

---

Oneida Small Business, Inc.

Plaintiff,

v.

White Eagle Sports Bar & Grill, LLC

Paul F. Danforth

Christina S. Danforth

Defendants,

---

FILED  
MAR 25 2014

CLERK OF COURTS  
BROWN COUNTY, WI

Case No. 13 CV 1838

---

**PLAINTIFF'S RESPONSE TO DEFENDANTS' CHRISTINA DANFORTH AND PAUL DANFORTH'S BRIEFS IN OPPOSITION TO SUMMARY JUDGMENT AND MOTION TO STRIKE AFFIDAVIT.**

---

The Plaintiff, Oneida Small Business, Inc.'s Motion for Summary Judgment should be granted. The Defendant, Christina S. Danforth has filed an answer contesting the amount the Plaintiff asserts is owed. The Court should dismiss the Defendant's frivolous motion.

As Defendant, Christina Danforth, cited in her Motion, the purpose of summary judgment procedure is to determine whether there are no genuine factual disputes in order to "avoid trials where there is nothing to try." *Rollins Burdick Hunter of Wis., Inc. v. Hamilton*, 101 Wis. 2d 460, 470, 304 N.W.2d 752 (1981).

In this case, there is nothing to try, and a trial should be avoided, the Defendants obtained a loan from the Plaintiff in the amount of Fifty Thousand Dollars (\$50,000) as evidenced in Exhibit A attached to this motion. The Defendants have failed to make timely payments on this Loan as

*Ymk*

evidenced by the Affidavit of Gary Jordan attached hereto and incorporated herein by referenced as Exhibit B.

The Defendant, Christina Danforth, asserts that Attorney Andrew A. Van Sickle is somehow serving as a witness in this case and that the affidavit in support of this Motion would qualify as hearsay, and therefore should not be considered by this court. Notwithstanding several arguments contrary to the Defendant's assertions, this issue is easily remedied by the Plaintiff providing an affidavit from a representative of the Plaintiff. An affidavit from Mr. Gary Jordan is attached hereto as Exhibit B. The attached affidavit makes the Defendant's Motion to Strike Affidavit a non-issue.

Defendant, Paul F. Danforth, asserts the Answer filed on January 31, 2014, is inclusive of all parties, however the same was exclusively signed by Defendant, Christina Danforth and does not represent the same is on behalf of Defendant Paul F. Danforth or Defendant, White Eagle Sports Bar & Grill, LLC.

Because there are no genuine factual disputes in this case, the Plaintiff demands judgment and requests the following relief without need of a hearing and additional proceedings.

1. For a money judgment against Defendants, White Eagle Sports Bar and Grill, LLC, Paul F. Danforth and Christina S. Danforth, jointly and severally in the sum of \$55,587.43 plus pre and post judgment interest owing thereon.
2. A Writ of Replevin for all the property secured by the General Business Security Agreement and Note and;

3. For costs and disbursements of this action, including reasonable attorney's fees.

Dated this 21 day of March, 2014.

LEWIS & VAN SICKLE, LLC

By: 

Andrew A. Van Sickle/1022263  
Attorney for the Plaintiff, Oneida  
Small Business, Inc.

LEWIS & VAN SICKLE, LLC  
P.O Box 107  
Pulaski, WI 54162  
920-822-2777

BUSINESS NOTE (Use only for business purpose loans)

Boxes not checked are inapplicable.

White Eagle Sports Bar & Grill, LLC August 18, 2006 \$50,000.00

1. Promise to Pay and Payment Schedule. The undersigned ("Maker," whether one or more) promises to pay to the order of Bay Bank As Servicer For Oneida Small Business Incorporated ("Lender") at 2555 Packerland Drive

Green Bay, Wisconsin, the sum of \$50,000.00, plus interest on the unpaid principal balance, according to the following schedule:

A single payment of the unpaid principal and accrued interest is due and payable on February 18, 2007.

2. Interest Calculation. This Note bears interest on the unpaid principal balance before maturity:

[Check (a) or (b); only one shall apply.]

(a) [X] Fixed Rate. At the annual rate of 5.000%.

(b) [ ] Variable Rate. At the annual rate ("Note Rate") which shall equal the Index Rate (as defined below), plus minus n/a percentage points. However, the Note Rate shall not exceed n/a% per year and shall not be less than n/a% per year, and until the first change date described below the Note Rate shall be n/a% per year. The Note Rate shall be adjusted as provided below. The Index Rate is: n/a

The Index Rate may or may not be the lowest rate charged by Lender. The Note Rate shall be adjusted only on the following change dates: n/a

An adjustment in the Note Rate will result in an increase or decrease in (1) [ ] the amount of each payment of interest, (2) [ ] the amount of the final payment, (3) [ ] the number of scheduled periodic payments sufficient to repay this Note in substantially equal payments, (4) [ ] the amount of each remaining payment of principal and interest so that those remaining payments will be substantially equal and sufficient to repay this Note by its scheduled maturity date, (5) [ ] the amount of each remaining payment of principal and interest (other than the final payment) so that those remaining payments will be substantially equal and sufficient to repay this Note by its scheduled maturity date based on the original amortization schedule used by Lender, plus the final payment of principal and interest, or (6) [ ] n/a

In addition, Lender is authorized to change the amount of periodic payments if and to the extent necessary to pay in full all accrued interest owing on this Note. The Maker agrees to pay any resulting payments or amounts. If the Index Rate ceases to be made available to Lender during the term of this Note, Lender may substitute a comparable index.

Interest is computed:

(c) [X] For the actual number of days principal is unpaid on the basis of [X] a 360 day year (which means that the stated interest rate will be divided by 360 days to arrive at a daily interest rate, and the daily interest rate will be applied to the unpaid principal for the actual number of days principal is unpaid up to 365 days in a calendar year and 366 days in a leap year) [ ] a 365 day year.

(d) [ ] For the number of days principal is unpaid on the basis of a 360 day year, counting each day as 1/30th of a month and disregarding differences in lengths of months and years.

(e) [ ] Past due interest shall bear interest from its due date until paid at the interest rate then in effect for this Note.

Unpaid principal and interest bear interest after maturity until paid (whether by acceleration or lapse of time) at the rate [ ] which would otherwise be applicable under 2(b) above plus n/a percentage points [X] of 12.000% per year, computed on the same basis as the interest rate before maturity. All payments shall be applied first to accrued and unpaid interest, second to other charges payable by Maker to Lender and third to unpaid principal.

3. Other Charges. If any payment (other than the final payment) is not made on or before the 10th day after its due date, Lender may collect a delinquency charge of [X] 5.00% of the unpaid amount [ ] \$n/a. Maker agrees to pay a charge of \$ 15.00 for each check presented for payment under this Note which is returned unsatisfied.

4. Prepayment. Full or partial prepayment of this Note [X] is permitted at any time without penalty [ ] n/a

All prepayments shall be applied first to accrued and unpaid interest, second to other charges payable by Maker to Lender and third to unpaid principal.

THIS NOTE INCLUDES ADDITIONAL PROVISIONS ON PAGE 2.

OTHER PROVISIONS:

White Eagle Sports Bar & Grill, LLC (SEAL)

A Wisconsin Limited Liability Company (Type of Organization)

By: Cristina S. Danforth (SEAL)

By: Paul F. Danforth (SEAL)

By: (SEAL)

By: (SEAL)

P. O. Box 131

Oneida, WI 54155 (ADDRESS) (PHONE)

Renewed 2/18/07

FOR LENDER CLERICAL USE ONLY

Collateral: Unsecured Purpose: Business Expense

William G. Menacher LOAN OFFICER



STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH V

BROWN COUNTY

ONEIDA SMALL BUISNESS, INC.  
3812 N. County Line Road  
Oneida, WI 54155

CASE NO.: 13 CV 1838

Plaintiff,

vs.

WHITE EAGLE SPORTS BAR & GRILL, LLC  
P.O. Box 131  
Oneida, WI 54155

And

Case Code: 30304

PAUL F. DANFORTH  
4774 N. County Line Road  
Oneida, WI 54155

And

CHRISTINA S. DANFORTH  
4774 N. County Line Road  
Oneida, WI 54155

Defendants.

**AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT**

STATE OF WISCONSIN    )  
                                  )ss.  
COUNTY OF BROWN    )

Gary Jordan, being first duly sworn on oath, deposes and states as follows:

1. That I am a representative of the Plaintiff, Oneida Small Business, Inc., in the above captioned matter.

2. That I make this Affidavit upon my personal knowledge and belief.
3. This Affidavit is made in support of the Plaintiff's Notice of Motion and Motion For Summary Judgment previously filed with the Court.
4. As outlined in Plaintiff's Summons and Complaint, Defendants, borrowed money from Oneida Small Business, Inc., in the sum of Fifty Thousand Dollars (\$50,000) on or about August 18, 2006 in the form of a Business Note.
5. The Defendants have renewed this note on several occasions with the most recent renewal dated November 18, 2009.
6. As outlined in the Plaintiff's Summons and Complaint, The Defendants failed to make payments on the Note when due despite Plaintiff's demand for payment.
7. As to Plaintiff's Cause of Action as pled in Plaintiff's Summons and Complaint, there is currently due and owing to the Plaintiff from the Defendants the sum of \$55,587.43 consisting of \$48,147.78 principal and \$7,346.65 interest.
8. Defendants have failed to redeem or surrender the collateral pledged to Plaintiff come current on the loan payments or pay off the same.

WHEREFORE, the Plaintiff requests the following:

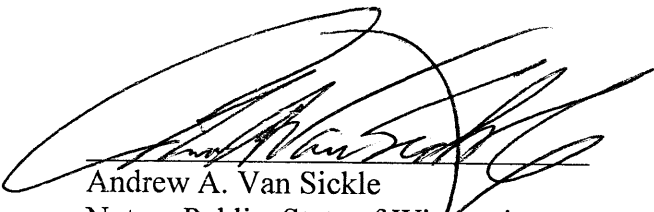
- A. Money Judgment in the amount of \$55,587.43 against defendants, jointly and severally, plus interest thereon;
- B. Writ of Replevin for all property secured by the General Business Security Agreement.
- C. All additional relief the Court deems just and equitable.

Dated this the 21<sup>st</sup> day of March, 2014

ONEIDA SMALL BUSINESS, INC.

By:   
Gary Jordan

Subscribed and sworn before me  
this the 21<sup>st</sup> day of March, 2014.

  
Andrew A. Van Sickle  
Notary Public, State of Wisconsin  
My commission is permanent.