

07-1631-CD
Homecomings Fin. Vs Peggy Gray

PHELAN HALLINAN & SCHMIEG, LLP
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162775

HOMECOMINGS FINANCIAL, LLC F/K/A
HOMECOMINGS FINANCIAL NETWORK, INC.
4828 LOOP CENTRAL DRIVE
HOUSTON, TX 77081-2226

Plaintiff
v.

PEGGY S. GRAY
JERRY L. GRAY
129 SAINT JAMES STREET
HOUTZDALE, PA 16651

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

FILED Atty pd 85.00
M 10/27/04
OCT 08 2007
IN 2 CC Sheriff
William A. Shaw
Prothonotary/Clerk of Courts

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

HOECOMINGS FINANCIAL, LLC F/K/A
HOECOMINGS FINANCIAL NETWORK, INC.
4828 LOOP CENTRAL DRIVE
HOUSTON, TX 77081-2226

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

PEGGY S. GRAY
JERRY L. GRAY
129 SAINT JAMES STREET
HOUTZDALE, PA 16651

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

3. On 02/07/2006 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC, AS A NOMINEE FOR FREMONT INVESTMENT & LOAN which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200602364. 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 03/01/2007 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	\$53,702.17
Interest 02/01/2007 through 10/05/2007 (Per Diem \$14.12)	\$3,487.64
Attorney's Fees	\$1,250.00
Cumulative Late Charges 02/07/2006 to 10/05/2007	\$192.36
Cost of Suit and Title Search	<u>\$550.00</u>
Subtotal	\$59,182.17
Escrow	
Credit	\$0.00
Deficit	\$1,392.36
Subtotal	<u>\$1,392.36</u>
TOTAL	\$60,574.53

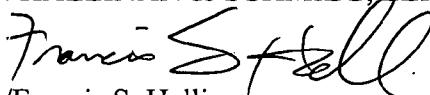
7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's 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. 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 \$60,574.53, together with interest from 10/05/2007 at the rate of \$14.12 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 those certain pieces or parcels of land situate in the Township of Woodward, in the County of Clearfield and State of Pennsylvania, bounded and described as follows:

THE FIRST THEREOF: BEGINNING at the Southeast corner of St. James Street and Cedar Alley; thence South along the East side of Cedar Alley, one hundred fifty (150 feet) feet to Hemlock Alley; thence still South across Hemlock Alley to the Northeast corner of lot No. 39; thence along the Southern side of Hemlock Alley in a Westerly direction approximately sixty-seven and one half (671/2 feet) feet to a point; thence in a Southerly direction approximately seventy-five (75 feet) feet to a point on the North side of Township Road T-655; thence in a Northeasterly direction along the North side of Township Road T-655 approximately sixty (60 feet) feet to a lot No. 39; thence still along the North side of Township Road T-655 in a Northeasterly direction approximately fifty (50 feet) feet to a point and the boundary line of property now or formerly of Eugene and Janice Hawkins; thence along the West side of property of said Eugene and Janice Hawkins and crossing Hemlock Alley in a Northerly direction approximately one hundred eleven (111 feet) feet; thence still in a Northerly direction along the West side of property now or formerly of Richard Peter Washic, approximately another one hundred eleven (111 feet) feet to a point on the South side of St. James Street; thence along the Southern side of St. James Street in a Westerly direction approximately fifty (50 feet) feet to a point and place of beginning. BEING Lot No. 71 and parts of Lots 38 and 39 in the Plan of Sterling and known by Tax Map Number 130-M14-387-27.

THE SECOND THEREOF: BEGINNING at the Southwest corner of St. James Street and Cedar Alley and running South along the West side of Cedar Alley one hundred fifty (150 feet) feet to Hemlock Alley; thence running West along the North side of Hemlock Alley fifty (50 feet) feet to Lot No. 67; thence running North along the East side of Lot No. 67 one hundred fifty (150 feet) feet to St. James Street; thence running East along the South side of St. James Street fifty (50 feet) feet to place of beginning. KNOWN as Lot No. 69 in the Plan of Sterling and known by Tax Map Number 130-M14-387-37.

UNDER AND SUBJECT, nevertheless, to all exceptions, reservations, conditions and restrictions as containing in prior deeds in the chain of title.

BEING the same premises which Paul Yarger and Mary Yarger, his wife, by deed dated September 11, 2003 and recorded September 15, 2003 in Clearfield County in Instrument #200316693, granted and conveyed unto Timothy L. Witherite, an individual.

PROPERTY BEING: 129 SAINT JAMES 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 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, counsel intends to substitute a verification from Plaintiff upon receipt.

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: 10/5/07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103277
NO: 07-1631-CD
SERVICE # 1 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: HOMECOMINGS FINANCIAL LLC f/k/a
vs.
DEFENDANT: PEGGY S. GRAY and JERRY L. GRAY

SHERIFF RETURN

NOW, October 18, 2007 AT 10:18 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON PEGGY S. GRAY DEFENDANT AT 129 SAINT JAMES ST., HOUTZDALE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO PEGGY GRAY, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS / MORGILLO

FILED
03:20pm
FEB 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103277
NO: 07-1631-CD
SERVICE # 2 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: HOMECOMINGS FINANCIAL LLC f/k/a
VS.
DEFENDANT: PEGGY S. GRAY and JERRY L. GRAY

SHERIFF RETURN

NOW, October 18, 2007 AT 10:18 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON JERRY L. GRAY DEFENDANT AT 129 SAINT JAMES ST., HCUTZDALE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO PEGGY GRAY, WIFE 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 # 103277
NO: 07-1631-CD
SERVICES 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: HOMECOMINGS FINANCIAL LLC f/k/a
vs.
DEFENDANT: PEGGY S. GRAY and JERRY L. GRAY

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	633270	20.00
SHERIFF HAWKINS	PHELAN	633270	58.92

Sworn to Before Me This

____ Day of 2008
____ 2007

So Answers,



Chester A. Hawkins
Sheriff