

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife,

DOC. CC - 212 NO. 9452

Plaintiffs,

vs.

PETITION FOR FORECLOSURE
OF LAND CONTRACT
(Equity)

JUANITA M. DAYNER, U.S. SUPPLY
COMPANY, and THE UNITED STATES
OF AMERICA,

Defendants.

FILED
JUL 17 1976
DISTRICT COURT
WASHINGTON COUNTY
NEBRASKA

COME NOW the Plaintiffs and for their cause of action against the Defendants, and each of them, allege and state as follows:

1. Plaintiffs are residents of the State of Oklahoma. Defendant, Juanita M. Dayner, is a resident of Douglas County, Nebraska. Defendant, U.S. Supply Company, is a corporation doing business in Omaha, Douglas County, Nebraska.

2. On or about July 14, 1976, the Plaintiffs and John R. Methvin and Kie Methvin, as sellers, entered into a land contract whereby they agreed to sell to Defendant, Juanita M. Dayner, and John M. Travis certain real property located in Washington County, Nebraska and legally described as follows:

Lot 8, Surrey Hills, a subdivision of Tax Lot 22 and Tax Lot 23 in Section 35, Township 17 North, Range 12 East of the 6th P.M. in Washington County, Nebraska.

A copy of the written contract entered into between Plaintiffs and Defendant is attached hereto and marked Exhibit "A". At the time of the execution of the land contract, Plaintiffs herein were the lawful owners of the real property which was the subject matter of the land contract. The land contract was duly recorded in the Office of the Register of Deeds of Washington County, Nebraska on

the 4th day of August, 1976, in Book 109 at Page 448 of Miscellaneous Records of Washington County, Nebraska.

3. Pursuant to the terms and conditions of the land contract, Defendant, Juanita M. Dayner, and John M. Travis agreed to purchase the real property described above from Plaintiffs for the sum of Thirteen Thousand Nine Hundred Fifty Dollars (\$13,950.00) upon the following terms and conditions:

The sum of \$2,550.00 as a down payment with the balance of \$11,400.00 plus interest at the rate of 8½% per annum payable at the rate of \$141.35 per month for a period of 120 months commencing August 26, 1976.

The land contract further provided that Defendant, Juanita M. Dayner, and John M. Travis were bound to pay the annual real estate taxes upon the real property, which taxes for the years 1981, 1982, 1983 and 1984 are due, but Defendant, Juanita M. Dayner, has failed to pay the taxes.

4. The Defendant, Juanita M. Dayner, has defaulted in the terms and conditions of the land contract in that she has failed to timely pay installment payments from and after July 25, 1981, and pursuant to the land contract, Plaintiffs have elected to declare the entire amount of the unpaid purchase price and interest due and payable. Defendant has failed to pay the balance due and owing in the amount of \$5,833.80 to Plaintiffs by reason of the lawful acceleration of the full amount due under the land contract and there is now due and owing according to the terms of the land contract the sum of \$7,443.40 as of May 1, 1985, together with interest thereon at the rate of \$1.36 per day from and after May 1, 1985, plus taxes in the amount of \$485.72 and interest.

5. Under the terms of the land contract, Plaintiffs are entitled to the immediate possession of the real property.

6. Defendant, U.S. Supply Company, may claim to have some right, title, lien or interest in the above described real property by virtue of a judgment lien appearing at Doc. F, Page 286, but the interest of Defendant, U.S. Supply Company, is subject, junior and inferior to the interest of Plaintiffs in the real property.

7. Defendant, The United States of America, may claim to have some right, title, lien or interest in the above described real property by virtue of a federal tax lien filed against John M. Travis on September 26, 1984, but the interest of Defendant, The United States of America, is subject, junior and inferior to the interest of Plaintiffs in the real property.

8. Defendant, Juanita M. Dayner, is not a member of the Armed Forces of the United States or its allies.

9. No action has been brought at law or otherwise for the recovery of the balance claimed due by Plaintiffs or any part thereof.

WHEREFORE, Plaintiffs pray for an accounting of the amounts due from Defendants, and each of them, upon the land contract, together with interest thereon at the rate of eight and one-half percent (8½%) per annum; that the land contract be adjudged and decreed to be a first and paramount lien upon the real property which is the subject of the land contract; that the Defendants, and each of them, be ordered and directed to pay to Plaintiffs the sum so found due, with interest thereon, and in the event payment

is not made within twenty (20) days from the entry of such decree, the premises be judicially sold for the satisfaction of the balance due from Defendants as provided by law, and that the purchaser be put in peaceful possession thereof; that the right, title and interest, if any, of said Defendants be decreed to be junior and inferior to the rights of Plaintiffs and at all times subject thereto; that the Defendants, and each of them, be foreclosed of all right, title, interest and equity of redemption in or to the real property which is the subject of the land contract; that a Writ of Assistance issue directing the Sheriff of Washington County to place the purchaser at the aforesaid sale in possession of said premises; that the Plaintiffs recover their costs herein expended and that Plaintiffs have such other and further relief as the Court deems just and equitable.

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife, Plaintiffs

By Wesley E. Hauptman
Wesley E. Hauptman, #11746
ERICKSON & SEDERSTROM, P.C.
One Merrill Lynch Plaza
10330 Regency Parkway Drive
Omaha, Nebraska 68114
(402) 397-2200

I hereby certify this is a true copy of the record

on _____ office.

Mo. 4

Yr. 3¹/₂

Charlotta L. Petersen

BY *Barbara [unclear]*

448

No. 348 LAND CONTRACT

OMAHA PRINTING COMPANY

This Agreement, Made the 11th day of July A. D. 1976
between John R. Methvin and Hoshall E. Thomas

part. ies of the first part, and
John M. Travis, a single man, and Juanita M. Dayner, a single woman

part. ies of the second part.
WITNESSETH, That said part. ies of the first part agree to sell and convey to said part. ies of the second part,

for the price and upon the terms hereinafter mentioned, the following described real estate, situate in the County of
Washington and State of Nebraska, to wit:

Lot 8, Surrey Hills, a subdivision of tax lot twenty two (22) and Tax Lot
Twenty Three (23) in Section 35, Township 17 North, Range 12 East of the
6th P. M., Washington County, Nebraska

Said part. ies of the second part agree to purchase said real estate from said part. ies of the first part, and to pay
to them, as the purchase price for the same, the sum of Thirteen Thousand
Nine Hundred and Fifty Dollars (\$13,950.00) DOLLARS, in payment as follows:
Two Thousand Five Hundred Fifty and no/100 (\$2,550.00) upon signing this agreement
and the balance of Eleven Thousand Four Hundred and no/100 (\$11,400.00) to be paid
in 120 monthly installments of \$141.35 which includes 8¹/₂% interest amortized over
the 10 year period. Payments to begin on the 25th of August 1976 and each month
thereafter until paid in full.

All of said payments to bear interest at the rate of 8¹/₂% per cent per annum, payable
annually, until paid.

But if said sum of money or any part thereof, or any interest thereon, is not paid when the same is due, then in that case, the whole
of said sum and interest shall, and by this indenture does, immediately become due and payable; or if the taxes and assessments of every
nature, which are assessed or levied against said premises, are not paid at the time when the same are by law made due and payable, then
in like manner, the whole of said sum shall immediately become due and payable.

As soon as said purchase money and interest thereon shall be fully paid, said part. ies of the first part agree to
make, execute and deliver to said part. ies of the second part, a good and sufficient Warranty Deed conveying said real estate to

13-950-00
F. 3:07

PRAECIPE

HOSHALL E. THOMAS and OLETA
I. THOMAS, Husband and Wife,
Plaintiffs,

Washington
In District Court in and for ~~Douglas~~ County,
Nebraska.

vs.

JUANITA M. DAYNER, U.S. SUPPLY
COMPANY, and THE UNITED STATES
OF AMERICA,
Defendants.

Doc. *CC-212* No. *9452*

TO THE CLERK OF SAID COURT:

Please issue summons to attorney for plaintiffs for service upon
U.S. Supply Company by the Sheriff of Douglas County, Nebraska.

Please issue summons to attorney for plaintiffs for service
upon The United States of America and the U.S. Attorney General.

FILED
JAN 11 1968
CLERK OF DISTRICT COURT
WASHINGTON COUNTY
NEBRASKA

in the above entitled cause and deliver same to sheriff of said County.

NOTE TO ATTORNEYS:
Please specify beside each
defendant's name when requesting
a summons whether you elect
"Personal Service" or "Residence
Service."

DESIGNATE MODE OF SERVICE:
SHERIFF: Personal Service
CERTIFIED MAIL:

Wesley E. Hauptman
Wesley E. Hauptman
Address 40330 Regency Parkway Drive
Omaha, NE 68114
Attorney for Plaintiffs

THE STATE OF NEBRASKA, }
Washington County, } ss.

Docket CC Page 212 Case No. 9452

HOSHALL E. THOMAS & OLETA I. THOMAS,
Husband & Wife vs Plaintiff/Petitioner

SUMMONS

JUANITA M. DAYNER, U.S. SUPPLY CO. & U.S. OF A.
Defendant/Respondent

You are hereby notified THE UNITED STATES OF AMERICA

Defendant that you have been sued by HOSHALL E. THOMAS & OLETA I. THOMAS

Plaintiff in the District Court of the SIXTH Judicial District, in and for said
County of WASHINGTON and in order to defend the lawsuit
you must file an appropriate written response with the Clerk of District Court of WASHINGTON
County, WITHIN THIRTY DAYS after the receipt of this summons in answer to the petition. If you fail to
do so such petition will be taken as true, and judgement rendered accordingly for the relief demanded in the
petition. A copy of the petition is attached.

The sheriff, authorized or appointed person, will make due return of this summons within twenty days
after the date of issue set out below.

WITNESS my official signature and the seal of said Court at Blair, NE
this 7th day of June A. D. 1985

Jean Paulsen
Clerk of the District Court.

Plaintiff's attorney name and address or Plaintiffs address: Wesley E. Hauptman, 10330 Regency Pkway Dr., Omaha, NE 68114 Deputy.

PLAINTIFF(S) DIRECTIONS FOR SERVICE

by Personal service only Personal or residential service Residence service

STATE OF NEBRASKA

RETURN OF SERVICE

County of Douglas Received this on the _____ day of _____ 19__

I hereby certify that on the 11th day of June 19 85 I served the above Summons and
Petition on the above-named Defendant, United States of America, by

FEES:	
Service and Return, \$	_____
Copy,	_____
Mileage, _____	_____
_____	_____
_____	_____
Total,	_____

depositing the same in the United States
Mail, certified mail, return receipt
requested, postage prepaid, addressed to
Department of Justice, Room No. 5111,
9th & Pennsylvania Avenue, Washington, D.C.
20530.

a true and certified copy thereof with all the endorsements thereon, in
the county aforesaid

By *Wesley E. Hauptman*

PS Form 3811, Dec. 1980

SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

- 1. The following service is requested (check one).
 - Show to whom and date delivered —¢
 - Show to whom, date, and address of delivery.. —¢
- 2. RESTRICTED DELIVERY
(The restricted delivery fee is charged in addition to the return receipt fee.) —¢

TOTAL \$ _____

3. ARTICLE ADDRESSED TO:
U.S. of A.
Dept. of Justice, Room 5111
4th Pennsylvania
Washington DC 20530

4. TYPE OF SERVICE: ARTICLE NUMBER

<input type="checkbox"/> REGISTERED	<input type="checkbox"/> INSURED	P207297521
<input checked="" type="checkbox"/> CERTIFIED	<input type="checkbox"/> COD	
<input type="checkbox"/> EXPRESS MAIL		

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE Addressee Authorized agent

Letty M. Savage

5. DATE OF DELIVERY POSTMARK

JUN 17 1985

6. ADDRESSEE'S ADDRESS (Only if requested)

MRU
DEPARTMENT OF JUSTICE

7. UNABLE TO DELIVER BECAUSE: 7a. EMPLOYEE'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

THE STATE OF NEBRASKA, }
WASHINGTON County, } ss.

Docket CC Page 212 Case No. 9452

HOSHALL E. THOMAS & OLETA I. THOMAS
Husband & Wife vs Plaintiff/Petitioner

SUMMONS

JUANITA M. DAYNER, U.S. SUPPLY CO. & U.S. OF A.
Defendant/Respondent

You are hereby notified U.S. ATTORNEY GENERAL

Defendant that you have been sued by HOSHALL E. THOMAS & OLETA I. THOMAS

Plaintiff in the District Court of the SIXTH Judicial District, in and for said County of WASHINGTON and in order to defend the lawsuit you must file an appropriate written response with the Clerk of District Court of WASHINGTON County, **WITHIN THIRTY DAYS** after the receipt of this summons in answer to the petition. If you fail to do so such petition will be taken as true, and judgement rendered accordingly for the relief demanded in the petition. A copy of the petition is attached.

The sheriff, authorized or appointed person, will make due return of this summons within twenty days after the date of issue set out below.

WITNESS my official signature and the seal of said Court at BLAIR, NE
this 7th day of June A. D. 19 85

Jean Paulsen
Clerk of the District Court.

Plaintiff's attorney name and address or Plaintiffs address: Wesley E. Hauptman, 10330 Regency Pkwy Dr., Omaha, NE 68114 Deputy.

PLAINTIFF(S) DIRECTIONS FOR SERVICE

by Personal service only Personal or residential service Residence service

STATE OF NEBRASKA

RETURN OF SERVICE

County of Douglas Received this on the _____ day of _____ 19 _____

I hereby certify that on the 11th day of June 19 85 I served the above Summons and Petition on the above-named Defendant, U.S. Attorney General, by

FEES:	
Service and Return, \$ _____	
Copy,	_____
Mileage, _____	_____
_____	_____
_____	_____
Total,	_____

depositing the same in the United States Mail, certified mail, return receipt requested, postage prepaid, addressed to U.S. Attorney General, 215 North 17 Street, Omaha, NE 68102.

a true and certified copy thereof with all the endorsements thereon, in the county aforesaid

By Wesley E. Hauptman

PS Form 3811, Dec. 1980

SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space
on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
- Show to whom and date delivered —
 - Show to whom, date, and address of delivery.. —
 - 2. RESTRICTED DELIVERY —
(The restricted delivery fee is charged in addition to the return receipt fee.)
- TOTAL \$ _____

3. ARTICLE ADDRESSED TO:
U.S. Attorney General
215 No. 017
Omaha NE 68102

4. TYPE OF SERVICE:	ARTICLE NUMBER
<input type="checkbox"/> REGISTERED <input type="checkbox"/> INSURED	P207297518
<input checked="" type="checkbox"/> CERTIFIED <input type="checkbox"/> COD	
<input type="checkbox"/> EXPRESS MAIL	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE Addressee Authorized agent

5. DATE OF DELIVERY	POSTMARK
6-12-85	JUN 12 1985
6. ADDRESSEE'S ADDRESS (Only if requested)	

7. UNABLE TO DELIVER BECAUSE:	7a. EMPLOYEE'S INITIALS
	2091

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

710136

THE STATE OF NEBRASKA, }
Washington County, } ss. Docket CC Page 212 Case No. 9452

HOSHALL E. THOMAS & OLETA I. THOMAS,
Husband & Wife vs Plaintiff/Petitioner

SUMMONS

JUANITA M. DAYNER, US SUPPLY COMPANY & US OF A
Defendant/Respondent

You are hereby notified U.S. SUPPLY COMPANY

Defendant that you have been sued by HOSHALL E. THOMAS & OLETA I. THOMAS

Plaintiff in the District Court of the SIXTH Judicial District, in and for said
County of WASHINGTON and in order to defend the lawsuit
you must file an appropriate written response with the Clerk of District Court of _____
County, *WITHIN THIRTY DAYS* after the receipt of this summons in answer to the petition. If you fail to
do so such petition will be taken as true, and judgement rendered accordingly for the relief demanded in the
petition. A copy of the petition is attached.

The sheriff, authorized or appointed person, will make due return of this summons within twenty days
after the date of issue set out below.

WITNESS my official signature and the seal of said Court at Blair, NE
this 7th day of June A. D. 1985
Jean Paulsen
Clerk of the District Court.

Plaintiff's attorney name and address or Plaintiffs address: Wesley E. Hauptman, 10330 Regency Parkway Dr., Omaha, NE 68114

PLAINTIFF(S) DIRECTIONS FOR SERVICE

by Personal service only Personal or residential service Residence service

STATE OF NEBRASKA RETURN OF SERVICE
County of Douglas Received this on the 12th day of June 19 85
I hereby certify that on the 13th day of June 1985 I served the above Summons and
Petition on the above-named U.S. SUPPLY COMPANY, by delivering to and leaving

FEES:	
Service and Return, \$	<u>2.00</u>
Copy,	_____
Mileage, _____	<u>.50</u>
_____	_____
_____	_____
Total,	<u>\$2.50</u>

with BOB BENAK, Manager personally at 215 North
12th Street in Douglas County, Nebraska, at the
hour of 9:30 A.M.,

a true and certified copy thereof with all the endorsements thereon, in
the county aforesaid

RICHARD A. ROTH, SHERIFF
By [Signature] Deputy

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS AND OLETA I. THOMAS, Husband and Wife,

Plaintiff,

vs.

JUANITA M. DAYNER, U.S. SUPPLY COMPANY, and THE UNITED STATES OF AMERICA,

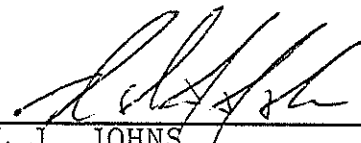
Defendants.

Doc. ^{BB}~~22~~ Page 212
CASE NO. 9452
ADVICE TO COURT

Comes now the named Defendant, United States of America, and hereby advises the Court that pursuant to Title 28, U.S.C., Section 2410, the United States has not been properly served in this action, inasmuch as the United States Attorney for the District of Nebraska was served by mail. Title 28, U.S.C. Section 2410(b) provides that service shall be made by serving the process of the court with a copy of the complaint upon the United States Attorney or an Assistant United States Attorney or designated clerical employee. Furthermore, such process and complaint shall be sent by registered or certified mail to the Attorney General of the United States at Washington, D.C.

Respectfully submitted,

RONALD D. LAHNERS
United States Attorney

By 
PAUL J. JOHNS
Assistant U. S. Attorney
P. O. Box 1228 - DTS
Omaha, NE 68101
Attorney No. 16465

FILED
U.S. DISTRICT COURT
WASHINGTON COUNTY
NEBRASKA
JAN 10 1984

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the foregoing was served on the following by placing same in the U. S. Mails, postage prepaid, this 2nd day of July 1985:

Wesley E. Hauptman
Attorney at Law
10330 Regency Parkway Dr.
Omaha, NE 68114

B. J. Catro

USA03

IN THE DISTRICT COURT OF WASHINGTON
COUNTY, NEBRASKA

HOSHALL E. THOMAS And OLETA I.)
THOMAS, Husband and Wife,)
)
Plaintiff,)
)
vs.)
)
JUANITA M. DAYNER, U.S. SUPPLY)
COMPANY, And THE UNITED STATES)
OF AMERICA,)
)
Defendant)

DOC. CC PAGE 212
CASE NO. 9452

ANSWER OF DEFENDANT U.S. SUPPLY
COMPANY

FILED
JUL 10 1952
DISTRICT COURT
WASHINGTON COUNTY
NEBRASKA

COMES NOW U.S. Supply Company, by and through its attorneys,
and herein does state and allege as follows:

ANSWER

1. The Defendant U.S. Supply Company denies each and every allegation contained within the Plaintiff's Petition except those allegations hereinafter admitted and those allegations constituting admissions against the interest of the Plaintiff.

2. U.S. Supply Company does herein admit that it claims liens, rights, titles, and interests in the real estate described in paragraph 2 of Plaintiff's Petition by reason of a judgment lien appearing (transcribed) at Doc. F, Page 286, of the Records of the District Court of Washington County, Nebraska.

WHEREFORE, U.S. Supply Company respectfully prays that the relief prayed for by Plaintiff in its Petition be denied in its entirety and that Plaintiff's Petition, insofar as it affects the rights of Plaintiff, be dismissed at Plaintiff's costs and that Defendant U.S. Supply Company receives its costs, and that the Court will take no action which will jeopardize the priority and

effect of U.S. Supply Company's judgment lien and for such other and further relief as is just and equitable.

COUNTERCLAIM AND CROSSCLAIM

COMES NOW the Defendant U.S. Supply Company and for its counterclaim against Plaintiff and crossclaim against Defendants, states as follows:

1. John M. Travis was indebted to U.S. Supply Company. As a result of such indebtedness, U.S. Supply obtained a judgment against Mr. Travis in the amount of \$42,235.00 in the District Court of Douglas County, Nebraska. Said judgment was transcribed in the District Court of Washington County, Nebraska at Docket F, Page 286.

2. Despite due demand, no payments have been made by Travis.

3. Said judgment acts as a valid lien on the real estate described in paragraph 2 of Plaintiff's Petition.

4. Plaintiff and Defendants may claim to have some right, title, lien or interest in the real property described in Plaintiff's Petition but such interests are subject to, junior and inferior to the interest of the Defendant U.S. Supply Company in such property.

WHEREFORE, U.S. Supply Company prays that its lien on the real property described in paragraph 2 of Plaintiff's Petition be foreclosed and that the right, title, and interest and/or claims of Plaintiff and each and all Defendants other than U.S. Supply Company be decreed to be junior and inferior, subject and subsequent to U.S. Supply Company's lien and to the rights of any purchaser at any execution sale of said described property under said judgment; that said real estate be sold at public sale and that out of the proceeds arising from said sale, there be satisfied in the following order insofar as the same be sufficient: the costs

of said sale and of this action; judgments in favor of the parties hereto with claims found to be superior to the claim of U.S. Supply Company, if any; the interest accruing on U.S. Supply Company's judgment; the unpaid principal amount of U.S. Supply Company's judgment; and that the balance if any, be brought into Court to await its further order.

U.S. Supply Company prays that all right, title, and interest and equity of redemption in and to said real estate and any persons claiming by or through or under them, or their predecessors in interest, be decreed to be junior and inferior to U.S. Supply Company and be absolutely barred and foreclosed.

U.S. Supply Company further demands that if a purchaser or purchasers of said real estate pursuant to the aforementioned public sale be denied possession thereof, U.S. Supply Company be issued a writ of assistance from this Court to place said purchaser or purchasers in peaceable possession of said real estate.

U.S. Supply Company prays that its rights and interests in the property described hereinabove, both real and personal, be protected.

U.S. Supply Company further prays for such other and further equitable relief as is just and equitable.

Dated this 3 day of July, 1985.

U.S. SUPPLY COMPANY, Defendants

By: 

Richard E. Putnam
Of Baird, Holm, McEachen, Pedersen,
Hamann & Strasheim
1500 Woodmen Tower
Omaha, Nebraska 68102
(402) 344-0500


Its Attorneys

17

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer, Counterclaim, and Cross Claim of U.S. Supply Company was sent by regular United States mail, postage prepaid, on this 3 day of July, 1985, to the following parties in interest:

Mr. Wesley E. Hauptman
One Merrill Lynch Plaza
10330 Regency Parkway Drive
Omaha, Nebraska 68114


Richard E. Putnam

PRAECIPE

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife,
Plaintiffs,

Washington
In District Court in and for Douglas County,
Nebraska.

vs.

JUANITA M. DAYNER, U.S. SUPPLY
COMPANY, and THE UNITED STATES
OF AMERICA,
Defendants.

Doc. CC No. 212
Case No. 9452

TO THE CLERK OF SAID COURT:

Please issue alias summons for service by Attorney for Plaintiff
upon the United States Attorney.

FILED
JAN 11 1968
CLERK OF DISTRICT COURT
DOUGLAS COUNTY
NEBRASKA

in the above entitled cause and deliver same to sheriff of said County.

NOTE TO ATTORNEYS:
Please specify beside each
defendant's name when requesting
a summons whether you elect
"Personal Service" or "Residence
Service."

DESIGNATE MODE OF SERVICE:
SHERIFF:
CERTIFIED MAIL:

Wesley E. Hauptman
Wesley E. Hauptman #11746
Address 10330 Regency Parkway Drive
Omaha, NE 68114
Plaintiffs
Attorney for

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife,

DOC. CC PAGE 212
CASE NO. 9452

Plaintiffs,

vs.

REPLY TO ANSWER AND
ANSWER TO COUNTERCLAIM

JUANITA M. DAYNER, U.S. SUPPLY
COMPANY, and THE UNITED STATES
OF AMERICA,

Defendants.

COME NOW HOSHALL E. THOMAS and OLETA I. THOMAS, Plaintiffs herein, and for their Reply to the Answer filed herein by Defendant, U.S. Supply Company, admit, deny, allege, and state as follows:

1. Plaintiffs reaffirm each and every allegation of their original petition filed herein.
2. Plaintiffs deny each and every new allegation raised in Defendant's Answer.

WHEREFORE, having fully replied to the Answer of Defendant, U.S. Supply Company, Plaintiffs pray for judgment as prayed in their petition filed herein.

ANSWER TO COUNTERCLAIM AND CROSSCLAIM

COME NOW HOSHALL E. THOMAS and OLETA I. THOMAS, Plaintiffs herein, and for their Answer to the Counterclaim and Crossclaim of Defendant, U.S. Supply Company, admit, deny, allege and state as follows:

FILED
JAN 11 AM 9:43

1. Plaintiffs deny each and every allegation of Defendant's Counterclaim and Crossclaim, except those allegations constituting admissions against the interests of Defendant.

2. Plaintiffs affirmatively allege that the interest claimed by U.S. Supply Company is junior and inferior to the interest of Plaintiffs herein and that any interest claimed by Defendant, U.S. Supply Company, is junior and inferior to the interest of Plaintiffs.

WHEREFORE, Plaintiffs pray the Counterclaim and Crossclaim filed herein by the Defendant, U.S. Supply Company, be dismissed, with prejudice at Defendant's cost.

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife, Plaintiffs

By Wesley E. Hauptman
Wesley E. Hauptman, #11746
ERICKSON & SEDERSTROM, P.C.
One Merrill Lynch Plaza
10330 Regency Parkway Drive
Omaha, Nebraska 68114
(402) 397-2200

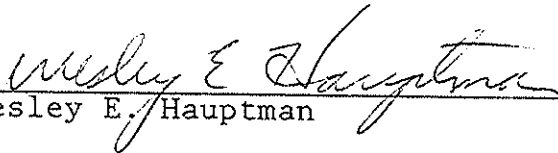
CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the above and foregoing REPLY TO ANSWER AND ANSWER TO COUNTERCLAIM was mailed by regular United States mail, postage prepaid to the following interested parties this 10 day of July, 1985::

Richard E. Putman
Attorney at Law
1500 Woodman Tower
Omaha, NE 68102
Attorney for U.S. Supply Company

Paul J. Johns
Assistant U.S. Attorney
P. O. Box 1228
Downtown Station
Omaha, NE 68101

James Frost
Attorney at Law
200 Historic Burlington Place
10th & Farnam on the Mall
Omaha, NE 68102
Attorney for Juanita M. Dayner


Wesley E. Hauptman

910370

THE STATE OF NEBRASKA, }
WASHINGTON County, } ss.

Docket CC Page 212 Case No. 9452

HOSHALL E. THOMAS and OLETA I. THOMAS
Husband and Wife vs Plaintiff/Petitioner

RECEIVED

SUMMONS

1985 JUL 16 PM 2 52

JUANITA M. DAYNER, U.S. SUPPLY COMPANY, and
THE UNITED STATES OF AMERICA
Defendant/Respondent

You are hereby notified UNITED STATES ATTORNEY

SHERIFF'S OFFICE
DOUGLAS CO., NEBR.

Defendant that you have been sued by HOSHALL E. THOMAS and OLETA I. THOMAS

Plaintiff in the District Court of the Sixth Judicial District, in and for said
County of Washington and in order to defend the lawsuit
you must file an appropriate written response with the Clerk of District Court of Washington
County, WITHIN THIRTY DAYS after the receipt of this summons in answer to the petition. If you fail to
do so such petition will be taken as true, and judgement rendered accordingly for the relief demanded in the
petition. A copy of the petition is attached.

The sheriff, authorized or appointed person, will make due return of this summons within twenty days
after the date of issue set out below.

WITNESS my official signature and the seal of said Court at Blair, Nebraska
this 11th day of July A. D. 19 85

Jean Paulsen
Clerk of the District Court.
Jean Blatter
Deputy.

Plaintiff's attorney name
and address or Plaintiffs address: Wesley E. Hauptman
10330 Regency Parkway Drive Omaha, NE 68114

PLAINTIFF(S) DIRECTIONS FOR SERVICE

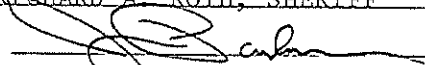
by Personal service only Personal or residential service Residence service

STATE OF NEBRASKA RETURN OF SERVICE
County of Douglas Received this on the 16th day of July 19 85
I hereby certify that on the 22nd day of July 19 85 I served the above Summons and
Petition on the above-named UNITED STATES ATTORNEY, by delivering to and leaving

FEES:	
Service and Return,	\$ 2.00
Copy,	
Mileage,	-0-
Total,	\$2.00

with PAUL PENDLEY, Assistant United States Attorney,
District of Nebraska, personally at the Federal
Building, 215 North 17th Street in Douglas County,
Nebraska, at the hour of 9:25 A.M.

a true and certified copy thereof with all the endorsements thereon, in
the county aforesaid

RICHARD A. ROTH, SHERIFF
By 

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS and OLETA I.)
THOMAS, Husband and Wife,)
)
Plaintiff,)
)
v.)
)
JUANITA M. DAYNER, et al.,)
)
Defendant(s).)

DOC. CC-212 NO. 9452

ANSWER

FILED
DISTRICT COURT
WASHINGTON COUNTY
NEBRASKA
OCT 13 1964

Comes now the Defendant, United States of America; and for its answer to Plaintiff's Petition admits, denies, and alleges as follows:

1. Admits so much of paragraph(s) 7 as alleges an interest of the United States of America in the property specifically described in paragraph 2 of Plaintiff's Petition by virtue of the Federal Tax Lien(s) which attached to all property and rights of property of Defendant(s) Juanita M. Dayner.

2. Denies each and every allegation of fact not herein specifically admitted for the reason that this answering Defendant has no knowledge of the truth of such allegations; and this Defendant specifically denies that the United States' right to redeem the property as provided in 28 U.S.C. 2410(c) can be foreclosed.

3. Further answering the Petition, the Defendant, United States of America, alleges:

(a) That there is due and owing the Defendant United States of America on account of taxes duly assessed against the Defendant(s) named in paragraph one above, under the taxing provisions of the Internal Revenue Code, the amounts

shown in the following table, which table also sets forth information relative to the Federal Tax Lien(s), as indicated by the several headings:

Type of Tax and Period	Assessment Date	Amount of Lien	Present Balance	Date Lien Filed	Lien Number
6672; 09-30-81	03-19-84	\$ 6,402.46	\$ 7,664.98	09-26-84	48782
6672; 12-31-81	11-21-83	\$13,124.95	\$16,259.44	09-26-84	48782

The present balance includes statutory additions computed to September 30, 1985. Beginning July 1, 1985, interest will be compounded daily at 11%. However, Failure to Pay Penalty will accrue at a daily rate of \$.00 after October 31, 1985.

(b) That any assessment against the aforementioned Defendant(s) becomes a lien upon all property and rights to property of said Defendant(s) on the date the assessment was made, as indicated in the table in the preceding paragraph, as provided by law, notice and demand having been made of the Defendant(s). Notice(s) of Federal Tax Lien(s) was/were filed in the Register of Deeds of Washington County on the date(s) indicated above.

WHEREFORE, the Defendant, United States of America, prays that the Plaintiff and other Defendants be placed upon strict proof of the allegations contained in the Petition; that the priority of all liens and other interests be adjudicated; that

the United States of America has a right to redeem the property pursuant to 28 U.S.C. 2410(c); that this Defendant recover its costs herein expended and prays for such other and further relief as may be just and equitable.

UNITED STATES OF AMERICA

RONALD D. LAHNERS
United States Attorney

By: 

PAUL J. JOHNS
Assistant U. S. Attorney
P. O. BOX 1228-DTS
Omaha, NE 68101
(402) 221-4774
Attorney No: 16465

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the foregoing was served on the following by placing same in the U. S. Mails, postage prepaid, this 3rd day of September, 1985:

Wesley E. Hauptman
Attorney at Law
10330 Regency Parkway Drive
Omaha, NE 68114

W. B. J. Cathro

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J

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife,

DOC. CC-212 NO. 9452

Plaintiffs,

vs.

NOTICE OF TRIAL

JUANITA M. DAYNER, U.S. SUPPLY
COMPANY, and THE UNITED STATES
OF AMERICA,

Defendants.

TO: All Defendants and their attorneys

Please take notice that the court has scheduled the above-captioned matter for trial on December 5, 1985 at 9:00 o'clock A.M. in the District Court of Washington County, Nebraska before the Honorable Darvid D. Quist.

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife,
Plaintiffs

By Wesley E. Hauptman
Wesley E. Hauptman #11746
ERICKSON & SEDERSTROM, P.C.
One Merrill Lynch Plaza
10330 Regency Parkway Drive
Omaha, Nebraska 68114
(402) 397-2200

CERTIFICATE OF SERVICE


It is hereby certified that a true and correct copy of the above and foregoing Notice of Trial was mailed by regular United

States mail, postage prepaid to the following interested parties,
this 9 day of October, 1985:

James J. Frost
200 Historic Burlington Place
10th & Farnam on the Mall
Omaha, NE 68102
Attorney for Juanita M. Dayner

Paul J. Johns
Assistant U.S. Attorney
P. O. Box 1228
Downtown Station
Omaha, NE 68101

Richard E. Putnam
Attorney at Law
1500 Woodmen Tower
Omaha, NE 68102
Attorney for U.S. Supply Company

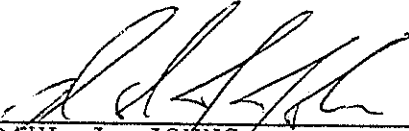

Wesley E. Hauptman

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS and OLETA I.)		
THOMAS, Husband and Wife,)		
)		
Plaintiff,)	DOC. CC-212	NO. 9452
)		
vs.)	DISCLAIMER	
)		
JUANITA M. DAYNER, et.al.)		
)		
Defendants.)		

Comes now the Defendant, United States of America, and disclaims any interest by virtue of the Federal Tax Lien(s) on the property described in paragraph 2 of Plaintiff's Petition and respectfully requests that the United States of America be dismissed as a Defendant.

UNITED STATES OF AMERICA
RONALD D. LAHNERS
United States Attorney



 PAUL J. JOHNS
 Assistant U.S. Attorney
 P. O. Box 1228-DTS
 Omaha, Nebraska 68101
 (402) 221-4774
 Attorney No.: 16465

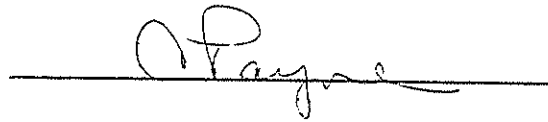
RECEIVED
 DISTRICT COURT
 WASHINGTON COUNTY
 NEBRASKA
 SEP 11 1994

USA07

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the foregoing was served on the following by placing same in the U. S. Mails, postage prepaid, this 2 day of December, 1985:

Wesley E. Hauptman
Attorney at Law
10330 Regency Parkway Dr.
Omaha, Nebraska 68114



USAO 7



IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife,

DOC. CC-212 NO. 9452

Plaintiffs,

vs.

DECREE

JUANITA M. DAYNER, U.S. SUPPLY
COMPANY, and THE UNITED STATES
OF AMERICA,

Defendants.

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This matter came on for trial on December 5, 1985 upon the Petition for Foreclosure of Land Contract filed by plaintiffs herein. The plaintiffs were present in court and represented by counsel. Upon consideration of the evidence, the court finds as follows:

1. The plaintiffs, as owners of the below-described premises, entered into a written contract to sell and convey the real estate to Juanita M. Dayner, defendant, under the terms and conditions of the contract set forth and attached to plaintiffs' petition herein, said property being described as:

Lot 8, Surrey Hills, a subdivision of Tax Lot Twenty Two (22) and Tax Lot Twenty Three (23) in Section 35, Township 17 North, Range 12 East of the 6th P.M., Washington County, Nebraska.

2. The court further finds that defendants, Juanita M. Dayner, U.S. Supply Company and the United States of America, have executed and filed disclaimers disclaiming any further interest or claims against the property which is the subject matter of the land contract.

3. The court further finds that defendant, Juanita M. Dayner, is in default under the terms and conditions of the land contract and that the amount due and owing as of December 5, 1985 is \$7,739.88 plus accruing interest at the rate of 8 1/2 percent per annum or \$1.36 per day.

4. The court further finds that the amount due to plaintiffs is in excess of the value of the real estate and plaintiffs herein are entitled to strict foreclosure by reason thereof and further by reason of a disclaimer as filed herein by all defendants.

5. The court further finds that no proceedings have been commenced at law or otherwise for the collection of any sums due on the contract and there is due to plaintiffs from defendant, Juanita M. Dayner, the sum of \$7,739.88 on the land contract.

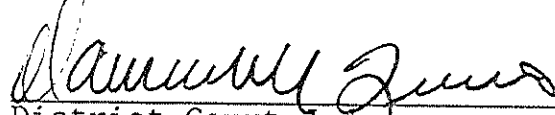
IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the court that there is due from defendant, Juanita M. Dayner, the sum of \$7,739.88 upon the land contract for the purchase of the property described as Lot 8, Surrey Hills, a subdivision of Tax Lot Twenty Two (22) and Tax Lot Twenty Three (23) in Section 35, Township 17 North, Range 12 East of the 6th P.M., in Washington County, Nebraska.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the court that defendant, Juanita M. Dayner, is forever barred and foreclosed of all right, title, interest, claim, and equity of redemption in and to the above-described lands and premises or any part, portion, or parcel thereof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendants, U.S. Supply Company and the United States of America, are forever barred and foreclosed of all rights, title, interest, claim, and equity of redemption in and to the above-described lands and premises or any part, portion, or parcel thereof by virtue of the disclaimers filed herein by defendants.

Dated December 5, 1985.

BY THE COURT:



District Court Judge

Prepared and Submitted By:

Wesley E. Hauptman, #11746
ERICKSON & SEDERSTROM, P.C.
One Merrill Lynch Plaza
10330 Regency Parkway Drive
Omaha, Nebraska 68114
(402) 397-2200

✓

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS and OLETA I.
THOMAS, Husband and Wife,

DOC. CC-212 NO. 9452

Plaintiffs,

vs.

DISCLAIMER

JUANITA M. DAYNER, U.S. SUPPLY
COMPANY, and THE UNITED STATES OF
AMERICA,

Defendants.

COMES NOW Jaunita M. Dayner, one of the Defendants herein,
by and through her attorney and hereby enters her appearance in
the above-captioned matter and waives her right to answer or
otherwise plead to Plaintiff's Petition and hereby disclaims any
interest in property referred to in Plaintiff's Petition and
legally described as:

Lot 8, Surrey Hill, a subdivision of Tax Lot 22 and Tax
Lot 23 in Section 35, Township 17 North, Range 12 East
of the Sixth P.M. in Washington County, Nebraska.

JUANITA M. DAYNER, Defendant,

By


James J. Frost

NORTH & BLACK, P.C.

200 Historic Burlington Place
10th & Farnam On The Mall
Omaha, Nebraska 68102
(402) 342-4600

IN THE DISTRICT COURT OF WASHINGTON COUNTY, NEBRASKA

HOSHALL E. THOMAS and)
OLETA I. THOMAS, husband and)
wife,)
)
Plaintiffs,)

DOC. CC-212 NO. 9452

v.)

DISCLAIMER OF U.S. SUPPLY COMPANY

JUANITA M. DAYNER,)
U.S. SUPPLY COMPANY, and)
THE UNITED STATES OF AMERICA,)
)
Defendants.)

COMES NOW the Defendant, U.S. Supply Company, and states as follows:

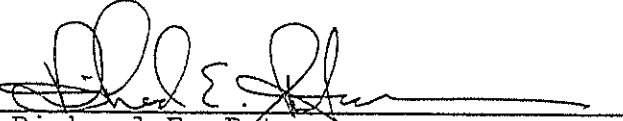
1. It has examined the documents submitted by the Plaintiff hereto and after such examination disclaims any interest in the real estate which is the subject matter of Plaintiff's cause of action.

2. It hereby dismisses its Counter-Claim and Cross-Claim with prejudice, each party to bear its own costs.

Dated this 4th day of December, 1985.

U.S. SUPPLY COMPANY, Defendant

By


Richard E. Putnam

Of BAIRD, HOLM, MCEACHEN, PEDERSEN,
HAMANN AND STRASHEIM
1500 Woodmen Tower
Omaha, Nebraska 68102
(402) 344-0500

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the above and foregoing Disclaimer of U.S. Supply Company has been mailed to Wesley E. Hauptman, Erickson & Sederstrom, P.C., One Merrill Lynch Plaza, 10330 Regency Parkway Drive, Omaha, Nebraska 68114 on this 4th day of December, 1985.

