

Notice of Appeal Arguments

1. It is Appellant's understanding that this Court will only hear and/or address issues that were raised during the lower Court proceedings. The proceeding were as follows:

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2. Appellant filed a claim with the Marlboro Magistrate Judge, Mia David Weaver on 3/9/2020 under docket # 2020 CV3410100224 against Respondent Badcock + More Home Furniture in which subsequently the Court summoned appellant and respondent to appear before the Court on May 12, 2020.

3. On May 12, 2020, Appellant appeared, however respondent did not. The case was then argued and then scheduled again to be heard on May 26, 2020.

4. On ~~May 26~~ May 26, 2020, Appellant appeared, but once again, respondent did not. The case was then adjourned to June 23, 2020.

5. On June 23, 2020, Appellant appeared and once again, respondent did not.

6. During the lower Court proceedings (because respondent did not appear "3" times), appellant stated on the record that respondent should be held in default. Nevertheless, the Court dismissed the case in favor of respondent.

7. Because the above took place, appellant filed an appeal in the Court of Common Pleas on July 10, 2020 with Judge Paul M. Burch. (See 8 page Notice of Civil Appeal dated 7/10/2020 - as Exhibit A attached herein).

8. On 9/8/2020 the appeal was scheduled to be heard by said judge. Appellant then presented his case and subsequently argued that it was error of Law for the Magistrate judge M.D. Weaver to have dismissed appellant's case in favor of Badcock when in fact the case should have been dismissed in favor of appellant because Badcock didn't appear in this case "3" times and should be held in default. 2

9. See pages 4 of 8 and 5 of 8, par. 5 of said notice of appeal for said default argument.

10. On 9/21/2020 Judge Paul M. Burch gave his ruling. He ruled that said Magistrate judge ^{was to} file a return within 30 days of his order remanding this case back to the Magistrate Court. (See said Order as Exhibit B attached).

11. On September 28, 2020, Magistrate judge, MD. Weaver scheduled this case to be re-heard on October 6, 2020. (See said order as Exhibit C attached).

12. On October 6, 2020, appellant appeared before said Court and for the very first time, so did respondent-Badcock.

13. Appellant argued before the Court on October 6, 2020 that said respondent were too late to appear and make a defense for themselves being they didn't do so when they had "3" times to do so but ~~didn't~~ ^{didn't} and should be held in default.

14. On October 26, 2020 the Common Pleas Court Paul M. Burch - respondent, committed an error of Law when affirmed or affirming said Magistrate's application dismissing appellant's case under the provisions of Rule 55. (See said Order as Exhibit D attached).

15. The error of Law took place when both the Magistrate Court and the Common Pleas Court - defendants or Respondents failed to properly apply the provisions of Rule 55 in appellant's case.

16. Both Courts under the provisions of Civil Rule 55 (by law) were mandated to rule in appellant's favor because it was in fact respondent - Badcock whom failed to appear before the lower Court's proceedings to make a defense for themselves thus being in default under the provisions of Rule 55.

Wherefore, because of the above and/or herein arguments within, appellate ask this Court to grant his appeal based on the provisions of Rule 55 which was not properly applied in this case.

Dated: December 21, 2020.

Respectfully





Ted Johnson Pro-Se

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