

00-284-CD
NATIONAL CITY BANK OF PENNSYLVANIA vs. TERRY D. SARADA et al

(1)

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

(15) NATIONAL CITY BANK OF PENNSYLVANIA,

Plaintiff

No. 00-284-CJ

vs.

PRAEICE FOR WRIT OF SUMMONS

(41) (16) TERRY D. SALADA and
KATHLEEN M. SALADA,

Defendants

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

SHERRY D. LOWE
PA ID #66095
Weltman, Weinberg & Reis, Co., LPA
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#01703705

FILED

MAR 06 2001

William A. Shaw
Prothonotary

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

NATIONAL CITY BANK OF PENNSYLVANIA,

Plaintiff

vs.

Civil Action No.

TERRY D. SALADA and
KATHLEEN M. SALADA,

Defendants

PRAECIPE FOR WRIT OF SUMMONS

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

SIR:

You are hereby instructed by counsel for Plaintiff to issue a Writ of Summons against the Defendants in the above-captioned matter.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 
SHERRY D. LOWE
PA ID #66095
Weltman, Weinberg & Reis, Co., LPA
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR #01703705

FILED

William A. Shaw
Postmaster

100-6251

Missalatty leaves pd \$80.00
cc to Sherry
Writ to Sherry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
CIVIL ACTION

COPY

NATIONAL CITY BANK OF PENNSYLVANIA

Plaintiff(s)

S U M M O N S

NO: 00-284-CD

vs.

TERRY D. SALADA and KATHLEEN M. SALADA

Defendant(s)

To the above named Defendant(s) you are hereby notified
that the above named Plaintiff(s), has/have commenced a Civil Action
against you.

Date March 6, 2000

William A. Shaw, Prothonotary

Issuing Attorney:

Sherry D. Lowe, Esquire
WELTMAN, WEINBERG & REIS, CO., LPA
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

(2)

SHERRY D. LOWE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NATIONAL CITY BANK OF
VS
SALADA, TERRY D.

00-284-CD

FILED

SUMMONS

SHERIFF RETURNS

MAR 24 2000

01/02
William A. Shaw

Prothonotary *KEY*

NOW MARCH 15, 2000 AT 6:24 PM EST SERVED THE WITHIN SUMMONS
ON KATHLEEN M. SALADA, DEFENDANT AT RESIDENCE 218 W. DUBOIS
AVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO
KATHLEEN M. SALADA A TRUE AND ATTESTED COPY OF THE ORIGINAL
SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: SNYDER

NOW MARCH 15, 2000 AT 6:24 PM EST SERVED THE WITHIN SUMMONS
ON TERRY D. SALADA, DEFENDANT AT RESIDENCE 218 W. DUBOIS
AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO
KATHLEEN SALADA, WIFE A TRUE AND ATTESTED COPY OF THE
ORIGINAL SUMMONS AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: SNYDER

63.52 SHFF. HAWKINS PAID BY: ATTY
20.00 SURCHARGE PAID BY: ATTY

SWORN TO BEFORE ME THIS

24th DAY OF March 2000
William A. Shaw

SO ANSWERS,

Chester A. Hawkins
by Marilyn Hump
CHESTER A. HAWKINS
SHERIFF

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

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

NATIONAL CITY BANK OF PENNSYLVANIA,

Petitioner,

vs.

00-284-CO

Case No.: 00-284-CO

TYPE OF PLEADING:

**PETITION IN EQUITY FOR RULE TO SHOW
CAUSE WHY PETITIONER SHOULD NOT BE
ENTITLED TO SELL ITS COLLATERAL AND
APPLY THE NET PROCEEDS TO THE BALANCE
OF ITS CLAIM WITHOUT RESPECT TO ANY
POTENTIAL CLAIM AND/OR INTEREST OF
KATHLEEN M. SALADA**

TERRY D. SALADA and
KATHLEEN M. SALADA,

Respondents.

FILED ON BEHALF OF
Petitioner

COUNSEL OF RECORD OF
THIS PARTY:

SHERRY D. LOWE, ESQUIRE
PA I.D. #66096
Weltman, Weinberg & Reis Co., L.P.A.
2718 Koppers Building
436 7th Avenue
Pittsburgh, PA 15219
(412) 434-7955

FILED

WWR# 01703705

APR 13 2000

William A. Shaw
Prothonotary

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

NATIONAL CITY BANK OF PENNSYLVANIA,)
Petitioner,)
vs.) Case No.:
TERRY SALADA and)
KATHLEEN M. SALADA,)
Respondents.)

**PETITION IN EQUITY FOR RULE TO SHOW CAUSE WHY PETITIONER SHOULD NOT BE
ENTITLED TO SELL ITS COLLATERAL AND APPLY THE NET PROCEEDS
TO THE BALANCE OF ITS CLAIM WITHOUT RESPECT TO ANY POTENTIAL CLAIM
AND/OR INTEREST OF KATHLEEN M. SALADA**

AND NOW, comes Petitioner, National City Bank of Pennsylvania ("Petitioner"), by and though its counsel, Weltman, Weinberg & Reis Co., L.P.A., and files the within Petition for Rule to Show Cause Why it should not be entitled to sell its collateral and apply the net proceeds to the balance of its claim without respect to any potential claim and/or interest of Kathleen M. Salada. In support thereof, Plaintiff avers as follows:

1. Petitioner, National City Bank of Pennsylvania, (hereinafter the "Petitioner Bank") is a banking institution with offices at 6750 Miller Road, Brecksville, Ohio 44141.

2. Respondents, Terry Salada and Kathleen M. Salada, are adult individuals with a last known address of 140 East Maloney Road, Clearfield County, Pennsylvania 15801.

3. On or about July 1, 1998, Terry Salada (hereinafter the "Debtor Respondent") duly executed a Mobile Home Installment Sale Contract Without Real Estate (hereinafter the "Contract") in favor of Petitioner. A true and correct copy of said Contract is attached hereto, marked as Exhibit "1" and made a part hereof.

4. Pursuant to said Contract, Debtor Respondent gave Petitioner security interest in and took possession of a Mobile Home, more particularly identified as a 1995 Skyline 14 x 66 with Serial Number, 30391215H ("Collateral").

5. Pursuant to the terms and conditions provided by the Contract, the Contract and security interest was assigned from the Seller, R. James Smathers, to Petitioner.

6. Petitioner duly perfected its security interest and its lien was noted on the Certificate of Title ("Title") to the vehicle. A true and correct copy of the Pennsylvania Department of Transportation, Certificate of Title for Motor Vehicle is attached hereto, marked as Exhibit "2" and made a part hereof.

7. Petitioner financed one-hundred percent (100%) of the transaction and the obvious intent of the parties was to give a security interest to Petitioner in exchange for the financing provided to Debtor Respondent.

8. Without the consent of Petitioner, said Title was put in the name of Debtor Respondent and Respondent Kathleen M. Salada, who did not sign the Contract and who was not a party to the transaction.

9. On or about February of 1999, Debtor Petitioner defaulted under the terms of the parties' Contract by failing to make payment to Petitioner as promised, thereby rendering the entire balance of the Contract immediately due and payable.

10. On or about July 21, 1999, Debtor Respondent filed for Chapter 7 Bankruptcy Protection and it is believed and therefore averred that said Collateral was and continues to be vacant.

11. During said Bankruptcy matter, the Bankruptcy Court entered an Order granting Petitioner relief from stay to repossess and liquidate said Collateral. A true and correct copy of said Bankruptcy Court Order is attached hereto as Exhibit "3" and made a part hereof.

12. Petitioner now has possession of said Collateral and seeks to sell said Collateral to apply the proceeds against the amount remaining due and owing to Petitioner under said Contract.

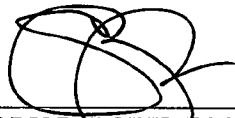
13. Per the terms of the Contract, balance of \$21,225.70 is currently due and payable to Petitioner, as of July 26, 1999.

14. Despite the any legal interest of Respondent, Kathleen M. Salada in said Collateral, the principals of equity dictate that Petitioner should be permitted to sell its Collateral without regard to any potential claim and/or interest held by said Respondent.

15. In light of the foregoing, Petitioner has no adequate remedy at law and seeks an Order declaring that Petitioner has the superior interest in said Collateral and that Petitioner to sell said Collateral and apply the full net proceeds of the sell to its claim.

WHEREFORE, Petitioner, National City Bank of Pennsylvania, respectfully requests that a Rule be issued upon the Respondents to show cause why it should not be entitled to sell its collateral and apply the net proceeds to the balance of its claim, without regard to the potential claim and/or interest of said Respondent, Kathleen M. Salada.

Respectfully Submitted:



SHERRY D. LOWE, ESQUIRE
PA I.D. #66096
Weltman, Weinberg & Reis Co., L.P.A.
2718 Koppers Building
436 7th Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR# 01703705

(4)

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

NATIONAL CITY BANK OF PENNSYLVANIA,)
)
Petitioner,)
)
vs.) Case No.:
)
TERRY SALADA and)
KATHLEEN M. SALADA,)
)
Respondents.)

ORDER OF COURT

AND NOW, to-wit, this 17th day of April, 2000, upon consideration of the foregoing Petition to Show Cause, it is hereby ORDERED, ADJUDGED AND DECREED that:

- (1) a Rule is issued upon Respondents, Terry Salada and Kathleen M. Salada, to show cause why Petitioner should not be entitled to sell its collateral and apply the net proceeds to the balance of its claim without regard to the potential claim and/or interest of Respondent, Kathleen M. Salada;
- (2) the Respondents shall file an Answer to the Petition within 20 days of this date;
- (3) the Petition shall be decided under PA.R.C.P. No. 206.7;
- (4) Argument shall be held on June 1, 2000 in Courtroom 1 of the Clearfield County Courthouse; and at 10:30 A.M.
- (5) Notice of entry of this Order shall be provided to all parties by the Petitioner.

BY THE COURT,

[Signature] FILED

APR 17 2000
04-2001-04
William A. Shaw
Prothonotary
2 Cents to Atty

CERTIFICATE OF SERVICE

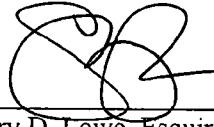
A true and correct copy of the foregoing Petition for Rule to Show Cause has been served by First Class Mail, Postage Pre-Paid, on the 11th day of April, 2000, upon the following:

Terry Salada
140 E. Maloney Road
DuBois, PA 15801

And

Kathleen M. Salada
140 E. Maloney Road
DuBois, PA 15801

By: _____



Sherry D. Lowe, Esquire

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

115
NATIONAL CITY BANK OF PENNSYLVANIA,

Plaintiff No. 00-284-CD

vs.

PRAECIPE TO SETTLE, DISCONTINUE
AND END

61 PERRY SALADA and
61 KATHLEEN M. SALADA,

Defendants FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

SHERRY D. LOWE, ESQUIRE
PA ID #66096
Weltman, Weinberg & Reis, Co., LPA
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#01703705

FILED

JUL - 3 2000

William A. Shaw
Prothonotary

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

NATIONAL CITY BANK OF PENNSYLVANIA,

Plaintiff

vs.

Civil Action No. 00-284-CD

TERRY SALADA and
KATHLEEN M. SALADA,

Defendants

PRAECIPE TO SETTLE DISCONTINUE AND END

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

Settle Discontinue and End the above cautioned matter upon the records of the Court and mark the costs paid.

WELTMAN, WEINBERG & REIS CO., L.P.A.

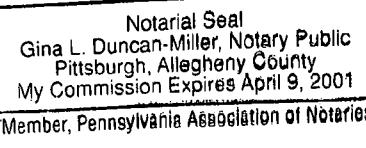


By: _____
SHERRY D. LOWE, ESQUIRE
PA ID #66096
Weltman, Weinberg & Reis, Co., LPA
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR #01703705

Sworn to and subscribed
before me this 2nd
day of June, 00


NOTARY PUBLIC



FILED
10/2:00PM
JUL - 3 2000

William A. Shaw
Prothonotary
3cc-to
Att. Lowe *gjw*

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

NATIONAL CITY BANK OF PENNSYLVANIA

Plaintiff(s)

vs.

No. 00-284-CD

TERRY SALADA and KATHLEEN M. SALADA

Defendant(s)

CERTIFICATE OF DISCONTINUANCE

COMMONWEALTH OF PENNSYLVANIA
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 this day, the 03rd of JULY A.D. 2000, marked:

Settled, discontinued and ended

Record costs in the sum of \$183.52 have been paid in full by

SHERRY D. LOWE, ESQ.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 03rd day of July A.D. 2000.

Prothonotary

FILED

JUL - 3 2000

William A. Shaw
Prothonotary