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DIETZ & WATSON, INC, UNION : COURT OF COMMON PLEAS
 EMPLOYEES' PENSION PLAN : PHILADELPHIA COUNTY
 5701 Tacony Street : CIVIL DIVISION
 Philadelphia, PA 19034 :
 Plaintiff : JANUARY, TERM, 2015
 :
 Vs. : NO: 01893
 :
 YAKUBU EKPAJI :
 211 West 53rd Street :
 Philadelphia, PA 19139 :
 Defendant :

DOCKETED

MAR 13 2015

R. POSTELL
DAY FORWARD

ORDER

AND NOW, this 11 day of March, 2015, upon consideration of

Defendant's Motion to Strike or Open the Judgment for Confession of Money Damages entered in favor of Plaintiff on January 16, 2015 and the parties' filings related thereto, it is hereby ORDERED that:

The judgment entered on January 16, 2015 in favor of Plaintiff and against defendant for \$279,941.67 is VACATED.

Donnell

BY THE COURT
[Signature]

J.

Dietz & Watson, Inc. Un-ORDRC



15010189300009

Case ID: 150101893

Control No: 15021931

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

DIETZ & WATSON, INC. UNION EMPLOYEES' PENSION PLAN	:	November Term, 2014
	:	
<i>Plaintiff</i>	:	Case No. 02770
v.	:	Commerce Program
	:	
YAKUBU EKPAJI	:	
	:	
<i>Defendant</i>	:	Control No. 15010512

MEMORANDUM OPINION

Defendant’s petition to strike or open judgment by confession makes the following assertions:

1. Plaintiff/lender engaged in predatory lending tactics by requiring full repayment of a loan within two years from execution by defendant of an underlying promissory note, even though plaintiff knew that defendant “was going to default.”¹
2. “At the time he executed the promissory note, defendant did not voluntarily, intelligently and knowingly give up his right to notice and a hearing prior to entry of judgment.” In addition, defendant signed the confession of judgment provision “not knowing [its] contents and legal implications.”²
3. Defendant was the victim of an armed robbery that left him wounded; subsequently, defendant suffered a stroke which left him unable to work.³

¹ Petition to Strike or Open judgment by confession, ¶ 3.

² *Id.* ¶¶ 4, 5.

³ *Id.* ¶¶ 6–8.

Discussion

In Pennsylvania, “[a] motion to strike a judgment will not be granted unless a fatal defect in the judgment appears on the face of the record. If the record is self-sustaining, the judgment will not be stricken.”⁴ In this case, defendant does not point to any fatal defect in the record and the petition to strike judgment by confession is denied.

In Pennsylvania, “[a] judgment taken by confession will be opened in only a limited number of circumstances, and only when the person seeking to have it opened acts promptly, alleges a meritorious defense and presents sufficient evidence of that defense to require submission of the issues to the jury.”⁵ Furthermore,

the hearing required to comport with due process [in a confessed judgment matter] means simply an opportunity to be heard; it does not require a proceeding comparable to a full trial, but may be satisfied by other procedural opportunities to be heard, such as a petition to open judgment, a stay of execution, a rule to show cause why the judgment should not be opened, depositions to support the allegations in the petition, and oral argument.⁶

In this case, petitioner attempts to explain the reasons for his default through the grievous misfortunes he has endured; however, such regrettable misfortunes do not present a meritorious defense and cannot require this Court to open judgment by confession. Petitioner also asserts that plaintiff/lender engaged in predatory lending tactics, yet offers no evidence in support of his assertion. This Court will not open judgment by confession on grounds of alleged predatory lending tactics employed by

⁴ Fourtees Co. v. Sterling Equip. Corp., 242 Pa. Super. 199, 205, 363 A.2d 1229, 1232 (1976)

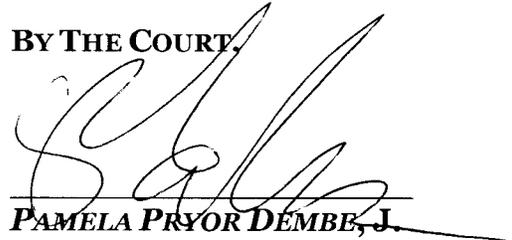
⁵ Dollar Bank, Fed. Sav. Bank v. Northwood Cheese Co., 431 Pa. Super. 541, 546-47, 637 A.2d 309, 311 (1994)

⁶ Dollar Bank, Fed. Sav. Bank v. Northwood Cheese Co., 431 Pa. Super. at 551, 637 A.2d at 313 (1994).

plaintiff because petitioner has not presented any evidence which would require submission of the issue to a jury.

Finally, petitioner asserts that he did not voluntarily, intelligently and knowingly give up his right to notice and a hearing, nor did he understand the implications emanating out of the confessed judgment provision. Such a defense is not meritorious because “[t]he failure to read a confession of judgment clause will not justify avoidance of it. This is particularly true where the confession of judgment clause is clear and conspicuous and part of a **commercial transaction**.”⁷ This case involves a commercial transaction, and the judgment by confession may not be opened on grounds that petitioner failed to grasp the implications thereof. For these reasons, the petition to strike off or open judgment by confession is denied in its entirety.

BY THE COURT,



PAMELA PRYOR DEMBE, J.

⁷ Dollar Bank, Fed. Sav. Bank v. Northwood Cheese Co., 431 Pa. Super. at 550, 637 A.2d at 313 (1994) (emphasis supplied).