

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MICHELLE C. COSTAGLIOLA,	:
Plaintiff	: No. 06-01,608
	:
vs.	: CIVIL ACTION – LAW
	:
TINA M. KAUFMAN,	: Tina Kaufman’s Petition to Strike
Defendant	: Judgment, Set Aside Levy and
	: Stay Sheriff’s Sale

ORDER

AND NOW, this ____ day of December 2007, the Court GRANTS Tina Kaufman’s Petition to Strike Judgment, Set Aside Levy and Stay Sheriff’s Sale. Although Ms. Costagliola obtained a judgment in the amount of \$3,538.53 from the Magisterial District Judge (MDJ) and no appeal was taken from this judgment,¹ Ms. Costagliola raised the same facts and issues in her counterclaim to Ms. Kaufman’s complaint in case number 06-01,455. This counterclaim proceeded to a de novo hearing before a board of arbitrators, who entered an award of \$613.00. Ms. Costagliola did not file an appeal from the arbitrator’s award.

The Court finds the \$613.00 arbitrator’s award controls. Most of the paragraphs of the counterclaim are virtually identical to the claims Ms. Costagliola made before the MDJ. In effect, Ms. Costagliola opened or appealed the MDJ judgment by raising the same facts and issues in her counterclaim. Therefore, the Court GRANTS the petition and STRIKES the MDJ judgment of \$3,538.53 filed to case number 01-01608.

By The Court,

¹ This judgment was transferred to the Court of Common Pleas of Lycoming County and filed to number 06-01,608.

Kenneth D. Brown,
President Judge

cc: William Burd, Prothonotary
Sheriff
John Felix, Esquire
Richard Gahr, Esquire
Tina Kaufman,
245 Broad Street, 2nd floor, Montoursville PA 17754
Michelle Costagliola,
1402 ½ Memorial Ave, Williamsport PA 17701
Work file
Gary Weber, Esquire (Lycoming Reporter)