

04-837-CD
CRISSY VINGLESS
vs. CHESTER F. SWITALA, III et al.

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

CRISSY VINGLESS, :
Plaintiff :
vs. : No. 2004- 837-C
: :
CHESTER E. SWITALA, III and :
NICOLE SWITALA, :
Defendants :
:

P R A E C I P E

To: William A. Shaw, Prothonotary

Dear Mr. Shaw:

Attached hereto and incorporated herein by reference is a Certified Copy of the Notice of Judgment entered by District Justice James L. Hawkins in favor of the Plaintiff and against the Defendants.

Please enter Judgment in favor of the Plaintiff and against the Defendants in the amount of \$8,112.30.

Respectfully submitted,



Peter F. Smith,
Attorney for the Plaintiff

Date: May 17, 2004

FILED

JUN 10 2004

William A. Shaw
Prothonotary

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

DJ Name: Hon.

JAMES L. HAWKINS
Address: **251 SPRING STREET**
P.O. BOX 362
HOUTZDALE, PA

Telephone: **(814) 378-7160**

16651-0362

JAMES L. HAWKINS
251 SPRING STREET
P.O. BOX 362
HOUTZDALE, PA 16651-0362

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF:

VINGLESS, CRISSY
BOX 122
MORANN, PA 16663

NAME and ADDRESS

DEFENDANT:

SWITALA, III, CHESTER E, ET AL.
PO BOX 43
MORANN, PA 16663

NAME and ADDRESS

Docket No.: **CV-0000034-04**
Date Filed: **4/08/04**



THIS IS TO NOTIFY YOU THAT:

Judgment: **FOR PLAINTIFF**

Judgment was entered for: (Name) **TINGLESS, CRISSY**

Judgment was entered against: (Name) **SWITALA, III, CHESTER E**

in the amount of \$ **8,112.30** on: (Date of Judgment) **5/07/04**

Defendants are jointly and severally liable. (Date & Time) _____

Damages will be assessed on: _____

Amount of Judgment	\$ 7,983.80
Judgment Costs	\$ 128.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 8,112.30

This case dismissed without prejudice. _____

Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 \$ _____

Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total \$ _____	

Portion of Judgment for physical damages arising out of residential lease \$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

5-7-04 Date James L. Hawkins, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

5-13-04 Date James L. Hawkins, District Justice

My commission expires first Monday of January, 2006 .

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.:

46-3-04

DJ Name: Hon.

JAMES L. HAWKINS
Address: **251 SPRING STREET**
P.O. BOX 362
HOUTZDALE, PA

Telephone: **(814) 378-7160** **16651-0362**

JAMES L. HAWKINS
251 SPRING STREET
P.O. BOX 362
HOUTZDALE, PA 16651-0362

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: **VINGLESS, CRISSY** NAME and ADDRESS

BOX 122
MORANN, PA 16663

DEFENDANT: **SWITALA, III, CHESTER E, ET AL.** NAME and ADDRESS

PO BOX 43
MORANN, PA 16663

Docket No.: **CV-0000034-04**
Date Filed: **4/08/04**



THIS IS TO NOTIFY YOU THAT:

Judgment: **FOR PLAINTIFF**

Judgment was entered for: (Name) **TINGLESS, CRISSY**

Judgment was entered against: (Name) **SWITALA, NICOLE**

in the amount of \$ **8,112.30** on: (Date of Judgment) **5/07/04**

Defendants are jointly and severally liable.

(Date & Time) _____

Damages will be assessed on:

Amount of Judgment	\$ 7,983.80
Judgment Costs	\$ 128.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 8,112.30

This case dismissed without prejudice.

Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
=====	
Certified Judgment Total	\$ _____

Amount of Judgment Subject to
Attachment/42 Pa.C.S. § 8127 \$ _____

Portion of Judgment for physical
damages arising out of residential
lease \$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

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5-7-04

Date

James L. Hawkins

, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

5-13-04

Date

James L. Hawkins

, District Justice

My commission expires first Monday of January, 2006 .

SEAL

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

COPY

CRISSY VINGLESS, :
Plaintiff :
: No. 2004-
vs. :
:
CHESTER E. SWITALA, III and :
NICOLE SWITALA, :
Defendants :
:

Notice is given that a judgment has been entered of record in Clearfield County against CHESTER E. SWITALA, III and NICOLE SWITALA, Defendants, and in favor of the Plaintiff, in the amount of \$8,112.30 plus interest and costs.

Prothonotary

By _____, Deputy

Rule of Civil Procedure No. 236

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

Crissy Vingless
Plaintiff(s)

No.: 2004-00837-CD

Real Debt: \$8,112.30

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Chester E. Switala III
Nicole Switala
Defendant(s)

Entry: \$20.00

Instrument: DJ Judgment

Date of Entry: June 10, 2004

Expires: June 10, 2009

Certified from the record this 10th day of June, 2004

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

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

Plaintiff/Attorney

In the Fourth Count of the Second Amended Complaint, entitled "Breach of Fiduciary Duty," Plaintiffs assert a claim for breach of fiduciary duty against Corman stating that his conduct (as well as the conduct of other directors of the C&M) "constituted breaches of the fiduciary duties of those defendants to the C&M which were extremely damaging to the C&M as well as its minority shareholders." This language makes clear that Plaintiffs are not asserting a claim against Defendant Corman relating to conduct as majority shareholder which resulted in an individual injury, but rather are asserting a claim on behalf of the C&M. This point is reinforced by Plaintiffs prayer for relief which requests

"Judgment in favor of the C&M and against Corman, Pennsylvania Lines . . for whatever sums *the C&M must pay for the dividends which should have been paid but were not paid to the minority shareholders . . . ; for the expenses of maintaining the C&M's property and its corporate existence* for the then prospective duration of the C&M's corporate existence, and for all counsel fees and expenses *which the C&M has incurred or will incur* in defending this lawsuit and *for C&M's share* of whatever legal fees and expenses plaintiffs will have incurred or will incur in asserting *the derivative claims of the C&M and resisting the claims of the named plaintiffs and the plaintiff class against the C&M . . .*"
(emphasis added).

The above language belies Plaintiffs' contention that the Fourth Count contains a direct claim against Defendant Corman for breach of fiduciary duty as majority shareholder. In any event, even if the Fourth Count were found to contain claims on behalf of the plaintiff shareholders, such claim would be common to all shareholders and would thus be derivative in nature. *See Enterra Corp. v. 8GS Associates*, 600 F.Supp. 678, 689 (E.D. Pa. 1985)(where injury is common to all shareholders, claim is properly brought as a derivative action). Moreover, Plaintiffs themselves have admitted that the Fourth Count is a derivative claim. *See* Answer to Defendant Irvin's Motion for Judgment on the Pleadings dated July 2, 2001 (the Fourth Count is "a derivative claim on behalf of the C&M itself."). As set forth above, this Court has clearly dismissed Plaintiffs' derivative claim for breach of fiduciary duty. The Court finds that

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

CRISSY VINGLESS, :
Plaintiff :
vs. : No. 2004 - 837-C
CHESTER E. SWITALA, III and :
NICOLE SWITALA, :
Defendants :
:

CERTIFICATE OF ADDRESS

I, Peter F. Smith, counsel for the Plaintiff, certify that to the best of my information, knowledge and belief, the correct name and address of the Plaintiff and the last known address of the Defendants are:

Plaintiff: Crissy Vingless
P. O. Box 122
Morann, PA 16663

Defendants: Chester E. Switala, III
Nicole Switala
P. O. Box 43
Morann, PA 16663

Date: May 17, 2004



Peter F. Smith,
Attorney for Plaintiff

FILED
010.17.04 NDL

JUN 10 2004

William A. Shaw
Prothonotary

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

CRISSY VINGLESS,
Plaintiff
vs.
CHESTER E. SWITALA, III and
NICOLE SITALA,
Defendants

No. 2004-00837-CD

PRAECIPE

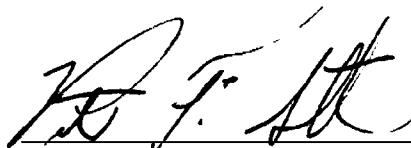
TO: William A. Shaw, Sr. Clearfield County Prothonotary

Dear Sir:

As counsel for the plaintiff in the above-captioned matter I appear and request that the judgment entered against CHESTER E. SWITALA, III and NICOLE SWITALA, be marked **SATISFIED**.

Respectfully submitted,

Date: 8/4/04


Peter F. Smith, Attorney for Plaintiff

cc: Crissy Vingless
United Financial Settlement Services, Inc.

FILED

AUG 05 2004
William A. Shaw
Prothonotary/Clerk of Courts

2 items to Atty

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

CIVIL DIVISION

CERTIFICATE OF SATISFACTION OF JUDGMENT

No.: 2004-00837-CD

Crissy Vingless

Debt: \$8,112.30

Vs.

Atty's Comm.:

Chester E. Switala III

Nicole Switala

Interest From:

Cost: \$7.00

NOW, August 5, 2004, directions for satisfaction having been received, and all costs having been paid, SATISFACTION was entered of record.

Certified from the record this 5th day of August, 2004.



Prothonotary