

07-727-CD

Everhome Mort. Vs S. Graham

EverHome Mortgage vs Scott Graham
2007-727-CD

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
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DANIEL G. SCHMIEG, ESQ., Id. No. 62205
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ATTORNEY FOR PLAINTIFF

EVERHOME MORTGAGE COMPANY
8120 NATIONS WAY
BUILDING 100
JACKSONVILLE, FL 32256

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

Plaintiff

v.

NO. 07-727-CD

CLEARFIELD COUNTY

SCOTT D. GRAHAM
467 MAIN STREET
WOODLAND, PA 16881

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

FILED 1cc Sheriff
MAY 09 2007
William A. Shaw
Prothonotary/Clerk of Courts
Att'y pd 85.00
um

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. Meholick, 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

EVERHOME MORTGAGE COMPANY
8120 NATIONS WAY
BUILDING 100
JACKSONVILLE, FL 32256

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

SCOTT D. GRAHAM
467 MAIN STREET
WOODLAND, PA 16881

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

3. On 04/11/2006 mortgagor(s) ANGELA J. GRAHAM & SCOTT D. GRAHAM made, executed, and delivered a mortgage upon the premises hereinafter described to

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS A NOMINEE

FOR OHIO SAVINGS BANK which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200606453. PLAINTIFF is now the legal owner of the mortgage and is in the process of formalizing an assignment of same. The mortgage and assignment(s), if any, are matters of public record and are incorporated herein by reference in accordance with Pa.R.C.P. 1019(g); which Rule relieves the Plaintiff from its obligations to attach documents to pleadings if those documents are of public record.
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 12/01/2006 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	\$19,623.88
Interest	\$717.60
11/01/2006 through 05/03/2007 (Per Diem \$3.90)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$7.30
04/11/2006 to 05/03/2007	
Cost of Suit and Title Search	<u>\$750.00</u>
Subtotal	\$22,348.78
Escrow	
Credit	(\$111.09)
Deficit	\$0.00
Subtotal	<u>(\$111.09)</u>
TOTAL	\$22,237.69

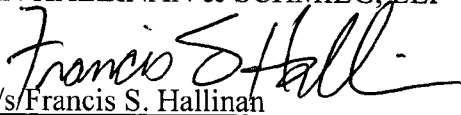
7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's fees up to 5% of the remaining principal balance in the event the property is sold to a third party purchaser at Sheriff's Sale, or if the complexity of the action requires additional fees in excess of the amount demanded in the Action.
8. Plaintiff is not seeking a judgment of personal liability (or an in personam judgment) against the Defendant(s) in the Action; however, Plaintiff reserves its right to bring a separate Action to establish that right, if such right exists. If Defendant(s) has/have received a discharge of personal liability in a bankruptcy proceeding, this Action of Mortgage Foreclosure is in no way an attempt to reestablish such personal liability discharged in bankruptcy, but only to foreclose the mortgage and sell the mortgaged premises pursuant to Pennsylvania Law.

9. 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.
10. Plaintiff hereby releases ANGELA J. GRAHAM from liability for the debt secured by the mortgage.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$22,237.69, together with interest from 05/03/2007 at the rate of \$3.90 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

DANIEL G. SCHMIEG, ESQUIRE

FRANCIS S. HALLINAN, ESQUIRE

Attorneys for Plaintiff

LEGAL DESCRIPTION

ALL that certain parcel of land and improvements thereon situate in the Township of Bradford, County of Clearfield and Commonwealth of Pennsylvania, and designated as Parcel No. 106-M09-628-00011 and more fully described in a Deed dated September 8, 1951 and recorded September 10, 1951 in Clearfield County in Deed Book Volume 415 at Page 355, granted and conveyed unto Thomas Chambers, Jr. and Kathryn Chambers, husband and wife. Thomas Chambers, Jr. died on March 7, 1999 and Kathryn Chambers died on September 20, 2005.

SUBJECT to the easement or right-of-way of the private road which crosses the above described premises for the use of the parties hereto and or all others, owners and occupiers of land adjoining the said private road their heirs, executors, administrators, successors and assigns.

SUBJECT to the right-of-way of the Bell Telephone Company of Pennsylvania.

EXCEPTING AND RESERVING to Harbison-Walker Refractories Co., its successors and assigns the right of ingress and egress to and from the above described premises for the purpose of maintaining, supplying, repairing, replacing and finally removing the water pipe line and drain or sewer pipe line now located thereon. It being expressly understood and agreed that the Harbison-Walker Refractories Company shall be under no obligation to supply or to continue to supply water or drainage to the said premises and that it shall have the right to discontinue supplying water or drainage at any time with or without the removal of the aforesaid property.

Parcel Number: 106-M09-628-00011

PROPERTY BEING: 467 MAIN STREET

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 on 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 his knowledge, information and belief.

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



FRANCIS S. HALLINAN, ESQUIRE
Attorney for Plaintiff

DATE: 5-3-07

PHELAN HALLINAN & SCHMIEG, LLP
BY: FRANCIS S. HALLINAN, ESQUIRE
Identification No. 62695
One Penn Center at Suburban Station
1617 John F. Kennedy Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

Everhome Mortgage Company	:	Court of Common Pleas
Plaintiff	:	Civil Division
vs.	:	Clearfield County
Scott D. Graham	:	No. 2007-727-CD
Defendant(s)	:	

PRAECIPE

TO THE PROTHONOTARY:

X Please mark the above referenced case Discontinued and Ended without prejudice.

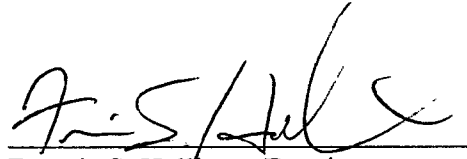
_____ Please mark the above referenced case Settled, Discontinued and Ended.

_____ Please mark Judgments satisfied and the Action settled, discontinued and ended.


_____ Please Vacate the judgment entered and mark the action discontinued and ended without prejudice.

_____ Please withdraw the complaint and mark the action discontinued and ended without prejudice.

Date: 6/18/07


Francis S. Hallinan, Esquire
Attorney for Plaintiff

PHS # 153871

FILED 1cc + 1 Cert
m/10:56 am of disc issued
JUN 20 2007 to Atty
Hallinan

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Everhome Mortgage Company

Vs.

No. 2007-00727-CD

Scott D. Graham

CERTIFICATE OF DISCONTINUATION

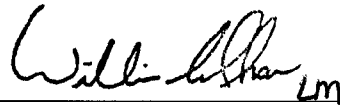
Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on June 20, 2007, marked:

Discontinued and ended without prejudice

Record costs in the sum of \$85.00 have been paid in full by Francis S. Hallinan Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 20th day of June A.D. 2007.



William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102777
NO: 07-727-CD
SERVICE # 1 OF 1
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: EVERHOME MORTGAGE COMPANY
vs.
DEFENDANT: SCOTT D. GRAHAM

SHERIFF RETURN

NOW, May 16, 2007 AT 9:13 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON SCOTT D. GRAHAM DEFENDANT AT 467 MAIN ST., WOODLAND, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ANGELA GRAHAM, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / DEHAVEN

FILED
07/3:02/01
OCT 05 2007

William A. Shaw
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	PHELAN	594608	10.00
SHERIFF HAWKINS	PHELAN	594608	27.70

Sworn to Before Me This

_____ Day of _____ 2007

So Answers,


by Marilyn Hamr
Chester A. Hawkins
Sheriff