

08-379-CD

US Bank vs Kenneth S. Smith et al

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APR 22 2008 (without memo)
(62)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

US Bank National Association, as Trustee for
CMLTI 2007-WFHE3
3476 Stateview Boulevard
Fort Mill, SC 29715
Plaintiff

vs.

Kenneth S. Smith
Stephanie L. Smith
482 East 10th Street
Clearfield, PA 16830
Defendants

Court of Common Pleas

Civil Division

Clearfield County

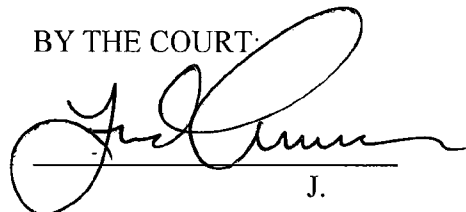
No. 08-0379-CD

ORDER

AND NOW, this 22 day of April, 2008, upon consideration of Plaintiff's Motion to Direct Sheriff to File Affidavit of Service, and any response thereto, it is hereby:

ORDERED and DECREED that the Sheriff of Clearfield County is hereby directed to complete and file an Affidavit of Service of the foreclosure Complaint within seven days of the date of this Order.

BY THE COURT:


J.

FILED

APR 22 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 4-22-2008

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s) ☐ Plaintiff(s) Attorney ☐ Other

☐ Defendant(s) ☐ Defendant(s) Attorney

☐ Special Instructions:

Copy to shft w/out memo

FILED No CC.
m/11:10 Lm
APR 22 2008

William A. Shaw
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
BY: Michele M. Bradford, Esquire, ID No. 69849
Jenine R. Davey, Esquire, ID No. 87077
One Penn Center at Suburban Station
1617 JFK Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEYS FOR PLAINTIFF

US Bank National Association, as Trustee for :
CMLTI 2007-WFHE3 :
3476 Stateview Boulevard :
Fort Mill, SC 29715 :
Plaintiff :

Court of Common Pleas

Civil Division

vs.

Clearfield County

Kenneth S. Smith :
Stephanie L. Smith :
482 East 10th Street :
Clearfield, PA 16830 :
Defendants :

No. 08-0379-CD

MOTION TO DIRECT THE SHERIFF TO FILE AFFIDAVIT OF SERVICE

1. Plaintiff commenced the instant mortgage foreclosure action by filing a Complaint on March 4, 2008. A true and correct copy of the Complaint is attached hereto, made part hereof, and marked as Exhibit "A".

2. The Sheriff of Clearfield County was requested to serve the Complaint upon the Defendants.

3. On April 9, 2008, the Sheriff's office verbally advised counsel for Plaintiff that Kenneth S. Smith accepted service on March 28, 2008 at 1408 Lawhead Street, Hyde, PA 16843.

Stephanie L. Smith also accepted service on March 28, 2008 at her place of employment,
Denny's Beer Barrel Pub, 1452 Woodland Road, Clearfield, PA 16830.

4. On April 18, 2008, Plaintiff sent the Defendants ten day letters notifying them of
its intention to file a default judgment.

5. To date, the Clearfield County Sheriff's office has not filed the Affidavit of
Service, which was made on March 28, 2008.

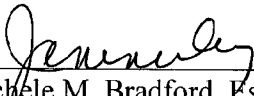
6. Plaintiff is unable to enter judgment and praecipe for a writ of execution until the
Sheriff's office files the Affidavit of Service of the Complaint with the Prothonotary. Interest
accrues at the rate of \$14.11 per day on this mortgage account.

7. The Plaintiff is greatly prejudiced by the delay in the filing of the Sheriff's
Affidavit of Service.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order directing the
Sheriff of Clearfield County to file the Affidavit of Service of the Complaint with the
Prothonotary within seven days.

Respectfully submitted,
PHELAN HALLINAN & SCHMIEG, LLP

4/21/08
Date



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

EXHIBIT A

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 172659

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

Plaintiff

NO. 08-379-CD

CLEARFIELD COUNTY

KENNETH S. SMITH
STEPHANIE L. SMITH
482 EAST 10TH STREET
CLEARFIELD, PA 16830

ATTORNEY FILE COPY
PLEASE RETURN

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

We hereby certify the
within to be a true and
correct copy of the
original filed of record

COPY
MAR 04 2008

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:
Daniel J. Nelson, 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

US BANK NATIONAL ASSOCIATION,
AS TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

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

KENNETH S. SMITH
STEPHANIE L. SMITH
482 EAST 10TH STREET
CLEARFIELD, PA 16830

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

3. On 03/16/2007 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to WELLS FARGO BANK, N.A. which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200704782. 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 11/01/2007 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	\$50,865.38
Interest	\$2,144.72
10/01/2007 through 02/29/2008 (Per Diem \$14.11)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$67.83
03/16/2007 to 02/29/2008	
Cost of Suit and Title Search	<u>\$550.00</u>
Subtotal	\$54,877.93
Escrow	
Credit	\$0.00
Deficit	\$0.00
Subtotal	<u>\$0.00</u>
TOTAL	\$54,877.93

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. 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 \$54,877.93, together with interest from 02/29/2008 at the rate of \$14.11 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: Francis S. Hallinan 62695
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 lot or piece of ground situate on the West side of Tenth Street in the Fourth Ward of the Borough of Clearfield, Clearfield County, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a stake on the line of Tenth Street; thence along Tenth Street, South fourteen (14 degrees) degrees twenty (20 minutes) minutes, West twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence by a line running through the original lot of which this is a part, North seventy-five (75 degrees) degrees forty (40 minutes) minutes, West one hundred eighty (180) feet to a stake and the line of an alley known as Graham Alley; thence along said Graham Alley, North fourteen (14 degrees) degrees twenty (20 minutes) minutes, East twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence along the Northern line of the original lot, South seventy-five (75 degrees) degrees forty (40 minutes) minutes, East one hundred eighty (180) feet to a stake and the place of beginning.

Being the northern portion of a lot known as Lot No. 7 in the plan of J. W. Dorsey as laid out by Harry Byers.

EXCEPTING AND RESERVING from the above described property the sewer line as now constructed thereon and serving the two properties as constructed on the residue of Lot No. 7 together with the right to the present and subsequent owners of the properties on the residue of Lot No. 7 to enter upon the property hereby conveyed for the purpose of repairing and maintaining said sewer line.

BEING the same premises which David I. Williams and Jo Ann Shugarts, his common-law wife by Deed dated August 25, 1998 and recorded August 25, 1998 in Clearfield County in Deed Book Volume 1962 Page 507 conveyed unto Daniel J. Russell and Cynthia E. Russell, husband and wife, in fee.

PREMISES: 482 EAST 10 STREET

PARCEL: K08-247-00061

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.

Marcia S. Hallman 621025
Attorney for Plaintiff

DATE: 3-03-08

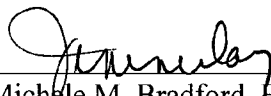
VERIFICATION

The undersigned hereby state that they are the attorneys for the Plaintiff in this action, that they are authorized to make this Verification, and that the statements made in the foregoing Motion to Direct Sheriff to file Affidavit of Service and Brief in support thereof are true and correct to the best of their knowledge, information and belief. The undersigned understands that this statement herein is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

PHELAN HALLINAN & SCHMIEG, LLP

Date

4/21/08


Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

BY: Michele M. Bradford, Esquire, ID No. 69849

Jenine R. Davey, Esquire, ID No. 87077

ATTORNEYS FOR PLAINTIFF

One Penn Center at Suburban Station

1617 JFK Boulevard, Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

US Bank National Association, as Trustee for :

CMLTI 2007-WFHE3 :

Court of Common Pleas

3476 Stateview Boulevard :

Fort Mill, SC 29715 :

Plaintiff :

Civil Division

vs. :

Clearfield County

Kenneth S. Smith :

Stephanie L. Smith :

482 East 10th Street :

No. 08-0379-CD

Clearfield, PA 16830 :

Defendants :

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of Plaintiff's Motion to Direct Sheriff to File

Affidavit of Service and Brief in Support thereof were served upon the following interested

parties via first class mail on the date indicated below:

Chester A. Hawkins
Sheriff of Clearfield County
230 East Market Street
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South 2nd Street
PO Box 130
Clearfield, PA 16830-2347
(Sheriff's Solicitor)

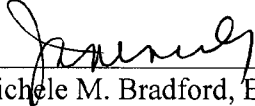
Kenneth S. Smith
Stephanie L. Smith
482 East 10th Street
Clearfield, PA 16830

Stephanie L. Smith
Denny's Beer Barrel Pub
1452 Woodland Road
Clearfield, PA 16830

9/21/08
Date

Kenneth S. Smith
1408 Lawhead Street
Hyde, PA 16843

PHELAN HALLINAN & SCHMIEG, LLP



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103841
NO: 08-379-CD
SERVICE # 1 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: US BANK NATIONAL ASSOCIATION, as Trustee
vs.
DEFENDANT: KENNETH S. SMITH and STEPHANIE L. SMITH

SHERIFF RETURN

NOW, March 28, 2008 AT 1:55 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON KENNETH S. SMITH DEFENDANT AT OTHER 1408 LAWHEAD ST., HYDE, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO KENNETH SMITH, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

482 EAST 10TH ST., CLEARFIELD, PA. "OCCUPIED"

SERVED BY: HUNTER / DEHAVEN

FILED
019:2841
APR 25 2008
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103841
NO: 08-379-CD
SERVICE # 2 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: US BANK NATIONAL ASSOCIATION, as Trustee
vs.
DEFENDANT: KENNETH S. SMITH and STEPHANIE L. SMITH

SHERIFF RETURN

NOW, March 28, 2008 AT 10:30 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON STEPHANIE L. SMITH DEFENDANT AT WORK DENNY'S BEER BARREL PUB, WOODLAND RD., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO STEPHANIE L. SMITH, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

482 EAST 10TH ST., CLEARFIELD, PA. "OCCUPIED"

SERVED BY: HUNTER / DEHAVEN

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103841
NO: 08-379-CD
SERVICES 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: US BANK NATIONAL ASSOCIATION, as Trustee
vs.
DEFENDANT: KENNETH S. SMITH and STEPHANIE L. SMITH

SHERIFF RETURN


RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	672846	20.00
SHERIFF HAWKINS	PHELAN	672846	29.04

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

FILED 11:38 AM Davey
APR 28 2008

William A. Shaw
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
BY: Michele M. Bradford, Esquire, ID No. 69849
Jenine R. Davey, Esquire, ID No. 87077
One Penn Center at Suburban Station
1617 JFK Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEYS FOR PLAINTIFF

US Bank National Association, as Trustee for :
CMLTI 2007-WFHE3 :
3476 Stateview Boulevard :
Fort Mill, SC 29715 :
Plaintiff :

Court of Common Pleas

Civil Division

vs.

Clearfield County

Kenneth S. Smith :
Stephanie L. Smith :
482 East 10th Street :
Clearfield, PA 16830 :
Defendants :

No. 08-0379-CD

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the Order granting Plaintiff's Motion to Direct Sheriff to File Affidavit of Service were served upon the following interested parties via first class mail on the date indicated below:

Chester A. Hawkins
Sheriff of Clearfield County
230 East Market Street
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South 2nd Street
PO Box 130
Clearfield, PA 16830-2347
(Sheriff's Solicitor)

Kenneth S. Smith
Stephanie L. Smith
482 East 10th Street
Clearfield, PA 16830

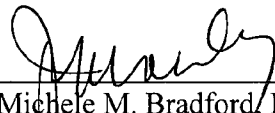
Stephanie L. Smith
Denny's Beer Barrel Pub
1452 Woodland Road
Clearfield, PA 16830

Kenneth S. Smith
1408 Lawhead Street
Hyde, PA 16843

PHELAN HALLINAN & SCHMIEG, LLP

Date

4/25/08


Michele M. Bradford, Esquire
Jenne R. Davey, Esquire
Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
CMLTI 2007-WFHE3

Plaintiff

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

Defendant(s)

: COURT OF COMMON PLEAS
:
: CIVIL DIVISION
:
: NO. 08-379-CD
:
: CLEARFIELD COUNTY
:
:
:
:

PRAECIPE TO SUBSTITUTE VERIFICATION
TO CIVIL ACTION COMPLAINT
IN MORTGAGE FORECLOSURE

TO THE PROTHONOTARY:

Kindly substitute the attached verification for the verification originally filed with the complaint in the instant matter.

Phelan Hallinan & Schmieg, LLP
Attorney for Plaintiff

By: 
Francis S. Hallinan, Esquire

Date: 4/30/08

FILED NO CC
MAY 02 2008 (GK)

William A. Shaw
Prothonotary/Clerk of Courts

PHS #: 172659

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
CMLTI 2007-WFHE3

Plaintiff

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

Defendant(s)

: COURT OF COMMON PLEAS
:
: CIVIL DIVISION
:
: NO. 08-379-CD
:
: CLEARFIELD COUNTY
:
:
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's Praecipe to attach Verification of Complaint was sent via first class mail to the following on the date listed below:

KENNETH S. SMITH
STEPHANIE L. SMITH
482 EAST 10TH STREET
CLEARFIELD, PA 16830

Phelan Hallinan & Schmieg, LLP
Attorney for Plaintiff

By: 
Francis S. Hallinan, Esquire

Date: 4/30/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
Plaintiff

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

Defendants

Court of Common Pleas
Civil Division
CLEARFIELD County
No. 08-379-CD

RULE

AND NOW, this 8th day of October 2008, a Rule is entered upon the
Defendants to show cause why an Order should not be entered granting Plaintiff's Motion to
Reassess Damages.

Rule Returnable on the 12th day of November 2008, at 10:00 in the Clearfield
County Courthouse, Clearfield, Pennsylvania. Courtroom # 1. AM

172659

⁵ FILED ¹⁰⁰
013:30/01 Atty Bradford
OCT 08 2008
William A. Shaw
Prothonotary/Clerk of Courts

FILED

OCT 08 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/8/08

☒ You are responsible for serving all appropriate parties.

___ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) ___ Defendant(s) Attorney

___ Special Instructions:

FILED NO CC
m/16:33/mt
OCT 06 2008 (G10)

William A. Shaw
Prothonotary/Clerk of Courts

PFELAN HALLINAN & SCHMIEG, LLP
by Michele M. Bradford, Esquire
Atty. I.D. No. 69849
One Penn Center, Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
Plaintiff

Court of Common Pleas

Civil Division

vs.

CLEARFIELD County

KENNETH S. SMITH
STEPHANIE L. SMITH

No. 08-379-CD

Defendants

PLAINTIFF'S MOTION TO REASSESS DAMAGES

Plaintiff, by its Attorney, Michele M. Bradford, Esquire, moves the Court to direct the Prothonotary to amend the judgment in this matter, and in support thereof avers the following:

1. Plaintiff commenced this foreclosure action by filing a Complaint on March 4, 2008, a true and correct copy of which is attached hereto, made part hereof, and marked as Exhibit "A".

2. Judgment was entered on June 10, 2008 in the amount of \$56,260.71. A true and correct copy of the praecipe for judgment is attached hereto, made part hereof, and marked as Exhibit "B".

3. Pursuant to Pennsylvania Rule of Civil Procedure 1037(b)(1), a default judgment containing a dollar amount must be entered for the amount claimed in the complaint and any item which can be calculated from the complaint, i.e. bringing the interest current. However, new items cannot be added at the time of entry of the judgment.

4. The Property is listed for Sheriff's Sale on November 7, 2008.

5. Additional sums have been incurred or expended on Defendants' behalf since the Complaint was filed and Defendants have been given credit for any payments that have been made since the judgment. The amount of damages should now read as follows:

Principal Balance	\$50,865.38
Interest Through November 7, 2008	\$5,672.23
Per Diem \$14.11	
Late Charges	\$90.44
Legal fees	\$2,150.00
Cost of Suit and Title	\$1,472.50
Sheriff's Sale Costs	\$0.00
Property Inspections/ Property Preservation	\$90.00
Appraisal/Brokers Price Opinion	\$315.00
Mortgage Insurance Premium /	\$0.00
Private Mortgage Insurance	
Non Sufficient Funds Charge	\$0.00
Suspense/Misc. Credits	(\$0.00)
Escrow Deficit	\$2,372.09
TOTAL	\$63,027.64

6. The judgment formerly entered is insufficient to satisfy the amounts due on the Mortgage.

7. Under the terms of the Mortgage and Pennsylvania law, Plaintiff is entitled to inclusion of the figures set forth above in the amount of judgment against the Defendants.

8. Plaintiff's foreclosure judgment is in rem only and does not include personal liability, as addressed in Plaintiff's attached brief.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court amend the judgment as requested.

DATE: 10/3/08

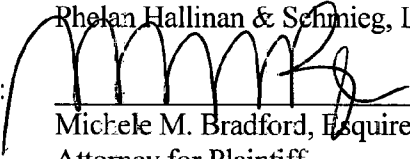
By: 
Rhelan Hallinan & Schmieg, LLP
Michele M. Bradford, Esquire
Attorney for Plaintiff

Exhibit “A”

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 172659

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

Plaintiff

NO. 08-379-CD

CLEARFIELD COUNTY

KENNETH S. SMITH
STEPHANIE L. SMITH
482 EAST 10TH STREET
CLEARFIELD, PA 16830

ATTORNEY FILE COPY
PLEASE RETURN

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

We hereby certify the
within to be a true and
correct copy of the
original filed of record

COPY FILED
MAR 04 2008

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.

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Pennsylvania Bar Association
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Harrisburg, PA 17108
800-692-7375

Notice to Defend:
Daniel J. Nelson, 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

US BANK NATIONAL ASSOCIATION,
AS TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

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

KENNETH S. SMITH
STEPHANIE L. SMITH
482 EAST 10TH STREET
CLEARFIELD, PA 16830

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

3. On 03/16/2007 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to WELLS FARGO BANK, N.A. which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200704782. 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 11/01/2007 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.

5. The following amounts are due on the mortgage:

Principal Balance	\$50,865.38
Interest	\$2,144.72
10/01/2007 through 02/29/2008 (Per Diem \$14.11)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$67.83
03/16/2007 to 02/29/2008	
Cost of Suit and Title Search	<u>\$550.00</u>
Subtotal	\$54,877.93
Escrow	
Credit	\$0.00
Deficit	\$0.00
Subtotal	<u>\$0.00</u>
TOTAL	\$54,877.93

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. 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 \$54,877.93, together with interest from 02/29/2008 at the rate of \$14.11 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: Francis S. Hallinan 62695
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 lot or piece of ground situate on the West side of Tenth Street in the Fourth Ward of the Borough of Clearfield, Clearfield County, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a stake on the line of Tenth Street; thence along Tenth Street, South fourteen (14 degrees) degrees twenty (20 minutes) minutes, West twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence by a line running through the original lot of which this is a part, North seventy-five (75 degrees) degrees forty (40 minutes) minutes, West one hundred eighty (180) feet to a stake and the line of an alley known as Graham Alley; thence along said Graham Alley, North fourteen (14 degrees) degrees twenty (20 minutes) minutes, East twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence along the Northern line of the original lot, South seventy-five (75 degrees) degrees forty (40 minutes) minutes, East one hundred eighty (180) feet to a stake and the place of beginning.

Being the northern portion of a lot known as Lot No. 7 in the plan of J. W. Dorsey as laid out by Harry Byers.

EXCEPTING AND RESERVING from the above described property the sewer line as now constructed thereon and serving the two properties as constructed on the residue of Lot No. 7 together with the right to the present and subsequent owners of the properties on the residue of Lot No. 7 to enter upon the property hereby conveyed for the purpose of repairing and maintaining said sewer line.

BEING the same premises which David I. Williams and Jo Ann Shugarts, his common-law wife
by Deed dated August 25, 1998 and recorded August 25, 1998 in Clearfield County in Deed
Book Volume 1962 Page 507 conveyed unto Daniel J. Russell and Cynthia E. Russell, husband
and wife, in fee.

PREMISES: 482 EAST 10 STREET

PARCEL: K08-247-00061

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.

Marcia L. Hallman 620695
Attorney for Plaintiff

DATE: 3-03-08

Exhibit “B”

PHELAN HALLINAN & SCHMIEG
By: DANIEL G. SCHMIEG
Identification No. 62205
One Penn Center at Suburban Station - Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814
(215) 563-7000
Attorney for Plaintiff

FILED
JUN 10 2008
William A. Shaw
Prothonotary/Clerk of Courts

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

**CLEARFIELD COUNTY
COURT OF COMMON PLEAS**

CIVIL DIVISION

NO. 08-379-CD

v.

KENNETH S. SMITH
1408 LAWHEAD STREET
HYDE, PA 16843

STEPHANIE L. SMITH
DENNY'S BEER BARRELL PUB
1452 WOODLAND ROAD
CLEARFIELD, PA 16830

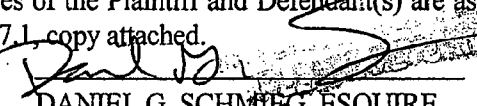
Defendant(s).

**PRAECIPES FOR IN REM JUDGMENT FOR FAILURE TO
ANSWER AND ASSESSMENT OF DAMAGES
TO THE OFFICE OF THE PROTHONOTARY:**

Kindly enter an in rem judgment in favor of the Plaintiff and against **KENNETH S. SMITH and
STEPHANIE L. SMITH**, Defendant(s) for failure to file an Answer to Plaintiff's Complaint within 20 days from
service thereof and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

As set forth in the Complaint	\$ 54,877.93
Interest - 3/1/08 TO 6/6/08	\$1,382.78
TOTAL	\$ 56,260.71

I hereby certify that (1) the addresses of the Plaintiff and Defendant(s) are as shown above, and (2) notice
has been given in accordance with Rule 237.1, copy attached.


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

DAMAGES ARE HEREBY ASSESSED AS INDICATED.

DATE: 6/10/08

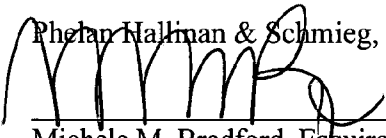

PRO PROTHY

172659

VERIFICATION

Michele M. Bradford, Esquire, hereby states that she is the attorney for Plaintiff in this action, that she is authorized to make this verification, and that the statements made in the foregoing Motion to Reassess Damages are true and correct to the best of her knowledge, information and belief. The undersigned understands that this statement herein is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

DATE: 10/3/08

By: 
Michele M. Bradford, Esquire
Attorney for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

by: Michele M. Bradford, Esquire, Atty. I.D. No. 69849

1617 John F. Kennedy Boulevard, Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL ASSOCIATION, AS

TRUSTEE FOR CMLTI 2007-WFHE3

Plaintiff

Court of Common Pleas

Civil Division

vs.

CLEARFIELD County

KENNETH S. SMITH

STEPHANIE L. SMITH

No. 08-379-CD

Defendants

CERTIFICATION OF SERVICE

I hereby certify that true and correct copies of Plaintiff's Motion to Reassess Damages, and Brief in Support thereof were sent to the following individuals on the date indicated below.

KENNETH S. SMITH

STEPHANIE L. SMITH

482 EAST 10TH STREET

CLEARFIELD, PA 16830

DATE: 10/3/08

Phelell Hallinan & Schmieg, LLP

By:

Michele M. Bradford, Esquire
Attorney for Plaintiff

**IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA**

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
Plaintiff

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

Defendants

Court of Common Pleas

Civil Division

CLEARFIELD County

No. 08-379-CD

ORDER

AND NOW, this _____ day of _____, 2008 the Prothonotary is ORDERED to amend the in rem judgment and the Sheriff is ORDERED to amend the writ nunc pro tunc in this case as follows:

Principal Balance	\$50,865.38
Interest Through November 7, 2008	\$5,672.23
Per Diem \$14.11	
Late Charges	\$90.44
Legal fees	\$2,150.00
Cost of Suit and Title	\$1,472.50
Sheriff's Sale Costs	\$0.00
Property Inspections/ Property Preservation	\$90.00
Appraisal/Brokers Price Opinion	\$315.00
Mortgage Insurance Premium /	\$0.00
Private Mortgage Insurance	
Non Sufficient Funds Charge	\$0.00

Suspense/Misc. Credits
Escrow Deficit

(\$0.00)
\$2,372.09

TOTAL

\$63,027.64

Plus interest from November 7, 2008 through the date of sale at six percent per annum.

Note: The above figure is not a payoff quote. Sheriff's commission is not included in the above figure.

BY THE COURT

J.

172659

PHELAN HALLINAN & SCHMIEG, LLP

by: Michele M. Bradford, Esquire, Atty. I.D. No. 69849

1617 John F. Kennedy Boulevard, Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3

Plaintiff

vs.

KENNETH S. SMITH

STEPHANIE L. SMITH

Defendants

ATTORNEY FOR PLAINTIFF

Court of Common Pleas

Civil Division

CLEARFIELD County

No. 08-379-CD

PRAECIPE

TO THE PROTHONOTARY:

Plaintiff hereby withdraws its Motion to Reassess Damages, filed on October 6, 2008 in
the above referenced action.


DATE: 11/11/08

By: 

Phelan Hallinan & Schmieg, LLP

Michele M. Bradford, Esquire
Attorney for Plaintiff

⁵ FILED ^{NO} ^{CC}
m/11/13/08
NOV 12 2008

 William A. Shaw
Prothonotary/Clerk of Courts

5
FILED
OCT 16 2008
William A. Shaw
Prothonotary/Clerk of Courts

PHELAN FALLINAN & SCHMIEG, LLP

by: Michele M. Bradford, Esquire, Atty. I.D. No. 69849

1617 John F. Kennedy Boulevard, Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

US BANK NATIONAL ASSOCIATION, AS

TRUSTEE FOR CMLTI 2007-WFHE3

Plaintiff

vs.

KENNETH S. SMITH

STEPHANIE L. SMITH

Defendants

ATTORNEY FOR PLAINTIFF

Court of Common Pleas

Civil Division

CLEARFIELD County

No. 08-379-CD

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the Court's October 8, 2008 Rule directing the Defendants to show cause as to why Plaintiff's Motion to Reassess Damages should not be granted was served upon the following individuals on the date indicated below.

KENNETH S. SMITH

STEPHANIE L. SMITH

482 EAST 10TH STREET

CLEARFIELD, PA 16830

DATE: 10/14/08

By:

Phelan Fallinan & Schmieg, LLP

Michele M. Bradford, Esquire

Attorney for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP

by: Michele M. Bradford, Esquire, Atty. I.D. No. 69849

1617 John F. Kennedy Boulevard, Suite 1400

Philadelphia, PA 19103-1814

(215) 563-7000

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL ASSOCIATION, AS

TRUSTEE FOR CMLTI 2007-WFHE3

Plaintiff

Court of Common Pleas

Civil Division

vs.

CLEARFIELD County

KENNETH S. SMITH

STEPHANIE L. SMITH

No. 08-379-CD

Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's Praecipe to withdraw its Motion to Reassess Damages was served upon the following interested parties on the date indicated below.

KENNETH S. SMITH
STEPHANIE L. SMITH
482 EAST 10TH STREET
CLEARFIELD, PA 16830

DATE: 11/11/08

By:


Phelan Hallinan & Schmieg, LLP

Michele M. Bradford, Esquire
Attorney for Plaintiff

FILED *no cc*
m/11/13/08
NOV 12 2008
William A. Shaw
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
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PHILADELPHIA, PA 19103
(215) 563-7000 172659

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL ASSOCIATION, AS
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3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

Plaintiff

v.

NO. 08-379-CD

CLEARFIELD COUNTY

KENNETH S. SMITH
STEPHANIE L. SMITH
482 EAST 10TH STREET
CLEARFIELD, PA 16830

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

FILED Atty. pd.
m/11:32/01 95.00
MAR 04 2008
William A. Shaw
Prothonotary/Clerk of Courts
DCC Sheriff

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.

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814-765-2641 x 5982

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PLAINTIFF WILL OBTAIN AND PROVIDE
DEFENDANT(S) WITH WRITTEN VERIFICATION
THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED
TO BE VALID. LIKEWISE, IF REQUESTED WITHIN
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CREDITOR, IF DIFFERENT FROM ABOVE.**

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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.

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US BANK NATIONAL ASSOCIATION,
AS TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

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

KENNETH S. SMITH
STEPHANIE L. SMITH
482 EAST 10TH STREET
CLEARFIELD, PA 16830

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

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4. The premises subject to said mortgage is described as attached.
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6. The following amounts are due on the mortgage:

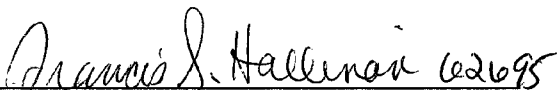
Principal Balance	\$50,865.38
Interest	\$2,144.72
10/01/2007 through 02/29/2008 (Per Diem \$14.11)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$67.83
03/16/2007 to 02/29/2008	
Cost of Suit and Title Search	<u>\$550.00</u>
Subtotal	\$54,877.93
Escrow	
Credit	\$0.00
Deficit	\$0.00
Subtotal	<u>\$0.00</u>
TOTAL	\$54,877.93

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. 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 \$54,877.93, together with interest from 02/29/2008 at the rate of \$14.11 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: 
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 lot or piece of ground situate on the West side of Tenth Street in the Fourth Ward of the Borough of Clearfield, Clearfield County, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a stake on the line of Tenth Street; thence along Tenth Street, South fourteen (14 degrees) degrees twenty (20 minutes) minutes, West twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence by a line running through the original lot of which this is a part, North seventy-five (75 degrees) degrees forty (40 minutes) minutes, West one hundred eighty (180) feet to a stake and the line of an alley known as Graham Alley; thence along said Graham Alley, North fourteen (14 degrees) degrees twenty (20 minutes) minutes, East twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence along the Northern line of the original lot, South seventy-five (75 degrees) degrees forty (40 minutes) minutes, East one hundred eighty (180) feet to a stake and the place of beginning.

Being the northern portion of a lot known as Lot No. 7 in the plan of J. W. Dorsey as laid out by Harry Byers.

EXCEPTING AND RESERVING from the above described property the sewer line as now constructed thereon and serving the two properties as constructed on the residue of Lot No. 7 together with the right to the present and subsequent owners of the properties on the residue of Lot No. 7 to enter upon the property hereby conveyed for the purpose of repairing and maintaining said sewer line.

BEING the same premises which David I. Williams and Jo Ann Shugarts, his common-law wife
by Deed dated August 25, 1998 and recorded August 25, 1998 in Clearfield County in Deed
Book Volume 1962 Page 507 conveyed unto Daniel J. Russell and Cynthia E. Russell, husband
and wife, in fee.

PREMISES: 482 EAST 10 STREET

PARCEL: K08-247-00061

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.


Attorney for Plaintiff

DATE: 3-03-08

PHELAN HALLINAN & SCHMIEG
By: DANIEL G. SCHMIEG
Identification No. 62205
One Penn Center at Suburban Station - Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814
(215) 563-7000

Attorney for Plaintiff

FILED *Atty pd.*
m/11:23/08 \$20.00
JUN 10 2008 *icc Notice to Def.*
William A. Shaw
Prothonotary/Clerk of Courts

Statement to Atty
(S)

**US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715**

Plaintiff,

v.

**KENNETH S. SMITH
1408 LAWHEAD STREET
HYDE, PA 16843**

**STEPHANIE L. SMITH
DENNY'S BEER BARRELL PUB
1452 WOODLAND ROAD
CLEARFIELD, PA 16830**

Defendant(s).

**CLEARFIELD COUNTY
COURT OF COMMON PLEAS**

CIVIL DIVISION

NO. 08-379-CD

**PRAECIPE FOR IN REM JUDGMENT FOR FAILURE TO
ANSWER AND ASSESSMENT OF DAMAGES**

TO THE OFFICE OF THE PROTHONOTARY:

Kindly enter an in rem judgment in favor of the Plaintiff and against **KENNETH S. SMITH and STEPHANIE L. SMITH**, Defendant(s) for failure to file an Answer to Plaintiff's Complaint within 20 days from service thereof and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

As set forth in the Complaint	\$ 54,877.93
Interest - 3/1/08 TO 6/6/08	\$1,382.78
TOTAL	<u>\$ 56,260.71</u>

I hereby certify that (1) the addresses of the Plaintiff and Defendant(s) are as shown above, and (2) notice has been given in accordance with Rule 237.1 copy attached.


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

DAMAGES ARE HEREBY ASSESSED AS INDICATED.

DATE: 6/10/08


PRO PROTHY

172659

PHELAN HALLINAN AND SCHMIEG
By: Lawrence T. Phelan, Esq., Id. No. 32227
Francis S. Hallinan, Esq., Id. No. 62695
Daniel G. Schmieg, Esq., Id. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL ASSOCIATION AS TRUSTEE : COURT OF COMMON PLEAS
FOR CMLTI 2007-WFHE3

Plaintiff

: CIVIL DIVISION

Vs.

: CLEARFIELD COUNTY

KENNETH S. SMITH
STEPHANIE L. SMITH

: NO. 08-379-CD

Defendants

TO: STEPHANIE L. SMITH
DENNY'S BEER BARRELL PUB
1452 WOODLAND ROAD
CLEARFIELD, PA 16830

****personal & confidential****

FILE COPY

DATE OF NOTICE: APRIL 18, 2008

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY AS ENFORCEMENT OF LIEN AGAINST PROPERTY.

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

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.

CLEARFIELD COUNTY
DAVID S. MEHOLICK, COURT
ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641 x 5982

PENNSYLVANIA LAWYER REFERRAL
SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
P.O. BOX 186
HARRISBURG, PA 17108
800-692-7375



Jason Ricco, Legal Assistant

PHELAN HALLINAN AND SCHMIEG
By: Lawrence T. Phelan, Esq., Id. No. 32227
Francis S. Hallinan, Esq., Id. No. 62695
Daniel G. Schmieg, Esq., Id. No. 62205
One Penn Center Plaza, Suite 1400
Philadelphia, PA 19103
(215) 563-7000

ATTORNEY FOR PLAINTIFF

US BANK NATIONAL ASSOCIATION AS TRUSTEE : COURT OF COMMON PLEAS
FOR CMLTI 2007-WFHE3

Plaintiff

: CIVIL DIVISION

Vs.

: CLEARFIELD COUNTY

KENNETH S. SMITH
STEPHANIE L. SMITH
Defendants

: NO. 08-379-CD

TO: KENNETH S. SMITH
1408 LAWHEAD STREET
HYDE, PA 16843

FILE COPY

DATE OF NOTICE: APRIL 18, 2008

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY AS ENFORCEMENT OF LIEN AGAINST PROPERTY.

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YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

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.

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CLEARFIELD COUNTY
DAVID S. MEHOLICK, COURT
ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
CLEARFIELD, PA 16830
(814) 765-2641 x 5982

PENNSYLVANIA LAWYER REFERRAL
SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 SOUTH STREET
P.O. BOX 186
HARRISBURG, PA 17108
800-692-7375



Jason Ricco, Legal Assistant

PHELAN HALLINAN & SCHMIEG

By: DANIEL G. SCHMIEG

Identification No. 62205

ATTORNEY FOR PLAINTIFF

Suite 1400

One Penn Center at Suburban Station

1617 John F. Kennedy Boulevard

Philadelphia, PA 19103-1814

(215) 563-7000

US BANK NATIONAL ASSOCIATION, AS

TRUSTEE FOR CMLTI 2007-WFHE3

3476 STATEVIEW BOULEVARD

FORT MILL, SC 29715

Plaintiff,

v.

KENNETH S. SMITH

1408 LAWHEAD STREET

HYDE, PA 16843

STEPHANIE L. SMITH

DENNY'S BEER BARRELL PUB

1452 WOODLAND ROAD

CLEARFIELD, PA 16830

Defendant(s).

**CLEARFIELD COUNTY
COURT OF COMMON PLEAS**

CIVIL DIVISION

NO. 08-379-CD

VERIFICATION OF NON-MILITARY SERVICE

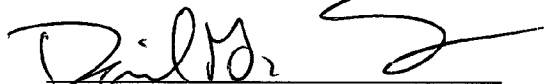
DANIEL G. SCHMIEG, ESQUIRE, hereby verifies that he is attorney for the Plaintiff in the above-captioned matter, and that on information and belief, he has knowledge of the following facts, to wit:

(a) that the defendant(s) is/are not in the Military or Naval Service of the United States or its Allies, or otherwise within the provisions of the Soldiers' and Sailors' Civil Relief Act of Congress of 1940, as amended.

(b) that defendant **KENNETH S. SMITH** is over 18 years of age and resides at **1408 LAWHEAD STREET, HYDE, PA 16843**.

(c) that defendant **STEPHANIE L. SMITH** is over 18 years of age, and resides at **DENNY'S BEER BARRELL PUB, 1452 WOODLAND ROAD, CLEARFIELD, PA 16830**.

This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.



DANIEL G. SCHMIEG, ESQUIRE

IN THE COURT OF COMMON PLEAS
CLEARFIELD PENNSYLVANIA

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff,

v.

KENNETH S. SMITH
1408 LAWHEAD STREET
HYDE, PA 16843

STEPHANIE L. SMITH
DENNY'S BEER BARRELL PUB
1452 WOODLAND ROAD
CLEARFIELD, PA 16830

Defendant(s).

CLEARFIELD COUNTY
COURT OF COMMON PLEAS

CIVIL DIVISION

NO. 08-379-CD

Notice is given that a Judgment in the above captioned matter has been entered against you
on June 10, 2008.

BY Will Alford DEPUTY
for

If you have any questions concerning this matter, please contact:

Daniel G. Schmieg
DANIEL G. SCHMIEG, ESQUIRE

Attorney for Plaintiff

One Penn Center at Suburban Station, Suite 1400

1617 John F. Kennedy Boulevard

Philadelphia, PA 19103-1814

(215) 563-7000

This firm is a debt collector attempting to collect a debt. Any information we obtain will be used for that purpose. If you have previously received a discharge in bankruptcy, this correspondence is not and should not be construed to be an attempt to collect a debt, but only enforcement of a lien against property.

COPY

COPY

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

US Bank National Association
CMLTI 2007-WFHE3
Plaintiff(s)

No.: 2008-00379-CD

Real Debt: \$56,260.71

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Kenneth S. Smith
Stephanie L. Smith
Defendant(s)

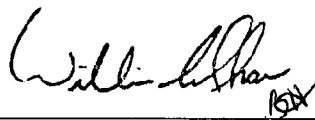
Entry: \$20.00

Instrument: In Rem Judgment

Date of Entry: June 10, 2008

Expires: June 10, 2013

Certified from the record this 10th day of June, 2008.



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

PRAECIPE FOR WRIT OF EXECUTION - (MORTGAGE FORECLOSURE)
P.R.C.P. 3180-3183

US.BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
CMLTL2007-WFHE3

vs.

KENNETH S. SMITH

STEPHANIE L. SMITH

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

No. 08-379-CD Term 20.....

PRAECIPE FOR WRIT OF EXECUTION
(Mortgage Foreclosure)

To the Director of the Office of Judicial Support

Issue writ of execution in the above matter:

Amount Due

Interest from 6/7/08 to Sale

Per diem \$9.25

Add'l Costs

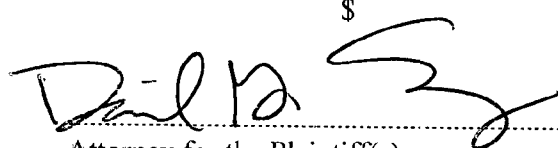
Writ Total

Prothonotary costs \$56,260.71
135.00

\$ _____

\$3,658.50

\$


Attorney for the Plaintiff(s)

Note: Please attach description of Property.

172659

FILED *Atty pd 20.00*
m/a 5782
JUL 11 2008 *icclwrits*
w/prop. desc.
William A. Shaw
Prothonotary/Clerk of Courts *to Sheriff*

610

No. 08-379-CD..... Term 20A.D.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

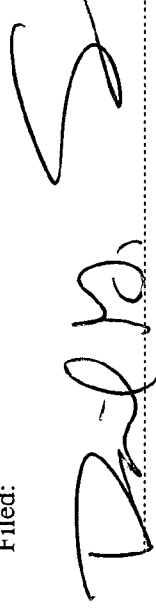
US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

PRAECIPE FOR WRIT OF EXECUTION
(Mortgage Foreclosure)

Filed:



Attorney for Plaintiff(s)

Address: KENNETH S. SMITH STEPHANIE L. SMITH
1408 LAWHEAD STREET 1408 LAWHEAD STREET
HYDE, PA 16843 HYDE, PA 16843

FILED

JUL 11 2008

William A. Shaw
Prothonotary/Clerk of Courts

DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff,

v.

KENNETH S. SMITH
STEPHANIE L. SMITH
1408 LAWHEAD STREET
HYDE, PA 16843

Defendant(s).

CLEARFIELD COUNTY
COURT OF COMMON PLEAS

CIVIL DIVISION

NO. 08-379-CD

**AFFIDAVIT PURSUANT TO RULE 3129
(Affidavit No.1)**

US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CMLTI 2007-WFHE3,
Plaintiff in the above action, by its attorney, DANIEL G. SCHMIEG, ESQUIRE, sets forth as of the date the
Praecipe for the Writ of Execution was filed, the following information concerning the real property located at
482 EAST 10 STREET, CLEARFIELD, PA 16830.

1. Name and address of Owner(s) or reputed Owner(s):

NAME	LAST KNOWN ADDRESS (If address cannot be reasonably ascertained, please so indicate.)
------	--

KENNETH S. SMITH	1408 LAWHEAD STREET HYDE, PA 16843
------------------	---------------------------------------

STEPHANIE L. SMITH	1408 LAWHEAD STREET HYDE, PA 16843
--------------------	---------------------------------------

2. Name and address of Defendant(s) in the judgment:

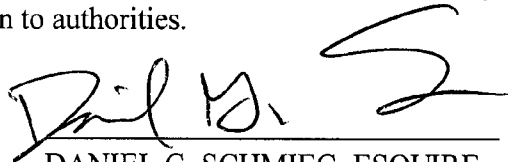
NAME	LAST KNOWN ADDRESS (If address cannot be reasonably ascertained, please so indicate.)
------	--

Same as Above

I verify that the statements made in this Affidavit are true and correct to the best of my
knowledge, information or belief. I understand that false statements herein are made subject to the penalties of
18 Pa. C.S. '4904 relating to unsworn falsification to authorities.

JULY 10, 2008

Date



DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff,

v.

KENNETH S. SMITH
STEPHANIE L. SMITH
1408 LAWHEAD STREET
HYDE, PA 16843

Defendant(s).

:
:
: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS
:
: CIVIL DIVISION
:
: NO. 08-379-CD
:
:
:
:
:

AFFIDAVIT PURSUANT TO RULE 3129

US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CMLTI 2007-WFHE3,
Plaintiff in the above action, by its attorney, DANIEL G. SCHMIEG, ESQUIRE, sets forth as of the date the
Praecipe for the Writ of Execution was filed, the following information concerning the real property located at
482 EAST 10 STREET, CLEARFIELD, PA 16830.

3. Name and address of every judgment creditor whose judgment is a record lien on the real property to be sold:

NAME	LAST KNOWN ADDRESS (If address cannot be reasonably ascertained, please so indicate.)
------	---

None

4. Name and address of the last recorded holder of every mortgage of record:

NAME	LAST KNOWN ADDRESS (If address cannot be reasonably ascertained, please so indicate.)
------	---

None

5. Name and address of every other person who has any record lien on the property:

NAME	LAST KNOWN ADDRESS (If address cannot be reasonably ascertained, please so indicate.)
------	---

None

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the Sale:

NAME	LAST KNOWN ADDRESS (If address cannot be reasonably ascertained, please so indicate.)
------	---

None

7. Name and address of every other person whom the Plaintiff has knowledge who has any interest in the property which may be affected by the Sale:

NAME	LAST KNOWN ADDRESS (If address cannot be reasonably ascertained, please so indicate.)
------	---

TENANT/OCCUPANT	482 EAST 10 STREET CLEARFIELD, PA 16830
-----------------	--

DOMESTIC RELATIONS CLEARFIELD COUNTY	CLEARFIELD COUNTY COURTHOUSE 230 EAST MARKET STREET CLEARFIELD, PA 16830
---	--

COMMONWEALTH OF PENNSYLVANIA	DEPARTMENT OF WELFARE PO BOX 2675 HARRISBURG, PA 17105
---------------------------------	--

Commonwealth of Pennsylvania Bureau of Individual Tax Inheritance Tax Division	6 th Floor, Strawberry Sq., Dept 28061 Harrisburg, PA 17128
--	---

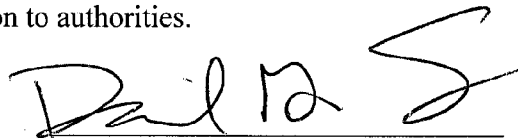
Internal Revenue Service Federated Investors Tower	13 TH Floor, Suite 1300 1001 Liberty Avenue Pittsburgh, PA 15222
---	---

Department of Public Welfare TPL Casualty Unit Estate Recovery Program	P.O. Box 8486 Willow Oak Building Harrisburg, PA 17105
--	--

I verify that the statements made in this Affidavit are true and correct to the best of my knowledge, information or belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. '4904 relating to unsworn falsification to authorities.

JULY 10, 2003

Date



DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

COF

WRIT OF EXECUTION - (MORTGAGE FORECLOSURE)
P.R.C.P. 3180-3183 and Rule 3257

US BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
CMLTI 2007-WFHE3

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

No. Term 20
No. 08-379-CD Term 20
No. Term 20

WRIT OF EXECUTION
(Mortgage Foreclosure)

Commonwealth of Pennsylvania:

County of Clearfield

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following property
(specifically described property below):

PREMISES: 482 EAST 10 STREET, CLEARFIELD, PA 16830
(See Legal Description attached)

Amount Due

Interest from 6/7/08 to Sale
Per diem \$9.25
Add'l Costs
Writ Total

Prothonotary costs \$56,260.71
135.00

\$

\$3,658.50

\$

William A. Hays

(Clerk) Office of the Prothy Support, Common Pleas Court
of CLEARFIELD County, Penn.a.

Dated 7/11/08
(SEAL)

No. 08-379-CD..... Term 20A.D.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

WRIT OF EXECUTION
(Mortgage Foreclosure)

Costs

Real Debt \$56,260.71

Int. from 6/7/08

To Date of Sale (\$9.25 per diem)

Costs

Prothonotary costs

135.00

Prothy Pd.

Sheriff

D. L. Smith

Attorney for Plaintiff(s)

Address: KENNETH S. SMITH STEPHANIE L. SMITH
1408 LAWHEAD STREET 1408 LAWHEAD STREET
HYDE, PA 16843 HYDE, PA 16843

LEGAL DESCRIPTION

All that certain lot or piece of ground situate on the West side of Tenth Street in the Fourth Ward of the Borough of Clearfield, Clearfield County, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a stake on the line of Tenth Street; thence along Tenth Street, South fourteen (14 degrees) degrees twenty (20 minutes) minutes, West twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence by a line running through the original lot of which this is a part, North seventy-five (75 degrees) degrees forty (40 minutes) minutes, West one hundred eighty (180) feet to a stake and the line of an alley known as Graham Alley; thence along said Graham Alley, North fourteen (14 degrees) degrees twenty (20 minutes) minutes, East twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence along the Northern line of the original lot, South seventy-five (75 degrees) degrees forty (40 minutes) minutes, East one hundred eighty (180) feet to a stake and the place of beginning.

TITLE TO SAID PREMISES IS VESTED IN Kenneth S. Smith and Stephanie L. Smith, h/w, by Deed from Daniel J. Russell and Cynthia E. Russell, h/w, as tenants by the entireties, dated 03/16/2007, recorded 03/26/2007, in Deed Mortgage Inst# 200704781.

Premises being: 482 EAST 10 STREET
CLEARFIELD, PA 16830

Tax Parcel No. KL08-247-00061

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA


US BANK NATIONAL ASSOCIATION, AS TRUSTEE : CLEARFIELD COUNTY
FOR CMLTI 2007-WFHE3 : COURT OF COMMON PLEAS
Plaintiff, :
v. : CIVIL DIVISION
: NO. 08-379-CD
KENNETH S. SMITH :
STEPHANIE L. SMITH :
Defendant(s) :

AFFIDAVIT OF SERVICE PURSUANT TO RULE 3129

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF CLEARFIELD) SS:

Plaintiff in the above action sets forth as of the date the Praecipe for the Writ of Execution was filed the following information concerning the real property located at: 482 EAST 10 STREET, CLEARFIELD, PA 16830.

As required by Pa. R.C.P. 3129.2(a) Notice of Sale has been given to Lienholders in the manner required by Pa. R.C.P. 3129.2(c) on each of the persons or parties named, at that address set forth on the Affidavit No. 2 (previously filed) and/or Amended Affidavit No. 2 on the date indicated. A copy of the Certificate of Mailing (Form 3817) and/or Certified Mail Return Receipt stamped by the U.S. Postal Service is attached for each notice.


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

Date: August 22, 2008

IMPORTANT NOTICE: This property is sold at the direction of the plaintiff. It may not be sold in the absence of a representative of the plaintiff at the Sheriff's Sale. The sale must be postponed or stayed in the event that a representative of the plaintiff is not present at the sale.

172559

FILED NO
m11123/51 cc
AUG 25 2008
LAI
William A. Shaw
Prothonotary/Clerk of Courts

CQS

PHELAN HALLINAN & SCHMIEG

One Penn Center at Suburban Station, Suite 1400

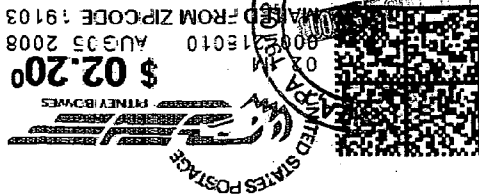
1617 John F. Kennedy Boulevard

Philadelphia, PA 19103-1814

Name and
Address
of Sender

Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage	Fee
1		TENANT/OCCUPANT 482 EAST 10 STREET CLEARFIELD, PA 16830		
2		DOMESTIC RELATIONS CLEARFIELD COUNTY CLEARFIELD COUNTY COURTHOUSE 230 EAST MARKET STREET CLEARFIELD, PA 16830		
3		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF WELFARE PO BOX 2675 HARRISBURG, PA 17105		
4		Commonwealth of Pennsylvania, Bureau of Individual Tax, Inheritance Tax Division, 6 th Floor, Strawberry Sq., Dept 28061, Harrisburg, PA 17128		
5		Internal Revenue Service, Federated Investors Tower, 13 TH Floor, Suite 1300, 1001 Liberty Avenue, Pittsburgh, PA 15222		
6		Department of Public Welfare, TPL Casualty Unit, Estate Recovery Program, P.O. Box 8486, Willow Oak Building, Harrisburg, PA 17105		
7				
8				
9				
10				
11				
12				
Total Number of Pieces Listed by Sender		Re: KENNETH S. SMITH	172659	TEAM 4
Total Number of Pieces Received at Post Office		Postmaster, Per (Name of Receiving Employee)	The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional insurance. See Domestic Mail Manual R900, S913 and S921 for limitations of coverage.	

PAID FROM ZIP CODE 19103
\$ 02.20
AUG 33 2008
PRIME BOWERS



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20804

NO: 08-379-CD

PLAINTIFF: US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CMLTI 2007-WFHE3
vs.

DEFENDANT: KENNETH S. SMITH AND STEPHANIE L. SMITH

Execution REAL ESTATE

SHERIFF RETURN

5

DATE RECEIVED WRIT: 7/11/2008

LEVY TAKEN 7/31/2008 @ 9:49 AM

POSTED 7/31/2008 @ 9:50 AM

SALE HELD 11/7/2008

SOLD TO US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CMLTI 2007-WFHE3

SOLD FOR AMOUNT \$1.00 PLUS COSTS

WRIT RETURNED 11/25/2008

DATE DEED FILED 11/25/2008

PROPERTY ADDRESS 482 EAST 10TH STREET CLEARFIELD , PA 16830

FILED

NOV 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

SERVICES

7/1/2008 @ 1:10 PM SERVED KENNETH S. SMITH

SERVED KENNETH S. SMITH, DEFENDANT, AT A GARAGE ON LAWHEAD STREET IN HYDE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO KENNETH S. SMITH

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOW TO HIM / HER THE CONTENTS THEREOF.

8/1/2008 @ 12:57 PM SERVED STEPHANIE L. SMITH

SERVED STEPHANIE L. SMITH, DEFENDANT, AT HER PLACE OF EMPLOYMENT DENNY'S BEER BARREL PUB, WOODLAND ROAD, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO STEPHANIE SMITH

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOW TO HIM / HER THE CONTENTS THEREOF.

@ SERVED

NOW, OCTOBER 2, 2008 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO CONTINUE THE SHERIFF SALE SCHEDULED FOR OCTOBER 3, 2008 TO NOVEMBER 7, 2008.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20804

NO: 08-379-CD

PLAINTIFF: US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CMLTI 2007-WFHE3

vs.

DEFENDANT: KENNETH S. SMITH AND STEPHANIE L. SMITH

Execution REAL ESTATE

SHERIFF RETURN

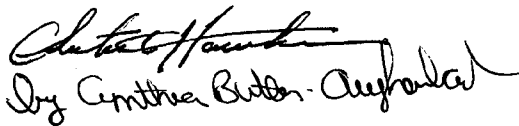
SHERIFF HAWKINS \$237.66

SURCHARGE \$40.00 PAID BY ATTORNEY

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

WRIT OF EXECUTION - (MORTGAGE FORECLOSURE)
P.R.C.P. 3180-3183 and Rule 3257

US.BANK NATIONAL
ASSOCIATION, AS TRUSTEE FOR
CMLTI 2007-WFHE3

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

No. Term 20
No. 08-379-CD Term 20
No. Term 20

WRIT OF EXECUTION
(Mortgage Foreclosure)

Commonwealth of Pennsylvania:

County of Clearfield

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

To satisfy the judgment, interest and costs in the abovematter you are directed to levy upon and sell the following property
(specifically described property below):

PREMISES: 482 EAST 10 STREET, CLEARFIELD, PA 16830
(See Legal Description attached)

Amount Due

Interest from 6/7/08 to Sale
Per diem \$9.25
Add'l Costs
Writ Total

Prothonotary costs \$56,260.71
\$ 135.00

\$3,658.50

Willi Alpha

(Clerk) Office of the Prothy Support, Common Pleas Court
of CLEARFIELD County, Penna.

Dated 7/11/08
(SEAL)

172659

Received this writ this 11th day
of JULY A.D. 2008
At 3:00 A.M./P.M.

Charles A. Humphreys
Sheriff *by Cynthia Butler-Capital*

No. 08-379-CD..... Term 20A.D.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CMLTI 2007-WFHE3

vs.

KENNETH S. SMITH
STEPHANIE L. SMITH

WRIT OF EXECUTION
(Mortgage Foreclosure)

Costs

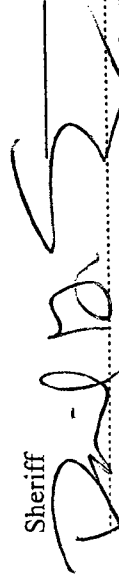
Real Debt \$56,260.71

Int. from 6/7/08
To Date of Sale (\$9.25 per diem)

Costs _____

Prothy Pd. 135.00 Prothonotary costs

Sheriff



Attorney for Plaintiff(s)

Address: KENNETH S. SMITH STEPHANIE L. SMITH
 1408 LAWHEAD STREET 1408 LAWHEAD STREET
 HYDE, PA 16843 HYDE, PA 16843

LEGAL DESCRIPTION

All that certain lot or piece of ground situate on the West side of Tenth Street in the Fourth Ward of the Borough of Clearfield, Clearfield County, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a stake on the line of Tenth Street; thence along Tenth Street, South fourteen (14 degrees) degrees twenty (20 minutes) minutes, West twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence by a line running through the original lot of which this is a part, North seventy-five (75 degrees) degrees forty (40 minutes) minutes, West one hundred eighty (180) feet to a stake and the line of an alley known as Graham Alley; thence along said Graham Alley, North fourteen (14 degrees) degrees twenty (20 minutes) minutes, East twenty-three and three tenths ($23 \frac{3}{10}$) feet to a stake; thence along the Northern line of the original lot, South seventy-five (75 degrees) degrees forty (40 minutes) minutes, East one hundred eighty (180) feet to a stake and the place of beginning.

TITLE TO SAID PREMISES IS VESTED IN Kenneth S. Smith and Stephanie L. Smith, h/w, by Deed from Daniel J. Russell and Cynthia E. Russell, h/w, as tenants by the entireties, dated 03/16/2007, recorded 03/26/2007, in Deed Mortgage Inst# 200704781.

Premises being: 482 EAST 10 STREET
CLEARFIELD, PA 16830

Tax Parcel No. KL08-247-00061

**REAL ESTATE SALE
SCHEDULE OF DISTRIBUTION**

NAME KENNETH S. SMITH

NO. 08-379-CD

NOW, November 25, 2008, by virtue of the Writ of Execution hereunto attached, after having given due and legal notice of time and place of sale by publication in a newspaper published in this County and by handbills posted on the premises setting for the date, time and place of sale at the Court House in Clearfield on November 07, 2008, I exposed the within described real estate of Kenneth S. Smith And Stephanie L. Smith to public venue or outcry at which time and place I sold the same to US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CMLTI 2007-WFHE3 he/she being the highest bidder, for the sum of \$1.00 plus costs and made the following appropriations, viz:

SHERIFF COSTS:

RDR	15.00
SERVICE	15.00
MILEAGE	6.68
LEVY	15.00
MILEAGE	2.00
POSTING	15.00
CSDS	10.00
COMMISSION	0.00
POSTAGE	6.30
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	15.00
DEED	30.00
ADD'L POSTING	
ADD'L MILEAGE	6.68
ADD'L LEVY	
BID AMOUNT	1.00
RETURNS/DEPUTIZE	
COPIES	15.00
	5.00
BILLING/PHONE/FAX	5.00
CONTINUED SALES	20.00
MISCELLANEOUS	
TOTAL SHERIFF COSTS	\$237.66

DEED COSTS:

ACKNOWLEDGEMENT	5.00
REGISTER & RECORDER	29.00
TRANSFER TAX 2%	0.00
TOTAL DEED COSTS	\$29.00

PLAINTIFF COSTS, DEBT AND INTEREST:

DEBT-AMOUNT DUE	56,260.71
INTEREST @ 9.2500 %	1,415.25
FROM 06/07/2008 TO 11/07/2008	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	3,658.50
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	40.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	

TOTAL DEBT AND INTEREST	\$61,374.46
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COSTS:

ADVERTISING	368.26
TAXES - COLLECTOR	
TAXES - TAX CLAIM	
DUE	
LIEN SEARCH	200.00
ACKNOWLEDGEMENT	5.00
DEED COSTS	29.00
SHERIFF COSTS	237.66
LEGAL JOURNAL COSTS	90.00
PROTHONOTARY	135.00
MORTGAGE SEARCH	80.00
MUNICIPAL LIEN	459.27

TOTAL COSTS	\$1,604.19
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DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE **WITHIN TEN (10) DAYS FROM THIS DATE.**

CHESTER A. HAWKINS, Sheriff

Phelan Hallinan & Schmieg, L.L.P.
One Penn Center at Suburban Station
1617 John F. Kennedy Boulevard
Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000
Fax: (215) 563-7009

Representing Lenders in
Pennsylvania and New Jersey

Foreclosure Manager

October 2, 2008

Office of the Sheriff
Clearfield County Courthouse
1 North Second Street
Clearfield, PA 16830

Attn: Real Estate Department

Fax Number: 814-765-5915

Re: US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CMLTI 2007-
WFHE3 v.
KENNETH S. SMITH and STEPHANIE L. SMITH
482 EAST 10TH STREET CLEARFIELD, PA 16830
Court No. 08-379-CD

Dear Sir/Madam:

Please Postpone the Sheriff Sale of the above referenced property, which is scheduled for October 3, 2008 due to the following: Per Client.

The Property is to be relisted for the November 7, 2008 Sheriff Sale.

Thank you for your correspondence in this matters.

Very Truly Yours,
CHRISTINE SCHOFFLER for
Phelan Hallinan & Schmieg, LLP