

DOCKET NO. 173

Number	Term	Year
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121	February	1961
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First National Bank of Erie

Versus

George Gustkey

Rusolph H. Gustkey

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

THE FIRST NATIONAL BANK OF ERIE :

versus :

GEORGE GUSTKEY and
RUDOLPH H. GUSTKEY :

No. 121 ^{Feb.} ~~May~~ Term, 1961

DECLARATION

The Plaintiff's claim in the above-stated action is founded upon the Pennsylvania Motor Vehicle Installment Sale Contract hereto annexed under the hands and seals of the Defendants, dated March 23, 1959, under which the Defendants stand bound unto the Plaintiff for the payment of the sum of \$1300.32, payable in 24 monthly installments of \$54.18 per month.

The aforesaid Pennsylvania Motor Vehicle Installment Sale Contract contains a caluse granting the Plaintiff hereunder the right to repossess the motor vehicle covered by the said Agreement upon default, and further authorizes the Plaintiff to sell the motor vehicle and hold the Defendants liable for any deficiency after crediting the proceeds of the sale on the obligation owed. The said Defendants defaulted, and the motor vehicle was repossessed by the Plaintiff and notice of repossession was given to the Defendants. The Plaintiff sold the said motor vehicle and applied the proceeds to the debt, which left a deficiency owing of \$406.89 as set forth below.

The aforesaid Agreement contains a warrant of attorney, authorizing any attorney of any Court of record to appear for the Defendants and confess judgment against them for all monies due and owing together with the costs of suit and 15% attorney's commission together with a release of all errors without stay of execution and waive the right of inquisition on any real estate,

and all laws exempting real and personal property from levy and sale of execution.

The Plaintiff avers that there is justly due and owing to it out of the balance due on the Contract, the following, to wit:

Balance due on Contract \$595.98
Repossession expense and
repair costs..... 45.99

Total....\$641.97

Credits:

Proceeds from resale ...\$200.00
Insurance premium return 28.11
Finance charge refund ... 6.97

Total....\$235.08

Deficiency due and owing..... \$406.89

Attorney's commission of 15% 61.03

Total \$467.92

And costs of suit.

BELL, SILBERBIATT & SWOOPE

by *Paul Silberblatt*
Attorneys for Plaintiff

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

THE FIRST NATIONAL BANK OF ERIE :

versus :

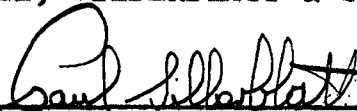
GEORGE GUSTKEY and
RUDOLPH H. GUSTKEY :

No. 121 ^{Feb}~~May~~ Term, 1961

CONFESSION OF JUDGMENT

By virtue of the Warrant of Attorney hereunto annexed, I hereby appear for George Gustkey and Rudolph H. Gustkey, Defendants in the above stated action, and confess judgment against the said George Gustkey and Rudolph H. Gustkey, in favor of The First National Bank of Erie, Plaintiff, for the sum of \$406.89 and Attorney's commission of \$61.03 and costs of suit; and in accordance with the said Warrant of Attorney, I hereby release all errors in the entry of the said judgment, waive the right of inquisition on real estate and all laws exempting real or personal property from levy and sale of execution.

BELL, SILBERBLATT & SWOOPE

By 
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

THE FIRST NATIONALBANK :

OF ERIE :

versus :

No. 121 ^{Feb.}~~May~~ Term, 1961

GEORGE GUSTKEY and :

RUDOLPH H. GUSTKEY :

CERTIFICATE OF RESIDENCE

To William T. Hagerty, Prothonotary:

Sir:

I hereby certify that the address of The First National Bank of Erie is, Erie, Pennsylvania; and the address of George Gustkey and Rudolph H. Gustkey is, 900 Don Street, Houtzdale, Clearfield County, Pennsylvania.

BELL, SILBERBLATT & SWOOPE

By *Paul Silberblatt*
Attorneys for Plaintiff

PENNSYLVANIA MOTOR VEHICLE
INSTALLMENT SALE CONTRACT

Buyer's Name and Address: George Gustky & Rudolph H. Gustky 1118 E. Perry St. Erie, Pa. 16501
Date: 3/23/59
Seller's Name and Address: Waters Motor Truck Co. Inc. Erie, Pa.
(Name of Dealer) (No. and Street) (City and Postal Zone) (State)

Seller hereby sells and Buyer (which means Buyer and all Co-Buyers who sign below, jointly and severally) hereby purchases, subject to the terms and conditions hereinafter set forth, the following described motor vehicle and extra equipment (herein called the "Car"):

One	New or Used	Make of Motor Vehicle	No. Cyl.	Year	Model No.	Type of Body	Serial Number	Motor Number	License Number
1	Used	Ford	8	56		Conv't			

Radio ☒ Heater ☒ Automatic Transmission ☐ Overdrive ☒ Power Steering ☐ Power Brakes ☐ Window Lifts ☐ Air Conditioning ☐ Other ☐

Description of Trade-In: 50 Chevy Sedan

Buyer warrants that the purpose for which the Car is bought is primarily for:
☐ Personal, family or household use ☐ Business use

Buyer agrees that Seller shall have, and there is hereby created in favor of Seller, a security interest in the Car until all installments and other sums due hereunder have been paid by Buyer. In addition, title to the Car shall remain in Seller until all installments have been paid in full.

Said Buyer covenants not to part with the possession of or sell any part or all of said motor vehicle or remove said motor vehicle from said county where he now resides and that he will exhibit said motor vehicle on demand. He will not use or permit the same to be used in violation of any State or Federal law.

The motor vehicle shall be at Buyer's risk. The holder as creditor of Buyer is authorized to purchase fire, theft and such other insurance in such form and amounts as the holder and Buyer may agree; Buyer hereby assigns to the holder any moneys not in excess of the unpaid balance hereunder which may become payable under such insurance, including return or unearned premiums, and directs any insurance company to make payment direct to the holder to be applied to said unpaid balance and appoints the holder as attorney in fact to endorse any draft. Unexpired premiums received by holder resulting from cancellation of insurance, originally placed at Buyer's expense shall be credited to any matured unpaid installments, or as Buyer may later authorize.

Buyer agrees: to pay promptly all taxes and assessments upon the motor vehicle and/or for its use or operation and/or on this contract; to keep the motor vehicle free from liens and security interests; not to use it for hire or illegally; to send notice by registered mail to the holder within 24 hours after repossession if Buyer claims that any articles not included herein were contained in the motor vehicle at the time of repossession. Time is of the essence. Any notices to Buyer shall be sufficiently given if mailed to the above address of Buyer.

The occurrence of any of the following shall, at the option of the Seller and without notice or demand on Buyer, constitute an event of default hereunder: (a) the non-payment, when due, of any rental installment or other sum; (b) the breach of any warranty, covenant, agreement or provision herein contained; (c) uninsurability of the Buyer or failure to maintain insurance; (d) the sale or encumbrancing of the motor vehicle or the creating of a security interest therein in any person other than the holder hereof; (e) attachment or levy of execution or other process against the motor vehicle; (f) voluntary or involuntary bankruptcy of Buyer, insolvency of Buyer, or the Buyer's taking advantage of any law for the relief of debtors.

If Buyer defaults on any obligation under this contract, the unpaid time balance shall without notice become due forthwith, together with a reasonable amount (15% if permitted by law) as attorney's fees, if this lease is placed with an attorney. Buyer agrees in such case to pay said time balance and amount or, at holder's election, to deliver the motor vehicle to the holder fully assembled and in operating condition, and holder may, without notice or demand for performance or legal process, enter any premises where the motor vehicle may be found, take possession of it and custody of anything found in it, and retain all payments as compensation for use of the motor vehicle while in Buyer's possession. The motor vehicle may be held and re-sold or sold in accordance with law; the proceeds less all expenses shall be credited on the amount payable hereunder; Buyer shall pay any deficiency forthwith according to law.

Buyer's Reinstatement Rights after Repossession: At holder's option, Buyer may reinstate this contract and redeem the motor vehicle within 15 days after notice of repossession, if Buyer pays all past-due installments, accrued default charges, and cost of suit, but, if default at time of repossession exceeds 5 days, Buyer shall pay also the expenses of retaking, repairing, and storage authorized by law. Buyer has the right (as distinguished from holder's option) to redeem the motor vehicle and terminate this contract within such 15 days after notice of repossession, by paying the unpaid time balance, plus the foregoing applicable charges, costs, and expenses, minus unearned finance charge. If Buyer does not so redeem, Buyer loses all claim to the motor vehicle.

Upon the prepayment in full of all amounts due hereunder the Buyer shall be allowed a prepayment rebate representing the proportion of the finance charge which the sum of the periodical time balances after the date of prepayment bears to the sum of all periodical time balance under the schedule of payment provided herein, but the holder shall be permitted to retain a minimum finance charge of \$10.00.

Buyer agrees to pay default charges at the rate of 2% per month of the amount in arrears for each month or fractional part thereof exceeding ten days.

Buyer irrevocably authorizes any attorney of any court of record to appear for and enter judgment against Buyer for all moneys payable hereunder with or without declaration, with costs of suit, release of errors, without stay of execution, and to waive the right of inquisition on any real estate that may be levied upon under such judgment, and voluntarily condemns the same and authorizes the prothonotary or clerk to enter said condemnation upon the f. f. a. Buyer agrees that said real estate may be sold upon a f. f. a. and waives and releases all relief from all appraisal, suit or exemption and homestead laws. Entry of judgment shall not constitute an election.

Waiver of any default shall not be a waiver of any other default. The holder's rights and remedies hereunder are cumulative. If any part hereof is invalid under the laws of Pennsylvania, such part shall be deemed deleted, but shall not invalidate the rest of this contract.

This agreement is subject to the provisions of the Pennsylvania Motor Vehicle Sales Finance Act and the Uniform Commercial Code.

No oral agreement, representation or warranty shall be binding.

NOTICE TO BUYER

DO NOT SIGN THIS CONTRACT IN BLANK.

YOU ARE ENTITLED TO AN EXACT COPY OF THE CONTRACT YOU SIGN.

KEEP IT TO PROTECT YOUR LEGAL RIGHTS.

Signed: Waters Motor Truck Co. (Seal) (Official Title)
Signed X: George Gustky (Seal) Customer and
Rudolph H. Gustky Co-Buyer

Received an exact copy of the above contract at the time I or we signed it. Such copy contained Seller's signature identical with such signature on the original.

Customer: X George Gustky Co-Buyer: X Rudolph H. Gustky (Address)

THIRD PARTY GUARANTEE

In consideration of credit already given and to be given to Purchaser named in this contract, undersigned, jointly and severally, guarantee to pay holder of said contract, prompt payment when due of all indebtedness, direct or indirect, absolute or contingent, owing under said contract and guarantee upon demand the payment of the amount owing thereon in event of any default thereunder. The undersigned hereby expressly waive presentment, demand, protest and notice of protest on any of such indebtedness and also notice of acceptance of this guarantee, notice of any extensions of time in payment or of any sale of collateral and all other notices required by law. This guarantee is absolute and undersigned agree to pay any indebtedness owing under said contract upon demand whether or not any proceeding is taken against the Purchaser for collection of said indebtedness. Acceptance of this guarantee by holder of this contract is conclusively presumed by delivery of same to it.

(Witness)

(Guarantor)

Address

Address

ASSIGNMENT

For value received, the undersigned hereby sells, transfers and assigns to The First National Bank of Erie, Erie, Pa., its successors and assigns (hereinafter referred to as "Assignee") all right, title and interest of the undersigned in and to the within agreement and in and to the property described therein and amounts payable thereunder and agrees to indicate such sale on the books and records of the undersigned forthwith and warrants that the within agreement is genuine, unamended, and enforceable without defense or counterclaim, that the agreement arose from the sale of the property described therein, that the Purchaser is over twenty-one years of age and has legal capacity to execute the within agreement, that the sale of said vehicle upon the terms set forth in the within agreement complies with all Federal and State laws, regulations and orders, that the undersigned has title to said property free and clear of any lien, claim or encumbrance, and has the right to assign such title, that the cash payment described therein has been received from the Purchaser by the undersigned and that no part thereof was loaned or paid directly or indirectly to the Purchaser by the undersigned or his agents and the property has been delivered to and accepted by the Purchaser and that the balance unpaid is the entire balance payable in installments shown in the said agreement; and the undersigned does hereby authorize said assignee to do every act and thing which the undersigned could do hereunder. Undersigned agrees that if any of the foregoing warranties be breached or if any of the representations be untrue or if the undersigned has executed any certificate of sale to the property described to anyone other than the Purchaser named, the undersigned will upon demand repurchase the said contract from the assignee and pay it in cash an amount equal to the entire unpaid balance due on the within contract with interest. The undersigned agrees that neither repossession of the property from the buyer, for any cause, nor failure to file or record this contract when required by law shall release the undersigned from the obligations of this agreement.

The liability of the undersigned shall be set forth in the endorsement signed by the undersigned below, provided that the undersigned shall in any event be liable for breach of any of the foregoing representations and warranties which are made by the undersigned to accept this assignment, and further provided that if a dealer's agreement between the undersigned and the assignee shall be in force at the time hereof, said assignment shall be subject to the terms and conditions thereof. The obligations of the undersigned shall be absolute and shall not be impaired by any failure of notice, indulgence, extension of time, delay, forbearance, omission to file the within contract at this assignment under any law, or other act or omission by the assignee whether in relation to the undersigned, Purchaser, guarantor or other person.

1. WITHOUT RECOURSE

Seller: *Alfred M. Maguire*
(Firm Name)
By: *[Signature]*
(Authorized Signature)

3. FULL REPURCHASE

The undersigned will upon request repurchase from the assignee the vehicle described in this contract, upon repossession, in accordance with The First National Bank of Erie Dealer Assignee Agreement.

Seller: _____
(Firm Name)
By: _____
(Authorized Signature)

2. WITH RECOURSE

The undersigned unconditionally guarantees payment, by acceleration or otherwise, of this contract in accordance with The First National Bank of Erie Dealer Assignee Agreement.

Seller: _____
(Firm Name)
By: _____
(Authorized Signature)

4. PARTIAL REPURCHASE

The undersigned, upon repossession by assignee of the vehicle described in this contract, will pay the unpaid balance of this contract, or will pay to the assignee _____ in accordance with The First National Bank of Erie Dealer Assignee Agreement.

Seller: _____
(Firm Name)
By: _____
(Authorized Signature)

5. LIMITED REPURCHASE

If Purchaser shall fail to pay _____ installments, the undersigned will upon request repurchase from the assignee the vehicle described in this contract upon repossession and will pay therefor the unpaid balance of the purchase price plus any and all other sums that may be due under this contract in accordance with The First National Bank of Erie Dealer Assignee Agreement.

Seller: _____
(Firm Name)
By: _____
(Authorized Signature)

1-11173 Rev. 7-58-E

I hereby certify that this is a true and correct copy of the original instrument upon which the judgment was entered.

Ann P. Hagerty
Notary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

No. 121 ^{Feb.}~~May~~ Term, 1961

THE FIRST NATIONAL BANK OF
ERIE

versus

GEORGE GUSTKEY and
RUDOLPH H. GUSTKEY

D E C L A R A T I O N
Confession & Note

2/21/312
2:30 PM dot

BELL, SILBERBLATT & SWOOPPE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.