

03-1436-CD
DEPOSTT BANK vs. JOHN D. DUTTRY, et al

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

DEPOSIT BANK, : NO. 03-1436-C.D.
PLAINTIFF : TYPE OF CASE: MORTGAGE
VS. : FORECLOSURE
: TYPE OF PLEADING: COMPLAINT
: FILED ON BEHALF OF: PLAINTIFF
JOHN D. DUTTRY, individually, :
And as Executor of the Estate of :
MARY JO DUTTRY, :
DEFENDANTS : COUNSEL OF RECORD:
: CHRISTOPHER E. MOHNEY, ESQUIRE
: SUPREME COURT NO.: 63494
: 90 BEAVER DRIVE, SUITE 201A
: DUBOIS, PA 15801
: (814) 375-1044

FILED

SEP 24 2003

William A. Shaw
Prothonotary/Clerk of Courts

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DEFENDANTS :
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NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIM SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
1 NORTH SECOND STREET
CLEARFIELD, PA 16830
(814) 765-2641

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COMPLAINT

AND NOW, comes the Plaintiff, **DEPOSIT BANK**, who files the following
Complaint in Mortgage Foreclosure and in support thereof, the following is averred:

1. Plaintiff **DEPOSIT BANK**, is a Pennsylvania banking corporation, with a branch office place of business at 2 East Long Avenue, P.O. Box 607A, DuBois, Clearfield County, Pennsylvania 15801.
2. Defendant **JOHN D. DUTTRY**, is an adult individual with a last known address at P.O. Box 736, DuBois, Clearfield County, Pennsylvania 15801.
3. Defendant **MARY JO DUTTRY** is deceased and an estate has been opened in the Court of Common Pleas of Clearfield County, Orphans Court Division, to which Defendant **JOHN D. DUTTRY** has been appointed Executor of the Estate.

4. On November 26, 1997, Defendants executed and delivered to Plaintiff a Mortgage and a Promissory Note upon the premises hereinafter described, which Mortgage was recorded on December 1, 1997 in Clearfield County Deed and Record Book Volume 1891, page 55. True and correct copies of the Mortgage and Promissory Note are attached hereto as Exhibits "A" and "B" respectively, and are incorporated herein by reference.

5. Said mortgage has not been assigned.

6. The 30-day Notice required by Act No. 6, 41 P.S. Section 403 and the Notice of Homeowners' Emergency Mortgage Assistance Act of 1983 were mailed to the Defendants on June 10, 2003, by certified mail, return receipt requested and by regular first class mail, postage prepaid. True and correct copies of said Notices and copies of return receipts are attached hereto as Exhibits "C" and "D", respectively, and are incorporated herein by reference.

7. More than thirty (30) days have elapsed since the Notice of Homeowner's Emergency Mortgage Assistance was mailed to the Defendants and the Defendants have not requested a face to face meeting with the Plaintiff, nor has Plaintiff received notice that the Defendants have requested such a meeting with a consumer credit counseling agency or applied for assistance under the Act.

8. The premises subject to the Mortgage is the property located at P.O. Box 736, Section 15, Lots 49 and 50, Treasure Lake, DuBois, Clearfield County, Pennsylvania, and is described on Exhibit "E" attached hereto and made a part hereof.

9. Said Mortgage is in default because the principal payments due upon said Mortgage are overdue and in default for a period of more than thirty (30) days and, by the

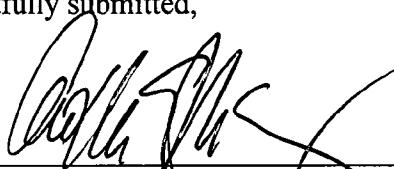
terms of said Mortgage and Promissory Note secured thereby, the whole of said unpaid balance of principal is immediately due and payable.

10. The unpaid balance of the indebtedness due Plaintiff under the terms of the said Mortgage and Promissory Note secured thereby is:

Current Balance -	\$53,275.39
Interest payoff (as of 7/23/03) -	\$ 7,468.70
Late Fees -	<u>\$ 1,756.20</u>
TOTAL:	\$62,500.29

WHEREFORE, Plaintiff demands judgment in the amount of \$62,500.29, plus interest thereon at a per diem rate of \$13.0969 on unpaid principal balance from July 23, 2003, and any escrows, late fees and costs, and for foreclosure and sale of the mortgaged property against the Defendants **JOHN D. DUTTRY, individually, and as Executor of the Estate of MARY JO DUTTRY.**

Respectfully submitted,

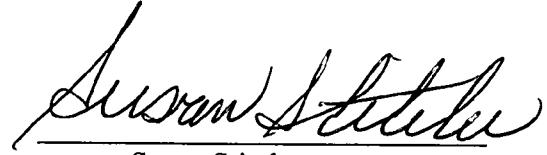
BY: 

Christopher E. Mohney, Esquire
Attorney for the Plaintiff
90 Beaver Drive, Suite 201A
DuBois, PA 15801
(814) 375-1044

VERIFICATION

I, SUSAN STITELER, Assistant Vice President of DEPOSIT BANK, being duly authorized to make this verification, have read the foregoing Complaint. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.



Susan Stiteler
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