

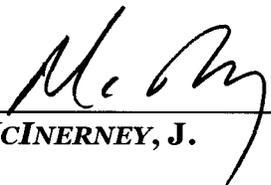
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION—CIVIL

PROVIDENT BANK	:	February Term, 2015
<i>Plaintiff</i>	:	Case No. 01604
v.	:	Commerce Program
DONOHUE BAILEY and PAMELA BAILEY	:	
<i>Defendants</i>	:	Control No. 15031869

ORDER

AND NOW, this 10th day of April, 2015, upon consideration of defendants' petition to strike or open the complaint in confession of judgment, plaintiff's response, and the respective *memoranda* of law, it is **ORDERED** that the petition is **DENIED IN ITS ENTIRETY**.

BY THE COURT,



MCINERNEY, J.

DOCKETED

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R. POSTELL
DAY FORWARD

Provident Bank Vs Baile-ORDRC



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

PROVIDENT BANK	:	February Term, 2015
<i>Plaintiff</i>	:	Case No. 01604
v.	:	Commerce Program
DONOHUE BAILEY and PAMELA BAILEY	:	
<i>Defendants</i>	:	Control No. 15031869

MEMORANDUM OPINION

Defendants assert at ¶ 6 of their petition to strike or open judgment by confession that “Plaintiff’s Affidavit of Non-Military Service [sic] is fraudulent, as Defendants were never served in either Montgomery County or with transfer of Judgment in Philadelphia County.” However, affidavits of services for both defendants, at Exhibit A to the response to defendants’ petition, reveal that service upon defendants was made on February 28, 2015.

Defendants also assert at ¶ 8 of their petition and page 1 of their *memorandum* that “[e]ven if there is a recognizable confession of judgment, the Defendants had performed under the terms of the instrument”; consequently, Plaintiff’s complaint in confession of judgment should be opened because it “fails to recognize monies defendant has paid and performed on.”¹ However, defendants have not offered any evidence in support of this assertion. In Pennsylvania, “[t]he petitioning party bears the

¹ Petition to strike or open, ¶ 8; *memorandum* of law in support of petition to strike or open, I. Introduction.

burden of producing sufficient evidence to substantiate its alleged defenses.”² In addition—

the hearing required to comport with due process [in a confessed judgment case] 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.”³

In this case, defendants had an opportunity through their **petition to open judgment** to offer any evidence in support of the allegation that the amount of confessed judgment should be offset by any monies previously paid. Defendants have failed to meet this burden and their petition to strike or open judgment by confession is denied in its entirety.

BY THE COURT,



MCINERNEY, J.

² Haggerty v. Fetner, 481 A.2d 641, 644 (Pa. Super. 1984).

³ Dollar Bank, Fed. Sav. Bank v. Northwood Cheese Co., 431 Pa. Super. 541, 551, 637 A.2d 309, 313 (1994) (emphasis supplied).