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IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION—CIVIL

COMPLETE BUSINESS SOLUTIONS GROUP, INC.	:	September Term, 2017
	:	Case No. 03318
<i>Plaintiff</i>	:	
	:	
v.	:	Commerce Program
	:	
ROYAL METALS GROUP, LLC	:	
and	:	
CHELSEA GLESS and JOHN T. CLARK	:	
	:	Control No. 17120798
<i>Defendants</i>	:	

ORDER

AND NOW, this 12th day of January, 2018, upon consideration of the petition to strike or open judgment by confession and for a stay of execution, the response in opposition, and the respective *memoranda* of law, it is **ORDERED** that the petition to strike is **GRANTED** and judgment entered by confession is **STRICKEN**.

BY THE COURT



RAMY I. BJERASSI, J.

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R. POSTELL
COMMERCE PROGRAM

MEMORANDUM OPINION

Defendants' petition to strike asserts that the record is fatally flawed because plaintiff failed to file a statement as required under Pa. R.C.P. 2952(a)(5).¹ This Rule specifically states that the complaint-in-confession-of-judgment—

shall contain the following:

either a statement that judgment has not been entered on the instrument in any jurisdiction or if it has been entered an identification of the proceedings.²

A review of the record shows no evidence that plaintiff filed such a statement. In the response in opposition to the petition to strike, plaintiff generally denies defendants' averment, yet attempts to rectify the afore-mentioned omission by stating that "this is the only filing related to the Agreements between the parties."³ In Pennsylvania,

when deciding if there are fatal defects on the face of the record for the purposes of a petition to strike a judgment, a court may only look at what was in the record when the judgment was entered.... [W]here a fatal defect or irregularity is apparent from the face of the record, the prothonotary will be held to have lacked the authority to enter default judgment and the default judgment will be considered void.⁴

In addition—

formal defects, mistakes or omissions, in confessions of judgment may be corrected by amendment where the cause of action is not changed, where the ends of justice require the allowance of such amendment and ... the substantive rights of the defendant[s] ... will not be prejudiced.⁵

Finally—

¹ Petition to strike, ¶¶ 28–29.

² Pa. R.C.P. 2952(a)(5)(emphasis supplied).

³ Response in opposition to the petition to strike, ¶ 28.

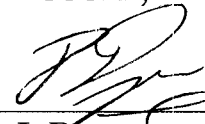
⁴ *US Bank N.A. v. Mallory*, 2009 Pa. Super 182, ¶ 13, 982 A.2d 986, 991 (Pa. Super. 2009).

⁵ *George H. Althof v. Spartan Inns of Am.*, 441 A.2d 1236, 1238 (Pa. Super. 1982.)

[t]he validity of a confession of judgment requires strict compliance with the Rules of Civil Procedure as well as rigid adherence to the provisions of the warrant of attorney.... Absent such compliance, a confession of judgment cannot stand.⁶

In this case, plaintiff did not file a statement pursuant to Pa. R.C.P. 2852(a)(5), nor did plaintiff amend the record to include the statement, even after defendant had called attention upon such omission. In addition, plaintiff's assertion that "this is the only filing related to the Agreement" is not sufficient to rectify the fatal flaw created by the failure to include the statement required under Pa. R.C.P. 2952(a)(5). For this reason, the petition to strike is granted and the confessed judgment is stricken.⁷

BY THE COURT,



RAMY I. DJERASSI, J.

⁶ First Union Nat. Bank v. Portside Refrigerated Servs., Inc., 827 A.2d 1224, 1231 (Pa. Super. 2003) (emphasis supplied).

⁷ The Court is aware that defendants failed to timely file their petition to strike in violation of Pa. R.C.P.2959(a)(3). However, a void judgment is a nullity and cannot stand, regardless of defendants' failure to timely challenge the judgment:

a void judgment is a mere blur on the record, and which it is the duty of the court of its own motion to strike off, whenever its attention is called to it. M & P Mgmt., L.P. v. Williams, 937 A.2d 398, 400-01 (2007).