

NOT AN ARBITRATION MATTER
NON JURY MATTER ASSESSMENT
OF DAMAGES HEARING REQUIRED

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STEPHEN THORNE 210 W. Rittenhouse Square, Apt. 2801 Philadelphia, Pa 19103 Plaintiff,	:	PHILADELPHIA COUNTY COURT OF COMMON PLEAS
v.	:	FEBRUARY TERM, 2007
MONICA MALPASS 2104 Delancy Street Philadelphia, PA 19103 Defendant.	:	NO. 002003

**COMPLAINT FOR REPLEVIN OR, IN THE ALTERNATIVE,
FOR MONEY DAMAGES**

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW [TO FIND OUT WHERE YOU CAN GET LEGAL HELP]. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
1101 Market Street, 11th Floor
Philadelphia, PA 19107
Telephone: 215-238-6300

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparecencia es rita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

USTED DEBE LLEVAR ESTE PAPEL SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE Un ABOGADO [O NO PUEDE PRODUCIR UNO], VAYA A O LLAME POR TELÉFONO LA OFICINA DISPUESTA ABAJO [DESCUBRIR DÓNDE USTED PUEDE CONSEGUIR AYUDA LEGAL]. ESTA OFICINA PUEDE PROVEER De USTED La INFORMACIÓN SOBRE EMPLEAR A un ABOGADO.

SI USTED NO PUEDE PERMITIRSE AL HIRE A un ABOGADO, ESTA OFICINA PUEDE PODER PROVEER DE USTED LA INFORMACIÓN SOBRE LAS AGENCIAS QUE LOS SERVICIOS JURÍDICOS de la OFERTA de MAYO A LAS PERSONAS ELEGIBLES EN Un HONORARIO REDUCIDO O NINGÚN HONORARIO.

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Plaintiff Stephen Thorne (“Thorne”), by and through his counsel, White and Williams LLP, for his complaint against defendant Monica Malpass (“Malpass”), hereby states as follows:

PARTIES

1. Thorne is an individual residing on Rittenhouse Square in Philadelphia.
2. Malpass is also an individual residing near Rittenhouse Square in Philadelphia.

JURISDICTION AND VENUE

3. Personal jurisdiction and venue are proper in the Philadelphia County Court of Common Pleas because most of the events that gave rise to this case took place in Philadelphia County and Malpass is a resident of Philadelphia County.

FACTS

4. Thorne is 52 years old, divorced, 2 children, and the owner of Eastern Warehouse Distributors, Inc.

5. Malpass is 45 years old, one child, divorced, and an anchor on the local Philadelphia television ABC affiliate, Channel 6 Action News.

6. Thorne and Malpass both live in the Rittenhouse Square area in Philadelphia and met March 18th, 2006 at the Red Ball.

7. After dating for a while, Thorne proposed marriage to Malpass on June 17, 2006 at the Mayflower Inn, Washington CT.

8. Upon acceptance of his proposal of marriage, Thorne gave Malpass a 5.06 carat diamond engagement ring that same evening.

9. He purchased the diamond engagement ring on June 15th, 2006 from T. Foster & Co., Jeweler, in Yardley, PA.

10. The purchase price of the ring was approximately \$78,000.

11. The ring, upon information and belief, appreciated in value since its purchase and is now worth about \$100,000.

12. Malpass wore the ring on the 5:00pm broadcast of the local ABC News on June 19th, 2006 and told her boss that she was engaged. The engagement received publicity in the local media.

13. Previously, before the engagement Malpass wanted more children, and Thorne agreed but only if they were married. Thorne underwent a reverse vasectomy on June 1st, 2006 to enable him to have more children. Malpass herself changed the original vasectomy appointment to an earlier date because of her timetable for getting pregnant as soon as possible.

14. On July 10th, 2006, after her evening broadcast, Thorne broke off the engagement primarily because he changed his mind and decided that he did not want to have any more children with Malpass.

15. Thorne intended that Malpass not undergo undue public embarrassment as a result of the break up of such a short engagement, especially because Malpass just went through a nasty public divorce battle during which Malpass lost her job for a 3 week period as a result of the turmoil.

16. Accordingly, Thorne agreed that Malpass could keep the engagement ring for an unspecified period of time until she was "comfortable" with the public's perception of her broken engagement at which time she would either (a) give back the ring, (b) give back the ring after receiving some amount of money from Thorne or (c) sell the ring and give some or all of the proceeds to Thorne.

17. On October 12th, 2006, Malpass switched the engagement ring from the left hand to the right and also received media attention on October 14th, 2007, in the Daily News that Malpass was unengaged.

18. The parties continued dating through January 15, 2007 and at times contemplated resuming their engagement.

19. On January, 15th 2007 the parties unequivocally decided to stop dating.

20. Recently, Malpass advised her friends and family (and the public) that she was no longer dating Thorne and took the ring off completely on January 22nd, 2007.

21. On several occasions in January, 2007, because he sensed Malpass was now “comfortable” and would not suffer undue embarrassment and because the parties no longer had any desire to date or resume their engagement, Thorne asked for the ring back.

22. Malpass refused.

23. Finally, on or about January 31, 2007, Thorne unequivocally advised Malpass that they were not going to get married and demanded the return of the ring which was a conditional gift, and the condition, marriage, was never fulfilled.

24. Under Pennsylvania law, the conditional donor, irrespective of which party ends the engagement, is entitled to the return of the engagement ring if the condition is not fulfilled. Lindh v. Surman, 560 Pa. 1, 742 A.2d 643 (1999).

25. Malpass still refused to return the ring citing in a letter to Thorne a letter Thorne wrote in August, when the engagement was first called off, which she claimed “took precedent” over all the parties’ other conversations and the bright line rule announced by the Pennsylvania Supreme Court in Lindh v. Surman which requires the return of the engagement ring in all circumstances.

26. Based on her letter, Malpass apparently contends that Thorne's sensitivity to her feelings about the brevity of the engagement converted the engagement ring into an unconditional gift.

COUNT I - REPLEVIN

27. Thorne incorporates by reference as though fully set forth at length herein paragraphs 1 through 27 above.

28. Malpass is in possession of the ring.

29. The ring was a conditional gift made to Malpass.

30. The condition for the making of the gift, marriage, did not occur and will not occur in the future.

31. Thorne, not Malpass, has legal title to the ring.

32. Thorne made demand of Malpass to return the ring on several occasions.

33. Malpass refused to return the ring.

34. Thorne is entitled to the remedy of replevin, i.e. the immediate return of the ring..

WHEREFORE, Thorne demands that judgment be entered in favor of Thorne and against Malpass and that the Court order that Malpass return the ring to Thorne and that, in addition, Thorne be entitled to reasonable attorney's fees, expenses of suit and court costs.

COUNT II - UNJUST ENRICHMENT

35. Thorne incorporates by reference as though fully set forth at length herein paragraphs 1 through 35 above.

36. In the event that Malpass sold the ring or is no longer in possession of it, then Thorne is entitled to the fair market value of the ring.

37. By retaining possession of the ring, Malpass was unjustly enriched in the amount of the fair market value of the ring which is approximately \$100,000.

38. It would be unconscionable for Malpass to retain the value of the ring without making any restitution to Thorne.

39. Justice and equity require that Thorne be made whole and be paid the fair market value of the ring if it cannot be returned to him.

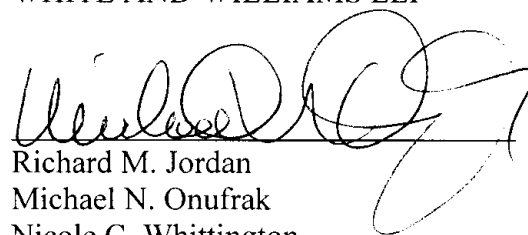
WHEREFORE, Thorne demands that judgment be entered in favor of Thorne and against Malpass and that Thorne be entitled to be paid his legal fees, expenses of suit and court costs.

Dated: February 21, 2007

Respectfully submitted,

WHITE AND WILLIAMS LLP

BY:

A handwritten signature in black ink, appearing to read "Richard M. Jordan", written over a horizontal line. The signature is stylized and cursive.

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Stephen Thorne