

08-1124-CD

US Bank vs Joann Whalen

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
DANIEL G. SCHMIEG, ESQ., Id. No. 62205
MICHELE M. BRADFORD, ESQ., Id. No. 69849
JUDITH T. ROMANO, ESQ., Id. No. 58745
SHEETAL SHAH-JANI, ESQ., Id. No. 81760
JENINE R. DAVEY, ESQ., Id. No. 87077
LAUREN R. TABAS, ESQ., Id. No. 93337
VIVEK SRIVASTAVA, ESQ., Id. No. 202331
JAY B. JONES, ESQ., Id. No. 86657
PETER MULCAHY, ESQ., Id. No. 61791
ANDREW SPIVACK, ESQ., Id. No. 84439
JAIME MCGUINNESS, ESQ., Id. No. 90134
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000 179729

US BANK, N.A.
3476 STATEVIEW BLVD
FORT MILL, SC 29715

Plaintiff

v.

JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILLS, PA 16666

Defendant

FILED Pd \$95.00 Atty
m/11:30am ICC shff
JUN 20 2008

William A. Shaw
Prothonotary/Clerk of Courts

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 2008-1124-CD

CLEARFIELD COUNTY

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

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, N.A.
3476 STATEVIEW BLVD
FORT MILL, SC 29715

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

JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILLS, PA 16666

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

3. On 11/21/2005 mortgagor(s) JOANN & WILLIAM WHALEN made, executed and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS A NOMINEE FOR SOVEREIGN BANK which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No. 200520968. The 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 02/01/2008 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	\$66,177.76
Interest	\$2,284.80
01/01/2008 through 06/17/2008	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$185.16
11/21/2005 to 06/17/2008	
Cost of Suit and Title Search	\$550.00
Subtotal	\$70,447.72
Escrow	
Credit	\$0.00
Deficit	\$1,344.00
Subtotal	\$1,344.00
TOTAL	\$71,791.72

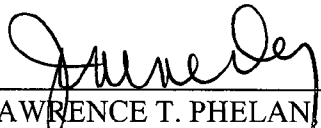
7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's 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.
11. Plaintiff hereby releases WILLIAM WHALEN from liability for the debt secured by the mortgage.

12. By virtue of the death of and WILLIAM WHALEN on 11/22/2007, Defendant became sole owner of the mortgaged premises as surviving tenant by the entirety.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$71,791.72, together with interest from 06/17/2008 at the rate of \$13.60 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:  87077
LAWRENCE T. PHELAN, ESQUIRE
FRANCIS S. HALLINAN, ESQUIRE
DANIEL G. SCHMIEG, ESQUIRE
MICHELE M. BRADFORD, ESQUIRE
JUDITH T. ROMANO, ESQUIRE
SHEETAL R. SHAH-JANI, ESQUIRE
JENINE R. DAVEY, ESQUIRE
LAUREN R. TABAS, ESQUIRE
VIVEK SRIVASTAVA, ESQUIRE
JAY B. JONES, ESQUIRE
PETER MULCAHY, ESQUIRE
ANDREW SPIVACK, ESQUIRE
JAIME MCGUINNESS, ESQUIRE
Attorneys for Plaintiff

LEGAL DESCRIPTION

All Those three (3) tracts or parcels of land located and situate in Decatur Township, Clearfield County, Pennsylvania, bounded and described as follows:

THE FIRST THEREOF:

BEGINNING at a post corner of lands of George Tirch and First Avenue; thence parallel with First Avenue in a Southwesterly direction, a distance of sixty-nine and one-half (69 1/2) feet to other lands of the grantor; thence by other lands of the grantor in a Southeasterly direction a distance of sixty-five (65) feet to lands of Andy Comitz; thence by lands of Andy Comitz in a easterly direction a distance of fifty-nine (59) feet to lands of George Tirch; thence by lands of George Tirch in a Northwesterly direction a distance of sixty-two (62) feet, more or less, and place of beginning.

BEING the same premises which vested in Joseph F. Desso and Pearl Desso, His Wife, by virtue of a deed from Joseph Desso, et ux, dated the Second day of September, 1939 and recorded in Deed Book Vol. 328, Page 28. Thereafter the said Joseph Desso died March 27, 1967, thereby vesting the premises in his wife, Pearl Desso, by virtue of survivorship. Thereafter the said Pearl Desso died intestate leaving one child, to wit, JoAnn Whalen, who duly qualified as Administratrix, and by virtue of a First and Final Account duly filed in Clearfield County to Estate No. 17-72-282, the said real estate was awarded to the said JoAnn Whalen, the only heir.

THE SECOND THEREOF:

BEGINNING at a post on the Northerly side of the Township Road connecting the West end of Coal Street with State Highway Route 53, being the Southwesterly corner of Lot purchased by Lewis Walkey from the Moshannon Land and Lumber Company; thence along said Walkey lot North $9\frac{1}{2}$ degrees West two hundred five and one-half ($205\frac{1}{2}$) feet to a post, being the northwest corner of said lot; thence by land formerly of Kittaning Coal Company South $81\frac{1}{2}$ degrees West ninety-eight and one-half ($98\frac{1}{2}$) feet to a post, corner of lot conveyed by the Moshannon Land and Lumber Company to Catherine Kehn; thence South $9\frac{1}{2}$ degrees East two hundred five and one-half ($205\frac{1}{2}$) feet, more or less, to the said Township Road; thence along said Road North $81\frac{1}{2}$ degrees East ninety-eight and one-half ($98\frac{1}{2}$) feet, more or less, to the lot conveyed by the Moshannon Land and Lumber Company to the said Lewis Walkey and the place of beginning.

EXCEPTING and reserving out of and from the aforesaid tract, a nine (9) foot wide alley as provided in prior deed conveyed by Lewis Walkey to John W. McClellan and George A. McClellan.

THE THIRD THEREOF:

On the east a distance of one hundred forty-one (141) feet by other lands of the grantor; on the west a distance of one hundred thirty-six (136) feet by lands of Joseph Desso, Sr., and other lands of the grantee, also a distance of fourteen (14) feet by lands now owned by Rosie Tirsch; on the north a distance of sixty-four (64) feet by other lands of the grantor; on the south a distance

of fifty (50) feet by Spruce Alley.

THE SECOND THEREOF BEING the same premises that vested in Joseph Desso, Jr. by virtue of a deed from Martin D. Desso, et ux, dated May 14, 1954, and recorded in Clearfield in Deed Book 435, at Page 404.

THE THIRD THEREOF BEING the same premises that vested in Joseph Desso, Jr. by virtue of a deed from Andrew Comitz, et ux, dated June 27, 1942, and recorded in Clearfield in Deed Book 331 at Page 226.

Thereafter the said Joseph Desso died intestate March 27, 1967, survived by Pearl Desso, His Wife, and one child; namely JoAnn Whalen; appropriate inheritance tax having been paid on this real estate pursuant to the Estate of Joseph Desso, Jr. to File No. 17-72-283. Thereafter the said Pearl Desso died as previously recited and the properties were distributed to JoAnn Whalen, the sole heir, pursuant to the aforesaid Account.

PARCEL # 013-381-00016

AND 013-381-00013

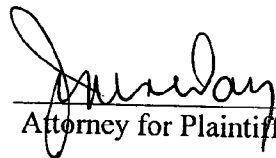
PROPERTY BEING 107 1ST AVENUE

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.

 87077
Attorney for Plaintiff

DATE: 6/17/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
NO: 08-1124-CD

US BANK, N.A.
vs
JOANN WHALEN

SERVICE # 1 OF 1

COMPLAINT IN MORTGAGE FORECLOSURE

SERVE BY: 07/2008 HEARING: PAGE: 104304

DEFENDANT: JOANN WHALEN
ADDRESS: 107 1ST AVE.
OSCEOLA MILLS, PA 16666

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

FILED

03:15 PM
JUN 25 2008

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

William A. Shaw
Prothonotary/Clerk of Courts

ATTEMPTS

SHERIFF'S RETURN

NOW THIS 25th day of June 2008 AT 2:06 AM / PM SERVED THE WITHIN

COMPLAINT IN MORTGAGE FORECLOSURE ON JOANN WHALEN, DEFENDANT

BY HANDING TO Alexis K. Felt Grand daughter

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

ADDRESS SERVED 107 1st AVE OSCEOLA MILLS

NOW _____ AT _____ AM / PM POSTED THE WITHIN

COMPLAINT IN MORTGAGE FORECLOSURE FOR JOANN WHALEN

AT (ADDRESS) _____

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

I MAKE RETURN OF **NOT FOUND** AS TO JOANN WHALEN

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY: Dep George F. DeHaven
Deputy Signature

Dep George F. DeHaven
Print Deputy Name

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

SEP 10 2008

11:45 AM
William A. Shaw
Prothonotary/Clerk of Courts
CENT & NOTICE TO
ATTY & DEFE

US BANK, N.A.

3476 STATEVIEW BLVD

MORT MILL, SC 29715

Plaintiff,

v.

JOANN WHALEN

107 1ST AVENUE

OSCEOLA MILL, PA 16666

Defendant(s).

CLEARFIELD COUNTY
COURT OF COMMON PLEAS

CIVIL DIVISION

NO. 2008-1124-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 **JOANN WHALEN**, 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	\$ 71,791.72
Interest - 06/18/2008 - 09/08/2008	\$1,128.80
TOTAL	<u>\$ 72,920.52</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: 9-10-08


PRO PROTHY

179729

DANIEL G. SCHMIEG, ESQUIRE

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, N.A.

Plaintiff

Vs.

JOANN WHALEN

Defendants

: COURT OF COMMON PLEAS

: CIVIL DIVISION

: CLEARFIELD COUNTY

: NO. 2008-1124-CD

TO: JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILLS, PA 16666

DATE OF NOTICE: AUGUST 7, 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

(Rule of Civil Procedure No. 236 - Revised)

IN THE COURT OF COMMON PLEAS
CLEARFIELD PENNSYLVANIA

US BANK, N.A.
3476 STATEVIEW BLVD
MORT MILL, SC 29715

Plaintiff,

v.

JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILL, PA 16666

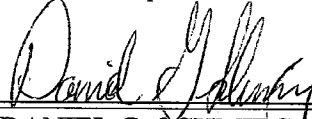
Defendant(s).

:
:
: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS
:
: CIVIL DIVISION
:
: NO. 2008-1124-CD
:
:
:
:
:

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

BY  ~~DEPUTY~~

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


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.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104304
NO: 08-1124-CD
SERVICES 1
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: US BANK, N.A.
vs.
DEFENDANT: JOANN WHALEN

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	705546	10.00
SHERIFF HAWKINS	PHELAN	705546	38.20

FILED
012:5534
OCT 03 2008
William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

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

US.BANK,N.A.

vs.

JOANN.WHALEN

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

No. 2008-1124-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 9/9/08 to Sale

Per diem \$11.99

Add'l Costs

Writ Total

Prothonotary costs \$72,920.52
135.00

\$ _____

\$3,247.50

\$ _____

Paul M.

Attorney for the Plaintiff(s)

Note: Please attach description of Property.

179729

FILED *Any pd. 20.00*
m/12/4/08
OCT 07 2008 *1ccole writs w/prop desc. to Sheriff*
William A. Shaw
Prothonotary/Clerk of Courts

GW

No. 2008-1124-CD..... Term 20A.D.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

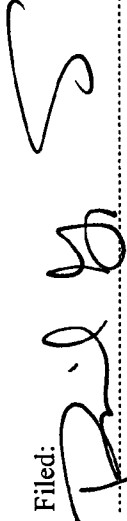
US BANK, N.A.

vs.

JOANN WHALEN

PRAECIPE FOR WRIT OF EXECUTION
(Mortgage Foreclosure)

Filed:



Attorney for Plaintiff(s)

Address: JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILL, PA 16666

William A. Shaw
Prothonotary/Clerk of Courts

OCT 07 2008

FILED


ATTORNEY FOR PLAINTIFF

**CLEARFIELD COUNTY
COURT OF COMMON PLEAS**

CIVIL DIVISION

NO. 2008-1124-CD

Defendant(s).


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

US BANK, N.A.
3476 STATEVIEW BOULEVARD
FORT MILL, PA 29715

Plaintiff,

v.

JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILL, PA 16666
Defendant(s).

CLEARFIELD COUNTY
COURT OF COMMON PLEAS

CIVIL DIVISION

NO. 2008-1124-CD

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

US BANK, N.A. , 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 **107 1ST AVENUE, OSCEOLA MILL, PA 16666**.

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

NAME

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

JOANN WHALEN

107 1ST AVENUE
OSCEOLA MILL, PA 16666

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.

OCTOBER 3, 2008

Date


DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

US BANK, N.A.
3476 STATEVIEW BOULEVARD
FORT MILL, PA 29715

Plaintiff,

v.

JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILL, PA 16666

Defendant(s).

CLEARFIELD COUNTY
COURT OF COMMON PLEAS

CIVIL DIVISION

NO. 2008-1124-CD

AFFIDAVIT PURSUANT TO RULE 3129

US BANK, N.A. , Plaintiff in the above action, by its attorney, **DANIEL G. SCHMIEG, ESQUIRE**, sets forth as of the date the Praeipe for the Writ of Execution was filed, the following information concerning the real property located at **107 1ST AVENUE, OSCEOLA MILL, PA 16666**.

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.)

**Manufacturers and Traders Trust
Company**

**1 M&T Plaza
Buffalo, NY 14240**

Waypoint Bank

**449 Eisenhower Boulevard
Harrisburg, PA 17111**

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

107 1ST AVENUE
OSCEOLA MILL, PA 16666

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

6th Floor, Strawberry Sq., Dept 28061
Harrisburg, PA 17128

Internal Revenue Service
Federated Investors Tower

13TH Floor, Suite 1300
1001 Liberty Avenue
Pittsburgh, PA 15222

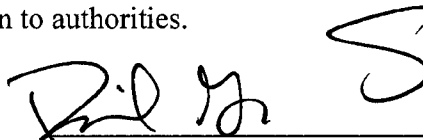
Department of Public Welfare
TPL Casualty Unit
Estate Recovery Program

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.

OCTOBER 3, 2008

Date



DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

COPY

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

US.BANK, N.A.

vs.

JOANN.WHALEN

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

No. Term 20

No. 2008-1124-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: 107 1ST AVENUE, OSCEOLA MILL, PA 16666
(See Legal Description attached)

Amount Due

Interest from 9/9/08 to Sale

Per diem \$11.99

Add'l Costs

Writ Total

\$72,920.52

Prothonotary costs 135.00
\$

\$3,247.50

\$

William L. Hays

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

Dated

10/7/08

(SEAL)

179729

No. 2008-1124-CD..... Term 20A.D.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

US BANK, N.A.

vs.

JOANN WHALEN

WRIT OF EXECUTION
(Mortgage Foreclosure)

Costs

Real Debt

\$72,920.52

Int. from 9/9/08

To Date of Sale (\$11.99 per diem)

Costs

Prothy Pd.

135.00

Sheriff



Attorney for Plaintiff(s)

Address: JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILL, PA 16666

LEGAL DESCRIPTION

All those three (3) tracts or parcels of land located and situate in Decatur Township, Clearfield County, City of Osceola and State of Pennsylvania and described as follows:

The First Thereof: Beginning at a post corner of lands of George Tirsch and First Avenue, thence parallel with First Avenue in a southwesterly direction, a distance of sixty nine and one half (69 1/2) feet to other land of the Grantor, thence by other lands of the Grantor in a southeasterly direction a distance of sixty five (65) feet to lands of Andy Comitz, thence by land of Andy Comitz in an easterly direction a distance of fifty nine (59) feet to lands of George Tirsch, thence by lands of George Tirsch in a northwesterly direction a distance of sixty two (62) feet, more or less, and place of beginning.

TITLE TO SAID PREMISES IS VESTED IN William Whalen and JoAnn Whalen, his wife, as tenants by the entireties, by Deed from JoAnn Whalen, individually and as Administratrix of the Estate of Pearl E. Desso, dated 04/23/1973, recorded 04/25/1973 in Book 631, Page 172.

Premises being: 107 1ST AVENUE
OSCEOLA MILL, PA 16666

Tax Parcel No. 013-381-00016 & 013-381-00013

5
FILED

NOV 26 2008

William A. Shaw

Prothonotary/Clerk of Courts

PHELAN 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

US BANK, N.A.

Plaintiff

v.

JOANN WHALEN

Defendant

ATTORNEY FOR PLAINTIFF

Court of Common Pleas

Civil Division

CLEARFIELD County

No. 2008-1124-CD

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 June 20, 2008, a true and correct copy of which is attached hereto, made part hereof, and marked as Exhibit "A".
2. Judgment was entered on September 10, 2008 in the amount of \$72,920.52. 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 January 9, 2009.

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

Principal Balance	\$66,177.76
Interest Through January 9, 2009	\$5,074.37
Per Diem \$13.60	
Late Charges	\$185.16
Legal fees	\$1,800.00
Cost of Suit and Title	\$1,205.00
Sheriff's Sale Costs	\$0.00
Property Inspections/ Property Preservation	\$135.00
Appraisal/Brokers Price Opinion	\$95.00
Mortgage Insurance Premium /	\$0.00
Private Mortgage Insurance	
Non Sufficient Funds Charge	\$0.00
Suspense/Misc. Credits	(\$0.00)
Escrow Deficit	\$3,579.59
TOTAL	\$78,251.88

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 Defendant.

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: 11/25/08

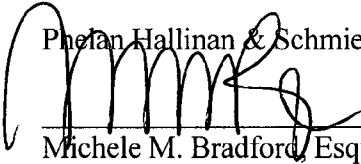
By:  Phelan Hallinan & Schmieg, LLP
Michele M. Bradford, Esquire
Attorney for Plaintiff

Exhibit “A”

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
DANIEL G. SCHMIEG, ESQ., Id. No. 62205
MICHELE M. BRADFORD, ESQ., Id. No. 69849
JUDITH T. ROMANO, ESQ., Id. No. 58745
SHEETAL SHAH-JANI, ESQ., Id. No. 81760
JENINE R. DAVEY, ESQ., Id. No. 87077
LAUREN R. TABAS, ESQ., Id. No. 93337
VIVEK SRIVASTAVA, ESQ., Id. No. 202331
JAY B. JONES, ESQ., Id. No. 86657
PETER MULCAHY, ESQ., Id. No. 61791
ANDREW SPIVACK, ESQ., Id. No. 84439
JAIME MCGUINNESS, ESQ., Id. No. 90134
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000 179729

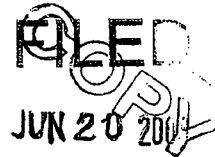
US BANK, N.A.
3476 STATEVIEW BLVD
FORT MILL, SC 29715

Plaintiff

v.

JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILLS, PA 16666

Defendant



William A. Shaw
Prothonotary/Clerk of Court

ATTORNEY FOR PLAINTIFF

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 2008-1124-CD

CLEARFIELD COUNTY

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

PHELAN

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

ATTORNEY FILE COPY
PLEASE RETURN

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, N.A.
3476 STATEVIEW BLVD
FORT MILL, SC 29715

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

JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILLS, PA 16666

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

3. On 11/21/2005 mortgagor(s) JOANN & WILLIAM WHALEN made, executed and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS A NOMINEE FOR SOVEREIGN BANK which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No. 200520968. The 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 02/01/2008 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	\$66,177.76
Interest	\$2,284.80
01/01/2008 through 06/17/2008	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$185.16
11/21/2005 to 06/17/2008	
Cost of Suit and Title Search	<u>\$550.00</u>
Subtotal	\$70,447.72
Escrow	
Credit	\$0.00
Deficit	\$1,344.00
Subtotal	<u>\$1,344.00</u>
TOTAL	\$71,791.72

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.
11. Plaintiff hereby releases WILLIAM WHALEN from liability for the debt secured by the mortgage.

12. By virtue of the death of and WILLIAM WHALEN on 11/22/2007, Defendant became sole owner of the mortgaged premises as surviving tenant by the entirety.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$71,791.72, together with interest from 06/17/2008 at the rate of \$13.60 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:  87077

LAWRENCE T. PHELAN, ESQUIRE
FRANCIS S. HALLINAN, ESQUIRE
DANIEL G. SCHMIEG, ESQUIRE
MICHELE M. BRADFORD, ESQUIRE
JUDITH T. ROMANO, ESQUIRE
SHEETAL R. SHAH-JANI, ESQUIRE
JENINE R. DAVEY, ESQUIRE
LAUREN R. TABAS, ESQUIRE
VIVEK SRIVASTAVA, ESQUIRE
JAY B. JONES, ESQUIRE
PETER MULCAHY, ESQUIRE
ANDREW SPIVACK, ESQUIRE
JAIME MCGUINNESS, ESQUIRE

Attorneys for Plaintiff

LEGAL DESCRIPTION

All Those three (3) tracts or parcels of land located and situate in Decatur Township, Clearfield County, Pennsylvania, bounded and described as follows:

THE FIRST THEREOF:

BEGINNING at a post corner of lands of George Tirsch and First Avenue; thence parallel with First Avenue in a Southwesterly direction, a distance of sixty-nine and one-half (69 1/2) feet to other lands of the grantor; thence by other lands of the grantor in a Southeasterly direction a distance of sixty-five (65) feet to lands of Andy Comitz; thence by lands of Andy Comitz in a easterly direction a distance of fifty-nine (59) feet to lands of George Tirsch; thence by lands of George Tirsch in a Northwesterly direction a distance of sixty-two (62) feet, more or less, and place of beginning.

BEING the same premises which vested in Joseph F. Desso and Pearl Desso, His Wife, by virtue of a deed from Joseph Desso, et ux, dated the Second day of September, 1939 and recorded in Deed Book Vol. 328, Page 28. Thereafter the said Joseph Desso died March 27, 1967, thereby vesting the premises in his wife, Pearl Desso, by virtue of survivorship. Thereafter the said Pearl Desso died intestate leaving one child, to wit, JoAnn Whalen, who duly qualified as Administratrix, and by virtue of a First and Final Account duly filed in Clearfield County to Estate No. 17-72-282, the said real estate was awarded to the said JoAnn Whalen, the only heir.

THE SECOND THEREOF:

BEGINNING at a post on the Northerly side of the Township Road connecting the West end of Coal Street with State Highway Route 53, being the Southwesterly corner of Lot purchased by Lewis Walkey from the Moshannon Land and Lumber Company; thence along said Walkey lot North $9\frac{1}{2}$ degrees West two hundred five and one-half ($205\frac{1}{2}$) feet to a post, being the northwest corner of said lot; thence by land formerly of Kittaning Coal Company South $81\frac{1}{2}$ degrees West ninety-eight and one-half ($98\frac{1}{2}$) feet to a post, corner of lot conveyed by the Moshannon Land and Lumber Company to Catherine Kehn; thence South $9\frac{1}{2}$ degrees East two hundred five and one-half ($205\frac{1}{2}$) feet, more or less, to the said Township Road; thence along said Road North $81\frac{1}{2}$ degrees East ninety-eight and one-half ($98\frac{1}{2}$) feet, more or less, to the lot conveyed by the Moshannon Land and Lumber Company to the said Lewis Walkey and the place of beginning.

EXCEPTING and reserving out of and from the aforesaid tract, a nine (9) foot wide alley as provided in prior deed conveyed by Lewis Walkey to John W. McClellan and George A. McClellan.

THE THIRD THEREOF:

On the east a distance of one hundred forty-one (141) feet by other lands of the grantor; on the west a distance of one hundred thirty-six (136) feet by lands of Joseph Desso, Sr., and other lands of the grantee, also a distance of fourteen (14) feet by lands now owned by Rosie Tirch; on the north a distance of sixty-four (64) feet by other lands of the grantor; on the south a distance

of fifty (50) feet by Spruce Alley.

THE SECOND THEREOF BEING the same premises that vested in Joseph Desso, Jr. by virtue of a deed from Martin D. Desso, et ux, dated May 14, 1954, and recorded in Clearfield in Deed Book 435, at Page 404.

THE THIRD THEREOF BEING the same premises that vested in Joseph Desso, Jr. by virtue of a deed from Andrew Comitz, et ux, dated June 27, 1942, and recorded in Clearfield in Deed Book 331 at Page 226.

Thereafter the said Joseph Desso died intestate March 27, 1967, survived by Pearl Desso, His Wife, and one child; namely JoAnn Whalen; appropriate inheritance tax having been paid on this real estate pursuant to the Estate of Joseph Desso, Jr. to File No. 17-72-283. Thereafter the said Pearl Desso died as previously recited and the properties were distributed to JoAnn Whalen, the sole heir, pursuant to the aforesaid Account.

PARCEL # 013-381-00016

AND 013-381-00013

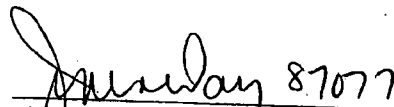
PROPERTY BEING 107 1ST AVENUE

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: 6/17/08

Exhibit “B”

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: 11/28/08

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, N.A.

Plaintiff

v.

JOANN WHALEN

Defendant

Court of Common Pleas

Civil Division

CLEARFIELD County

No. 2008-1124-CD

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.

JOANN WHALEN

107 1ST AVENUE

OSCEOLA MILLS, PA 16666

DATE:

11/25/08

By:

Phelan Hallinan & Schmieg, LLP

Michele M. Bradford, Esquire
Attorney for Plaintiff

UP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

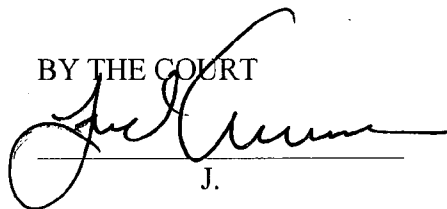
US BANK, N.A.	:	Court of Common Pleas
Plaintiff	:	
	:	Civil Division
v.	:	
	:	CLEARFIELD County
JOANN WHALEN	:	
	:	No. 2008-1124-CD
Defendant	:	

RULE

AND NOW, this 1ST day of December 2008, a Rule is entered upon the Defendant to show cause why an Order should not be entered granting Plaintiff's Motion to Reassess Damages.

Rule Returnable on the 18th day of December 2008, at 2:00 in the Clearfield County Courthouse, Clearfield, Pennsylvania. pm.

BY THE COURT


J.

179729

FILED ^{icc}
014:00311 Atty Bradford
DEC 01 2008 ⁶¹⁰

5
William A. Shaw
Prothonotary/Clerk of Courts

DATE: 12/1/08

☒ 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

DEC 01 2008

William A. Shaw
Prothonotary/Clerk of Courts

US BANK, N.A.

vs.

JOANN WHALEN

: CLEARFIELD COUNTY
: COURT OF COMMON PLEAS
: CIVIL DIVISION
:
: NO. 2008-1124-CD

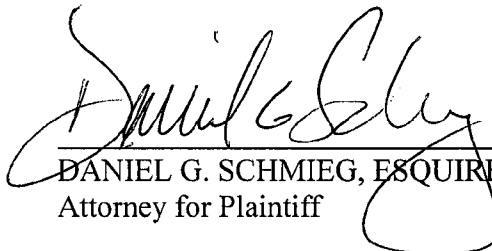
AFFIDAVIT OF SERVICE PURSUANT TO RULE 3129

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF CLEARFIELD)

SS:

I, DANIEL G. SCHMIEG, ESQUIRE attorney for US BANK, N.A. hereby verify that true and correct copies of the Notice of Sheriff's sale were served by certificate of mailing to the recorded lienholders, and any known interested party see Exhibit "A" attached hereto.

DATE: December 5, 2008



DANIEL G. SCHMIEG, ESQUIRE
Attorney for Plaintiff

FILED
M 10:35 AM
DEC 08 2008

William A. Shaw
Prothonotary/Clerk of Courts

CQS

Name and
Address
of Sender

PHILAN HALLINAN & SCHMIEG
One Penn Center at Suburban Station, Suite 1400
1617 John F. Kennedy Boulevard
Philadelphia, PA 19103-1814



Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage
1		TENANT/OCCUPANT 107 1ST AVENUE OSCEOLA MILL, PA 16666	
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		Manufacturers and Traders Trust Company, 1 M&T Plaza, Buffalo, NY 14240	
8		Waypoint Bank, 449 Eisenhower Boulevard, Harrisburg, PA 17111	
9			
10			
11			
12	KXL	Re: JOANN WHALEN 179729 TEAM 4	
Total Number of Pieces Listed by Sender		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.	

FILED ICC ATT
m/11:35 am
DEC 12 2008
William A. Shaw
Prothonotary/Clerk of Courts

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, N.A.

ATTORNEY FOR PLAINTIFF

Plaintiff

v.

JOANN WHALEN

Defendant

Court of Common Pleas

Civil Division

CLEARFIELD County

No. 2008-1124-CD

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the Court's December 1, 2008 Rule directing the Defendant 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.

JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILLS, PA 16666

DATE: 12/10/08

By:

Phelan Hallinan & Schmieg, LLP

Michele M. Bradford, Esquire
Attorney for Plaintiff

FILED

012:23/01
DEC 18 2008

ICC Atty Lhota
(for Phelan, Hallinan &
Schmieg - who will
serve)

William A. Shaw
Prothonotary/Clerk of Courts

CD

IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PENNSYLVANIA

US BANK, N.A.

Plaintiff

v.

JOANN WHALEN

Defendant

Court of Common Pleas

Civil Division

CLEARFIELD County

No. 2008-1124-CD

ORDER

AND NOW, this 18 day of December, 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	\$66,177.76
Interest Through January 9, 2009	\$5,074.37
Per Diem \$13.60	
Late Charges	\$185.16
Legal fees	\$1,800.00
Cost of Suit and Title	\$1,205.00
Sheriff's Sale Costs	\$0.00
Property Inspections/ Property Preservation	\$135.00
Appraisal/Brokers Price Opinion	\$95.00
Mortgage Insurance Premium /	\$0.00
Private Mortgage Insurance	
Non Sufficient Funds Charge	\$0.00

Suspense/Misc. Credits
Escrow Deficit

(\$0.00)
\$3,579.59

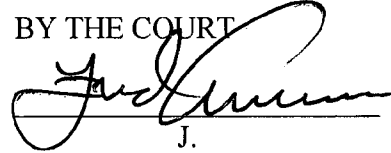
TOTAL

\$78,251.88

Plus interest from January 9, 2009 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.

179729

FILED

M 11:17a.m. CR
DEC 26 2008

William A. Shaw
Prothonotary/Clerk of Courts

60
No CC

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, N.A.

Plaintiff

v.

JOANN WHALEN

Defendant

ATTORNEY FOR PLAINTIFF

Court of Common Pleas

Civil Division

CLEARFIELD County

No. 2008-1124-CD

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the Court Order dated December 18, 2008 was served upon the following individuals on the date indicated below.

JOANN WHALEN

107 1ST AVENUE

OSCEOLA MILLS, PA 16666

DATE:

12/24/08

By:

Phelan Hallinan & Schmieg, LLP

Michele M. Bradford, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20863
NO: 08-1124-CD

PLAINTIFF: US BANK, N.A.
vs.
DEFENDANT: JOANN WHALEN

Execution REAL ESTATE

SHERIFF RETURN

DATE RECEIVED WRIT: 10/7/2008

LEVY TAKEN 10/30/2008 @ 2:00 PM

POSTED 10/30/2008 @ 2:00 PM

SALE HELD 1/9/2009

SOLD TO US BANK, N.A.

SOLD FOR AMOUNT \$1.00 PLUS COSTS

WRIT RETURNED 2/24/2009

DATE DEED FILED 2/24/2009

PROPERTY ADDRESS 107 1ST AVENUE OSCEOLA MILLS , PA 16666

5
FILED
01/30/2009
FEB 24 2009
William A. Shaw
Prothonotary/Clerk of Courts

SERVICES

11/5/2008 @ 10:34 AM SERVED JOANN WHALEN

SERVED JOANN WAHLEN, DEFENDANT, AT HER RESIDENCE 107 1ST AVENUE, OSCEOLA MILLS, CLEARFIELD COUNTY, PENNSYLVANIA
BY HANDING TO JOANN WAHLEN

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.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20863
NO: 08-1124-CD

PLAINTIFF: US BANK, N.A.
VS.
DEFENDANT: JOANN WHALEN

Execution REAL ESTATE

SHERIFF RETURN


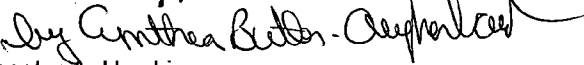
SHERIFF HAWKINS \$256.24

SURCHARGE \$20.00 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, N.A.

VS.

JOANN.WHALEN

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

No. Term 20

No. 2008-1124-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: 107 1ST AVENUE, OSCEOLA MILL, PA 16666
(See Legal Description attached)

Amount Due

Interest from 9/9/08 to Sale

Per diem \$11.99

Add'l Costs

Writ Total

Prothonotary costs \$72,920.52
135.00

\$ _____

\$3,247.50

William A. H. H. H.

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

Dated 10/7/08
(SEAL)

179729

Received this writ this 7th day
of October A.D. 2008
At 3:00 A.M./P.M.

Charles A. H. H. H.
Sheriff *Joy Cynthia Butler*

No. 2008-1124-CD..... Term 20A.D.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

US BANK, N.A.

vs.

JOANN WHALEN

WRIT OF EXECUTION
(Mortgage Foreclosure)

	Costs
Real Debt	\$72,920.52

Int. from 9/9/08
To Date of Sale (\$11.99 per diem)

Costs	
Prothy Pd.	<u>135.00</u>

Sheriff

[Signature]

Attorney for Plaintiff(s)

Address: JOANN WHALEN
107 1ST AVENUE
OSCEOLA MILL, PA 16666

Received this writ this _____ of _____

LEGAL DESCRIPTION

All those three (3) tracts or parcels of land located and situate in Decatur Township, Clearfield County, City of Osceola and State of Pennsylvania and described as follows:

The First Thereof: Beginning at a post corner of lands of George Tirsch and First Avenue, thence parallel with First Avenue in a southwesterly direction, a distance of sixty nine and one half (69 1/2) feet to other land of the Grantor, thence by other lands of the Grantor in a southeasterly direction a distance of sixty five (65) feet to lands of Andy Comitz, thence by land of Andy Comitz in an easterly direction a distance of fifty nine (59) feet to lands of George Tirsch, thence by lands of George Tirsch in a northwesterly direction a distance of sixty two (62) feet, more or less, and place of beginning.

TITLE TO SAID PREMISES IS VESTED IN William Whalen and JoAnn Whalen, his wife, as tenants by the entirety, by Deed from JoAnn Whalen, individually and as Administratrix of the Estate of Pearl E. Desso, dated 04/23/1973, recorded 04/25/1973 in Book 631, Page 172.

Premises being: 107 1ST AVENUE
OSCEOLA MILL, PA 16666

Tax Parcel No. 013-381-00016 & 013-381-00013

LEGAL DESCRIPTION

All those three (3) tracts or parcels of land located and situate in Decatur Township, Clearfield County, City of Osceola and State of Pennsylvania and described as follows:

The First Thereof: Beginning at a post corner of lands of George Tirch and First Avenue, thence parallel with First Avenue in a southwesterly direction, a distance of sixty nine and one half (69 1/2) feet to other land of the Grantor, thence by other lands of the Grantor in a southeasterly direction a distance of sixty five (65) feet to lands of Andy Comitz, thence by land of Andy Comitz in an easterly direction a distance of fifty nine (59) feet to lands of George Tirch, thence by lands of George Tirch in a northwesterly direction a distance of sixty two (62) feet, more or less, and place of beginning.

The Second Thereof: Beginning at a post on the northerly side of The Township Road connecting the west end of Coal Street with State Highway Route 53, being the southwesterly corner lot purchased by Lewis Walkey from the Moshannon Land and Lumber Company, thence along said Walkey lot north 9 1/2 degrees west two hundred five and one half (205 1/2) feet to a post, being the northwest corner of said lot, thence by land formerly of Kittaning Coal Company south 81 1/2 degrees west ninety eight and one half (98 1/2) feet to a post, corner of lot conveyed by the Moshannon Land and Lumber Company to Catherine Kehn, thence south 9 1/2 degrees east two hundred five and one half (205 1/2) feet, more or less, to the said township road, thence along said road north 81 1/2 degrees east ninety eight and one half (98 1/2) feet, more or less, to the lot conveyed by the Moshannon Land and Lumber Company to the said Lewis Walkey and the place of beginning. Excepting and reserving out of and from the aforesaid tract, a nine (9) foot wide alley as provided in prior Deed conveyed by Lewis Walkey to John W. McClennan and George A. McClennan.

The Third Thereof: On the east a distance of one hundred forty one (141) feet by other lands of the Grantor, on the west a distance of one hundred thirty six (136) feet by lands of Joseph Desso, Sr., and other lands of the Grantee, also a distance of fourteen (14) feet by land now owned by Rosie Tirch, on the north a distance of sixty four (64) feet by other lands of the Grantor and on the south a distance of fifty (50) feet by Spruce Alley.

Fax Id#: 112-013-381-16; 112-013-381-13

TITLE TO SAID PREMISES IS VESTED IN William Whalen and JoAnn Whalen, his wife, as tenants by the entirety, by Deed from JoAnn Whalen, individually and as Administratrix of the Estate of Pearl E. Desso, dated 04/23/1973, recorded 04/25/1973 in Book 631, Page 172.

Premises being: 107 1ST AVENUE
OSCEOLA MILL, PA 16666

**REAL ESTATE SALE
SCHEDULE OF DISTRIBUTION**

NAME JOANN WAHLEN

NO. 08-1124-CD

NOW, February 24, 2009, 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 January 09, 2009, I exposed the within described real estate of Joann Whalen to public venue or outcry at which time and place I sold the same to US BANK, N.A. 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	23.40
LEVY	15.00
MILEAGE	23.40
POSTING	15.00
CSDS	10.00
COMMISSION	0.00
POSTAGE	5.04
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	
DEED	30.00
ADD'L POSTING	
ADD'L MILEAGE	23.40
ADD'L LEVY	
BID AMOUNT	1.00
RETURNS/DEPUTIZE	
COPIES	15.00
	5.00
BILLING/PHONE/FAX	5.00
CONTINUED SALES	
MISCELLANEOUS	
TOTAL SHERIFF COSTS	\$256.24

DEED COSTS:

ACKNOWLEDGEMENT	5.00
REGISTER & RECORDER	28.50
TRANSFER TAX 2%	0.00
TOTAL DEED COSTS	\$28.50

PLAINTIFF COSTS, DEBT AND INTEREST:

DEBT-AMOUNT DUE	72,920.52
INTEREST @ 11.9900 %	1,462.78
FROM 09/09/2008 TO 01/09/2009	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	3,247.50
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	20.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	
TOTAL DEBT AND INTEREST	\$77,650.80

COSTS:

ADVERTISING	573.25
TAXES - COLLECTOR	
TAXES - TAX CLAIM	488.48
DUE	
LIEN SEARCH	100.00
ACKNOWLEDGEMENT	5.00
DEED COSTS	28.50
SHERIFF COSTS	256.24
LEGAL JOURNAL COSTS	126.00
PROTHONOTARY	135.00
MORTGAGE SEARCH	40.00
MUNICIPAL LIEN	1,610.00
TOTAL COSTS	\$3,362.47

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