

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

CATTARAUGUS COUNTY BANK

ORDER

v.

11-CV-00611-LJV

WILLIAM L. RAINES, and
MARLENE P. RAINES

WHEREAS, plaintiff Cattaraugus County Bank commenced an action and obtained an ex parte Order of Attachment in New York State Supreme Court for the County of Chautauqua relative to the proceeds of sale from real property owned by defendant Marlene Raines, and

WHEREAS, the proceeds of sale in the amount of \$152,586.75 have been and continue to be held in escrow by Peter Clark, Esq., and

WHEREAS, defendants removed the action to this Court on July 19, 2011 based on diversity of citizenship (Docket No. 1), and

WHEREAS, plaintiff filed a motion to confirm the Order of Attachment pursuant to CPLR 6211 or, in the alternative, remand this matter to state court on July 28, 2011 (Docket No. 9), defendants filed opposing papers (Docket No. 17), plaintiff filed reply papers in further support (Docket No. 21), and oral argument was held thereon (Docket No. 30),

NOW, IT HEREBY IS

ORDERED, that plaintiff's motions to confirm the Order of Attachment or, in the alternative, to remand this matter to state court are both DENIED, and it is further

ORDERED, that the ex parte Order of Attachment is vacated, and it is further

ORDERED, that Peter Clark, Esq. is directed to release the funds of Marlene Raines held in escrow via check payable to “Andrew Goodell, as attorney for Cattaraugus County Bank” in the amount of \$152,586.75 and it is further

ORDERED, that Peter Clark, Esq. is released from all responsibility and/or liability related to the ex parte Order of Attachment and/or funds of defendant Marlene Raines held in his possession as escrow agent.

SO ORDERED.

July 14, 2016

s/ Lawrence J. Vilaro
LAWRENCE J. VILARDO
United States District Court
Western District of New York