealth of Pennsylvania, as amended.

TERMS OF DEALER'S ASSIGNMENT

Dealer warrants that: the Lease on the reverse side hereof is genuine and constitutes the entire agreement with the Lessee; the Lessee is over 21 years of age and competent; the Lease is legally enforceable against the Lessee named therein; the Advance Rental was paid by the Lessee in cash and not its equivalent, unless otherwise noted in the Lease; no part of the Advance Rental was loaned to the Lessee, directly or indirectly, by Dealer or anyone connected with Dealer; unless noted herein, Dealer has no reason to believe that Lessee ever violated any laws concerning liquor or narcotics or that Lessee was ever rejected by any finance company, bank or banker; Dealer has complied with all laws with respect to the lease of the Car; by this assignment, Dealer transfers clear title to the Car, subject only to the Lease; the lease represented by the Lease appears on the Certificate of Title or Bill of Sale, as required by State law; there is now owing the amounts set forth therein; and that all the obligations of Dealer contained in the Lease have been fully performed. Dealer makes said warranties for the purpose of inducing Commercial Credit Corporation to purchase the Lease, and if any of such

warranties should be untrue, Dealer shall buy the Lease from Commercial Credit Corporation, upon demand, and will pay therefor, the amount unpaid to Commercial Credit Corporation thereon, plus any and all costs and expenses paid or incurred by Commercial Credit Corporation in respect thereto. Said remedy shall be cumulative and not exclusive and shall not affect any other right or remedy that Commercial Credit Corporation might have at law or in equity. If Dealer fails or refuses to buy Lease as herein provided for breach of warranty, Commercial Credit Corporation may sell publicly or privately said Lease or the Car referred to therein and, after deducting all expenses of such sale, apply the net proceeds thereof on Dealer's obligation hereunder. Dealer to pay any deficiency and to be entitled to any surplus. Undersigned agrees that Commercial Credit Corporation, by purchasing the Lease, shall not be deemed to have assumed any of the obligations of Dealer thereunder which are executory.

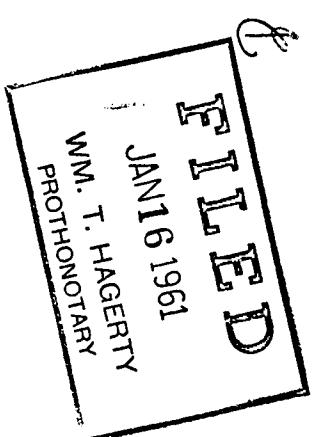
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 122, November Term, 1960
In Assumpsit

COMMERCIAL CREDIT CORPORATION

vs.

ROBERT G. OHS

PETITION FOR EXTENSION OF TIME FOR
FILING ANSWER TO NEW MATTER;
ORDER OF COURT



FLEMING & LITKE
ATTORNEYS AT LAW
BELLEFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

COMMERCIAL CREDIT CORPORATION)
)
 vs.) No. 122, November Term, 1960
)
ROBERT G. OHS) In Assumpsit

PETITION FOR EXTENSION OF TIME FOR FILING
ANSWER TO NEW MATTER; ORDER OF COURT

TO THE HONORABLE JOHN J. PENTZ,
President Judge of said Court:

The Petition of Plaintiff above, Commercial Credit
Corporation respectfully represents:

1. Petitioner instituted suit against Defendant, in
assumpsit, based upon a commercial instrument executed by the
Defendant to Killion Motors Company, and purchased by Plaintiff
from said Killion Motors Company for the consideration of Two
Thousand Six Hundred Seventeen Dollars and Twenty Cents
(\$2,617.20). Defendant defaulted in repayment of the money.

2. Defendant, in his New Matter, denies liability on
said instrument, alleging, inter alia, that said instrument was pro-
cured by fraud practiced upon him by Richard J. Petrovich, Sales
Manager of Killion Motors, and that Defendant received no considera-
tion therefor.

3. Petitioner has no personal knowledge of any fraud
practiced upon Defendant and Petitioner did not participate in any
of the transactions set forth in said New Matter, but said trans-
actions occurred between the Defendant and other persons.

4. It will be necessary for Petitioner to proceed by
Discovery Proceedings and further investigation, in order to acquire

the information necessary to make specific Answer to said New Matter.

WHEREFORE, your Petitioner respectfully prays your Honorable Court to enter an order extending the time for the filing of an Answer to said New Matter for a period of twenty (20) days subsequent to the completion of said Discovery Proceedings.

Billiee D. Sitter
Attorney for Plaintiff

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF CENTRE)

C. B. McLAUGHLIN, being duly sworn according to law,
deposes and says that he is Assistant Treasurer of Commercial Credit
Corporation with place of business in Altoona, Blair County, Penn-
sylvania, a corporation, and as such is authorized to take this
affidavit, that he is personally acquainted with the facts set forth
in the foregoing Petition, and that the same are true and correct
to the best of his knowledge, information and belief.

Sworn to and subscribed
before me this 13th day
of January, 1961

Celia M. Lucas

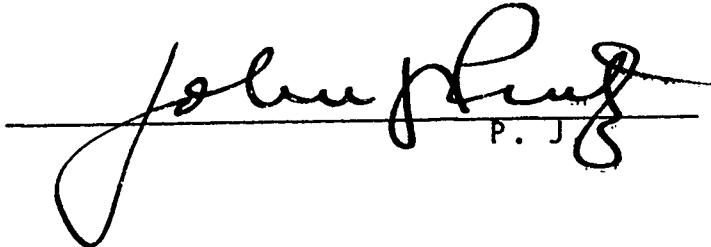
C. B. McLaughlin

CELIA M. LUCAS, Notary Public
BELLEFONTE, CENTRE CO., PA.
My Commission expires Mar. 3, 1963

ORDER OF COURT

AND NOW, this 16 day of January, 1961, upon consideration of the within Petition, the time for the filing of a responsive Answer to the New Matter of Defendant in the above matter, is extended for a period of twenty (20) days subsequent to the completion of Discovery Proceedings which shall be initiated by the Plaintiff within ten (10) days from the date of this Order of Court.

By the Court,



A handwritten signature in black ink, appearing to read "John P. J. Hargan". The signature is written in a cursive style with a horizontal line through it.

Service accepted and copy received 4/10/61

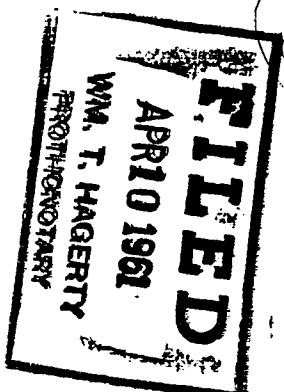
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 122 November Term 1960
Assumption

COMMERCIAL CREDIT CORP.

VS.

ROBERT G. OHS

REPLY TO NEW MATTER



W. Albert Ramey, Esq.
Clearfield, Pa.

FLEMING & LITKE
ATTORNEYS AT LAW
BELLEFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORPORATION :

vs. : : No. 122, November Term, 1960
ROBERT G. OHS : : In Assumpsit

REPLY TO NEW MATTER

(1). The facts averred in Paragraph 1 are denied as pleaded therein. In further answer Plaintiff alleges that on July 6, 1960, Defendant arranged for the purchase of a 1960 Valiant 4-Door Sedan at Killion Motors, and executed lease thereon to Killion Motors which was assigned to Plaintiff by Killion Motors, Plaintiff purchasing said lease for the consideration therein stated, which consideration was advanced to Killion Motors. Defendant did not repay Plaintiff for the consideration advanced by Plaintiff with respect to said automobile referred to in Plaintiff's Exhibit "A". It is denied that Defendant paid cash in the sum of \$1,230.00 to Killion Motors on July 7, 1960; it is admitted that Defendant secured a loan from the Houtzdale Bank in the amount stated.

(2). Admitted that Defendant executed a Bailment Lease with Killion Motors Company which was assigned to the Houtzdale Bank; Plaintiff has no knowledge as to whether said lease was assigned on the same day as that of the transaction; admitted that Defendant secured title to said vehicle with encumbrance in favor of Houtzdale Bank.

(3). Admitted.

(4). It is denied that Defendant purchased said car and paid therefor by moneys advanced by the Houtzdale Bank. In further answer thereto, Plaintiff alleges that Plaintiff advanced the consideration referred to in Plaintiff's Exhibit "A", to Killion Motors because of Defendant's execution of said lease, and its assignment to Plaintiff by Killion Motors.

(5). Plaintiff denies that Defendant received no consideration from either Killion Motors or Commercial Credit Corporation. In further answer, Plaintiff alleges that Plaintiff advanced the consideration referred to in Plaintiff's Exhibit "A" to Killion Motors.

(6). Plaintiff denies that it had constituted Killion Motors, its agent, to sell said cars, and denies that it had placed said Killion Motors in any position to perpetrate the fraud alleged by Defendant. Plaintiff denies that it is bound by the acts of Killion Motors or that it had any prior knowledge of the sale of such cars or that it approved of such sales.

FLEMING & LITKE

by Fleming & Litke

COMMONWEALTH OF PENNSYLVANIA :

: SS:

COUNTY OF CENTRE

:

C. B. McLAUGHLIN, being duly sworn according to law, deposes and says that he is Assistant Treasurer of Commercial Credit Corporation with place of business in Altoona, Blair County, Pennsylvania, a corporation, and as such is authorized to take this affidavit, that he is personally acquainted with the facts set forth in the foregoing Reply and that the same are true and correct to the best of his knowledge, information and belief.

Sworn to and subscribed
before me this 12 day
of April, 1961

C. B. McLaughlin

Celia M. Lucas
CELIA M. LUCAS, Notary Public
BELLEVONTE, CENTRE CO., PA.
My Commission expires Mar. 3, 1963

Service accepted by copy this 26th day of
January 1961 Smith Smith & Work by
Joseph P. Work

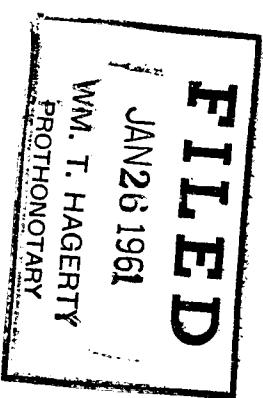
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
NO. 122, NOVEMBER TERM, 1960
IN ASSUMPSIT

COMMERCIAL CREDIT CORPORATION

VS.

ROBERT G. OHS

MOTION FOR PRODUCTION OF
DOCUMENTS & RIGHT OF
INSPECTION



FLEMING & LITKE
ATTORNEYS AT LAW
BELLEFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA.

COMMERCIAL CREDIT CORPORATION)
)
)
) No. 122, NOVEMBER TERM, 1960
vs.)
)
)
ROBERT G. OHS) IN ASSUMPSIT

MOTION FOR PRODUCTION OF DOCUMENTS & RIGHT OF INSPECTION

TO THE HONORABLE J. J. PENTZ,
President Judge of Said Court:

AND NOW, January 16, 1961, Commercial Credit
Corporation, plaintiff, by its attorney, _____,
moves the Court for an order directing ROBERT G. OHS, defendant
herein to produce and permit the inspection of tangible things,
pursuant to Pa. R. C. P. No. 4009 (1) on February 10, 1961, at
10:00 A.M. at the Grand Jury room, Clearfield County Court House,
Clearfield, Pennsylvania.

The items to be produced for inspection are:

All receipts, agreements, releases, leases, assignments,
cancelled checks, data and/or books of record relating to the
alleged purchase of a 1960 Plymouth automobile by Robert G. Ohs
from Killion Motors Company and a 1960 Valiant automobile, Serial
No. 1702-186976.

The said items are in the possession, custody or control
of the said Robert G. Ohs.

The scope of the inspection will be as follows: visual
inspection, copying and/or photocopying.

The inspection will be made by personnel of COMMERCIAL CREDIT CORPORATION and its attorneys.

Billion for title
Attorney for COMMERCIAL CREDIT CORPORATION

ORDER OF COURT

AND NOW, January 26, 1961, ROBERT G. OHS is directed to produce and make available to COMMERCIAL CREDIT CORPORATION and its attorneys the following designated tangible things: Any receipts, agreements, releases, leases, assignments, cancelled checks, data and/or books of record relating to the alleged purchase of a 1960 Plymouth automobile by Robert G. Ohs from Killion Motors Company and a 1960 Valiant automobile, Serial No. 1702-186976 in the possession, custody or control of Robert G. Ohs, for the purpose of examination, inspection and/or reproduction.

The said tangible things are to be produced at the Grand Jury Room, Clearfield County Court House, Clearfield County, Pennsylvania, at 10:00 A.M. February 10, 1961.

By the Court,

John H. Pepp
P. J.

Service accepted and copy received 9/22/61

W. H. for H.
atty for ~~Def~~ Def

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA. No. 122 November Term, 1960	
In Assumpsit	
COMMERCIAL CREDIT CORP.	VS.
ROBERT G. OHS	
MOTION FOR JUDGMENT	

(C)

FLEMING & LITKE
ATTORNEYS AT LAW
BELLEFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORPORATION :
: No. 122 November Term, 1960
VS. :
: In Assumpsit
ROBERT G. OHS :
:

MOTION FOR JUDGMENT

TO THE HONORABLE JOHN PENTZ, President Judge of Said Court:

COMMERCIAL CREDIT CORPORATION, comes by its attorney, William W. Litke, Esquire, and moves the Court for judgment on the pleadings and hereby assigns the following reasons therefor:

1. Paragraph 3 of the Answer admits the execution of the Lease Agreement which forms the basis of plaintiff's claim.
2. Although Paragraph 4 of the Answer pleads lack of consideration and fraud, no supporting facts are given.
3. Paragraph 5 of the Answer admits the defendant has made no payment to plaintiff, and pleads that defendant is not indebted to plaintiff, but no supporting facts are given.
4. Paragraph 6 of the Answer admits the plaintiff has demanded payment from the defendant, but denies that such demands are just, although no supporting facts are given.

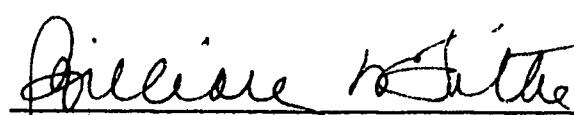
5. Paragraph 7 of the Answer denies the defendant is indebted to plaintiff, but no supporting facts are given.

6. Although Paragraphs 4 and 6 of the "New Matter" in defendant's Answer plead fraud and lack of consideration, no supporting facts are given.

7. The Answer is argumentative, vague and indefinite and not responsive.

8. The Answer and New Matter are violative of the parol evidence rule.

WHEREFORE, plaintiff moves the Court to enter judgment in favor of the plaintiff and against the defendant.



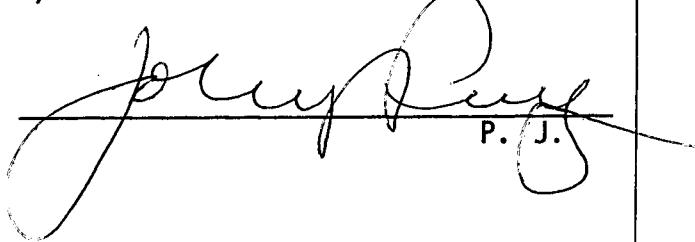
Diane K. Suthe
Attorney for Plaintiff

RULE TO SHOW CAUSE

AND NOW, this ____ day of September, 1961, upon consideration of the within Motion, a rule is hereby entered upon defendant to show cause why judgment should not be entered as prayed for.

Returnable the 1st day of Sept, 1961, M.
at _____.

By the Court,


P. J.

COPY

COPY

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA.
No. 122, November Term, 1960
In Assumpsit

COMMERCIAL CREDIT CORP.

vs.

ROBERT G. OHS

NOTICE OF TAKING OF ORAL
DEPOSITIONS

I hereby certify that it was read and
understood to me or it or in my statement
Attest: ✓

FLEMING & LITKE
ATTORNEYS AT LAW
BELLFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORP. : : No. 122, November Term, 1960
VS. : : In Assumpsit
ROBERT G. OHS : :

NOTICE OF TAKING OF ORAL DEPOSITIONS

TO: Smith, Smith & Work
Attorneys at Law
Clearfield, Pennsylvania
Attorneys for Robert G. Ohs and The Houtzdale Bank

Eugene Cimino, Esq.
Osceola Mills, Pennsylvania and
John McCamley, Esq.
Baird & McCamley
Philipsburg, Pennsylvania
Attorneys for Earl Killion and Richard J. Petrovich

Please take notice that pursuant to Pa. R. C. P. No. 4007 on February 10, 1961, at 10:00 A.M., and at any and all adjournments thereof before, William Haggerty, Prothonotary of Clearfield County, the Plaintiff in this action will take the oral depositions of the following:

Robert G. Ohs
Houtzdale, Penna.

Richard J. Petrovich
Philipsburg, Penna.

The Houtzdale Bank
Houtzdale, Penna.

Earl Killion
308 Curtin Street
Osceola Mills, Penna.

upon oral examination at the Grand Jury Room, Clearfield County Court House, Clearfield County, Pennsylvania.

The scope of the depositions will encompass the witnesses' knowledge of the sale, or other disposition, or transfer, of a 1960 Plymouth automobile allegedly purchased by Robert G. Ohs from Killion Motors and/or 1960 Valiant automobile serial No. 1702-186976, or any transaction involving the same.

The purpose of these depositions is to aid in the preparation of a Reply by plaintiff to defendant's Answer and New Matter. These witnesses will also be interrogated as to their knowledge of the identity and whereabouts of other witnesses having information relevant to this action.

William McFitter
Attorney for Commercial Credit Corp.,
Plaintiff

DATED: January 24, 1961

Service accepted by copy this 30th day
of January 1961 Smith Smith & Work by
Joseph P. Work

By Me and Cursive
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNA.
No. 122, November Term, 1960.
In Assumpsit

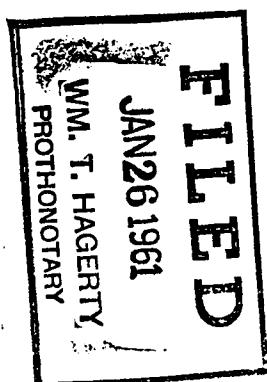
COMMERCIAL CREDIT CORP.

VS.

ROBERT G. OHS

NOTICE OF TAKING OF ORAL
DEPOSITIONS

5/18/61 - 1 copy, 50¢



FLEMING & LITKE
ATTORNEYS AT LAW
BELLEFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORP. : No. 122, November Term, 1960
VS. : In Assumpsit'
ROBERT G. OHS :

NOTICE OF TAKING OF ORAL DEPOSITIONS

TO: Smith, Smith & Work
Attorneys at Law
Clearfield, Pennsylvania
Attorneys for Robert G. Ohs and The Houtzdale Bank

Eugene Cimino, Esq.
Osceola Mills, Pennsylvania and
John McCamley, Esq.
Baird & McCamley
Philipsburg, Pennsylvania
Attorneys' for Earl Killion and Richard J. Petrovich

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William D. Sibley
Attorney for Commercial Credit Corp.,
Plaintiff

DATED: January 24, 1961

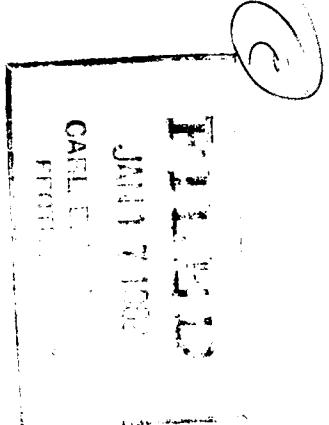
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 122 November Term, 1960

COMMERCIAL CREDIT CORPORATION

-vs-

ROBERT G. OHS

O R D E R



JOHN J. PENTZ
President Judge
CLEARFIELD, PENNSYLVANIA

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

COMMERCIAL CREDIT CORPORATION :

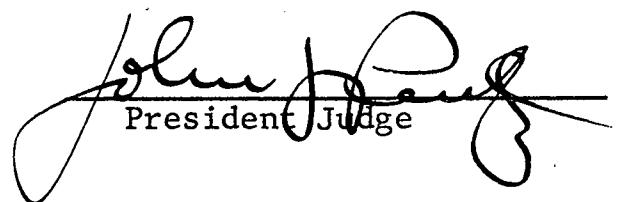
-vs- : No. 122 November Term, 1960.

ROBERT G. OHS :

O R D E R

NOW, January 17, 1962, for the reasons set forth in Opinion filed in Commercial Credit Corporation vs. Paul L. Pry, to No. 119 November Term, 1960, the motion for judgment on the pleadings refused, and defendant to file an amendment to the New Matter within twenty (20) days from the date hereof. Exception noted.

BY THE COURT,


John J. Pung
President Judge

Service accepted by copy March 29, 1962
Smith, Smith & Work
by Joseph P. Work

In the Court of Common Pleas
of Clearfield County, Pa.
No. 122 November Term, 1960

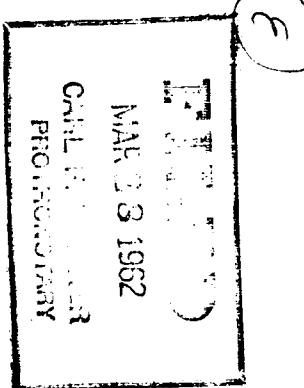
COMMERCIAL CREDIT CORP.

vs.

ROBERT G. OHS

REPLY TO AMENDED ANSWER AND

NEW MATTER



FLEMING & LITKE
ATTORNEYS AT LAW
BELLEFONTE, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORPORATION

Vs.

ROBERT G. OHS

} No. 122 November Term, 1960

} In Assumpsit

REPLY TO AMENDED ANSWER AND NEW MATTER

(7) Plaintiff after reasonable investigation is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph (7) of the Amended Answer and New Matter, and the said averments are therefore denied. Plaintiff demands proof thereof at the trial of this case. However, by way of further Reply, plaintiff avers that even if the averments of Paragraph (7) are true, the defendant was not justified in re lying on the representations alleged and was defrauded by his own neglect of duty in executing such papers under such circumstances, and in not determining for himself the truth or falsity of such representations or taking any care or precaution to see that said representations were true and/or fulfilled and that he was not defrauded.

(8) Plaintiff after reasonable investigation is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph (8) of the Amended Answer and New Matter, and the said averments are therefore denied. Plaintiff demands proof thereof at the trial of this case. However, by way of further Reply, plaintiff avers that even if the averments of Paragraph (8) are true, the defendant was not justified in re lying on the representations alleged and was defrauded by his own neglect of duty in executing such papers under such circumstances, and in not determining for himself the truth or falsity of such representations or taking any care or

precaution to see that said representations were true and/or fulfilled and that he was not defrauded.

(9) Plaintiff after reasonable investigation is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph (9) of the Amended Answer and New Matter, and the said averments are therefore denied. Plaintiff demands proof thereof at the trial of this case. However, by way of further Reply, plaintiff avers that even if the averments of Paragraph (9) are true, the defendant was not justified in relying on the representations alleged and was defrauded by his own neglect of duty in executing such papers under such circumstances, and in not determining for himself the truth or falsity of such representations or taking any care or precaution to see that said representations were true and/or fulfilled and that he was not defrauded.

(10) In all other respects the averments of the Reply to New Matter as previously filed are herein incorporated and reaverred.

WHEREFORE, plaintiff claims judgment against the defendant as prayed for in the Complaint.

FLEMING & LITKE

By 

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF Centre } SS:

Before me, the undersigned, personally appeared C. B. McLAUGHLIN, Office Manager, of the Altoona Branch, COMMERCIAL CREDIT CORPORATION, who being duly sworn according to law, deposes and says that the facts set forth in the foregoing Reply to Amended Answer and New Matter are true and correct to the best of his knowledge, information and belief.

Sworn to and subscribed
before me this 27th day
of March, 1962.

Celia M. Lucas

C. B. McLaughlin

CELIA M. LUCAS, Notary Public
BELLFONTE, CENTRE CO., PA.
My Commission expires Mar. 3, 1963

Connie
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 122 November Term, 1960
In Assumpsit

COMMERCIAL CREDIT CORPORATION

VS.

ROBERT G. OHS

AMENDED ANSWER AND
NEW MATTER

To the within Plaintiff:

you are hereby notified to
plead to the within amended
answer and new matter within
twenty days from the service
hereof.

SMITH, SMITH AND WORK

By *William E. Walker*
Attorneys for defendant

FEB 28 1962

CARL E. WALKER
PROTHONOTARY

SMITH, SMITH & WORK

ATTORNEYS-AT-LAW
CLEARFIELD, PA.

Lap-over Margin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

COMMERCIAL CREDIT CORPORATION :
VS. : No. 122 November Term, 1960
ROBERT G. OHS : In Assumpsit

AMENDED ANSWER AND NEW MATTER

NOW, comes the Defendant, and in conformity with the Order of Court dated January 17th amends Defendant's answer and new matter to add the following:

(7). The fraud hereinbefore referred to perpetrated by the Killion Motors Company through its agents or employee hereinbefore referred to consisted in some or all of the following representations:

A. The Killion Motors Company though its agent or employee hereinbefore referred to represented to the Defendant that additional leases must be signed so that Defendant would have a completed copy. That said additional leases would be returned to the Defendant as required by the Motor Vehicle Sales Finance Act when completed.

B. Killion Motors Company through its agent or employee hereinbefore referred to represented that the lease would be financed as agreed between the parties at the Houtzdale Bank and any additional executed leases would be destroyed.

C. Killion Motors Company through its agent or employee hereinbefore referred to represented to Defendant that the additional papers which it required Defendant to execute were documents necessary to secure title to the motor vehicle hereinbefore referred to or to pay taxes upon the transfer of the same, or were necessary to complete the records of Killion

Motors Company and were not additional bailment leases or other financial obligations.

(8). The fraud hereinbefore referred to perpetrated by the Killion Motors Company through its agent or employee hereinbefore referred to consisted of the following devices: Killion Motors Company through its agent or employee hereinbefore referred to would incorrectly complete a bailment lease, would spill ink thereon or would transfer the same to a desk drawer and then represent to Defendant that because of the occurrences of the aforementioned happenings a new lease must be executed.

(9). Killion Motors Company through its agent or employee hereinbefore referred to at the time of such representations knew that said representations were false and at the time of said devices intended to and did in fact defraud the Defendant by securing the execution of one or more bailment leases intending thereby to defraud the Defendant..

(10). In all other respects the averments of the answer and new matter as previously filed are herein incorporated and reaverred.

WHEREFORE, Defendant denies that he is indebted to the Plaintiff in any sum.

SMITH, SMITH AND WORK By

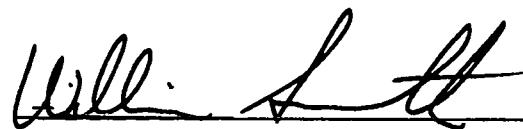


Attorneys for Defendant

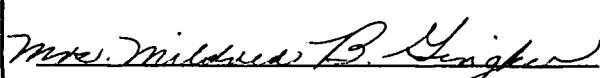
STATE OF PENNSYLVANIA: Ss

COUNTY OF CLEARFIELD:

WILLIAM U. SMITH, being duly sworn according to law,
deposes and says he is the Attorney for the within Defendant, and the facts
set forth in the foregoing Amended Answer and New Matter are true and correct
to the best of his knowledge, information and belief.



Sworn and subscribed to
before me this 28th day
of February, 1962.



NOTARY PUBLIC
My Commission Expires
JANUARY 7, 1963

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION : :

VS : No. 122 November Term, 1960
ROBERT G. OHS : In Assumpsit

P R A E C I P E

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Place the above case on the trial list for the next term of court.

SMITH, SMITH & WORK

BY W. H. Smith
Attys. for Defendant

Dated: April 12, 1961



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMERCIAL CREDIT CORPORATION :
VS : No. 122 November Term, 1960
ROBERT G. OHS : In Assumpsit

PRAECIPE FOR APPEARANCE

TO WILLIAM T. HAGERTY, PROTHONOTARY

SIR:

Enter our appearance on behalf of the Defendant in
the above entitled proceeding.

SMITH, SMITH & WORK

BY William U. Smith
Attys. for Defendant

Dated: November 29, 1960

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Commercial Credit Corporation : No. 122 November Term, 1960

vs

2

Robert G. Ohs

: Complaint In Assumpsit

NOW, November 28, 1960 at 1:30 o'clock P. M. service of the within
Complaint In Assumpsit for Robert G. Ohs accepted by W. U. Smith,
Smith, Smith & Work, Attorneys for Robert G. Ohs.

COSTS: Sheriff Ammerman \$3.00
(Paid)

So answers,

Charles Eugene -
CHARLES G. AMMERMAN
Sheriff

Sworn to before me this 28th
day of November A. D. 1960.

John G. Dwyer
Prothonotary

