

07-1822-CD
PHH Mortg. Corp. vs Brian Waltenbaugh
a1

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
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PHILADELPHIA, PA 19103
(215) 563-7000

164602

PHH MORTGAGE CORPORATION, F/K/A
CENDANT MORTGAGE CORPORATION
3000 LEADENHALL ROAD
OR 4001 LEADENHALL ROAD
MOUNT LAUREL, NJ 08054

Plaintiff
v.

BRIAN T. WALTENBAUGH
MELISSA J. WALTENBAUGH
1617 TREASURE LAKE
DUBOIS, PA 15801

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

FILED Atty pd. 85.00
07/11/08 2007
NOV 08 2007 UICC 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

PHH MORTGAGE CORPORATION, F/K/A CENDANT
MORTGAGE CORPORATION
3000 LEADENHALL ROAD
OR 4001 LEADENHALL ROAD
MOUNT LAUREL, NJ 08054

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

BRIAN T. WALTENBAUGH
MELISSA J. WALTENBAUGH
1617 TREASURE LAKE
DUBOIS, PA 15801

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

3. On 08/02/1999 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 Instrument No: 199912785. 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 07/01/2007 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	\$68,769.83
Interest	\$2,292.80
06/01/2007 through 11/07/2007	
(Per Diem \$14.33)	
Attorney's Fees	\$1,300.00
Cumulative Late Charges	\$148.68
08/02/1999 to 11/07/2007	
Cost of Suit and Title Search	<u>\$750.00</u>
Subtotal	\$73,261.31
Escrow	
Credit	\$0.00
Deficit	\$266.62
Subtotal	<u>\$266.62</u>
TOTAL	\$73,527.93

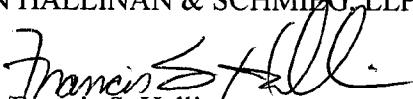
7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's 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. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.
10. This action does not come under Act 91 of 1983 because the mortgage is FHA-insured.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$73,527.93, together with interest from 11/07/2007 at the rate of \$14.33 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 tract of land designated as Section 13A 'Montego', Lot 190 in the Treasure Lake Subdivision in Sandy Township, Clearfield County, Pennsylvania, recorded in the Recorder of Deeds Office in Misc. Docket Map File No. 25.

EXCEPTING AND RESERVING there from and subject to:

1. All easements, rights of way, reservations, restrictions and limitations shown or contained in prior instruments of record and in the aforesaid recorded plan.
2. The Declaration of Restrictions, Treasure Lake, Inc., recorded in Misc. Book Vol. 146, Page 476; all of said restrictions being covenants which run with the land.
3. All minerals and mining rights of every kind and nature.
4. A lien for all unpaid charges or assessments as may be made by Treasure Lake, Inc. or Treasure Lake Property Owners Association, Inc., which lien shall run with the land and be an encumbrance against it.

BEING COMMONLY KNOWN AS 13A LOT 190 CROOKED ISLAND ROAD, BUBOIS, PA
15801.

BEING THE SAME PREMISES CONVEYED TO THE MORTGAGORS HEREIN BY DEED
BEING RECORDED SIMULTANEOUSLY HEREWITH; THIS BEING A PURCHASE
MONEY MORTGAGE GIVEN TO SECURE THE PURCHASE PRICE OF THE ABOVE
DESCRIBED PREMISES.

PARCEL NUMBER D02-13A-00190-00-21

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: 11/7/07

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

PHH Mortgage Corporation, f/k/a
Cendant Mortgage Corporation

ATTORNEY FOR PLAINTIFF

: Court of Common Pleas

Plaintiff

: Civil Division

vs.

: Clearfield County

Brian T. Waltenbaugh
Melissa J. Waltenbaugh

Defendant(s)

: No. 07-1822-CD

PRAECIPE

TO THE PROTHONOTARY:

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

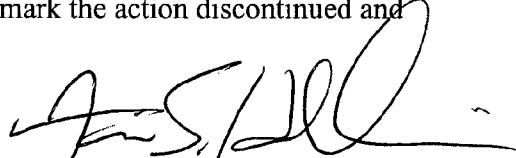
Please mark the above referenced case Settled, Discontinued and Ended.

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: 11/27/07



Francis S. Hallinan, Esquire
Attorney for Plaintiff

PHS # 164602

FILED 100-1007
m 11:15 am disc issued
NOV 29 2007 to Hallinan

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COPY

CIVIL DIVISION

**PHH Mortgage Corporation
Cendant Mortgage Corporation**

Vs.

No. 2007-01822-CD

**Brian T. Waltenbaugh
Melissa J. Waltenbaugh**

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 November 29, 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 29th day of November A.D. 2007.



1m

William A. Shaw, Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103415
NO. 07-1822-CD
SERVICE # 1 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: PHH MORTGAGE CORPORATION, F/K/A CENDANT MORTGAGE
vs.
DEFENDANT: BRIAN T. WALTENBAUGH and MELISSA J. WALTENBAUGH

SHERIFF RETURN

NOW, December 06, 2007 AT 12:18 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON BRIAN T. WALTENBAUGH DEFENDANT AT SEC. 13A LOT 190, TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MICHELLE WALTENBAUGH, DAUGHTER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

FILED
01/31/2008
FEB 26 2008
WM

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103415
NO: 07-1822-CD
SERVICE # 2 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: PHH MORTGAGE CORPORATION, F/K/A CENDANT MORTGAGE
vs.

DEFENDANT: BRIAN T. WALTENBAUGH and MELISSA J. WALTENBAUGH

SHERIFF RETURN

NOW, December 06, 2007 AT 12:18 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MELISSA J. WALTENBAUGH DEFENDANT AT SEC. 13A LOT 190, TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MICHELLE WALTENBAUGH, DAUGHTER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103415
NO: 07-1822-CD
SERVICE # 3 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: PHH MORTGAGE CORPORATION, F/K/A CENDANT MORTGAGE
VS.
DEFENDANT: BRIAN T. WALTENBAUGH and MELISSA J. WALTENBAUGH

SHERIFF RETURN

NOW, December 06, 2007 AT 12:18 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON BRIAN T. WALTENBAUGH DEFENDANT AT 13A LOT 190, TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MICHELLE WALTENBAUGH, DAUGHTER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103415
NO: 07-1822-CD
SERVICE # 4 OF 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: PHH MORTGAGE CORPORATION, F/K/A CENDANT MORTGAGE
VS.
DEFENDANT: BRIAN T. WALTENBAUGH and MELISSA J. WALTENBAUGH

SHERIFF RETURN

NOW, December 06, 2007 AT 12:18 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MELISSA J. WALTENBAUGH DEFENDANT AT 13A LOT 190, TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MICHELLE WALTENBAUGH, DAUGHTER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103415
NO: 07-1822-CD
SERVICES 4
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: PHH MORTGAGE CORPORATION, F/K/A CENDANT MORTGAGE

vs.

DEFENDANT: BRIAN T. WALTENBAUGH and MELISSA J. WALTENBAUGH

SHERIFF RETURN

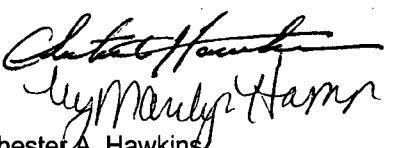
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	641655	40.00
SHERIFF HAWKINS	PHELAN	641655	60.00

Sworn to Before Me This

So Answers,

____ Day of _____ 2008


Chester A. Hawkins
Sheriff