

04-619-CD  
WACHOVIA TRUST COMPANY, vs. AMANDA MILLER

)

**Wachovia Trust Co. vs Amanda Miller  
2004-619-CD**

Ron Z. Opher, Esquire  
Attorney for Plaintiff  
Attorney#57507  
P.O. Box 2245  
Southeastern, PA 19399  
(610) 902-0530

WACHOVIA TRUST COMPANY	:	IN THE COURT OF COMMON PLEAS
	:	CLEARFIELD COUNTY, PA
	:	ARBITRATION DIVISION
	:	
Plaintiff	:	
	:	
	:	
	:	CIVIL ACTION - LAW
	:	
AMANDA MILLER	:	
304 Quarry Ave.	:	
Dubois, PA 15801	:	
Defendant	:	
	:	NO 04-6019-CJ

### COMPLAINT - CIVIL ACTION

#### **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 an 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 OR CANNOT AFFORD ONE, GO TO OR THELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

#### **AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandadas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentarse una comparecencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus objeciones a las demandas en contra de su persona. Se avisa que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades o otros derechos importantes para usted. **LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASSISTENCIA LEGAL.**

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**FILED**

**MAY 03 2004**

William A. Shaw  
Prothonotary/Clerk of Courts

Ron Z. Opher, Esquire  
Attorney for Plaintiff  
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As Owner and Trustee	:	CLEARFIELD COUNTY, PA
1 Rodney Square	:	ARBITRATION DIVISION
920 King Street	:	
Wilmington, DE 19801	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION - LAW
AMANDA R. MILLER	:	
304 Quarry Ave.	:	
Dubois, PA 15801	:	NO
Defendant	:	

---

COUNT ONE

1. The Plaintiff herein is WACHOVIA TRUST COMPANY, N.A., as Owner Trustee is a national banking association located in Delaware at 1 Rodney Square, 920 King Street, Wilmington, DE 19801.

2. The Defendant herein is AMANDA R. MILLER, an adult individual located at 304 Quarry Ave., Dubois, PA 15801.

3. In its capacity as Owner Trustee, Plaintiff Wachovia Company, N.A. is the holder of a note in the principal amount of \$3000.00 borrowed by Defendant on or about February 13, 1997. A true and correct copy of the affidavit evidencing this amount is attached hereto and marked Exhibit A .

4. Plaintiff Wachovia Trust Company, N.A. is the holder and owner of the aforementioned notes by virtue of its capacity as owner trustee of The National Collegiate Trust number 1996-S1, a trust(s) organized under Delaware law.

5. The document referenced in paragraph 3 and attached hereto as Exhibit A is a negotiable instrument.

6. Funds were used to finance the education at Seton Hill College and the loan program is guaranteed in whole or in part by Seton Hill College.

7. Plaintiff Wachovia Trust Company, N.A., brings this action solely in its capacity as owner trustee and not in its individual capacity.

8. Plaintiff has credited Defendant with all known off-sets on said loan.

9. Defendant defaulted on said educational student loans, having last made payment on November 15, 2000.

10. The current balance including accrued interest, on the loans in paragraph 3 is \$4755.07. A statement of accounts reflecting this balance is attached hereto and marked Exhibit B .

11. Plaintiff has in all respects fulfilled all conditions precedent to its obligations on the contract and for bringing this Complaint for damages.

12. Despite repeated demand by Plaintiff, Defendant has refused and continues in failure and refusal to pay further fees due Plaintiff.

13. Interest continues to accrue at the current contract rate of 9.25% per annum on aforementioned loans.

14. Under terms of the parties agreement, Defendant agreed to pay Plaintiff's reasonable attorney's fees in the event of their default; said attorney's fee is contingent on recovery at a rate of 15%. See Paragraph 6 of Exhibit A .

WHEREFORE, Plaintiff demands judgment in its favor against Defendant, in the amount of \$4755.07, together with interest at the current contract rate of 9.25% per annum, commencing on February 18, 2004, attorney's fees at the rate of 15% and costs of this action.

COUNT TWO

Plaintiff also claims alternatively on the basis of quantum meruit or Quasi Contract.

15. Paragraphs 1 through 14 above are incorporated herein by reference as though fully set forth.

16. Plaintiff was neither a volunteer nor an officious intermeddler.

17. Plaintiff's assignor and or predecessor provided said educational student loans as set forth above.

18. Plaintiff's assignor and or predecessor expected payment from the Defendant for said educational student loans in the amount set forth above.

19. The amount claimed is the fair and reasonable market value for said educational student loans.

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Date: April 8, 2004

BY   
Ron Z. Opher  
Attorney for Plaintiff  
Of Counsel To Zwicker & Associates, P.C.



2. Payments on this Note (Continued)

(d) **Principal Repayment.** Regardless of enrollment status, principal shall be repaid over 96 monthly installments of principal and interest beginning on the Amortization Date. Servicer shall compute payments (and Borrower agrees to repay in accordance with such computations) such that level monthly payments of principal and interest shall be made for each 12-month period between October 1 and September 30. Payments shall be computed in order that 5% of the principal is retired in the first such year, 7% in the second such year, 9% in the third such year, 11% in the fourth such year, 13.5% in the fifth such year, 15.5% in the sixth such year, 18% in the seventh such year and 21% in the eighth such year.

(e) **Crediting of Payments.** Payments received on this Note shall be allocated in the following order: (i) to accrued interest, (ii) to late charges and expenses of Lender in connection with collecting past due amounts, if any, and (iii) to outstanding principal; provided however, that no otherwise timely payments shall be deemed late solely because Borrower owes a late fee with respect to a prior payment.

(f) **Final Repayment Schedule.** On or before the date that payments are required to begin hereunder, or once Lender learns of events causing payments to become due, Lender will provide to Borrower a repayment disclosure statement setting forth Borrower's repayment schedule based upon the rules set forth in this Note and the events that have occurred to cause repayment to become due. Borrower agrees to sign and return a fully completed, final repayment disclosure to Lender within 60 days after receipt as further evidence of Borrower's final repayment obligation. If payments are subsequently suspended due to re-enrollment or other deferral, Lender will provide and Borrower will sign a revised disclosure when payment are once again required under the terms of this Note.

(g) **Definition of "Eligible Institution."** Borrower's status as a full-time student shall be the sole determination of the Eligible Institution at which Borrower is then enrolled. For the purpose of determining enrollment status and eligibility for deferral, an Eligible Institution shall be one that is recognized as a four-year college or university, graduate school or professional school by one of the following Accrediting Associations: The Middle States Association of Colleges and Schools; The New England Association of Schools and Colleges; The North Central Association of Colleges and Schools; The Northwest Association of Schools and Colleges; The Southern Association of Colleges and Schools; The Western Association of Schools and Colleges; and in the case of a professional school that is not affiliated with an accredited undergraduate school, by an accreditation agency or group acceptable to The National Collegiate Trust.

(h) **Statements: Consolidation.** Borrower will receive a monthly statement or periodic coupon booklet indicating the amount of the monthly installments due on this Note. Failure to receive a monthly statement or periodic coupon book does not relieve Borrower or Cosigner of the responsibility and obligation of making the required principal and interest payments in accordance with the terms and conditions of this Note. If Borrower has additional GATE Notes outstanding, Servicer may consolidate the payments due under this Note with the payments due under Borrower's additional GATE Notes; however, any partial payments will be allocated among this Note and Borrower's additional GATE Notes on the basis of the principal amounts then outstanding.

3. Prepayment. Borrower and Cosigner may prepay this Note, in whole or in part, at any time, without penalty. Any prepayment of principal shall be applied to eliminate monthly payments in the inverse order of maturity (i.e., credited to the last principal payment first).

4. Representations. Borrower and Cosigner represent that Borrower is, or is about to become, a student at the Educational Institution and that the proceeds of this Note will be used solely for educational purposes. By executing this Note, Borrower and Cosigner acknowledge that they have received a copy of this Note and Disclosure Statement, with all blank spaces completed. Borrower shall promptly notify Servicer or such other person as Lender directs, in writing, of any change of name or address of Borrower, and any transfer, withdrawal or graduation from, or loss of full-time status at, the Eligible Institution at which Borrower had been enrolled. Cosigner shall promptly notify in writing Servicer, or such other person or entity as Lender directs, of any change in Cosigner's name or address. If any provision hereof shall be held invalid or unenforceable, such provision shall be severable herefrom and shall be deemed omitted herefrom without affecting the validity or enforceability of the remainder of the Note. No term or provision of this Note may be changed unless consented to in writing by the Lender. The terms and conditions contained herein apply to and bind the successors and assigns of Lender. Lender is authorized to sell or otherwise assign this Note to any other party through one or more transfers or assignments. Borrower hereby authorizes Lender, without further notice, to obtain the signature of Cosigner, if required by Lender. Borrower and Cosigner authorize Lender, without further notice, to correct any patent errors herein. This Note evidences Borrower's application to Lender for a loan under the GATE program, and is subject to approval and acceptance by Lender at its main office in the state where the Lender is located ("State"). This Note shall be construed in accordance with and governed by the laws of the State and Federal law. Borrower and Cosigner signing this Note shall be jointly and severally liable hereunder. If the name of Cosigner does not appear herein, all reference herein to Cosigner shall be deemed omitted. Cosigner agrees that Lender may, without consent of Cosigner, agree from time to time to extend the time for payment or otherwise grant accommodations to Borrower and that no such extension of time for payment or other accommodation shall in any way release or affect Cosigner's obligations hereunder.

5. Late Charge. If any monthly payment on this Note is not paid within 15 days of the due date in accordance with its terms, Servicer (on behalf of Lender) may charge, and Borrower and Cosigner will pay, a late charge equal to \$5 to the extent permitted by law. In addition, interest at the rate set forth above shall accrue on overdue payments to the extent permitted by law.

6. Default and Acceleration. The entire outstanding balance and any interest accrued hereon shall become immediately due and payable at the option of Lender, without notice or demand, together with all costs of collection and reasonable attorneys' fees (to the extent that the same are permitted by law), if Borrower and Cosigner shall be in default. Borrower and Cosigner shall be in default if any one of the following events occur: (a) A scheduled payment is not made within 135 days of the scheduled payment date on this loan; (b)(i) Borrower dies (and there is not a Cosigner), Borrower is adjudicated incompetent, voluntary or involuntary bankruptcy proceedings are instituted by or against Borrower, or Borrower makes an assignment for the benefit of creditors, or (ii) any one of these events occurs, but in respect of Cosigner; (c) Any statement or representation on Borrower's or Cosigner's application for the loan evidenced by this Note is materially untrue, incorrect or incomplete; (d) Borrower (or upon failure of Borrower, Cosigner, if any) fails to perform any other agreement contained in this Note; (e) Borrower fails to promptly notify Servicer of such other person as Lender directs, in writing, of (i) any change of Borrower's name or address, or (ii) Borrower's transfer, withdrawal or early graduation from, or loss of full-time status at, the Eligible Institution at which Borrower has been enrolled; or (f) Cosigner fails to promptly notify Servicer, or such other person as Lender directs, in writing, of any changes of Cosigner's name and address. Notice is deemed prompt if received within 10 days of the above-mentioned change. Acceptance of any payment, in whole or in part, of amounts in arrears shall not waive or affect any prior acceleration of this Note. Borrower and Cosigner hereby jointly and severally waive notice of dishonor, notice of protest, presentment, demand for payment and all other notices or demands in the event of default on this Note and agree to consent to any and all extensions, renewals or releases of any party liable upon this Note or waiver and modification that may be granted by Lender, all without affecting or releasing Borrower or Cosigner from this Note. Borrower and Cosigner agree to pay Lender immediately upon request all of its costs and expenses, including reasonable attorney's fees and court costs in enforcing this Note to the extent not prohibited by applicable law.

7. Credit Bureau Information and Notification. Borrower and Cosigner hereby authorize lender and any subsequent holder of this Note to obtain reports as deemed necessary or appropriate by them from one or more credit bureaus in connection with Borrower's and Cosigner's application for this loan and/or collection of amounts due under this Note. Borrower and Cosigner hereby authorize lender and any subsequent holder to release to the Educational Institution and to lender and its agents, including Servicer, information concerning the status of Borrower's loan and any information from the Educational Institution, any credit bureau or other agency which Servicer deems necessary or desirable to the performance of its duties. Information concerning the amount of this Note and its repayment will be reported to one or more credit bureaus. If Borrower and/or Cosigner default on this Note, Lender or holder will also report the default to the Educational Institution, to the agents of Lender, and to the credit bureau(s). Such a report may significantly and adversely affect Borrower's and/or Cosigner's ability to obtain other credit.

8. Loan Charges. If this Note is subject to a law which sets maximum interest or other loan charges, and that law if finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Note exceed permitted limits: (a) any such interest or loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected which exceeded permitted limits will be refunded. Lender may choose to make this refund by reducing the principal owed under this Note or by making a direct refund. If a refund reduces principal, the reduction will be treated as a partial prepayment.

9. Special Notice to Students at Educational Institutions in New Hampshire. The following additional provisions apply to students at Educational Institutions in New Hampshire: (a) **Interest Rate Applicable Before and After Default.** The interest rate specified in this Note shall be the applicable interest rate due (i) on amounts outstanding during the term of this Note, notwithstanding the rate of interest prescribed by statute from time to time; and (ii) with respect to any amounts outstanding on and after the due date of this Note, demand, default, the initiation of suit for collection, or the initiation of any foreclosure proceedings with respect to any collateral securing any and all of Borrower's obligations under this Note; (b) **Notification Regarding an Award of Attorneys' fees.** If (but only if) Lender is permitted by applicable law to receive an award of attorneys' fees as part of its costs of collection of any amounts due under this Note, then Borrower shall be entitled to reasonable attorneys' fees, to the extent required by New Hampshire Revised Statutes Annotated Chapter 361-C, as amended. This right applies in (a) any action, suit or proceeding brought by Lender; or (b) any action brought by Borrower, in (either case) Borrower prevails in that lawsuit. In addition, if Borrower successfully asserts a partial defense or set-off, recoupment or counterclaim to an action by Lender, the court may withhold from Lender the entire amount or such portion of the attorneys' fees as the court considers equitable; and (c) **Notification Regarding Compounding of Interest.** This Note provides for the compounding of interest due on this Note, where accrued interest or deferred interest payment obligations are, when Borrower executes a capitalization request as provided above, capitalized and added to the principal balance of this Note. Unless Borrower elects to pay accrued interest in full, Borrower will have to pay interest at the rate set forth in the Note and disclosed above, on interest.

10. Special Notice to Ohio Residents and Students at Educational Institutions in Ohio. The Ohio laws against discrimination require that all creditors make credit equally available to all credit worthy customers, and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio civil rights commission administers compliance with this law.

11. Additional Representations of Students at Educational Institutions in Georgia and their Cosigners. Borrower and Cosigner hereby waive any right to require Lender to take action against the principal as provided in O.C.G.A. Section 10-7-24.

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

AJ2

Until notified otherwise, all payments should be made to:

PHEAA  
Student Loan Servicing Center  
Harrisburg, PA 17130-0001  
phone: (800) 233-0557

## LITIGATION REFERRAL

Z&A Account name: AMANDA R MILLER  
Z&A Acct. No.: 175620388/700-001000  
Product Type: STU  
Sub-Trust: FMDS/NCT 3R

Plaintiff Name: WACHOVIA TRUST COMPANY

Defendant 1 Name: AMANDA R MILLER

Defendant 1 Address: 304 QUARRY AVE  
DUBOIS, PA 15801  
814-603-1170

Suit Principal	\$3,712.91
Suit Interest	\$1,042.16
(Interest thru	
February 18, 2004)	
<hr/> Total	<hr/> \$4,755.07

Interest Rate\*: 9.25

- The interest rate can be variable and you should review the promissory note on each individual account. A borrower may have different rates for different notes. The rate above is the current rate.

Date of Last Payment\*: 11/15/00

\* Please be advised that 01/01/01 is a filler value and it indicates that NO PAYMENTS have been recorded – treat 01/01/01 as NO PAYMENTS

Per diem interest accrual: \$0.94

B

Contract Date: 03/21/97

Charge Off Date: 03/28/00

\* Suit must be filed by: November 15, 2004.

VERIFICATION

I, Warren M.S.C.3, hereby state:

1. I am an authorized agent of the plaintiff in this action;
2. I verify that the statements made in the foregoing Complaint - Civil Action are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said complaint are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



APR 22 2004

DATED: \_\_\_\_\_

In The Court of Common Pleas of Clearfield County, Pennsylvania

WACHOVIA TRUST COMPANY

VS.

MILLER, AMANDA

COMPLAINT

Sheriff Docket # 15518

04-619-CD

**SHERIFF RETURNS**

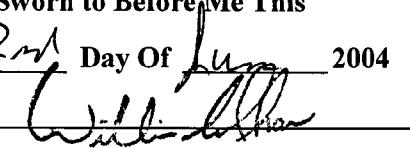
NOW JUNE 1, 2004 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURN THE WITHIN COMPLAINT "NOT FOUND" AS TO AMANDA MILLER, DEFENDANT. MOVED TO BRADENTON, FLORIDA.

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**Return Costs**

Cost	Description
56.75	SHERIFF HAWKINS PAID BY: ATTY CK# 4808
10.00	SURCHARGE PAID BY: ATTY CK# 4809

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Sworn to Before Me This  
2<sup>nd</sup> Day Of June 2004  


So Answers,

  
by Marilyn Hause  
Chester A. Hawkins  
Sheriff

**FILED**

JUN 02 2004  
018:31 a.m.  
William A. Shaw  
Prothonotary  


I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

MAY 03 2004

Ron Z. Opher, Esquire  
Attorney for Plaintiff  
Attorney#57507  
P.O. Box 2245  
Southeastern, PA 19399  
(610) 902-0530

Attest.

*William B. Brown*  
Prothonotary/  
Clerk of Courts

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: IN THE COURT OF COMMON PLEAS  
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: ARBITRATION DIVISION

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: CIVIL ACTION - LAW

v.

AMANDA MILLER  
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:  
: NO 04-6019-C

Defendant

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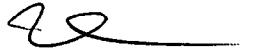
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BY   
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Attorney for Plaintiff  
Of Counsel To Zwicker & Associates, P.C.



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(d) **Principal Repayment.** Regardless of enrollment status, principal shall be repaid over 96 monthly installments of principal and interest beginning on the Amortization Date. Servicer shall compute payments (and Borrower agrees to repay in accordance with such computations) such that level monthly payments of principal and interest shall be made for each 12-month period between October 1 and September 30. Payments shall be computed in order that 5% of the principal is retired in the first such year, 7% in the second such year, 9% in the third such year, 11% in the fourth such year, 13.5% in the fifth such year, 15.5% in the sixth such year, 18% in the seventh such year and 21% in the eighth such year.

(e) **Crediting of Payments.** Payments received on this Note shall be allocated in the following order: (i) to accrued interest, (ii) to late charges and expenses of Lender in connection with collecting past due amounts, if any, and (iii) to outstanding principal; provided however, that no otherwise timely payments shall be deemed late solely because Borrower owes a late fee with respect to a prior payment.

(f) **Final Repayment Schedule.** On or before the date that payments are required to begin hereunder, or once Lender learns of events causing payments to become due, Lender will provide to Borrower a repayment disclosure statement setting forth Borrower's repayment schedule based upon the rules set forth in this Note and the events that have occurred to cause repayment to become due. Borrower agrees to sign and return a fully completed, final repayment disclosure to Lender within 60 days after receipt as further evidence of Borrower's final repayment obligation. If payments are subsequently suspended due to re-enrollment or other deferment, Lender will provide and Borrower will sign a revised disclosure when payment are once again required under the terms of this Note.

(g) **Definition of "Eligible Institution."** Borrower's status as a full-time student shall be the sole determination of the Eligible Institution at which Borrower is then enrolled. For the purpose of determining enrollment status and eligibility for deferment, an Eligible Institution shall be one that is recognized as a four-year college or university, graduate school or professional school by one of the following Accrediting Associations: The Middle States Association of Colleges and Schools; The New England Association of Schools and Colleges; The North Central Association of Colleges and Schools; The Northwest Association of Schools and Colleges; The Southern Association of Colleges and Schools; The Western Association of Schools and Colleges; and in the case of a professional school that is not affiliated with an accredited undergraduate school, by an accreditation agency or group acceptable to The National Collegiate Trust.

(b) **Statements: Consolidation.** Borrower will receive a monthly statement or periodic coupon booklet indicating the amount of the monthly installments due on this Note. Failure to receive a monthly statement or periodic coupon book does not relieve Borrower or Cosigner of the responsibility and obligation of making the required principal and interest payments in accordance with the terms and conditions of this Note. If Borrower has additional GATE Notes outstanding, Servicer may consolidate the payments due under this Note with the payments due under Borrower's additional GATE Notes; however, any partial payments will be allocated among this Note and Borrower's additional GATE Notes on the basis of the principal amounts then outstanding.

3. **Prepayment.** Borrower and Cosigner may prepay this Note, in whole or in part, at any time, without penalty. Any prepayment of principal shall be applied to eliminate monthly payments in the inverse order of maturity (i.e., credited to the last principal payment first).

4. **Representations.** Borrower and Cosigner represent that Borrower is, or is about to become, a student at the Educational Institution and that the proceeds of this Note will be used solely for educational purposes. By executing this Note, Borrower and Cosigner acknowledge that they have received a copy of this Note and Disclosure Statement, with all blank spaces completed. Borrower shall promptly notify Servicer or such other person as Lender directs, in writing, of any change of name or address of Borrower, and any transfer, withdrawal or graduation from, or loss of full-time status at, the Eligible Institution at which Borrower had been enrolled. Cosigner shall promptly notify in writing Servicer, or such other person or entity as Lender directs, of any change in Cosigner's name or address. If any provision hereof shall be held invalid or unenforceable, such provision shall be severable herefrom and shall be deemed omitted herefrom without affecting the validity or enforceability of the remainder of the Note. No term or provision of this Note may be changed unless consented to in writing by the Lender. The terms and conditions contained herein apply to and bind the successors and assigns of Lender. Lender is authorized to sell or otherwise assign this Note to any other party through one or more transfers or assignments. Borrower hereby authorizes Lender, without further notice, to obtain the signature of Cosigner, if required by Lender. Borrower and Cosigner authorize Lender, without further notice, to correct any patent errors herein. This Note evidences Borrower's application to Lender for a loan under the GATE program, and is subject to approval and acceptance by Lender at its main office in the state where the Lender is located ("State"). This Note shall be construed in accordance with and governed by the laws of the State and Federal law. Borrower and Cosigner signing this Note shall be jointly and severally liable hereunder. If the name of Cosigner does not appear herein, all reference herein to Cosigner shall be deemed omitted. Cosigner agrees that Lender may, without consent of Cosigner, agree from time to time to extend the time for payment or otherwise grant accommodations to Borrower and that no such extension of time for payment or other accommodation shall in any way release or affect Cosigner's obligations hereunder.

5. **Late Charge.** If any monthly payment on this Note is not paid within 15 days of the due date in accordance with its terms, Servicer (on behalf of Lender) may charge, and Borrower and Cosigner will pay, a late charge equal to \$5 to the extent permitted by law. In addition, interest at the rate set forth above shall accrue on overdue payments to the extent permitted by law.

6. **Default and Acceleration.** The entire outstanding balance and any interest accrued hereon shall become immediately due and payable at the option of Lender, without notice or demand, together with all costs of collection and reasonable attorneys' fees (to the extent that the same are permitted by law), if Borrower and Cosigner shall be in default. Borrower and Cosigner shall be in default if any one of the following events occur: (a) A scheduled payment is not made within 135 days of the scheduled payment date on this loan; (b)(i) Borrower dies (and there is not a Cosigner), Borrower is adjudicated incompetent, voluntary or involuntary bankruptcy proceedings are instituted by or against Borrower, or Borrower makes an assignment for the benefit of creditors, or (ii) any one of these events occurs, but in respect of Cosigner; (c) Any statement or representation on Borrower's or Cosigner's application for the loan evidenced by this Note is materially untrue, incorrect or incomplete; (d) Borrower (or upon failure of Borrower, Cosigner, if any) fails to perform any other agreement contained in this Note; (e) Borrower fails to promptly notify Servicer of such other person as Lender directs, in writing, of (i) any change of Borrower's name or address, or (ii) Borrower's transfer, withdrawal or early graduation from, or loss of full-time status at, the Eligible Institution at which Borrower has been enrolled; or (f) Cosigner fails to promptly notify Servicer, or such other person as Lender directs, in writing, of any changes of Cosigner's name and address. Notice is deemed prompt if received within 10 days of the above-mentioned change. Acceptance of any payment, in whole or in part, of amounts in arrears shall not waive or affect any prior acceleration of this Note. Borrower and Cosigner hereby jointly and severally waive notice of dishonor, notice of protest, amounts presented, demand for payment and all other notices or demands in the event of default on this Note and agree to consent to any and all extensions, renewals or releases of any party liable upon this Note or waiver and modification that may be granted by Lender, all without affecting or releasing Borrower or Cosigner from this Note. Borrower and Cosigner agree to pay Lender immediately upon request all of its costs and expenses, including reasonable attorney's fees and court costs in enforcing this Note to the extent not prohibited by applicable law.

7. **Credit Bureau Information and Notification.** Borrower and Cosigner hereby authorize lender and any subsequent holder of this Note to obtain reports as deemed necessary or appropriate by them from one or more credit bureaus in connection with Borrower's and Cosigner's application for this loan and/or collection of amounts due under this Note. Borrower and Cosigner hereby authorize lender and any subsequent holder to release to the Educational Institution and to lender and its agents, including Servicer, information concerning the status of Borrower's loan and any information from the Educational Institution, any credit bureau or other agency which Servicer deems necessary or desirable to the performance of its duties. Information concerning the amount of this Note and its repayment will be reported to one or more credit bureaus. If Borrower and/or Cosigner default on this Note, Lender or holder will also report the default to the Educational Institution, to the agents of Lender, and to the credit bureau(s). Such a report may significantly and adversely affect Borrower's and/or Cosigner's ability to obtain other credit.

8. **Loan Charges.** If this Note is subject to a law which sets maximum interest or other loan charges, and that law if finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Note exceed permitted limits, (a) any such interest or loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected which exceeded permitted limits will be refunded. Lender may choose to make this refund by reducing the principal owed under this Note or by making a direct refund. If a refund reduces principal, the reduction will be treated as a partial prepayment.

9. **Special Notice to Students at Educational Institutions in New Hampshire.** The following additional provisions apply to students at Educational Institutions in New Hampshire: (a) **Interest Rate Applicable Before and After Default.** The interest rate specified in this Note shall be the applicable interest rate due (i) on amounts outstanding during the term of this Note, notwithstanding the rate of interest prescribed by statute from time to time; and (ii) with respect to any amounts outstanding on and after the due date of this Note, demand, default; the initiation of suit for collection, or the initiation of any foreclosure proceedings with respect to any collateral securing any and all of Borrower's obligations under this Note; (b) **Notification Regarding an Award of Attorneys' fees.** If (but only if) Lender is permitted by applicable law to receive an award of attorneys' fees as part of its costs of collection of any amounts due under this Note, then Borrower shall be entitled to reasonable attorneys' fees, to the extent required by New Hampshire Revised Statutes Annotated Chapter 361-C, as amended. This right applies in (a) any action, suit or proceeding brought by Lender; or (b) any action brought by Borrower, in (in either case) Borrower prevails in that lawsuit. In addition, if Borrower successfully asserts a partial defense or set-off, recoupment or counterclaim to an action by Lender, the court may withhold from Lender the entire amount or such portion of the attorneys' fees the court considers equitable; and (c) **Notification Regarding Compounding of Interest.** This Note provides for the compounding of interest due on this Note, where accrued interest or deferred interest payment obligations are, when Borrower executes a capitalization request provided above, capitalized and added to the principal balance of this Note. Unless Borrower elects to pay accrued interest in full, Borrower will have to pay interest, at the rate set forth in the Note and disclosed above, on interest.

10. **Special Notice to Ohio Residents and Students at Educational Institutions in Ohio.** The Ohio laws against discrimination require that all creditors make credit equally available to all credit worthy customers, and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio civil rights commission administers compliance with this law.

11. **Additional Representations of Students at Educational Institutions in Georgia and their Cosigners.** Borrower and Cosigner hereby waive any right to require Lender to take action against the principal as provided in O.C.G.A. Section 10-7-24.

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

Until notified otherwise, all payments should be made to:

PHEAA  
Student Loan Servicing Center  
Harrisburg, PA 17130-0001  
phone: (800) 233-0557

## LITIGATION REFERRAL

Z&A Account name: AMANDA R MILLER  
Z&A Acct. No.: 175620388/700-001000  
Product Type: STU  
Sub-Trust: FMDS/NCT 3R

Plaintiff Name: WACHOVIA TRUST COMPANY

Defendant 1 Name: AMANDA R MILLER

Defendant 1 Address: 304 QUARRY AVE  
DUBOIS, PA 15801  
814-603-1170

Suit Principal	\$3,712.91
Suit Interest	\$1,042.16
(Interest thru	
February 18, 2004)	
<hr/> Total	\$4,755.07

Interest Rate\*: 9.25

- The interest rate can be variable and you should review the promissory note on each individual account. A borrower may have different rates for different notes. The rate above is the current rate.

Date of Last Payment\*: 11/15/00

\* Please be advised that 01/01/01 is a filler value and it indicates that NO PAYMENTS have been recorded – treat 01/01/01 as NO PAYMENTS

Per diem interest accrual: \$0.94

EXHIBIT B

Contract Date: 03/21/97

Charge Off Date: 03/28/00

\* Suit must be filed by: November 15, 2004

VERIFICATION

I, Warren Moele, hereby state:

1. I am an authorized agent of the plaintiff in this action;
2. I verify that the statements made in the foregoing Complaint - Civil Action are true and correct to the best of my knowledge, information and belief; and
3. I understand that the statements in said complaint are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



APR 22 2004

DATED: \_\_\_\_\_

Ron Z. Opher, Esquire  
Attorney for Plaintiff  
Attorney#57507  
P.O. Box 2245  
Southeastern, PA 19399  
(610) 902-0530

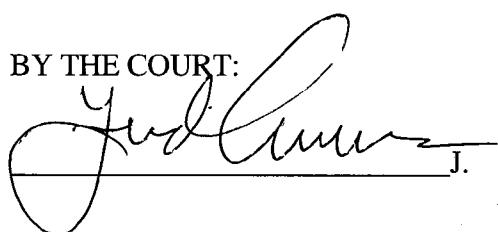
WACHOVIA TRUST COMPANY : IN THE COURT OF COMMON PLEAS  
v. : CLEARFIELD COUNTY  
Plaintiff :  
AMANDA MILLER : CIVIL ACTION - LAW  
304 Quarry Avenue :  
Dubois, PA 15801 : NO: 04-619-CD  
Defendant :  
\_\_\_\_\_  
DA

ORDER

This matter having been brought before the Court on motion of Ron Z. Opher, attorney for Plaintiff, for an Order Allowing Alternative Service of the Complaint by ordinary and certified mail, return receipt requested, and the Court having considered the matter and good cause appearing,

AND NOW, to wit, this 11 day of October, 2004,  
Plaintiff's Motion for Alternative Service is GRANTED. Plaintiff may serve the Complaint upon Defendant by ordinary and certified mail, return receipt requested. The Complaint shall be deemed as served if the requirements of Pa.R.Civ.P. 403, relating to service by mail, are met.

BY THE COURT:

  
J.

0 11:35 AM 10/12/04  
F66

OCT 12 2004

V 10/12/04  
F66

Ron Z. Opher, Esquire  
Attorney for Plaintiff  
Attorney#57507  
P.O. Box 2245  
Southeastern, PA 19399  
(610) 902-0530

WACHOVIA TRUST COMPANY : IN THE COURT OF COMMON PLEAS  
v. : CLEARFIELD COUNTY  
AMANDA MILLER :  
304 Quarry Avenue, :  
Dubois, PA 15801 : NO: 04-619-CD  
Defendant : FILED *Re*

OCT 08 2004  
*W.A. Shaw*  
William A. Shaw  
Prothonotary Clerk of Courts  
*l. v. P. to Party*

PLAINTIFF'S MOTION FOR ALTERNATIVE SERVICE

1. Plaintiff, by and through its undersigned counsel, filed a complaint against Defendant on or about May 3, 2004.
2. Plaintiff sought service of said complaint upon Defendant on or about June 1, 2004. Service of Process by the Sheriff was not obtained. A true and correct copy of Sheriff's Order For Service is attached hereto and marked Exhibit "A."
3. Plaintiff inquired of the postal authorities pursuant to the Freedom of Information Act, 39 C.F.R. Part 265, to learn that the address of Defendant whereupon the Process Server sought to serve the complaint is the Defendant's correct address. A true and correct copy of the Freedom of Information request is attached hereto and marked Exhibit "B."
4. Plaintiff consulted various on-line address and telephone directories, to no avail.
5. Plaintiff requests that the Court allow Alternative Service by ordinary and certified mail, return receipt requested; to wit, Pa.R.Civ.P. 430 provides that the Plaintiff may move the Court

for a special order directing the method of service if service cannot be made and a good faith effort to serve the complaint by regular service has been made.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant its Motion for Alternative Service of the Complaint by ordinary and certified mail, return receipt requested, upon Defendant. The Complaint shall be deemed as served if the requirements of Pa.R.Civ.P. 403 relating to service by mail, are met.

DATED: October 6, 2004

BY:   
Ron Z. Opher, Esquire  
Attorney for Plaintiff

Ron Z. Opher, Esquire  
Attorney for Plaintiff  
Attorney#57507  
P.O. Box 2245  
Southeastern, PA 19399  
(610) 902-0530

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WACHOVIA TRUST COMPANY	:	IN THE COURT OF COMMON PLEAS
	:	CLEARFIELD COUNTY
	:	
Plaintiff	:	
	:	
	:	CIVIL ACTION - LAW
	:	
AMANDA MILLER	:	
304 Quarry Avenue,	:	
Dubois, PA 15801	:	NO: 04-619-CD
Defendant	:	

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PROOF OF ATTEMPTS TO SERVE DEFENDANT BY REGULAR SERVICE

1. I, Ron Z. Opher, Esquire certify that on May 3, 2004, I filed a Civil Complaint against Defendant AMANDA MILLER. I sent a copy of the Complaint to the Sheriff to make Service of Process upon 304 Quarry Avenue, Dubois, PA 15801. The Sheriff was unable to make service upon Defendant. A true and correct copy of Sheriff's Order For Service is attached hereto and marked Exhibit "A."

2. I then sent a request to the postal authorities in Dubois, PA, to verify that the Defendant's address was correct. The Postmaster verified that Defendant continues to reside/receive mail at 304 Quarry Avenue, Dubois, PA 15801. A copy of the Postmaster's response is attached.

3. I consulted various on-line address and telephone directories to verify Defendant's address, to no avail.

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA :  
:ss.  
COUNTY OF CLEARFIELD :.

I, Ron Z. Opher, Esquire hereby certify that the statements made in the foregoing Proof of Attempts to Serve Defendant by Regular Service are true and correct to the best of my knowledge, information and belief and that said statements are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

DATED: October 6, 2004

  
Ron Z. Opher, Esquire  
Attorney for Plaintiff-Movant

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In The Court of Common Pleas of Clearfield County, Pennsylvania

WACHOVIA TRUST COMPANY  
VS.  
MILLER, AMANDA  
COMPLAINT

Sheriff Docket # 15518  
04-619-CD

COPY

**SHERIFF RETURNS**

NOW JUNE 1, 2004 AFTER DILIGENT SEARCH IN MY BAILIWICK I RETURN THE WITHIN COMPLAINT "NOT FOUND" AS TO AMANDA MILLER, DEFENDANT. MOVED TO BRADENTON, FLORIDA.

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**Return Costs**

Cost	Description
56.75	SHERIFF HAWKINS PAID BY: ATTY CK# 4808
10.00	SURCHARGE PAID BY: ATTY CK# 4809

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Sworn to Before Me This

So Answers,

Day Of \_\_\_\_\_ 2004



Chester A. Hawkins  
Sheriff

A

Date June 21, 2004

Postmaster  
Du Bois, PA 15801  
 City, State, ZIP Code

**Request for Change of Address or Boxholder  
 Information Needed for Service of Legal Process**

Please furnish the new address or the name and street address (if a boxholder) for the following:

Name: Amanda R Miller /

Address: 304 Quarry Avenue, Du Bois, PA, 15801

NOTE: The name and last known address are required for change of address information. The name, if known and post office box address are required for box holder information.

The following information is provided in accordance with 39 CFR 265.6(d)(6)(ii). There is no fee for providing boxholder information. The fee for providing change of address information is waived in accordance with 39 CFR 265.6(d)(1) and (2) and corresponding Administrative Support Manual 352.44a and b.

1. Capacity of requester (e.g. process server, attorney, party representing himself): attorney

2. Statute or regulation that empowers me to serve process (not required when requester is an attorney or a party acting *pro se* - except a corporation acting *pro se* must cite statute): n/a

3. The names of all known parties to the litigations: Wachovia Trust Company, N.A. V. Amanda R Miller /

4. The court in which the case has been or will be heard: Common Pleas

5. The docket or other identifying number if one has been issued: 04-619-CD

6. The capacity in which this individual is to be served (e.g. defendant or witness): defendant

**WARNING**

THE SUBMISSION OF FALSE INFORMATION TO OBTAIN AND USE CHANGE OF ADDRESS INFORMATION OR BOXHOLDER INFORMATION FOR ANY PURPOSE OTHER THAN THE SERVICE OF LEGAL PROCESS IN CONNECTION WITH ACTUAL OR PROSPECTIVE LITIGATION COULD RESULT IN CRIMINAL PENALTIES INCLUDING A FINE OF UP TO \$10,000 OR IMPRISONMENT OR (2) TO AVOID PAYMENT OF THE FEE FOR CHANGE OF ADDRESS INFORMATION OF NOT MORE THAN 5 YEARS, OR BOTH (TITLE 18 U.S.C. SECTION 1001).

I certify that the above information is true and that the address information is needed and will be used solely for service of legal process in connection with actual or prospective litigation.

Ron Z. Opher, Esquire  
 Signature  
 Printed name

P.O. Box 2245  
 Address  
Southeastern, PA 19399  
 City, State, ZIP Code

**FOR POST OFFICE USE ONLY**

No change of address order on file. NEW ADDRESS or BOXHOLDER

Not known at address given.  
 Moved, left no forwarding address  
 No such address

**NAME and STREET ADDRESS**

**POSTMARK**



Ron Z. Opher, Esquire  
Attorney for Plaintiff  
Attorney#57507  
P.O. Box 2245  
Southeastern, PA 19399  
(610) 902-0530

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WACHOVIA TRUST COMPANY : IN THE COURT OF COMMON PLEAS  
v. : CLEARFIELD COUNTY  
Plaintiff :  
AMANDA MILLER :  
304 Quarry Avenue, :  
Dubois, PA 15801 : NO: 04-619-CD  
Defendant :  
\_\_\_\_\_  
v.

CERTIFICATION OF MAILING

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF CLEARFIELD :  
:SS  
:

I, Ron Z. Opher, Esquire, being duly sworn according to law, hereby certify that on October 6, 2004 a true and correct copy of Plaintiff's Motion for Alternative Service was served by mailing same by United States first-class mail, postage prepaid, to Defendant, at 304 Quarry Avenue, Dubois, PA 15801.

DATED: October 6, 2004

BY: \_\_\_\_\_  
Ron Z. Opher, Esquire



BY: Ron Z. Opher, Esquire  
Post Office Box 2245  
Southeastern, PA 19399  
Attorney for Plaintiff  
Attorney #57507  
610-902-0530

Wachovia Trust Company, N.A.

Plaintiff

v.  
Amanda R Miller  
304 Quarry Avenue  
Du Bois, PA 15801

Defendant

IN THE COURT OF COMMON PLEAS  
Clearfield COUNTY, PA

CIVIL ACTION - LAW

NO. 04-619-CD

PRAECIPE TO REINSTATE COMPLAINT-CIVIL ACTION

TO THE PROTHONOTARY:

Kindly reinstate the Complaint in the above-captioned matter for an additional 30 days, as service of Complaint has not yet been made upon Defendant.

BY:   
Ron Z. Opher, Esquire

No CC  
m/j:sl/sbt Atty pd. T-00  
OCT 22 2004 1 Compl. Reinstate  
to Atty  
Prothonotary Clerk of Court  
10/22/04

Ron Z. Opher, Esquire  
Attorney for Plaintiff  
Attorney #57507  
P.O. Box 2245  
Southeastern, PA 19399  
(610) 902-0530

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Wachovia Trust Company, N.A. : IN THE COURT OF COMMON PLEAS  
v. : Clearfield COUNTY, PA

Plaintiff :  
: CIVIL ACTION - LAW

Amanda R Miller :  
304 Quarry Avenue :  
Du Bois, PA 15801 :  
Defendant : NO. 04-619-CD

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PRAECLP TO WITHDRAW COMPLAINT WITHOUT PREJUDICE

TO THE PROTHONOTARY:

Kindly mark the Complaint in the above-captioned matter WITHDRAWN WITHOUT PREJUDICE.

BY:   
Ron Z. Opher, Esquire  
Attorney for Plaintiff

DATED: January 13, 2005

**FILED**

JAN 18 2005

W/ 12:50/

William A. Shaw  
Prothonotary

2 CERT TO ATTY

COPY TO C/b