

05-957-CD
Mortgage Electronic vs Scott A. Hess et al

2005-957-CD
Mortgage Electronic v. Scott Hess et al

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
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(215) 563-7000

ATTORNEY FOR PLAINTIFF

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

Plaintiff

v.

SCOTT A. HESS
MELISSA D. HESS
A/K/A MELISSA D. FAHR
2485 BILGERS ROCKS
GRAMPIAN, PA 16838

Defendants

COURT OF COMMON PLEAS
CIVIL DIVISION
TERM
NO. 05-957-CD
CLEARFIELD COUNTY

FILED 2005 Shff
m/2/3/05 Atty pd.
JUL 01 2005 85.00

William A. Shaw
Prothonotary/Clerk of Courts

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.

Lawyer Referral Service:
Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
PO Box 186
Harrisburg, PA 17108
800-692-7375

Notice to Defend:
David S. Meholic, Court Administrator
Clearfield County Courthouse
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

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.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

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:

NETBANK F/K/A RBMG
7909 PARKLANE RD.
SUITE 150
COLUMBIA, SC 29223

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

SCOTT A. HESS
MELISSA D. HESS
A/K/A MELISSA D. FAHR
2485 BILGERS ROCKS
GRAMPIAN, PA 16838

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

3. On 11/22/2004 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: 200418985.
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 03/01/2005 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	\$51,920.60
Interest	1,575.00
02/01/2005 through 06/30/2005	
(Per Diem \$10.50)	
Attorney's Fees	1,250.00
Cumulative Late Charges	71.84
11/22/2004 to 06/30/2005	
Cost of Suit and Title Search	<u>\$ 550.00</u>
Subtotal	\$ 55,367.44
Escrow	
Credit	0.00
Deficit	411.09
Subtotal	<u>\$ 411.09</u>
TOTAL	\$ 55,778.53

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 \$ 55,778.53, together with interest from 06/30/2005 at the rate of \$10.50 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.

PHELAN HALLINAN & SCHMIEG, LLP

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

LEGAL DESCRIPTION

ALL that certain piece or parcel of land situate in Pike Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin in the line of land now or formerly of J.H. France Refractories Company, being the southern corner of parcel herein conveyed, which point of beginning is in the line between Bloom and Pike Townships; thence along the Township line, being also along the line of land now or formerly of J.H. France Refractories Company, which is marked by a brush row north five (5) degrees thirty-nine (39) minutes east six hundred thirty-two (632) feet to an iron pin in the Township line at the corner of a 7.12 acre tract; thence by said 7.12 acre tract south seventy-five (75) degrees twenty-nine (29) minutes east two hundred eight-seven (287) feet to an iron pin; thence still by said 7.12 acre tract south thirty-nine (39) degrees ten (10) minutes east one hundred twelve and five-tenths (112.5) feet to an iron pin in the line of the Township Road leading from State Highway Route No. 861 to Bilger Rocks; thence by the line of such Township road the following four course and distances: south forty-seven (47) degrees forty (40) minutes west thirty-six and one-tenth (36.1) feet to an iron pin; south forty-one (41) degrees twenty-one (21) minutes west two hundred six (206) feet to an iron pin; south thirty-seven (37) degrees twenty-eight (28) minutes west three hundred twenty-six and seven-tenths (326.7) feet to an iron pin; south fifty-seven (57) degrees fifteen (15) minutes west fifty-eight and nine tenths (58.9) feet to an iron pin in the line of said Township road and in the Township line separating Bloom and Pike Townships and the place of beginning. Containing two and eighty-six one-hundredths (2.86) acres, according to a survey made July, 1956, by Curwensville Engineers.

EXCEPTING AND RESERVING, a 0.616 acre parcel conveyed to David A. Hess and Sandy K. Hess by William Hess and Sylvia Hess by deed dated August 1, 1978 and recorded in Clearfield County Deed Book 765, page 497.

BUT ALSO INCLUDING, those rights acquired by that Deed from J.H. France Refractories Company to William F. Hess and Sylvia Hess dated June 23, 1960, recorded in Clearfield County Deed Book 483, Page 512.

UNDER AND SUBJECT TO all exceptions and reservations as contained in prior deeds of record in the chain of title.

BEING the same premises which Fairie Thomas, Administratrix of the Estate of Herald Thomas, a/k/a Johan Herald Thomas conveyed their undivided one-half interest to William F. Hess and Sylvia Hess by deed date September 3, 1957, recorded in Clearfield County Deed Book 476, page 332 and Charles Ellinger and Gladys M. Ellinger conveyed their undivided one-half interest to William F. Hess and Sylvia Hess by deed dated September 3, 1957, recorded in Clearfield County Deed Book 476, page 335. The said William F. Hess died October 14, 1994, a resident and domiciliary of Grampian, Clearfield County, Pennsylvania, as evidenced by a death certificate to be filed of record contemporaneously herewith, thereby vesting sole and exclusive title to the above described premises by operation of law in his surviving spouse, as a surviving tenant by the entirety, decedent herein.

2485 Biglers Rocks

VERIFICATION

FRANCIS S. HALLINAN, ESQUIRE hereby states that he is attorney for Plaintiff in this matter, that Plaintiff is outside the jurisdiction of the court and or the verification could not be obtained within the time allowed for the filing of the pleading, that he is authorized to make this verification pursuant to Pa. R. C. P. 1024 (c), and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of its knowledge, information and belief. Furthermore, it is counsel's intention to substitute a verification from Plaintiff as soon as it is received by counsel.

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



Francis S. Hallinan, Esquire
Attorney for Plaintiff

DATE: 6/29/5

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100608
NO: 05-957-CD
SERVICE # 1 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC
vs.
DEFENDANT: SCOTT A. HESS AND MELISSA D. HESS a/k/a MELISSA D. FAHR

SHERIFF RETURN

NOW, July 13, 2005 AT 2:34 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON SCOTT A. HESS DEFENDANT AT 2485 BILGER'S ROCKS, GRAMPIAN, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO SCOTT HESS, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS / MORGILLO

FILED
02:48 PM
SEP 29 2005
S

William A. Shaw
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100608
NO: 05-957-CD
SERVICE # 2 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC

vs.

DEFENDANT: SCOTT A. HESS AND MELISSA D. HESS a/k/a MELISSA D. FAHR

SHERIFF RETURN

NOW, July 13, 2005 AT 2:34 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MELISSA D. HESS a/k/a MELISSA D. FAHR DEFENDANT AT 2485 BILGER'S ROCKS, GRAMPIAN, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO SCOTT HESS, HUSBAND A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS / MORGILLO

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100608
NO: 05-957-CD
SERVICES 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC

VS.

DEFENDANT: SCOTT A. HESS AND MELISSA D. HESS a/k/a MELISSA D. FAHR

SHERIFF RETURN

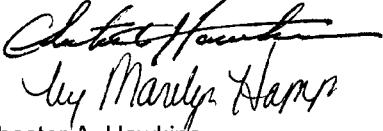
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	436979	20.00
SHERIFF HAWKINS	PHELAN	437027	33.72

Sworn to Before Me This

So Answers,

____ Day of _____ 2005


Chester A. Hawkins
Sheriff