

External links Cisco. The IT Essentials website. Essentials 788 F.Supp. 1376 (1992) AMERICAN TRUST COMPANY, Plaintiff, v. J. Edward HASTINGS, Defendant. Civ. No. 3:92 CV 1731. United States District Court, N.D. Ohio, Western Division. April 16, 1992. Michael J. McDermott, Kenton, Ohio, for plaintiff. Ralph E. Nagy, New Philadelphia, Ohio, for defendant. MEMORANDUM AND ORDER CARR, District Judge. This is an action brought by the plaintiff, American Trust Company, against the defendant, J. Edward Hastings, seeking a judgment of \$5,400.00 on a promissory note and also seeking interest at the rate of 18% per annum on that sum. The plaintiff has filed a motion for summary judgment asserting that there is no genuine issue of material fact. The defendant has filed a response in opposition to the motion. The note in question and the complaint in this action were filed by American Trust Company on January 7, 1982 in the Common Pleas Court of Cuyahoga County. On January 19, 1982, notice of the filing of the complaint was given to the defendant. The defendant thereafter failed to appear, and a default judgment was entered by the Common Pleas Court on February 2, 1982 in the amount of \$5,811.70. On February 24, 1982, a writ of execution was issued by the Common Pleas Court and the defendant, J. Edward Hastings, was personally served with the writ. Execution was levied on the defendant's (now bankrupt) business pursuant to a previously-obtained process of garnishment. The sheriff's return reflects that he levied on all the property of the defendant's business, including the account of J. Edward Hastings. The marshal's affidavit, attached to the sheriff's return, also recites that the entire balance of the account of J. Edward Hastings was levied upon. \*1377 The defendant had a file, maintained by American Trust Company, of amounts collected by him from his former customers, including the sum of \$5,400.00, which he deposited to the account of his business. The defendant failed to pay the full amount of this judgment to



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