

06-1068-CD

Cedar-Liberty vs Makin Dough Inc. et al.

2006-1068-CD

Cedar-Liberty vs Makin Dough et al

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

CEDAR-LIBERTY MARKETPLACE, LLC, :

PLAINTIFF, :

No. 06-1068-CD

v.

MAKIN DOUGH, INC., t/d/b/a
WILLIE'S PIZZA BUFFET, :

DEFENDANT. :

TYPE OF PLEADING:

COMPLAINT TO
CONFESS JUDGMENT

FILED BY:
PLAINTIFF

ATTORNEY FOR PARTY:
THERON G. NOBLE, Esq
FERRARACCIO & NOBLE
Pa. I.D.#: 55942
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221.

FILED *01/10/2006* *Atty Noble*
JUL 06 2006 *Any pd. 20.00*
William A. Shaw
Prothonotary/Clerk of Courts
1 CCO Notice
to Def.

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

CEDAR-LIBERTY MARKETPLACE, LLC,)
PLAINTIFF,)
CD)
v.)
MAKIN DOUGH, INC., t/d/b/a)
WILLIE'S PIZZA BUFFET,)
DEFENDANT.)
No. 06-_____

COMPLAINT TO CONFESS JUDGMENT

NOW COMES, the Plaintiff, Cedar-Liberty Marketplace, LLC, by and through its counsel of record, Theron G. Noble, Esquire, of Ferraraccio & Noble, who avers as follows in support of its COMPLAINT TO CONFESS JUDGMENT:

The Parties

1. That Plaintiff is Cedar-Libert Marketplace, LLC, a duly formed and existing New York limited liability corporation, duly authorized to do business in Pennsylvania, with principal office located at 44 S. Bayles Avenue, Port Washington, New York 11050.
2. That Defendant is Makin Dough, Inc., t/d/b/a "Willie's Pizza Buffet", upon information and belief, a duly formed and existing Pennsylvania Corporation with principal place of business located at 700 S. Brady Street, DuBois, Clearfield County, Pennsylvania 15801.

Background

3. That Defendant entered into a certain lease agreement, with Plaintiff's predecessor in interest, Hoover Avenue GF, LP, on or about December 8, 2003 concerning leasing of a

certain retail space for the purpose of operating a pizza business.

4. That Defendant has not paid its rental obligations and is in default and arrears for rent, interest and late fees.

Count I: Entry of Judgment

5. That averments 1 - 4, inclusive, are hereby incorporated as if again fully set forth at length.

6. That because of said default, Plaintiff and Defendant entered into a certain "AGREEMENT", a true and correct copy of which is attached hereto as Exhibit "A", allowing Plaintiff to confess judgment in the amount of \$26,248.78, plus 5% as attorney's fees.

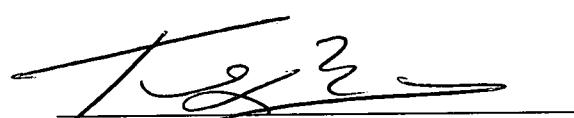
7. That Plaintiff has not entered judgment before.

8. That Jurisdiction is proper.

9. That Venue is proper.

WHEREFORE, Plaintiff requests that JUDGMENT be entered in its favor and against Defendant, in the amount of \$27,561.22, plus additional interest and costs of suit.

Respectfully Submitted,



Theron G. Noble, Esquire
Attorney for Plaintiff
Ferraraccio & Noble
301 East Pine Street
Clearfield, PA 16830
(814)-375-2221
PA I.D. #: 55942

AGREEMENT

This AGREEMENT, made this 26 day of June, 2006, by and between Cedar-Liberty Marketplace, LLC, 44 S. Bayles Avenue, Port Washington, New York 11050; the successor to Hoover Avenue GF, LP, hereinafter "Landlord"; and Makin Dough, Inc., d/b/a Willie's Pizza Buffet, 700 S. Brady St., DuBois, Pennsylvania 15801, hereinafter "Tenant".

WHEREAS, Landlord and Tenant entered into a certain LEASE, dated December 8, 2003, wherein Tenant rented premises known as Store Number 100 in the Liberty Marketplace, 22 Hoover Avenue, DuBois, Clearfield County, Pennsylvania;

WHEREAS, Tenant was to pay Landlord base rent of Two Thousand Six Hundred dollars (\$2,600), due on the first day of each month, in advance;

WHEREAS, Tenant also agreed to pay its share of other expenses, in addition to base rent, for such things as taxes, common maintenance and the like;

WHEREAS, Tenant also agreed to pay interest for any sums not paid which are due and owing to Landlord at the rate of twelve (12%) per annum as well as certain late fees for rent not timely paid;

WHEREAS, Landlord and Tenant agree that Tenant is in default under said LEASE in that Tenant has failed to pay such rent; and

WHEREAS, Landlord and Tenant further agree that Tenant is in arrears and currently owes Landlord the sum of Twenty-Six Thousand, Two Hundred and Forty-Eight Dollars and Seventy-Eight Cents (\$26, 248.78), representing rent arrears of \$24,866.12, interest of \$248.66 and late fees of \$1,134.

NOW, THEREFORE, the parties agree as follows:

1. Confession of Judgment. Tenant does hereby authorize and empower any attorney of record of Pennsylvania, or elsewhere, to appear for and confess judgment against it for said sum, and any additional sums which might come due, as often as Landlord deems it necessary to do, with or without declaration, with costs of suit, release of errors, without stay of execution, and with five (5%) percent added for collection fees. Tenant further hereby waives and releases all relief from any appraisement; stay or exemption laws of any state now in force or hereafter to be passed; inquisition and extension upon any levy on any real estate; and exemption of personal property from levy and sale on any execution. Said collection fee is hereby directed to be added in and to constitute a part of said judgment.
2. Entry of Judgment. Tenant hereby acknowledges that Landlord will cause judgment to be entered against it pursuant to clause 1 hereof.
3. Removal from Premises. Tenant further agrees that given its default Landlord could have Tenant removed from the premises at anytime Landlord so desired. However, as Landlord searches for a new tenant, Tenant may remain on the premises but will vacate the premises upon thirty (30) days notice from Landlord to do so.
4. Equitable Relief. In the event Tenant fails to removes itself from the premises, upon such thirty (30) days notice, Landlord, in addition to any other relief to which it might be entitled, can obtain equitable relief from the Court of Common Pleas having jurisdiction for an injunction against Tenant's continued occupancy of the premises.
5. Attorney's Fees. In the event Landlord is required to obtain the services of legal counsel to secure any rights or entitlements hereunder, than in addition to any other relief,

Tenant shall also pay for all reasonable attorney's fees and costs incurred by Landlord to obtain such relief.

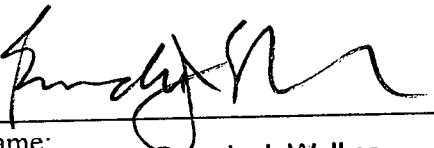
6. Survival of Lease. Tenant shall continue to owe additional rent pursuant to the terms of the LEASE, which shall survive and remain as entered into by and between the parties.

In the event any term hereof conflicts with said LEASE, then this AGREEMENT shall control, otherwise said LEASE is and remains in full force and effect.

7. Authorization. The signators to this AGREEMENT do hereby warrant and represent that they are duly authorized and empowered to enter into this AGREEMENT to bind their respective party.

IT IS SO AGREED, the day above written.

By Landlord,


Name: _____
Its: _____
Brenda J. Walker
Vice President

By Tenant,


Name: _____
Its: _____
W. K. Schaefer
President

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION

Cedar-Liberty Marketplace, LLC

Vs.

No. 2006-01068-CD

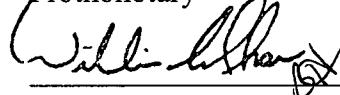
Makin Dough, Inc., t/d/b/a Willie's Pizza Buffet

To: DEFENDANT(S)

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of \$27,561.22 on July 6, 2006.

William A. Shaw

Prothonotary



William A. Shaw

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

Cedar-Liberty Marketplace, LLC
Plaintiff(s)

No.: 2006-01068-CD

Real Debt: \$27,561.22

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Makin Dough, Inc.
Willie's Pizza Buffet
Defendant(s)

Entry: \$20.00

Instrument: Confession of Judgment

Date of Entry: July 6, 2006

Expires: July 6, 2011

Certified from the record this 6th day of July, 2006.



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 COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
(CIVIL DIVISION)

CEDAR-LIBERTY MARKETPLACE, LLC,)
PLAINTIFF,)
v.)
MAKIN DOUGH, INC., t/d/b/a)
WILLIE'S PIZZA BUFFET,)
DEFENDANT.)
No. 06-1068-CD

CONFESSİON OF JUDGMENT

PURSUANT TO THE AUTHORITY CONTAINED IN THE WARRANT OF ATTORNEY, THE ORIGINAL OR A COPY OF WHICH IS ATTACHED TO THE COMPLAINT FILED IN THIS ACTION, I APPEAR FOR THE DEFENDANT AND CONFESS JUDGMENT IN FAVOR OF PLAINTIFF AND AGAINST THE DEFENDANT AS FOLLOWS:

Principal Sum.....\$26,248.78
Other Authorized Sums:
Attorney's Fees.....\$ 1,312.44
Costs of Suit.....\$To Be Determined
Additional Interest.....\$To Be Determined
Total Amount.....\$27,561.22; plus additional interest and
costs of suit

Respectfully Submitted,

Theron G. Noble, Esquire
Attorney for Defendant

FILED 2cc Atty Noble
OCT 10 2006 ice Def.
JUL 06 2006 (CR)

William A. Shaw
Prothonotary/Clerk of Courts