Nowacki, Timothy

From: jacksonborgmann@sbcglobal.net
Sent: Thursday, February 23, 2012 3:18 PM
To: Nowacki, Timothy
Subject: Re: Small Claims Public Hearing
Attachments: 2.23.12 001.jpg; 2.23.12 002.jpg

Mr. Nowacki:

Per your e-mail of February 23, 2012, here is a copy of an actual "Notice of Claim for Possession of Real Estate" which was filed on a case.I have redacted the names and addresses of the parties and cause number. The Lease would be attached with the Notice.

I am also enclosing the Court form for your comparison.

Please remember that the total amount of damage cannot be determined until possession occurs, the property is inspected and any mitigation for the breach of breach of lease occurs. The purpose of the statutory "45 day" letter is to notify the Tenant of the amount being sought by the Landlord. I have attempted to comply with the notice pleading requirements of the trial rules.

Sincerely,

Louis H. Borgmann

Attorney at Law

JACKSON & BORGMANN

431 East Hanna Avenue

Indianapolis, IN 46227

(317) 782-9890

(317) 788-1873 FAX

< jacksonborgmann@sbcglobal.net >

CONFIDENTIALITY NOTICE:
This e-mail contains information that is privileged, confidential and subject to legal restrictions and penalties regarding its unauthorized disclosure or other use. You are prohibited from copying, distributing or otherwise using this information if you are not the intended recipient. If you have received this e-mail in error, please notify us immediately by return e-mail and delete this email and all attachments from your system. Thank you.

NOTICE OF CLAIM FOR POSSESSION OF REAL ESTATE

STATE OF INDIANA
COUNTY OF MARION, ss:

PERRY TOWNSHIP OF MARION COUNTY
SMALL CLAIMS COURT
4925 S. SHELBY ST. SUITE 100
INDIANAPOLIS IN 46227 786-9242

Copy served 8-20-11 7:00 PM

FILED
AUG 18 2011
PERRY TOWNSHIP OF MARION COUNTY SMALL CLAIMS COURT

PARTMENTS
EAST HANNA AVENUE INDIANAPOLIS IN 46227 (317) 786-9291

Plaintiff: name, address & phone number

vs

CAUSE NO. 5129 B

Designate type of Service:
X Personal _Certified Mail
Other _____

INDIANAPOLIS IN 46227
Defendant: name, address & phone number

Said Plaintiff complains of the Defendant and says: That on 05/31/11 the Plaintiff rented the Defendent premises located at EL LAGO COURT APT B INDIANAPOLIS IN 46227 Marion County, Indiana, at a rent of $629.00 per month and that on 08/01/11 said tenancy expired by the terms thereof for the reason: VIOLATION OF LEASE SECTION #IV :POSSESSION

That ever since said date the Plaintiff has been entitled to possession of said premises. That the Defendant unlawfully holds over and detains possesion of said premises from the Plaintiff to his damage in the sum of $DETERMINED AT TRIAL ON DAMAGE WHEREFORE, Plaintiff demands Judgment for the possession of the premises and for all proper relief.

Disclosure from Plaintiff's Attorney: THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

Date 08/17/11

LOUIS H. BORGMANN / ATTORNEY FOR PLAINTIFF # 2843-49
431 E HANNA AVENUE INDIANAPOLIS IN 46227 (317) 782-9890

TO ANY CONSTABLE OF THIS TOWNSHIP: You are hereby commanded to summon the above Defendant to appear before me in court on AUGUST 31, 2011 at 9:00 o'clock A.M. to answer Plaintiff in a trial on the above claim and to make due return of this Notice of Claim for Possession of Real Estate. Trial on issue of damages and/or rent set NOVEMBER 30, 2011 at 9:00 A.M.

Dated AUG 18 2011

JUDGE

CONSTABLES RETURN OF SERVICE OF NOTICE OF CLAIM:
I certify that I have served this Notice of Claim on
1) By reading a copy of the Notice of Claim to the Defendant,
2) By leaving a copy of the Notice of Claim at which is the dwelling place of usual place of abode of and by mailing a copy of the Notice of Claim to said Defendant at the such address.
3) other service or remarks:

Constable_____

NOTICE TO ALL PARTIES: You are notified that you have been sued by person named Plaintiff in the court indicated. The nature of the claim and demand is stated in the claim. You may appear either in person or by attorney on the date set for trial and hearing of Plaintiff's claim. Both the Plaintiff and the Defendant should bring to the hearing all witnesses and all documents in their possession concerning this claim. If the Defendant does not wish to dispute the claim of the Plaintiff, he may appear to cosent to a judgment and for the purpose of allowing the court to establish the method by which the judgment shall be paid. If the Defendant cannot appear at the time and place set in the notice he should contact the party fling this claim to request that the hearing be continued to another date. If the Defendant fails to appear in Court at the time set for the hearing, a default judgment may be entered against the Defendant. The filing of a civil claim in the Small Claims court constitutes a waiver of jury trial by the Plaintiff. The Defendant(s) in such a case waives the right to a trial by jury unless the Defendant(s) requests a jury trial within (10) days after receipt of the Notice of Claim; Once a jury trial has been granted, it may not be withdrawn without consent of the other party or parties; and within ten (10) days after the jury trial request has been granted, the party requesting a jury trial shall pay the clerk the additional amount required by statute to transfer the claim to the plenary docket; otherwise, the party requesting the jury trial shall be deemed to have waived the request. The Defendant may within ten days(10) of service of the summons file a change of venue of this matter. proper venue is determined by the court in the following order: (1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant. (2) Venue is in the township where a transaction or occurence giving rise to any part of the claim took place. (3) Venue is in the township (In a county of the Small Claims Court) where the greater percentage of individual defendants included in the complaint resides, or, if there is no such greater percentage, the place where the individual defendant so named resides, owns real estate, or rents an apartment or real estate or where the principal office or place of business of any defendant is located. (4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies. Claims between landlord and tenants shall be in the township where the real estate is located. MS# 20112826 CA#058 RN# 9218

NOTICE OF CLAIM FOR POSSESSION OF REAL ESTATE SUMMONS

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

PERRY TOWNSHIP OF MARION COUNTY
Small Claims Court
4925 S. Shelby St., Suite 100
Indianapolis, Indiana 46227
(317) 786-9242

_____
Plaintiff: name, address & phone number

_____
vs.

CAUSE NUMBER_____

_____
Defendant: name, address & phone number

The said Plaintiff complains of the Defendant and says: That on _____ the Plaintiff rented to the Defendant the premises located at _____ _____in Marion County, Indiana, at a rent of $_____ per week/month and that on _____ said tenancy expired by the terms thereof for the reason: _____

_____

That ever since said date, the Plaintiff has been entitled to the possession of said premises. That the Defendant unlawfully holds over and detains possessions of said premises from the Plaintiff to his damage in the sum of $_____ .* WHEREFORE, Plaintiff demands judgment for the possession of the premises and for said damages, court costs, and other proper relief.

Dated:_____ _____
Plaintiff

*** AND ALL RENTS UP TO HEARING DATE.**

TO ANY CONSTABLE OF THIS TOWNSHIP: You are hereby commanded to summon the above defendant to appear before me in court on_____ at _____o'clock_____.M. to answer the Plaintiff in a hearing on the above claim and to make due return of this Notice of Claim for Possession of Real Estate.

Dated:_____ _____
Judge

CONSTABLES RETURN OF SERVICE OF NOTICE OF CLAIM FOR POSSESSION OF REAL ESTATE:

I certify that I have served this Notice of Claim for Possession of Real Estate on_____.

1) By reading a copy of the Notice of Claim for Possession of Real Estate to the Defendant, _____.

2) By leaving a copy of the Notice of Claim for Possession for Real Estate at _____which is the dwelling place or usual place of abode of _____and by mailing a copy of the Notice of Claim for Possession of Real Estate to said Defendant at the such address.

3) Other service or remarks: _____

_____

_____
Constable

NOTICE TO ALL PARTIES:

- You are notified that you have been sued by the person(s) named Plaintiff(s) in the court indicated.
- The nature of the claim against you and the demand made against you by the Plaintiff(s) is stated in the claim.
- You may appear either in person or by attorney on the date set for trial and hearing of Plaintiff's claim.
- Both the Plaintiff(s) and the Defendant(s) should bring to the hearing all witnesses and all documents in their possession concerning this claim.
- If the Defendant(s) does not wish to dispute the claim of the Plaintiff(s), he may appear to consent to a judgment and for the purpose of allowing the court to establish the method by which the judgment shall be paid.
- If the Defendant(s) cannot appear at the time and place set in the notice, he should contact the party filing this claim to request that the hearing be continued to another date.
- If the Defendant(s) fails to appear in Court at the time set for the hearing, a default judgment may be entered against the Defendant(s).
- The filing of a civil claim in the Small Claims Court constitutes a waiver of trial by jury by the Plaintiff(s).
- The Defendant(s) in such a case waives the right to trial by jury unless the Defendant(s) requests a jury trial within 10 days after receipt of Notice of Claim, that once a jury trial request has been granted, it may not be withdrawn without the consent of the other party or parties; and within ten (10) days after the jury trial request has been granted, the party requesting a jury trial shall pay the clerk the additional amount required by statute to transfer the claim to the plenary docket otherwise, the party requesting a jury trial shall be deemed to have waived the request.

*The Defendant may within ten days (10) of service of the summons file a change of venue of this matter. Proper venue is determined by the court in the following order:
(1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.
(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.
(3) Venue is in the township (in a county of the Small Claims Court) where the greater percentage of individual defendants including in the complaint resides, or, if there is no such greater percentage, the place where any individual so named resides, owns real estate, or rents an apartment or real estate or where the principal office or place of business of any defendant is located.
(4) Venue is in the township where the claim was filed if there is no other township in the country in which the Small Claims Court sits in which required venue lies.
Claims between landlord and tenants shall be in the township where the real estate is located.

RICHARD O. BOVEY
8812 Otter Cove Circle
Indianapolis, IN 46236
Tel: 317-855-7568
February 24, 2012

The Honorable John G. Baker and The Honorable Betty Barteau
Indiana Court of Appeals
State House
200 West Washington Street
Indianapolis, IN 46204

Dear Judge Baker and Judge Barteau:

First, I wish to thank you for the opportunity to present some of my own thoughts as to how to make the Marion County Township Small Claims Courts better and fairer, especially for individual consumer litigants.

Do I think that all people should be set free of their lawful and just debts? Answer: No. However, I do firmly believe that unreasonable and unjust bills should not have to be paid by any consumer to some unscrupulous debt collector or debt buyer. There is something about a credit boom followed by a recession that has brought out the worst in many debt collectors.

The following are some of my suggestions to try to improve the Marion County Township Small Claims Courts:

FIRST SUGGESTION: SERVICE OF PROCESS NEEDS TO BE TIGHTENED SIGNIFICANTLY AND CLOSELY MONITORED BEFORE DEFAULT JUDGMENTS ARE ENTERED AGAINST INDIVIDUALS

Based upon my own experiences I firmly believe that service of process in Small Claims Courts needs to be tightened up and monitored much more closely. Oftentimes summons and complaint forms are just left on a front door of a house and the Constable notes that service was actually made on the named Defendant. Serving a house and serving a defendant is not necessarily the same thing. In my case the Constable from Decatur Township Small Claims Court left a summons and notice of claim rolled up in my front door handle two days before Thanksgiving or on November 22, 2011. I never heard my front door bell ring and I did not hear any knock on my door. I happened to use the main floor bathroom and noticed a white Constable's car out front. Then I opened my front door to discover the summons and complaint rolled up in the door handle. The Constable did not exit his vehicle to try to find out who I was. The summons stated there is a court hearing set for December 1, 2011 at 10:30 a.m. That summons and notice of claim could have easily blown off my front door handle during inclement weather. It would definitely help serve the ends of justice if Constables were required to get a signature from the Defendant to establish that a Defendant was in fact personally served. Mr. Jimmie Crawford of

Hendricks County also suggested this at the Task Force meeting in Perry Township Small Claims Court on Wednesday evening, February 22, 2012. I believe he had indicated that he belatedly discovered a summons and notice of claim form in a bush in front of his home. That is when he realized that he only had five (5) days until the scheduled court hearing date. That gentleman was sued in Marion County Decatur Township even though he lived in Hendricks County and reportedly went to Indy Orthopedics of Hendricks County.

I have also witnessed summons and complaint forms served upon an elderly parent's home instead of the named Defendant who did not live with that parent. That defendant was previously sued in 2010 at some other address on South Lockburn in Indianapolis and a default judgment obtained. The parent wrote to the Judge of the Center Township Small Claims Court objecting to that practice and requested that her personal address be removed from the case docket so she would not have her own credit adversely impacted. Her address has not been removed and the debt collector continues to call the parent. Should service on a parent of an adult child be treated as service on that child and be noted as service on the Defendant in a case docket? I think not.

SECOND SUGGESTION: VENUE SHOULD BE IN THE TOWNSHIP WHERE THE DEFENDANT RESIDES

In order to alleviate hardship and abuse, I believe that individual defendants should only be sued in the Township Small Claims Court where they reside or where they entered into a contract. In my case I live in Lawrence Township in the far northeastern corner of Marion County. Indiana Heart Hospital is also situated in Lawrence Township only a few miles to the west off my home. I believe the hospital's debt collector, Medshield, Inc. is in either Lawrence or Warren Township at 2424 East 55th Street, Suite 100, Indianapolis, Indiana 46220. None of the parties resided in Decatur Township but that is where suit was filed against me by Medshield back in late October 2011 under Cause No. 49K02-1110-SC-4777. One trip in a Yellow taxi cab down there would cost me approximately $125 plus a tip. Two trips would cost $250 plus tips. It would be almost impossible for me to take an Indy Go Bus from anywhere near my residence all the way down to the Decatur Township Small Claims Court located at 3730 S. Foltz Street which is not far from the Indianapolis airport. No commuter train runs down there either. I had to quickly prepare and file a Motion to Have the Case Transferred up to Lawrence Township where I reside. The late Judge William Fisher of Decatur Township Small Claims Court granted my motion and the case was transferred to Lawrence Township under Cause No. 49K03-1112-SC-7905 where it is pending.

Most non-lawyer litigants would not know how to prepare and timely file a Motion to Have Venue Transferred to the township of their residence. If we are to make things reasonably fair for individual litigants and attempt to minimize hardship for them to get to court, then a rule change is unquestionably needed.

THIRD SUGGESTION: COURT INFORMATION ABOUT APPEALS MUST BE ACCURATE

Information published for litigants by Marion County Township Small Claims Court should and must be accurate. In the case of Lawrence Township Small Claims Court its website incorrectly states the following about an appeal:

Marion County Small Claims Court
LAWRENCE DIVISION

> **"Appeal**
>
> If either party is not satisfied with the Court's decision, he or she may appeal the decision to the Indiana Court of Appeals. In order to appeal, the party must take certain action within 60 days of the Court's judgement. Because of the complicated and strict rules for appeals, the party seeking an appeal should consult with an attorney as soon as possible."

http://www.small-claims-court.com/info9.html

Individual litigants reading the above are led to believe that they must appeal an adverse decision to the Indiana Court of Appeals and they are encouraged to consult with an attorney. Individuals who consult with an attorney about the costs of an appeal to the Indiana Court of Appeals are going to likely be told that the appeal will cost much more than any $500 to $6,000 judgment in question. That would serve as a roadblock to appeals from the Lawrence Township Small Claims Court.

The erroneous appeal information on the Lawrence Township Small Claims Court's website has been there for a number of years and has not been corrected to show that an appeal should be taken to the Marion County Superior Court for a cost of only $167.

FOURTH SUGGESTION: JUDGES SHOULD REFRAIN FROM ALSO BEING DEBT COLLECTORS

I realize that most of the nine (9) judges of Marion County Township Small Claims Court are part-time judges devoting approximately two (2) days each week to court business and the rest to their private law practices. The court cases before them are predominantly collection cases. Since we must be concerned with how litigants perceive those judges, I believe that the judges should not be engaged in debt collection work in their private law practice. I know of at least one instance where a Township Small Claims Court judge still advertises that he does collection work. For many people that would not pass the smell test for 'fairness and impartiality.' No consumer deserves to be sued by a debt collector and have a debt collector decide his or her case.

Most individuals hope and should expect to receive a fair hearing or trial. That is their goal and that should unquestionably be the primary objective of Marion County Township Small Claims Courts.

FIFTH SUGGESTION: INFORMAL MEDIATION SHOULD BE REQUIRED BEFORE A DEBT COLLECTOR FILES SUIT

I believe that a requirement of informal mediation before a debt collector files suit can be extremely helpful in many cases. I know that in my own case that I was not told by Medshield or its lawyer why they wanted me to pay them $1,502 in September 2011 before they sued me in October 2011. When a collector comes calling they should tell consumers not just how much they allegedly owe but also who they owe and when and how they racked up the bill. I overheard one debt collection attorney from Ft. Wayne at the meeting say that filing suit against a debtor is about the only way to meet with a debtor and discuss the debtor's obligations. I personally believe that filing suit can cause much needless antagonism, resentment and misunderstanding.

Thank you very much for taking the time to review these suggestions. I am indeed most grateful.

Sincerely,

Richard O. Bovey

February 27,2012

Attn; Small Claims Task Force
30 South Meridian Street Suite 500
Indianapolis, Indiana 46204

I'm writing this letter in response to the article printed in the Indianapolis Star Newspaper. Along with this letter you will find enclosed my letters sent to the Small Claims Court involving a Judgment against me regarding Case No. 49K01-1010 SC-11176. This all started when I met with the plaintiff and discussed with them about co-signing a 3 month lease for Jonathon Hodgson. At the meeting my wife and I were very specific about co-signing for a 3 month period only as I was planning to retire in the near future and were didn't want any additional financial obligations facing us a we entered retirement. As you will see in the letters we submitted to the Small Claims Court, we feel the ruling was unjust and left us facing a dire financial situation as we live on our retirement and social security and weren't prepared to pay the amount ruled by the Small Claims Court.

In my rebuttal letter to Small Claims Court dated July 11,2011 I explained the facts which had occurred (see enclosed letter).
The facts are we should have been notified initially that a court date was scheduled , We were notified 5 days after the court date.
We never received a copy of the lease as cosigners.
Jonathon Hodgson received a letter from Zender,s dated January 13, 2010 notifying him the lease was set to expire on 2/28/2010 and asking about a renewal. Zender's attorney contends that we were the lessors, if that was the case which it is not why were we not given a copy of the lease. We went down to Small Claims Court to obtain the Judgment To Set Aside Forms to complete and at this time we asked to see the court file on this case as we wanted to see a copy of the 3 month lease we originally had signed, It wasn't in the file.

After receiving a notice that our bank account would be frozen and then garnished, we requested a emergency hearing to show the court that our income was exempt. This was the first time we appeared in court. The judgment was set aside and a new court date was set.

We have been to Small Claims Court 3 times and it is very intimidating as the lawyer for the plaintiff sets up office right in the court room at a table adjacent to the Judges chair and conducts his business with individuals prior to the court appearance, not one of the defendants have an attorney and he just intimidates everyone into making a settlement prior to the Judge appearing.

We met with the attorney representing the plaintiff prior to appearing before the Judge on the new court date. The attorney a Mr. Steven Earnhart attempted to intimidate us as well. He indicated he was after every cent and wouldn't , settle for anything less. He made threats that he would go after our cars and house to get the money, and claimed that the Sheriff was always on his side. We had proof that our funds were exempt, and had sent this proof the Judge along with a letter explaining the money available in our bank account was from social security and retirement funds and should be excluded from judgments etc. After going to court 3 times we again received a notice notifying us that once again an order had been sent to our bank notifying them to put a hold on our bank account. It seems as though the Judge completely ignored our argument that our funds were from social security and retirement.

After all of this, and the inexcusable intimidation by Mr. Earnhart, and obvious disregard by the judge, and not knowing whether our cars and home were in jeopardy should our funds be found exempt even though it would cause extreme hardship in the future for my wife and I. We could not afford this since we can't afford insurance, and my wife has health issues that need to taken care of. Out of fear and intimidation we decided on January 24th of this year to just send the money in the amount of now $2540.80 rather than the originally $1592.80 the court had ruled. We feel this is not justice. The attorney for the plaintiff wasn't in court just for our case as he is in court every Monday for all of the Plaintiff's cases and this

dollar amount is grossly unfair. TWO DAYS AFTER WE SENT THE MONEY TO THE PLAINTIFF, OUR BANK SENT US A FORM LETTER INDICATING OUR FUNDS IN THE BANK COULD NOT BE PUT ON HOLD IN ACCORDANCE WITH THE LAW.

Enclosed please find copies letters we have sent to the Small Claims Court.

Thanks for any help you could give us.

Respectfully,

Marvin K Phipps

Huntington National Bank
Court Order Processing (EA4W34)
7 Easton Oval
Columbus, OH 43219

Huntington

NOTICE TO JUDGMENT DEBTOR

On 1-19-12, we received a court order garnishment to remove funds from your account. A garnishment is a legal process that allows a creditor/ plaintiff to remove funds from your bank account to satisfy a debt that you have not paid. In other words, if you owe money to a person or company, they can obtain a court order directing your bank to take money out of your account/ accounts to pay off your debt.

On the day we received the order, we researched your account and identified one or more Federal benefit payments deposited in the last 2 months. In most cases, Federal benefit payments are protected from garnishment. As required by Federal regulations, we have determined that the funds in your account will remain available to you and they will not be removed from your account in response to the garnishment order.

In most cases, you have protection from garnishment if the funds in your account include one or more of the following Federal benefit payments:

- Social Security benefits
- Supplemental Security Income benefits
- Veterans benefits
- Railroad retirement benefits
- Railroad Unemployment Insurance benefits
- Civil Service Retirement System benefits
- Federal Employees Retirement System benefits

For your information we have attached a copy of the garnishment order. Any questions can be directed to the creditor/ creditor's attorney and/ or court.

Member FDIC and Huntington are federally registered service marks of Huntington Bancshares Incorporated.

CENTER TOWNSHIP of
MARION COUNTY SMALL CLAIM COURT
200 E. Washington Street
City County Bldg., Suite G-5
Indianapolis, Indiana 46204
Phone Number: (317) 327-5060

You are hereby notified to put a hold on any account which you now have for Marvin Phipps, by the following citation: 122 App., 101 N.E. (2d) 724.

ORDER TO ANSWER INTERROGATORIES

STATE OF INDIANA, COUNTY OF MARION,
CENTER TOWNSHIP OF
MARION COUNTY SMALL CLAIMS COURT

PLAINTIFF: Zender Family Partnership

CAUSE NO. 49K01- 1010 -SC- 11176

DEFENDANT: JUDGEMENT DEBTOR: Marvin Phipps
Name

JUDGEMENT AMOUNT: 2540.80

COURT COSTS:

1099 Shoreline Circle
Address Cicero, In 46034

DEFENDANT'S SS NUMBER: 547-66-3720

EXECUTION DEBTOR AND COURT ORDER TO:
Huntington Bank - Legal Support
NAME
41 S. High Street Columbus, Ohio 43219
ADDRESS

(Indiana Acts of 1943, Chapter 163)

To the proper official of the above named Execution Debtor: You are hereby ordered, by this registered mail, to answer the following interrogatories, as propounded by the Plaintiff, or his attorney, in the above entitled cause of action, for proceedings supplementary to execution:

1. Does your bank have an account in the name of:
   yes
2. Is it a savings and/or checking account and what is the number?
   Checking
3. What is the current balance?
   1,553.76 funds are exempt from garnishment
4. State any other property which your bank holds for the Judgement-Debtor.
   n/A

These interrogatories must be certified as true by you, the Copy retained by you, and the Original returned by registered mail to the court, as required by law, on or before 3-5-12, at 9:00 A.M., "Such court shall have full power to enforce answers thereto".

DATED: 12-21-11

M. Smith Scott
JUDGE

DEC 20 2011

To the above named Judge of the Small Claims Court, Center Township Division: I hereby certify that the above answers are true, without equivocation or evasion.

Center Township of Marion County
M. Smith Scott, Small Claims Court

DATED: 1-19-12

GWEN AUGENSTEIN
614-331-8273

PROPER OFFICIAL

Center Township of
Marion County Small Claims Court
200 East Washington Street
City County Building Suite G-5
Indianapolis. Indiana 46204

FILED
JUN 15 2011
Center Township of Marion County
M. Smith Scott, Small Claims Court

Honorable Judge M. Smith Scott

Your Honor, this letter is in response to a certified letter I received yesterday, 6/14/2011
From Small Claims Court, Cause number 49K01-1010-11176 on a $1735.00 Judgement against me.

On January 11th 2011, I hand delivered to Small Claims Court a Motion To Set Default Judgement Aside and Stay Enforcement of Judgement, I was never notified that the Judgement was denied and I'm required to appear on August 8th,2011 which I fully intend to do so.

To my greater concern, your office has issued a directive to my Bank to to put a hold on my account which I have there.

This would cause a great hardship on myself and my wife as all our income is from both our Social Security, and Retirement Pensions. I'm forwarding to you copies of our checking account balance, from Huntington Bank along with the Social Security Deposits for both my wife and myself for three random months, in addition we have a John Hancock Life Varannuity , also you will find copies of checks from Indiana Teachers Retirement fund, as well as a small retirement fund from Terra International.

You will notice from the Bank Deposit Statement, the dollar amount of $587.79 is the total dollar distribution from the Indiana Teachers Retirement and from the Terra International Pension plan thru Wells Fargo Bank.

I believe that all of these funds are exempt according to Indiana Law. I also am sending the signed Exemption Claims and Request for Hearing Form requesting a hearing at the earliest possible time.

Respectfully,

Marvin K Phipps

Order to Appear

Zender Family Ltd. Partnership
Plaintiff

Vs

Marvin Phipps/Jonathan Hodgson
1099 Shoreline Circle
Cicero, Indiana 46034
Defendant

Center Township of
Marion County Small Claims Court
City County Building Room G-5
Indianapolis, Indiana 46204
(317) 327-5060

Cause Number 49K01-1010-SC-11176

State of Indiana ss:
County of Marion

To any Constable of Marion County, Greetings:

Whereas the Plaintiff has obtained a judgment n this court against the Defendant on the 4th day of November 2011 in the sum of $2540.80 and costs.

Now therefore the Defendant MARVIN **Phipps/Jonathan Hodgson** must appear in this court on the **5th day of March 2012 at 9:00 AM** to answer as to any property, income, or profits which he may have subject to execution, and have then and there this writ.

Witness my hand and seal of this court this 21st day of December 2011

Judge M Smith Scott

FILED
DEC 20 2011
Center Township of Marion County
M. Smith Scott, Small Claims Court

Constables return of service of order to appear:

I certify that I have served this order to appear on _____

By delivering a copy of the order to appear to the Defendant_____

By leaving a copy of the order to appear at _____which is the dwelling place or usual place of abode of _____and by mailing a copy of the notice to appear to said defendant at the such address.

Other service or remarks: _____

Constable_____

We received this 5 months after our last Court date 8/8/2011

CENTER TOWNSHIP of
MARION COUNTY SMALL CLAIM COURT
200 E. Washington Street
City County Bldg., Suite G-5
Indianapolis, Indiana 46204
Phone Number: (317) 327-5060

You are hereby notified to put a hold on any account which you now have for Marvin Phipps, by the following citation: 122 App., 101 N.E. (2d) 724.

ORDER TO ANSWER INTERROGATORIES

STATE OF INDIANA, COUNTY OF MARION,
CENTER TOWNSHIP OF
MARION COUNTY SMALL CLAIMS COURT

PLAINTIFF: Zender Family Partnership

CAUSE NO. 49K01- 1010 -SC- 11176

DEFENDANT: JUDGEMENT DEBTOR: Marvin Phipps
Name
1099 Shoreline Circle
Address Cicero In 46034

JUDGEMENT AMOUNT: 2540.80

COURT COSTS:

DEFENDANT'S SS NUMBER: 547-66-3720

EXECUTION DEBTOR AND COURT ORDER TO:
Huntington Bank - Legal Support
NAME
415. High Street Columbus, Ohio 43219
ADDRESS

(Indiana Acts of 1943, Chapter 163)

To the proper official of the above named Execution Debtor: You are hereby ordered, by this registered mail, to answer the following interrogatories, as propounded by the Plaintiff, or his attorney, in the above entitled cause of action, for proceedings supplementary to execution:

1. Does your bank have an account in the name of:
2. Is it a savings and/or checking account and what is the number?
3. What is the current balance?
4. State any other property which your bank holds for the Judgement-Debtor.

These interrogatories must be certified as true by you, the Copy retained by you, and the Original returned by registered mail to the court, as required by law, on or before 3-5-12, at 9:00 A.M., "Such court shall have full power to enforce answers thereto".

DATED: 12-21-11

M. Smith Scott
JUDGE

FILED
DEC 20 2011
Center Township of Marion County
M. Smith Scott, Small Claims Court

To the above named Judge of the Small Claims Court, Center Township: I hereby certify that the above answers are true, without equivocation or evasion.

DATED:

PROPER OFFICIAL

Order to Appear

Zender Family Ltd. Partnership
Plaintiff

Vs
Marvin Phipps/Jonathan Hodgson

Defendant

1099 Shoreline Circle
Cicero, Indiana 46034

Center Township of
Marion County Small Claims Court
City County Building Room G-5
Indianapolis, Indiana 46204
(317) 327-5060

Cause Number 49K01-1010-SC-11176

State of Indiana ss:
County of Marion

To any Constable of Marion County, Greetings:

Whereas the Plaintiff has obtained a judgment n this court against the Defendant on the 3rd day of January 2011in the sum of $1735.00 and costs.

Now therefore the Defendant Marvin Phipps/Jonathan Hodgson is ordered to appear in this court on the **8th day of August at 9:00 AM** to answer as to any property, income, or profits which he may have subject to execution, and have then and there this writ.

Witness my hand and seal of this court this 18th day of May 2011

Judge_____ MAY 25 2011

Constables return of service of order to appear:

I certify that I have served this order to appear on _____

By delivering a copy of the order to appear to the Defendant_____

By leaving a copy of the order to appear at _____which is the dwelling place or usual place of abode of _____and by mailing a copy of the notice to appear to said defendant at the such address.

Other service or remarks: _____

Constable_____

We appeared with proof that our income was exempt, and were told that the judge would make a decision and we would be notified.

CENTER TOWNSHIP of
MARION COUNTY SMALL CLAIM COURT
200 E. Washington Street
City County Bldg., Suite G-5
Indianapolis, Indiana 46204
Phone Number: (317) 327-5060

You are hereby notified to put a hold on any account which you now have for Marvin Phipps, by the following citation: 122 App., 101 N.E. (2d) 724.

ORDER TO ANSWER INTERROGATORIES

STATE OF INDIANA, COUNTY OF MARION,
CENTER TOWNSHIP OF
MARION COUNTY SMALL CLAIMS COURT

PLAINTIFF: Zender Family Partnership

CAUSE NO. 49K01- 1010 -SC- 11176

DEFENDANT: JUDGEMENT DEBTOR: Marvin Phipps
Name

JUDGEMENT AMOUNT: 1735.00

COURT COSTS: 143.00

1099 Shoreline Circle
Address Cicero In 46034

DEFENDANT'S SS NUMBER:

EXECUTION DEBTOR AND COURT ORDER TO: Huntington Bank
NAME

201 N. Illinois 46204
ADDRESS

(Indiana Acts of 1943, Chapter 163)

To the proper official of the above named Execution Debtor: You are hereby ordered, by this registered mail, to answer the following interrogatories, as propounded by the Plaintiff, or his attorney, in the above entitled cause of action, for proceedings supplementary to execution:

1. Does your bank have an account in the name of:
2. Is it a savings and/or checking account and what is the number?
3. What is the current balance?
4. State any other property which your bank holds for the Judgement-Debtor.

These interrogatories must be certified as true by you, the Copy retained by you, and the Original returned by registered mail to the court, as required by law, on or before 8-8-11, at 9:00 A.M., "Such court shall have full power to enforce answers thereto".

DATED: 5-18-11

M. Smith Sotto
JUDGE
MAY 25 2011

To the above named Judge of the Small Claims Court, Center Township Division: I hereby certify that the above answers are true, without equivocation or evasion.

Center Township of Marion County
M. Smith Sotto, Small Claims Court

DATED:

PROPER OFFICIAL

January 24,2012
Marvin K Phipps
Case No.
49K01-1010-
SC-11176

Marion County Small Claims Court
City County Building Room G-5
Indianapolis, Indiana 46204

Honorable Judge M.Smith Scott

Enclosed you will find a copy of a certified check remitted to the law offices of Thrasher Buschmann & Voelkel ,Steven Earnhart for the amount of $2540.80 dated 01/20/2012.

I sent this check because of your ruling, not because it was right, again I think this was a miscarriage of justice. The fact was and still remains so that I co-signed a three month lease for an apartment at Zender Apartments solely to assist my stepson Jonathon Hodgson, who had been released from jail. My wife and my intent was to co-sign a lease for this apartment for 3 months to give him a fresh start. We were very clear to Zenders when I co-signed the lease it was for a 3 month period only as I was preparing for retirement and being on a fixed income we could not afford any additional length. Not only did we not get a copy of the lease which if we were the leasors as Zenders contended, that should be illegal in itself, nor did a copy of the lease ever even appear in the court file as we went down to Small Claims Court to check the file.

Also when My wife called Steve Earnhart about why we weren't notified of a court date, he replied we didn't have to be notified and wouldn't be notified of any future court dates. Why was an original fee of $1592.80 increased to $2540.80? Obviously Steve Earnhart wasn't in your courtroom solely for our case as we have witnessed the times we attended your court he was working on a multitude of Zender cases and ours only involved a very small amount of his time. How can you rule for Zender when Mr Earnhart admitted to my wife that we would not be notified. So these omissions were intentional, allowing Mr. Earnhart to add additional attorney fees because more court dates would be required. The first time we were notified was after a judgment had been made, and a request to put a hold on our accounts was issued. Our accounts are made up of entirely Social Security and Retirement Funds. The first time we appeared was after we were notified about the Judgment, and to show that our income was exempt.

Because being on a fixed income limited solely by Social Security and Retirement Benefits we are not financially able to continue to argue this case. However Judge Scott, the last time we appeared in your courtroom and all parties were under oath to tell the truth the a representative from Zender committed Perjury. She later admitted that she had no knowledge of our receiving a copy of the lease. Paying this judgment has put a huge strain on us financially. It is a shame that well meaning families who are only trying to help loved ones get back on their feet are punished. Especially Senior Citizens on a fixed income.

Now what happens as a new court dated of March 5th, 2012 has been scheduled? DO WE STILL APPEAR?
WE WOULD LIKE TO BE NOTIFIED. This judgment has been satisfied, and we hope this will be the end of it.

Respectfully,

Marvin K Phipps

JULY 11TH 2011

SMALL CLAIMS COURT

REBUTTEL

1. WHY SHOULD I BE HELD LIABLE FOR A LEASE THAT I C0- SIGNED IN GOOD FAITH FOR A 3 MONTH PERIOD ONLY?

WE WERE NOT GIVEN A COPY OF THAT LEASE AT THE CO-SIGNER

ON 1/13 2010 JONAHTAN HODGSON WAS SENT A LETTER FROM ZENDER APARTMENTS NOTIFYING HIM HIS LEASE WAS SET TO EXPIRE ON 02/28/2010 AND AT THAT TIME PER THE LETTER, IT STATES YOUR RENT WOULD NOT BE INCREASED SHOULD

_____ YOU WISH TO SIGN ANOTHER LEASE

IT ALSO STATED IF YOU WISH TO SIGN A SHORTER LEASE AT THIS RATE TO CONTACT THE OFFICE/

IN FACT MY WIFE WHO IS SITTING IN THIS COURT ROOM CAN AND WILL TESTIFY THAT SHE INDEED WENT DOWN TO ZENDERS OFFICE TO INQUIRE ABOUT SIGNING ANOTHER 3 MONTH LEASE BUT THE RENTAL AGENT TOLD HER

----------NO, IT HAD TO BE FOR A YEAR, BECAUSE OF THE PAPERWORK INVOLVED , AND MY WIFE TOLD HER THAT WE COULDN'T SIGN A NEW LEASE SINCE I KNEW I WOULD BE RETIRING AND WE COULND'T AFFORD BEING RESPONSIBLE FOR A YEAR LEASE, AT NO TIME DID WE SIGN A LEASE. OTHER THAN THE INITIAL 3 MONTH .

NO ADDENDUM WAS ADDED TO THE LEASE TO BE SIGNED.

2. AT NO TIME WERE WE EVER TOLD OR NOTIFIED THAT WE WERE RESPONSIBLE FOR ANY MONEY OTHER THAN THE CO-SIGNING FOR A THREE MONTH LEASE.

3. WE RECEIVED A JUDGEMENT ORDER DATED TO APPEAR IN COURT ON 11/5,2010,---------- ---------- WE RECEIVED THIS IN THE MAIL 5 DAYS AFTER THE COURT, DATE.

WE WENT DOWN TO SMALL CLAIMS COURT TO OBTAIN THE JUDGEMENT TO SET ASIDE FORMS TO COMPLETE AND FAX AND MAIL TO ZENDERS ATTORNEY, AT THIS TIME WE ASKED TO SEE THE COURT FILE ON THIS CASE AS WE WANTED TO SEE A COPY OF THE 3 MONTH LEASE WE ORIGINALLY SINED. IT WASN'T IN THE FILE.

AT NO TIME WAS I SERVED ANY PAPER WORK REGARDING NOTICE TO APPEAR.

---------- WHY SHOULD AN INDIVIDUAL BE RESPONSBILE FOR THIS JUDGMENT WHEN I FAITHFULLY FULLFILLED MY END OF THE BARGIN. WILL THE COURT

SHOW ME HOW I AM RESPONSIBLE WHEN THERE ISN'T ANY PAPERWORK ON MY AGREEING TO EXTEND THE LEASE EITHER ON A PER MONTH BASIS 3 MONTHS OR A YEAR.

STATE OF INDIANA
COUNTY OF MARION, ss:

In the CENTER TOWNSHIP OF MARION COUNTY SMALL CLAIMS COURT
200 East Washington Street
City County Bldg, Suite G-5
Indianapolis, Indiana 46204
317/ 327-5060

ZENDER FAMILY LIMITED PARTNERSHIP
Plaintiff

vs

Jonathan Hodgson
Marvin Phipps

Defendant Address

Cause No.
49K01-1010-SC-11176

Received via mail 1/4/11

JUDGMENT/ORDER

FILED
JAN 03 2011
Center Township, Marion County
M. Smith Scott, Small Claims Court

The Court now finds as follows:

✓ That Plaintiff **appears by counsel**; that Defendant (appeared/~~appeared not~~)

✓ That Defendant fails to appear and Plaintiff appears and within the knowledge of those present, the Defendant is not under legal disability and has sufficient understanding to realize the nature and effect of the Notice of Claim.

___ That all parties appeared in person or by counsel, and agree to the entry of judgment.

Steven C. Earnhart, Attorney for Plaintiff Defendant

___ That all parties appeared (in person) or (by counsel). The evidence was heard in case submitted, all legal requirements have been met and judgment is entered in favor or the (Plaintiff/Defendant).

Accordingly, the Court now orders:

✓ That judgment is rendered in favor of the Plaintiff for the sum of $ 1,425.80, less security deposit received of $ 150-, and attorney fees of $ 460- and interest $ — for a total of $ 1,735.80 plus costs and post-judgment interest at 8% per annum.

___ That Plaintiff is entitled to the **Real Estate** as described in the Notice of Claim, writ entitled to be issued on _____ Date of possession _____, at Noon.

___ That this case be dismissed (with/without) prejudice; want of prosecution.

___ Landlord requests hearing date for damages set for _____ at 9:00 A.M.

___ That the counter claim is for counter plaintiff for _____ plus costs.

___ That the counter claim is for counter defendant.

✓ Plaintiff / Defendant is ordered to serve a copy of this judgment on the opposing party.

___ Other: _____

Date: 1/3/11

Judge

W:\001950\Forms\center6.jgt.docx

☆ We were not notified of the Court Dated until after the Judgement was made

2

INDIANA
OF MARION, ss:

In the CE ER TOWNSHIP OF MARION
COUNTY SMALL CLAIMS COURT
200 East Washington Street
City County Bldg, Suite G-5
Indianapolis, Indiana 46204
317/ 327-5060

NDER FAMILY LIMITED PARTNERSHIP
laintiff

vs

Jonathan Hodgson
Marvin Phipps

Defendant Address

Cause No.
49K01-1010 -SC- 11176

Rec'd V. 2 Mail 5 days after 11/5

JUDGMENT/ORDER

The Court now finds as follows:

✓ That Plaintiff **appears by counsel**; that Defendant (appeared/appeared not).

✓ That Defendant fails to appear and Plaintiff appears and within the knowledge of those present, the Defendant is not under legal disability and has sufficient understanding to realize the nature and effect of the Notice of Claim.

___ That all parties appeared in person or by counsel, and agree to the entry of judgment.

Steven C. Earnhart, Attorney for Plaintiff Defendant

___ That all parties appeared (in person) or (by counsel). The evidence was heard in case submitted, all legal requirements have been met and judgment is entered in favor or the (Plaintiff/Defendant).

Accordingly, the Court now orders:

___ That judgment is rendered in favor of the Plaintiff for the sum of $_____, less security deposit received of $_____, and attorney fees of $_____ and interest $_____ for a total of $_____ plus costs and post-judgment interest at 8% per annum.

✓ That Plaintiff is entitled to the **Real Estate** as described in the Notice of Claim, writ entitled to be issued on 11/1/10. Date of possession 11/5/10, at Noon.

___ That this case be dismissed (with/without) prejudice; want of prosecution.

✓ Landlord requests hearing date for damages set for 1/3/11 at 9:00 A.M.

___ That the counter claim is for counter plaintiff for _____ plus costs.

___ That the counter claim is for counter defendant.

✓ Plaintiff / Defendant is ordered to serve a copy of this judgment on the opposing party.

___ Other:_____

Date: 11/1/10

Tara Z. Melton, JPR
Judge

W:\01950\Forms\center6.jgt.docx

☆ Not notified until after judgement

ZENDER
Distinctive Apartments
Family Owned

1/13/2010

Jonathan Hodgson
1321 N. Meridian Street, #512
Indianapolis, In 46202

Dear Jonathan Hodgson,,

It is time for your lease to be renewed, which expires on 02/28/10. We are pleased to notify you that your rent will not be increased should you wish to sign another lease agreement. Your renewal rate will be $495.00 per month for a one year lease. If you wish to sign a shorter lease at this rate, please contact the office for further details.

If you choose to stay in your apartment on a month-to-month basis, your rental rate will be $545.00 per month. Your renewal rate will become effective on 03/01/10.

We sincerely hope you continue making Zender the best choice for your housing needs. Often times, however, needs can change. If you find you are looking for a change of view or perhaps a fresh address or different size apartment, we certainly would like the opportunity to discuss the arrangement of a transfer. Our staff is ready to assist you in this process. Just let us know!

Please call us with your decision regarding your lease renewal or transfer options by the 15th of next month. As a reminder, and in accordance with your lease agreement, a thirty day written notice is required should you wish to vacate your apartment at the end of your lease.

We would like to take this opportunity to extend our thanks and gratitude and look forward to our continued association.

Sincerely,

Zender Family Ltd. Partnership

NOTE: The monthly rent amount stated above does not include parking, air conditioning charges, premiums etc., where applicable. These amounts would be in addition to the above rent.

From: Paul K. Ogden [mailto:pogden297@comcast.net]
Sent: Thursday, March 01, 2012 7:47 AM
To: Mail RulesComments
Subject: Small Claims Court Forum Shopping and Satisfactions of Judgment

Dear Judge Baker and Members of the Committee:

Thank you for appearing at the Pike Township Government Center and allowing members of the bar and the public to have input into possible changes with the Marion County Small Claims Court. As one of the few attorneys who attended who is not a collection attorney, I think I can give a different picture of how things are going on.

I wanted to expand a bit upon the comments I made at the meeting.

FORUM SHOPPING: Make no mistake the attorneys, in particular collection attorneys, are forum shopping in our small claims court. There is an enormous incentive for them to keep big filers happy lest the township lose the income that comes to through the filing fees. I remember when I ran in a vacancy election for Pike Twp Small Claims Court in the early 1990s, the Pike Township Trustee told me that, if elected, I should not rule against the big filers more than rarely lest they go somewhere else.

Decatur Township in particular has a history of being very friendly territory for collection attorneys. They don't have a bus line down there. That is the township I talked about the case my law firm had a defendant 10 years earlier had a medical bill of about $350 that went to collections. The medical provider received a judgment and at pro supp, the court ordered that the man's be garnished to pay the $350 bill. A decade later he was hauled into court on a pro supp

proceeding on the same judgment. The medical provider did not have any proof the judgment was paid. Even though he was represented by counsel and the collection attorney had no evidence that the garnishment didn't fully satisfy the judgment, the court ruled against the client. He paid it again.

I frankly did not understand their objections regarding venue and the Fair Debt Collection Act. Mr. LaMere who spoke near the end clarified though that this is apparently no longer an issue as it possibly was at one time in Cook County. Given modern technology, I don't buy that it's so difficult to tell which township a defendant lives in. Regardless, you could just have a rule that the case gets automatically transferred if its filed in the wrong township.

The thrust of the testimony seemed to be that the small claims court defendant can ask for a change of venue to their home township. My reading of Rule 12 is that is not mandatory...it's discretionary with the court. Some of the collection attorneys indicate that in all their years people rarely ask for a change of venue. That's because they do not know they can make that request. The fact is these are very unsophisticated litigants.

SATISFACTIONS OF JUDGMENT: What is noted above could have been avoided with the filing of a satisfaction of judgment. I cannot emphasize enough the problem the problem with courts not demanding that Plaintiffs file satisfactions of judgments on cases. This month I had a case in Hendricks County where eight years earlier a landlord in a trailer park had sued my client for rent. She agreed to give the landlord the trailer in full satisfaction of the judgment. Because there was no satisfaction of judgment, a collection attorney eight years later filed another pro supp proceeding to collect on the original judgment.

I knew exactly what was going on. That collection attorney had gone through the court files looking for any cases where judgments were entered and there was no satisfaction of judgment filed and made a deal with the creditor that she would pursue it in return for a

portion of what was collected. Ironically that same day I was in Washington Township Small Claims Court and the judge there mentioned that a collection attorney had spent the day going through the files. I know that person was looking for judgments where there was no satisfaction of judgment filed. Because a judgment can remain alive for ten years, it's easy for them to start going after unsophisticated litigants who leave court thinking everything is resolved and will be taken care of. Then years later they find themselves in court again.

SMALL CLAIMS COURT JUDGMENT DOCKET AND NEED FOR UNIFIED COMPUTER SYSTEM: One of the collection attorneys mentioned that the Marion County Clerk has a small claims court judgment document. I reviewed the rule and that it is indeed the case that the court is to send their judgments in to the Marion County Clerk. (That may be a more recent development.) I have to wonder though if it's done on a regular basis – do they physically mail the judgments to the Clerk? Nonetheless, that is just the judgments. All filings in small claims court need to be viewable in the Marion County Clerk's system. Right now, if you want to know what's filed on a case, you have to go out to the individual township or call.

Thank you so much for your interest in working to make improvements to the Marion County Small Claims Court. It is much appreciated.

Paul K. Ogden
OGDEN LAW FIRM
3525 W. 55th St
Indianapolis, IN 46228
(317) 297-9720

Nowacki, Timothy

From: Ralph Gerdes [rgerdesconsultants@ameritech.net]
Sent: Monday, February 27, 2012 2:29 PM
To: Nowacki, Timothy
Subject: Lawrence Township Small Claims Court Forms
Attachments: Lawrence Township Forms.pdf

Tim:

Attached are three (3) forms from my experience with the Lawrence Township Small Claims Court. They are the claim form signed by the judge, the order, and the granting of the appeal.

I do not know if the claim form is standard or generated by the plaintiff's attorney.

Ralph Gerdes
Office: 317-787-3750, Ext 2

NOTICE OF CLAIM | **SUMMONS**

STATE OF INDIANA
COUNTY OF MARION, SS:

In the LAWRENCE TOWNSHIP SMALL CLAIMS COURT
LAWRENCE TOWNSHIP DIVISION

LOCKERBIE GLOVE CO. CONDOMINIUM OWNER'S ASS'N, INC.
c/o EADS MURRAY & PUGH, P.C.
by Amanda L. Krenson
9515 E. 59th Street, Suite B
Indianapolis, IN 46216
(317)536-2562, Plaintiff,
vs.

4455 McCoy Stree
Indianapolis, IN 4622
(317)545-236
(317)545-1662 FA

FILED
APR 25 2011
SMALL CLAIMS COURT
LAWRENCE TOWNSHIP DIV.

Cause No. 49K03-1104-SC002599

RALPH D. GERDES
556 Lockberie Circle North
Indianapolis, IN 46202, Defendant(s).

The said Plaintiff complains of the Defendant(s) and says: Defendant(s) own/owns property within the Marion County community of Lockerbie Glove. Pursuant to the Plaintiff's recorded governing documents, relevant portions attached hereto as Exhibit B, the Defendant (s) is/are obligated to pay assessments to the Plaintiff. The assessments are the personal obligation of the Defendant(s). The Plaintiff's governing documents provides for recovery of Plaintiff's attorney fees. Defendant(s) is/are indebted to the Plaintiff for $736.05 for past due unpaid assessments, accelerated assessments, late fees, and collection costs, attached as Exhibit A. Plaintiff also requests an award of reasonable attorneys fees.

Plaintiff hereby demands judgment (including any unpaid assessments and late charges which accrue after the date hereof until trial), plus attorney fees, plus court costs, and all other proper relief.

Dated: 4/21/2011

Amanda L. Krenson, Attorney No. 28999-61

The Following Manner of Service of Summons is Hereby Designated:

___XX___ Sheriff Or Constable _____ Certified Mail _____ Other _____

TO ANY CONSTABLE OF THIS TOWNSHIP: You are hereby commanded to summon the above Defendant(s) to appear before me in court on

June 14, 2011 at 1:00 p.m. to answer the Plaintiff in a trial on the above claim and to make due return of the Notice of Claim.

Dated: APR 25 2011

2 Judi

CONSTABLE'S RETURN OF SERVICE OF NOTICE OF CLAIM:
I certify that I have served this Notice of Claim on _____:
1) By reading a copy of the Notice of Claim to Defendant, _____.
2) By leaving a copy of the Notice of Claim at _____, which is the dwelling place or usual plac of abode of _____ and by mailing a copy of the Notice of Claim to said Defendant at such address
3) Other service or remarks: _____.

_____
Constable

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.
THIS COMMUNICATION IS FROM A DEBT COLLECTOR

NOTICE TO ALL PARTIES:

- You may appear either in person or by attorney on the date set for trial and hearing of Plaintiff's claim.
- Both the Plaintiff and the Defendant(s) should bring to the trial all witnesses and all documents in their possession concerning this claim.
- If the Defendant does not wish to dispute the Plaintiff's claim, he or she may appear to consent to a judgment and for the purpose of allowing the court t establish the method by which the judgment shall be paid.
- If the Defendant cannot appear at the time set for the trial, he or she should contact the Plaintiff's attorney to request that the trial and hearing be continued to another date.
- If the Defendant fails to appear in Court at the time set for the trial, a default judgment may be entered against the Defendant.
- The Defendant has the right to a jury trial, but such right is waived unless a jury trial is requested within ten (10) days after receipt of the Notice of Claim. Once a jury trial request has been granted, it may not be withdrawn without the consent of the other party or parties; and within ten (10) days afte the jury trial request has been granted, the party requesting a jury trial shall pay the clerk the additional amount required by statute to transfer the claim to the plenary docket; otherwise, the party requesting a jury trial shall be deemed to have waived the request.
- The Defendant may within ten (10) days of service of the summons file a change of venue of this matter. Proper venue is determined by the court in the following order:

(1) In an action upon a debt or account, venue is the township where any defendant has consented to venue in a writing signed by the defendant.
(2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.
(3) Venue is in the township (in a county of the Small Claims Court) where the greater percentage of individual Defendant included in the compliant resides, or, if there is no such greater percent age, the place where any individual defendant so named resides, owns real estate, or rents an apartment or real estate or where the principal office or place of business of any defendant is located.
(4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

Claims between landlord and tenants shall be in the township where the real estate is located.

JUDGMENT/ORDER

STATE OF INDIANA
COUNTY OF MARION
Lockerbie Glove Co. Condominium Owner's Ass'n, Inc vs. Ralph Gerdes

SS:

IN THE LAWRENCE TOWNSHIP
MARION COUNTY SMALL CLAIMS COURT
4455 McCoy St.
Indianapolis Indiana 46226
(317) 545-2369
Case Number: 49K03-1104-SC-002599

Plaintiff(s)
Lockerbie Glove Co.
Condominium Owner's Ass'n, Inc

Eads 9515 E59th Street Ste-B
Indianapolis IN 46216

Counter Claimant

Vs.

Defendant(s)
Ralph D Gerdes

556 Lockberie Circle N
Indianapolis IN 46202

Counter Claim Defendant(s)

Comes now the court, having considered the above cause, and being duly advised in the premises, finds as follows:

_____ The Plaintiff (appeared / appeared not); The Defendant (appeared / appeared not).
_____ That Defendant fails to appear and Plaintiff appears and within the knowledge of those present, the Defendant is not under legal disability and has sufficient understanding to realize the nature and effect of the Notice of Claim.
_____ That all parties appeared in person or by counsel, and that all legal requirements having been met, and cause having been submitted and evidence heard; judgment should be entered in favor of the (Plaintiff / Defendant).
_____ That all parties appeared in person or by counsel, and agree to the entry of judgment.
_____ That judgment on the counterclaim is rendered in favor of the counter (plaintiff / defendant) for $ _____ and attorney fees of $_____ for a total judgment of $_____ plus costs and post judgment interest at the statutory rate.
_____ Judgment has been satisfied.
DK That Def files for appeal

_____, Plaintiff _____, Defendant

Accordingly, the Court now ORDERS,

_____ That judgment *is* rendered *in* favor of the Plaintiff for the sum of $_____ and attorney fees of $ _____ and prejudgment interest of $_____ for a total judgment of $_____ plus costs and post judgment interest at _____% per annum.
_____ That the Plaintiff is entitled to the (Real Estate / Personal Property) as described in the Notice of Claim, Writ entitled to be issued. Date of possession _____ at _____. Trial on damages is set for _____ at _____.
_____ That judgment on the counterclaim is rendered in favor of the counter (plaintiff / defendant) for $ _____ and attorney fees of $_____ for a total judgment of $_____ plus costs and post judgment interest at the statutory rate.
_____ That (Plaintiff's / Defendant's) motion for continuance is (granted / denied), to be continued to _____ at _____.
_____ That the Defendant's motion to set aside Default Judgment is hereby (granted / denied), cause to be set for trial on _____ at _____.
_____ That judgment be rendered in favor of the Defendant and that the Plaintiff recover nothing by way of its Complaint.
_____ Final Order in Garnishment to issue. _____ Final Order in Garnishment to issue upon return of Interrogatories.
_____ That this cause be Dismissed (With / Without) prejudice.
_____ That the Defendant is ordered to reappear without further notice on _____ at _____ or be subject to Body Attachment.
G That DEF REQUEST GRANTED

Date: 12-20-11

Clark G Rehme
Judge

COPIES MAILED TO BOTH PARTIES

Shelvy H. Keglar Jr.
8209 Ontario Lane
Indianapolis, IN 46205

March 7, 2012

Small Claims Task Force
30 S. Meridian St., Suite 500
Indianapolis, In 46204.

I just read the Indystar.com article about the Marion County Small Claims Court investigation.

If I had known that you were at Pike Township last week and taking comments from the public I would have been the 1st person there.

The Pike Township Small Claims court is ridiculous.

I filed a complaint against a lawyer because the lawyer falsified a document stating that I agreed to continue the case. The Attorney Donald McInnes told me I can get an continuance and went to talk to one of the court staff employees behind the desk and gave her a document, the court employee she took document and went into the courtroom and interrupted the judge while he was hearing another case and he signed the continuance. Once I got home and looked at the Continuance, I noticed that the Plaintiffs Attorney Donald McInnes initialed that the Defendant agrees to a continuance. I never agreed to a continuance; I was ready to go to court that date and proceed with the case. The Attorney Donald McInnes wanted to return for another date because he didn't have all of his documents and would have lost his case.

Once I complained to Judge Stephens that I hadn't asked for a contiance; he made some excuse for the Attorney and the case proceeded. Every time the Attorney argued a point, I countered and eventually Judge Stephens started pouring over the HOA By-Laws, when I countered the Judges position that there was nothing in the By-Laws to substantiate the Plaintiffs argument as to a deadline for the HOA fees to be paid, Judge Stephens said, well, you were late so Attorney Donald McInnes has proved his case. It is inexcusable that Attorney Donald McInnes could falsify a document and Judge Stephens wouldn't see anything wrong with that. That case should of be dismissed.

At another case hearing Attorney Donald McInnes, the Attorney which I had file the complaint with the Indiana BAR, filed another Judgment against me. I provided documents that I had paid my dues before the attorney filed his claim. The Plaintiff kept my check and didn't cash it for over 3 months, then sued me in Pike Township. I told the Judge it is not my fault they didn't cash the check. The date of the check proved what date I had sent it. Judge Steepens allowed the plaintiff a continuance. Attorney Donald McInnes came to the next hearing and poured over the same By-Laws and once again Judge Stephens started acting like he was the Plaintiffs Attorney and argued the case; the Plaintiffs Attorney Donald McInnes just stood there for over 10 minutes

and didn't say a word. Finally Judge Stephens got upset because he couldn't find the language in the HOA By-Laws and asked the Plaintiffs Attorney Donald McInnes if there was any documentation that the HOA had which stated what the deadline to pay the dues were.

At the next hearing Judge Stephens asked me did I want to proceed with my case in his court or another court if I felt I couldn't get a fair trial and before I could answer Attorney Donald McInnes and Judge Stephens started talking and next thing I know the case was over and the Plaintiff was awarded large legal fees. Judge Stephens accepted an unsigned document from the Plaintiff Donald McInnes and said that was sufficient to explain the HOA's position and I lost the case and the Attorney was awarded a large amount of legal fees. The document did not state what the deadline was and there was no deadline.

The Attorney didn't have any documents but since the Judge kept giving him more and more continuances the Attorney was able to go and get the HOA President to draft a letter telling the Judge that he agreed there was a deadline to pay the fees but he didn't remember or couldn't find any documents that stated what the deadline was. I asked the Judge is it fair that you took an unsigned document from someone and you instructed the plaintiff to provide either testimony from someone on the HOA Board or something prior to the judgment filing date which stated what the deadline to pay the HOA dues were. Judge Stephens "blew me off" and said the plaintiff had provided sufficient evidence.

I own rental properties in Warren Township, Lawrence, Pike Township and Center. The Warren and Lawrence Township Small Claims Courts operate very differently than the Pike Township Small Claims Court. Pike Township doesn't start on time; Private Attorneys intermingle and have access to the Court files. If you go to Pike Township and stand there and watch the staff and certain attorneys you can see the *improprieties*

If you still would like to hear from the Public in regards to Pike Township Small Claims Court, I would be more than happy to speak to someone.

I have enclosed copies of the complaints I filed with the State of Indiana and the Indiana BAR along with a letter dated September 19, 2011 that I sent to Judge Stephens.

Shelvy H. Keglar Jr.

317-938-4819

STATE OF INDIANA	)	IN THE MARION SMALL CLAIMS COURT
	)	SS: PIKE TOWNSHIP DIVISON
COUNTY OF MARION	)	CASE NO. 49K01-49K051005SC2585

Defendant,
Shelvy H. Keglar Jr.
PO Box 88181
Indianapolis IN 46208

September 19, 2011

Hon. A. Douglas Stephens, Judge
Marion County Small Claims Court
Pike Township Division
5665 Lafayette Road, Suite B.
Indianapolis, IN 46254

I find that it was unprofessional and bad character of you at the July 14, 2011 hearing to propose that I may have the case heard in a different court if I didn't feel I would get a fair hearing, then you immediately begin speaking to Attorney Donald McInees and begun the hearing.

I wish I had known that you can present <u>unsigned</u> documents from a witness who isn't present to be questioned.

Your Court is unfair and gives the Tanner Law Group and unfair advantage.

1. The attorneys at Tanner Law Group (TLG) are given access to the Court Records and fraternize with the Courts employees. The attorneys of TLG sit behind the counter and they engage in general conversations with court employees.

   You can't tell who is an employee of the Court or who is an employee of a Private Attorneys law firm.

   I have been to Pike Township Small Claims Court, Warren Township, Center and Lawrence Township Small Claims Court for hearings over the past 10 years.
   Pike Township is the only Court that allows Private Attorneys to mingle and conduct their business behind the courters. The Private Attorneys are everywhere behind the Counter.

   At my initial hearing, Attorney McInnes, had a private conversation with a Court employee and she presented a document to the Magistrate that day and Mr. Tanner was allowed a continuance, which led him to win the case.

2. You allowed Mr. McInnes to present an unsigned document from an Oakforge Board Member who as Mr. McInnes put it, "He can't remember much and his health is bad"....

"I had to tell him what to put in the letter" I questioned the document and said, anyone could of wrote this and stated, "You said they had to come back with a documents that stated when the fees were considered late." There was nothing in that letter that stated when the Board had notified the Oakforge residents or Oakforge HOA when the dues were considered late.

Mr. Innes got off the hook once already and the Indiana Disciplinary decided he didn't do anything wrong. But it is unbelievable that an Attorney can develop a form, put a check-mark where the Defendant is supposed to sign agreeing to a continuance and then the trial judge grants the continuance. That is fraud!

3. You continually gave and looked for language in the Oakforge HOA by-laws that Mr. Innes couldn't find or didn't present. You took 3-5 minutes to review the entire Oakforge By-Laws and when you couldn't find the language, you gave Mr. McInnes the opportunity to come back at a later date with some written documents that stated when the Oakforge dues were considered late. There weren't any documents, but Mr. McInnes went and got a Board Member to write up a letter. There wasn't anything in writing.

   It felt as if you were representing Attorney McInnes and Oakforge HOA.

I hope I never have to come back to Pike Township Small Claims Court under your jurisdiction. Next time, I am there, I will be sure to take video tape footage of everything that goes on behind the desk and present it to the Indiana Supreme Court.

I don't know a lot about the court proceedings and I didn't know that I only had 60 days to appeal the decision. I thought it was one year. But I will make sure that if Mr. McInnes or anyone else at Pike Township tries any shenanigans or unfair tactics, I will present it to Raphael Sanchez and the Indiana Supreme Court.

Shelvy H. Keglar Jr.

Cc:
Marion County Small Claims Court
Pike Township Division
5665 Lafayette Road, Suite B.
Indianapolis, IN 46254

STATE OF INDIANA
COUNTY OF MARION, SS:

PIKE TOWNSHIP OF MARION COUNTY SMALL CLAIMS COURT
5665 LAFAYETTE ROAD #B
INDIANAPOLIS, INDIANA 46254
Phone (317) 293-1842
Fax (317) 290-8319

OAKFORGE COMMUNITIES HOMEOWNERS ASSOCIATION INC
6745 GRAY ROAD SUITE H
INDIANAPOLIS, IN 46237

SCOTT TANNER
PLAINTIFF
- vs -
SHELVY H. KEGLAR

5956 SYCAMORE FORGE DR
INDIANAPOLIS, IN 46254
DEFENDANT

CAUSE NUMBER 49K05 0906 SC 4411

FILED
NOV 12 2009
Pike Township of Marion County Sm. Claims Ct.

JUDGMENT/ORDER

Comes now the court, having considered the above cause, and being duly advised in the premises, finds as follows:

___ That Defendant(s) fails to appear and Plaintiff(s) appears and swears or affirms under penalties for perjury that: all legal requirements have been met; Plaintiff is entitled to the relief prayed for in the notice of claim; and is unaware of any legal disability on the part of the defendant.

✓ That all parties appeared in person or by counsel, and agree to the entry of judgement.

Ronald J. McAree
Plaintiff

X
Defendant

___ That all parties appeared in person or by counsel. The evidence was heard in cause submitted, all legal requirements have been met and judgement is entered in favor of the (Plaintiff/Defendant).

___ That _____

Accordingly, the Court now ORDERS, ADJUDGES, and DECREES:

___ That judgement is rendered in favor of the Plaintiff(s) for the sum of $_____ plus damages of $_____ and attorney fees of _____ for a total judgement of _____ Costs and interest.

___ That Plaintiff is entitled to the (Real Estate/Personal Property) as described in the notice of claim, writ entitled to be issued, possession on _____. Damage hearing on _____ at _____A.

___ That judgement be rendered in favor of the Defendant(s) and that Plaintiff recover nothing by way of its claim

✓ That Defendant's motion to set aside Default Judgement is hereby (granted/denied), (said cause to be set for trial on 1/7, 20 10 at 11:30a.)

___ That this cause be dismissed (With/Without) prejudice.

___ Body Attachment to issue.

(Signature)

___ Final order in garnishment to issue.

___ Judgement Satisfied _____
Plaintiff Signature and Date

Other: _____

SERVICE
Personal _____ Copy _____
CMRRR _____

Date: 12 Nov 2009 Judge A. Douglas Stephens

6023 Sycamore Forge Dr
Indianapolis, IN 46254

June 27, 2011

To:
Deborah Twitty
HOA Property Manager
Elite Property Mgt. Services of Indiana
5128 E. Stop 11 Rd. Suite 37
Indianapolis, IN 46237

Ref: Increase in Dues for Oakforge Community

Dear Deborah,

In August of 2008, the budget and financial reports were reviewed by me, and 2008 board member David Stephens. After review, David and I made a decision that an increase in dues was necessary to meet future increases in expenses, and to prepare for repair of items located in common areas. Based on my own financial records, it appeared that we had not had an increase in annual dues since January of 2004. Total Annual Dues were increased to $204

On August 17, 2008, I presented our findings and proposal for increase to the other board members for review and approval. Board members at the time were John Drew (President), Gail Taylor, David Stephens, James Nelson, and I. I had presented the information via e-mail, and all votes were done via e-mail. I know without uncertainty that John, David, James, and I all voted yes. I was reluctant at first with my "yes" vote, but realized that it was necessary.

I found some e-mails that discussed the subject. I can't locate Gail Taylor's e-mail response, but I feel confident that she had voted "yes" to the increase as well. I'm sending the e-mail strings I found in pdf format.

The increase occurred in July of 2009. Previous amount had been $99 semi-annually since January 2004. Semi-Annual payments are due on January 1st and July 1st of each Calendar year. It has been this way since I have been on the board. I believe it has been this way since I moved into the neighborhood in June of 2000.

John Drew, James Nelson, and David Stephens are no longer members of the Oakforge Homeowner's association board of directors. Gail and I are the only remaining members on the board who had voted on the dues increase in August of 2008.

Regards,

Scott J Cunniff
President
Oakforge Homeowner's Association

MARCH 7, 2012

The Honorable Louis Rosenberg
Circuit Court of Marion County
City-County Building, W506
200 E. Washington Street
Indianapolis, Indiana 46204

Via telephone facsimile: (317) 327-4473

RE: Small Claims Task Force Meetings

Dear Judge Rosenberg:

I am an attorney with Indiana Legal Services, Inc. I write to you concerning two procedural issues in the Marion County Small Claims Court. One is the small claims court's requirement that even indigent persons represented by Indiana Legal Services, Inc. (ILS) attorneys must pay fees in order to appeal a small claims court order. The other issue concerns notice and service requirements once a small claims court order is appealed to the Superior Court.

1. Indigent persons required to pay fees. Ind. Code 33-37-3-2 provides for relief from or waiver of fees and court costs in civil actions or appointment of guardian. Before this statute was enacted, ILS attorneys were required to file a petition for a fee waiver and a judge had to sign an order waiving fees before the ILS client could file an action. The requirement that a petition be filed and that the judge had to sign an order waiving fees and costs could sometimes cause a delay, even a fatal delay (depending upon at what stage of the proceeding the client presented to ILS). However, with the enactment of I.C. 33-37-3-2, the procedure for fee waiver has been streamlined. No longer is the ILS client required to file a petition for fee waiver. Certain statements and an affidavit of indigency accompany the document to be filed and the Clerk accepts the document for filing without requesting the pre-payment of fees.

   However, my experience in small claims court has been that upon requesting an appeal from an order of the small claims court, ILS clients are required by the small claims court to first pay a fee or file a petition for a fee waiver and submit said petition to a judge in the Marion Circuit or Superior Court. I am confused by this requirement. It seems to be in contravention of I.C. 33-37-3-2. I think that in accordance with I.C. 33-37-3-2, an ILS client should not be required to pre-pay fees or get a fee waiver order before being allowed to proceed with an appeal.

2. Notice to attorney when order appealed to Superior Court. I have had the occasion that when the represented Plaintiff who was the

adverse party to my client (Defendant) in a small claims court matter which was appealed, then repleaded in Superior Court, the Plaintiff's attorney did not send a copy of the Summons and Complaint to me even though I was the attorney of record in the small claims court matter. I have been told by opposing counsel that I was not sent a copy because I had not filed an Appearance in the Superior Court. Of course I had not yet filed an Appearance in Superior Court because before Plaintiff repleaded, there was no Superior Court Cause. I have read the rules, (although not today) and I think there may be a lack of clarity regarding service in this circumstance.

Sincerely,

Gladys M. Whitfield

Gladys M. Whitfield
Attorney at Law
Indiana Legal Services

LIEN SERVICES of INDIANA
P.O. Box 135
Decatur, Indiana 46733-0135
Phone 260-417-9135 Fax 260-728-4590
info@lienservices.net

Judge John G. Baker **March 13, 2012**
419 State House
Indianapolis, Indiana 46204

Your Honor,
Please find enclosed a copy of a letter sent to Judge M. Smith-Scott of the Center Township Small Claims Court of Marion County and all the documents that were included in that correspondence in relation to Cause No. 49K01-1008-SC-9114.
I would hope that the copy of the letter to Judge Smith-Scott and the supporting documents will be sufficient to give you something to look into and I sincerely pray that you might cause some outcome other that what's been considered done heretofore.
Should you have any questions in this matter please feel free to contact me. I've included my personal cell number and e-mail address for your convenience.
I pray for your investigation to cause changes in the small claims court system as it is, not necessarily just for us, but for the folks that are subject to the problems on a regular basis.

Sincerley,

Nicholas M. Crickmore
VP/General Manager
Indiana Pavement Markers, Inc.
D/b/a Lien Services of Indiana

260-417-4528
bignick@lienservices.net

LIEN SERVICES of INDIANA
P.O. Box 135
Decatur, Indiana 46733-0135
Phone 260-417-9135 Fax 260-728-4590
info@lienservices.net

Judge M. Smith- Scott **March 13, 2012**
Center Township of Marion County
Small Claims Court
200 E. Washington St.
City County Bldg. Suite G-5
Indianapolis, In. 46204

Dear Judge Scott,
Please find enclosed copies of the ongoing case that we have been involved in since August 17, 2010. Each of the trips to your court room is represented by the various papers and decrees by your office in regard to each appearance made by myself and my wife. Also please find enclosed a copy of our local newspaper front page dated December 20, 2011. Highlighted on the far left column is an article that asks for public assistance in finding the folks listed. Of special note is Dawnica J. Kindred, age 28, for a body attachment warrant.

All of your court's paperwork contained in this letter is in the order of occurrence and in each instance we were the only ones that came to your court in direct defiance of your courts order to appear (dated October 18, 2010). The defendant has *never* entered your courtroom in this matter. We made 11 trips to Center Township and asked only once for a continuance (due to a massive snowstorm February 01, 2011). Your office was closed that day. After 2 attempts to serve paperwork on the defendant by your constables, we found it in our best interests to secure the services of a process server to effect service. At one point your court officer said he couldn't read the address, on another occasion the officer said he (the defendant) was on a fishing trip. I found this curious in both instances inasmuch as I can't understand his inability to read the address. All were legible then as they are now. As far as the fishing trip, he came back! No other attempt to serve any paperwork or warrant has ever been made. We left your courtroom June 15, 2011 and went directly to the defendant's address. We found that no officer would even come the place and affect the body attachment that was awarded in your court nor would any constable in your office reply to our calls. No one would serve the warrant. Not the Marion County Sherriff's office, the Indianapolis Police, not the Indiana State Police. We had a viable

court order in our hands. We have never been contacted by your court or anyone in this cause since that date. As a matter of fact, we were given no other paperwork or hearing date and have yet to hear another word from your office.

Though you will be hard pressed to do so, please explain how this ongoing event has served us after all the effort on our part to enjoy the protection of our court system. We've done everything required by law. We made 11 trips totalling 2,662 miles, spent no less than 88 hours doing so, and have felt like we have had no effect whatsoever in a case that we won judgement on the first trip to your court September 14, 2010! I would be totally remiss if I failed to point out, once again, that the defendant in Cause No. 49K1-1008-SC-9114 *has never been to your court in this case.*

Here in Adams County the law requires that a warrant be served and the judgement carried out. The judiciary hereabouts would consider what has happened in this case a slap in the face and would not allow this kind of affront to the law to be perpetrated by any defendant much less their own constabulary. Are the laws of Indiana enforced differently from county to county? I think not.

Is my company being punished for not hiring counsel? Would we be treated differently if we were a local business? Are politics somehow involved here? There is no accusation of such behaviour; however it certainly causes one to wonder, not only at my house, but in your circles as well. The fact that the Marion Small Claims Courts are being scrutinized as you read this letter demonstrates that. These are questions only you might be able to answer in this case, and those answers are of great concern to me. I thank you in advance for your attention to this issue and your timely response.

Sincerely,

Nicholas M. Crickmore
VP/General Manager
Indiana Pavement Markers, Inc.
D/b/a Lien Services of Indiana

Adams County Clerk Gayla Reinhart has announced that, starting on January 1, her office will no longer be able to process United States passports.

I . written statemen, Reinhart said, "We are considered a dual office because we do not have one single person who can provide passport processing in a separate office and that person is cross-trained to do other jobs."

People may obtain a passport at the post office in Decatur. Rreihart recomended calling ahead to learn the post office's hours of processing passports.

Reinhart concluded by saying, "The clerk's office wishes to thank all of you who came in and processed your passports through our office. It has indeed been a great privilege to serve you."

Four sought by Crime Stoppers

The Adams County Crime Stoppers organization is asking for public help in locating four more people wanted by local authorities.

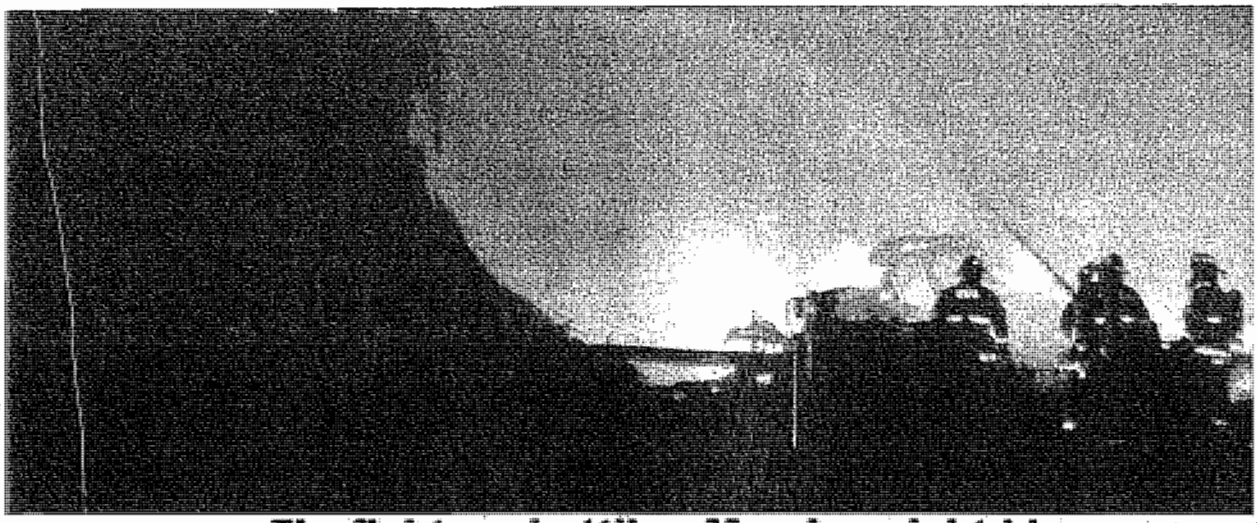
Those who know the whereabouts of the following people are asked to make anonymous calls to Crime Stoppers: 692-2882:

Robert J. Manor, 37, body attachment warrant.

Dawnica J. Kindred, 28, body attachment warrant.

Stanley R. Patch, 57, contempt of court and failure to pay child support.

ssa D. Barnett, 31, violating probation.



Firefighters battling Monday night blaze (Photo by

Fire damages Affolder Im

A five-alarm fire that brought out dozens of Adams County firefighters destroyed the rear of Affolder Implement Sales on the south end of Berne on Monday night, but no one was injured.

No monetary estimate of damage was available this morning, and the cause of the blaze has yet to be determined, according to Berne Fire Chief Bill Grimm, who said his department will investigate the cause.

The Berne department was dispatched to the scene, along US 27 and within a few hundred feet of the South Adams schools, at 9:04 p.m. and was there until 4 a.m. today.

Firefighters from Decatur, Monroe, Preble and Geneva also were involved.

Some smaller-sized multi-use vehicles apparently were burned in the debris, but an assessment of the overall loss is still under way.

Some outside fuel tanks were cooled by firefighters to prevent an explosion.

The fire departments were easily able to shuttle water to the scene by tanker trucks from the nearby Berne fire station, less than a mile away, just west of the SA schools. The Berne station is equipped to fill tanker trucks quickly, the Daily Democrat was told.

Oil inside the building was considered a likely hazard to the environment if it were released, so Adams County Emergency Management Agency (EMA) Director John August drove some booms to the site, but Grimm said the booms were not used.

Affolder at first light of

Traffic on busy US 27 was hampered by the number of fire trucks and men involved, with only tractor-trailer trucks and emergency vehicles allowed through time.

The Preble fir brought their b tank refill truck was used as fir

Info is sought on recent rash of farm equipment thefts

The Adams County CrimeStoppers agency is seeking information that will help police solve a rash of recent thefts

Monroe water is given final a

BY ERIC MANN

After holding a public hearing held Monday night, with no other citizens of Monroe attending, the Monroe Town

• A per m plus s • A

The Decatur Daily
Democrat

Dec. 20, 2011 | *An independent newspaper serving Adams County, Indiana since 18*

IN BRIEF

Clerk's office won't issue passports

Adams County Clerk Gayla Reinhart has announced that, starting on January 1, her office will no longer be able to process United States passports.

In a written statement, Reinhart said, "We are considered a dual office because we do not have one single person who can provide passport processing in a separate office and that person is cross-trained to do other jobs."

People may obtain a passport at the post office in Decatur. Rreihart recomended calling ahead to learn the post office's hours of processing passports.

Reinhart concluded by saying, "The clerk's office wishes to thank all of you who came in and processed your passports through our office. It has indeed been a great privilege to serve you."

Four sought by Crime

Firefighters battling Monday night blaze (Photo

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NOTICE OF CLAIM

SUMMONS

STATE OF INDIANA
COUNTY OF MARION ss:

Center Township of
Marion County Small Claims Court
200 East Washington St., City County Bldg., Suite G-5
Indianapolis, Indiana 46204 - Phone: (317) 327-5060

INDIANA PAVEMENT MARKERS, INC.
d/b/a LION SERVICES OF INDIANA
PO BOX 135 DECATUR IN 46733-0135

Plaintiff: name, address & phone number 260 417-4528

vs/ INDIANA'S FINEST WRECKER SERVICE, INC
7576 WASHINGTON ST (WALTER T. CULBERTSON)
INDIANAPOLIS IN 46231 Resident Agent

Defendant: name, address & phone number 317-243-6533

Service Requested:
- [x] Personal
- [ ] Copy
- [ ] Certified Mail

Cause No. 49K01 - 1008 -sc- 914

The said Plaintiff complains of the Defendant and says: That the Defendant is indebted to the Plaintiff in the sum of $ 1500.00 for reasons stated herein: RETAINED OUR COMPANY TO SECURE MECHANICS LIENS ON 11 VEHICLES. WHEN PRESENTED SECOND ITEMIZED BILL THEY REFUSE TO PAY

And hereby demands judgment, court costs, and all other proper relief.

Dated 08 17 2010

FILED
AUG 17 2010
MARION COUNTY SMALL CLAIMS COURT

Plaintiff

TO ANY CONSTABLE OF THIS TOWNSHIP: You are hereby commanded to summon the above defendant(s) to appear before me for trial in this court on Sept. 14th at 1:30 o'clock P.M. to answer the plaintiff in a hearing on the above claim and to make due return of this Notice of Claim.

Dated _____

Judge M Smith Scott

CONSTABLES RETURN OF SERVICE OF NOTICE OF CLAIM

I certify that I have served this Notice of Claim on _____

1) By reading a Claim to the Defendant, _____

2) By leaving a copy of the Notice of Claim at _____ which is the dwelling place or usual place of abode of _____ and by mailing a copy of the Notice of Claim to said Defendant at the such address.

3) Other service remarks: _____

NOTICE TO ALL PARTIES

- The nature of the Plaintiff's claim against you and demand made is stated above.
- You may represent yourself or hire an attorney.
- In Court on the date and time set above, you will be asked to admit or deny claim. If you deny the claim, a trial date shall be set at this admit or deny hearing.
- If the Defendant does not wish to dispute the claim of the Plaintiff, he/she may appear to agree to a judgment and for the purpose of allowing the court to establish a method by which the judgment shall be paid.
- If the Defendant cannot appear at the time and place set for the admit or deny hearing, he/she shall write the Court at the above address requesting a trial setting at a future date.
- If the Defendant fails to appear in Court at the time set for the hearing, a default judgment may be entered against the Defendant.
- The Plaintiff waives a trial by jury by filing his/her claim in the Small Claims Court.
- The Defendant waives trial by jury also unless he/she requests a jury trial within ten (10) calendar days of the receipt of the Notice of Claim. Once a request for trial by jury is granted, a transfer fee for transfer to the Superior Court must be paid within ten (10) calendar days. If the fee is not paid, waiver of jury trial occurs. Once a request is made and fee paid, request cannot be withdrawn without the consent of the other party.
- The Defendant may within ten (10) days of service of the summons file a change of venue of this matter. Proper venue is determined by the court in the following order:
  (1) In an action upon a debt or account, venue is in the township where any defendant has consented to venue in a writing signed by the defendant.
  (2) Venue is in the township where a transaction or occurrence giving rise to any part of the claim took place.
  (3) Venue is in the township (in a county of the Small Claims Court) where the greater percentage of individual defendants included in the complaint resides, or, if there is no such greater percentage, the place where any individual defendant so named resides, owns real estate, or rents an apartment or real estate or where the principal office or place of business of any defendant is located.
  (4) Venue is in the township where the claim was filed if there is no other township in the county in which the small claims court sits in which required venue lies.

Claims between landlord and tenants shall be in the township where the real estate is located.

FILED

AUG 1 7 2010

MARION COUNTY MAGISTRATES COURT
WASHINGTON, INDIANA

RESOLUTION

INDIANA PAVEMENT MARKERS, Inc.
d/b/a LIEN SERVICES of INDIANA

(Name of Corporation)

WHEREAS, this corporation is duly organized and existing under the laws of the State of Indiana, and

WHEREAS, the corporation anticipates or does have matters that are the subject of Small Claims litigation in the Marion County Circuit and Superior Courts, Magistrate Division and

WHEREAS, Indiana Trial Rule S.C. 8 permits this corporation to appear without legal counsel under certain conditions, it is therefore

RESOLVED BY THE BOARD OF DIRECTORS:

In any unassigned claim not exceeding one thousand five hundred dollars ($1,500.00) filed as a Small Claim in the Marion County Circuit & Superior Courts, Magistrate Division. this corporation designates and authorizes Nicholas M. Crickmore, a full-time employee, to appear on its behalf and it shall be bound by any and all agreements relating to the small claim proceeding entered into by the designated employee and shall be liable for any and all costs, including those assessed by reason of contempt, levied by a Court against the designated employee.

DATED: 08-16-2010

SECRETARY OF CORPORATION

Signature: Sarah E. Crickmore

Printed Name: Sarah E. Crickmore

AFFIDAVIT OF CORPORATE EMPLOYEE TO APPEAR IN COURT UNDER INDIANA SMALL CLAIMS RULE 8

The undersigned affirms under penalty of perjury that he has not been suspended or disbarred from the practice of law in the State of Indiana or any other jurisdiction and is a full-time employee of Indiana Pavement Markers, Inc. corporation for which he has been designated to appear in Small Claims proceedings in Marion Circuit and Superior Courts, Magistrate Division, in proceedings as set forth hereinabove.

DATED: 08-16-2010

Signature: [illegible]

Printed Name: Nicholas M. Crickmore

CERTIFICATED OF COMPLIANCE UNDER INDIANA SMALL CLAIMS RULE 8

It is certified that the foregoing RESOLUTION and AFFIDAVIT OF CORPORATE EMPLOYEE have been received for filing with the Small Claims proceedings in Marion Circuit and Superior Courts, Magistrate Division, on behalf of the within-named corporation.

DATED: Aug. 17, 2010

CLERK: Tanya West-Hayes COURT

BY: _____

OFFICIAL RECEIPT

Center Township of Marion County Small Claims Court
City-County Building, Suite G-5
200 E Washington St.
Indianapolis, IN 46204
Telephone: 317-327-5060 Fax: 317-327-7844 www.centergov.org/court

Payor
Indiana Pavement Markers, Inc
P.O. Box 135
Decatur, IN 46733

Receipt No.
2010-12120

Transaction Date
08/17/2010

Description	Amount Paid
Indiana Pavement Markers, Inc	
49K01-1008-SC-09114	
Indiana Pavement Markers, Inc vs. Indiana's Finest Wrecker service, Inc	
Notice of Claim Fees	**81.00**
Automated Record Keeping Fee - Civil	7.00
Court Administration Fee - State - Civil	3.00
Court Administration Fee - Township - Civil	2.00
Document Storage Fee - Civil	2.00
Judicial Insurance Adjustment Fee - Civil	1.00
Judicial Salary Fee - State - Civil	9.75
Judicial Salary Fee - Township - Civil	3.25
Public Defense Administration Fee - Civil	3.00
Service of Process Fee - Civil	13.00
Township Docket Fee - Civil	37.00
SUBTOTAL	**81.00**
Remaining Balance Due: $0.00	

PAYMENT TOTAL **81.00**

Check (Ref #1104) Tendered	81.00
Total Tendered	**81.00**
Change	0.00

08/17/2010 Cashier twH Audit
12:12 PM Station 931CCONT 16658210

OFFICIAL RECEIPT

STATE OF INDIANA
COUNTY OF MARION, ss:

Center Township of
Marion County Small Claims Court
200 East Washington St.,
City County Bldg., Suite G-5
Indianapolis, Indiana 46204
Phone: (317) 327-5060

INDIANA PAVEMENT MARKERS, INC
d/b/a LINE SERVICES OF INDIANA
Plaintiff

vs

INDIANA'S FINEST WRECKER SERVICE, INC
7576 W WASHINGTON ST
INDIANAPOLIS IN 46231
Defendant Address (WALTER T. CULBERTSON) Resident Agent

Cause No.
49K01 - 1008 -sc- 9114

JUDGMENT / ORDER

FILED

The Court now finds as follows:

_____ That Plaintiff (appeared/appeared not); that Defendant (appeared/appeared not).

_____ That Defendant fails to appear and Plaintiff appears and within the knowledge of those present, the Defendant is not under legal disability and has sufficient understanding to realize the nature and effect of the Notice of Claim.

_____ That all parties appeared in person or by counsel, and agree to the entry of judgment.

_____ _____
Plaintiff Defendant

_____ That all parties appeared in person and (Plaintiff/Defendant) by counsel. The evidence was heard in case submitted, all legal requirements have been met and judgment is entered in favor of the (Plaintiff/Defendant).

Accordingly, the Court now orders:

_____ That judgment is rendered in favor of the Plaintiff for the sum of $ _____ and attorney fees of $ _____ and prejudgment interest $ _____ for a total judgment of $ 1,500 plus costs and post-judgment interest at 8% per annum.

_____ That Plaintiff is entitled to the (Real Estate/Personal Property) as described in the Notice of Claim, writ entitled to be issued on _____. Date of possession _____. This order expires 30 days after today's Date.

_____ That this case be dismissed (with/without) prejudice; want of prosecution.

_____ Landlord requests hearing date for damages/compliance set for _____ (9:00 a.m. / 1:30 p.m.)

_____ That the counter claim is for counter-plaintiff for _____ plus costs.

_____ That the counter claim is for counter-defendant.

_____ Plaintiff / Defendant is ordered to serve a copy of this judgment on the opposing party.

_____ Repayment plan shall be executed. If compliance, Plaintiff shall dismiss.

_____ Other: _____

SEP 14 2010

Date: _____ _____ Judge

000320

CENTER TOWNSHIP of
MARION COUNTY SMALL CLAIMS COURT
200 E. Washington Street
City County Bldg., Suite G-5
Indianapolis, IN 46204
(317) 327-5060

INDIANA PAVEMENT MARKERS, INC
DBA LIENSERVICES OF INDIANA
Plaintiff

vs. INDIANAS FINEST WRECKER SERVICE, INC.
Defendant

7576 W WASHINGTON ST
INDIANAPOLIS IN 46231
Address

ORDER TO APPEAR

STATE OF INDIANA
COUNTY OF MARION
SS:

Cause No. 49K01 1009-SC-09114

TO ANY CONSTABLE OF MARION COUNTY, GREETINGS:

Whereas the Plaintiff has obtained a judgment in this court against the Defendant on the 14th day of SEPTEMBER, 2010 for the sum of $ 1500 and costs.

Now therefore the Defendant INDIANAS FINEST WRECKER SERVICE, INC is hereby ordered to appear in this court on the 24th day of NOVEMBER, 2010 at 11:00 o'clock A.M. to answer as to any property, income, or profits which he may have subject to execution, and have then and there this writ.

Witness my hand and seal of this court, this _____ day of _____, _____.

_____
JUDGE

CONSTABLES RETURN OF SERVICE OF ORDER TO APPEAR

I certify that I have served this order to appear on _____.

1) By delivering a copy of the order to appear to the defendant, _____.

2) By leaving a copy of the order to appear at _____ which is the dwelling place or usual place of abode of _____ and by mailing a copy of the notice to appear to said defendant at the such address.

3) Other service or remarks: _____

_____

_____
Constable

Horizon Printing Co., Inc.

MOTION FOR PROCEEDINGS SUPPLEMENTAL

INDIANA PAVEMENT MARKERS, INC.
DBA LIEN SERVICES OF INDIANA
Plaintiff(s) Name

vs/ INDIANA'S FINEST WRECKER SERVICE, INC.
7576 W WASHINGTON ST
INDIANAPOLIS IN 46231
Judgment-Defendant(s) Name & Address

and WALTER TOULBERTSON (RA)
&
EMPLOYER Garnishee-Defendant(s) Name & Address

and
BANK Garnishee-Defendant(s) Name & Address

CENTER TOWNSHIP of
MARION COUNTY SMALL CLAIMS COURT
200 E. Washington Street
City County Bldg., Suite G-5
Indianapolis, IN 46204
Phone: (317) 327-5060

OCT 18 2010

CAUSE NUMBER

49K01-	1000	-SC-	09114

Judgment-Defendant(s)	$ 1500.00
Paid to Plaintiff(s)	$
Balance owed	$
Court costs	$

PLAINTIFF PETITIONS THE COURT AND SAYS:

1. That the Plaintiff(s) own a judgment obtained in this court against the Judgment-Defendant(s) on the 24th day of SEPTEMBER, 2010, for the sum of $ 1500.00 and costs.

2. That the Judgment-Defendant(s) has wages, assets, profits, or other non-exempt property due or to become due from the Garnishee-Defendant(s), which exceeds the amount exempt from execution.

3. Social Security **NUMBER:**

PLAINTIFF PRAYS AS FOLLOWS:

1. That the Judgment-Defendant(s) be ordered into this court to answer as to any non-exempt property which can be applied to satisfaction of said judgment.

2. That the Garnishee-Defendant(s) be ordered to answer interrogatories, concerning the wages, assets,income, or other non-exempt property due or to become due the said Judgment-Defendant(s), and return same to this court on or before the date set by this court.

3. That the court, after a hearing, issue an order to apply said property towards the said judgment pursuant to statute.

I affirm under the penalties for perjury that the foregoing representations are true.

Dated this 18th day of OCTOBER, 2010

Plaintiff(s) or Attorney

STATE OF INDIANA

COUNTY OF MARION, ss:

CENTER TOWNSHIP OF MARION COUNTY
SMALL CLAIMS COURT
200 EAST WASHINGTON STREET
INDIANAPOLIS, INDIANA 46204
PHONE: (317) 327-5060

INDIANA PAVEMENT MARKERS INC. CAUSE NO. 49K01-1008 -SC- 09114
BALIEN SERVICES OF INDIANA
Plaintiff

vs

INDIANA'S FINEST WRECKER SERVICE, INC.
Defendant
Address: 5716 W WASHINGTON ST
INDIANAPOLIS IN 46231

ORDER

THAT COURT NOW ORDERS, ADJUDGES, AND DECREES that ~~plaintiff~~/defendant, INDIANA'S FINEST WRECKER SERVICE, INC. appear before this court on DECEMBER 29, 2010 at 11:00 A.M., and then and there show cause why he (she) should not be held in contempt of court for failing to comply with this court's previous order to appear. Failure to appear may result in the issuance of a body attachment which allows for the arrest of plaintiff/defendant.

Date:

JUDGE, MICHELLE SMTH SCOTT

(The following manner of service of this order is hereby designated.)

___ Registered of certified mail. (see above address)
___ Service on individual (personal or copy) at residence
___ Personal service at place of employment, residence.

OFFICIAL RECEIPT

Center Township of Marion County Small Claims Court
City-County Building, Suite G-5
200 E Washington St.
Indianapolis, IN 46204
Telephone: 317-327-5060 Fax: 317-327-7844 www.centergov.org/court

Payor
Indiana Pavement Markers, Inc
P.O. Box 135
Decatur, IN 46733

Receipt No.
2010-18263

Transaction Date
11/24/2010

Description	Amount Paid
Indiana Pavement Markers, Inc	
49K01-1008-SC-09114	
Indiana Pavement Markers, Inc vs. Indiana's Finest Wrecker service, Inc	
Order to Show Cause	**13.00**
Service of Process Fee - Civil	13.00
SUBTOTAL	**13.00**
Remaining Balance Due: $0.00	

PAYMENT TOTAL **13.00**

Check (Ref #2037) Tendered	13.00
Total Tendered	**13.00**
Change	0.00

Next Hearing 49K01-1008-SC-09114 12/29/2010 11:00 AM

11/24/2010	Cashier VD	Audit
11:49 AM	Station 931CCLK3	19710621

OFFICIAL RECEIPT

STATE OF INDIANA

COUNTY OF MARION, ss:

CENTER TOWNSHIP OF MARION COUNTY
SMALL CLAIMS COURT
200 EAST WASHINGTON STREET
INDIANAPOLIS, INDIANA 46204
PHONE: (317) 327-5060

Indiana Pavement Markers Inc.
DBA: Lien Services of Indiana
Plaintiff

vs

Indianas Finest Wrecker Service INC
Defendant
Address: 7576 West Washington St.
Indianapolis IN 46231

CAUSE NO. 49K01-1008-SC-09114

FILED
DEC 29 2010
Center Township of Marion County
M. Smith Scott, Small Claims Court

ORDER

THAT COURT NOW ORDERS, ADJUDGES, AND DECREES that plaintiff/defendant, Indiana's Finest Wrecker Service INC, appear before this court on February 2, 2011 at 11:00 A.M., and then and there show cause why he (she) should not be held in contempt of court for failing to comply with this court's previous order to appear. Failure to appear may result in the issuance of a body attachment which allows for the arrest of plaintiff/defendant.

Date:_____

M Smith Scott
JUDGE, MICHELLE SMTH SCOTT

(The following manner of service of this order is hereby designated.)

___ Registered of certified mail. (see above address)
___ Service on individual (personal or copy) at residence
___ Personal service at place of employment, residence.

LIEN SERVICES of INDIANA
P.O. Box 135
Decatur, Indiana 46733-0135
Phone 260-417-9135 Fax 260-728-4590
info@lienservices.net

February 01, 2011

Greetings,

An attempt was made today to secure a continuance in the matter of Cause # 49K01-1008-SC-09114 (Indiana Pavement Markers, Inc. d/b/a Lien Services of Indiana vs Indiana's Finest Wrecker Service, Inc.).
After speaking with your office on 01-31-2011 @ 9:10 AM I felt confident that a continuance in this matter would be possible to secure during your normal business hours today as the lady told me that your court doesn't close due to weather. It would seem that is not the case in as much as I have called today four times (1:08, 1:12, 1:35 and 1:50 PM to find your phone unanswered.
Please consider this letter by fax a request for continuance in the afore mentioned cause. Any date past March 23, 2011 would find me available at the time of your choosing.
I pray that you would agree that it would be a shame after 5 trips to your court to have to start this process again through no fault of our own.
Thank you in advance for your assistance in this matter and by all means, feel free to contact me during your normal business hours should you have the need.

Sincerely,

Nicholas M. Crickmore
VP/General Manager
Lien Services of Indiana

Marion County

STATE OF INDIANA

NOTICE OF
CONTINUED HEARING OR TRIAL

Indiana Pavement Markers, Inc
PO Box 135
Decatur IN 46733

STATE OF INDIANA	)	IN THE CENTER TOWNSHIP
MARION COUNTY	)	200 East Washington Street Indianapolis Indiana 46204
	)	
INDIANA PAVEMENT MARKERS, INC VS. INDIANA'S FINEST WRECKER SERVICE, INC		CASE NO. 49K01-1008-SC-09114

This case is continued on motion by Court's Own Motion for Proceedings Supplemental on February 16, 2011 at 11:00 AM in the Center Township located at 200 East Washington Street Indianapolis Indiana 46204.

Ordered February 07, 2011.

Judge/Magistrate
Center Township

Marion County

STATE OF INDIANA

NOTICE OF
CONTINUED HEARING OR TRIAL

Indiana Pavement Markers, Inc
PO Box 135
Decatur IN 46733

STATE OF INDIANA	)	IN THE CENTER TOWNSHIP
MARION COUNTY	)	200 East Washington Street Indianapolis Indiana 46204
	)	
INDIANA PAVEMENT MARKERS, INC VS. INDIANA'S FINEST WRECKER SERVICE, INC		CASE NO. 49K01-1008-SC-09114

This case is continued on motion by Indiana Pavement Markers, Inc for Proceedings Supplemental on March 30, 2011 at 11:00 AM in the Center Township located at 200 East Washington Street Indianapolis Indiana 46204.

Ordered February 11, 2011.

Judge/Magistrate
Center Township

STATE OF INDIANA

COUNTY OF MARION, ss:

CENTER TOWNSHIP OF MARION COUNTY
SMALL CLAIMS COURT
200 EAST WASHINGTON STREET
INDIANAPOLIS, INDIANA 46204
PHONE: (317) 327-5060

CAUSE NO. 49K01-1008 -SC- 09114

INDIANA PAVEMENT MARKERS, INC.
BALLEN SERVICES OF INDIANA
Plaintiff

vs

INDIANA'S FINEST WRECKER SERVICE, INC
Defendant
Address: 7576 W. WASHINGTON ST
INDIANAPOLIS IN 46231
WALTER T CULBERTSON (RA.)

FILED
MAR 30 2011
Center Township of Marion County

ORDER

THAT COURT NOW ORDERS, ADJUDGES, AND DECREES that plaintiff/defendant, INC INDIANA'S FINEST WRECKER SERVICE, INC WALTER T CULBERTSON RA appear before this court on MAY 11TH, 2011 at 11 A.M., and then and there show cause why he (she) should not be held in contempt of court for failing to comply with this court's previous order to appear. Failure to appear may result in the issuance of a body attachment which allows for the arrest of plaintiff/defendant.

Date:_____

M Smith Scott
JUDGE, MICHELLE SMTH SCOTT

(The following manner of service of this order is hereby designated.)

___ Registered of certified mail. (see above address)
___ Service on individual (personal or copy) at residence
___ Personal service at place of employment, residence.

LIEN SERVICES of INDIANA
P.O. Box 135
Decatur, Indiana 46733-0135
Phone 260-417-9135 Fax 260-728-4590
info@lienservices.net

April 19, 2011

Greetings,
Please find enclosed two copies of court order and a check in the amount of $85.00 made payable to your company.
Each copy will be served on those hi-lited on the page following this letter. The individuals are the principals listed by the Secretary of State's office for INDIANA'S FINEST WRECKER SERVICE, INC..

Thank you in advance for your attention in this matter and by all means, feel free to contact me during your normal business hours should you have the need.

Sincerely,

Nicholas M. Crickmore
VP/General Manager
Lien Services of Indiana

AFFIDAVIT OF SERVICE

State of Indiana **County of Marion** **Small Claims Court**

Case Number: 49K01-1008-SC-09114 Court Date: 5/11/2011 11:00 am

Plaintiff:
Indiana Pavement Markers, Inc. d/b/a Lien Services of Indiana
vs.
Defendant:
Indiana's Finest Wrecker Service, Inc.

Received by EXPRESS PROCESS SERVICE, INC. on the 21st day of April, 2011 at 10:55 am to be served on **Indiana's Finest Wrecker Service, Inc. c/o Rosalyn Culbertson, Vice President & Co-owner, 7576 W. Washington Street, Indianapolis, IN 46231**.

I, Bill Rorie, being duly sworn, depose and say that on the **22nd day of April, 2011** at **9:30 am, I:**

Individually Served the within named person with a true copy of the **Order** at the aforementioned address.

Description of Person Served: Age: 60, Sex: F, Race/Skin Color: Cauc, Height: 5'2", Weight: 160, Hair: Blond, Glasses: N

I certify that I am over the age of 18, have no interest in the above action and have proper authority in the jurisdiction in which service was made. I declare that the facts set forth in the foregoing Affidavit of Service are true and correct.

Bill Rorie
Process Server

EXPRESS PROCESS SERVICE, INC.
8418 Brookville Road
Indianapolis, IN 46239-9491
(317) 890-1055

Our Job Serial Number: CRT-2011001887
Ref: Indiana's Finest Wrecker Service

Subscribed and Sworn to before me on the 22nd day of April, 2011 by the affiant who is personally known to me.

NOTARY PUBLIC

NANCY BOTBYL
Marion County
My Commission Expires
July 18, 2017

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317-327-7844

AFFIDAVIT OF SERVICE

State of Indiana **County of Marion** **Small Claims Court**

Case Number: 49K01-1008-SC-09114 Court Date: 5/11/2011 11:00 am

Plaintiff:
Indiana Pavement Markers, Inc. d/b/a Lien Services of Indiana
vs.
Defendant:
Indiana's Finest Wrecker Service, Inc.

Received by EXPRESS PROCESS SERVICE, INC. on the 21st day of April, 2011 at 10:55 am to be served on **Indiana's Finest Wrecker Service, Inc. c/o Walter T. Culbertson, Registered Agent, 7576 W. Washington Street, Indianapolis, IN 46231**.

I, Bill Rorie, being duly sworn, depose and say that on the **22nd day of April, 2011** at **9:30 am, I:**

SERVED the within named **CORPORATION** by delivering a true copy of the **Order** to Rosalyn Culbertson as Vice President and Co-owner of the within named corporation, at the aforementioned address.

Additional Information pertaining to this Service:
Walter Culbertson is out of state on fishing trip.

Description of Person Served: Age: 60, Sex: F, Race/Skin Color: Cauc, Height: 5'2', Weight: 160, Hair: Blond, Glasses: N

I certify that I am over the age of 18, have no interest in the above action and have proper authority in the jurisdiction in which service was made. I declare that the facts set forth in the foregoing Affidavit of Service are true and correct.

Bill Rorie
Process Server

EXPRESS PROCESS SERVICE, INC.
8418 Brookville Road
Indianapolis, IN 46239-9491
(317) 890-1055

Subscribed and Sworn to before me on the 22nd day of April, 2011 by the affiant who is personally known to me.

NOTARY PUBLIC

NANCY BOTBYL
Marion County
My Commission Expires
July 18, 2017

Our Job Serial Number: CRT-2011001886
Ref: Indiana's Finest Wrecker Service

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INDIANA PAVEMENT MARKER SYSTEMS
d/b/a LIEN SERVICES OF INDIANA
vs.
INDIANA'S FINEST WRECKER SERVICE, INC.
576 W. WASHINGTON INDIANAPOLIS 46231
Address

CENTER TOWNSHIP of
MARION COUNTY SMALL CLAIMS COURT
200 East Washington St., City County Bldg., Suite G-5
Indianapolis, Indiana 46204 • Phone: (317) 327-5060

BODY ATTACHMENT

FILED
MAY 11 2011
Center Township of Marion County
Small Claims Court

STATE OF INDIANA)
) SS:
MARION COUNTY)

CAUSE NO.
49K01 1003 -SC- 09114

TO ANY CONSTABLE OF MARION COUNTY, GREETINGS:

You are hereby commanded to attach WALTER T. CULBERTSON (R/A), at 7576 W. WASHINGTON ST. INDIANAPOLIS IN 46231 and bring him/her before the Judge, Center Township of Marion County Small Claims Court, forthwith, then and there to answer for a contempt of the authority of said Court, alleged by him/her to have been committed, in disobeying a certain process thereof issued in the cause, the title of which is endorsed on this writ. And Fail Not.

Hearing date set for 15th day of June, 2011 at 11:00 AM.

Witness my hand and seal this _____ day of _____ 20 _____

M Smith Sotto
Judge

Served by arresting said defendant and bringing him/her into court the _____ day of _____ 20 _____

Constable _____

Service Date _____

YOU MUST COMPLETE THIS DOCUMENT FOR THE COURT STAFF OR A BODY ATTACHMENT WILL NOT BE SERVED.

BODY ATTACHMENT INFORMATION

You must provide all the information requested below before the Constable will execute the body attachment. It is your responsibility to investigate and inform the Constable by telephone any places where and times when the defendant/plaintiff can be found. The Constable will make two (2) attempts to execute on this body attachment. The Constable will make no further attempts to execute this body attachment unless you provide additional accurate information as to defendant/plaintiff's whereabouts.

1. Name WALTER T. CULBERTSON
2. Address (WORK) 7576 W. WASHINGTON INDIANAPOLIS 46231
3. Social Security Number
4. Vehicle
   A. Model, make and year
   B. License plate number
5. Place of employment INDIANA'S FINEST WRECKER SERVICE, INC.
6. Hours of employment
7. Physical description (hair and eye color, distinguishing marks scars, tattoos)
   A. Sex) M B. Height C. Weight D. Ethnic heritage CAUC
8. Arrest record

OFFICIAL RECEIPT

Center Township of Marion County Small Claims Court
City-County Building, Suite G-5
200 E Washington St.
Indianapolis, IN 46204
Telephone: 317-327-5060 Fax: 317-327-7844 www.centergov.org/court

'ayor
ndiana Pavement Markers, Inc
?.O. Box 135
)ecatur, IN 46733

Receipt No.
2011-08668

Transaction Date
05/11/2011

Description	Amount Paid
Indiana Pavement Markers, Inc	
49K01-1008-SC-09114	
Indiana Pavement Markers, Inc vs. Indiana's Finest Wrecker service, Inc	
Body Attachment	**13.00**
Service of Process Fee - Civil	13.00
SUBTOTAL	**13.00**
Remaining Balance Due: $0.00	

PAYMENT TOTAL **13.00**

Check (Ref #2085) Tendered	13.00
Total Tendered	**13.00**
Change	0.00

05/11/2011 12:47 PM | Cashier twH Station 931CCONT | Audit 22072330

OFFICIAL RECEIPT

ICBA

Julia M. Andrews, President
Daniel Sandlin, Vice President
Joseph Guy, Treasurer
Valerie Matheis, Secretary

INDIANA CREDITORS BAR ASSOCIATION
9247 N. Meridian Street, Suite 101, Indianapolis, IN 46260

March 16, 2012

Indiana Court of Appeals
Attn: Judge John Baker
200 W. Washington Street, 10th Floor
Indianapolis, IN 46204

Dear Members of the Investigative Committee:

I am writing this letter as President of and at the request of my fellow members of the Indiana Creditors Bar Association. Our bar association is primarily comprised of attorneys who focus their practice in the area of Creditor's Rights. Many of our members have practices in other states and some of the comments I am making in this correspondence draws from those experiences.

The Marion County Small Claims Courts come to us with a checkered past. Evolving from the old justice of the peace courts, the courts were initially administered by non-lawyers and their relatives. The legislative mandate requiring the courts be presided over by attorneys, elected as judges of the court, was a major corrective step. The elimination of the Marion County Municipal Court system, coupled with raising the small claim jurisdictional dollar amount to Six Thousand Dollars ($6,000.00) improved the collection system by directing many firms into the small claim venue to prosecute not only small but also medium dollar claims. The municipal courts had served as a bridge between the smaller dollar jurisdiction courts and the Circuit and Superior Courts. The burning of the jurisdictional bridge increased the filing volume in small claims courts substantially.

As detailed below, after significant analysis and discussion by the Indiana Creditor's Bar Association, we believe that while additional improvements can be made to the existing Marion County Small Claims Court system, wholesale changes could have an unintended negative effect on both debtors and creditors alike in Marion County.

One commonly raised concern is forum shopping by plaintiff's counsel. Quite frankly, presuming that this is in fact the case, most collection firms that file in volume in Marion County Small Claims Courts file according to the time slots those hearings are held. As an example, in Hamilton County, my firm files small claims in Superior Court 5 because the other court that has a small claims court docket has initial hearings at the same time we are required to be in Superior Court 1 for proceedings supplemental. Similarly, our firm is scheduled in Marion County Superior Court on Tuesdays at 9:00 a.m. for proceedings supplemental – we have selected Lawrence Township because that same attorney can be available for small claims court at 1:30 p.m. later that day.

From the ICBA's perspective, it appears that the **root of concern is not impropriety itself, but rather the appearance of impropriety**. The single most cause of this appearance of impropriety is the absence of a judge at the initial hearing stage. We would respectfully suggest this is easily remedied by having the small claims court judge be available at the courthouse or conduct the initial hearing, in the event that it is requested by either party. In many of the small claim courts around the state, the judge routinely explains the court process to all defendants who attend the initial hearing. Further, the judge directs the parties that they may speak with plaintiff or plaintiff's counsel to see if a resolution is possible or they may simply request a trial date. Uniformity

is achieved by ensuring that all initial hearings are handled the same, irrespective of the firm or the particular attorney. Similarly, if a standardized process and procedure were adopted by the nine (9) township courts, there would be uniform Marion County Small Claims Court experience for all parties involved. Additionally, all parties would greatly benefit from standardized forms that are consistent from court to court. Along with the forms, a simple *pro se* practice guide educating individuals out how to fill in the forms and what to do with them would be of significant benefit. Some of the small claims courts already have implemented a practice guide with great success. Our association would be delighted to assist in the development of either procedures and/or forms.

Another commonly raised concern has been the perception of forum filing. If plaintiffs are required to file in the township where the defendant resides, or is believed to reside, it will drive firms into the Marion County Superior and Circuit Court system. Essentially, such a policy would cause plaintiff's attorney's nine (9) times as many court appearances, which would result in higher attorney's fees being requested, and plaintiff's attorneys would be forced into the Marion County Circuit and Superior Courts. Further, any dialogue among debtors and creditor's outside court hearings would be virtually non-existent, as attorneys would be spending most of their time in court hearings. Accordingly, it is believed that such a policy would result in an **additional Thirty-Five to Forty Thousand (35,000-40,000) cases annually in the Circuit and Superior Courts**.

An additional concern is law school students being permitted and even encouraged to provide legal advice to defendants at hearings. Not only is this the unlicensed practice of law and strictly forbidden by both ethical and state statutes it causes concerns for Plaintiff's counsel. By permitting this unlicensed practice of law there exists the following concerns: (a) discrimination against pro-se plaintiffs; (b) should poor advice be given, there is (1) not a sufficient remedy against the advisor as they do not have a law license nor malpractice insurance; and (2) will increase the number of appeals if the pro-se defendant believes they were given poor advice.

This Investigative Committee only has to look three (3) hours away at readily available empirical evidence of the potentially disastrous effects of instituting venue filing in a large metropolitan area. As many of our ICBA attorneys who also practice in Chicago have experienced, those courts experimented with a filing in the ward (much like our township) concept and **after only two (2) years it was abandoned**. It was not the size of the court system, but rather the venue filing rule that was a disaster. Defendants moved across streets into other wards, attorneys were sued for FDCPA violations of the local rule, and the venue problem was not solved by the rule. As in Chicago, a large amount of Defendants in Marion County are highly transient within the metropolitan area, resulting in possible Fair Debt Collection Practice Act violations and constant transferring of cases among township courts.

Ultimately, we believe that an important function of this committee is to ensure that defendants feel like they have full access to the court system and the ability to have their "day in court". A requirement of filing within the township the debtor resides will in all likelihood have the opposite effect, as these filings will then be filed in a superior court in which the debtor will be required to file a written answer to the Court. On the other hand, having small court judges a part of the initial hearing as well as establishing uniformity in court processes and procedures would be a tremendous movement forward in ensuring defendants feel they are active participants in their own legal action.

The Indiana Creditor's Bar Association is ready, willing and able to assist the committee and the courts in implementing positive changes to the Marion County Small Claims Court system. We believe that positive changes can be made without the drastic reformation of a basically sound, functional system. Thank you for considering our comments.

Indiana Creditors Bar Association

By: Julia M. Andrews

Julia M. Andrews, President

JMA/sa

INDIANA CREDITORS BAR ASSOCIATION
9247 N MERIDIAN ST STE 101
INDIANAPOLIS, IN 46260-1813

7196 9007 2680 0429 2796

Return Receipt (Electronic)

ATTN: JUDGE JOHN BAKER
INDIANA COURT OF APPEALS
200 W WASHINGTON ST 10TH FL
INDIANAPOLIS, IN 46204-2728

IMPORTANT

CUT / FOLD HERE

6"X9" ENVELOPE
CUT / FOLD HERE

CUT / FOLD HERE

DAVID M. WRIGHT
STEPHEN J. LERCH

WILLIAM C. BUTLER
STEPHEN J. SHUMLAS

Wright & Lerch
Attorneys at Law

2001 Reed Road, Suite 100
Fort Wayne, Indiana 46815
Phone [260] 423-6655
Fax [260] 422-0882
Toll Free [888] 800-6494

March 16, 2012

Honorable John Baker
Judge, Indiana Court of Appeals
200 West Washington Street, 10th Floor
Indianapolis, IN 46204

Re: Marion County Township courts

Dear Judge Baker:

This letter will comprise the comments of our law firm concerning the investigation into the Marion County Township courts. I will try not to reiterate what I said at the Perry Township meeting on February 22, 2012, nor what many speakers said at both that meeting, as well as the Pike Township meeting, which I also attended.

First, I would like to emphasize the credentials of our law firm, which consists of four (4) attorneys. Our law firm is dedicated solely to the collection of delinquent debt. We are all members of the National Association of Retail Collection Attorneys (NARCA), the Indiana Creditor's Bar Association (ICBA), and the Collections Committee of the Allen County Bar Association. We practice in every county in the State of Indiana.

Second, we cannot help but believe that some part of the impetus behind this investigation has to do with the overall political climate, specifically, the debate or struggle that is going on between those who want township government abolished and those who do not. We do not take any position as to the general nature of that debate. However, in the case of Marion County, we believe that the use of township courts for small claims and landlord/tenant matters outweighs any negative aspects involving those courts, and the townships in general. We further believe that it would be a mistake to incorporate the small claims courts into the Marion Circuit and Superior court system.

We direct your attention to the guiding principles of reform set forth by the Kernan commission. Four (4) of those are as follows:

> "Local government should be simpler, more understandable and more responsive."

"Local government should be more transparent, allowing citizens to better understand whom to hold accountable-whom to thank or blame-for decisions, actions, and spending."

"Local government reform should drive real cost savings for Indiana citizens through the reduction of local government layers and the adoption of other cost saving measures."

"Reform should provide practical, concrete, common-sense solutions, rather than grand schemes that would be difficult to implement."

We would further note that the commission gave no real reason for transferring the responsibility of the Marion County township small claims courts to the superior courts, only stating "it be integrated into the Marion Superior Court, with provision for court locations dispersed throughout the county." Nowhere in the report of the commission is the reason given for this recommendation. In fact, it would appear to directly contradict the four (4) guiding principles set forth above.

To the issues presented to you and Judge Barteau, there appear to be three (3) major areas of concern.

1. Inconvenient forum. This issue seems to have arisen primarily from the quote of a local collection attorney made to a reporter/investigator from the Wall Street Journal. We do not believe that his comments represent, in even the smallest way, the attitude and practices of the collection bar. As presented to you at both Perry and Pike Township, the decisions on where to file small claims lawsuits (not related to landlord/tenant), are guided by matters totally unrelated to any attempt to inconvenience a defendant. In fact, as I indicated to you at the Perry Township hearing, the last thing a competent collection attorney wants to do is attempt to prevent the defendant/debtor from appearing in court. The essence of collections lies in communicating with the debtor. Further, we would question what exactly is meant by "inconveniencing" the defendant. In all other 91 counties of the state, the defendant must appear at the county seat. That may mean traveling 1 mile or, in the case of portions of Allen County, 20-25 miles. The only exception would be Lake County, which allows a plaintiff to file in any of the small claims courts (Crown Point, East Chicago, or Hammond), Laporte and Elkhart counties.

   Further, there is the issue of inconveniencing the plaintiff. There may be problems with the Fair Debt Collection Practices Act, there may be problems as simple as determining where the township line is, using the defendant's address.

   Finally, there is a problem of allocation of workloads. There seems to be a level allocation at the present time. There is no doubt, if it were mandated that suits be filed in the township where the debtor resides (or allegedly resides), two or three townships would receive most of the suits and would most likely be incapable of handling the increased workload.

Impropriety of court staff:

The newspaper article indicated that "large filers"..."receive special treatment in the courts." I do not know of any special treatment that my law firm has ever received in any township. I have inquired of other collection attorneys that practice in those courts, and received similar responses.

What may be perceived as "special treatment" is nothing more than the fact that we are attorneys, and we are not only familiar with how courts operate, but we are familiar with these township courts. I would add that, in some situations, due to the physical layout of the court, it would appear that attorneys could be confused with court staff. Any competent collection attorney, when meeting with the defendant, tells them who they are, that they are a debt collector, and a fair amount of other warnings pertaining to the FDCPA. If I had a dollar for every time I have given that warning, over the past ten years, I could retire to a wealthy seaside condo in Florida. I would also repeat, I have never seen any bias on the part of any staff member or judge in any of the township courts. If anything, I have seen them "bend over backwards" to assist litigants in all matters, such as filing a motion to vacate a judgment, setting a hearing on releasing a bank account, due to an exemption claim, and so forth.

Standardization:

There is no doubt in my mind that there needs to be a standardization of forms. However, this is not only true just for the township courts, but for the small claims courts throughout the state of Indiana. Of all the township courts, there are 100 different notice of claim forms. As an example, there is a court that has a post-judgment proceeding called a "proceedings supplementary." Try as hard as I can, I have not been able to determine, any where in the trial rules and statutes, what a "proceedings supplementary" is. This is just one, small example.

In terms of standardization of forms, perhaps the notice of claim could give better information to the defendant. Further, I do not think there is any question that it would assist defendants if there was some type of advice or information sheet given to them, or on the walls of the court, when they appear. However, I might add that, in my experience, most defendants are happy when they do <u>not</u> have to see the judge. "You mean I do not have to go in front of the judge?" is a statement that I frequently hear.

A few final comments:

We are deeply concerned about the ability of the sheriff of Marion County to give effective and timely service of process if matters are transferred out of the township courts.

We recognize that there is a financial issue involved here that is beyond the scope of this comment.

There is probably also an issue involving "control" and hiring of the staff, between the judge and the township trustee. We have noticed this on a couple of occasions.

While not to denigrate the concerns expressed by the people appearing in Perry and Pike townships, or the troubles they experienced, we believe that they represent an infinitesimally small amount, and are anecdotal in nature. When one considers the number of cases that are filed, annually, in the township courts, it would not appear that there is a substantial problem.

Thank you for allowing us this opportunity to present the position of our law firm. If you would like any further information or discussion, please feel free to contact the undersigned. Also, please be advised that if you would like some assistance or volunteers to assist in the preparation of any forms or procedures, or any input into the same, we would be glad to assist.

Very truly yours,

Stephen J. Lerch

SJL.hnw

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March 21, 2012

Small Claims Court Task Force
Division of State Court Administration
30 S. Meridian Street, Suite 500
Indianapolis, IN 46204

Dear Task Force Members:

I am submitting the following comments concerning Judge Douglas Stephens. I apologize for sending this letter after the deadline, but hope that you will be able to consider it.

Judge Stephens received favorable treatment in *Varner v. McCullough, et al.*, Cause No. 49J01-0604-SC-3499 (Marion County Small Claims Court, Center Township Division). In brief, the court allowed Judge Stephens to evade the one-year time limit for seeking to vacate a default judgment and the sixty-day limit for appeal. He accomplished this by (1) filing what he called an "independent action;" (2) defaulting by failing to appear for the trial of the independent action; and (3) belatedly appealing the default on the independent action. Judge Michele Smith Scott presided over all but one of the hearings. The case is set out in more detail below.

In April 2006, before I represented her, Sapawanna Varner filed a pro se complaint in Center Township Small Claims Court, concerning a car that she had purchased. She alleged that the car immediately broke down and that the seller failed to honor the warranty. In August 2006 she obtained a default judgment against Defendants Anthony McCullough ("McCullough") and Exotic Motorsports, Inc. ("Exotic"). The court entered judgment in her favor for $2,189.60.

After Varner had difficulty collecting, she retained me to represent her. On January 23, 2009 I filed a motion for proceedings supplemental. The court scheduled a hearing for February 18, 2009, at which McCullough appeared on his own behalf and on behalf of Exotic. The court informed him that Exotic must be represented by an attorney. McCullough said that in January 2009 he had retained Judge Stephens to file a motion to vacate the judgment, but that he had not been able to contact Stephens recently. I asserted that it was too late to file a motion to vacate. The court agreed but then sua sponte suggested to McCullough that he file an independent

action. The court allowed me to question McCullough about his personal finances, then continued the hearing.

Subsequently, Judge Stephens appeared on behalf of the Defendants. On April 8, 2009, more than two and a half years after Varner received the default judgment, the court allowed Stephens to file an "independent action" to challenge that judgment.

Small Claims Court Rule 10 (C) provides that an independent action in that court is governed by Trial Rule 60(B). The requirements for reversing a judgment under that rule are quite strict:

> A party seeking to set aside a judgment by independent action must establish (1) an unconscionable plan or scheme was used to improperly influence the judgment entered by the trial court, and (2) these acts prevented the moving party from fully and fairly presenting a claim or defense An "unconscionable plan or scheme" in this context means a deliberately planned and carefully executed scheme to defraud. The fraud required to support an independent action is "extrinsic" fraud and relief for this type of fraud is limited to the most egregious circumstances.

22B Ind.Prac., Civil Trial Rule Handbook, §60.2 (footnotes omitted).

Judge Stephens filed his 'independent action" on the Small Claims Court's Notice of Claim form and simply stated that it was "independent action." He did not set forth any cause of action, claim for relief, or alleged facts. He made no mention of Trial Rule 60(B) or the requirements that it sets forth for setting aside a judgment by independent action.

At a hearing on May 6, 2009 Judge Stephens again provided absolutely no evidence to warrant an independent action. Nevertheless, the court "granted" the independent action, set the default aside and set trial for August 7, 2009

After several continuances, the court issued an order on December 2, 2009 setting trial for January 11, 2010 and stamped the order "NO FURTHER CONTINUANCES." On January 11, 2010 my client and I appeared for trial, but neither Judge Stephens or McCullough appeared. The court then granted a second default judgment against McCullough and Exotic. This was the only hearing over which Judge Scott did not preside.

After the time for appeal had run, I resumed the proceedings supplemental. When McCullough failed to appear for a June 2, 2010 hearing, I moved for a body attachment. The court issued the body attachment on July 30, 2010 but the constable never took any action. In the meantime, Judge Stephens filed a hand-written Motion to Recall Body Attachment on August 16, 2010. In the motion, Judge Stephens asserted that he never received the court's order setting trial for January 11, 2010 or any of the filings that I had made since that date.

On August 25, 2010, McCullough filed a pro se Motion to Appeal. This was almost four years to the day that Varner obtained her first default judgment and over seven months after the default judgment on the independent action. By any measure, the sixty-day period for filing an

appeal had lapsed. Nevertheless, the court "granted" the request for appeal, stayed the body attachment, and transferred the case to Superior Court.

At present, the case is in Marion Superior Court, Cause No. 49D04-1008-PL-38155. I filed a motion to dismiss, which was denied. The magistrate indicated that because of the appeal of the independent action, my client had to prove her entire case from scratch. During the hearing on the motion, Judge Stephens disparaged the Small Claims Court, Center Township Division, while trying to explain why his client defaulted. I do not recall his exact words, but in essence he said that the Center Township Division was disorganized and full of chaos.

In sum, I believe that the facts set forth above show that Judge Stephens received special treatment. I will be glad to provide more details if you are interested.

Respectfully,

/s/ David E. Dearing

David E. Dearing

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March 29, 2012

Small Claims Task Force
30 S. Meridian Street
Suite 500
Indianapolis, 46204

Attn: Hon. John Baker and Hon. Betty Barteau

Dear Judge Baker and Judge Barteau:

I have only recently become aware of the task force investigation into the Marion County Small Claims Court system. If it is not too late, I would like to share my experience and views on this important issue.

I was the unsuccessful Democratic candidate for Decatur Township Small Claims judge in 2006 and 2010. My 30 years of experience, and my discussions with clients, persons in the community, and other attorneys led me to draw some strong conclusions about the small claims system as it exists, and the abuses that system perpetuates.

Please note that this is not intended to be an attack on Judge William Fisher, the Decatur Township small claims judge who passed away earlier this year. I was not a close friend of Bill's and I disagreed with his approach to running the court, but for several years we were both in the local Lions Club, and Bill's family has been a fixture in the Decatur Township community for decades.

Campaign debates with township candidates before the Decatur Township Civic Council exposed a fundamental difference in our view of the purpose of the small claim court which I believe bears on the issues before the Task Force. For Judge Fisher and Township Trustee Steven Rink, the purpose of the township small claims court was to serve as a revenue generating operation for the township -- a profit center, if you will. For me, the primary purpose of the court was not filling township coffers, but rather providing fair adjudication and administration of small claims and serving as a resource for the local community.

This was not a subtle difference. It reflects a systemic flaw in a system where justice plays second fiddle to finance.

During the 2006 campaign, then candidate Fisher pointed out that under former Judge Jeffrey Bird, filings in Decatur Township had plummeted. He promised that if elected as judge, he would go to the heavy filers of collection matters and encourage them to file in Decatur Township. In the reelection campaign of 2010, both Judge Fisher and Township Trustee Rink touted the increase in Decatur Township filings, and the accompanying increase in revenue to the township.

I do not believe this view was restricted to one township or to one party. But I am much more familiar with Decatur Township, and have only a passing knowledge of other township courts.

I believe this exposes two fundamental flaws in the current system: (1) the ability of mass collection filers to "judge shop"; and (2) the financial incentives for townships in catering to mass filers. These two flaws result in a perversion of the justice system for thousands of persons, mostly poor, who are ground through the small claims process every day.

I would encourage the committee to consider the following in making its recommendations:

1. The present Marion County Small Claims Court structure perpetuates a system of handling small claims matters that in too many instances is neither fair nor just. The current system builds in economic incentives for township small claims court to favor mass filers of collections, evictions and similar matters.

2. Local courts do have value to the communities that they serve and should be maintained, but not in the present system.

3. Small claims courts and their judges should be brought within the Marion County Superior Court system.

4. Small claims cases should be heard by full-time magistrates who operate under the supervision of Marion County judges. These magistrates should undergo thorough training in the issues which commonly arise in small claims cases (specifically collections and evictions) and the proper handling of such matters

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5. In order to remove financial incentives for township governments from mass filers of claims, all filing fees should go into the Marion County Court system. There should be no financial incentive for township government for the filing of small claims cases.

6. Small claims court personnel and administration should be removed from the control of the township trustees, who, as I understand, currently is the employer of court staff. All hires, supervision, discipline, promotion and discharge of court employees should be under the control of either the presiding judge or the Marion County Superior Courts.

7. Venue / jurisdiction of small claims should be changed so that mass filers of collection and other disputes can no longer forum shop for a particular township small claims court or judge. Options would include (1) requirement to file in township where defendant resides, or (2) unified filing with blind draw assignment to township court.

8. Utilizing small claims courts for decentralized traffic court, and possibly evening court. While this may beyond the scope of this Task Force, it seems the community would be greatly served by decentralizing the traffic court so that people may attend courts closer to their homes and at more convenient times.

I am encouraged that the Supreme Court has appointed this Task Force. It is a difficult job. You can take pride that this effort will undoubtedly result in a system that is fairer and more just for all of our citizens. I wish you great success in this important work.

Very truly yours,

Stephen M. Terrell

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From: Jeff Boulden <jeff.boulden@ilsi.net>
Date: Wed, 18 Apr 2012 14:10:05 +0000
To: "John G. Baker" < >, "rulescomments@courts.in.gov" <rulescomments@courts.in.gov>
Subject: Marion County Small Claims

To The Small Claims Task Force:

I would like to bring to your attention an issue of great concern to me regarding the Small Claims Courts in Marian County. I apologize for the tardiness of this email. I was not able to attend any of the meetings that were held to discuss the problems that many attorneys and litigants have with the way the Marion County Small Claims Courts are managed. However, some of my colleagues here at ILSI have kept us all informed about these meetings and it appears that most of the problems that I have seen in my 11 years of practice in Marion County were more than adequately brought to your attention.

There is, however, an issue that apparently was not raised in the course of your public meetings, that I recently re-encountered, and that I feel deserves significant attention. I am referring to how certain small claims courts handle cases involving out of state defendants in terms of Service of Process.

A few years back, it came to my attention that at least one Creditors' Attorney was using First Class Mail to obtain service on out of state defendants. The cases I saw were collections cases based on contracts that provided that all litigation arising out of those contracts had to be litigated in Marion County, IN. While I personally believe that these 'choice of forum' clauses are unconscionable to the average consumer, that is not the issue I wish to bring to your attention. It is the issue of Personal Jurisdiction over out of state defendants I want to discuss.

By way of background, Indiana Legal Services is part of a national network of agencies that strive to provide free legal assistance to indigent Americans. Because some Creditors prefer to litigate their collections cases in Marion County, the Indianapolis Office of ILSI receives a steady stream of referrals from Legal Services agencies from around the country when they are approached by people being sued here in Indianapolis. I have tried to assist many such individuals, however most contact us long after a judgment has been entered against them in a Marion County Small Claims Court. Often, these defendants first become aware that they have been sued when post judgment collection efforts impact their lives (garnishment orders, frozen bank accounts, etc..). Because so many of these

people claim to have had no notice of any court dates in these proceedings, I began looking into the matter.

In checking on the issue of Service in one case in Warren Township Small Claims Court a few years ago, I was informed by that Court's staff that Creditors' attorneys would attempt to serve defendants via USPS-Certified Mail. If a signed 'green card' was not returned, then a Notice of Claim was sent by USPS-First Class Mail. If that envelope was not returned to the Court by the USPS (Addressee Unknown, Moved Without Forwarding Address, etc.) then the defendant in that case was deemed served and the Court, at Creditor and/or Creditor's attorney's request, asserted Personal Jurisdiction over the defendant and entered a Default Judgment.

This practice of the Warren Township Small Claims Court and/or Creditors filing collection cases in Warren Township did not, in my opinion, comply with the Indiana Trial Rules' provisions for obtaining Service over a defendant. Yet, I was informed by the staff of Warren Township that this was the customary practice.

At that time, Judge Rivera was being replaced by a new judge. My colleague Rod Bohannon and I had a meeting with incoming judge, Garland Graves. I expressed my concerns with Judge Graves about the issue of 'First Class Mail Service' and my intent to pursue the matter. Rod and I were assured by Judge Graves that this practice would stop. Unfortunately, in the hurly burly of trying to serve too many with so little, I failed to follow up on this issue.

Just recently, I happened to be at the Franklin Township Small Claims Court, checking a file for service on an Arkansas resident who is being sued in a collection case. To my shock, I was informed by the clerk in the Franklin Township Small Claims Court that it is THAT Court's practice to deem a defendant 'served' if a Notice of Claim is mailed to a defendant via USPS -First Class Mail and it is not returned to the Court by the USPS. I brought this to Rod's attention, and he informs me that he recently had a case in Warren Township that had the same Service issue. Apparently, this practice is more pervasive in the Marion County Small Claims Courts than I had realized.

I have not been able to ascertain which of parties involved: the Courts (the clerks and/or the Judge), Creditor, and/or Creditors' attorneys should be held accountable for what I believe to be an egregious practice (perhaps all three). I am of the opinion that the Judges who oversee their respective Small Claims Courts are committing Judicial Misconduct by not enforcing Indiana Law through instruction and oversight of their staffs regarding the Trial Rules on the issue of Service. I am also of the opinion that Creditors' Attorneys, who are obligated to know the law, are in breach of their ethics for having obtained numerous Default Judgments over the years, 'knowing' that judgments were being entered against defendants over whom the Court did not have actual Personal Jurisdiction. However, I am not certain how these matters should be addressed. So, for the time being, I will bring this to your attention and await your comment.

Very truly yours,

Jeffrey C. Boulden
Attorney at Law

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Marion County Small Claims Court
Center Township
Attn: The Honorable Michelle Smith-Scott
200 East Washington Street
Indianapolis, IN 46204

September 2, 2010

I am writing to address an open question between Health and Hospital Corporation ("HHC"), a municipal corporation and political subdivision of Indiana, and the Marion County Small Claims Courts. HHC has relied on long standing precedent to support its assertion that it should not pay filing fees in any Small Claims Court in Indiana. However, in April 2009, a Marion County Small Claims Court asked that HHC pay full filing fees to file a case. Due to the unresolved nature of the question about its ability to be charged fees, HHC has withheld filing cases in any Marion County Small Claims Court for the past seventeen months.

HHC relies on Indiana Code, Indiana Rules of Trial Procedure and case law to protest the payment of filing fees in any Marion County Small Claims Court. In *State v. Puckett*, the Indiana Court of Appeals said, "[i]t is well settled that the State and its agencies are not liable for ordinary court costs and fees." 531 N.E.2d 518, 527 (Ind. App. 1988). In 1996, the Indiana Court of Appeals held the same, saying "the State and its agencies are not liable for ordinary court costs and fees *absent specific statutory authority* for their imposition." *Gouge v. Northern Indiana Commuter Transportation District*, 670 N.E.2d 363, 369 (Ind. App. 1996), citing *State v. Eaton*, 581 N.E.2d 956, 960 (Ind. App. 1991), *reh'g denied, trans. denied.*

In further support of HHC's rights, Indiana Rules of Trial Procedure 54(D) states that "costs against any governmental organization, its officers, and agencies shall be imposed only to the extent permitted by law." This rule clearly limits Small Claims Courts' imposition of fees on HHC unless authorized by law to do so.

For a court to charge a governmental entity civil filing fees, a statute or ruling must specifically provide the authority to do so. There is no language authorizing the imposition of court costs on governmental entities in the "Marion County Small Claims Courts: Fees and Costs" Chapter. Ind. Code 33-34-8. Moreover, without an enumerated provision that the Marion County Small Claims Courts can charge political subdivisions court costs, HHC firmly asserts that Marion County Small Claims Courts are not authorized to demand fees, and that, according to the law, HHC should be immune from any such fees.

Because of this unresolved issue, HHC has not filed a case in a Marion County Small Claims Court since April 2009. Although legal authority indicates that HHC should be immune from paying civil filing fees, Marion County Small Claims Courts take the position that HHC should pay. HHC disagrees, but has decided to resume filing cases in Marion County Small Claims Courts, paying under protest.

Sincerely yours,

Jessica Barth
VP Legal Counsel, Wishard Health Services