

08-142-CD
GMAC Mortg. Vs Thomas Chutko et al

PHELAN HALLINAN & SCHMIEG, LLP
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
DANIEL G. SCHMIEG, ESQ., Id. No. 62205
MICHELE M. BRADFORD, ESQ., Id. No. 69849
SHEETAL R. SHAH-JANI, ESQ., Id. No. 81760
JUDITH T. ROMANO, ESQ., Id. No. 58745
JENINE R. DAVEY, ESQ., Id. No. 87077
MICHAEL E. CARLETON, ESQ., Id. No. 203009
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

169618

ATTORNEY FOR PLAINTIFF

GMAC MORTGAGE, LLC
1100 VIRGINIA DRIVE
P.O. BOX 8300
FORT WASHINGTON, PA 19034

Plaintiff

v.

THOMAS E. CHUTKO
ALICIA N. PEACOCK
20 IRVIN STREET LOT 333
IRVONA, PA 16656

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

File #: 169618

FILED Atty pd. 95.00
M 1/2/2008
JAN 29 2008
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. 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

GMAC MORTGAGE, LLC
1100 VIRGINIA DRIVE
P.O. BOX 8300
FORT WASHINGTON, PA 19034

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

THOMAS E. CHUTKO
ALICIA N. PEACOCK
20 IRVIN STREET LOT 333
IRVONA, PA 16656

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

3. On 03/09/2007 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC AS A NOMINEE FOR SUNSET MORTGAGE COMPANY, LP which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200703846. 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 09/01/2007 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	\$32,965.60
Interest	\$1,124.96
08/01/2007 through 01/25/2008	
(Per Diem \$6.32)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$48.88
03/09/2007 to 01/25/2008	
Cost of Suit and Title Search	<u>\$550.00</u>
Subtotal	\$35,939.44
Escrow	
Credit	(\$72.48)
Deficit	\$0.00
Subtotal	<u>(\$72.48)</u>
TOTAL	\$35,866.96

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 91 of 1983 because the mortgage is FHA-insured.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$35,866.96, together with interest from 01/25/2008 at the rate of \$6.32 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: January 87077
FRANCIS S. HALLINAN, ESQUIRE
DANIEL G. SCHMIEG, ESQUIRE
MICHELE M. BRADFORD, ESQUIRE
SHEETAL R. SHAH-JANI, ESQUIRE
JUDITH T. ROMANO, ESQUIRE
JENINE R. DAVEY, ESQUIRE
MICHAEL E. CARLETON, ESQUIRE
Attorneys for Plaintiff

LEGAL DESCRIPTION

ALL that certain piece or parcel of land situate in the Borough of Irvona, County of Clearfield and Commonwealth of Pennsylvania,

BEGINNING at a point marked and numbered on the Plan of Lots of Borough of Irvona, as Lot No. 333, and being situate on Irvin Street, Irvona, Pennsylvania; and bounded on the Northwest by Irvin Street and bounded on the Northeast by Lot No. 332. Bounded on the Southeast by an alley and on the Southwest by Lot No. 334. Excepting and reserving however the coal and other minerals as fully as are reserved in prior deeds.

PARCEL NUMBER 0110-H16-353-00072

BEING KNOWN AS 20 IRVIN STREET LOT 333, IRVONA, PA 16656

VERIFICATION

I hereby state that I am the 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 I am 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 my 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.

January 87677

Attorney for Plaintiff

DATE: 1/25/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103692
NO. 08-142-CD
SERVICE # 1 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: GMAC MORTGAGE LLC
VS.
DEFENDANT: THOMAS E. CHUTKO and ALICIA N. PEACOCK

SHERIFF RETURN

NOW, February 06, 2008 AT 10:39 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON THOMAS E. CHUTKO DEFENDANT AT RESIDENCE 20 IRVIN STREET LOT 333, IRVONA, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ALICIA PEACOCK, ADULT AT RESIDENCE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS / MORGILLO

FILED
02/21/2008
MAY 21 2008
W.A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103692
NO: 08-142-CD
SERVICE # 2 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: GMAC MORTGAGE LLC
vs.
DEFENDANT: THOMAS E. CHUTKO and ALICIA N. PEACOCK

SHERIFF RETURN

NOW, February 06, 2008 AT 10:39 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON ALICIA N. PEACOCK DEFENDANT AT RESIDENCE 20 IRVIN STREET LOT 333, IRVONA, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO ALICIA PEACOCK, DEFENDANT 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 # 103692
NO: 08-142-CD
SERVICES 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: GMAC MORTGAGE LLC
vs.
DEFENDANT: THOMAS E. CHUTKO and ALICIA N. PEACOCK

SHERIFF RETURN

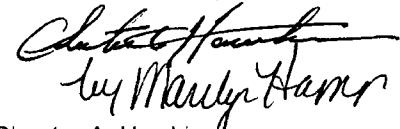
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	662605	20.00
SHERIFF HAWKINS	PHELAN	662605	51.27

Sworn to Before Me This

____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

Notice of Proposed Termination of Court Case

March 2, 2012

RE: 2008-00142-CD

GMAC Mortgage, LLC

Vs.

Thomas E. Chutko
Alicia N. Peacock

FILED

MAR 02 2012

William A. Shaw
Prothonotary/Clerk of Courts

61C

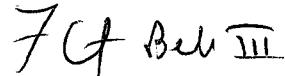
To All Parties and Counsel:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **May 2, 2012**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,



F. Cortez Bell, III, Esq.
Court Administrator

Phelan Hallinan & Schmieg, LLP
1617 JFK Boulevard, Suite 1400
One Penn Center Plaza
Philadelphia, PA 19103
215-563-7000

Attorney For Plaintiff

GMAC MORTGAGE, LLC	:	Court of Common Pleas
Plaintiff	:	
	:	Civil Division
vs	:	
	:	CLEARFIELD County
THOMAS E. CHUTKO	:	
ALICIA N. PEACOCK	:	
Defendant	:	No. 08-142-CD

PRAECIPE

TO THE PROTHONOTARY:

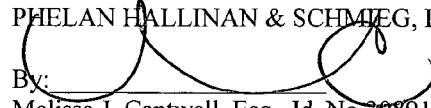
Please withdraw the complaint and mark the action Discontinued and Ended without prejudice.

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

Please Vacate the judgment entered and mark the action Discontinued and Ended without prejudice.

Please mark the in rem judgment Satisfied and the action Discontinued and Ended.

Date: 3/26/12

PHELAN HALLINAN & SCHMIEG, LLP
By: 
Melissa J. Cantwell, Esq., Id. No. 308912
Attorney for Plaintiff

PHS # 169618

S FILED ICC Atty
MAR 11 2012 Cantwell
MAR 22 2012

William A. Shaw
Prothonotary/Clerk of Courts

**Phelan Hallinan & Schmieg, LLP
1617 JFK Boulevard, Suite 1400
One Penn Center Plaza
Philadelphia, PA 19103
215-563-7000**

Attorney For Plaintiff

**GMAC MORTGAGE, LLC
Plaintiff**

Court of Common Pleas

vs

Civil Division

**THOMAS E. CHUTKO
ALICIA N. PEACOCK
Defendant**

CLEARFIELD County

No. 08-142-CD

CERTIFICATION OF SERVICE

I hereby certify true and correct copies of the foregoing Plaintiff's Praccipe was served by regular mail to the person(s) on the date listed below:

THOMAS E. CHUTKO
ALICIA N. PEACOCK
20 IRVIN STREET LOT 333
IRVONA, PA 16656

Date: 3/24/12

PHS # 169618

By 
Melissa J. Cantwell, Esq., Id. No. 308912
Attorney for Plaintiff