

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TERRY MCGUIRE,

Plaintiff,

v.

MEMORANDUM AND ORDER
83-C-938-S

UNITED STATES OF AMERICA,

Defendant and
Counterclaimant,

v.

EUGENE SHORTS, WILLIAM JENEWEIN,
FREDERICK C. THURSTON and
NEIL A WOODINGTON,

Counterclaim
Defendants.

Plaintiff Terry McGuire and counterclaim defendants Eugen Shorts, William Jenewein, Frederick Thurston and Neil Woodigton were involved in the operation and ownership of the Left Guard restaurants. Plaintiff commenced this action for a refund of trust fund penalties assessed by the IRS as a result of restaurant operations. Defendant counterclaimed for trust fund penalties against plaintiff and the counterclaim defendants. Default judgment in the amount of \$190,806.41 was entered against Thurston on April 23, 1984 and docketed on April 26, 1984. Subsequently, a

separate default judgment was entered and docketed against Woodington on June 29, 1984. After trial of the issues against the remaining counter-defendants a third judgment was entered against McGuire, Shorts and Jenewein and docketed on August 10, 1984. The caption on the third judgment listed only the three remaining counter-defendants.

Defendant executed a satisfaction of judgment which was docketed on April 11. The satisfaction of judgment had a caption that included only McGuire, Shorts and Jenewein. It provided as follows:

The Judgment in the above-entitled action having been paid or otherwise settled through compromise, the Clerk of the United States Court of the Western District of Wisconsin is hereby empowered to satisfy and cancel said Judgment of record.

Counterclaim defendant Thurston has not settled or paid his claim to the United States. In response to Thurston's assertion that the judgment against him has been satisfied, defendant moves the Court to vacate the satisfaction of judgment as a clerical error. Because the satisfaction clearly does not apply to the judgment entered against Thurston, the Court declines to vacate it.

The satisfaction refers to "The Judgment in the above-entitled action," plainly signifying that only a single judgment, the judgment with the same title, was satisfied. Only the August 10 judgment has the same title as the satisfaction. The judgment against Thurston does not. Regardless of whether the docket entry

could have been clearer, anyone reviewing the docket sheet would inquire as to which of the three judgments had been satisfied and discerned that it was not the judgment against Thurston. An issue may remain concerning whether the satisfaction applies to all defendants in the August 10 judgment, however, there is no question that the satisfaction did not satisfy the judgment against Thurston and therefore no basis to reach that issue with the present parties.

ORDER

IT IS ORDERED that defendant's motion to vacate satisfaction of judgment is DENIED.

Entered this 23rd day of August, 2006.

BY THE COURT:
S/

JOHN C. SHABAZ
District Judge