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January 24, 2011

VIA UPS NEXT DAY

Nancy Caterina, Team 3
Appellate Division
Superior Court of New Jersey
Hughes Justice Complex
25 West Market Street
PO Box 006
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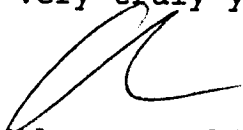
**Re: US Bank National Association, As Trustee for CSAB Mortgage-
Backed Pass-Through Certificates 2006-3 vs. Maryse
Guillaume; Mr. Guillaume, Husband of Maryse Guillaume;
Emilio Guillaume; Mrs. Emilio Guillaume, His Wife; City of
East Orange
Docket No: A-376-10T3**

Dear Ms. Caterina:

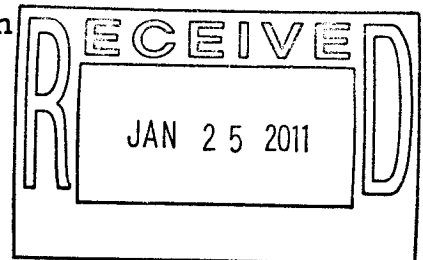
Enclosed please find an original and four copies of Appellants' Reply Brief and Appendix and an original and four copies of a Certification of Service.

Kindly file the same and return the duplicate copy of this letter with the filing date stamped thereon to me in the enclosed envelope.

Very truly yours,


Alan J. Baldwin

AJB:mno/Enclosures
cc: Henry F. Reichner, Esq.
Margaret Lambe Jurow, Esq.
Maryse & Emilio Guillaume



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ON REFERRAL FROM LEGAL SERVICES OF NEW JERSEY
Attorneys for Defendants, Maryse Guillaume and Emilio Guillaume

US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CSAB MORTGAGE- BACKED PASS-THROUGH CERTIFICATES, SERIES 2006-3	: SUPERIOR COURT OF NEW JERSEY : APPELLATE DIVISION : DOCKET NO. A-000376-10T3 : : Civil Action :
Plaintiff/Respondent	: On Appeal From: : Superior Court of New Jersey : Chancery Division-Essex County : Docket No: F-26869-08
vs.	
MARYSE GUILLAUME; MR. GUILLAUME, HUSBAND OF MARYSE GUILLAUME; EMILIO GUILLAUME; MRS. EMILIO GUILLAUME, HIS WIFE; CITY OF EAST ORANGE	: Sat Below: : The Honorable Harriet Farber : Klein, J.S.C. : : CERTIFICATION OF SERVICE
Defendants/Appellants	: :

1. My name is Mary M. Onufrick. I am a Legal Assistant with the firm of Broderick, Newmark & Grather, attorneys for Defendants/Appellants, Maryse Guillaume and Emilio Guillaume.

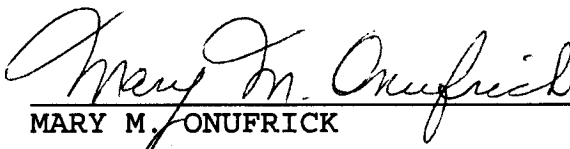
2. On January 24, 2011, I sent by UPS overnight mail an original and four copies of Appellants' Reply Brief and Appendix to:

Nancy Caterina, Team 3
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25 West Market Street
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3. On January 24, 2011, I sent by UPS overnight mail two copies of Appellants' Reply Brief and Appendix to:

Henry F. Reichner, Esq.
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2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103-7301

I certify that the above statements are true. I am aware that if any of the above statements are willfully false, I am subject to punishment.



MARY M. ONUFRICK

Dated: January 24, 2011

=====

US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CSAB MORTGAGE-BACKED
PASS-THROUGH CERTIFICATES,
SERIES 2006-3

Plaintiff/Respondent,

vs.

MARYSE GUILLAUME; MR GUILLAUME,
HUSBAND OF MARYSE GUILLAUME; EMILIO
GUILLAUME; MRS. EMILIO GUILLAUME,
HIS WIFE; CITY OF EAST ORANGE

Defendants/Appellants.

: SUPERIOR COURT OF NEW JERSEY
: APPELLATE DIVISION
: DOCKET NO. A-000376-10T3
:
: Civil Action
:
: On Appeal From:
: Superior Court Of New Jersey
: Chancery Division, Essex County
: Docket No. F-26869-08
:
: Sat Below:
: The Honorable Harriet Farber
: Klein, J.S.C.
:
:

REPLY BRIEF AND APPENDIX

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APPELLANTS, MARYSE AND EMILIO
GUILLAUME

On the Brief: Alan J. Baldwin, Esq.

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LEGAL ARGUMENT

POINT I

RULES 1:4-4, 1:6-2, 1:6-6 AND 4:64-2(a) CAN AND SHOULD BE READ TOGETHER.

In order to justify the plaintiff's patent disregard for Rules 1:4-4, 1:6-2 and 1:6-6 it has fabricated the argument that there is an irreconcilable difference between the requirements of these rules on the one hand and R.4:64-2(a) on the other. This premise is entirely false. These rules are not inconsistent. They can and should be read together.

When interpreting court rules the courts should apply the principles of statutory construction. Wiese v. Dedhia, 188 N.J. 587 (2006). When interpreting a statute, the entire statute should be read together. Hubner v. Spring Valley, 203 N.J. 184 (2010). "It is a primary canon of construction that the provisions of statutes in *pari materia* shall be reconciled and harmonized, if possible, into a consistent, homogeneous whole". In re Huyler, 133 N.J.L. 171, 173 (S.Ct. 1945). In other words, the courts should not create inconsistencies or contradictions in the rules where none exist.

R.4:64-2(a) requires that the proof of debt submitted to the court in support of a plaintiff's motion for entry of a default judgment in a mortgage foreclosure case be in the form of either the original Note or a copy "certified [to be]

true...by a New Jersey attorney". The phrase "certified to be true" means what it says, that is, the proof must be in the form of a certification by a New Jersey attorney. Nothing in the rule suggests that the normal requirements of certifications relating to foundation, etc., are waived. All that is required is that a New Jersey attorney certify that (in the case of Mr. Yoder) he is a New Jersey attorney, he has reviewed the original Note and the copy, and that the copy is an accurate copy of the original. This is then followed by the statement required by R.1:4-4 which indicates an understanding that the affiant is subject to punishment if the statements in the certification are willfully false. Finally, it must be signed and dated.

R.4:64-2(a) is not an exception to R.1:6-2 and 1:4-4. It is rather a specification of the proofs needed for entry of a default judgment on motion in a foreclosure case. It provides a limited exception to the business records exception to the hearsay rule, in that the foundation for admissibility of the debt need not be provided by the custodian of records of the creditor. This function can be fulfilled by a New Jersey attorney. But that attorney must still follow the court rules regarding the form and content of his certification.

Though the plaintiff could have complied with the rules in its original submission or, later, by amending the submission in the face of the defendants' motion, it has instead maintained a

consistent, though flawed, position, that being that though the court rules apply to the defendants and all other litigants, they do not apply to the plaintiff. This is wrong.

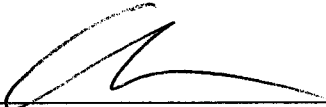
POINT II

THE DEFENDANTS RAISED THEIR CONSTITUTIONAL ARGUMENT BELOW.

Plaintiff argues that the defendants failed to raise their constitutional argument below and, therefore, cannot do so on appeal. Though the legal premise is valid, the factual predicate upon which it is based is not.

The argument that the failure to apply the court rules in the same way to all litigants violates the constitutional rights to equal protection and due process under the law was raised as a part of Point II of defendants' Brief before the Chancery Division and the issue was acknowledged by the motion judge during oral argument. Defendants' Appendix at Da239-Da242 and Transcript, 11/10/09, page 6, lines 2-10 and page 10, lines 1-6. There is no procedural impediment to the defendants advancing this argument before this court.

BRODERICK, NEWMARK & GRATHER
Attorneys for Defendants/
Appellants, Maryse Guillaume
and Emilio Guillaume



BY: ALAN J. BALDWIN

Dated: January 18, 2011

APPENDIX

September 21, 2009 Brief in Support of Order to Show
Cause, pages 8 and 9. Da239

SUPERIOR COURT OF NEW JERSEY

ESSEX COUNTY - CHANCERY DIVISION

US BANK NATIONAL ASSOCIATION,	: SUPERIOR COURT OF NEW JERSEY
AS TRUSTEE FOR CSAB MORTGAGE-	: CHANCERY DIVISION-ESSEX COUNTY
BACKED PASS-THROUGH	:
CERTIFICATES, SERIES 2006-3	: Docket No: F-26869-08
	:
Plaintiff	: Civil Action
	:
vs.	:
	:
MARYSE GUILLAUME, ET AL	:
	:
Defendants	:

DEFENDANTS BRIEF IN SUPPORT OF ORDER TO SHOW CAUSE

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Attorneys for Defendants,
Maryse Guillaume and Emilio Guillaume

On the Brief: Alan J. Baldwin, Esq.

which are produced by a witness who swears that he has compared the original, word for word, or has examined the copy while another person read it." State v. Black, 31 N.J. Super. 418, 423 (App. Div. 1954). The notation by Mr. Yoder on the document does not comply with those standards. He has not laid the proper foundation for his statement because he does not state that he has seen the original document and compared it to the copy.

Nor has Mr. Yoder complied with R.1:4-4. That rule permits the use of a Certification in lieu of an Affidavit only if the Certification contains the following language:

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

The statement on the document does not contain this required language. It is thus not in compliance with the rules and cannot serve as the basis for a Default Judgment.

A violation of court rules denies the defendants their due process rights. Sherman v. Sherman, 330 N.J. Super 638 (Ch. Div. 1999). The Fourteenth Amendment to the United States Constitution provides in part that no state "shall deprive any person of life, liberty or property without due process of law". The Judgment against the defendants undisturbed will result in the loss of their home at a Sheriff's sale. Final Judgment was entered in error and maintenance of that Judgment is a violation

of the defendants' due process rights under the New Jersey and United States Constitutions.

We must acknowledge, however, that the proofs submitted in this case may be typical of the quality of proofs submitted in foreclosure cases throughout the State. This, however, should not color the court's analysis. The failure of plaintiffs in mortgage foreclosure proceedings to follow the Rules of Court by which all litigants and their attorneys are bound should not go unchecked just because they may have always done it this way. Defendants, the courts and even plaintiffs have an interest in the uniform application of the rules both as a matter of good practice and constitutional mandate.

Because the proofs submitted by the plaintiff in support of its motion for entry of a Default Judgment are insufficient as a matter of law, it is respectfully requested that this court vacate the Default Judgment and permit the defendants to serve and file a responsive pleading.

CONCLUSION

For the reasons set forth above it is respectfully requested that this court issue an immediate Order staying the Sheriff's sale of defendants' property, vacating the Default Judgment entered against them and permitting them to serve and file a responsive pleading to the Complaint.

Respectfully submitted,

BRODERICK, NEWMARK & GRATHER
Attorneys for Defendants,
Maryse Guillaume and Emilio Guillaume



BY: ALAN J. BALDWIN

Dated: September 21, 2009