

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37**

CITIZENS BANK OF PENNSYLVANIA

Appellee

v.

SHEFFIELD LAW FIRM, LLC AND  
CHRISTOPHER SHEFFIELD

Appellants

IN THE SUPERIOR COURT OF  
PENNSYLVANIA

No. 1154 MDA 2012

Appeal from the Order Entered May 31, 2012  
In the Court of Common Pleas of Cumberland County  
Civil Division at No(s): 2011-7596

BEFORE: SHOGAN, J., OTT, J., and COLVILLE, J.\*

MEMORANDUM BY OTT, J.:

**FILED JUNE 04, 2013**

Sheffield Law Firm, LLC and Christopher Sheffield (collectively "Sheffield") appeal from the order entered on May 31, 2012 in the Court of Common Pleas of Cumberland County, which denied their petition to open judgment entered on March 2, 2012. On appeal, Sheffield contends the trial court erred in denying the petition after determining it failed to state a meritorious defense. After review of the certified record, briefs of the parties, and case law, we affirm.

On April 5, 2006, Sheffield and Citizens Bank of Pennsylvania ("Bank") entered into an agreement for a \$50,000.00 business line of credit loan. Sheffield executed and delivered a business credit application, which

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\* Retired Senior Judge assigned to the Superior Court.

incorporated a related business credit line agreement, to Bank. Under the terms of the contract, Sheffield had to make monthly payments to Bank. At some time prior to October 2011, Sheffield defaulted, by failing to tender timely payments when due, and on October 4, 2011, Bank filed a complaint alleging breach of contract. On November 15, 2011, Sheffield filed preliminary objections to the complaint. Bank filed its response to the preliminary objections on December 5, 2011. Thereafter on December 14, 2011, Bank filed a praecipe listing the case for January 6, 2012 argument. Sheffield did not appear for argument.<sup>1</sup> On January 9, 2012, the court overruled the preliminary objections. Sheffield did not file an Answer to the Complaint.

On March 2, 2012, Bank filed a praecipe for and was granted default judgment in the amount of \$27,557.63. Sheffield filed a petition to open judgment on March 12, 2012 and a hearing was held on May 16, 2012. By order entered on May 31, 2012 the trial court denied the petition to open judgment. This timely appeal followed.

Our standard of review is:

It is well settled that a petition to open a default judgment is an appeal to the equitable powers of the court, and absent an error of law or a clear, manifest abuse of discretion, it will not be

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<sup>1</sup> Sheffield does not dispute he received notice of the hearing. Rather Sheffield informed the court due to attending auctioneering school and moving his law office, he never read the notice of hearing. N.T., 5/16/2012, at 6, 11.

disturbed on appeal. An abuse of discretion occurs when a trial court, in reaching its conclusions, overrides or misapplies the law, or exercises judgment which is manifestly unreasonable, or the result of partiality, prejudice, bias or ill will.

Generally speaking, a default judgment may be opened if the moving party has (1) promptly filed a petition to open the default judgment, (2) provided a reasonable excuse or explanation for failing to file a responsive pleading, and (3) pleaded a meritorious defense to the allegations contained in the complaint. Moreover, we note the trial court cannot open a default judgment based on the "equities" of the case when the defendant has failed to establish all three of the required criteria.

***Myers v. Wells Fargo Bank, N.A.***, 986 A.2d 171, 175-176 (Pa. Super. 2009) (citations omitted).

It has long been established that:

A petition to open judgment is governed by equitable principles and is addressed to the sound discretion of the court, whose dispositive order in connection therewith will not be disturbed on appeal unless a clear abuse of that discretion appears. To open a judgment, the petitioner must aver a valid defense and also establish the existence of equitable considerations which impress the court with the need for relief. A judgment will not be opened on a mere technical ground or to enable the defendant to interpose a technical defense. **Additionally, the meritorious defense must be set forth in specific and clear terms in the petition.**

***Liberty Nat. Bank of Pittston v. Degillio***, 176 A.2d 446, 447 - 448 (Pa. 1962)(internal citations omitted)(emphasis added). Sheffield's petition to open avers:

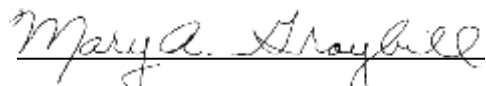
1. Plaintiff [Bank] filed a Civil Action in this matter on October 4, 2011 and Defendants [Sheffield] filed Preliminary Objections thereto.
2. The Court overruled Plaintiff's [sic] [Bank's] Preliminary Objections by Order dated January 9, 2012.

3. Plaintiff [Bank] took Judgment by Default on March 2, 2012.
4. Defendants [Sheffield] have attached hereto a verified copy of the Answer which Petitioners [Sheffield] wish to file.
5. Pursuant to Pennsylvania Rules of Civil Procedure Rule 237.3, Petitioners [Sheffield] hereby request that the Judgment entered in this matter be opened and the Prothonotary strike the judgment from the docket.

Petition to Open Judgment, 3/12/2012 at 1. The petition is devoid of any specific and clear facts to evidence a meritorious defense. However, Sheffield contends we must consider the Answer attached to the petition, which allegedly contains the meritorious defense. We have reviewed the proposed Answer and have concluded the trial court correctly analyzed each averment and found no meritorious defenses. **See** Trial Court Opinion, 10/8/2012 at 6-8.<sup>2</sup> Because the determination of what constitutes a meritorious defense rests with the trial court, and finding no error of law or abuse of discretion, the issue on appeal fails.

Order affirmed.

Judgment Entered.

  
Deputy Prothonotary

Date: 6/4/2013

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<sup>2</sup> Sheffield failed to include a copy of this opinion in his Appellant's Brief as required by Pa.R.A.P. 2111(b). We attach a copy of the trial court's Pa.R.A.P. 1925(a) opinion.

CITIZENS BANK OF PENNSYLVANIA,  
Plaintiff

v.

SHEFFIELD LAW FIRM, LLC AND  
CHRISTOPHER SHEFFIELD,  
Defendants



IN THE COURT OF COMMON PLEAS  
OF THE NINTH JUDICIAL DISTRICT

11-7596 CIVIL ACTION

**IN RE: OPINION PURSUANT TO PA.R.A.P. 1925**

Placey, C.P.J., 8 October 2012.

In this assumpsit action, Defendants filed an appeal with the Superior Court from an Order of Court denying Defendants' Petition to Open Judgment, in which this court found that Defendants failed to assert a meritorious defense to compel the opening of the judgment against them. In Defendants' Concise Statement of Matters Complained of on Appeal, the sole issue raised is whether the court "erred in determining that the Answer filed by Defendants with the Petition to Open Judgment was not meritorious."<sup>1</sup> This opinion in support of the court's denial of Defendant's Petition to Open Judgment is written pursuant to Pennsylvania Rule of Appellate Procedure 1925(a).

**STATEMENT OF FACTS**

Defendant Sheffield Law Firm, LLC executed a Business Credit Application (Application) and Business Credit Line Agreement (Credit Agreement) on 5 April 2006 through Plaintiff, Citizens Bank of Pennsylvania.<sup>2</sup> In conjunction with the Application

<sup>1</sup> Concise Statement of Matters Complained of on Appeal, filed 17 July 2012.

<sup>2</sup> Plaintiff's Complaint, ¶ 4, filed 4 Oct. 2011 (hereinafter Cmplt, ¶ \_\_\_).

and Credit Agreement, Defendant Christopher Sheffield executed a Guaranty Agreement to pay Defendant Sheffield Law Firm, LLC's obligations under the Application and Credit Agreement, should the firm be unable to meet its obligations.<sup>3</sup> Defendant Sheffield Law Firm, LLC defaulted under the terms of the Credit Agreement by failing to make payments, and, subsequently, Defendant Christopher Sheffield defaulted under the terms of the Guaranty Agreement, leaving an outstanding balance of \$27,557.63 as of 17 August 2011.<sup>4</sup> On 4 October 2011, Plaintiff brought an action against Defendants for breach of contract, requesting compensatory damages, attorneys' fees, interest, and any other relief the court deemed appropriate.<sup>5</sup>

On 15 November 2011, Defendants filed Preliminary Objections to Complaint.<sup>6</sup> On 14 December 2011, counsel for Plaintiff filed a Praecipe for Listing Case for Argument.<sup>7</sup> Defendants failed to appear at the oral argument on their preliminary objections. The preliminary objections were overruled on 9 January 2012.<sup>8</sup>

Plaintiff filed a Praecipe for Default Judgment on 2 March 2012, due to Defendants' failure to file an answer to Plaintiff's Complaint.<sup>9</sup> Default judgment was entered by the Prothonotary on 2 March 2012, in the amount of \$27,557.63, including interest at a rate of \$4.28 per diem, late charges, and attorneys' fees and costs.<sup>10</sup> On

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<sup>3</sup> Cmpl, ¶ 7.

<sup>4</sup> Cmpl, ¶ 10.

<sup>5</sup> Cmpl.

<sup>6</sup> Defendants' Preliminary Objections to Complaint, filed on 15 Nov. 2011.

<sup>7</sup> Praecipe for Listing Case for Argument, filed 14 Dec. 2011.

<sup>8</sup> Order of Court, filed 9 Jan. 2012.

<sup>9</sup> Praecipe for Default Judgment, filed 2 Mar. 2012.

<sup>10</sup> Praecipe for Default Judgment, filed 2 Mar. 2012.

12 March 2012, Defendants filed a Petition to Open Judgment. The Petition stated, in its entirety:

1. Plaintiff filed a Civil Action in this matter on October 4, 2011 and Defendants filed Preliminary Objections thereto.
2. The Court overruled Plaintiff's Preliminary Objections by Order dated January 9, 2012.
3. Plaintiff took Judgment by Default on March 2, 2012.
4. Defendants have attached hereto a verified copy of the Answer which Petitioners wish to file.
5. Pursuant to Pennsylvania Rules of Civil Procedure Rule 237.3, Petitioners hereby request that the Judgment entered in this matter be opened and the Prothonotary strike the judgment from the docket.<sup>11</sup>

Defendants' Petition did not go further to state any reason for opening judgment, but did attach an Answer to the Petition. Defendants' Answer responded to the allegations set forth in Plaintiff's Complaint, without raising any grounds for opening the judgment.<sup>12</sup>

The Answer claims the following: (1) the copies of the contract attached to the Plaintiff's Complaint were not legible;<sup>13</sup> (2) Plaintiff closed Defendant Sheffield Law Firm LLC's checking account without notice;<sup>14</sup> (3) Defendant Chris Sheffield did not act outside the

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<sup>11</sup> Defendant's Petition to Open Judgment, filed 12 Mar. 2012 (hereinafter Petition to Open, ¶ \_\_). It is noted that the court overruled **Defendants'** Preliminary Objections by Order of Court dated 9 January 2012.

<sup>12</sup> Defendants' Answer, *attached to* Petition to Open (hereinafter Answer, ¶ \_\_).

<sup>13</sup> Answer, ¶ 4.

<sup>14</sup> Answer, ¶¶ 5, 8-11, 14.

scope of his employment with Defendant Sheffield Law Firm, LLC;<sup>15</sup> (4) Plaintiff violated banking regulations;<sup>16</sup> (5) Plaintiff breached the contract;<sup>17</sup> and (6) Plaintiff did not act in good faith.<sup>18</sup>

A hearing was held on Defendants' Petition on 16 May 2012 before the undersigned judge. On 31 May 2012, Defendants' Petition to Open Judgment was denied for failure to state a meritorious defense.<sup>19</sup> Defendants filed their Notice of Appeal on 25 June 2012.<sup>20</sup>

### DISCUSSION

The Supreme Court of Pennsylvania has stated that default judgments are to be opened only when the petition is promptly filed, a meritorious defense to the underlying claim is alleged, and there is a reasonable excuse as to why the party failed to act upon the original complaint. *McFarland v. Whitham*, 544 A.2d 929, 930 (Pa. 1988).

Pennsylvania Rule of Civil Procedure 237.3 further clarifies as follows: "[i]f the petition is filed within ten days after the entry of the judgment on the docket, the court shall open the judgment if the proposed complaint or answer states a meritorious cause of action or defense." Pa.R.C.P. No. 237.3(b).

A meritorious claim is a defense that the court believes could be successful if brought before a jury; however, by opening judgment, the court is not necessarily

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<sup>15</sup> Answer, ¶¶ 7-10, 17.

<sup>16</sup> Answer, ¶¶ 8-10, 17.

<sup>17</sup> Answer, ¶¶ 8-10, 12-13, 17.

<sup>18</sup> Answer, ¶¶ 11, 16.

<sup>19</sup> Order of Court, filed 31 May 2012.

<sup>20</sup> Notice of Appeal, filed 25 June 2012.



indicating that the defense will be successful. **Duffy v. Gerst**, 429 A.2d 645, 652 (Pa. Super. 1981); See **Reid v. Booher**, 856 A.2d 156 (Pa. Super. 2004). To demonstrate that a claim could be meritorious, a defendant must show “more than mere conflict of evidence, or oath against oath, but such evidence as would persuade the court that, upon submission of the issue to a jury, a verdict in their favor could be upheld.” **Ehnes v. Wagner**, 130 A.2d 171, 172 (Pa. 1957), citing **Ahrens v. Goldstein**, 102 A.2d 164, 167 (Pa. 1954). The **Ehnes** Court further explained that “the petitioner must not only aver a valid defense but he must also establish equitable considerations which impress the court with the need for relief.” *Id.* Equitable considerations go beyond technical defenses and “must be set forth in precise, specific, clear and unmistakable terms.” **Brown & Bigelow, Inc. v. Borish**, 67 A.2d 823, 825 (Pa. Super. 1949).

Determining what constitutes a meritorious defense is within the sole discretion of the court, which will not be overturned on appeal unless there was a clear abuse of discretion. **Liberty Nat’l Bank of Pittston v. Degillio**, 176 A.2d 446, 447 (Pa. 1962). A court abuses its discretion when “the law is overridden or misapplied,” not when another court could have reasonably reached a different conclusion. **Brown**, 67 A.2d at 825. The requirement of a meritorious defense is one that, if properly pled and subsequently proven at trial, would justify the relief requested. **Penn-Delco School Dist. v. Bell Atlantic-PA, Inc.**, 745 A.2d 14, 19 (Pa. Super. 1999) (citations omitted). The party asserting the defense does not have to provide evidence of every element, but must plead the defense in “precise, specific and clear terms.” *Id.*

In Pennsylvania, the duty of good faith has been recognized in limited situations. However, this Court has held that a lending institution does not violate a separate duty of good faith by adhering to its

agreements with a borrower or enforcing its contractual rights as a creditor. See **Corestates Bank, N.A. v. Cutillo**, 723 A.2d 1053 (Pa. Super. 1999);

**Heritage Surveyors & Engineers, Inc. v. National Penn Bank**, 801 A.2d 1248, 1253 (Pa. Super. 2002)

*Application of law to facts.* As the default judgment was entered on 2 March 2012, and the Petition to Open Judgment was filed on 12 March 2012, Defendants satisfied the timeliness requirement of Rule 237.3(b), and it was accordingly deemed to be prompt. Thus, the sole issue to be determined is whether Defendants' Petition to Open Judgment stated a meritorious claim.

Assuming *arguendo* that legibility of a contract attached to a complaint is a defense, the contract was read, albeit with difficulty, in its entirety, and thus, this allegation is not meritorious. Gleaned from reading the Application pages provided was that Defendants are a criminal defense and personal injury law firm, that the business or principal had previously declared bankruptcy in 1995, and that Defendant Christopher Sheffield had signed the Application twice, as both the member of the firm and personal guarantor.

In reading the Credit Agreement attached to the Complaint, it provided for "Cash Collateralization" and default procedures that Plaintiff could follow upon nonpayment. Defendants now strain to change the implementation of these procedures as a defense, which is specious. Clearly, alleging that Plaintiff acted in comportment with the terms of the contract is not a meritorious defense.

The guarantor language in the Application, whereby Mr. Sheffield "agrees and accepts to be bound by the Documents," obviates any proof by Plaintiff that the

guarantor acted outside the scope of his status as a member of the law firm. The allegation that proof of going beyond the scope of one's employment is needed is not a meritorious defense in this contract action.

Defendants allegation that Plaintiff violated banking regulations, specifically IOLTA, is not precise, specific, or in clear terms upon which a meritorious defense can be found. IOLTA is neither a banking regulation nor is any IOLTA regulation of lawyers' professional conduct applicable to Plaintiff. Hence, it is not capable of being claimed as a defense in this action.

Defendants' claim that Plaintiff somehow breached the contract is not supported in the Answer. The specifics on how Plaintiff breached is silent in the Answer, and, unlike in the trespass case of *Reid* where alleging someone else caused the accident is sufficient for raising a meritorious defense, mere allegations of a breach are insufficient in an assumpsit action. If the purported defense is that Plaintiff breached by following the terms of the Credit Agreement, then the reasons for finding Defendants failed to state a meritorious defense are set out above. If Defendants are claiming that the breach was caused by some other action on the part of Plaintiff, those reasons beyond "conditions and obligations under the" Credit Agreement, such reasons are not clearly and succinctly found in the Answer.

Finally, the allegation that Plaintiff acted somehow in bad faith by not finalizing negotiations with Defendants, and instead acted in comportment with the terms of the Credit Agreement, is not a meritorious defense. Defendants may have couched the allegation in the Answer that it was Plaintiff's good faith duty to negotiate and finalize a

settlement, which may be Defendants ultimate desire, but Plaintiff is under no contractual obligation to go above and beyond the terms of the Credit Agreement.

It is clear from the pleadings, testimony, and argument that Defendants wish to be in a position of equal footing when negotiating a settlement and are using the legal system in an attempt to gain this advantage. Plaintiff seeks to limit that positional strategy by not agreeing to open the judgment. On the merits of the Petition, there is neither a conflict of evidence nor a valid defense that cries out for relief warranting the opening of this judgment.

After a careful review of the record, including Defendants' proposed Answer attached to the Petition to Open Judgment, the court was unable to conclude that the Answer provided a meritorious defense. Similarly, neither the Petition to Open Judgment, nor the Answer, clearly and precisely provided equitable considerations that should have been weighed when ruling on Defendants' Petition. As such, the Petition lacks any equitable considerations warranting opening of the judgment. In its discretion, this court concluded that from this lack of evidence, Defendants failed to set forth a meritorious defense to the underlying claim. Accordingly, the court properly denied Defendants' Petition to Open Judgment.

**CONCLUSION**

Based on the foregoing discussion, Defendants' Petition to Open Judgment was properly denied.

BY THE COURT



Thomas A. Placey,

C.P.J

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