

08-597-CD
Discover Bank vs Brian J. Smith

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

DISCOVER BANK

Plaintiff

No: 08-597-CD

vs.

COMPLAINT IN CIVIL ACTION

BRIAN J SMITH

Defendant

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

James C. Warmbrodt, 42524
WELTMAN, WEINBERG & REIS CO., L.P.A.
436 Seventh Avenue, Suite 1400
Pittsburgh, PA 15219
(412) 434-7955
FAX: 412-338-7130
06362922 C A Pit SXA

11/12/3987 ICC Sheriff
m/12/3987 Atty pd \$95.00

LM
cc: Brian J Smith
Clearfield County Sheriff's Office

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff
vs. Civil Action No

BRIAN J SMITH

Defendant

COMPLAINT AND NOTICE TO DEFEND

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 an 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET ST., SUITE 228
CLEARFIELD, PA 16830
(814) 765-2641, ext 1300-1301

COMPLAINT

1. Plaintiff, is a corporation with offices at 6500 New Albany Rd, New Albany, OH 43054.

2. Defendant is adult individual(s) residing at the address listed below:

BRIAN J SMITH
213 WEST SHERIDAN AVE
DU BOIS, PA 15801

3. Defendant applied for and received a credit card issued by Plaintiff bearing the account number XXXXXXXXXXXXXXX6632 . A copy of Plaintiff's Statement of Account is attached hereto, marked as Exhibit "A" and made a part hereof.

4. Defendant made use of said credit card and currently has a balance due and owing to Plaintiff, as of March 10, 2008 , in the amount of \$1755.61 .

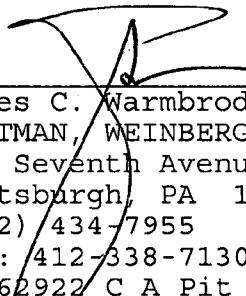
5. Defendant is in default by failing to make payments when due.

6. Plaintiff avers that the Agreement between the parties provides that Defendant will pay Plaintiff's attorneys' fees.

7. Plaintiff avers that such attorneys' fees will amount to \$300.00 .

8. Although repeatedly requested to do so by Plaintiff, Defendant has willfully failed and/or refused to pay the balance due to Plaintiff.

Wherefore, the Plaintiff prays for Judgment in its favor and against Defendant , BRIAN J SMITH , INDIVIDUALLY , in the amount of \$1755.61 with interest at the legal rate of 6.000% per annum from date of judgment plus attorneys' fees of \$300.00 , and costs.


James C. Warmbrodt, 42524
WELTMAN, WEINBERG & REIS CO., L.P.A.
436 Seventh Avenue, Suite 1400
Pittsburgh, PA 15219
(412) 434-7955
FAX: 412-338-7130
06362922 C A Pit SXA

This law firm is a debt collector attempting to collect this debt for our client and any information obtained will be used for that purpose.

VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 P.A.C.S. §4904 relating to unsworn falsifications to authorities, that he/she is Robert Adkins,
(Name)
Accounts Manager of DFS Services, LLC, plaintiff herein, that
(Title) (Company)

he/she is duly authorized to make this Verification, and that the facts set forth in the foregoing Complaint in Civil Action are true and correct to the best of his/her knowledge, information and belief.

Robert Adams
(Signature)

WWR # 6362922
BRIAN J SMITH
6011002485076632

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103990
NO: 08-597-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: DISCOVER BANK
vs.
DEFENDANT: BRIAN J. SMITH

SHERIFF RETURN

NOW, April 15, 2008 AT 1:21 PM SERVED THE WITHIN COMPLAINT ON BRIAN J. SMITH DEFENDANT AT 213 WEST SHERIDAN AVE., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DEBBIE SMITH, MOTHER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

FILED

02/5761
JUL 16 2008

William A. Shaw
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	WELTMAN	8669134	10.00
SHERIFF HAWKINS	WELTMAN	8669134	90.00

Sworn to Before Me This

____ Day of _____ 2008

So Answers,

*Chester A. Hawkins
by Marilyn Harris*
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

No. 08-597-CD

vs.

PRAECIPE FOR DEFAULT JUDGMENT

BRIAN J SMITH

Defendant

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

William T. Molczan, Esquire
PA I.D.#47437
Weltman, Weinberg & Reis Co., L.P.A.
1400 Koppers Bldg.
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#6362922
Judgment Amount \$ 2,055.61

THIS LAW FIRM IS ATTEMPTING TO COLLECT THIS DEBT FOR ITS CLIENT AND ANY
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

FILED Atty pd. 20.00

3115701
JUL 28 2008 ICC Notice
to Def.

William A. Shaw
Notary/Clerk of Courts
Statement to
Atty

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH

Defendant

PRAECIPE FOR DEFAULT JUDGMENT

TO THE PROTHONOTARY:

Kindly enter Judgment against the Defendant, BRIAN J SMITH above named, in the default of an Answer, in the amount of \$2,055.61 computed as follows:

Amount claimed in Complaint	\$1,755.61
Interest from date of judgment at the legal interest rate of 6.00% per annum	
Attorney's fees	\$300.00
TOTAL	\$2,055.61

I hereby certify that appropriate Notices of Default, as attached have been mailed in accordance with PA R.C.P. 237.1 on the dates indicated on the Notices.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: William T. Molczan
William T. Molczan, Esquire
PA I.D.#47437
Weltman, Weinberg & Reis Co., L.P.A.
1400 Koppers Bldg.
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#6362922

Plaintiff's address is:

c/o Weltman, Weinberg & Reis Co., L.P.A., 1400 Koppers Building, 436 7th Avenue, Pittsburgh, PA 15219
And that the last known address of the Defendant is: 213 WEST SHERIDAN AVE, DUBOIS, PA 15801

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH

Defendant

NOTICE OF JUDGMENT OR ORDER

TO: Plaintiff
 Defendant
 Garnishee

You are hereby notified that the following
Order or Judgment was entered against you
on July 28, 2008

Assumpsit Judgment in the amount
of \$2,055.61 plus costs.

Trespass Judgment in the amount
of \$_____ plus costs.

If not satisfied within sixty (60)
days, your motor vehicle operator's license and/or registration
will be suspended by the Department of Transportation, Bureau
of Traffic Safety, Harrisburg, PA.

Entry of Judgment of
 Court Order
 Non-Pros
 Confession
 Default
 Verdict
 Arbitration
Award

Prothonotary

By: Willie L. Blazquez
PROTHONOTARY (OR DEPUTY)

BRIAN J SMITH
213 WEST SHERIDAN AVE
DUBOIS, PA 15801

Plaintiff's address is:

c/o Weltman, Weinberg & Reis Co., L.P.A., 1400 Koppers Building, 436 7th Avenue, Pittsburgh, PA 15219
1-888-434-0085

THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

CASE# 08-597-CD

BRIAN J SMITH

Defendant

IMPORTANT NOTICE

TO: BRIAN J SMITH
213 WEST SHERIDAN AVE
DUBOIS, PA 15801

Date of Notice: 7-2-08
WWR#: 6362922

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 NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE FOLLOWING 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.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET ST., SUITE 228
CLEARFIELD, PA 16830
(814) 765- 2641, ext. 1300-1301

BY: Patrick Thomas Woodman
PATRICK THOMAS WOODMAN
PA I.D. #34507
WELTMAN WEINBERG & REIS CO., L.P.A
1400 KOPPERS BLDG, 436 7TH AVE.
PITTSBURGH, PA 15219
(412) 434-7955

IN THE COMMON PLEAS COURT OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Case no: 08-597-CD

Plaintiff
vs.
NON-MILITARY AFFIDAVIT

BRIAN J SMITH

Defendant

The undersigned, who first being duly sworn, according to law, deposes and states as follows:

That he/she is the duly authorized agent of the Plaintiff in the within matter.

Affiant further states that the within Affidavit is made pursuant to and in accordance with the Servicemembers' Civil Relief Act (SCRA), 50 U.S.C. App. § 521.

Affiant further states that based upon investigation it is the affiant's belief that the Defendant, BRIAN J SMITH is not in the military service.

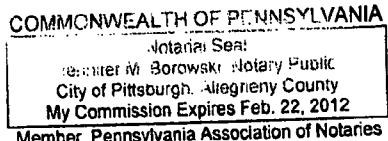
Affiant further states that this belief is supported by the attached certificate from the Defense Manpower Data Center (DMDC), which states that the Defendant, BRIAN J SMITH is not in the military service.

Further Affiant sayeth naught.

William T. Molgan
AFFIANT

SWORN TO AND SUBSCRIBED in my presence this 17th day
of July 2008.

J. B. B.
NOTARY PUBLIC



This law firm is a debt collector attempting to collect this debt for our client and any information obtained will be used for that purpose.



Military Status Report
Pursuant to the Servicemembers Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
SMITH	BRIAN		Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.	

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

Mary M. Snavely-Dixon

Mary M. Snavely-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The Department of Defense strongly supports the enforcement of the Servicemembers Civil Relief Act [50 USCS Appx. §§ 501 et seq] (SCRA) (formerly the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's active duty status by contacting that person's Military Service via the "defenselink.mil" URL provided below. If you have evidence the person is on active-duty and you fail to obtain this additional Military Service verification, provisions of the SCRA may be invoked against you.

If you obtain further information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects current active duty status only. For historical information, please contact the Military Service SCRA points-of-contact.

See: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>

WARNING: This certificate was provided based on a name and Social Security number (SSN) provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID: BYQESZLSDQW

FILED

JUL 28 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

Discover Bank
Plaintiff(s)

No.: 2008-00597-CD

Real Debt: \$2,055.61

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Brian J. Smith
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: July 28, 2008

Expires: July 28, 2013

Certified from the record this 28th day of July, 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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff No. 08-597-CD

vs.

BRIAN J SMITH

Defendant

M&T BANK,

Garnishee,

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#6362922

FILED Atty pd.
m/12/08/2011 20.00
DEC 20 2010
S 3CC@6
William A. Shaw
Prothonotary/Clerk of Courts
Units
to Sheriff
(6)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH

Defendant

M&T BANK,

Garnishee

PRAECIPE FOR WRIT OF EXECUTION

TO THE PROTHONOTARY:

Kindly issue a Writ of Execution in the above matter...

1. directed to the Sheriff of CLEARFIELD County:
2. against BRIAN J SMITH, Defendant
3. against M&T BANK, Garnishee
4. Judgment Amount \$ 2,055.61

Interest \$ 293.31

Costs \$

SUBTOTAL: \$ 2,348.92

Costs (to be added by Prothonotary): **Prothonotary costs** \$ 135.00

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: _____
Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

DISCOVER BANK

Plaintiff

No. 08-597-CD

vs.

BRIAN J SMITH

Defendant

M & T BANK

Garnishee

WRIT OF EXECUTION
NOTICE

This paper is a "Writ of Execution". It has been issued because there is a judgment against you. It may cause your property to be held or taken to pay the judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

The law provides that certain property cannot be taken and sold by the Sheriff to satisfy your debts. SUCH PROPERTY IS SAID TO BE EXEMPT. No matter what you may owe, there is a DEBTOR'S EXEMPTION established by law. This means that no matter what happens, the Sheriff must give you from the sale at least \$300.00 in cash or property. There are also other exemptions which may be applicable to you. Listed below is a summary of some of the major exemptions. You may have other exemptions or other rights. If you have an exemption, you should do the following promptly:

- (1) Complete the claim form on the opposite side and demand a prompt hearing.
- (2) Deliver the form or mail it to the Sheriff's Office at the address noted.

You should come to court when and where you are told to appear ready to explain your exemption. IF YOU DO NOT COME TO COURT AND PROVE YOUR EXEMPTION, YOU MAY LOSE SOME OF YOUR PROPERTY.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
P.O. BOX 186
HARRISBURG, PA 17108
TELEPHONE NO.: 1-800-692-7375

MAJOR EXEMPTIONS UNDER PENNSYLVANIA AND FEDERAL LAW

1. \$300.00 exemptions set by law.
2. All wearing apparel used by yourself and all family members.
3. Bibles, school books, sewing machines, uniforms & equipment.
4. Tools of your trade such as carpenter's tools.
5. Most wages & unemployment benefits.
6. Social Security benefits, certain retirement funds and accounts.
7. Certain veteran & armed forces benefits.
8. Certain insurance proceeds.

9. Such other exemptions as may be provided by law.

CLAIM FOR EXEMPTION

TO THE SHERIFF:

I, the above-named defendant, claim exemption of property from levy or attachment:

(1) FROM MY PERSONAL PROPERTY IN MY POSSESSION WHICH HAS BEEN LEVIED UPON,

(a) I desire that my statutory \$300.00 exemption be:

(1) set aside in kind (specify property, to be set aside in kind):

(2) paid in cash following the sale of the property levied upon; or

(b) I claim the following exemption: (specify property and basis of exemption):

(2) FROM MY PROPERTY WHICH IS IN THE POSSESSION OF A THIRD PARTY, I CLAIM THE FOLLOWING EXEMPTIONS:

(a) my \$300.00 statutory exemption: in cash in kind
(specify property):

(b) Social Security benefits on deposit in the amount of \$ _____

(c) Other (specify amount & basis for exemption): _____

I request a prompt court hearing to determine the exemption.

Notice of hearing should be given me at the following:

ADDRESS: _____ TELEPHONE NUMBER: _____

I verify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 PA. C.S. § 4904 relating to unsworn falsification to authorities:

Date: _____ Defendant: _____

THIS CLAIM TO BE FILED WITH:

Office of the Sheriff of Clearfield County
1 N. Second Street, Suite 116, Clearfield County Courthouse
Clearfield, Pennsylvania 16830
Telephone Number: (814) 765-2641 ext. 5986

Note: Under paragraphs (1) and (2) of the Writ, a description of specific property to be levied upon or attached may be set forth in the Writ or included in a separate direction to the Sheriff.

Under paragraph (2) of the writ, if attachment of a named garnishee is desired, his name should be set forth in the space provided.

Under paragraph (3) of the writ, the Sheriff may, as under prior practice, add as a garnishee any person not named in this writ who may be found in possession of property of the defendant. See Rule 3111(a). For

limitations on the power to attach tangible personal property, see Rule 3108(a) (b). Each court shall, by local rule, designate the officer, organization or person to be named in the notice.

FILED

DEC 20 2010

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK
Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH
Defendant

M&T BANK
Garnishee

WRIT OF EXECUTION

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the judgment, interest and costs against: BRIAN J SMITH Defendant(s);

(1) You are also directed to attach the property of the defendant not levied upon in the possession of M&T Bank, as garnishee, 146 Spring Street Houtzdale, PA 16651 and to notify the garnishee that:

- a. An attachment has been issued;
- b. Except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;
- c. The attachment shall not include any funds in an account of the defendant with a bank or other financial institution
 - i. In which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, or (i) the first \$10,000.00 of each of the account of the defendant (s) with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - ii. Each account of the defendant(s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - iii. Any funds in an account of the defendant (s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law

(2) If property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify [him] such other person that he or she has been added as a garnishee and is enjoined as above stated

Amount due \$ 2,348.92

Costs to be added..... \$ _____

Prothonotary costs 135.00
Prothonotary

Deputy

DATED: 12/20/10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff No. 08-597-CD

vs.

**INTERROGATORIES IN ATTACHMENT
M&T BANK**

BRIAN J SMITH

Defendant

and

M&T BANK

Garnishee FILED ON BEHALF OF:
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955
WWR#6362922

FILED 4ce
M. D. O'KON Sheriff
DEC 20 2010
S William A. Shaw
Prothonotary/Clerk of Courts
⑧

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No.: 08-597-CD

BRIAN J SMITH
Defendant

and

M&T BANK
Garnishee

TO: M&T BANK
146 Spring Street
Houtzdale, PA 16651

Suggested Reference No.: XXX-XX-6941

RE: BRIAN J SMITH
510 RIDGE RD
GETTYSBURG, PA 17325

IMPORTANT NOTICES TO GARNISHEE!

A. You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in Judgment against you.

B. Herein, the word "defendant" means any one or more of the defendants against whom the writ of Execution is issued.

C. While service of Writ upon the Garnishee attaches all property of the Defendant subject to attachment which is then in the hands of the garnishee, it also attaches all property of the defendant which comes into the Garnishee's possession thereafter, until Judgment is entered against the Garnishee. For example, the resultant liability of a Garnishee-Bank would not be measured by the balance in the debtor's account, either at the time of service of the Writ or at the time of Judgment against the Garnishee, but rather by the amounts deposited and withdrawn during the intervening period.

INTERROGATORIES IN ATTACHMENT

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to him on any negotiable or other written instrument, or did he claim that you owed him any money or were liable to him for any reason (including funds on deposit for checking or savings accounts and certificates of deposit)?

1a. If the answer to Interrogatory 1 is in the affirmative, state the following: the amount of money you owe or owed to defendant, and, if such money is in the form of a fund, the present location thereof; the terms, face amount and amount you owe or owed to defendant on each of such negotiable or other written instruments and the present location of each of such instruments; the amount or amounts that defendant claims or claimed that you owe or owed to him; and the nature and amount of each of such liabilities.

2. At the time you were served or at any subsequent time was there in your possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant.

3. At the time you were served or at any subsequent time did you hold legal title to any property of any nature owned solely or part by the defendant or in which defendant held or claimed any interest?

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

5. At any time before or after you were served, did the defendant transfer or deliver any property to you or to any person or place pursuant to your directions or consent and if so what was the consideration thereof?

6. At any time after you were served did you pay, transfer, or deliver any money or property to the defendant or to any person or place pursuant to his direction or otherwise discharge any claim of the defendant against you?

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, Identify each account and state the reason for the exemption, the amount being withheld under each exemption and the amount of funds in each account, and the entity electronically depositing those funds on a recurring basis.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

9. If the answer to Interrogatory 1 is in the affirmative, state the date the sheriff served these interrogatories on this institution.

10. If the answer to Interrogatory 1 is in the affirmative, state the date the written instrument, checking or savings account, certificate of deposit, or other funds were frozen, restricted, or otherwise put on hold by this institution.

11. If the response to Interrogatory 7 is in the affirmative, are other funds comingled in the account which are not deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law?

12. If the response to Interrogatory 11 is in the affirmative, state the amount of non-exempt funds on deposit in the account.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 
Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955
WWR#6362922

VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 PA. C.S. 4904 relating to unsworn falsifications to authorities, that he/she is _____
(Name)

_____ of _____, garnishee herein,
(Title) (Company)

that he/she is duly authorized to make this verification, and that the facts set forth in the foregoing
Answers to Interrogatories are true and correct to the best of his/her knowledge, information and belief.

(SIGNATURE)

FILED

DEC 20 2010

William A. Shaw
Prothonotary/Clerk of Courts

To Deputy 12/22/10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
NO: 08-597-CD

DISCOVER BANK

vs

BRIAN J. SMITH
TO: M&T BANK, Garnishee

SERVICE # 1 OF 2

WRIT OF EXECUTION, INTERROGATORIES TO GARNISHEE

SERVE BY: 03/18/2011 **RUSH** HEARING: PAGE: 107995

DEFENDANT: M&T BANK, Garnishee
ADDRESS: 146 SPRING ST.
HOOTZDALE, PA 16651

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: GARNISHEE

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT

OCCUPIED

ATTEMPTS

FILED

03/04/2011
JAN 04 2011

William A. Shaw
Prothonotary/Clerk of Courts

SHERIFF'S RETURN

NOW, 1-3-11 AT 9:45 AM / PM SERVED THE WITHIN

WRIT OF EXECUTION, INTERROGATORIES TO GARNISHEE ON M&T BANK, Garnishee, DEFENDANT
BY HANDING TO Sherry Lloyd 1 PIC

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS
THEREOF.

ADDRESS SERVED 146 Spring Street, Houtzdale, Pa 16651

NOW _____ AT _____ AM / PM POSTED THE WITHIN

WRIT OF EXECUTION, INTERROGATORIES TO GARNISHEE FOR M&T BANK, Garnishee

AT (ADDRESS) _____

NOW _____ AT _____ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO M&T BANK, Garnishee

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

James F. Davis
Deputy Signature
James F. Davis

Print Deputy Name

FILED

JAN 04 2011

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Dkt Pg. 107995

2 of 2

DISCOVER BANK

NO. 08-597-CD

-vs-

BRIAN J. SMITH

WRIT OF EXECUTION/
INTERROGATORIES TO
GARNISHEE

TO: M&T Bank, Garnishee,

SHERIFF'S RETURN

NOW JANUARY 4, 2011 MAILED THE WITHIN:

WRIT, INTERROGATORIE, PRAECIPE, WRIT NOTICE, CLAIM FOR EXEMPTION

TO: BRIAN J. SMITH, DEFENDANT

AT: 510 RIDGE RD., GETTYSBURG, PA 17325

IN THE S.A.S.E.

FILED

01/05/2011
JAN 05 2011

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 107995
NO: 08-597-CD
SERVICES 2
WRIT OF EXECUTION, INTERROGATORIES TO GARNISHEE

PLAINTIFF: DISCOVER BANK

vs.

DEFENDANT: BRIAN J. SMITH
TO: M&T BANK, Garnishee

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	WELTMAN	4972183	20.00
SHERIFF HAWKINS	WELTMAN	4972183	42.36

Sworn to Before Me This

____ Day of _____ 2010

So Answers,



Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH

Defendant

M&T BANK

Garnishee

WRIT OF EXECUTION

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the judgment, interest and costs against: BRIAN J SMITH Defendant(s);

(1) You are also directed to attach the property of the defendant not levied upon in the possession of M&T Bank, as garnishee, 146 Spring Street Houtzdale, PA 16651 and to notify the garnishee that:

- a. An attachment has been issued;
- b. Except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;
- c. The attachment shall not include any funds in an account of the defendant with a bank or other financial institution
 - i. In which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, or (i) the first \$10,000.00 of each of the account of the defendant (s) with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - ii. Each account of the defendant(s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - iii. Any funds in an account of the defendant (s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law

(2) If property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify [him] such other person that he or she has been added as a garnishee and is enjoined as above stated

Amount due \$ 2,348.92

Costs to be added..... \$

Prothonotary costs 135.00
Prothonotary

DATED: 12/20/10

Received this writ this 20 day
of Dec A.D. 2010
At 3:00 A.M. (P.M.)

Deputy

Clint A. Hamby
Sheriff by Manly Hamby

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK
Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH
Defendant

M&T BANK
Garnishee

WRIT OF EXECUTION

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the judgment, interest and costs against: BRIAN J SMITH Defendant(s);

(1) You are also directed to attach the property of the defendant not levied upon in the possession of M&T Bank, as garnishee, 146 Spring Street Houtzdale, PA 16651 and to notify the garnishee that:

- An attachment has been issued;
- Except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;
- The attachment shall not include any funds in an account of the defendant with a bank or other financial institution
 - In which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, or (i) the first \$10,000.00 of each of the account of the defendant (s) with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - Each account of the defendant(s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - Any funds in an account of the defendant (s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law

(2) If property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify [him] such other person that he or she has been added as a garnishee and is enjoined as above stated

Amount due \$ 2,348.92

Costs to be added..... \$

Prothonotary costs 135.00
Prothonotary

Deputy

Received this writ this 20 day

of December A.D. 2010

at 3:00 A.M./P.M.

DATED: 12/20/10

Sheriff

Clay Marlyn Harris

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK
Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH
Defendant

M&T BANK
Garnishee

WRIT OF EXECUTION

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the judgment, interest and costs against: BRIAN J SMITH Defendant(s);

(1) You are also directed to attach the property of the defendant not levied upon in the possession of M&T Bank, as garnishee, 146 Spring Street Houtzdale, PA 16651 and to notify the garnishee that:

- An attachment has been issued;
- Except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;
- The attachment shall not include any funds in an account of the defendant with a bank or other financial institution
 - In which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, or (i) the first \$10,000.00 of each of the account of the defendant (s) with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are indentified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - Each account of the defendant(s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are indentified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - Any funds in an account of the defendant (s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are indentified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law

(2) If property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify [him] such other person that he or she has been added as a garnishee and is enjoined as above stated

Amount due \$ 2,348.92

Costs to be added..... \$

Prothonotary costs 135.00
Prothonotary

Willie L. Ober Jr.

Received this writ this 10 day
of November A.D. 2010
At 3:00 A.M./P.M.

Deputy

DATED: 12/20/10

Clinten A. Newby
Sheriff *by Marilyn Harr*

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH

Defendant

M&T BANK

Garnishee

WRIT OF EXECUTION

TO THE SHERIFF OF CLEARFIELD COUNTY:

To satisfy the judgment, interest and costs against: BRIAN J SMITH Defendant(s);

(1) You are also directed to attach the property of the defendant not levied upon in the possession of M&T Bank, as garnishee, 146 Spring Street Houtzdale, PA 16651 and to notify the garnishee that:

- An attachment has been issued;
- Except as provided in paragraph (c), the garnishee is enjoined from paying any debt to or for the account of the defendant and from delivering any property of the defendant or otherwise disposing thereof;
- The attachment shall not include any funds in an account of the defendant with a bank or other financial institution
 - In which funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, or (i) the first \$10,000.00 of each of the account of the defendant (s) with a bank or other financial institution containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - Each account of the defendant(s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law
 - Any funds in an account of the defendant (s) with a bank or other financial institution in which funds on deposit exceed \$10,000.00 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law

(2) If property of the defendant not levied upon and subject to attachment is found in the possession of anyone other than a named garnishee, you are directed to notify [him] such other person that he or she has been added as a garnishee and is enjoined as above stated

Amount due \$ 2,348.92

Costs to be added..... \$

Prothonotary costs 135.00
Prothonotary

Willie L. Baker Jr.

Received this writ this 20 day

Deputy

Lee A.D. 2010
3:00 A.M./P.M.

Chester A. Hawley
Sheriff
Sgt. Maryann Farmer

DATED: 12/20/10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff No. 08-597-CD

vs.

**INTERROGATORIES IN ATTACHMENT
M&T BANK**

BRIAN J SMITH

Defendant

and

M&T BANK

Garnishee FILED ON BEHALF OF:
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955
WWR#6362922

I hereby certify this to be a true
and attested copy of the foregoing
statement filed in this case.

DEC 20 2010

Attest:

William J. Bla
Prost
Clerk of Court

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No.: 08-597-CD

BRIAN J SMITH
Defendant

and

M&T BANK
Garnishee

TO: M&T BANK
146 Spring Street
Houtzdale, PA 16651

Suggested Reference No.: XXX-XX-6941

RE: BRIAN J SMITH
510 RIDGE RD
GETTYSBURG, PA 17325

IMPORTANT NOTICES TO GARNISHEE!

A. You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in Judgment against you.

B. Herein, the word "defendant" means any one or more of the defendants against whom the writ of Execution is issued.

C. While service of Writ upon the Garnishee attaches all property of the Defendant subject to attachment which is then in the hands of the garnishee, it also attaches all property of the defendant which comes into the Garnishee's possession thereafter, until Judgment is entered against the Garnishee. For example, the resultant liability of a Garnishee-Bank would not be measured by the balance in the debtor's account, either at the time of service of the Writ or at the time of Judgment against the Garnishee, but rather by the amounts deposited and withdrawn during the intervening period.

INTERROGATORIES IN ATTACHMENT

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to him on any negotiable or other written instrument, or did he claim that you owed him any money or were liable to him for any reason (including funds on deposit for checking or savings accounts and certificates of deposit)?

1a. If the answer to Interrogatory 1 is in the affirmative, state the following: the amount of money you owe or owed to defendant, and, if such money is in the form of a fund, the present location thereof; the terms, face amount and amount you owe or owed to defendant on each of such negotiable or other written instruments and the present location of each of such instruments; the amount or amounts that defendant claims or claimed that you owe or owed to him; and the nature and amount of each of such liabilities.

2. At the time you were served or at any subsequent time was there in your possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant.

3. At the time you were served or at any subsequent time did you hold legal title to any property of any nature owned solely or part by the defendant or in which defendant held or claimed any interest?

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

5. At any time before or after you were served, did the defendant transfer or deliver any property to you or to any person or place pursuant to your directions or consent and if so what was the consideration thereof?

6. At any time after you were served did you pay, transfer, or deliver any money or property to the defendant or to any person or place pursuant to his direction or otherwise discharge any claim of the defendant against you?

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, Identify each account and state the reason for the exemption, the amount being withheld under each exemption and the amount of funds in each account, and the entity electronically depositing those funds on a recurring basis.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

9. If the answer to Interrogatory 1 is in the affirmative, state the date the sheriff served these interrogatories on this institution.

10. If the answer to Interrogatory 1 is in the affirmative, state the date the written instrument, checking or savings account, certificate of deposit, or other funds were frozen, restricted, or otherwise put on hold by this institution.

11. If the response to Interrogatory 7 is in the affirmative, are other funds comingled in the account which are not deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law?

12. If the response to Interrogatory 11 is in the affirmative, state the amount of non-exempt funds on deposit in the account.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 
Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955
WWR#6362922

VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 PA. C.S. 4904 relating to unsworn falsifications to authorities, that he/she is _____
(Name)

_____ of _____, garnishee herein,
(Title) (Company)

that he/she is duly authorized to make this verification, and that the facts set forth in the foregoing
Answers to Interrogatories are true and correct to the best of his/her knowledge, information and belief.

(SIGNATURE)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff No. 08-597-CD

vs.

**INTERROGATORIES IN ATTACHMENT
M&T BANK**

BRIAN J SMITH

Defendant

and

M&T BANK

Garnishee FILED ON BEHALF OF:
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955
WWR#6362922

I hereby certify this to be a true
and accurate copy of the original
statement filed in this case.

DEC 20 2010

Attest.

William L. Blair
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No.: 08-597-CD

BRIAN J SMITH
Defendant

and

M&T BANK
Garnishee

TO: M&T BANK
146 Spring Street
Houtzdale, PA 16651

Suggested Reference No.: XXX-XX-6941

RE: BRIAN J SMITH
510 RIDGE RD
GETTYSBURG, PA 17325

IMPORTANT NOTICES TO GARNISHEE!

A. You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in Judgment against you.

B. Herein, the word "defendant" means any one or more of the defendants against whom the writ of Execution is issued.

C. While service of Writ upon the Garnishee attaches all property of the Defendant subject to attachment which is then in the hands of the garnishee, it also attaches all property of the defendant which comes into the Garnishee's possession thereafter, until Judgment is entered against the Garnishee. For example, the resultant liability of a Garnishee-Bank would not be measured by the balance in the debtor's account, either at the time of service of the Writ or at the time of Judgment against the Garnishee, but rather by the amounts deposited and withdrawn during the intervening period.

INTERROGATORIES IN ATTACHMENT

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to him on any negotiable or other written instrument, or did he claim that you owed him any money or were liable to him for any reason (including funds on deposit for checking or savings accounts and certificates of deposit)?

1a. If the answer to Interrogatory 1 is in the affirmative, state the following: the amount of money you owe or owed to defendant, and, if such money is in the form of a fund, the present location thereof; the terms, face amount and amount you owe or owed to defendant on each of such negotiable or other written instruments and the present location of each of such instruments; the amount or amounts that defendant claims or claimed that you owe or owed to him; and the nature and amount of each of such liabilities.

2. At the time you were served or at any subsequent time was there in your possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant.

3. At the time you were served or at any subsequent time did you hold legal title to any property of any nature owned solely or part by the defendant or in which defendant held or claimed any interest?

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

5. At any time before or after you were served, did the defendant transfer or deliver any property to you or to any person or place pursuant to your directions or consent and if so what was the consideration thereof?

6. At any time after you were served did you pay, transfer, or deliver any money or property to the defendant or to any person or place pursuant to his direction or otherwise discharge any claim of the defendant against you?

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, Identify each account and state the reason for the exemption, the amount being withheld under each exemption and the amount of funds in each account, and the entity electronically depositing those funds on a recurring basis.

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

9. If the answer to Interrogatory 1 is in the affirmative, state the date the sheriff served these interrogatories on this institution.

10. If the answer to Interrogatory 1 is in the affirmative, state the date the written instrument, checking or savings account, certificate of deposit, or other funds were frozen, restricted, or otherwise put on hold by this institution.

11. If the response to Interrogatory 7 is in the affirmative, are other funds comingled in the account which are not deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law?

12. If the response to Interrogatory 11 is in the affirmative, state the amount of non-exempt funds on deposit in the account.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 
Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955
WWR#6362922

VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 PA. C.S. 4904 relating to unsworn falsifications to authorities, that he/she is _____
(Name)

____ of _____, garnishee herein,
(Title) (Company)

that he/she is duly authorized to make this verification, and that the facts set forth in the foregoing
Answers to Interrogatories are true and correct to the best of his/her knowledge, information and belief.

(SIGNATURE)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff No. 08-597-CD

vs.

**PRAECIPE FOR WRIT OF EXECUTION
(BANK ATTACHMENT ONLY)**

BRIAN J SMITH

Defendant

M&T BANK,

Garnishee,

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

Matthew D. Urban, Esquire
PA I.D. #90963
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#6362922

I hereby certify this to be a true
and correct copy of the original
document filed in this case.

DEC 20 2010

William J. Schaffer
Prothonotary
Clark of Court
Attest: 

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No. 08-597-CD

BRIAN J SMITH

Defendant

M&T BANK,

Garnishee

PRAECIPE FOR WRIT OF EXECUTION

TO THE PROTHONOTARY:

Kindly issue a Writ of Execution in the above matter...

1.	directed to the Sheriff of CLEARFIELD County:	
2.	against BRIAN J SMITH, Defendant	
3.	against M&T BANK, Garnishee	
4.	Judgment Amount	\$ 2,055.61

Interest	\$ 293.31
----------	-----------

Costs	\$
-------	----

SUBTOTAL:	\$ 2,348.92
------------------	-------------

Costs (to be added by Prothonotary):	Prothonotary costs \$ <u>135.00</u>
--------------------------------------	--

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: _____

Matthew D. Urban, Esquire

PA I.D. #90963

WELTMAN, WEINBERG & REIS CO., L.P.A.

1400 Koppers Building

436 Seventh Avenue

Pittsburgh, PA 15219

(412) 434-7955

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD

DISCOVER BANK
Plaintiff

vs.

No. 08-597-CD

BRIAN J SMITH

Defendant

M & T BANK

Garnishee

WRIT OF EXECUTION
NOTICE

This paper is a "Writ of Execution". It has been issued because there is a judgment against you. It may cause your property to be held or taken to pay the judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

The law provides that certain property cannot be taken and sold by the Sheriff to satisfy your debts. **SUCH PROPERTY IS SAID TO BE EXEMPT**. No matter what you may owe, there is a **DEBTOR'S EXEMPTION** established by law. This means that no matter what happens, the Sheriff must give you from the sale at least \$300.00 in cash or property. There are also other exemptions which may be applicable to you. Listed below is a summary of some of the major exemptions. You may have other exemptions or other rights. If you have an exemption, you should do the following promptly:

- (1) Complete the claim form on the opposite side and demand a prompt hearing.
- (2) Deliver the form or mail it to the Sheriff's Office at the address noted.

You should come to court when and where you are told to appear ready to explain your exemption. **IF YOU DO NOT COME TO COURT AND PROVE YOUR EXEMPTION, YOU MAY LOSE SOME OF YOUR PROPERTY.**

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
PENNSYLVANIA BAR ASSOCIATION
P.O. BOX 186
HARRISBURG, PA 17108
TELEPHONE NO.: 1-800-692-7375

MAJOR EXEMPTIONS UNDER PENNSYLVANIA AND FEDERAL LAW

1. \$300.00 exemptions set by law.
2. All wearing apparel used by yourself and all family members.
3. Bibles, school books, sewing machines, uniforms & equipment.
4. Tools of your trade such as carpenter's tools.
5. Most wages & unemployment benefits.
6. Social Security benefits, certain retirement funds and accounts.
7. Certain veteran & armed forces benefits.
8. Certain insurance proceeds.

9. Such other exemptions as may be provided by law.

CLAIM FOR EXEMPTION

TO THE SHERIFF:

I, the above-named defendant, claim exemption of property from levy or attachment:

(1) FROM MY PERSONAL PROPERTY IN MY POSSESSION WHICH HAS BEEN LEVIED UPON,

(a) I desire that my statutory \$300.00 exemption be:

(1) set aside in kind (specify property, to be set aside in kind):

(2) paid in cash following the sale of the property levied upon; or

(b) I claim the following exemption: (specify property and basis of exemption):

(2) FROM MY PROPERTY WHICH IS IN THE POSSESSION OF A THIRD PARTY, I CLAIM THE FOLLOWING EXEMPTIONS:

(a) my \$300.00 statutory exemption: in cash in kind
(specify property):

(b) Social Security benefits on deposit in the amount of \$ _____

(c) Other (specify amount & basis for exemption): _____

I request a prompt court hearing to determine the exemption.

Notice of hearing should be given me at the following:

ADDRESS: _____ TELEPHONE NUMBER: _____

I verify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 PA. C.S. § 4904 relating to unsworn falsification to authorities:

Date: _____ Defendant: _____

THIS CLAIM TO BE FILED WITH:

Office of the Sheriff of Clearfield County
1 N. Second Street, Suite 116, Clearfield County Courthouse
Clearfield, Pennsylvania 16830
Telephone Number: (814) 765-2641 ext. 5986

Note: Under paragraphs (1) and (2) of the Writ, a description of specific property to be levied upon or attached may be set forth in the Writ or included in a separate direction to the Sheriff.

Under paragraph (2) of the writ, if attachment of a named garnishee is desired, his name should be set forth in the space provided.

Under paragraph (3) of the writ, the Sheriff may, as under prior practice, add as a garnishee any person not named in this writ who may be found in possession of property of the defendant. See Rule 3111(a). For

limitations on the power to attach tangible personal property, see Rule 3108(a) (b). Each court shall, by local rule, designate the officer, organization or person to be named in the notice.

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DISCOVER BANK

Plaintiff

vs.

Civil Action No.: 08-597-CD

BRIAN J SMITH
Defendant

and

M&T BANK
Garnishee

TO: M&T BANK
146 Spring Street
Houtzdale, PA 16651

Suggested Reference No.: XXX-XX-6941

RE: BRIAN J SMITH
510 RIDGE RD
GETTYSBURG, PA 17325

IMPORTANT NOTICES TO GARNISHEE!

A. You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in Judgment against you.

B. Herein, the word "defendant" means any one or more of the defendants against whom the writ of Execution is issued.

C. While service of Writ upon the Garnishee attaches all property of the Defendant subject to attachment which is then in the hands of the garnishee, it also attaches all property of the defendant which comes into the Garnishee's possession thereafter, until Judgment is entered against the Garnishee. For example, the resultant liability of a Garnishee-Bank would not be measured by the balance in the debtor's account, either at the time of service of the Writ or at the time of Judgment against the Garnishee, but rather by the amounts deposited and withdrawn during the intervening period.

FILED
M/13/2011
JAN 18 2011
S
William A. Shaw
Prothonotary/Clerk of Courts

INTERROGATORIES IN ATTACHMENT

1. At the time you were served or at any subsequent time did you owe the defendant any money or were you liable to him on any negotiable or other written instrument, or did he claim that you owed him any money or were liable to him for any reason (including funds on deposit for checking or savings accounts and certificates of deposit)?

N/A

**M & T BANK
HAS NO OPEN ACCOUNTS
FOR ABOVE NAMED**

1a. If the answer to Interrogatory 1 is in the affirmative, state the following: the amount of money you owe or owed to defendant, and, if such money is in the form of a fund, the present location thereof; the terms, face amount and amount you owe or owed to defendant on each of such negotiable or other written instruments and the present location of each of such instruments; the amount or amounts that defendant claims or claimed that you owe or owed to him; and the nature and amount of each of such liabilities.

2. At the time you were served or at any subsequent time was there in your possession, custody or control of yourself and one or more other persons any property of any nature owned solely or in part by the defendant.

N/A

3. At the time you were served or at any subsequent time did you hold legal title to any property of any nature owned solely or part by the defendant or in which defendant held or claimed any interest?

N/A

4. At the time you were served or at any subsequent time did you hold as fiduciary any property in which the defendant had an interest?

N/A

5. At any time before or after you were served, did the defendant transfer or deliver any property to you or to any person or place pursuant to your directions or consent and if so what was the consideration thereof?

N/A

6. At any time after you were served did you pay, transfer, or deliver any money or property to the defendant or to any person or place pursuant to his direction or otherwise discharge any claim of the defendant against you? N/A

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, Identify each account and state the reason for the exemption, the amount being withheld under each exemption and the amount of funds in each account, and the entity electronically depositing those funds on a recurring basis.

N/A

8. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which the funds on deposit, not including any otherwise exempt funds, did not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123? If so, identify each account.

u/a

9. If the answer to Interrogatory 1 is in the affirmative, state the date the sheriff served these interrogatories on this institution.

u/a

10. If the answer to Interrogatory 1 is in the affirmative, state the date the written instrument, checking or savings account, certificate of deposit, or other funds were frozen, restricted, or otherwise put on hold by this institution.

u/a

11. If the response to Interrogatory 7 is in the affirmative, are other funds comingled in the account which are not deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law?

u/a

12. If the response to Interrogatory 11 is in the affirmative, state the amount of non-exempt funds on deposit in the account.

u/a

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: _____

Matthew D. Urban, Esquire

PA I.D. #90963

WELTMAN, WEINBERG & REIS CO., L.P.A.

1400 Koppers Building

436 Seventh Avenue

Pittsburgh, PA 15219

(412) 434-7955

WWR#6362922

VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 PA. C.S. 4904 relating to unsworn falsifications to authorities, that he/she is Cathy Fisher
(Name)

CDA of M + T Bank, garnishee herein,
(Title) (Company)

that he/she is duly authorized to make this verification, and that the facts set forth in the foregoing
Answers to Interrogatories are true and correct to the best of his/her knowledge, information and belief.

JAN 13 2011

Cathy Fisher
(SIGNATURE)

CATHY S FISHER
M&T BANK

FILED

JAN 18 2011

William A. Shaw
Prothonotary/Clerk of Courts

WELTMAN, WEINBERG & REIS CO., L.P.A.

BY: William T. Molczan, Esquire
I.D. No.47437
436 Seventh Avenue, Suite 1400
Pittsburgh, PA 15219
Phone: 412.434.7955
Fax: 412.434.7959
File # 6362922

Attorney for Plaintiff(s)

FILED *(D)*

*4 FEB 04 2011
m 12-50
William A. Shaw
Prothonotary/Clerk of Courts*

2 cases re

Attn

DISCOVER BANK

CLEARFIELD County
Court of Common Pleas

vs.

BRIAN J SMITH,

NO. 08-597-CD

and

M & T BANK

Garnishee(s)

PRAECIPE TO DISCONTINUE ATTACHMENT EXECUTION

TO THE PROTHONOTARY:

Kindly mark the above matter discontinued and ended as to Garnishee(s) only.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By *William T. Molczan*

William T. Molczan, Esquire
Attorney for Plaintiff

Sworn to and subscribed

Before me the 26 day of January, 2011

Wayne A. Jones
NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Wayne A. Jones, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires June 29, 2014

Member, Pennsylvania Association of Notaries

EE/EE/EE
FEE 04 2011
William A Shaw
Prothonotary/Clerk of Court