

03-1547-CD

Motor-Sage Electronic Registration Systems vs. Nancy L. McIntosh

FEDERMAN AND PHELAN, LLP
By: FRANK FEDERMAN, ESQ., Id. No. 12248
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.
8201 GREENSBORO DRIVE, SUITE 350
MCLEAN, VA 22102

Plaintiff

v.

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI
298 TREASURE LAKE
A/K/A LOT NO. 748 SECTION NO. 14C IN THE
TREASURE LAKE SUBDIVISION
DUBOIS, PA 15801

Defendant(s)

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

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 claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court 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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY
DAVID S. MEHOLICK, COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641 EXT. 5982

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS
CIVIL DIVISION

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 03-1547-CD

CLEARFIELD COUNTY

FILED

OCT 15 2003

William A. Shaw
Prothonotary

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

1. Plaintiff is

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.
8201 GREENSBORO DRIVE, SUITE 350
MCLEAN, VA 22102

Plaintiff, is or will be, the owner of legal title to the mortgage that is the subject of this action, and nominee for the entity indicated below, which is the owner of the entire beneficial interest in the mortgage:

GMAC MORTGAGE CORPORATION
500 ENTERPRISE ROAD SUITE 150
HORSHAM, PA 19044

2. The name(s) and last known address(es) of the Defendant(s) are:

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI
298 TREASURE LAKE
A/K/A LOT NO. 748 SECTION NO. 14C
IN THE TREASURE LAKE SUBDIVISION
DUBOIS, PA 15801

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.


3. On 8/24/2001, mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to PLAINTIFF which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No. 200115350.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 06/01/2003 and each month thereafter are due and unpaid, and by the terms of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$137,487.71
Interest	4,325.30
05/01/2003 through 10/14/2003 (Per Diem \$25.90)	
Attorney's Fees	1,250.00
Cumulative Late Charges	142.90
08/24/2001 to 10/14/2003	
Cost of Suit and Title Search	<u>\$ 550.00</u>
Subtotal	\$ 143,755.91
Escrow	
Credit	0.00
Deficit	862.61
Subtotal	<u>\$ 862.61</u>
TOTAL	\$ 144,618.52

7. The attorney's fees set forth above are in conformity with the mortgage documents and Pennsylvania law, and will be collected in the event of a third party purchaser at Sheriff's Sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.
8. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.
9. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$ 144,618.52, together with interest from 10/14/2003 at the rate of \$25.90 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

FEDERMAN AND PHELAN, LLP
By: 
s/Francis S. Hallinan
FRANK FEDERMAN, ESQUIRE
LAWRENCE T. PHELAN, ESQUIRE
FRANCIS S. HALLINAN, ESQUIRE
Attorneys for Plaintiff

ALL THAT CERTAIN TRACT OF LAND DESIGNATED AS LOT NO. 748 SECTION
NO. 14C IN THE TREASURE LAKE SUBDIVISION IN SANDY TOWNSHIP,
CLEARFIELD COUNTY, PENNSYLVANIA RECORDED IN THE RECORDER OF DEEDS
OFFICE IN MISC DOCKEY MAP FILE NO. 25.

BEING THE SAME PROPERTY CONVEYED TO NANCY L. MCINTOSH BY DEED
FROM RECREATION LAND CORPORATION, A PENNSYLVANIA CORPORATION,
RECORDED 08/18/1994 IN DEED BOOK 1626 PAGE 151.


TAX KEY NUMBER: 128-C2-14C-748-21

ORDER NO. 1478918

PREMISES BEING: 298 TREASURE LAKE
A/K/A LOT NO. 748 SECTION NO. 14C
IN THE TREASURE LAKE SUBDIVISION

VERIFICATION

Robert Lelli hereby states that she is FORECLOSURE SPECIALIST of GMAC MORTGAGE CORPORATION mortgage servicing agent for Plaintiff in this matter, that she is authorized to take this Verification, and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are true and correct to the best of her knowledge, information and belief. The undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.



DATE: 8/28/03

FILED

in 10:50 AM 10/15/03

OCT 15 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.
8201 GREENSBORO DRIVE, SUITE 350
MCLEAN, VA 22102

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI
298 TREASURE LAKE
A/K/A LOT NO. 748 SECTION NO. 14C IN
THE TREASURE LAKE SUBDIVISION
DUBOIS, PA 15801

**PRAECIPE FOR IN REM JUDGMENT FOR FAILURE TO
ANSWER AND ASSESSMENT OF DAMAGES**

TO THE PROTHONOTARY:

Kindly enter an in rem judgment in favor of the Plaintiff and against NANCY L. MCINTOSH A/K/A NANCY L. WESILISKI , Defendant(s) for failure to file an Answer to Plaintiff's Complaint within 20 days from service thereof and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

As set forth in Complaint	\$144,618.52
Interest (10/14/03 to 12/2/03)	<u>1,295.00</u>
TOTAL	\$145,913.52

I hereby certify that (1) the addresses of the Plaintiff and Defendant(s) are as shown above, and (2) that notice has been given in accordance with Rule 237.1, copy attached.


FRANK FEDERMAN, ESQUIRE
Attorney for Plaintiff

Damages are hereby assessed as indicated.

DATE: December 3, 2003


PRO PROTHY

MLD

FILED

DEC 03 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

Plaintiff

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI

Defendant(s)

Notice is given that a Judgment in the above captioned matter has been entered
against you on December 3, 2003.

By: Willi [Signature] DEPUTY

If you have any questions concerning this matter please contact:

Frank Federman
FRANK FEDERMAN, ESQUIRE
Attorney or Party Filing
One Penn Center at Suburban Station
1617 John F. Kennedy Blvd., Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

****THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU HAVE
PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS IS NOT AND SHOULD
NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY
ENFORCEMENT OF A LIEN AGAINST PROPERTY.****

FEDERMAN AND PHELAN, LLP
FRANK FEDERMAN, ESQ., Id. No. 12248
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

MORTGAGE ELECTRONIC REGISTRATION : COURT OF COMMON PLEAS
SYSTEMS, INC.

Plaintiff : CIVIL DIVISION

Vs. : CLEARFIELD COUNTY

NANCY L. MCINTOSH A/K/A NANCY L. WESILSKI : NO. 03-1547-CD
Defendants

FILE COPY

TO: NANCY L. MCINTOSH A/K/A NANCY L. WESILSKI
298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE TREASURE LAKE
SUBDIVISION
DUBOIS, PA 15801

DATE OF NOTICE: NOVEMBER 19, 2003

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY AS ENFORCEMENT OF LIEN AGAINST PROPERTY.

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY
DAVID S. MEHOLICK, COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641

FRANK FEDERMAN, ESQUIRE
LAWRENCE T. PHELAN, ESQUIRE
FRANCIS S. HALLINAN, ESQUIRE
Attorneys for Plaintiff

FEDERMAN AND PHELAN, LLP
By: FRANK FEDERMAN, ESQUIRE
IDENTIFICATION NO. 12248
ONE PENN CENTER AT SUBURBAN STATION
1617 JOHN F. KENNEDY BLVD., SUITE 1400
PHILADELPHIA, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS
CIVIL DIVISION

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI

VERIFICATION OF NON-MILITARY SERVICE

FRANK FEDERMAN, ESQUIRE, hereby verifies that he is attorney for the Plaintiff in the above-captioned matter, and that on information and belief, he has knowledge of the following facts, to wit:

(a) that the defendant(s) is/are not in the Military or Naval Service of the United States or its Allies, or otherwise within the provisions of the Soldiers' and Sailors' Civil Relief Act of Congress of 1940, as amended.

(b) that defendant, NANCY L. MCINTOSH A/K/A NANCY L. WESILISKI, is over 18 years of age, and resides at 298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801 .

This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.


FRANK FEDERMAN, ESQUIRE

FILED 1cc a Notice to Def.

m/11:05 ~~101~~ Statement to Atty
DEC 03 2003

William A. Shaw

Atty pd. 20.00

Filed by: Clerk of Courts



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

COPY

Mortgage Electronic Registration Systems, Inc.
Plaintiff(s)

No.: 2003-01547-CD

Real Debt: \$145,913.52

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Nancy L. McIntosh
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: December 3, 2003

Expires: December 3, 2008

Certified from the record this 3rd day of December, 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

FEDERMAN AND PHELAN, LLP
By: FRANK FEDERMAN, ESQUIRE
IDENTIFICATION NO. 12248
ONE PENN CENTER AT SUBURBAN STATION,
SUITE 1400
PHILADELPHIA, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS
CIVIL DIVISION

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH A/K/A NANCY L.
WESILISKI

AFFIDAVIT

I hereby certify that a true and correct copy of the Notice of Sheriff Sale in the above captioned matter was sent by regular mail and certified mail, return receipt requested, to **NANCY L. MCINTOSH A/K/A NANCY L. WESILISKI** on 3/5/04, at **298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801**, in accordance with the Order of Court dated 3/3/04.

The undersigned understands that this statement is made subject to the penalties of 18 PA C.S. s 4904 relating to unsworn falsification to authorities.


FRANK FEDERMAN, ESQUIRE

Date: March 8, 2004

FILED

MAR 09 2004

William A. Shaw
Prothonotary/Clerk of Courts

FEDERMAN AND PHELAN, LLP.
by: Daniel G. Schmieg, Esquire
Atty. I.D. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19102-1799
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Mortgage Electronic Registration
Systems, INC.

: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS

vs.

Nancy L. McIntosh A/K/A
Nancy L. Wesiliski

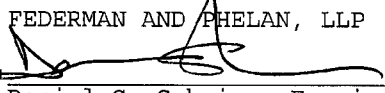
: CIVIL DIVISION

: NO. 03-1547-CD

PRAECIPE FOR RULE TO SHOW CAUSE

TO THE PROTHONOTARY:

Kindly enter a Rule upon Nancy L. McIntosh A/K/A Nancy L. Wesiliski ,
Defendant(s) to show cause why the attached Order for Reassessment of Damages
should not be entered.

FEDERMAN AND PHELAN, LLP
By 
Daniel G. Schmieg, Esquire
Attorney for Plaintiff

FILED

MAR 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

FEDERMAN AND PHELAN, LLP.
by: Daniel G. Schmieg, Esquire
Atty. I.D. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19102-1799
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Mortgage Electronic Registration
Systems, INC.

: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS
: CIVIL DIVISION
: NO. 03-1547-CD

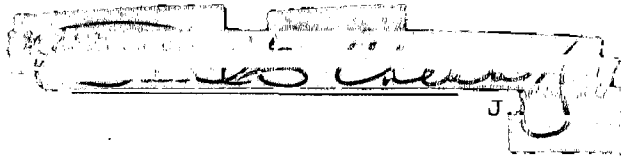
vs.
Nancy L. McIntosh A/K/A
Nancy L. Wesiliski

RULE

AND NOW, this 10th day of February, 2004, a Rule is entered
upon Nancy L. McIntosh A/K/A Nancy L. Wesiliski, Defendant(s) to show cause
why the attached Order for Reassessment of Damages should not be entered.

RULE RETURNABLE the _____ day of _____, 2004.

BY THE COURT:


J.



FEDERMAN AND PHELAN, LLP.
by: Daniel G. Schmieg, Esquire
Atty. I.D. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19102-1799
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Mortgage Electronic Registration
Systems, INC.

: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS

: CIVIL DIVISION

: NO. 03-1547-CD

vs.

Nancy L. McIntosh A/K/A
Nancy L. Wesiliski

ORDER

AND NOW, this day of , 2004, the
Prothonotary is ORDERED to reassess the damages in this case as follows:

Principal Balance	137,487.71
Interest Amount	9,223.62
May 1, 2003 through April 2, 2004	
Late Charges: <i>To the Filing of the complaint</i>	142.90
Legal fees	1,500.00
Cost of Suit and Title	1,422.50
Sheriff's Sale Costs	0.00
Inspections/Other	33.83
Appraisal Fees	0.00
Escrow	
Credit	0.00
Deficit	3,009.32
TOTAL	\$152,819.88

Plus interest per diem from April 2, 2004 through Date of Sale at six (6%) percent.

NOTE: THE ABOVE FIGURE IS NOT A PAY OFF - SHERIFF'S SALE COSTS
AND COMMISSION ARE NOT INCLUDED IN THE ABOVE FIGURES.

BY THE COURT:

J.

FEDERMAN AND PHELAN, LLP.
by: Daniel G. Schmieg, Esquire
Atty. I.D. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19102-1799
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Mortgage Electronic Registration
Systems, INC.

: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS

vs.

Nancy L. McIntosh A/K/A
Nancy L. Wesiliski

: CIVIL DIVISION

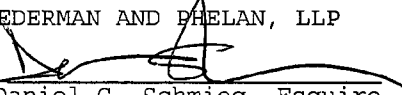
: NO. 03-1547-CD

AFFIDAVIT OF SERVICE

Daniel G. Schmieg, Esquire, hereby certifies that a copy of Plaintiff's
Petition for Reassessment of Damages have been sent to the individuals
indicated below on March 12, 2004.

Nancy L. McIntosh A/K/A
Nancy L. Wesiliski
298 Treasure Lake, A/K/A
Lot No 748 Section No.14C
In The Treasure Lake Subdivision,
Dubois, PA 15801

DATE: March 12, 2004

FEDERMAN AND PHELAN, LLP
By: 
Daniel G. Schmieg, Esquire
Attorney for Plaintiff

FEDERMAN AND PHELAN, LLP.
by: Daniel G. Schmieg, Esquire
Atty. I.D. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19102-1799
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Mortgage Electronic Registration
Systems, INC.

: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS

vs.

Nancy L. McIntosh A/K/A
Nancy L. Wesiliski

: CIVIL DIVISION

: NO. 03-1547-CD

PLAINTIFF'S PETITION FOR REASSESSMENT OF DAMAGES

Plaintiff, by its Attorney, Daniel G. Schmieg, Esquire, moves the Court to direct the Prothonotary to reassess the damages in this matter, and in support thereof avers the following:

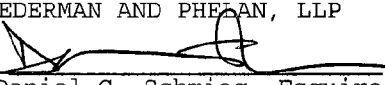
1. Complaint in Mortgage Foreclosure was filed on October 15, 2003.
2. Judgment was entered against Defendant(s) on December 3, 2003 in the amount of 145,913.52.
3. The mortgaged premises are listed for Sheriff's Sale on April 2, 2004.
4. Additional sums have been incurred or expended on Defendant(s)' behalf since the Complaint was filed and Defendant(s) have been given credit for any payments that have been made since the judgment, if any.

The amount of damages should now read as follows:

Principal Balance	137,487.71
Interest Amount	9,223.62
May 1, 2003 through April 2, 2004	
Late Charges: <i>To the Filing of the complaint</i>	142.90
Legal fees	1,500.00
Cost of Suit and Title	1,422.50
Sheriff's Sale Costs	0.00
Inspections/Other	33.83
Appraisal Fees	0.00
Escrow	
Credit	0.00
Deficit	3,009.32
TOTAL	\$152,819.88

5. Under the terms of the mortgage, which mortgage is recorded in the Office of the Recorder of Deeds in Mortgage Instrument NO. (# 200115350), Plaintiff is entitled to judgment in the amount as set forth in paragraph four herein the amount of judgment against the Defendant(s).

WHEREFORE, Plaintiff respectfully requests this Honorable Court issue an Order to the Prothonotary to reassess the damages as set forth above.

FEDERMAN AND PHELAN, LLP
By: 
Daniel G. Schmieg, Esquire
Attorney for Plaintiff

FEDERMAN AND PHELAN, LLP.
by: Daniel G. Schmieg, Esquire
Atty. I.D. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19102-1799
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Mortgage Electronic Registration
Systems, INC.

: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS

: CIVIL DIVISION

: NO. 03-1547-CD

vs.
Nancy L. McIntosh A/K/A
Nancy L. Wesiliski

**BRIEF OF LAW IN SUPPORT OF
PLAINTIFF'S MOTION TO REASSESS DAMAGES**

I. BACKGROUND OF CASE

Plaintiff and Defendant(s) entered into a Promissory Note and Mortgage Agreement, wherein Defendant(s) agreed to pay Plaintiff principal, interest, late charges, real estate taxes, hazard insurance premiums and mortgage insurance premiums as said monies became due. In turn, Plaintiff's Note was secured by a mortgage on the subject premises. The Mortgage Agreement indicates that in the event Defendant(s) defaults, Plaintiff may pay any necessary obligations in order to protect its collateral, the subject premises.

In the case sub judicia, Defendant(s) failed to abide by the Mortgage Agreement by failing to tender numerous, promised monthly mortgage payments. Accordingly, after Plaintiff determined that Defendant(s) were not going to cure the default and bring the loan current, Plaintiff commenced a Mortgage Foreclosure Action.

Judgment was subsequently entered by the Court, and the subject property is scheduled for Sheriff's Sale.

Because of the excessive period of time between the initiation of the Mortgage Foreclosure Action, the entry of Judgment and the Sheriff's Sale date, damages as previously assessed by the Court are outdated and must be increased to include current interest, real estate taxes, insurance premiums, and other expenses which Plaintiff has been obligated to pay under the Mortgage Agreement in order to protect its interest.

II. ARGUMENT FOR REASSESSMENT OF DAMAGES

The Pennsylvania Rules of Civil Procedure are silent with respect to the issue of Reassessment of Damages; however, Rule 1037 provides, "the Prothonotary shall assess damages for the amount which Plaintiff is entitled if

it is a sum certain or which can be made certain by computation..." In the instant case, the amount to which Plaintiff is entitled is readily calculated by review of the Mortgage Agreement, which is of record, together with the Complaint which specifically lists the items chargeable.

Clearly, if Rule 1037 gives the Prothonotary the right to assess damages for the amount to which Plaintiff is entitled as set forth in the Complaint, the Court has similar power to reassess damages at a later date.

In addition, Rule 1037(a) provides that the Court, on motion of a party, may enter an appropriate judgment against a party upon default or admission. If the Court has the power to enter judgment, it certainly has the power to do a lesser act, to wit, reassess damages.

It is settled law in Pennsylvania that the Court may exercise its equitable powers to control the enforcement of a judgment and to grant any relief until that judgment is satisfied. 20 P.L.E., Judgments Sec. 191. See also, Stephenson v. Butts, 187 Pa.Super 55, 59, 142 A.2d 319, 321 (1958); Chase Home Mortgage Corporation of the Southwest v. Good, 537 A.2d 22, 24 (Pa.Super 1988).

In Chase Home Mortgage, the Court stated that where a judgment has been assessed following defendant's failure to file a responsive pleading in a mortgage foreclosure action, a mortgagee "...could properly move the court to amend the judgment to add additional sums due by virtue of the mortgage's failure to comply with the terms of the mortgage agreement..." Id. at 24. Because a judgment in mortgage foreclosure is strictly in rem, it is critical that the judgment reflect those amounts expended by the Plaintiff in protecting the property. See Meco Reality Company v. Burns, 414 Pa. 495, 200 A.2d 335 (1971).

Plaintiff submits that if Plaintiff went to sale without reassessing damages, and if there was competitive bidding for the subject premises, Plaintiff would suffer irreparable harm in that it would not be able to recoup monies it paid to protect its interest. Conversely, a reassessment of damages will not be detrimental whatsoever to Defendant(s) as it imputes no personal liability.

The Supreme Court of Pennsylvania found in the Landau v. Western Pa. Nat. Bank case that the debt owed on a mortgage

changes and can be expected to change from day to day, because Western Pennsylvania must pay expenses for the property in order to protect its collateral. 445 Pa. 117, 282 A.2d 335 (1971). Because a mortgage lien is not extinguished until the debt is paid, Plaintiff must protect its collateral up until the date of sale. See Beckman v. Altoona Trust Co., 332 Pa. 545, 2 A.2d 826 (1939).

Therefore, Plaintiff respectfully submits that if the enforcement of its rights are delayed by legal proceedings and enforcement of its judgment, and such delays require the mortgagee to expend additional sums pursuant to the Mortgage, then said expenses become part of the mortgagee's lien and should be included in said judgment. As the Court indicated in FNMA v. Jefferson, an unreported case a copy of which is attached hereto, since the charges enumerated in Plaintiff's Motion for Reassessment of Damages were incurred pursuant to the Mortgage Agreement, and the mortgage had not yet been paid, said charges should be included in Plaintiff's judgment amount. May Term, 1986, No. 2359 (CCP PHILA. 1986).

III. CONCLUSION

Plaintiff respectfully requests this Honorable Court grant its Petition to Reassess Damages. Plaintiff respectfully submits that it has acted in good faith in maintaining the property in accordance with the Mortgage, and in reliance on said instrument with the understanding that it would recover the monies it expended to protect its collateral.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to reassess the damages as set forth in the Petition to Reassess Damages.

FEDERMAN AND PHELAN, LLP

By: 

Daniel G. Schmieg, Esquire
Attorney For Plaintiff

12-2315

RECORDED - 1 1208

2

FEDERAL NATIONAL MORTGAGE
ASSOCIATION

vs.

JOSEPH JEFFERSON and
ROSIE JEFFERSON, his wife

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

MAY TERM, 1986
NO. 2359

ORDER AND OPINION

WHITE, J.

AND NOW, this 4 day of FEB, 1986,

upon consideration of Plaintiff, Federal National Mortgage Association's Petition for Reconsideration Nunc Pro Tunc of this Court's Order of November 7, 1985 and the Answer thereto of Defendants, Joseph Jefferson and Rosie Jefferson, it is hereby ORDERED and DECREED as follows:

- 1) Said Petition is GRANTED;
- 2) This Court's Order of November 7, 1985 is REVERSED and Plaintiff's Motion for Reassessment of Damages is GRANTED;
- 3) Judgment is hereby increased to \$6,147.71.

Because Plaintiff was required to accept current mortgage payments upon the filing of Defendants' bankruptcy petition and in fact did so, it is necessary to reassess the amount of damages that initially were assessed after judgment by default was entered in this action. Because Defendants have not refuted the specific amounts claimed

by Plaintiff in the instant Motion for Reassessment, this Court finds that Defendants have admitted these amounts, pursuant to Pa. R.C.P. 1029(c).

BY THE COURT:


THOMAS A. WHITE, J.

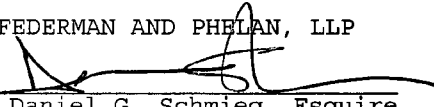
VERIFICATION

Daniel G. Schmieg, Esquire, hereby states that he is the attorney for Plaintiff in this action, that he is authorized to take this affidavit, and that the statements made in the foregoing Petition for Reassessment of Damages are true and correct to the best of his knowledge, information and belief. The undersigned understands that this statement herein is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

DATE: March 12, 2004

FEDERMAN AND PHELAN, LLP

By:


Daniel G. Schmieg, Esquire
Attorney For Plaintiff

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

FILED

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

MAR 25 2004

vs.

No. 03-1547-CD

William A. Shaw
Prothonotary/Clerk of Courts

NANCY L. MCINTOSH, a/k/a
NANCY L. WESILISKI

NOW, this 25th day of March, 2004, upon consideration of the
Plaintiff's Petition for Reassessment of Damages, a Rule is hereby issued upon the Defendant
to Show Cause why the Petition should not be granted. Rule Returnable the 14
day of April, 2004, for filing written response.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION OR MOTION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE 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
230 East Market Street, Suite 228
Clearfield, PA 16830
(814) 765-2641, Ext. 1300 or 1301

BY THE COURT:



President Judge

FEDERMAN AND PHELAN, LLP.
by: Daniel G. Schmieg, Esquire
Atty. I.D. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19102-1799
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Mortgage Electronic Registration
Systems, INC.

: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS

: CIVIL DIVISION

: NO. 03-1547-CD

vs.


Nancy L. McIntosh A/K/A
Nancy L. Wesiliski

CERTIFICATION OF SERVICE

I, Daniel G. Schmieg, Esquire, hereby certify that a copy of the Rule Returnable Date of April 14, 2004 and a copy of Plaintiff's Petition for Reassessment of Damages have been sent to the individuals indicated below on April 2, 2004.

Nancy L. McIntosh A/K/A
Nancy L. Wesiliski
298 Treasure Lake,
A/K/A Lot No. 748
Section NO.14C in the
Treasure Lake Subdivision,
Dubois, PA 15801

FEDERMAN AND PHELAN, LLP

By: 
Daniel G. Schmieg, Esquire
Attorney for Plaintiff

Date: April 2, 2004

FILED

APR 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 15089

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

03-1547-CD

VS.

MCINTOSH, NANCY L.. A/K/A NANCY L. WESILISKI

WRIT OF EXECUTION

REAL ESTATE

SHERIFF RETURNS

NOW, FEBRUARY 9, 2004 @ 2:00 P.M. O'CLOCK A LEVY WAS TAKEN ON THE PROPERTY OF THE DEFENDANTS. THE PROPERTY WAS ALSO POSTED THIS DATE AND TIME.

A SALE DATE OF APRIL 2, 2004 WAS SET,

NOW, FEBRUARY 9, 2004 @ 2:00 P.M. SERVED NANCY L. MCINTOSH A/K/A NANCY L. WESILSKI, DEFENDANT, AT HER RESIDENCE 298 TREASUE LAKE A/K/A LOT NO 748, SECTION NO 14C, BY HANDING TO ROBERT L. WESILSKI, HUSBAND OF THE DEFENDANT, A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOWN TO HIM THE CONTENTS THEREOF.

NOW, APRIL 2, 2004 A SALE WAS HELD ON THE PROPERTY OF THE DEFENDANT. THE PROPERTY WA PURCHASED BY THE PLAINTIFF FOR \$1.00 + COST.

NOW, MAY 18, 2004 PAID THE COSTS FROM THE ADVANCE AND MADE A REFUND OF THE UNUSED ADVANCE TO THE ATTORNEY.

NOW, MAY 18, 2004 RETURN WRIT AS A SALE BEING HELD ON THE PROPERTY OF THE DEFENDNAT. THE PROPERTY WAS PURCHASED BY THE PLAINTIFF FOR \$1.00_ + COSTS.

NOW, MAY 18, 2004 A DEED WAS FILED.

FILED
0/12:31:26
MAY 18 2004

William A. Shaw
Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

Sheriff Docket # 15089

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

03-1547-CD

VS.

MCINTOSH, NANCY L.. A/K/A NANCY L. WESILISKI

WRIT OF EXECUTION

REAL ESTATE

SHERIFF RETURNS

SHERIFF HAWKINS \$213.94

SURCHARGE \$20.00

PAID BY ATTORNEY

Sworn to Before Me This

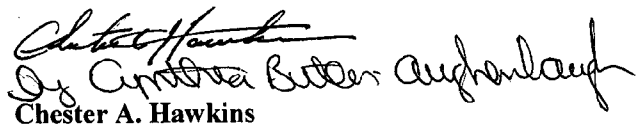
18th Day Of May 2004


WILLIAM A. SHAW

Prothonotary

My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,


Chester A. Hawkins

Sheriff

WRIT OF EXECUTION -- (MORTGAGE FORECLOSURE)
Pa.R.C.P. 3180 to 3183 and Rule 3257

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.**

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

vs.

NO.: 03-1547-CD

**NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI**

**WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

Commonwealth of Pennsylvania:

County of Clearfield:

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property (specifically described property below):

**Premises: 298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE
TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801**

(See legal description attached.)

Amount Due

\$145,913.52

Interest from 12/2/03 to
Date of Sale (\$23.99 per diem)

\$ _____

Total

\$ _____ Plus costs as endorsed.

125.00 Prothonotary costs

Will [Signature]
Prothonotary, Common Pleas Court of
Clearfield County, Pennsylvania

Dated 12/3/03
(SEAL)

By:

Deputy

MLD

*Received December 3, 2003 @ 3:15 P.M.
Chester A. Wankins
By Cynthia Butler-Aylerbaugh*

No. 03-1547-CD

**In the Court of Common Pleas of
Clearfield County, Pennsylvania**

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

vs.

NANCY L. MCINTOSH A/K/A NANCY L. WESILISKI

**WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

Real Debt	<u>\$145,913.52</u>
Int. from 12/2/03 to Date of Sale (\$23.99 per diem)	<u> </u>
Costs	<u> </u>
Prothy. Pd.	<u>125.00</u>
Sheriff	<u> </u>


Attorney for Plaintiff

Address: 298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE
TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801

Where papers may be served.

Frank Federman, Esquire
One Penn Center at Suburban Station
1617 John F. Kennedy Blvd., Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

ALL THAT CERTAIN tract of land designated as Lot No. 748 Section No. 14C in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania recorded in the Recorder of Deeds Office in Miscellaneous Docket Map File No. 25.

Tax Parcel #128-C02-14C-748-21

TITLE TO SAID PREMISES IS VESTED IN Nancy L. McIntosh by Deed from Recreation Land Corporation, a Pennsylvania Corporation dated 7/12/1994 and recorded 8/18/1994, in Deed Book Volume 1626, Page 151.

REAL ESTATE SALE SCHEDULE OF DISTRIBUTION

NAME MCINTOSH NO. 03-1547-CD

NOW, April 2, 2004, by virtue of the Writ of Execution hereunto attached, after having given due and legal notice of time and place of sale by publication in a newspaper published in this County and by handbills posted on the premises setting for the date, time and place of sale at the Court House in Clearfield on the 2ND day of APRIL 2004, I exposed the within described real estate of NANCY L. MCINTOSH A/K/A NANCY L. WESILISKI to public venue or outcry at which time and place I sold the same to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. he/she being the highest bidder, for the sum of \$1.00 + COSTS and made the following appropriations, viz:

SHERIFF COSTS:

RDR	15.00
SERVICE	15.00
MILEAGE	14.25
LEVY	15.00
MILEAGE	14.25
POSTING	15.00
CSDS	10.00
COMMISSION 2%	
POSTAGE	4.44
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	
DEED	30.00
ADD'L POSTING	
ADD'L MILEAGE	
ADD'L LEVY	
BID AMOUNT	1.00
RETURNS/DEPUTIZE	
COPIES/BILLING	15.00
	5.00
BILLING/PHONE/FAX	5.00

TOTAL SHERIFF COSTS 213.94

DEED COSTS:

ACKNOWLEDGEMENT	5.00
REGISTER & RECORDER	28.50
TRANSFER TAX 2%	
TOTAL DEED COSTS	28.50

PLAINTIFF COSTS, DEBT & INTEREST:

DEBT-AMOUNT DUE	145,913.52
INTEREST FROM 12/2/03 @ 23.99	
TO BE ADDED TO SALE DATE	
ATTORNEY FEES	
PROTH. SATISFACTION	
LATE CHARGES & FEES	
COST OF SUIT -TO BE ADDED	
FORECLOSURE FEES/ESCROW DEFICIT	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	
SATISFACTION FEE	
ESCROW DEFICIENCY	

TOTAL DEBT & INTEREST 145,913.52

COSTS:

ADVERTISING	243.54
TAXES - collector PAID	
TAXES - tax claim NONE	
DUE	
LIEN SEARCH	100.00
ACKNOWLEDGEMENT	5.00
DEED COSTS	29.00
SHERIFF COSTS	213.94
LEGAL JOURNAL AD	117.00
PROTHONOTARY	125.00
MORTGAGE SEARCH	40.00
MUNICIPAL LIEN	

TOTAL COSTS 873.48

DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE **WITHIN TEN (10) DAYS FROM THIS DATE.**

CHESTER A. HAWKINS, Sheriff

FEDERMAN AND PHELAN

By: FRANK FEDERMAN, ESQUIRE

IDENTIFICATION NO. 12248

ONE PENN CENTER AT SUBURBAN STATION,
SUITE 1400

PHILADELPHIA, PA 19103-1814

(215) 563-7000

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 03-1547-CD

vs.

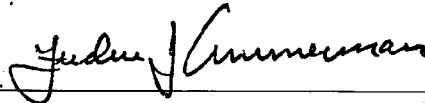
NANCY L. MCINTOSH A/K/A NANCY L.
WESILISKI

ORDER

AND NOW, this 3rd day of March, 2004, upon consideration of Plaintiff's Motion and the Affidavit of Good Faith Investigation attached thereto, it is hereby **ORDERED** that Plaintiff may obtain service of the Notice of Sale on the above captioned Defendant(s), **NANCY L. MCINTOSH A/K/A NANCY L. WESILISKI**, by mailing a true and correct copy of the Notice of Sale by certified mail and regular mail to Defendant's last known address and the mortgaged premises.

Service of the aforementioned mailings is effective upon the date of mailing and is to be done by Plaintiff's attorney, who will file with the Prothonotary's Office an Affidavit of service.

BY THE COURT:



J.

FILED

MAR 03 2004

William A. Shaw
Prothonotary

FILED

0 10:11 AM 2004 to 4444, 2004
MAR 03 2004

William A. Shaw
Prothonotary

11-11-11

FEDERMAN AND PHELAN

By: FRANK FEDERMAN, ESQUIRE

IDENTIFICATION NO. 12248

ONE PENN CENTER AT SUBURBAN STATION,

SUITE 1400

PHILADELPHIA, PA 19103-1814

(215) 563-7000

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH A/K/A NANCY L.
WESILISKI


**MOTION FOR SERVICE PURSUANT TO
SPECIAL ORDER OF COURT**

Plaintiff, by its counsel, Frank Federman, Esquire, moves this Honorable Court for an Order directing service of the Notice of Sale upon the above captioned Defendant(s) by certified mail and regular mail to Defendant's last known address.

1. Attempts to serve Defendant with Notice of Sale have been unsuccessful, as indicated by the Affidavit of Service attached hereto as Exhibit "A."

2. Pursuant to Pennsylvania Rule of Civil Procedure 430, Plaintiff has made a good faith effort to locate the Defendant. An Affidavit of Good Faith Investigation setting forth the specific inquiries made and the results therefrom is attached hereto as Exhibit "B."

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter an Order pursuant to Pennsylvania Rule of Civil Procedure 430 directing service of the Notice of Sale by certified mail and regular mail to Defendant's last known address and the mortgaged premises.



FRANK FEDERMAN, ESQUIRE
ATTORNEY FOR PLAINTIFF

FILED

MAR 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

AFFIDAVIT OF SERVICE

PLAINTIFF
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.

CLEARFIELD COUNTY

ACCT. #652672702

DEFENDANT
NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI

COURT NO.: 03-1547-CD

SERVE NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI AT:
298 TREASURE LAKE
A/K/A LOT NO. 748 SECTION NO. 14C
IN THE TREASURE LAKE SUBDIVISION
DUBOIS, PA 15801

TYPE OF ACTION
XX Notice of Sheriff's Sale
SALE DATE: APRIL 2, 2004

EXHIBIT "A"

SERVED

Served and made known to _____, Defendant on the ____ day of _____, 200 __, at _____, o'clock __. M., at _____, Commonwealth of Pennsylvania, in the manner described below:

- ☐ Defendant personally served.
☐ Adult family member with whom Defendant(s) reside(s).
Relationship is _____.
☐ Adult in charge of Defendant's residence who refused to give name or relationship.
☐ Manager/Clerk of place of lodging in which Defendant(s) reside(s).
☐ Agent or person in charge of Defendant's office or usual place of business.
_____ an officer of said Defendant's company.
☐ Other: _____.

Description: Age _____ Height _____ Weight _____ Race _____ Sex _____ Other _____

I, _____, a competent adult, being duly sworn according to law, depose and state that I personally handed a true and correct copy of the Notice of Sheriff's Sale in the manner as set forth herein, issued in the captioned case on the date and at the address indicated above.

Sworn to and subscribed
before me this _____ day
of _____, 200 ____.

Notary:

By:

NOT SERVED

On the 11 day of February, 2004, at 6:25 o'clock P. M., Defendant NOT FOUND because:
☐ Moved ☐ Unknown ☐ No Answer ☒ Vacant

Other:

Sworn to and subscribed
before me this 13th day
of February, 2004.

Notary:

Marilyn A. Campbell

By:

Thomas P. Chatham

ATTORNEY FOR PLAINTIFF
FRANK FEDERMAN, ESQUIRE
I.D.#12248
One Penn Center at Suburban Station
1617 John F. Kennedy Blvd., Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal
Marilyn A. Campbell, Notary Public
City of Altoona, Blair County
My Commission Expires Oct. 28, 2007

Member, Pennsylvania Association of Notaries

EKL DATA, INC
AFFIDAVIT OF GOOD FAITH INVESTIGATION

Loan Number:

File Number:

Attorney Firm: **Federman & Phelan**

Subject: **Nancy L. McIntosh a/k/a Nancy L. Wesiliski**

Property Address **298 Treasure Lake a/k/a Lot #748 Section #14C in Treasure Lake
Subdivision
Dubois, PA 15801**

Last Known Address: **298 Treasure Lake a/k/a Lot #748 Section #14C in Treasure Lake
Subdivision
Dubois, PA 15801**

Current Address: **298 Treasure Lake**
As of February 24, 2004 **Dubois, PA 15801**

Last Known Number: **not listed**

EXHIBIT "B"

George H. Lewis III, being duly sworn according to law, deposes and says:

1. I am employed in the capacity of researcher for EKL DATA, INC.

2. On February 24, 2004, I conducted an investigation into the whereabouts of the above named defendant(s). The results of my investigation are as follows:

I. Credit Information

A. Social Security Number

Our search verified the following to be true and correct:

- 1. Nancy L. McIntosh a/k/a Nancy L. Wesiliski: 168-40-0085**

B. Employment Search:

Nancy L. McIntosh a/k/a Nancy L. Wesiliski - A review of the credit report provided no employment information.

C. Inquiry of Creditors:

The creditors indicated that Nancy L. McIntosh a/k/a Nancy L. Wesiliski resides at: 298 Treasure Lake, Dubois, PA 15801.

II. Inquiry of Telephone Company

A. Directory Assistance Search:

On February 24, 2004, our office contacted directory assistance, which indicated that the mortgagor's telephone number is not listed at 298 Treasure Lake, Dubois, PA 15801.

III. Inquiry of Neighbors

Our office, using an Internet database that supplies neighboring telephone numbers, found that they were unable to locate any neighbors that were able to verify with them that the above-mentioned mortgagor does reside at 298 Treasure Lake.

IV. Address Inquiry

A. National Address Update:

Our inquiry with the National Address database on February 24, 2004 indicates that the following is correct: Nancy L. McIntosh a/k/a Nancy L. Wesiliski - 298 Treasure Lake, Dubois, PA 15801.

EKL DATA, INC
AFFIDAVIT OF GOOD FAITH INVESTIGATION

B. Additional Active Mailing Addresses

Our research has not located any other additional mailing addresses for the above-mentioned mortgager.

V. Drivers License Information

Per the Pennsylvania Department of Motor Vehicles Nancy L. McIntosh a/k/a Nancy L. Wesiliski has an identification registration with the state.

VI. Other Inquiries

A. Death Records:

As of December 2003, there is no record for the above-mentioned mortgagor or mortgagor's social security number on file with the Social Security Death Index.

B. Public Licenses

None Found

C. County Voter Registration:

On February 24, 2004, our office, using a database of all registered voters in the state of Pennsylvania, confirmed that the county doesn't have Nancy L. McIntosh a/k/a Nancy L. Wesiliski listed as a registered voter with an address of 298 Treasure Lake, Dubois, PA 15801.

D. D.O.B.:

Nancy L. McIntosh a/k/a Nancy L. Wesiliski: 6/1/1949

E. Miscellaneous Information

The creditor indicate another possible address for the above-mentioned mortgagor of 201 East Main Street, Reynoldsville, PA 15851 however our office cannot verify or substantiate this information at this time.

The undersigned understands that this statement herein is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

I hereby verify that the statements made herein are true and correct to the best of my knowledge, information and belief and that this affidavit of investigation is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.



Affiant George H. Lewis III

Subscribed and sworn before me on February 24, 2004.



Notary Public

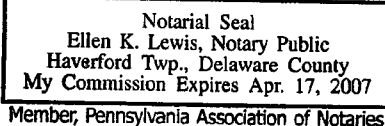


EXHIBIT "B"

FEDERMAN AND PHELAN
By: FRANK FEDERMAN, ESQUIRE
IDENTIFICATION NO. 12248
ONE PENN CENTER AT SUBURBAN STATION,
SUITE 1400
PHILADELPHIA, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS
CIVIL DIVISION
CLEARFIELD COUNTY

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH A/K/A NANCY L.
WESILISKI

MEMORANDUM OF LAW

Pennsylvania Rule of Civil Procedure 430(a) specifically provides:

(a) If service cannot be made under the applicable rule, the plaintiff may move the Court for a special order directing the method of service. The Motion shall be accompanied by an Affidavit stating the nature and extent of the investigation which has been made to determine the whereabouts of the Defendant and the reasons why service cannot be made.

Note: A Sheriff's return of "Not Found" or the fact that a Defendant has moved without leaving a new forwarding address is insufficient evidence of concealment. Gonzales vs. Polis, 238 Pa. Super. 362, 357 A.2d 580 (1976). "Notice of intended adoption mailed to last known address requires a good faith effort to discover the correct address." Adoption of Walker, 468 Pa. 165, 360 A.2d 603 (1976).

An illustration of good faith effort to locate the defendant includes (1) inquiries of postal authorities including inquiries pursuant to the Freedom of Information Act, 39 C.F.R. Part 265, (2) inquiries of relatives neighbors, friends and employers of the Defendant and (3) examinations of local telephone directories, voter registration records, local tax records, and motor vehicle records.

As indicated by the attached Affidavit of Service, marked hereto as Exhibit "A", the Sheriff has been unable to serve the Notice of Sale. A good faith effort to discover the whereabouts of the Defendant has been made as evidenced by the attached Affidavit of Good Faith Investigation, marked Exhibit "B."

WHEREFORE, Plaintiff respectfully requests service of the Notice of Sale by certified mail and regular mail to Defendant's last known address.

RECEIVED

MAR 01 2004

COURT ADMINISTRATORS
OFFICE

Respectfully submitted:

Frank Federman
FRANK FEDERMAN, ESQUIRE
ATTORNEY FOR PLAINTIFF

VERIFICATION

FRANK FEDERMAN, ESQUIRE, hereby states that he is the Attorney for the Plaintiff in this action, that he is authorized to take this Affidavit, and that the statements made in the foregoing **MOTION FOR SERVICE OF THE NOTICE OF SALE PURSUANT TO SPECIAL ORDER OF COURT** are true and correct to the best of his knowledge, information and belief.

The undersigned understands that this statement herein is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.


FRANK FEDERMAN, ESQUIRE
ATTORNEY FOR PLAINTIFF

FEDERMAN AND PHELAN

By: FRANK FEDERMAN, ESQUIRE

IDENTIFICATION NO. 12248

ONE PENN CENTER AT SUBURBAN STATION,
SUITE 1400

PHILADELPHIA, PA 19103-1814

(215) 563-7000

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

MORTGAGE ELECTRONIC

REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH A/K/A NANCY L.
WESILISKI

CERTIFICATION OF SERVICE

I, FRANK FEDERMAN, ESQUIRE, hereby certify that a copy of the Motion for Service

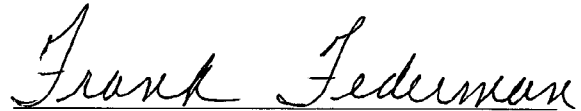
Pursuant to Special Order of Court has been sent to the individuals indicated below on

February 26, 2004.

NANCY L. MCINTOSH A/K/A NANCY L. WESILISKI

298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE TREASURE LAKE
SUBDIVISION

DUBOIS, PA 15801

A handwritten signature in cursive script that reads "Frank Federman". The signature is written in dark ink and is positioned above the printed name and title.

FRANK FEDERMAN, ESQUIRE

Attorney for Plaintiff

Date: February 26, 2004

FILED
MAR 19 2004
cc
E

William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR WRIT OF EXECUTION--(MORTGAGE FORECLOSURE)
Pa.R.C.P. 3180-3183

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.**

vs.

**NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI**

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

No. 03-1547-CD

**PRAECIPE FOR WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

To the Director of the Office of the Prothonotary:

Issue writ of execution in the above matter:

Amount Due

\$145,913.52

Interest from 12/2/03 to
Date of Sale (\$23.99 per diem)

_____ and Costs.

125.00 Prothonotary costs

Frank Federman

Frank Federman, Esquire

Attorney for Plaintiff

One Penn Center at Suburban Station

1617 John F. Kennedy Blvd., Suite 1400

Philadelphia, PA 19103-1814

Note: Please attach description of Property.

MLD

FILED

DEC 03 2003

William A. Shaw
Prothonotary/Clerk of Courts

No. 03-1547-CD

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

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.

vs.

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI

**PRAECIPE FOR WRIT OF EXECUTION
(Mortgage Foreclosure)**

Frank Feldman
Attorney for Plaintiff(s)

Address: 298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE
TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801
Where papers may be served.

William A. Shaw
Prothonotary/Clerk of Courts

FILED
DEC 03 2003
1 cc Shiff at locusts
with pmp. desc.
Ady. pd. 20.00
EAS

CLEARFIELD COUNTY

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI

AFFIDAVIT PURSUANT TO RULE 3129
(Affidavit No. 1)

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., Plaintiff in the above action, by its attorney, Frank Federman, Esquire, sets forth as of the date the Praecipe for the Writ of Execution was filed the following information concerning the real property located at 298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801:

1. Name and address of Owner(s) or reputed Owner(s):

Name

Last Known Address (if address cannot be
reasonably ascertained, please indicate)

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI

298 TREASURE LAKE
A/K/A LOT NO. 748 SECTION NO. 14C
IN THE TREASURE LAKE SUBDIVISION
DUBOIS, PA 15801

2. Name and address of Defendant(s) in the judgment:

SAME AS ABOVE

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.


FRANK FEDERMAN, ESQUIRE
Attorney for Plaintiff

December 1, 2003

CLEARFIELD COUNTY

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

No.: 03-1547-CD

vs.

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI

AFFIDAVIT PURSUANT TO RULE 3129
(Affidavit No. 2)

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., Plaintiff in the above action, by its attorney, Frank Federman, Esquire, sets forth as of the date the Praecipe for the Writ of Execution was filed the following information concerning the real property located at 298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801:

3. Name and last known address of every judgment creditor whose judgment is a record lien on the real property to be sold:

Name

Last Known Address (if address cannot be reasonably
ascertained, please indicate)

None.

4. Name and address of last recorded holder of every mortgage of record:

Name

Last Known Address (if address cannot be reasonable
ascertained, please indicate)

None.

5. Name and address of every other person who has any record lien on the property:

Name

Last Known Address (if address cannot be
reasonable ascertained, please indicate)

None.

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the sale.

Name

Last Known Address (if address cannot be
reasonably ascertained, please indicate)

Clearfield County Domestic Relations

Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

TREASURE LAKE PROPERTY OWNERS ASSN.

13 TREASURE LAKE
DUBOIS, PA 15801

7. Name and address of every other person of whom the plaintiff has knowledge who has any interest in the property which may be affected by the sale:

Name

Last Known Address (if address cannot be
reasonably ascertained, please indicate)

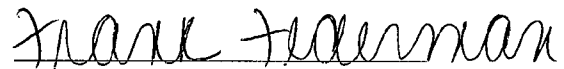
Commonwealth of Pennsylvania
Department of Welfare

PO Box 2675
Harrisburg, PA 17105

Tenant/Occupant

298 TREASURE LAKE
A/K/A LOT NO. 748 SECTION NO. 14C
IN THE TREASURE LAKE SUBDIVISION
DUBOIS, PA 15801

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.


FRANK FEDERMAN, ESQUIRE
Attorney for Plaintiff

December 1, 2003

FEDERMAN AND PHELAN, LLP
By: FRANK FEDERMAN, ESQUIRE
ONE PENN CENTER AT
SUBURBAN STATION
1617 JOHN F. KENNEDY BOULEVARD
SUITE 1400
PHILADELPHIA, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF
COURT OF COMMON PLEAS
CIVIL DIVISION

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.

No.: 03-1547-CD

vs.

CLEARFIELD COUNTY

NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI

CERTIFICATION

FRANK FEDERMAN, ESQUIRE, hereby states that he is the attorney for the Plaintiff in the above captioned matter and that the premises are not subject to the provisions of Act 91 because it is:

- ☐ an FHA Mortgage
- ☐ non-owner occupied
- ☐ vacant
- ☒ Act 91 procedures have been fulfilled

This certification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


FRANK FEDERMAN, ESQUIRE
Attorney for Plaintiff

WRIT OF EXECUTION -- (MORTGAGE FORECLOSURE)
Pa.R.C.P. 3180 to 3183 and Rule 3257

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.**

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

vs.

NO.: 03-1547-CD

**NANCY L. MCINTOSH
A/K/A NANCY L. WESILISKI**

**WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

Commonwealth of Pennsylvania:

County of Clearfield:

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

**To satisfy the judgment, interest and costs in the above matter you are directed to levy
upon and sell the following described property (specifically described property below):**

**Premises: 298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE
TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801**

(See legal description attached.)

Amount Due

\$145,913.52

Interest from 12/2/03 to

\$ _____

Date of Sale (\$23.99 per diem)

Total

\$ _____ Plus costs as endorsed.

125.00 Prothonotary costs

Will [Signature]

Prothonotary, Common Pleas Court of
Clearfield County, Pennsylvania

Dated 12/3/03
(SEAL)

By:

~~Deputy~~

MLD

No. 03-1547-CD

**In the Court of Common Pleas of
Clearfield County, Pennsylvania**

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

VS.

NANCY L. MCINTOSH A/K/A NANCY L. WESILISKI

**WRIT OF EXECUTION
(MORTGAGE FORECLOSURE)**

Real Debt \$145,913.52

Int. from 12/2/03 _____
to Date of Sale (\$23.99 per diem)

Costs _____

Prothy. Pd. 125.00

Sheriff _____



Attorney for Plaintiff

Address: 298 TREASURE LAKE A/K/A LOT NO. 748 SECTION NO. 14C IN THE
TREASURE LAKE SUBDIVISION, DUBOIS, PA 15801

Where papers may be served.

Frank Federman, Esquire
One Penn Center at Suburban Station
1617 John F. Kennedy Blvd., Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

ALL THAT CERTAIN tract of land designated as Lot No. 748 Section No. 14C in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania recorded in the Recorder of Deeds Office in Miscellaneous Docket Map File No. 25.

Tax Parcel #128-C02-14C-748-21

TITLE TO SAID PREMISES IS VESTED IN Nancy L. McIntosh by Deed from Recreation Land Corporation, a Pennsylvania Corporation dated 7/12/1994 and recorded 8/18/1994, in Deed Book Volume 1626, Page 151.

In The Court of Common Pleas of Clearfield County, Pennsylvania

MORTGAGE ELECTRONIC REGISTRATON SYSTEMS INC

VS.

MCINTOSH, NANCY L.

Sheriff Docket #

14683

03-1547-CD

COMPLAINT IN MORTGAGE FORECLOSURE

SHERIFF RETURNS

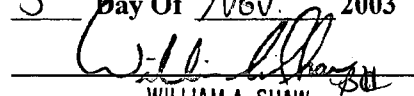
NOW OCTOBER 29, 2003 AT 10:30 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON NANCY L. MCINTOSH a/k/a NANCY L. WESILISKI, DEFENDANT AT RESIDENCE, 298 TREASURE LAKE a/k/a LOT 748 SECTION 14 C SUBDIVISION, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO ROBERT WESILISKI, HUSBAND A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN TO HIM THE CONTENTS THEREOF.
SERVED BY: COUDRIET/RYEN

Return Costs

Cost	Description
36.68	SHERIFF HAWKINS PAID BY: ATTY.
10.00	SURCHARGE PAID BY: ATTY

Sworn to Before Me This

5th Day Of Nov. 2003



WILLIAM A. SHAW

Prothonotary

My Commission Expires

1st Monday in Jan. 2006

Clearfield Co., Clearfield, PA


So Answers,



Chester A. Hawkins

Sheriff

FILED

 **NOV 05 2003**

William A. Shaw
Prothonotary/Clerk of Courts

CA

CLERK OF COURT
PROthonary Clerk of Court's

FILED
MAR 11 3 39 PM
MAR 11 2004
cc
[Signature]