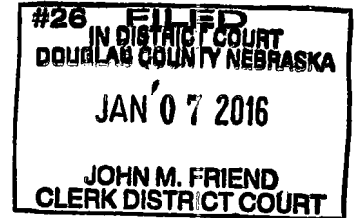


IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

MAPLE STREET INVESTMENTS, INC., )  
Plaintiff, )  
vs. )  
DOUBLE D PROPERTIES, LLC, and )  
PLAINTIFF'S )  
Defendants, )  
and, )  
NEW ERA EXCAVATION COMPANY, )  
Garnishee. )

DOCKET 1090 PAGE 770  
Case No. CI10-9380789

ORDER AND JUDGMENT  
ON PLAINTIFF'S APPLICATION  
TO DETERMINE GARNISHEE  
LIABILITY



THIS MATTER came before the Court on the 19th day of October, 2015, on Plaintiff's Application to Determine Garnishee liability.

Plaintiff appeared through its counsel, Jay A. Ferguson, and Garnishee

appeared through its counsel, Aaron Smeall. No other appearance(s) made. Parties were given leave to submit written argument and authority. Plaintiff reply brief was received on or about December 18, 2015. At that time the court took the matter under advisement.

The parties announced a stipulation on the record that Exhibits 100 through 120, inclusive, be received on both dockets and on behalf of both parties, and the matter submitted on that record, with briefing dates as agreed. The Court accepted that stipulation, and Exhibits 100 through 120 were received and the pleadings considered. Both parties then rested.

This matter now comes before the Court for consideration. The Court generally finds in Plaintiff's favor on the application.

It is undisputed that judgment was entered against David Doll in the amount of \$111,037.81 on January 30, 2012, an Affidavit and Praecept for Summons in Garnishment was filed, a Notice to Debtor was mailed to David Doll, Garnishee was served with the garnishment, Garnishee answered



the garnishment Interrogatories, said answers were to be in compliance with §25-1026, and Plaintiff filed its Application to Determine Garnishee Liability, all in compliance with §25-1030 and §25-1030.01.

Earnings means "compensation for personal services owing, whether due or not, to the judgment debtor at the time the service of the Summons and Interrogatories, whether denominated as wages, salary, commissions, bonus or otherwise. The only deductions that an employer may deduct include "FIT, SIT and FICA". The Garnishee may only indicate in its answers a "Garnishment order", be it for the support of a person or not.

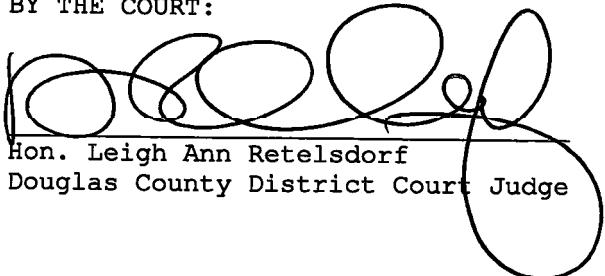
Garnishee made certain admissions, produced a Consulting Agreement, and undeniably failed to properly answer the Garnishment Interrogatories. Garnishee should have filled out the Interrogatories showing that David Doll was to receive earnings within the next 60 days, in the amount of \$1500.00 monthly, pro-ratable, with no deductions, since it is maintained that he is an independent contractor, for a line 7. total of \$1,500.00. This amount is subject to the garnishment at the rate of 25%, or \$375.00 monthly.

A Garnishee "owes a duty to act in good faith and answer fully and truthfully" and to properly disclose all relevant facts within its knowledge. *Petersen v. Central Park Properties*, 275 Neb. 220, 745 N.W.2d 884 (2008) Since the Garnishee failed to fulfill those duties by accurately indicating that earnings would be due within the next 60 days, Plaintiff was prevented, as a matter of law, from seeking a continuing lien pursuant to §25-1056(2), which would have been extended out, in the normal course, over a period of 6 months pursuant to §25-1056(3). Plaintiff has been damaged in the amount of \$2,250.00, minus \$67.50, or \$2,182.50.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff have and recover judgment against Garnishee, New Era Excavation Company, in the amount of \$2,182.50, plus all costs and continuing costs incurred, and interest according to law.

Dated this 7 day of January, 2016.

BY THE COURT:



Hon. Leigh Ann Retelsdorf  
Douglas County District Court Judge

Prepared and Submitted by:

Jay A. Ferguson #18059  
Attorney at Law  
1823 Harney Street #1016  
Omaha, Nebraska 68102  
Telephone (402) 346-1748

**CERTIFICATE OF SERVICE**

I, the undersigned, certify that on January 8, 2016 , I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Jay A Ferguson  
jayafergusonlaw@msn.com

Robert F Peterson  
robert.peterson@lp1law.com

Date: January 8, 2016

BY THE COURT:

*John M. Friend*  
CLERK

