

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

In re: CHAPTER 7
Case No.

GREGORY DALE HIGGINS,
Debtor

L-91-01118-C

FIRSTAR BANK CEDAR
RAPIDS, N.A., fka Merchants
National of Cedar Rapids, Iowa
Plaintiff

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
JAN 10 1992
BARBARA A. EVERLY, CLERK

v.

GREGORY DALE HIGGINS,
Defendant

Adversary Proceeding No.
L-91-0200-C

JUDGMENT

The issues of this proceeding having been duly considered by the Honorable MICHAEL J. MELLOY, United States Bankruptcy Judge, and a decision having been reached without trial or hearing,

IT IS ORDERED AND ADJUDGED: Judgment is entered in favor of the plaintiff Firstar Bank of Cedar Rapids, N.A., and against the defendant, Gregory Dale Higgins, for the sum of \$2,847.38, and that such debt shall be determined to be a nondischargeable debt. Interest shall accrue on the judgment from the date of entry. Court costs are assessed against the defendant.



[Seal of the U.S. Bankruptcy Court]
Date of Issuance: January 10, 1992

BARBARA A. EVERLY
Clerk of Bankruptcy Court

By: *Michael J. Melloy*
Deputy Clerk

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JAN 10 1992

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

BARBARA A. EVERLY, CLERK

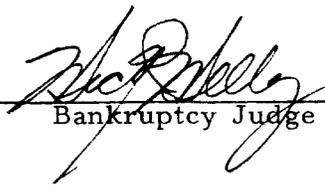
IN RE:)	
)	
GREGORY DALE HIGGINS,)	
)	
Debtor.	)	Bankruptcy Case No.
	)	L091-01118-C
FIRSTAR BANK CEDAR)	
RAPIDS, N.A.,	)	Adversary Proceeding No.
f/k/a The Merchants National	)	L-91-0200-C
of Cedar Rapids, Iowa,)	
)	
Plaintiff.)	
)	
vs.)	
)	
GREGORY DALE HIGGINS,)	
)	
Defendant.)	

JUDGMENT BY DEFAULT

Default was entered against defendant, Gregory Dale Higgins, on DEC. 26, 1991. Therefore, on motion of the plaintiff, judgment is entered against the defendant in favor of the plaintiff as follows:

IT IS ORDERED THAT: judgment shall be entered in favor of the plaintiff, Firststar Bank Cedar Rapids, N.A., f/k/a The Merchants National Bank of Cedar Rapids, Iowa, and against the defendant, Gregory Dale Higgins, for the sum of \$2,847.38, and that such debt shall be determined to be a nondischargeable debt. Interest shall accrue on the judgment from the date of entry. Court costs are assessed against the defendant.

1/10/92
Date


Bankruptcy Judge

Copy w/Judgment to:
Lynn Wickham Hartman;
U.S. trustee
Linzy E. Martin,
this January 10, 1992 mg

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

IN RE:)	
)	
GREGORY DALE HIGGINS,)	
)	
Debtor.)	
	)	Bankruptcy No. L-91-01118-C
<u>FIRSTAR BANK CEDAR RAPIDS,</u>)	
N.A., f/k/a The Merchants)	
National Bank of Cedar	)	Adversary No. L-91-0200-C
Rapids, Iowa,)	
)	
Plaintiff,	)	AFFIDAVIT
)	
vs.)	
)	
GREGORY DALE HIGGINS,)	
)	
Defendant.)	
)	
STATE OF IOWA)	
)	
COUNTY OF LINN)	

I, Lynn Wickham Hartman, being first duly sworn upon oath, do depose and state pursuant to §1924, Title 28, U.S. Code:

1. I am the attorney for the Plaintiff in this cause of action.

2. As stated on the attached Bill of Costs, the sum of \$120 was incurred for fees to the Clerk. This amount was advanced to the United States Bankruptcy Court for the filing fee of the adversary complaint.

3. Further, I have made inquiry to determine the military status of the Defendant and to the best of my knowledge and belief, the Defendant is not presently, and was not at the commencement of this action, a member of any branch of the military or naval services of the United States or serving in the Armed Forces of any other country with which the United States may be allied.

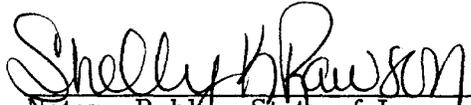
4. I have further made inquiry and have determined that the Defendant is not and was not at the commencement of this action an infant, was not under any legal disability and was not a prisoner in a reformatory or penitentiary.

WHITE & JOHNSON, P.C.
1715 First Avenue S.E.
P.O. Box 607
Cedar Rapids, Iowa 52406
(319) 364-0900

BY: 
LYNN WICKHAM HARTMAN

ATTORNEY FOR PLAINTIFF

Subscribed and sworn to before me this 29th day of January,
1992.


Notary Public, State of Iowa

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

MAR 6 1992

IN RE:)
)
GREGORY DALE HIGGINS,)
)
Debtor.)
)
FIRSTAR BANK CEDAR)
RAPIDS, N.A.,)
f/k/a The Merchants National)
Bank of Cedar Rapids, Iowa,)
)
Plaintiff,)
)
vs.)
)
GREGORY DALE HIGGINS,)
)
Defendant.)

BARBARA A. EVERLY, CLERK

Chapter 7
No. L-091-01118-C

Adversary No.
L-91-0200-C

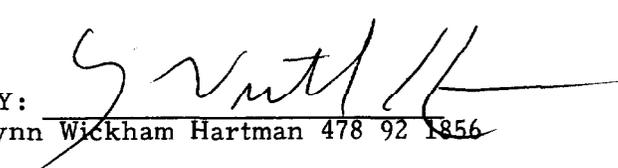
PRECIPE FOR WRIT
OF EXECUTION

Firstar Bank Cedar Rapids, N.A., f/k/a The Merchants National Bank of Cedar Rapids, Iowa, respectfully requests that the Clerk of the United States Bankruptcy Court for the Northern District of Iowa, issue a Writ of Execution against the above-mentioned Defendant based upon the judgment rendered in the above-mentioned cause, on the 10th day of January, 1992. The terms of that judgment are outlined on the Declaration attached hereto.

The total amount due as of February 25, 1992, is \$2,980.55.

Respectfully submitted,

WHITE & JOHNSON, P.C.
1715 First Avenue S.E.
P.O. Box 607
Cedar Rapids, Iowa 52406
(319) 364-0900

BY: 
Lynn Wickham Hartman 478 92 1856

ATTORNEY FOR PLAINTIFF

Copy handed to
filing attorney
on date filed *RH*

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DECLARATION

I, Lynn Wickham Hartman, state that I am the attorney for the Plaintiff, Firststar Bank Cedar Rapids, N.A., f/k/a The Merchants National Bank of Cedar Rapids, Iowa; that I make this unsworn declaration pursuant to Title 28 U.S.C. § 1746; that Firststar Bank Cedar Rapids, N.A. recovered a judgment against the Defendant in the sum of \$2,847.38, plus interest accruing thereafter at the rate of 4.02% plus costs in the amount of \$120.00 for a total indebtedness of \$2,980.55 as of February 25, 1992.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/4/92


LYNN WICKHAM HARTMAN

United States Bankruptcy Court

Northern District of Iowa

In re

Gregory Dale Higgins

Bankruptcy Case No.
L-091-01118-C

Debtor

Firststar Bank Cedar Rapids, N.A.,
f/k/a The Merchants National Bank of
Plaintiff Cedar Rapids, Iowa

Adversary Proceeding No.
L-91-0200-C

v.

Gregory Dale Higgins

Defendant

WRIT OF EXECUTION TO THE UNITED STATES MARSHAL

Name and Address of Judgment Creditor
Firststar Bank Cedar Rapids, N.A. 222 2nd Avenue S.E. Cedar Rapids, Iowa 52401

Amount of Judgment:
\$ 2,847.38

Clerk's Fee:
\$ 120.00

Other Costs:
\$ _____

vs.

Name and Address of Judgment Debtor
Gregory Dale Higgins 217 Anderson Street Manchester, Iowa 52057

Interest From: January 10, 1992
\$ 13.17 (through February 25, 1992)

Costs of this writ:
\$ _____

TO THE UNITED STATES MARSHAL FOR THE Northern **DISTRICT OF** Iowa :

You are directed to levy upon the property of the above named judgment debtor to satisfy a money judgment in accordance with the attached instructions.

TO THE JUDGMENT DEBTOR:

You are notified that federal and state exemptions may be available to you and that you have a right to seek a court order releasing as exempt any property specified in the marshal's schedule from the levy.

March 6, 1992
Date

Jean L. Hohl
for **BARBARA A. EVERLY**
Clerk of the Bankruptcy Court

UNITED STATES MARSHAL'S RETURN

I received this writ on _____, and executed the same on _____
(date) (date)

United States Marshal

By: _____
Deputy Marshal

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*Original mailed to Atty for Plaintiff
L. Jan Weeks, Herndon P.O. Box 607
Cedar Rapids, Ia 52406 on 3-6-92 mg*

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN
See Instructions for "Service of Process by the U.S. Marshal"
on the reverse of this form.

PLAINTIFF Firstar Bank Cedar Rapids, N.A.	COURT CASE NUMBER Bkcy L-091-01118C; Adv. L-91-0200
DEFENDANT Gregory Dale Higgins	TYPE OF PROCESS Writ of Execution

SERVE  **AT**

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
Chicago and North Western Transportation

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)
4900 Edgewood Road S.W., Cedar Rapids, Iowa 52404

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:

Lynn Wickham Hartman
WHITE & JOHNSON, P.C.
P.O. Box 607
Cedar Rapids, Iowa 52406

Number of process to be served with this Form - 285	
Number of parties to be served in this case	
Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):
Fold

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

APR - 7 1992

BARBARA A. EVERLY, CLERK

Signature of Attorney or other Originator requesting service on behalf of:
Lynn Wickham Hartman

PLAINTIFF
 DEFENDANT

TELEPHONE NUMBER
319-364-0900

DATE
3/4/92

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin No. 29	District to Serve No. 29	Signature of Authorized USMS Deputy or Clerk <i>jac</i>	(1)	Date 4-3-92
--	---------------	---------------------------	--------------------------	--	-----	----------------

I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above)
Pete Brandt

Address (complete only if different than shown above)

A person of suitable age and discretion then residing in the defendant's usual place of abode.

Date of Service
04/06/92

Time
9:00 am

Signature of U.S. Marshal or Deputy
Matthew R. [unclear]

Service Fee 40	Total Mileage Charges (including endeavors) 2.50	Forwarding Fee	Total Charges 42.50	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
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REMARKS:

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United States Bankruptcy Court

Northern District of Iowa

In re

Gregory Dale Higgins

Bankruptcy Case No.
L-091-01118-C

Debtor

Firststar Bank Cedar Rapids, N.A.,
f/k/a The Merchants National Bank of
Plaintiff Cedar Rapids, Iowa

Adversary Proceeding No.
L-91-0200-C

v.

Gregory Dale Higgins

Defendant

WRIT OF EXECUTION TO THE UNITED STATES MARSHAL

Name and Address of Judgment Creditor
Firststar Bank Cedar Rapids, N.A. 222 2nd Avenue S.E. Cedar Rapids, Iowa 52401

Amount of Judgment:
\$ 2,847.38

Clerk's Fee:
\$120.00

Other Costs:
\$

vs.

Name and Address of Judgment Debtor
Gregory Dale Higgins 217 Anderson Street Manchester, Iowa 52057

Interest From: January 10, 1992
\$ 13.17 (through February 25, 1992)

Costs of this writ:
\$

TO THE UNITED STATES MARSHAL FOR THE Northern **DISTRICT OF** Iowa :

You are directed to levy upon the property of the above named judgment debtor to satisfy a money judgment in accordance with the attached instructions.

TO THE JUDGMENT DEBTOR:

You are notified that federal and state exemptions may be available to you and that you have a right to seek a court order releasing as exempt any property specified in the marshal's schedule from the levy.

March 6, 1992
Date

Jan L. Hibel
for BARBARA A. EVERLY
Clerk of the Bankruptcy Court

UNITED STATES MARSHAL'S RETURN

I received this writ on _____, and executed the same on _____.
(date) (date)

United States Marshal

By: _____
Deputy Marshal

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:)	
)	
GREGORY DALE HIGGINS,)	
)	
Debtor.	)	Chapter 7
	)	No. L-91-01118-C
FIRSTAR BANK CEDAR)	
RAPIDS, N.A.,	)	Adversary No.
f/k/a The Merchants National	)	L-91-0200-C
Bank of Cedar Rapids, Iowa,)	
)	
Plaintiff,)	
	)	NOTICE OF GARNISHMENT
vs.)	
)	
GREGORY DALE HIGGINS,)	
)	
Defendant.)	

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY NOTIFIED that a garnishment was issued based on a judgment against you and the garnishment was served on Chicago and Northwestern Transportation, who is required to answer whether or not it is indebted to you.

YOU ARE FURTHER NOTIFIED that, unless you file a Motion, Answer, or other appropriate pleading to contest the garnishment within ten (10) days from the date this Notice was served on you which explains why you think the property garnished is exempt from execution under state or federal law, a Court Order will be entered condemning the property or funds and the funds will be applied against the judgment. Some examples of exempt funds may include Social Security Benefits, A.F.D.C., general assistance, Veteran's Benefits and unemployment compensation. These examples are not a complete list and are not meant to be.

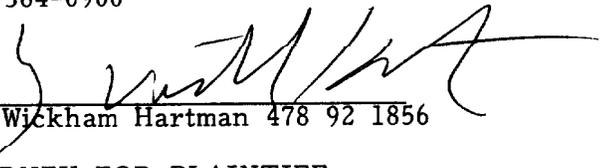
ANY Motion, Answer or other pleading that you file to contest the Garnishment must be filed in the office of the Clerk of the United States Bankruptcy Court for the Northern District of Iowa, 8th Floor, Ground Transportation Center, Cedar Rapids, Iowa. If you file to contest the Garnishment, a prompt hearing will be set and you will be notified of the hearing. At the hearing, you should be ready to explain to the Judge why you believe your property is exempt from the Garnishment.

Section 642.14 of the Iowa Code requires that you be told the exact language of Section 630.3A of the Iowa Code. That Section reads:

At any time after the rendition of judgment the court, upon application of the judgment creditor or the judgment debtor and upon notice of the adverse party as the court shall direct, shall conduct a hearing to determine the reasonably expected annual earnings of the judgment debtor for the current calendar year and the applicable limitation upon garnishment as provided in Section 642.21. The court shall also consider in the interest of justice whether a greater amount than provided in Section 642.21 shall be exempt from garnishment. In making the determination, the court shall consider the age, number and circumstances of the dependents of the debtor, existing federal poverty level guidelines, the debtor's maintenance and support needs, the debtor's other financial obligations and any other relevant information. Any order reducing the garnishment may be modified or vacated upon the application of a party to the court, notice to the adverse party, and a showing at a hearing of changed circumstances. An additional filing fee shall not be assessed for proceedings under this section.

YOU MAY WISH TO CONSULT A LAWYER FOR ADVICE AS TO THE MEANING OF THIS NOTICE.

WHITE & JOHNSON, P.C.
1715 First Avenue S.E.
P.O. Box 607
Cedar Rapids, Iowa 52406
(319) 364-0900

BY: 
Lynn Wickham Hartman 478 92 1856

ATTORNEY FOR PLAINTIFF

QUESTIONS TO BE ANSWERED BY THE APR 10 1992 REQUIRED BY PROVISIONS OF CHAPTER 642,
CODE OF IOWA:

Is the defendant employed by you at this time? ^{BARBARA A. EVERLY, CLERK} Yes _____ No X

1. Are you in any manner indebted to the defendant in this suit, NO,
or do you owe him money or property which is not yet due? If so, state
particulars: NO

2. Have you in your possession or under your control any property, rights or
credits of the said defendant? If so, what is the value of same? NO

3. Do you know of any debts owing the said defendant, whether due or not due, or
any property, rights or credits belonging to him and now in the possession or
under control of others? If so, state particulars: NO

4. Do you compensate the defendant in this suit for any personal services whether
denominated as wages, salary, commission, bonus or otherwise, including periodic
payments pursuant to a pension or retirement program? If so, state the amount
of the compensation reasonably anticipated to be paid defendant during the
calendar year: NO

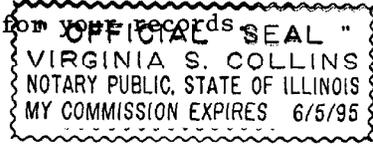
I do solemnly swear/affirm under penalty of perjury, that I have made full and
true answers to the above questions touching the matter wherein I have been
attached as garnishee.

Garnishee CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY By: MARCELA L. BOVEN
^{165 N. CADOL, CHICAGO, IL 60606}
Subscribed and sworn to before me this 10th day of APRIL 1992. ^{LAW DEPT}

By: Virginia S. Collins
UNITED STATES MARSHAL ^{DEPUTY} NOTARY PUBLIC

NOTE: After completing this form retain Copy Number 4 for your records

Return Copy Number 1 along with any funds to:
Clerk, U. S. Bankruptcy Court
P. O. Box 74890
Cedar Rapids, Iowa 52407



Return Copies 2 and 3 in the enclosed envelope to:
U. S. Marshals Service
101 First Street, SE
Cedar Rapids, IA 52401

UNITED STATES MARSHALS SERVICE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
Cedar Rapids DIVISION

Firststar Bank Cedar Rapids, N.A.,)
f/k/a The Merchants National Bank)
Plaintiff, of Cedar Rapids, Iowa)
vs.)
Gregory Dale Higgins)
Defendant(s).)

BKY NO. L-91-01118-C
Adv. No. L-91-0200-C
NOTICE OF GARNISHMENT
AND INTERROGATORIES

TO Chicago and Northwestern Transportation, 4900 Edgewood Road S.W.,
Cedar Rapids, Iowa 52404
as garnishee herein and as supposed debtor of Gregory Dale Higgins

YOU ARE HEREBY NOTIFIED, that you are attached as garnishee, in the above-entitled action, by virtue of a Writ of Execution to me directed by the Clerk of said Bankruptcy Court for the sum of \$ 2,980.55 judgment, plus costs and interest from date of said judgment, and that you are required not to pay any non-exempt funds due or hereinafter to become due, by you to said defendant, subject to the provisions of Chapter 642, Code of Iowa any amendments thereto; and Section 1672 and 1673 of Title 15, U.S. Code and that you must remand possession of all non-exempt funds of said defendant(s) now or hereafter being in your custody or under your control, to the Clerk, U.S. Bankruptcy Court, Northern District of Iowa, P.O. Box 74890 Cedar Rapids, Iowa 52407, Phone: (319) 362-9696.

SEE ATTACHED INSTRUCTIONS TO GARNISHEE FOR ADDITIONAL INFORMATION.

And you are further notified and requested to file full sworn answers to below questions with the Clerk of the U.S. Bankruptcy Court, within 14 days from the date of service, or you may be liable to pay entire judgment which said plaintiff may obtain against said defendant.

For your information the
Attorney for Plaintiff is
Lynn Wickham Hartman
WHITE & JOHNSON, P.C.
1715 First Avenue SE
P.O. Box 607
Cedar Rapids, Iowa 52406
(319) 364-0900

James P. Jonker
UNITED STATES MARSHAL
101 First Street, SE
Cedar Rapids, IA 52401
Phone: (319) 362-4411

By: Matthew R. Kresan