Recorded: 1/20/2017 at 11:33:09.0 AM
Fee Amount: $47.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2017 PG: 234

Prepared By/Return To: Jane E. Hanson, Hanson Law Office, 401 E. Main Street. Manchester, Iowa 52057

AFFIDAVIT IN SUPPORT OF FORFEITURE OF JUDGMENT LIEN ON HOMESTEAD PURSUANT TO IOWA CODE SECTION 624.23(2)

STATE OF IOWA)
)
COUNTY OF DUBUQUE)

RE: ***Lots Seven Hundred Thirty Five (735), Seven Hundred Thirty Six (736), Seven Hundred Thirty Seven (737), Seven Hundred Thirty Eight (738), Seven Hundred Thirty Nine (739), Seven Hundred Forty (740), Seven Hundred Forty One (741), Seven Hundred Forty Two (742), and the East six and one-half (6 1/2) feet of Lot Seven Hundred Thirty Four (734), Delaware, Iowa, according to plat recorded in Book 2 L.D., Page 488-489.***

I, Brian W. Peters, being first duly sworn on oath, do depose and state:

1. I am the Attorney for Bryce Intorf and Heather Intorf, as noted on the Written Demand for Execution Within Thirty Days Pursuant to Iowa Code Section 624.23(2) ("Written Demand"), and by reason of such attorney-client relationship the facts herein stated are within the personal knowledge of such affiant.

2. Pursuant to Iowa Code Section 624.23, written demand was given to Capital One Bank (USA) N.A.

3. Capital One Bank (USA) N.A., was served with the written demand on December 19, 2016, as shown by the attached proof of service, which is hereby referenced and made a part of this affidavit herein.

4. The written demand notified Capital One (USA) N.A., that failure to levy execution against the above described real estate within thirty days from the date of service of the demand would result in an automatic forfeiture of all liens and benefits of those liens held by Capital One (USA) N.A. against said homestead pursuant to Iowa Code Section 624.23(2);

5. As shown by proof of service attached hereto, more than 30 days have passed since

the service of the written demand: and

6. As no execution has been levied, as of the date of the signing of this affidavit, against the above-described real estate, all liens and the benefits of those liens held by Capital One (USA) N.A., are now forfeited, and of no force and effect whatsoever.

Dated this 19th day of January, 2017.

Brian W. Peters, Attorney at Law, as Affiant

State of IOWA)
) ss:
County of DUBUQUE)

Subscribed and sworn to before me on this 19th day of January, 2017, by Brian W. Peters, Attorney at Law, as Affiant.

NOTARIAL SEAL IOWA
GINGER M. SMITH
Commission Number 776015
My Commission Expires
12-5-18

Notary Public in and for the State of Iowa

Iowa District Court for Delaware County

Capital One Bank (USA) N.A.,

Plaintiff,

vs.

Bryce Intorf,

Defendants

No. 01281 SCSC009461

FILED
2016 DEC 21 AM 10:40
CLERK OF DISTRICT COURT
DELAWARE COUNTY, IOWA

Proof of Service

I, Brian W. Peters, state that I represent Byrce and Heather Intorf in connection with the real estate detailed on the attached documents. In compliance with Iowa Code §624.23(2) I attach the following documents:

Demand Pursuant to Iowa Code §624.23(2) dated 12/13/2016.

USPS Tracking statement and Domestic Return Receipt showing that the demand was received 12/19/2016 by Corporation Service Company, as Registered Agent for Capital One Bank (USA) N.A.

Copies from the Iowa Legislature webpages of Iowa Code §624.23 and Iowa Code §654.4A.

Bryce and Heather Intorf,

By: _____

Brian W. Peters, #AT0006121
P O Box 703
Dubuque, IA 52004-0703
(563) 588-0547
Fax (563) 588-1981

Iowa District Court for Delaware County

Capital One Bank (USA) N.A., Plaintiff,
vs.
Bryce Intorf, Defendant

No. 01281 SCSC009461

Demand Pursuant to Iowa Code §624.23(2)

To:
Capital One Bank (USA) N.A.
c/o Registered Agent
CORPORATION SERVICE COMPANY
Bank of America Center, 16th Floor
1111 East Main Street
RICHMOND VA 23219

You may claim a lien in property locally known as 221 6th Street, Delaward, IA 52036, Delaware County Parcel ID 470000105900, and legally described as:

> Lots Seven Hundred Thirty Five (735), Seven Hundred Thirty Six (736), Seven Hundred Thirty Seven (737), Seven Hundred Thirty Eight (738), Seven Hundred Thirty Nine (739), Seven Hundred Forty (740), Seven Hundred Forty One (741), Seven Hundred Forty Two (742), and the East six and one-half (6 1/2) feet of Lot Seven Hundred Thirty Four (734), Delaware, Iowa, according to plat recorded in book 2 L.D., Pages 488-489,

by reason of the judgment in the case captioned above.

Pursuant to Iowa Code §624.23(2) unless execution is levied within thirty days of the time that this demand has been served upon you, your claim will be barred.

Affidavit

I, Brian W. Peters, state that I represent Bryce Intorf and Heather Intorf regarding their homestead, described above. Heather Intorf has continuously occupied this real estate as her homestead, from on or about April 17, 2006 to the present date. The real estate is less than one-half acre in size and is inside a town plat. Pursuant to Iowa Code §624.23(1), this judgment does not attach as a lien to this real estate.

Signed under penalty of perjury and pursuant to the laws of the state of Iowa December 13, 2016.

Brian W. Peters, #AT0006121

Served by Certified Mail No. 7099 3220 0008 9059 0601

CERTIFIED MAIL

KINTZINGER LAW FIRM, P.L.C.
100 West 12th Street
P.O. Box 703
Dubuque, Iowa 52004-0703

7099 3220 0008 9059 0601

UNITED STATES POSTAGE
PITNEY BOWES
02 1P $ 006.46⁵
0001851789 DEC 13 2016
MAILED FROM ZIPCODE 52001

Capital One Bank (USA) N.A.
c/o Registered Agent
CORPORATION SERVICE COMPANY
Bank of America Center, 16th Floor
1111 East Main Street
RICHMOND VA 23219

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Tracking Number: 70993220000890590601

Updated Delivery Day: Monday, December 19, 2016

Product & Tracking Information

Postal Product: **Features:** Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
December 19, 2016 , 10:28 am	Delivered, Individual Picked Up at Postal Facility	RICHMOND, VA 23218
Your item was picked up at a postal facility at 10:28 am on December 19, 2016 in RICHMOND, VA 23218.		
December 17, 2016 , 9:34 am	Arrived at Unit	RICHMOND, VA 23219
December 16, 2016 , 2:45 pm	Departed USPS Facility	SANDSTON, VA 23150
December 16, 2016 , 10:23 am	Arrived at USPS Facility	SANDSTON, VA 23150
December 14, 2016 , 10:14 pm	In Transit to Destination	
December 14, 2016 , 4:30 am	Departed USPS Facility	CEDAR RAPIDS, IA 52401
December 13, 2016 , 10:14 pm	Arrived at USPS Facility	CEDAR RAPIDS, IA 52401

Available Actions

Text Updates

Email Updates

Track Another Package

Tracking (or receipt) number

Track It

Manage Incoming Packages

Track all your packages from a dashboard.
No tracking numbers necessary.

Sign up for My USPS ›



624.23 Liens of judgments — real estate — homesteads — support judgments.

1. Judgments in the appellate or district courts of this state, or in the circuit or district court of the United States within the state, are liens upon the real estate owned by the defendant at the time of such rendition, and also upon all the defendant may subsequently acquire, for the period of ten years from the date of the judgment.

2. *a.* Judgment liens described in subsection 1 do not attach to real estate of the defendant, occupied as a homestead pursuant to chapter 561, except as provided in section 561.21 or if the real estate claimed as a homestead exceeds the limitations prescribed in sections 561.1 through 561.3.

b. A claim of lien against real estate claimed as a homestead is barred unless execution is levied within thirty days of the time the defendant, the defendant's agent, or a person with an interest in the real estate has served written demand on the owner of the judgment. The demand shall state that the lien and all benefits derived from the lien as to the real estate alleged to be or to have been a homestead shall be forfeited unless the owner of the judgment levies execution against that real estate within thirty days from the date of service of the demand. The demand shall contain an affidavit setting forth facts indicating why the judgment is not believed to be a lien against the real estate. A warranty of title by a former occupying homeowner in a conveyance for value constitutes a claim of exemption against all judgments against the current homeowner or the current homeowner's spouse not specifically exempted in the conveyance. Written demand shall be served in any manner authorized for service of original notice under the Iowa rules of civil procedure or in a manner provided in section 654.4A, subsections 1 through 3. A copy of the written demand and proof of service of the written demand shall be filed in the court file of the case in which the judgment giving rise to the alleged lien was entered.

c. A party serving a written demand under this subsection may obtain an immediate court order releasing the claimed lien by posting with the clerk of court a cash bond in an amount of at least one hundred twenty-five percent of the outstanding balance owed on the judgment. The court may order that in lieu of posting the bond with the clerk of court, the bond may be deposited in either the trust account of an attorney licensed to practice law in this state or in a federally insured depository institution, along with the restriction that the bond not be disbursed except as the court may direct. A copy of the court order shall be served along with a written demand under this subsection. Thereafter, any execution on the judgment shall be against the bond, subject to all claims and defenses which the moving party had against the execution against the real estate, including but not limited to a lack of equity in the property to support the lien in its proper priority. The bond shall be released upon demand of its principal or surety if no execution is ordered on the judgment within thirty days of completion of service of the written demand under this subsection.

3. Judgment liens described in subsection 1 shall not attach to subsequently acquired real estate owned by the defendant if the personal liability of the defendant on the judgment has been discharged under the bankruptcy laws of the United States.

4. *a.* In addition to other provisions relating to the attachment of liens, full faith and credit shall be afforded to liens arising for overdue support due on support judgments entered by a court or administrative agency of another state on real estate in this state owned by the obligor, for the period of ten years from the date of the judgment. Notwithstanding any other provisions of law, including but not limited to the formatting of forms or requirement of signatures, the lien attaches on the date that a notice of interstate lien promulgated by the United States secretary of health and human services is filed with the clerk of district court in the county where the real estate is located.

b. The lien shall apply only prospectively as of the date of attachment to all real estate the obligor may subsequently acquire and does not retroactively apply to the chain of title for any real estate that the obligor had disposed of prior to the date of attachment.

5. A judgment lien attaching to the real estate of a city may be discharged at any time by the city filing with the clerk of the district court in which the judgment was entered a bond in the amount for which the judgment was entered, including court costs and accruing interest, with surety or sureties to be approved by the clerk, conditioned for the payment of the judgment amount, interest, and court costs. If the real estate is located in a county

other than that in which the judgment was entered, the clerk of the district court in which the judgment was entered shall certify to the clerk of the district court of the county in which the real estate is located that the bond has been filed.

6. A judgment against a city shall not give rise to a lien attaching to the streets, alleys, or utility easements of a city or attaching to the real estate of a city which is used by the city for transportation, health, safety, or utility purposes.

7. If a case file has been sealed by the court, or if by law the court records in a case are not available to the general public, any judgments entered in the case shall not become a lien on real property until either the identity of the judgment creditor becomes public record, or until the judgment creditor, in a public document in the case in which judgment is entered, designates an agent and office, consistent with the requirements of section 490.501, on which process on the judgment creditor may be served. Service may be made on the agent in the same manner as service may be made on a corporate agent pursuant to section 490.504. An agent who has resigned without designating a successor agent and office and who is otherwise unavailable for service may be served in the manner provided in section 490.504, subsection 2, at the agent's office of record.

[C51, §2485, 2489; R60, §4105, 4109; C73, §2882; C97, §3801; C24, 27, 31, 35, 39, §11602; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §624.23; 82 Acts, ch 1002, §1 – 3]

85 Acts, ch 100, §8; 86 Acts, ch 1014, §1; 89 Acts, ch 102, §8; 97 Acts, ch 175, §202; 2002 Acts, ch 1089, §1; 2006 Acts, ch 1132, §4, 16; 2010 Acts, ch 1021, §1; 2011 Acts, ch 6, §1

Referred to in §232.141, §631.1
Judgment lien for alcoholic beverage violations, §123.113
Special limitations on judgments, chapter 615

654.4A Service of process — in rem relief.

In addition to any other form of service authorized by law, where in rem relief is the only relief requested in a foreclosure action or nonjudicial foreclosure under section 654.18 or chapter 655A against either a party or a person to be served with a notice pursuant to section 654.15B, all of the following shall apply:

1. If the person to be served is a judgment creditor, service may be made by certified mail, with proof of delivery, to the judgment creditor's registered agent or to the judgment creditor at the judgment creditor's principal place of business in the state where the business is organized, as indicated by the records in the office of the secretary of state, or to the judgment creditor at the last address indicated in the case in which the judgment was entered.

2. Upon affidavit that service cannot be made on a judgment creditor either pursuant to subsection 1 or by personal service in this state, service may be made by certified mail, with proof of delivery, on the judgment creditor's attorney of record if that attorney is a practicing attorney in this state, along with a copy of this section, and a payment of ten dollars. The attorney shall forward the notice by ordinary mail to the judgment creditor's last known address but the attorney shall have no further duties under this section with respect to the notice.

3. An attorney who agrees to accept service on behalf of a judgment creditor may charge a reasonable fee, not to exceed ten dollars, for accepting service.

4. If a person, other than a governmental taxing unit, is an interested person with respect to a decedent's estate in probate, the person may be named generally as a person interested in the decedent's estate and service of process shall be made by personal service or certified mail, along with proof of delivery, on the attorney for the personal representative. If the estate is probated in this state and a person has requested notice pursuant to section 633.42, the mortgagee shall also serve that person or the person's attorney by ordinary mail at the address specified in the request for notice. A person so served may intervene as a named defendant as a matter of right.

5. If a defendant, other than a governmental taxing unit, is a person whose identity is not reasonably ascertainable, and the person has an interest in a decedent's estate not probated in this state, such person may be named generally as a person with an interest in the decedent's estate and service of process shall be made by publication unless the mortgagee has actual notice that the decedent's estate is probated in another state. A person so served may intervene as a named defendant as a matter of right.

2009 Acts, ch 51, §5, 17; 2012 Acts, ch 1053, §2

Referred to in §614.21, §624.23, §654.18, §655A.4, §656.3