

08-2051-CD
Leonard Fiore Inc vs Madera Vol Fire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

LEONARD S. FIORE, INC.,
a Pennsylvania Corporation
Plaintiff,

CIVIL DIVISION

No. 2008-2051-CJ

Vs.

MADERA VOLUNTEER FIRE CO.,
Defendant.

COMPLAINT IN
CONFESSION OF JUDGMENT

Filed on Behalf of:
LEONARD S. FIORE, INC.,
Plaintiff

Counsel for Plaintiff:

Jackie Atherton Bernard
Pa I.D. #70370
GRAPPONE LAW OFFICES
411 S Logan Blvd., STE 1
Altoona, PA 16602
(814)946-4405

S FILED pd \$20.00 Att'y
m 1:50cm Notice to deft
OCT 24 2008 ICC+statement
to Att'y.
William A. Shaw
Prothonotary/Clerk of Courts

GRAPPONE LAW OFFICES
JOSEPH A. GRAPPONE
JACKIE A. BERNARD
411A LOGAN BLVD., LAKEMONT
ALTOONA, PENNSYLVANIA 16602

(814) 946-4405

ACT 105 OF 2000 NOTICE

A JUDGMENT HAS BEEN ENTERED AGAINST YOU BY CONFESSION OF JUDGMENT.

PURSUANT TO 42 PA. C.S.A. §2737.1, IF YOU WERE INCORRECTLY IDENTIFIED AS A DEFENDANT IN THE COMPLAINT IN CONFESSION OF JUDGMENT, YOU MAY BE ENTITLED TO COSTS AND REASONABLE ATTORNEY FEES AS DETERMINED BY THE COURT.

YOU MAY TAKE ACTION TO STRIKE THE JUDGMENT BY FOLLOWING THE PROCEDURE IN RULE 2959 WHICH IS AS FOLLOWS:

I. Pennsylvania Rule of Civil Procedure 2959 – Striking Off Judgment.

(a) (1) Relief From a judgment by confession shall be sought by petition. Except as provided in subparagraph (2), all grounds for relief whether to strike off the judgment or to open it must be asserted in a single petition. The petition may be filed in the county in which the judgment was originally entered, in any county to which the judgment has been transferred or in any other county in which the sheriff has received a writ of execution directed to the sheriff to enforce the judgment.

(2) The ground that the waiver of the due process rights of notice and hearing was not voluntary, intelligent and knowing shall be raised only

(i) in support of a further request for a stay of execution where the court has stayed execution despite the timely filing of a petition for relief from the judgment and the presentation of prima facie evidence of a defense; and

(ii) as provided by Pennsylvania Rule of Civil Procedure 2958.3 or Rule 2973.3.

(3) If written notice is served upon the petitioner pursuant to Rule 2956.1(c)(2) or Rule 2973.1(c), the petition shall be filed within thirty days after such service. Unless the defendant can demonstrate that there were compelling reasons for the delay, a petition not timely filed shall be denied.

(b) If the petition states prima facie grounds for relief the court shall issue a rule to show cause and may grant a stay of proceedings. After being served with a copy of the petition the plaintiff shall file an answer on or before the return day of the rule. The return day of the rule shall be fixed by the court by local rule or special order.

(c) A party waives all defenses and objections which are not included in the petition or answer.

(d) The petition and the rule to show cause and the answer shall be served as provided in Rule 440 (see text of Rule 440 reprinted below).

(e) The court shall dispose of the rule on petition and answer, and on any testimony, depositions, admissions and other evidence. The court for cause shown may stay proceedings on the petition insofar as it seeks to open the judgment pending disposition of the application to strike off the judgment. If evidence is produced which a jury trial would require the issues to be submitted to the jury the court shall open the judgment.

(f) The lien of the judgment or of any levy or attachment shall be preserved while the proceedings to strike off or open the judgment is pending.

Rule 440. Service of Legal Papers other than Original Process

(a) (1) Copies of all legal papers other than original process filed in an action or served upon any party to an action shall be served upon every other party to the action. Service shall be made

(i) by handing or mailing a copy to or leaving a copy for each party at the address of the party's attorney of record endorsed on an appearance or prior pleading of the party, or at such other address as a party may agree, or

Note: Such other address as a party may agree might include a mailbox in the prothonotary's office or an e-mail address. For electronic service by means other than facsimile transmission, see Rule 205.4(g).

(ii) by transmitting a copy by facsimile to the party's attorney of record as provided by subdivision (d).

(2) (i) If there is no attorney of record, service shall be made by handing a copy to the party or by mailing a copy to or leaving a copy for the party at the address endorsed on an appearance or prior pleading or the residence or place of business of the party, or by transmitting a copy by facsimile as provided by subdivision (d).

(ii) If such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the last known address of the party to be served.

Note: This rule applies to the service upon a party of all legal papers other than original process and includes, but is not limited to, all other pleadings as well as motions, petitions, answers thereto, rules, notices, interrogatories and answers thereto. Original process is served under Rule 400 et seq.

(b) Service by mail of legal papers other than original process is complete upon mailing.

(c) If service of legal papers other than original process is to be made by the sheriff, he shall notify by ordinary mail the party requesting service to be made that service has or has not been made upon a named party or person.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

LEONARD S. FIORE, INC., : CIVIL DIVISION
a Pennsylvania Corporation
Plaintiff, : No. _____
Vs. :
MADERA VOLUNTEER FIRE CO., : COMPLAINT IN
Defendant. : CONFESSION OF JUDGMENT

COMPLAINT IN CONFESSION OF JUDGMENT

AND NOW COMES, Plaintiff, Leonard S. Fiore, Inc., by and through its counsel, Grappone Law Offices, averring as follows:

1. Plaintiff Leonard S. Fiore, Inc. ("Fiore") is a general construction contractor with business offices at 5506 6th Avenue, Rear, Altoona, Blair County, Pennsylvania, 16602.
2. Defendant, Madera Volunteer Fire Company ("Debtor"), is a nonprofit organization registered in Pennsylvania with the Department of State and with a mailing address of P.O. Box 206, Madera, Clearfield County, PA, 16661.
3. On or about July 16, 2008, Debtor executed and delivered to the Plaintiff a Judgment Note in the original principal amount of \$87,798.03 (the "Note"). A true and correct copy of the Note is attached hereto, incorporated herein, and labeled as Exhibit "A".
4. The Note provides that Debtor authorizes the undersigned attorney to enter judgment against Debtor and in favor of Fiore, without notice or demand.
5. Borrower is in default under the Note for failure to make any payment upon the outstanding balance.
6. Judgment has not been entered on the Note in any jurisdiction.
7. The Note has not been assigned.
8. **JUDGMENT IS NOT BEING ENTERED BY CONFESSION AGAINST A NATURAL PERSON IN CONNECTION WITH A CONSUMER CREDIT TRANSACTION.**

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ALTOONA, PENNSYLVANIA 16602

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9. As of October 12, 2008 the amount due from Debtor to Fiore pursuant to the Note is as follows:

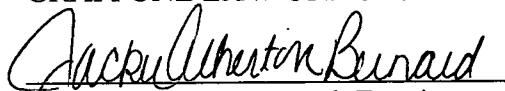
Principal Debt.....	\$87,798.03
Accrued Interest through December 12, 2007.....	\$ 4,389.90
(accruing monthly in the amount of \$438.99)	
TOTAL.....	\$92,187.93*

*Plus interest accruing after October 12, 2008 at the Note rate and costs and expenses of suit

WHEREFORE, Fiore demands that judgment be entered in its favor and against Defendant, Madera Volunteer Fire Co., on the Note in the amount of Ninety-two Thousand One Hundred Eighty Seven and 00/100 DOLLARS (\$92,187.93), plus interest thereon at the legal rate after October 12, 2008, plus costs and expenses of suit and such other relief as this Court deems appropriate.

Respectfully submitted

GRAPPONE LAW OFFICES



Jackie Atherton Bernard, Esquire

Pa I.D. #70370

GRAPPONE LAW OFFICES

411 S Logan Blvd., STE 1

Altoona, PA 16602

(814) 946-4405

Date: 10-21-08

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

LEONARD S. FIORE, INC., : CIVIL DIVISION
a Pennsylvania Corporation :
Plaintiff, : No. _____
Vs. :
MADERA VOLUNTEER FIRE CO., : COMPLAINT IN
Defendant. : CONFESSION OF JUDGMENT

CONFESSON OF JUDGMENT

Pursuant to the authority contained in the Judgment Note, a copy of which is attached to the Complaint as Exhibit "A", I hereby appear for the Defendant and confess judgment in favor of the Plaintiff and against the Defendant as follows:

Principal Debt.....	\$87,798.03
Accrued Interest through December 12, 2007.....	\$ 4,389.90
(accruing monthly in the amount of \$438.99)	
TOTAL.....	\$92,187.93*

*Plus interest accruing after October 12, 2008 at the Note rate and costs and expenses of suit


Jackie Atherton Bernard, Esquire
Pa I.D. #70370
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

LEONARD S. FIORE, INC., : **CIVIL DIVISION**
a Pennsylvania Corporation
Plaintiff, : No. _____

Vs. : _____

MADERA VOLUNTEER FIRE CO., : **COMPLAINT IN**
Defendant. : **CONFESION OF JUDGMENT**

CERTIFICATE OF RESIDENCE

I hereby certify that the precise address of Plaintiff is:

Leonard S. Fiore, Inc.
5506 6th Avenue, Rear
Altoona, PA 16602

And the last known mailing address of the Defendant is:

Madera Volunteer Fire Co.
P.O. Box 206
Madera, PA 16661

And the last known address of the Defendant is:

Madera Volunteer Fire Co.
2720 Main Street
Madera, PA 16661

GRAPPONE LAW OFFICES

Jackie Atherton Bernard
Jackie Atherton Bernard, Esquire
Pa.I.D. #70370

GRAPPONE LAW OFFICES
411 S Logan Blvd., STE 1
Altoona, PA 16602
(814)946-4405

VERIFICATION

Michael A. Fiore, Vice President of Leonard S. Fiore, Inc., states that he is authorized to make this Verification on its behalf, that he has reviewed the facts set forth in the foregoing Complaint in Confession of Judgment and that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

The undersigned understands that the statements herein are made subject to the penalties of 18 Pa. C.S.A. Sec. 4909, relating to unsworn falsification to authorities.



Michael A. Fiore

Date: 10/15/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

LEONARD S. FIORE, INC., : CIVIL DIVISION
a Pennsylvania Corporation
Plaintiff, : No. _____

Vs. : _____

MADERA VOLUNTEER FIRE CO., : COMPLAINT IN
Defendant. : CONFESSION OF JUDGMENT

AFFIDAVIT

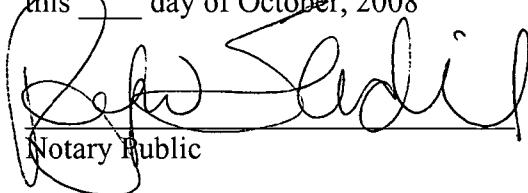
I hereby certify that the facts set forth in the foregoing Complaint in Confession of Judgment are true and correct to the best of my knowledge, information and belief; that the Exhibit attached to the Complaint in Confession of Judgment is a true and correct copy of the original; that the Defendant is in default under the Note; that the underlying transaction giving rise to this action is commercial in nature and is not a consumer credit transaction against a natural person; and that I am authorized to make this Affidavit.



Michael A. Fiore
Vice President
Leonard S. Fiore, Inc.

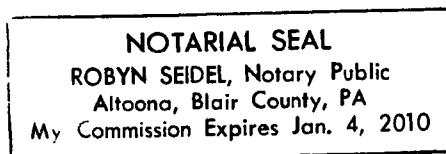
Sworn to and subscribed before me

this _____ day of October, 2008



Notary Public

My commission expires:



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

Leonard S. Fiore, Inc.
Plaintiff(s)

No.: 2008-02051-CD

Real Debt: \$92,187.93

Atty's Comm: \$

Vs. Costs: \$

Int. From: \$

Madera Volunteer Fire Co.
Defendant(s)

Entry: \$20.00

Instrument: Complaint in Confession of
Judgment

Date of Entry: October 24, 2008

Expires: October 24, 2013

Certified from the record this October 24, 2008



William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment,
Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

EXHIBIT "A"
JUDGMENT NOTE

\$87,798.03

July 16, 2008
Altoona, PA

FOR VALUE RECEIVED, **MADERA VOLUNTEER FIRE COMPANY** (hereinafter "Maker") promises to pay to the order of **LEONARD S. FIORE, INC.** and **JOSEPH GRAPPONE, ESQUIRE**, Attorney for **LEONARD S. FIORE, INC.** (hereinafter "Payee") the sum of EIGHTY SEVEN THOUSAND SEVEN HUNDRED NINETY EIGHT DOLLARS AND 03/100 (\$87,798.03), plus 6% interest from December 12, 2007, currently due and payable.

If this Note is placed in the hands of an attorney for collection, the undersigned agrees to pay \$2,000.00 as reasonable attorney's fees.

To secure payment of this Note, the undersigned hereby authorizes irrevocably, the Prothonotary, Clerk of Court, or any Attorney of any Court of Record to appear for it in such court, at any time after the execution hereof whether or not there is a default and confess a judgment against it in favor of any holder of this Note without the filing of an averment of default, with release of errors, without stay of execution, and for such amount as may appear to be unpaid thereon, together with charges, attorney's fees, and costs as herein provided, and the undersigned hereby waives and releases all benefit and relief from any and all appraisement stay or exemption laws of any State, now in force or hereafter to be passed.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned has caused this Note to be exercised by a duly authorized officer as and for a binding and official act of said corporation.

Edward S. Charnley

Witness

By: 
Madera Volunteer Fire Company

STATE OF PENNSYLVANIA
COUNTY OF BLAIR Clearfield

On this 29 day of July, 2008, before me, the subscriber a Notary Public personally appeared EDWARD S. CHARNLEY, who being duly sworn according to law, says that he/she executed the within JUDGMENT NOTE and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

My Commission expires _____

COMMONWEALTH OF PENNSYLVANIA
Notary Public

Vickie Lee Van Hoesen, Notary Public Baccari Twp., Clearfield County My Commission Expires July 27, 2012 Member, Pennsylvania Association of Notaries
--

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Vickie Lee Van Hoesen, Notary Public
Baccari Twp., Clearfield County
My Commission Expires July 27, 2012
Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

LEONARD S. FIORE, INC., : CIVIL DIVISION
a Pennsylvania Corporation : No. 2008-2051-CD 
Plaintiff, : 
Vs. :
MADERA VOLUNTEER FIRE CO., : COMPLAINT IN
Defendant. : CONFESION OF JUDGMENT

NOTICE OF ENTRY OF JUDGMENT

TO: Madera Volunteer Fire Company
2720 Main Street
Madera, PA 16661

And

P.O. Box 206
Madera, PA 16661

You are hereby notified that a judgment was entered against you by confession in the above captioned proceeding on October 24, 2008

The amount of the judgment is \$92,187.93, plus interest accruing at the legal rate and costs and expenses of suit.

A copy of the complaint is enclosed.


Wm

Prothonotary, Clearfield County.