

03-578-CD
PA Higher Education Assistance vs. Kevin P. Gerlach

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

Pennsylvania Higher Education
Assistance Agency,

Plaintiff

Civil Division

Case Number 2003-578-C0

v.

Kevin P. Gerlach,

Defendant

Praeclipe for Entry
of Judgment

Filed on Behalf of –
Plaintiff

Name, Address and
Telephone of –

X Counsel of Record

_____ Individual, Pro Se

K. Kevin Murphy, Esquire
Counsel to AES PHEAA
1200 North Seventh Street
Harrisburg, PA 17102-1444
(717) 720-2661
Attorney's State ID # 44712

FILED

APR 17 2003
4/23/03
William A. Shaw
Prothonotary/Clerk of Courts
CERT W/ NOTICE TO DEF.
CERT TO ATT.

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

Pennsylvania Higher Education :
Assistance Agency, : No.
Plaintiff :
v. : Term
: :
Kevin P. Gerlach, :
Defendant :

PRAECIPE FOR JUDGMENT
PROTHONOTARY

TO:

You are hereby directed to enter judgment in favor of the above named Plaintiff and against the Defendant in the principal sum of \$25,539.79 plus interest and late fees of \$786.06 from the 26th day of April, 2002, through the 15th day of April, 2003, for the total amount of \$26,325.85, plus interest accruing at 2.750%.



Plaintiff, Attorney, or Agent

AND NOW, this _____ day of _____, 2003, judgment is entered in favor of the Plaintiff and against the Defendant in the amount of \$26,325.85.

I hereby certify that the residence of the Plaintiff(s) is:

1200 North Seventh Street
Dauphin County
Harrisburg, PA 17102-1444

And that the last known address of the Defendant(s) is:

P. O. Box 486
Clearfield County
DuBois, PA 15801



Plaintiff, Attorney, or Agent

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

Pennsylvania Higher Education Assistance Agency, : No.
Plaintiff :
v. : Term
Kevin P. Gerlach, :
Defendant :

NOTICE OF ORDER, JUDGMENT OR DECREE

() Plaintiff You are hereby notified that the following Order, Judgment, or Decree has been entered against you on 17 day of August, 2003 in the above-captioned case.

(X) Judgment in the amount of \$26,325.85 plus interest accrued at 2.750%

() Decree in Divorce

() Decree Nisi in Equity

() Final Decree in Equity

() Justice of the Peace Transcript in Trespass in the amount of _____ Plus Costs.

() If not satisfied within sixty (60) days, your motor vehicle operator's license will be suspended by the Department of Transportation, Bureau of Traffic Safety, Harrisburg, Pennsylvania.

() Entry of Judgment of () Non-Suit of
() Non-Pros
() Default
() Verdict
() Arbitration Award

() Justice of the Peace Transcript in Assumpsit in the amount of _____ Plus Costs.

Prothonotary 
Deputy

(Applicable brackets have been checked)
THIS NOTICE IS NOT A DEMAND FOR PAYMENT

**AFFIDAVIT OF SERVICE
STATEMENT OF CLAIM**

DEFENDANT: Kevin P. Gerlach

ACCOUNT NO: 191-54-0418

IT IS HEREBY CERTIFIED THAT PURSUANT TO THE PROVISIONS OF 24 P.S. SECTION 5104.3 A STATEMENT OF CLAIM WAS SENT TO THE DEFENDANT BY FIRST CLASS MAIL TO THE ADDRESS OF RECORD ON THE DATE APPEARING ON SAID STATEMENT OF CLAIM. IT IS FURTHER CERTIFIED HEREWITH THAT THE STATEMENT OF CLAIM WAS NOT SUBSEQUENTLY RETURNED TO THIS OFFICE AS UNDELIVERABLE AND THEREBY MET THE REQUIREMENTS OF SERVICE.

DATED: 4-14-2003

SIGNED: K. Kevin Murphy

K. Kevin Murphy, Esquire
Counsel to AES PHEAA

Karen L. Stefanic
Notary

NOTARIAL SEAL
KAREN L. STEFANIC, Notary Public
City of Harrisburg Dauphin County
My Commission Expires Sept. 13, 2005

PENNSYLVANIA HIGHER EDUCATION
ASSISTANCE AGENCY,
Plaintiff

v.

KEVIN P. GERLACH,
Defendant

KEVIN P. GERLACH
P. O. BOX 486
DUBOIS, PA 15905

Account No. 191-54-0418

STATEMENT OF CLAIM

1. PLAINTIFF, PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY, IS A PUBLIC CORPORATION AND GOVERNMENT INSTRUMENTALITY, CREATED UNDER THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA BY THE ACT OF AUGUST 7, 1963, P.L. 549, WITH ITS PRINCIPAL ADMINISTRATIVE OFFICES AT 1200 NORTH SEVENTH STREET, HARRISBURG, PENNSYLVANIA 17102.
2. DEFENDANT IS AN INDIVIDUAL WHOSE LAST KNOWN ADDRESS IS INDICATED ABOVE.
3. PLAINTIFF, PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY, BRINGS THIS ACTION AGAINST THE DEFENDANT PURSUANT TO THE ACT OF APRIL 29, 1982 (P.L. 365, NO. 102), (24 P.S. SECTION 5104.3).
4. DEFENDANT SIGNED A PROMISSORY NOTE(S), CREATING A HEALTH EDUCATION ASSISTANCE LOAN PURSUANT TO THE PUBLIC HEALTH SERVICE ACT. SEE ATTACHED PROMISSORY NOTE(S).
5. DEFENDANT BREACHED THE AGREEMENT TO REPAY THE LOAN OBLIGATION AND THE AFORESAID NOTE(S) WAS DECLARED IN DEFAULT BY THE HOLDER, AT WHICH TIME THE UNPAID BALANCE IMMEDIATELY BECAME DUE AND PAYABLE.
6. THE TOTAL AMOUNT DUE PLAINTIFF IS AS FOLLOWS:

PRINCIPAL SUM	\$25,539.79
INTEREST TO NOVEMBER 4, 2002	\$433.30
OTHER CHARGES	\$00.00
COSTS	\$00.00
 TOTAL	 \$25,973.09

WHEREFORE, PLAINTIFF DEMANDS AN ORDER OF DEFAULT AGAINST DEFENDANT IN THE AMOUNT OF \$25,973.09 WITH INTEREST AND COST.

K. Kevin Murphy
K. KEVIN MURPHY
PHEAA LEGAL COUNSEL
1200 NORTH SEVENTH STREET
HARRISBURG, PENNSYLVANIA 17102-1444
(717) 720-2661
TT# (717) 720-2366

DATED: November 4, 2002

AFFIDAVIT OF ENTRY OF ORDER OF DEFAULT

DEFENDANT: Kevin P. Gerlach

ACCOUNT NO: 191-54-0418

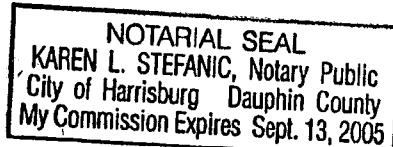
IT IS HEREBY CERTIFIED THAT PURSUANT TO THE PROVISIONS OF 24 P.S. SECTION 5104.3 AN ORDER OF DEFAULT WAS ENTERED BY THE BOARD OF DIRECTORS OF THE PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY AT ITS BOARD MEETING ON FEBRUARY 13, 2003. A RECORD OF THIS ENTRY IS DULY RECORDED AND KEPT AT THE OFFICES OF THE AGENCY LOCATED AT 1200 NORTH SEVENTH STREET, HARRISBURG, PENNSYLVANIA 17102-1444.

DATED: 4-14-2003

SIGNED: K. Kevin Murphy

K. Kevin Murphy, Esquire
Counsel to AES PHEAA

Karen L. Stefanic
Notary



PENNSYLVANIA HIGHER EDUCATION
ASSISTANCE AGENCY,
Plaintiff

vs.
KEVIN P. GERLACH,
Defendant

KEVIN P. GERLACH
P. O. BOX 486
DuBOIS, PA 15801

ACCOUNT NO. 191-54-0418

ORDER OF DEFAULT

AND NOW THIS 13TH DAY OF FEBRUARY, 2003,
IT HAVING BEEN DETERMINED THAT THE ABOVE-NAMED DEFENDANT HAS FAILED TO
FILE A RESPONSE TO THE STATEMENT OF CLAIM FILED AGAINST SUCH DEFENDANT
IN THE RECORDS OF THE AGENCY, AN ORDER OF DEFAULT IS HEREBY ENTERED
AGAINST THE DEFENDANT IN THE AMOUNT OF \$26,200.25.

PRINCIPAL	\$25,539.79
INTEREST TO 02/13/2003	\$655.46
OTHER CHARGES	\$5.00
COSTS	<u>\$00.00</u>
TOTAL	\$26,200.25

THE PENNSYLVANIA HIGHER EDUCATION
ASSISTANCE AGENCY

717-720-2661
717-720-2366 (TT#)

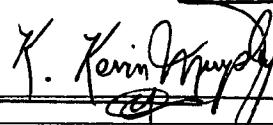
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

Pennsylvania Higher Education :
Assistance Agency, : No.
Plaintiff :
: :
v. : Term,
: :
Kevin P. Gerlach, :
Defendant :
:

**AFFIDAVIT UNDER SOLDIERS' AND SAILORS'
CIVIL RELIEF ACT OF 1940 AS AMENDED**

STATE OF PENNSYLVANIA }
COUNTY OF DAUPHIN } SS:

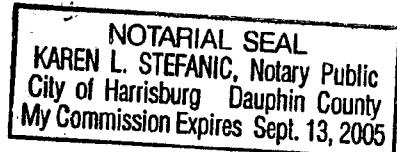
Now comes K. Kevin Murphy, Esquire, under penalty of perjury, deposes and says that the above named Defendant, Kevin P. Gerlach, is not in the military service of the United States of America as defined by the Soldiers' and Sailors' Civil Relief Act of 1940 as amended; that said Defendant is approximately 30 years of age and is employed, to the best of his knowledge, information and belief.



Certified to and subscribed before me
this 14 day of April, 2003.



Karen L. Stefanic
Notary Public



9705001009

FEDERAL HEALTH EDUCATION ASSISTANCE LOAN PROGRAM
Promissory Note—Variable *LEAA*

WARNING: Any person who knowingly makes a false statement or misrepresentation in a HEAL loan transaction, bribes or attempts to bribe a Federal official, fraudulently obtains a HEAL loan, or commits any other illegal action in connection with a HEAL loan is subject to possible fine and imprisonment under Federal statute.

100% presentation of a HEAL loan transaction, bribes or attempts to bribe legal action in connection with a HEAL loan is subject to possible **ALTERNATIVE LOANS**

100-10257

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden to: Reports Clearance Officer, Attention, PRA United States Public Health Service, Hubert H. Humphrey Building, Room 721-B, 200 Independence Avenue, S.W., Washington, D.C. 20201; and to the Office of Management and Budget, Paperwork Reduction Project (0915-0043), Washington, D.C. 20503

Last Name (Print or type) <i>Gerlach</i>	First Name <i>Kevin</i>	Middle Initial <i>P</i>	Social Security Account Number (SSN) <i>191-54-0418</i>
Other Name(s) Used			
PERMANENT (HOME) ADDRESS <i>84 Rosemont Ave</i>	City <i>Johnstown</i>	State <i>PA</i>	Zip Code <i>15905</i>
Area Code/Telephone Number <i>814-255-1014</i>			
LOCAL (SCHOOL) ADDRESS <i>7901 Henry Ave Apt E-306</i>	City <i>Philadelphia</i>	State <i>PA</i>	Zip Code <i>19128</i>
Area Code/Telephone Number <i>215-509-7504</i>			

PROMISE TO PAY

1. Kevin P. Gerlach, the borrower promise to pay to THE PENNSYLVANIA HIGHER
Name of borrower Name, City, and State of Lender

EDUCATION ASSISTANCE AGENCY, HARRISBURG, PA _____, the lender

or the subsequent holder of this Note, the principal sum of \$ 10000, to the extent it is advanced to me, to pay interest on the principal sum as set out below, and to pay authorized late charges, all reasonable attorney's fees, and other costs and charges that are permitted by Federal regulations and are necessary for the collection of any amount not paid when due.

The Lender and I further understand and agree that:

NOTIFICATION

I must immediately notify the lender (in this Note, the term "lender" includes a subsequent holder of the Note) in writing if any of the following occurs to me before the loan is repaid in full: 1) change of address, 2) name change (e.g., maiden name to married name); 3) failure to enroll in a HEAL school for the period for which the loan is intended; 4) transfer to another school, 5) withdrawal from school or attendance on a less than full-time basis; 6) graduation, 7) failure to begin any activity eligible for deferment status, or 8) cessation of participation in an activity eligible for deferment status.

INTEREST

1. Beginning on the day the loan is disbursed, interest shall accrue. Payment of the interest accruing before the beginning of the repayment period may be postponed until the date, upon which repayment of principal is required to begin or to resume. Interest which has accrued and is not paid may be added to the principal sum of this Note not more frequently than every 12 months. Beginning when the repayment period commences, interest shall accrue and be paid as set forth in the Repayment Schedule which the lender shall establish and provide to me. The frequency with which interest that is not paid shall be added to the principal sum, of

(d) Repayment period: T-BILL, PLUS 1.50 PERCENT

3. Any change in the yearly rate of interest will affect the payment amounts, the number of payments, or the amount due at maturity.

INSURANCE PREMIUM

I agree to pay, in addition to interest and principal due, an amount equal to my share of the premium that is required by the Secretary in order to provide insurance coverage on this Note. Payment of an insurance premium calculated in accordance with instructions issued by the Secretary shall be due and payable immediately and may be taken by the lender from the loan proceeds.

PREPAYMENT

I may, at my option and without penalty, prepay all or any part of the principal and accrued interest at any time. If I pay off early, I will not have to pay a penalty. If I pay off early, I will not be entitled to a refund of part of the insurance premium.

2. The repayment period shall not be less than ten years nor more than twenty-five years. Any period described under DEFERMENT and any period of FORBEARANCE shall not be included in determining the ten or twenty-five year periods. If I receive my first HEAL loan on or after October 22, 1985, the repayment period shall not extend to a date that is more than thirty-three years from the date on which I signed this Promissory Note. If I received a HEAL loan prior to October 22, 1985, however, any period described under DEFERMENT shall not be included in determining the thirty-three year period.

3. At least thirty but not more than sixty days before the commencement of my repayment period, I must contact the holder of my loan to establish the precise terms of repayment. My repayment schedule will require monthly payments. However, I may select a monthly repayment schedule with substantially equal installments, a monthly repayment schedule with graduated installments that increase in amount over the repayment period, or a monthly repayment schedule with payments that are based on my debt-to-income ratio during the first 5 years of repayment, if I contact the holder of my loan within the period described above. If I do not contact the holder and do not respond to contacts from the holder, the holder may establish a monthly repayment schedule with substantially equal installment payments, subject to the terms of this Note.

4. The terms and conditions of repayment shall be set forth in a separate Repayment Schedule which the lender shall establish and shall provide me prior to the beginning of the repayment period.

5. Unless I agree otherwise, I shall make a minimum annual repayment of an amount equal to the annual interest on the unpaid principal balance. Except as provided above, if I have other outstanding HEAL loans, the sum of all payments to all holders on my HEAL loans shall not be less than an amount equal to the consolidated interest on the unpaid principal balances.

6. I understand that this loan must be repaid in accordance with my Repayment Schedule. If my account becomes overdue by more than sixty days, the lender must notify an appropriate consumer credit reporting agency of this, which may significantly and adversely affect my credit rating. The lender must also use collection agents and utilize other collection activities (which may include litigation) if my account becomes overdue.

CREDIT REPORTING AGENCY

My lender must disclose my loan, and any other relevant information, to one or more national consumer credit reporting agencies.

LATE CHARGE

If a scheduled payment is late, I will be charged five cents for each dollar of the installment payment due.

DEFERMENT

1. Monthly installments of principal and interest need not be paid, but interest shall accrue:

(A) When I am carrying a full-time course of study at a HEAL school or at an institution of higher education eligible to participate in the Stafford Loan Program.
(B) When I am participating in a fellowship training program or full-time educational activity for not in excess of two years as described in paragraph 1 under REPAYMENT above.
(C) Not in excess of three years for each of the following when I am:

(1) a member of the Armed Forces of the United States;
(2) in service as a volunteer under the Peace Corps Act;
(3) in service as a full-time volunteer under Title I of the Domestic Volunteer Service Act of 1973; and

(4) a member of the National Health Service Corps;

(D) Not in excess of four years when I am a participant in an accredited internship or residency program. Except that if I received my first HEAL loan on or after October 22, 1985, this limitation of four years also includes any period of deferral of the onset of the repayment period for participation in an internship or residency program.

(E) Not in excess of one year, if I received the loan while enrolled in a school of chiropractic and I graduated from a school of chiropractic; and

(F) Not in excess of three years, when I have completed an accredited internship or residency training program in osteopathic general practice, family medicine, general internal medicine, preventive medicine, or general pediatrics, and am practicing primary care.

2. To receive a deferment, including a deferral of the onset of the repayment period (see REPAYMENT), I must, prior to the onset of the activity and annually thereafter, submit to the lender evidence of my status in the deferment activity and evidence that verifies deferment eligibility of the activity. It is my responsibility to provide the lender with all required information or other information regarding the requested deferment.

DEATH/DISABILITY

If I die or become totally and permanently disabled, my unpaid indebtedness on this Note shall be cancelled in accordance with applicable Federal statute and regulations.

FORBEARANCE

I have the right to be granted forbearance whenever I am unable to make payments on my HEAL loan and I continue to repay the loan with my ability to repay the loan unless the Secretary determines that the forbearance will be ineffective in preventing default in accordance with terms that are consistent with the length of repayment if the lender and the borrower agree. The forbearance period may not exceed six months and the total period of forbearance (including any interruption) granted to me must not exceed two years unless the Secretary grants an extension.

DEFAULT

If I do not make payments when due, my loan may be declared in default.

Federal Government will take over my loan and I will then owe the Government. The Federal Government will actively pursue me for repayment of the debt, including the use of collection agents and reporting my default to consumer credit reporting agencies or to the Internal Revenue Service for purpose of locating me or for income tax refund offset, and referral to the Department of Justice for litigation. I may be the subject of court action to force me to pay. The Secretary shall also cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans.

BANKRUPTCY

Under current law, I may not have my loan discharged in bankruptcy during the first 7 years of the repayment period, under any chapter of the Bankruptcy Act, including Chapter 13. I may have a HEAL loan discharged in bankruptcy after the first 7 years of the repayment period, excluding any periods of forbearance and deferral, only upon a finding by the Bankruptcy Court that the non-discharge of such debt would be unconscionable and upon the condition that the Secretary shall not have waived his or her rights to reduce any Federal reimbursements or Federal payments for health services under any Federal law in amounts up to the balance of the loan. Any changes in the HEAL statute regarding the discharge of a HEAL loan in bankruptcy will apply to this loan.

BORROWER'S RIGHTS

1. The lender (holder) cannot change the terms of my HEAL loan without my consent.
2. The lender must provide me with a copy of the completed promissory note when the loan is made. The lender (holder) must return the note to me when the loan is paid in full.
3. The loan check must be made payable jointly to me and the school except that if loan proceeds are disbursed by an electronic transfer mechanism approved by the Secretary, then I must sign a borrower authorization statement. The check or draft must require my endorsement.
4. The lender (holder) will provide me with a repayment schedule before the repayment period begins.

5. If the loan is sold from one lender to another lender, or if the loan is serviced by a party other than the lender, the holder must notify me within 30 days of the transaction and I must be sent a notification which spells out my obligations to the new holder.

6. I have a right to a 9-month "grace period" before repayment begins after I have completed school attendance, internship and residency in an accredited program, or a fellowship training program or full-time educational activity approved by the Secretary for this purpose.

7. I have a right to deferment of principal and interest repayments if certain conditions exist. Under deferment I am not required to make payments on the loan principal or interest for a period of time. However, interest continues to accrue during any deferment period. To receive a deferment, including a deferral of the onset of the repayment period (See Section 60.11(a) of the HEAL regulations), I must, prior to the onset of the activity and annually thereafter, submit to the holder of the note evidence of my status in the deferment activity and evidence that verifies deferment eligibility of the activity. It is my responsibility to provide the holder with all required information regarding the requested deferment.

8. I have a right to prepay the whole or any portion of the loan at any time without a penalty.

9. If I contact the holder of my loan at least 30 but not more than 60 days before the commencement of my repayment period to establish the precise terms of repayment, I may select a monthly repayment schedule with substantially equal installments, a monthly repayment schedule with graduated installments that increase in amount over the repayment period, or a monthly repayment schedule with payments that are based on my debt-to-income ratio during the first 5 years of repayment.

10. My loan obligation will be cancelled in the event of my death or permanent and total disability in accordance with applicable Federal statutes and regulations.

11. "Forbearance" means an extension of time for making loan payments or the acceptance of smaller payments than were previously scheduled to prevent me from defaulting on my payment obligations. I have the right to be granted forbearance whenever I am temporarily unable to make scheduled payments of my HEAL loan and I continue to repay the loan in an amount commensurate with my ability to repay the loan unless the Secretary determines that my default is inevitable and the forbearance will be ineffective in preventing default. A lender (holder) must exercise forbearance with terms that are consistent with the 30-year limitation on the length of repayment if the lender (holder) and the borrower agree in writing to the new terms. Each forbearance period may not exceed 6 months and the total period of forbearance (with or without interruption) granted to me must not exceed 2 years unless an extension is granted by the Secretary.

12. The lender (holder) must notify me in writing of the balance owed for principal, interest, insurance premiums, and any other charges or fees owed to the lender (holder), at least every 6 months from the time my loan was disbursed to me.

13. The lender and I, by mutual agreement, may consolidate all of my HEAL notes into a single instrument under the terms applicable to an insured loan made at the same time as the consolidation. The lender or loan holder should provide full information to me concerning the advantages and disadvantages of loan consolidation.

APR 17 2003

William A. Shaw
Prothonotary/Clerk of Courts

BORROWER'S RESPONSIBILITIES

1. I understand that there is no interest subsidy on a HEAL loan and that I must pay all interest on the loan. If I do not make payments on time or if I default, the total amount to be repaid will be increased by late charges and may be increased by additional interest costs, attorney's fees, court costs and other collection costs.

2. I agree to pay an insurance premium if charged by the lender, not to exceed my share of the amount required by the Secretary to provide insurance coverage on a HEAL loan. I understand that I will not be entitled to any refund of this premium.

If any of the following occurs to me:
name change (e.g., maiden name)
the period for which the loan is in school or attendance on a less than full-time basis
is eligible for deferment status, or I am not in school or attendance on a less than full-time basis.

It may affect my eligibility to receive interest payments.
the onset of the repayment period (See the onset of the activity and annually thereafter)

It is my responsibility to provide evidence of my status in the deferment activity and evidence that verifies deferment eligibility of the activity. It is my responsibility to provide evidence of my status in the deferment activity and evidence that verifies deferment eligibility of the activity.

6. I understand that this loan must be repaid in accordance with my repayment schedule. If my account becomes overdue by more than 60 days, the lender (holder) must notify an appropriate consumer credit reporting agency of this, which may significantly and adversely affect my credit rating. The lender (holder) must also use collection agents and utilize other collection activities (which may include litigation) if my account becomes overdue.

7. If I do not make payments when due, my loan may be declared in default. If I default the Federal Government will take over my loan and I will then owe the Government.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
STATEMENT OF JUDGMENT

Pennsylvania Higher Education Assistance
Agency
Plaintiff(s)

No.: 2003-00578-CD

Real Debt: \$26,325.79

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Kevin P. Gerlach
Defendant(s)

Entry: \$

Instrument: Default Judgment

Date of Entry: April 17, 2003

Expires: April 17, 2008

Certified from the record this April 17, 2003

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
OFFICE OF THE PROTHONOTARY**

Pennsylvania Higher Education Assistance Agency

Vs.

NO. 2003-00578-CD

Kevin P. Gerlach

CERTIFICATION OF DOCKET ENTRIES AND JUDGMENT

I, William A. Shaw, Prothonotary of the Court of Common Please of Clearfield County, Pennsylvania, do hereby certify that the attached is a certified and full copy of the docket entries in the above captioned case.

I further certify that a Judgment was entered in the above captioned matter in favor of Pennsylvania Higher Education Assistance Agency and against Kevin P. Gerlach on April 17, 2003, in the amount of 26,325.85.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the said Court, on the 17th day of April, A.D., 2003.

William A. Shaw
Prothonotary

BY: _____
Deputy

To: Mr. William Shaw
Clearfield County Prothonotary
Fax Machine No: 814-765-7659

From: Karen Stefanic
PHEAA/Legal Services Division
1200 North Seventh Street
Harrisburg, PA 17102-1444
Telephone: (717) 720-2661
Fax: (717) 720-3911
E-mail: kstefani@pheaa.org

Date: April 19, 2003

Re: PHEAA v. Kevin P. Gerlach

Number of Pages (including cover sheet): 4

Comments: Per our conversation, attached is a copy of 24 P.S. §5104.3 [see pg. 3, subsection (h)(1)], which contains the authority for your court to enter judgment in the above matter.

If you have further questions, please contact me at 717-720-2661.

PLEASE NOTE: The information contained in this facsimile message is privileged and confidential, and is intended only for the use of the individual(s) or entity named above who have been specifically authorized to receive it. If the reader is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return all pages to the address shown above. Thank you.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL (717) 720-2661.

*31124 24 P.S. § 5104.3

**PURDON'S PENNSYLVANIA
STATUTES AND CONSOLIDATED
STATUTES ANNOTATED
PURDON'S PENNSYLVANIA
STATUTES ANNOTATED
TITLE 24. EDUCATION
CHAPTER 18. HIGHER
EDUCATION ASSISTANCE
PENNSYLVANIA HIGHER
EDUCATION ASSISTANCE
AGENCY**

Current through End of the 1998 Reg. Sess.

**§ 5104.3. Administrative loan collection
process**

(a) The agency is hereby authorized and directed to maintain a record of administrative and legal actions and proceedings which it undertakes in regard to the collection of student loans. All such records shall be kept in the administrative offices of the agency and at reasonable times the record of a person against whom a statement of claim has been filed as provided herein shall be available for inspection by that person. The agency shall furnish, under seal of the agency when required for evidence in court, any accounts or records of accounts, papers or documents filed in the agency, relative to the granting of financial assistance to any appropriate borrower when required as evidence in any court and such certification shall be competent evidence thereof. The agency shall adopt and renew from time to time a seal of office, an impression of which shall be filed in the office of the Secretary of the Commonwealth.

(b) In addition to the remedies and procedures provided by law for the collection and enforcement of contractual rights, the agency may initiate action against borrowers whom it deems to be indebted to it by filing a statement of claim in the records maintained by the

agency.

(c) The agency shall serve a summary of the statement of claim upon the borrower by first-class mail addressed to the most recent address as provided to the agency by the borrower, pursuant to the terms of the written obligation executed by the borrower, or otherwise acquired by the agency. The summary of the statement of claim shall contain such information as the agency deems necessary but in all instances shall contain the following:

(1) Identification of the agency as the body corporate and politic constituting a public corporation and government instrumentality, together with its address to which the borrower may respond.

(2) Name and last known address of the borrower.

(3) Principal amount of money which the agency claims is due and owing to it including interest and late or other charges thereon and the material facts on which the claim is based.

*31125 (4) The following notice which shall be prominently displayed on the first page of the claim:

NOTICE

Legal action has been taken against you. If you do not file in writing your response to this action within thirty days of this notice, an order of default may be entered against you. You may lose money or property or other rights important to you by garnishment of your wages, salary or commission or other compensation or by levy of execution against your property or assets. You should take this paper to your lawyer immediately. If you do not have a lawyer or cannot afford one, you should call or write the office set forth below. You may qualify for free legal assistance.

(5) The name and address of a lawyer referral service operated by the Pennsylvania Bar Association or one operating in the county in which the borrower was last known to reside.

(6) A statement that an order of default may

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be entered against the borrower without further notice.

(d) If the borrower does not file a response within thirty days from the date of service by first-class mail, the executive director of the agency may recommend to the board of directors of the agency that an order be entered by default and the board, in its discretion, may enter such an order of default to be lodged in the agency records.

(e) The borrower shall file a response to the statement of claim within the prescribed time after service by first-class mail. The response shall admit or deny all averments contained in the statement of claim. An averment in the statement of claim shall be deemed to be denied only if proof thereof is demanded and the borrower states either:

(1) that after reasonable investigation the borrower is without knowledge or information sufficient to form a belief as to the truth of the averment; or

(2) that the borrower is without such knowledge or information because the means of proof are within the exclusive control of an adverse party or hostile person. The response shall set forth all defenses and objections which the borrower has to the statement of claim and any objections or defenses not so presented shall be deemed to have been waived. The pleadings in any action pursuant to this act shall be limited to a statement of claim and a response thereto.

(f) The rules relating to discovery as promulgated by the Pennsylvania Supreme Court, and as amended from time to time, shall be applicable to all proceedings initiated pursuant to this act.

*31126 (g) If the borrower files a response the agency shall accord the borrower such administrative review as provided for in regulations and procedures to be promulgated by the board of directors including but not limited to the right of appeal to the board of directors.

Upon a final determination of debt by the agency and the board of directors, the executive director may recommend that an order of default be entered by the board of directors which may, in its discretion, enter such order of default in the agency records.

(h)(1) The executive director may transfer the record and an order of default to the court of common pleas of the district in which the borrower resides or when residence within the Commonwealth cannot be ascertained, to the Court of Common Pleas of Dauphin County, to be entered as a judgment. Thereafter it shall be the duty of the prothonotary, at the request of the executive director, to issue execution, or such other process as may be necessary and proper, to carry into effect the judgment entered upon such order of the board, subject to the applicable provisions of law or rules or procedure concerning stay of execution upon judgment.

(2) Within twenty days after entry of an order of default, the borrower may apply to the board of directors of the agency to vacate such order.

(3) Within twenty days after entry of judgment, the borrower may apply to the court in which the judgment is entered to set aside such judgment. Such relief shall be granted by a judge of such court if the borrower proves by a preponderance of the evidence that notice of the action was not made in proper manner or the borrower has a good faith defense to the statement of claim.

(4) Any person aggrieved by an order of default entered by the board of directors may appeal such order to the court of common pleas of the district in which the borrower resides or the Court of Common Pleas of Dauphin County. All such appeals shall be governed by the provisions of 2 Pa.C.S. § 701, et seq. and Chapter 15 of the Pennsylvania Rules of Appellate Procedure [FN1] as heretofore adopted and subsequently amended by the Pennsylvania Supreme Court. Notwithstanding any of the foregoing, if the court determines that the petition for review

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and the answer thereto, if any, allege facts which would require a trial by jury, the court may schedule a hearing *de novo*. Any party to the action shall thereupon be entitled to a trial by jury. Such trial by jury shall be governed by the Rules of Civil Procedure as heretofore adopted and subsequently amended by the Pennsylvania Supreme Court.

(i) After an order of default has been entered by the board of directors or the court and the time for appeal has expired, the agency may execute upon the wages, salaries or commissions in the hands of an employer or any other person including the debtor when self-employed in order to effect the repayment of any sums due to the agency as determined by the provisions of this act. An employer shall include any person, partnership, association, corporation, institution, governmental body, unit or agency, school district or municipality, or any other entity employing one or more persons for a salary, wage, commission or other compensation. Execution shall comply with the following:

*31127 (1) The agency shall initiate such action by sending to the debtor's last known address notice of its intent and to the employer a notice of execution upon wages and upon receipt of such notice, the employer shall certify to the agency the amount of wages, salary, commissions or other compensation earned by the debtor. The employer shall pay to the agency such percentage of that amount as the agency demands, not to exceed ten per cent of the wages, salary, commissions or other compensation paid to the debtor during a given pay period, on a timely basis, but not less than once a month or over an extended period if agreed to by the agency. If the agency has instituted a notice of execution upon wages to recover money owed the agency, the agency may assess a civil penalty, not to exceed the amount of the notice of execution, against an employer if the employer does any of the following:

(i) Fails to pay the agency the amount due within the prescribed amount and limits of time.

(ii) Dismisses the responsible debtor from its employment because of the filing of the notice of execution.

(iii) Takes disciplinary action against the responsible debtor because of the filing of the notice of execution.

(2) The agency may execute upon assets or property of a borrower by writ of execution or such other process as may be necessary or proper to carry into effect the judgment entered upon any order of the board. In the case of a writ of execution upon wages to recover moneys owed the agency, failure of an employer to pay to the agency the amount due within the prescribed amount and limits of time shall place the employer in contempt of the court issuing such writ of execution.

(3) Nothing in this subsection shall deny to any debtor the rights afforded debtors under Federal and State exemption laws.

(j) There shall be no limitation of time restricting the filing of a statement of claim in the records of the agency or the entering of a judgment pursuant to this act, and no statute of limitations heretofore enacted shall apply to any causes of actions, claims or demands of the agency to recover any defaulted student loans or any moneys owed to the agency.

(k) The board of directors of the agency shall have the power and its duty shall be to adopt rules and regulations pursuant to the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law [FN2] and not inconsistent with law governing matters relating to this section.

CREDIT(S)

1992 Main Volume

1963, Aug. 7, P.L. 549, § 4.3, added 1982, April 29, P.L. 365, No. 102, § 1, *ind. effective*. Amended 1988, July 14, P.L. 544, No. 96, § 1, *effective in 60 days*.

[FN1] Pa.R.A.P., Rule 1501 et seq., 42 Pa.C.S.A.

[FN2] 45 P.S. § 1102 et seq.

<General Materials (GM) - References,