

STATE OF MICHIGAN
COURT OF CLAIMS

HUNTINGTON NATIONAL BANK, a national
banking association,

Plaintiff,

No. 17-000313-MT

v

Hon. MICHAEL J. TALBOT

STATE OF MICHIGAN DEPARTMENT OF
TREASURY-COLLECTIONS,

Defendant.

MICHAEL E. MOORE (P57315)
Miller, Canfield, Paddock and Stone, P.L.C.
Attorneys for Plaintiff
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(616) 776-6323

MOE FREEDMAN (P74224)
Assistant Attorney General
Attorney for Defendant Michigan
Department of Treasury
Revenue & Collections Division
3030 W Grand Blvd, Ste. 10-200
Detroit, MI 48202
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**STIPULATION AND ORDER
SETTING PRIORITIES & INTERESTS BETWEEN PLAINTIFF
AND THE MICHIGAN DEPARTMENT OF TREASURY
AND
DISMISSING CASE AGAINST MICHIGAN DEPARTMENT OF TREASURY**

STIPULATION

Plaintiff, Huntington National Bank, through its attorneys, Michael E. Moore, and Defendant, Michigan Department of Treasury, through its attorneys, BILL SCHUETTE, Michigan Attorney General, and Moe Freedman, Assistant Attorney General, stipulate as follows:

1. Plaintiff, Huntington National Bank, named Defendant, the State of Michigan's Department of Treasury (Treasury) in an action in Circuit Court (Midland County Circuit Court Case No. 17-4967-CKC) that was transferred to this Court because Treasury claims an interest in the property as the result of State Tax Liens recorded with the Midland County Register of Deeds. Plaintiff has no monetary claims against Treasury but is simply seeking to subject Treasury's interest in the property described below to any sale that may take place pursuant to an order that may be issued by the Court in this action.

2. Plaintiff holds a security interest in the personal property of Northwest Tire & Service Inc. that was perfected by a Financing Statement with Michigan Secretary of State on December 30, 2011 in Document Nos. 201182367 and 201182368 with continuations filed on July 5, 2016 in Document Nos. 2016093433 and 2016093404.

3. On January 6, 2016, Treasury recorded a Notice of Tax Lien #1934843 with the Michigan Secretary of against the personal property interests of Northwest Tire & Service Inc.

4. On March 8, 2016, Treasury recorded a Notice of Tax Lien #1939118 with the Michigan Secretary of against the personal property interests of Northwest Tire & Service Inc.

5. On May 20, 2016, Treasury recorded a Notice of Tax Lien #1943846 with the Michigan Secretary of against the personal property interests of Northwest Tire & Service Inc.

6. On December 28, 2016, Treasury recorded a Notice of Tax Lien #1951411 with the Michigan Secretary of against the personal property interests of Northwest Tire & Service Inc.

7. On July 24, 2017, Treasury recorded a Notice of Tax Lien #1969098 with the Michigan Secretary of against the personal property interests of Northwest Tire & Service Inc.

8. Treasury recognizes and affirms that the interest claimed by the Plaintiff in the property, which is the subject of this cause, is senior, superior and prior in all respects to the interest claimed by Treasury. Further, that Treasury's interests in the property described above shall be subjected to and extinguished by any foreclosure sale that takes place pursuant to an Order of the Circuit Court or sale in compliance with Article 9 of Michigan's Uniform Commercial Code, unless the property is redeemed from said sale as provided for by statute. Further, Treasury's lien shall transfer to any excess proceeds derived from the sale, over and above the amount necessary to satisfy Plaintiff's claim.

9. In the event that this action results in a sale of the subject property, pursuant to the enforcement of Plaintiff's rights, that any excess proceeds derived from said sale, over and above the amount necessary to satisfy Plaintiff, be promptly paid into the Circuit Court subject to further order of the Court as to priorities, with Treasury being entitled to apply for payment of such surplus proceeds. Plaintiff's counsel shall give written notice of any surplus to undersigned counsel for the Treasury within 10 days after receipt of sale proceeds.

7. Treasury reserves the right to present any and all evidence necessary to substantiate the existence of its lien, the amount of its lien, and the respective priority of its lien with respect to any lien holders other than the Plaintiff so as to protect its right to any surplus proceeds from any foreclosure action.

8. Plaintiff will send Treasury a copy of any report of sale or final judgment of this lawsuit.

9. Treasury is dismissed without prejudice and without costs as a Defendant in this matter.

10. This Stipulation and Order does not affect Plaintiff's Complaint against the remaining Defendants in Midland County Circuit Court Case No. 17-4967-CKC, and Plaintiff's case against the remaining Defendants will proceed unaffected by this Stipulation and Order.

Michael Moore for Michael Moore
MICHAEL MOORE (P57315)
Attorney for Plaintiff,
Huntington National Bank

Date: 2/22/18

Moe Freedman
MOE FREEDMAN (P74224)
Attorney for Defendant, State of
Michigan Department of Treasury

Date: 2/22/18

**ORDER BASED ON STIPULATION SETTING PRIORITIES & INTERESTS
BETWEEN PLAINTIFF AND THE MICHIGAN DEPARTMENT OF
TREASURY
AND
DISMISSING CASE AGAINST DEFENDANT MICHIGAN DEPARTMENT
OF TREASURY**

At a session of said Court,
held in the State of Michigan,
on MARCH 1, 2018.

PRESENT:

HON: MICHAEL J TALBOT
Court of Claims Judge

As Stipulated above between Plaintiff, Huntington National Bank and Defendant, State of Michigan Department of Treasury, this case is dismissed without Prejudice and Costs as to the Defendant, Michigan Department of Treasury, only.

IT IS SO ORDERED.

This is a Final Order and Resolves the last Pending Claim in this case.



COURT OF CLAIMS JUDGE

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