

08-2018-CD

Jeffrey Rice vs Erma L. Elnicki

Case is settled
on the 10/14/13
of 5th via 10/15/13
(~~Concurred~~)

10-3-13
(Fees to Tully Brown)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE,

Plaintiff

vs.

No. 08-2018-CD

ERMA ALMEDA ELNICKI,

Defendant

Type of Pleading: Complaint

Filed on behalf of: Jeffrey W. Rice,
Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

100 Meadow Lane, Suite 5
DuBois, Pennsylvania 15801

(814) 375-0300

5
FILED 2cc
01/03/2008 Atty Helzel
OCT 22 2008
William A. Shaw Atty pd. 95.00
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE, :
Plaintiff :
: :
vs. : No.
: :
ERMA ALMEDA ELNICKI, :
Defendant :
:

NOTICE

TO DEFENDANT:

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

Office of the Court Administrator
Clearfield County Courthouse
230 East Market Street
Clearfield, Pennsylvania 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE,	:	
	Plaintiff	:
	:	
vs.	:	No.
	:	
ERMA ALMEDA ELNICKI,	:	
	Defendant	:

COMPLAINT

AND NOW, comes the Plaintiff, Jeffrey W. Rice, by and through his attorneys, Hopkins Heltzel LLP, and says as follows:

COUNT I

1. Plaintiff is Jeffrey W. Rice who is an adult individual and maintains a principal business address at 90 Beaver Drive, Suite A, DuBois, Pennsylvania 15801.
2. Defendant is Erma Almeda Elnicki, an adult individual who maintains an address at 135 Orchard Road, DuBois, Pennsylvania 15801.
3. On or about March 1, 2006, Plaintiff agreed to rent to Defendant and Defendant agreed to rent from Plaintiff, real property known as 100 North Brady Street, DuBois, Pennsylvania.
4. Plaintiff and Defendant agreed the monthly rent would be \$500.00.
5. Plaintiff and Defendant agreed the lease would commence on March 1, 2006 and continue monthly until terminated by one of the parties.
6. Defendant took possession of the premises and immediately opened a furniture business known as "Erma's House".

7. Defendant continued in the premises operating her business until August 4, 2007.

8. Defendant has failed to pay Plaintiff the agreed upon lease amount.

9. As a result of Defendant's rental and occupation of 100 North Brady Street, DuBois, Pennsylvania, Defendant is indebted to Plaintiff in the amount of \$8,000.00.

10. Plaintiff and Defendant further agreed Defendant would be responsible for the utilities Defendant used at 100 North Brady Street, DuBois, Pennsylvania.

11. When Defendant vacated the premises, Defendant failed to pay the outstanding natural gas bill which is \$2,875.67.

11. Defendant's actions constitute breach of contract and as a result thereof Plaintiff has suffered damages in the amount of \$10,875.67

WHEREFORE, Plaintiff requests this Court enter judgment against Defendant Erma Almeda Elnicki in the amount of \$10,875.67 together with pre-judgment interest, post-judgment interest, cost of suit and such other and further relief as the Court deems fair, just, and equitable.

COUNT II

13. Plaintiff repeats each allegation set forth in Count I as if set forth at length herein.

14. Defendant requested Plaintiff loan Defendant money for the operation of her furniture business.

15. Plaintiff made three loans totaling \$38,000.00 to Defendant as follows:

\$25,000.00 on August 6, 2001;

\$3,000.00 on December, 2001; and

\$10,000.00 on August 6, 2001.

16. Defendant has failed to repay any money to Plaintiff notwithstanding Plaintiff's request for repayment.

17. Through March 1, 2008, Defendant is indebted to Plaintiff in the amount of \$38,000.00 representing loans and accrued interest.

18. Defendant's action constitutes breach of contract and as a result thereof Plaintiff has suffered damages in the amount of \$38,000.00.

WHEREFORE, Plaintiff requests this Court enter judgment against Defendant Erma Almeda Elnicki in the amount of \$38,000.00 together with pre-judgment interest, post-judgment interest, cost of suit and such other and further relief as the Court deems fair, just, and equitable.

COUNT III

19. Plaintiff repeats each allegation set forth in Count I and Count II as if set forth at length herein.

20. When Plaintiff leased 101 North Brady Street, DuBois, Pennsylvania, to Defendant the property contained various chandeliers and a rug that were the property of Plaintiff.

21. The chandeliers and rug and their value are described as follows:

Chandelier 1 - \$3,439.00

Chandelier 2 - \$1,479.00

Chandelier 3 - \$1,145.00

Chandelier 4 - \$1,145.00

Rug - \$600.00

22. At all material times, Defendant knew Plaintiff's chandeliers and rug were the property of Plaintiff and were part of the leased premises not to be sold by Defendant.

23. Knowing she did not own the chandeliers or the rug, and without the permission of Plaintiff, Defendant converted the chandeliers and rug to her own property and sold the chandeliers and rug, retaining the funds for her personal use.

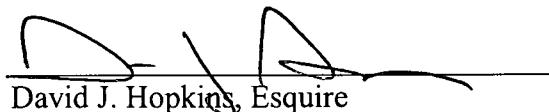
24. The acts of Defendant constitute the tort of conversion.

25. As a result of Defendant's conversion, Plaintiff has suffered damages in the amount of \$7,808.00.

26. Plaintiff is entitled to an award of punitive damages as a result of Defendant's intentional tort.

WHEREFORE, Plaintiff requests this Court enter judgment against Defendant Erma Almeda Elnicki for compensatory damages in the amount of \$7,808.00, punitive damages, pre-judgment interest, post-judgment interest, cost of suit and such other relief as the Court deems fair, just, and equitable.

Respectfully submitted,

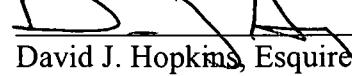


David J. Hopkins, Esquire

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by twelve jurors on all issues presented herein.

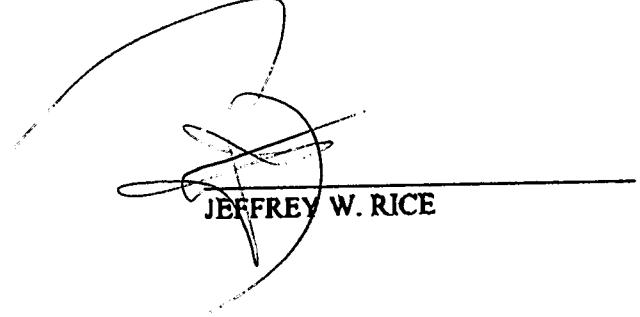
Respectfully submitted,



David J. Hopkins, Esquire

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.



JEFFREY W. RICE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
NO: 08-2018-CD

JEFFREY W. RICE
vs
ERMA ALMEDA ELNICKI

SERVICE # 1 OF 1

COMPLAINT

SERVE BY: 11/21/2008 HEARING: PAGE: 104818

DEFENDANT: ERMA ALMEDA ELNICKI
ADDRESS: 135 ORCHARD ROAD
DUBOIS, PA 15801

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/PIC

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS: VACANT OCCUPIED

ATTEMPTS 11-18-08 11:41 AM 11-21-08 N/H

S
FILED
073:49 61
DEC 10 2008


William A. Shaw
Prothonotary/Clerk of Courts

SHERIFF'S RETURN

NOW, 11-21-08 AT 10:00 AM / PM SERVED THE WITHIN

COMPLAINT ON ERMA ALMEDA ELNICKI, DEFENDANT

BY HANDING TO Erma Elnicki Defendant

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

ADDRESS SERVED 135 Orchard Road Dubois Pa 15801

NOW _____ AT _____ AM / PM POSTED THE WITHIN

COMPLAINT FOR ERMA ALMEDA ELNICKI

AT (ADDRESS) _____

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

I MAKE RETURN OF **NOT FOUND** AS TO ERMA ALMEDA ELNICKI

REASON UNABLE TO LOCATE _____

SWORN TO BEFORE ME THIS

DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:


Deputy Signature

MARK A Courier
Print Deputy Name

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE, :
Plaintiff :
vs. :
ERMA ALMEDA ELNICKI, :
Defendant :

TO: Erma Almeda Elnicki
135 Orchard Road
DuBois, PA 15801

DATE OF NOTICE: December 12, 2008

FILED
10:35 AM
DEC 15 2008
S NO CC
William A. Shaw
Prothonotary/Clerk of Courts

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Office of the Court Administrator
Clearfield County Courthouse
230 E. Market Street
Clearfield, Pennsylvania 16830
(814) 765-2641

DAVID J. HORKINS, ESQUIRE
Attorney for Plaintiff
Supreme Court No. 42519
100 Meadow Lane, Suite 5
DuBois, PA 15801

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

JEFFREY W. RICE,

Plaintiff : No. 08-2018-CD

Vs.

ERMA ALMEDA ELNICKI,

Defendant :

Type of Pleading:

**DEFENDANT'S ANSWER AND
NEW MATTER TO PLAINTIFF'S
COMPLAINT**

Filed on Behalf of:
PLAINTIFF

Counsel of Record for this Party:

Jeffrey S. DuBois, Esquire
Supreme Court No. 62074
210 McCracken Run Road
DuBois, PA 15801
(814) 375-5598

FILED

DEC 19 2008

6/10/08
William A. Shaw
Prothonotary/Clerk of Courts

3 Court to Ann

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

JEFFREY W. RICE, :
Plaintiff : No. 08-2018-CD
:
Vs. :
:
ERMA ALMEDA ELNICKI, :
Defendant :
:

NOTICE TO PLEAD

YOU ARE HEREBY NOTIFIED TO FILE A WRITTEN RESPONSE TO THE
ENCLOSED ANSWER AND NEW MATTER WITHIN TWENTY (20) DAYS FROM
SERVICE HEREOF OR A JUDGMENT MAY BE ENTERED AGAINST YOU.



Jeffrey S. DuBois, Esquire
Attorney for Defendant

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

JEFFREY W. RICE, :
Plaintiff : No. 08-2018-CD
:
Vs. :
:
ERMA ALMEDA ELNICKI, :
Defendant :
:

DEFENDANT'S ANSWER AND NEW MATTER
TO PLAINTIFF'S COMPLAINT

AND NOW, comes Defendant, Erma Almeda Elnicki, by and through her attorney, Jeffrey S. DuBois, Esquire, who files this Answer and New Matter to Plaintiff's Complaint, and in support thereof avers the following:

COUNT I

1. Admitted.
2. Admitted.
3. Denied. It is denied on March 1, 2006, the parties ever agreed to rent the premises at 100 North Brady Street, as Defendant had been in said building for several years prior to that time and the parties had already agreed that no rent would be due by Defendant to Plaintiff because of the services and concessions Defendant gave to Plaintiff.
4. Denied. As set forth above, there was never any rent owed by Defendant to Plaintiff.
5. Denied. As set forth in paragraphs 3 and 4 herein, there was never an agreed upon lease between the parties.
6. Denied. It is denied that Defendant took possession of the premises at that time, as she had been in said building for several years prior to this operating her furniture business.
7. Admitted.

8. Denied. It is denied that Defendant has failed to pay Plaintiff, as there was no rent between the parties, and Defendant has paid Plaintiff in other ways including, but not limited to services, furniture, and concessions.
9. Denied. It is denied any rental monies are owed by Defendant to Plaintiff.
10. Denied. It is denied there was ever such an agreement between the parties. By way of further answer, however, Defendant did pay the utilities at said premises.
11. Defendant is without sufficient information as to if there was an outstanding gas bill at said property, as Plaintiff never presented any such bill to Defendant and said information is known only by Plaintiff, and therefore the same is denied and strict proof thereof is demanded at Trial. By way of further answer, Plaintiff had continually been delinquent in his gas bill, even prior to the time Defendant took possession of the premises, and Plaintiff was continually in arrears with said gas company.
12. (Mistaken Paragraph 11) Denied. It is denied Defendant breached any contract, and as a result, Plaintiff is not entitled to any damages.

WHEREFORE, Defendant respectfully requests this Honorable Court to dismiss Plaintiff's Complaint in its entirety and to award judgment in favor of Defendant.

COUNT II

13. No responsive pleading is required.
14. Denied. It is denied that Defendant requested Plaintiff loan Defendant money. It is admitted that Plaintiff gave some money to Defendant, but the same was not a loan, but it

was a payment by Plaintiff to Defendant for Defendant to agree to close her business in Clarion and move her business to DuBois so as to fill up Plaintiff's store.

15. Denied. It is denied any loans were made by Plaintiff to Defendant. By way of further answer, the Twenty Five Thousand (\$25,000.00) dollars referenced in Plaintiff's paragraph 15, was a check in said amount was given to by Plaintiff by Defendant, but the same check was immediately given back to Plaintiff by Defendant, and Defendant never received any of these monies. By way of further answer, the Three Thousand (\$3,000.00) dollar payment referenced in Plaintiff's paragraph 15 is admitted was given by Plaintiff to Defendant. Finally, with respect to the Ten Thousand (\$10,000.00) dollars also referenced in Plaintiff's paragraph 15, this was given by Plaintiff to Defendant as consideration for Defendant agreeing to close her business in Clarion and open the store in DuBois. By way of further answer, in light of all of the items, services, and concessions given by Defendant to Plaintiff, no further monies are owed by Defendant to Plaintiff.

16. Denied. As set forth above, because of the services, furniture, and concessions given by Defendant to Plaintiff, Defendant does not owe any monies to Plaintiff.

17. Denied for the reasons set forth herein.

18. Denied. It is denied Defendant breached any contract between the parties.

WHEREFORE, Defendant respectfully requests this Honorable Court to dismiss Plaintiff's Complaint in its entirety and to award judgment in favor of Defendant.

COUNT III

19. No responsive pleading is required.
20. Admitted in part and denied in part. It is admitted that when Defendant took possession of the property there were some chandeliers and one (1) rung that was in said store. It is denied that these were the property of Plaintiff, but were to be items which could be sold by Defendant.
21. Admitted in part and denied in part. It is admitted that some of the chandeliers were sold by Defendant in the regular course of business. By way of further answer, Defendant does not have any records to verify the amount set forth in Plaintiff's paragraph 21, therefore the same are denied, and strict proof thereof is demanded at Trial. By way of further answer, Defendant did sell some of these items to a Dr. Gregory Roscoe, a friend and client of Plaintiff, for the approximate price of Six Thousand (\$6,000.00) dollars. By way of further answer, Plaintiff was completely aware of, and agreed to, the sale of the chandeliers to his friend and client.
22. Denied for the reasons set forth herein.
23. Denied for the reasons set forth herein.
24. Denied for the reasons set forth herein.
25. Denied for the reasons set forth herein. Further, said amounts were sold as part of items in the store, with the full knowledge and consent of Plaintiff, and therefore no monies are owed by Defendant to Plaintiff.

26. Denied. In light of the fact said items were sold in the regular course of business, as well as were sold with the knowledge and consent of Plaintiff, there was no such intentional tort, and therefore punitive damages are not recoverable.

WHEREFORE, Defendant respectfully requests this Honorable Court to dismiss Plaintiff's complaint in its entirety and to award judgment in favor of Defendant.

NEW MATTER

27. Defendant hereby incorporates paragraphs 1 through 26 as if set forth in full herein.
28. During the latter part of 2002 and the first part of 2003, Plaintiff approached Defendant, who was operating a furniture and antique store in Clarion, Pennsylvania, to start a business in one of his stores located at 100 North Brady Street, DuBois, Pennsylvania.
29. Defendant informed Plaintiff that she would possibly be interested, but would need compensated if she were to make the move from Clarion to DuBois.
30. Plaintiff agreed to said compensation, and as a result, gave Ten Thousand (\$10,000.0) dollars to Defendant.
31. When Defendant moved into the store, it was agreed to by the parties that Defendant would not have to pay rent for the building, as Plaintiff's main objective was to have someone occupy the store.

32. In addition, with respect to their agreement, Defendant agreed that in lieu of rent, Plaintiff would receive a number of items from Defendant's store at no cost, not only for his own personal use, but also for the use in his construction business.

33. In addition, one of the other reasons the parties agreed was that Defendant would not have to pay rent was for Plaintiff to be allowed to run part of his construction business through Defendant's business.

34. It was for all of the above reasons that no rent was due by Defendant to Plaintiff.

35. As a result of the above, there are no monies owed by Defendant to Plaintiff.

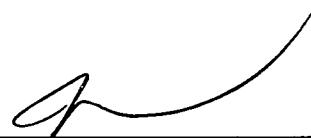
36. Plaintiff's claim and assertion of a lease is barred by the statute of frauds.

37. Plaintiff's claim fails to set forth a cause of action to which relief can be granted.

38. Plaintiff's case fails to state a claim.

WHEREFORE, Defendant respectfully requests this Honorable Court to dismiss Plaintiff's Complaint and to award judgment in favor of Defendant.

Respectfully Submitted,



Jeffrey S. DuBois, Esquire
Counsel for Defendant

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

JEFFREY W. RICE, :
Plaintiff : No. 08-2018-CD
:
Vs. :
:
ERMA ALMEDA ELNICKI, :
Defendant :
:

CERTIFICATE OF SERVICE

I do hereby certify that on the 19th day of Dec., 2008, I served a true and correct copy of the within Answer and New Matter to Plaintiff's Complaint by first class mail, postage prepaid, on the following:

David J. Hopkins, Esquire
100 Meadow Lane, Suite 5
DuBois, PA 15801

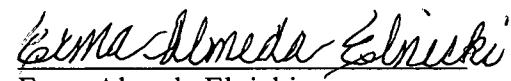


Jeffrey S. DuBois

VERIFICATION

I, Erma Almeda Elnicki, verify that the statements in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.



Erma Almeda Elnicki

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104818
NO. 08-2018-CD
SERVICES 1
COMPLAINT

PLAINTIFF: JEFFREY W. RICE
vs.
DEFENDANT: ERMA ALMEDA ELNICKI

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	HOPKINS	18901	10.00
SHERIFF HAWKINS	HOPKINS	18901	62.88

S
FILED
073:52 AM
FEB 10 2009
Clerk
William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

So Answers,

____ Day of _____ 2008



Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE,

Plaintiff

vs.

No. 08-2018 C.D.

ERMA ALMEDA ELNICKI,

Defendant

Type of Pleading: Answer to Defendant's
New Matter to Plaintiff's Complaint

Filed on behalf of: Jeffrey W. Rice,
Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Attorney at Law
Supreme Court No. 83998

100 Meadow Lane, Suite 5
DuBois, Pennsylvania 15801

(814) 375-0300

FILED NO
M 110:49 AM CC
JUL 23 2009 @

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

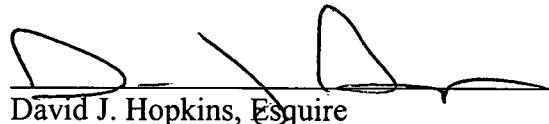
JEFFREY W. RICE, :
Plaintiff :
vs. : No. 08-2018 C.D.
ERMA ALMEDA ELNICKI, :
Defendant :
:

ANSWER TO DEFENDANT'S NEW MATTER
TO PLAINTIFF'S COMPLAINT

AND NOW, comes the Plaintiff, Jeffrey W. Rice, by and through his attorneys, Hopkins Heltzel LLP, and says as follows:

27. No answer is required of this paragraph.
28. Denied. Defendant approached Plaintiff about operating a furniture store in DuBois, Pennsylvania.
29. Denied. There were neither discussions nor an agreement of Plaintiff paying Defendant to move to DuBois.
30. Denied. Plaintiff did not pay defendant \$10,000.00 to move from Clarion to DuBois.
31. Denied. Plaintiff and defendant agreed rent would be \$500.00 per month.

Respectfully submitted,



David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE, :
Plaintiff :
vs. : No. 08-2018 C.D.
ERMA ALMEDA ELNICKI, :
Defendant :
:

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Answer to Defendant's New Matter to Plaintiff's Complaint, filed on behalf of Plaintiff, Jeffrey W. Rice, was served on the 21st day of July, 2009, on all counsel of record by first-class mail, postage prepaid addressed as follows:

Jeffrey S. DuBois, Esquire
210 McCracken Run Road
DuBois, PA 15801

HOPKINS HELTZEL LLP



David J. Hopkins, Esquire
100 Meadow Lane, Suite 5
DuBois, PA 15801

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

FILED

JEFFREY W. RICE,

Plaintiff : No. 08-2018-CD

Vs.

ERMA ALMEDA ELNICKI,

Defendant :

CERTIFICATE OF SERVICE

Filed on Behalf of:
PLAINTIFF

Counsel of Record for this Party:

Jeffrey S. DuBois, Esquire
Supreme Court No. 62074
210 McCracken Run Road
DuBois, PA 15801
(814) 375-5598

FEB 16 2010

1012:00 AM (61)
William A. Shaw
Prothonotary/Clerk of Courts

3 copies to Attn

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

JEFFREY W. RICE, :
Plaintiff : No. 08-2018-CD
:
Vs. :
:
ERMA ALMEDA ELNICKI, :
Defendant :
:

CERTIFICATE OF SERVICE

I do hereby certify that on the 12th day of February, 2010, I served a true and correct copy of the within Defendant's Answers to Plaintiff Interrogatories and Request for Production of Documents by first class mail, postage prepaid, on the following:

David J. Hopkins, Esquire
100 Meadow Lane, Suite 5
DuBois, PA 15801



Jeffrey S. DuBois

CA

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

JEFFREY W. RICE
Plaintiff

vs.

ERMA ALMEDA ELNICKI
Defendant

* NO. 2008-2018-CD
*
*
*
*

ORDER

NOW, this 15th day of May, 2013, it is the ORDER of this Court that a **status conference** be and is hereby scheduled for the **27th day of June, 2013 at 1:30 p.m.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

If this case has been concluded, the moving party is directed to file the appropriate Praeclipe with the Prothonotary of Clearfield County to finalize that status of the case.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
10:34 AM
MAY 16 2013

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atty's:
Hopkins
DuBois
GL

DATE: 5-16-13

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

MAY 16 2013

William A. Shaw
Prothonotary/Clerk of Courts

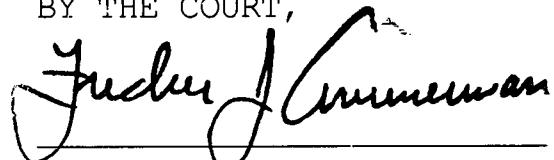
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

JEFFREY W. RICE)
)
 VS.) NO. 2008-2018-CD
)
 ERMA ALMEDA ELNICKI)

O R D E R

NOW this 27th day of June, 2013, this being the date set for call of List of Inactive Cases; counsel being present; it is the ORDER of this Court that this matter be scheduled for Pretrial Conference at 2:30 p.m. on Thursday, July 29, 2013, in chambers, with thirty (30) minutes being allotted for said conference.

BY THE COURT,



President Judge

FILED 1CC Atts:
07/02/2013 Hopkins
JUL 02 2013 DuBois
S William A. Shaw
Prothonotary/Clerk of Courts 6K

DATE: 7-21-13

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

JUL 02 2013

William A. Shaw
Prothonotary/Clerk of Courts

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

JEFFREY W. RICE,
Plaintiff

* NO. 2008-2018-CD

vs

ERMA ALMEDA ELNICKI,
Defendant

*
*
*
*
*

ORDER

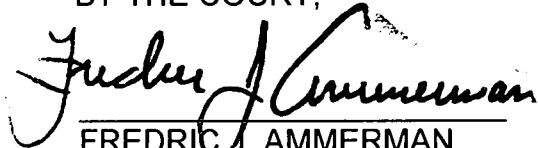
NOW, this 29th day of July, 2013, following pre-trial conference among counsel and the Court, it is the ORDER of this Court that a half-day Settlement Conference is scheduled for the 3rd day of October, 2013 at 1:00 p.m. in the Annex Courtroom of the Clearfield County Courthouse, with Senior Judge Charles C. Brown, Jr., Specially Presiding.

It is further ORDERED that the following shall be present:

1. Plaintiff's counsel and the Plaintiff; and
2. Defendant's counsel and the Defendant

All parties shall have full authority for settlement of the case.

BY THE COURT,


FREDRIC J. AMMERMAN

President Judge

FILED 1CC Atts:
07/10/17cm JUL 31 2013 Hopkins
S William A. Shaw Du Bois
Prothonotary/Clerk of Courts
Clerk

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

JEFFREY W. RICE,
Plaintiff

vs.
ERMA ALMEDA ELNICKI
Defendant

*
* No. 2008-2018-CD
*
* **FILED** ICC Atty's:
* 010-15cm Hopkins
* JUL 31 2013 DuBois
* William A. Shaw
Prothonotary/Clerk of Courts GIC

ORDER

NOW, this 29th day of July, 2013, following pre-trial conference with counsel for the parties as set forth above, it is the ORDER of this Court as follows:

1. Jury Selection will be held on September 17, 2013 commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Jury Trial is hereby scheduled for October 14 and 15, 2013, commencing at 9:00 a.m. in Courtroom No. 1 of the Clearfield County Courthouse.
3. The Deputy Court Administrator will schedule a one-half settlement conference with Senior Judge Charles C. Brown, Jr., Specially Presiding.
4. Plaintiff shall have no more than 45 days in which to provide to the Defendant the tax returns of 1995 – 2001 related to the Royal Diadem business.
5. Any party making objections relative the testimony to be provided by any witness in the form of a deposition at the time of trial shall submit said objections to the Court, in writing, no later than forty-five (45) days prior to the commencement of trial. All objections shall reference specific page and line numbers within the deposition(s) in question along with that party's brief relative same. The opposing party shall file an Answer thereto and submit its brief in opposition to said objections no later than thirty (30) days prior to the commencement of trial.

6. Any party filing any Motion or Petition regarding limitation or exclusion of evidence or testimony to be presented at time of trial, including but not limited to Motions in Limine, shall file the same no more than forty-five (45) days prior to the trial date. The party's Petition or Motion shall be accompanied by an appropriate brief. The responding party thereto shall file its Answer and submit appropriate response brief no later than thirty (30) days prior to trial.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

DATE: 7-31-13

 You are responsible for serving all appropriate parties.

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

 Plaintiff(s) X Plaintiff(s) Attorney Other

 Defendant(s) X Defendant(s) Attorney

 Special Instructions:

FILED

JUL 31 2013

William A. Shaw
Prothonotary/Clerk of Courts

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

JEFFREY W. RICE * NO. 2008-2018-CD
Plaintiff *
VS *
ERMA ALMEDA ELNICKI *
Defendant *

ORDER

NOW, this 17th day of September, 2013, upon receipt, review and consideration of the Consent Order submitted by counsel and filed in the above-captioned case; it is the ORDER of this Court that a two day non-jury trial be and is hereby scheduled for **October 14 and 15, 2013** commencing at **9:00 a.m.** each day in Courtroom No. 1 of the Clearfield County Courthouse.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
01/10/194pm
SEP 18 2013

William A. Shaw
Prothonotary/Clerk of Courts

ICC Atts:
Hopkins
DuBois
6e

FILED 2 CC Atty
18:51pm SEP 18 2013 Hopkins
William A. Shaw
Prothonotary/Clerk of Courts
60

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE, :
Plaintiff :
vs. : No. 08-2018 C.D.
ERMA ALMEDA ELNICKI, :
Defendant :
: Type of Pleading: Consent Order
: Filed on behalf of: Jeffrey W. Rice,
: Plaintiff
: Counsel of Record for this party:
: DAVID J. HOPKINS, ESQUIRE
: Supreme Court No. 42519
: LEA ANN HELTZEL, ESQUIRE
: Supreme Court No. 83998
: CARL J. ZWICK, ESQUIRE
: Supreme Court No. 306554
: 100 Meadow Lane, Suite 5
: DuBois, Pennsylvania 15801
: (814) 375-0300

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

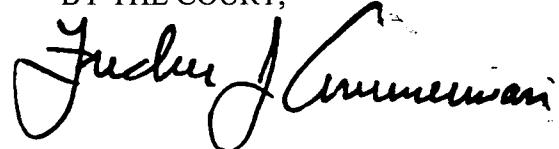
JEFFREY W. RICE, :
Plaintiff :
vs. : No. 08-2018 C.D.
ERMA ALMEDA ELNICKI, :
Defendant :
:

CONSENT ORDER

AND NOW, this 17th day of September, 2013, it appearing the parties have entered into a Consent Order and for good cause shown, it is ORDERED and DECREED:

1. The trial of the above-captioned matter shall be a non-jury trial;
2. The Court Administrator is directed to remove this case from the civil jury selection list scheduled for September 17, 2013;
3. The Court Administrator is directed to schedule the case for a two (2) day non-jury trial.

BY THE COURT,



JUDGE

I consent to the entry of the within Order.



David J. Hopkins, Esquire
Attorney for Jeffrey W. Rice



Jeffrey S. DuBois, Esquire
Attorney for Erma Almeda Elnicki

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION
JEFFREY W. RICE :
-vs- : No. 08-2018-CD
ERMA ALMEDA ELNICKI :

O R D E R

AND NOW, this 3rd day of October, 2013, the Court being advised that the parties have reached a settlement in the above-captioned matter, it is the ORDER of this Court as follows:

1. Defendant, Erma Almeda Elnicki, is indebted and shall pay Plaintiff, Jeffrey W. Rice, the sum of Twenty Thousand (\$20,000.00) Dollars. Payment is not due until Defendant either dies, leaves her residence or sells her property;
2. Defendant shall give Plaintiff a mortgage on her two (2) properties in Clearfield County. The mortgage shall accrue interest at the rate of One (\$1.00) Dollar per year;
3. Upon Plaintiff receiving the money, he shall donate it to a 501(c)(3) charity.

BY THE COURT


THE HONORABLE CHARLES C. BROWN, JR.
Senior Judge, Specially Presiding

FILED 4CC Atty
OF 3:18cm Hopkins
S OCT 03 2013
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE,

Plaintiff

vs.

ERMA ALMEDA ELNICKI,

Defendant

No. 08-2018 C.D.

Type of Pleading: Praeclipe to Discontinue

FILED

NOV 29 2013

110-301-2

William A. Shaw

Prothonotary/Clerk of Courts

no C/C

Filed on behalf of: Jeffrey W. Rice,
Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Supreme Court No. 42519

LEA ANN HELTZEL, ESQUIRE
Supreme Court No. 83998

CARL J. ZWICK, ESQUIRE
Supreme Court No. 306554

100 Meadow Lane, Suite 5
DuBois, Pennsylvania 15801

(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE,

Plaintiff

vs.

No. 08-2018 C.D.

ERMA ALMEDA ELNICKI,

Defendant

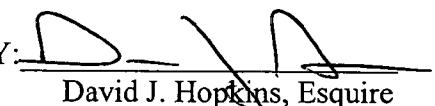
PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly mark the above captioned civil action settled and discontinued.

HOPKINS HELTZEL LLP

BY:


David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

JEFFREY W. RICE, :
Plaintiff :
vs. : No. 08-2018 C.D.
ERMA ALMEDA ELNICKI, :
Defendant :
:

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Praeclipe to Discontinue, filed on behalf of the Jeffrey W. Rice, was forwarded on the 17th day of November, 2013 by United States Mail, first class, postage prepaid, to all counsel of record, addressed as follows:

Jeffrey S. DuBois, Esquire
210 McCracken Run Road
DuBois, PA 15801



David J. Hopkins, Esquire
Attorney for Plaintiff
Supreme Court No. 42519