

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

IN RE:

Chapter 7  
Case # 08-14106(REG)

SYLVIA NUER,

Debtor.

----- X

HELD AT: Law Offices of Linda M. Tirelli  
202 Mamaroneck Avenue  
White Plains, New York 10601  
October 6, 2009  
1:39 p.m.

Examination before Trial of the  
REPRESENTATIVE OF JP MORGAN CHASE BANK, NA,  
by CHARLES HERNDON, pursuant to Court Order,  
held at the above time and place before a  
Notary Public of the State of New York.

J & L REPORTING SERVICE  
of Westchester, Inc.  
200 East Post Road  
White Plains, New York 10601  
(914) 682-1888  
Lisa Dobbo, Reporter

APPEARANCES:

LAW OFFICES OF LINDA M. TIRELLI  
Attorney for the Debtor  
Office & Post Office Address  
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3rd Floor  
White Plains, New York 10601  
BY: LINDA M. TIRELLI, ESQUIRE

TEITELBAUM & BASKIN, LLP  
Attorneys for  
JP Morgan Chase Bank, NA  
Office & Post Office Address  
3 Barker Avenue, 3rd Floor  
White Plains, New York 10601  
BY: JAY TEITELBAUM, ESQUIRE

OFFICE OF US TRUSTEE  
33 Whitehall Street, Floor 21  
New York, New York 10004  
BY: GREG ZIPES, US TRUSTEE

IT IS HEREBY STIPULATED AND  
AGREED, by and between the attorneys for the  
respective parties herein, that the sealing  
and filing of the within deposition be  
waived; that such deposition may be signed  
and sworn to before any officer authorized  
to administer an oath, with the same force  
and effect as if signed and sworn to before  
the officer before whom said deposition is  
taken.

IT IS FURTHER STIPULATED AND  
AGREED, that all objections, except as to  
form, are reserved to the time of trial.

1 C. HERNDON 4

2 CHARLES HERNDON, residing at

3 C/O 7301 Baymeadows Way,

4 Jacksonville, Florida 32256,

5 having been duly sworn by

6 Notary Public, Lisa Dobbo

7 testified as follows:

8 EXAMINATION BY MS. TIRELLI:

9 Q. Good afternoon and welcome.

10 State your name for the record,

11 please and spell it.

12 A. Charles, C-H-A-R-L-E-S,

13 Herndon, H-E-R-N-D-O-N.

14 Q. What is your business address,

15 Mr. Herndon?

16 A. 7301 Baymeadows, one word, Way,

17 Jacksonville, Florida 32256.

18 Q. What business is at that

19 address?

20 A. JP Morgan Chase.

21 Q. How long have you worked at JP

22 Morgan Chase?

23 A. I've worked at Chase since they

24      acquired Washington Mutual, September 2008.

25      Q.    What's your title there?

1 C. HERNDON 5

2 A. Operations unit manager.

3 Q. Is this a servicers division of

4 JP Morgan Chase?

5 A. Yes, ma'am.

6 Q. What exactly is your division

7 or department that you're working for?

8 A. I work for risk research.

9 Q. What does that entail exactly?

10 A. Litigation support.

11 Q. Have you ever been deposed

12 before?

13 A. Yes, ma'am.

14 Q. How many times?

15 A. Approximately seventy-five.

16 Q. In what capacity?

17 A. Through work.

18 Q. Of the same as what you're

19 doing now, in other words?

20 MR. TEITELBAUM: Objection.

21 A. Yes, ma'am.

22 Q. Were these seventy-five

23 different cases or did seventy-five

24 depositions?

25 A. Primarily -- there may have



1 C. HERNDON 6

2 been one or two cases I was deposed more  
3 than once but approximately seventy-five  
4 different cases.

5 Q. Could you list them?

6 A. No, ma'am.

7 Q. You're familiar with the  
8 process of deposition and you understand you  
9 keep your voice up and the court reporter  
10 cannot take nods and shakes of the head, you  
11 understand that; right?

12 A. Yes, ma'am.

13 Q. If you ask me to repeat  
14 something I want to make should you  
15 understand the question. I do not want you  
16 to guess. I don't want you to assume  
17 anything. I want you to answer from your  
18 own personal knowledge; do you understand?

19 A. Yes, ma'am.

20 Q. For the record, I'm Linda  
21 Tirelli and I represent the debtor, Sylvia  
22 Nuer. She's not present today. She may be  
23 coming today.

- 24           Also present for the record is Jay
- 25           Teitlebaum who represents Chase Bank and

1 C. HERNDON 7

2 Greg Zipes, US Trustee.

3 I want to give you copy of the Notice  
4 of Deposition and request for production of  
5 documents that was served in this case.

6 MR. TEITELBAUM: Okay.

7 MS. TIRELLI: If we can get  
8 that marked as an exhibit.

9 (Whereupon, Debtor's Exhibit 1,  
10 Notice of Deposition, was marked for  
11 Identification.)

12 Q. Mr. Herndon, you now have in  
13 front of you what's marked as Debtor's 1  
14 which is the Notice of Deposition and  
15 request for production of documents.

16 Have you seen this document prior to  
17 today?

18 A. Looks similar to a document  
19 I've seen. I couldn't attest to whether  
20 this is a document or not.

21 Q. Have you reviewed this prior to  
22 today?

23 A. Not -- no, ma'am.

24 Q. But you're here to testify to

25 the matters that were requested to be

1 C. HERNDON 8

2 testified before in that document today;  
3 correct?

4 MR. TEITELBAUM: Objection.

5 Based on discussions, the scope of  
6 this -- based on discussions with the  
7 office of trustees office and you,  
8 Mr. Herndon, and your notice was here  
9 to testify with respect to the issue  
10 of the standing in connection with  
11 the motion from remove from the stay.  
12 That's the motion he was presented  
13 with today.

14 We advised you there was no one  
15 witness who can testify to every  
16 aspect of your deposition.

17 MS. TIRELLI: I do agree it may  
18 take more than one witness to get  
19 everything answered.

20 Q. My question is merely, have you  
21 ever seen this document before, Mr. Herndon?

22 MR. TEITELBAUM: No, your  
23 question was whether he was here to

24        testify to issues in your Notice of

25        Deposition.

1 C. HERNDON 9

2 Q. Are you here to testify to any  
3 of the issues in the Notice of Deposition?

4 MR. TEITELBAUM: Objection.

5 A. I need to read it and see  
6 exactly what it's calling for.

7 MR. TEITELBAUM: I'm not trying  
8 to circumscribe your deposition.

9 Ask him whatever you need to  
10 do.

11 Q. You were served with a Notice  
12 of Deposition?

13 MR. TEITELBAUM: What's the  
14 point?

15 MS. TIRELLI: Has your witness  
16 ever seen this Notice of Deposition  
17 before?

18 MR. TEITELBAUM: My witness  
19 said he seen a document that looks  
20 similar to that documentation.

21 You want to sit here and read  
22 it word from word, fine.

23 Q. I'm asking if you're familiar

24 with this document?

25 MR. TEITELBAUM: Let him read



1 C. HERNDON 10

2 the document and we'll tell you.

3 MS. TIRELLI: Jay --

4 A. Your question again, sorry?

5 Q. Are you qualified to answer

6 questions pertaining to the issues that are

7 described in that document?

8 MR. TEITELBAUM: Objection. I

9 don't know what "qualified" means.

10 A. My understanding why I was

11 brought was regarding the standing. I was

12 testifying regarding the standing of the

13 bank.

14 Q. What makes you qualified to

15 answer questions regarding standing of the

16 bank?

17 A. My review of the corporate

18 records of the bank -- of the bank.

19 Q. What corporate records did you

20 review in preparation for today?

21 A. I reviewed the mortgage loan

22 purchase agreement, the pooling and settling

23 agreement.

24 MR. TEITELBAUM: Servicing.

25 A. Servicing agreement, excuse me,

1 C. HERNDON 11

2 borrower's, Ms. Nuer's mortgage and loan or  
3 mortgage and note, the FDIC filings relating  
4 to JP Morgan Chase acquiring Washington  
5 Mutual, other SCC documents.

6 Q. Whose decision was it that you  
7 would be testifying today?

8 A. JP Morgan Chase legal  
9 department.

10 Q. Anybody specific?

11 A. Yes, ma'am.

12 Q. Who would that be?

13 A. Scott Parker.

14 Q. What is Scott Parker's  
15 position?

16 A. I believe him to be in-house  
17 legal -- in-house attorney.

18 Q. Where is his office?

19 A. I believe in Island, New  
20 Jersey.

21 Q. Can you please describe your  
22 regular job duties and what it entails?

23 A. Yes, ma'am. I manage a team of

- 24 representatives that provide litigation
- 25 support to in-house and outside counsel

1 C. HERNDON 12

2 relating to the prosecution or defense of  
3 lawsuits, litigants.

4 Q. Who do you report to?

5 A. Jennifer Kile.

6 Q. What is her address?

7 A. Same as mine.

8 Q. Could you spell her last name,  
9 please.

10 A. K-I-L-E.

11 Q. What is her title?

12 A. She's a vice-president.

13 Q. Of what?

14 A. JP Morgan Chase.

15 Q. Is there anybody under you who  
16 reports to you?

17 A. Yes, ma'am.

18 Q. Who is that?

19 A. I have two employees currently.

20 Q. And their names?

21 A. Melissa Onkst, O-N-K-S-T and  
22 Melissa Hunt.

23 Q. Did you say Hunt as in H-U-N-T?

24 A. Yes, ma'am.

25 Q. Are there others who work for

1 C. HERNDON 13

2 JP Morgan Chase who hold the same position  
3 as you?

4 A. No, ma'am.

5 Q. For the entire company JP  
6 Morgan Chase you're the only one?

7 A. That I'm aware of, yes, ma'am.

8 If I may clarify. If you're referring to my  
9 title of operations unit manager, no,  
10 there's several. There are many.

11 Q. Who are they?

12 A. I don't have a clue how many  
13 people hold that title.

14 Q. Had you ever met attorney Jay  
15 Teitlebaum before we sat down here today?

16 A. Yes.

17 Q. Pertaining to this case?

18 A. Yes, ma'am.

19 Q. When did you do that?

20 A. I met with him yesterday.

21 Q. Where did you meet with him?

22 A. In his office.

23 Q. How long did you meet with him

24 for?

25 A. Several hours.



1 C. HERNDON 14

2 Q. The documents that you  
3 described before, were those the documents  
4 that you reviewed?

5 A. Yes, ma'am.

6 Q. You reviewed them with Mr.  
7 Teitlebaum?

8 A. Yes, ma'am.

9 Q. Do you have any of those  
10 documents here with you today?

11 A. I don't have anything with me  
12 here.

13 Q. Why not?

14 MR. TEITELBAUM: Objection.  
15 Attorney/client communication. He  
16 doesn't have the documents.

17 Q. Did you bring the documents  
18 with you today?

19 A. I brought nothing with me  
20 today.

21 Q. In your own words, why don't  
22 you have the documents today?

23 A. Because I didn't require them.

24 I was not aware that I was --

25 MR. TEITELBAUM: You already

1 C. HERNDON 15

2 answered the question.

3 Q. Was it your decision not to  
4 bring the documents?

5 MR. TEITELBAUM: Objection.

6 A. I don't recall. I believe so.

7 Q. Have you made any written or  
8 verbal statements regarding this case prior  
9 to today?

10 MR. TEITELBAUM: Objection.

11 A. I'm not sure what you mean.

12 Q. Well, have you discussed this  
13 case with anybody prior to today?

14 A. Yes, ma'am.

15 Q. Who did you discuss this with?

16 A. Counsel.

17 Q. Counsel meaning Scott Parker or  
18 counsel meaning Jay Teitlebaum?

19 A. Both.

20 Q. How long did you discuss this  
21 with Scott Parker?

22 A. Not very long. I don't recall.

23 Q. When did you discuss this with

24 Scott Parker?

25 A. Over the past month.

1 C. HERNDON 16

2 Q. Approximately a month ago?

3 A. Initially, yes, ma'am.

4 Q. For how long did you spend time

5 with Scott Parker discussing this case?

6 A. Probably just several minutes.

7 Q. In between the time that you

8 spoke with Scott Parker and in between the

9 time you met with Jay Teitlebaum yesterday,

10 did you make any other statements to any

11 third parties regarding this case?

12 A. Yes, ma'am.

13 Q. Who was that?

14 A. Lynn Greene.

15 Q. Who is Lynn Greene?

16 A. She is a representative in my

17 area.

18 Q. What does that mean?

19 A. She works in litigation

20 support.

21 Q. Spell Greene for me, please.

22 A. G-R-E-E-N -- I believe there's

23 an "E" at the end. I'm not sure.

24 Q. What is Lynn Greene's position?

25 A. She's a research analyst.

1 C. HERNDON 17

2 Q. Why were you discussing this  
3 with Lynn Greene?

4 A. She had gathered some documents  
5 for me.

6 Q. What documents did she gather  
7 for you?

8 A. The copy of the mortgage and  
9 note and I believe title policy.

10 Q. Did she gather anything else  
11 for you?

12 A. Not that I'm aware of.

13 Q. Other than Ms. Greene, Mr.  
14 Teitlebaum and Mr. Parker, did you discuss  
15 this matter with anybody else?

16 A. Yes, ma'am.

17 Q. Who would that be?

18 A. Jimmy Edwards.

19 Q. Who is Jimmy Edwards?

20 A. He is -- I'm not sure his  
21 title. He's manager of some type in the  
22 Jacksonville office.

23 Q. What is his title?

24 A. I don't know his exact title.

25 Q. Why were you discussing this



1 C. HERNDON 18

2 with Jimmy Edwards?

3 A. Trying to locate some

4 additional documents.

5 Q. What documents were you trying

6 to locate?

7 A. The original mortgage and note

8 he was looking for. He was tracking them

9 down for me.

10 Q. You said that was -- when did

11 you speak to Mr. Edwards, approximately?

12 A. Yesterday.

13 Q. When was it that you were

14 trying to locate the original note and

15 original mortgage?

16 A. Yesterday.

17 Q. So, prior to yesterday, you

18 didn't know where the original note and

19 original mortgage were?

20 A. Prior to yesterday I was not

21 involved in looking for them.

22 Q. Had you requested them?

23 A. No, ma'am.

24 Q. Did you find them?

25 A. I have -- I haven't found them,

1 C. HERNDON 19

2 no, ma'am. I've been here in White Plains.

3 Q. So, is it your testimony today  
4 that as of right now you don't know where  
5 the original note and where the original  
6 mortgage are?

7 A. I don't know, ma'am.

8 Q. Have you inquired beyond  
9 Mr. Greene as to where they might be?

10 A. Mr. Edwards.

11 Q. Mr. Edwards, I beg your pardon.

12 A. No, ma'am.

13 Q. Have you asked anybody else  
14 where they might be?

15 A. No, ma'am.

16 Q. Why were you looking for the  
17 original note and original mortgage?

18 A. I was requested to look for  
19 them.

20 Q. Who requested you to look for  
21 them?

22 A. Counsel.

23 Q. Who is that?

24 A. Mr. Teitlebaum.

25 Q. Mr. Teitlebaum did not know

1 C. HERNDON 20

2 where the original note or original mortgage  
3 were prior to today?

4 A. I can't testify to what Mr.  
5 Teitlebaum knew or doesn't know.

6 Q. But he requested that you find  
7 them?

8 MR. TEITELBAUM: Objection.

9 Q. Well, was it your testimony  
10 earlier that you find them?

11 A. Yes, ma'am.

12 Q. Thank you.

13 Did you review any other documents in  
14 preparation for today?

15 A. Yes, ma'am.

16 Q. What would that be?

17 A. Screen prints from servicing  
18 system, JP servicing system.

19 Q. Can you access that servicing  
20 system from a remote computer?

21 A. No, ma'am.

22 Q. If I were to bring in a lap top  
23 today, you can't access it?

24 A. That's correct.

25 Q. What exactly were you looking

1 C. HERNDON 21

2 at on the screen service center?

3 A. I was looking at the -- who the

4 investor of the loan was.

5 Q. Who's the investor?

6 A. The investor is the entity that

7 owns the mortgage.

8 Q. Who would that be?

9 A. Deutsches Bank, national

10 trustee for Long Beach Mortgage Trust

11 2006-2.

12 Q. Did you print copies of the

13 screens that you reviewed?

14 A. I did not, no, ma'am.

15 Q. If you had to, could you?

16 A. Yes, ma'am.

17 Q. If I were to request that you

18 produce those documents, you would be able

19 to do it?

20 MR. TEITELBAUM: Objection.

21 Take it under advisement.

22 MS. TIRELLI: I'm not asking

23 for them.

24 Q. If I were to ask you to produce

25 them, could you produce them?



1 C. HERNDON 22

2 A. I could print them.

3 Q. How long would that take you to  
4 accomplish?

5 A. Several seconds.

6 MS. TIRELLI: Request for  
7 production.

8 MR. TEITELBAUM: Take it under  
9 advisement.

10 Also note we did produce screen  
11 shots as part of the document  
12 production from this very system.

13 Q. Did you review the screen shots  
14 that were produced earlier by Mr.  
15 Teitlebaum?

16 A. I believe so, yes, ma'am.

17 Q. Were they the same screen shots  
18 as the ones you reviewed --

19 A. They were the same system, yes,  
20 ma'am. I reviewed them, I believe more  
21 recently than the initial screen shots were  
22 produced.

23 Q. You couldn't say for sure

24 whether or not the single screen shots

25 produced by Mr. Teitlebaum is the same

1 C. HERNDON 23

2 screen shots you reviewed on your system?

3 MR. TEITELBAUM: Objection.

4 A. I'm not certain which screen  
5 shots were produced.

6 Q. You're not sure which ones were  
7 produced so you can't say for sure whether  
8 they're the same ones as the ones you  
9 reviewed; is that correct?

10 A. Yes, ma'am.

11 MR. TEITELBAUM: Objection.

12 Q. I'm not trying to trick you.  
13 What computer were they saved on?

14 MR. TEITELBAUM: Objection.

15 A. Not certain. I mean, I  
16 reviewed them from my computer in my office.

17 Q. In Jacksonville?

18 A. Yes, ma'am.

19 Q. Are they viewable from any  
20 other computer that you're aware of?

21 A. Yes, ma'am.

22 Q. Where would that be?

23 A. Anywhere that a Chase employee

24 has access to that system.

25 Q. What system is that?

1 C. HERNDON 24

2 A. It is the MS -- LPS system.

3 Q. LPS, that's the company

4 formerly known as Fidelity?

5 A. I believe so, yes, ma'am.

6 Q. What sort of system do they

7 have?

8 A. I don't understand what you

9 mean.

10 Q. Is it an MSP system, magnified

11 MSP?

12 A. I'm not sure what magnified --

13 it was formerly known as the MSP system.

14 Q. You no longer call it the MSP

15 system?

16 A. I don't know, ma'am.

17 Q. Well --

18 A. I believe -- I do not.

19 Q. Internally within your office

20 how do you refer to your system, what do you

21 call it?

22 A. I'm an old timer. I refer to

23 it by the name -- I refer to it as CPI.

24 Q. What does that stand for?

25 A. Computer Power, Inc. It's the

1 C. HERNDON 25

2 same system. It's just changed over the  
3 years.

4 Q. Do you know how CPI works?

5 A. Yes, ma'am. Excuse me, I know  
6 how to access information on that system. I  
7 don't know --

8 Q. How does the information get on  
9 the system?

10 A. Through input from  
11 representatives.

12 Q. Representatives of what?

13 A. Chase or Fidelity or --

14 Q. Can you put information into  
15 the CPI system?

16 A. It's no longer CPI, but, yes, I  
17 can put information on what is now the LPS  
18 system.

19 Q. CPI, just to be clear, it's now  
20 called the LPS system?

21 A. Yes, ma'am.

22 Q. How exactly does that system  
23 work?

24 MR. TEITELBAUM: Objection.

25 A. I don't know what you mean by



1 C. HERNDON 26

2 how does it work.

3 Q. Well, when you access it, what  
4 exactly do you do to pull up what you need?

5 A. I sign on that particular  
6 system and it's on my computer.

7 Q. What information do you  
8 normally access on the LPS system?

9 MR. TEITELBAUM: Objection.

10 A. Mortgage loan servicing system  
11 or mortgage loan information.

12 Q. Such as?

13 A. Such as payment information,  
14 address information, mortgagor's name.

15 Q. Did you access the loans from  
16 Sylvia Nuer on the LPS system?

17 A. Yes, ma'am.

18 Q. What did you discover in  
19 relation to that loan?

20 A. I was looking for the -- who  
21 the investor was and that's what I  
22 discovered.

23 Q. Did you learn anything else

24 about this loan other than the investor?

25 A. The trail of how the loan was

1 C. HERNDON 27

2 assigned to or transferred to that investor,  
3 yes, ma'am.

4 Q. What's an automatic trigger on  
5 the LPS system?

6 MR. TEITELBAUM: Objection.

7 A. Not familiar with that term.

8 Q. Are you familiar with the  
9 default trigger?

10 A. No, ma'am.

11 Q. Could you run two separate sets  
12 of records once a debtor goes into  
13 bankruptcy?

14 MR. TEITELBAUM: Objection.

15 A. I don't know what you mean by  
16 two separate sets of records.

17 Q. In the LPS system when a debtor  
18 goes into default or perhaps files  
19 bankruptcy, is a new set of records  
20 produced?

21 A. There's information relating to  
22 the bankruptcy that was not there prior to  
23 bankruptcy, so, yes, there would be -- I

24 mean, there's additional information that's

25 not a separate set of records.

1 C. HERNDON 28

2 Q. Does the LPS system  
3 automatically trigger a property and  
4 inspection report every time a debtor is  
5 late on a payment?

6 MR. TEITELBAUM: Objection.

7 A. No, ma'am.

8 Q. How does a property inspection  
9 report get ordered?

10 MR. TEITELBAUM: Objection.

11 A. I don't know.

12 Q. What exactly is the function of  
13 LPS in relation to this bankruptcy case?

14 MR. TEITELBAUM: In relation to  
15 this bankruptcy case?

16 MS. TIRELLI: Yes.

17 MR. TEITELBAUM: Objection.

18 A. They're a vendor for JP Morgan  
19 Chase.

20 Q. What kind of vendor?

21 A. They process our bankruptcies.

22 Q. What does that mean process  
23 your bankruptcies?

24           A. They work with outside counsel

25           and with JP Morgan Chase to facilitate

1 C. HERNDON 29

2 whatever is required in the bankruptcy.

3 Q. How does LPS access the  
4 debtor's account?

5 A. That, I'm not certain.

6 Q. Well, who gives LPS the  
7 information regarding the debtor?

8 A. I don't know.

9 Q. Do you know whether or not LPS  
10 can access the accounts of the debtors?

11 MR. TEITELBAUM: Objection.

12 I'm just going to note a standing  
13 objection. This is beyond the scope  
14 for which the witness is being  
15 produced. I'll just put it in there  
16 and keep asking your questions.

17 A. Sorry?

18 MS. TIRELLI: Read back the  
19 question, please.

20 (Whereupon, the reporter read  
21 back the requested material.)

22 A. I don't know.

23 Q. Who provides information

24 regarding the debtors to LPS?

25 MR. TEITELBAUM: Objection.



1 C. HERNDON 30

2 A. I don't know.

3 Q. But, you do know that LPS has  
4 information regarding the debtors?

5 A. I don't believe that was my  
6 testimony, but I don't know.

7 Q. Just help me out here.

8 You said that LPS processes your  
9 bankruptcies; correct?

10 A. They -- yes, ma'am.

11 Q. When you say they process your  
12 bankruptcies, what exactly does that entail?

13 A. I know that they're a vendor  
14 that works with outside counsel. The exact  
15 extent to which they work and how they  
16 access the information, I don't know.

17 Q. So, can the outside vendor,  
18 LPS, delete data or enter data into your  
19 system?

20 MR. TEITELBAUM: Objection.

21 A. I don't know.

22 Q. Can they print reports?

23 MR. TEITELBAUM: Objection.

24 A. I don't know.

25 Q. Does JP Morgan Chase monitor

1 C. HERNDON 31

2 LPS for accuracy?

3 A. I don't know.

4 Q. Who changes motions for

5 bankruptcy?

6 A. I don't know.

7 Q. You testified earlier that LPS

8 processes bankruptcies and part of the

9 processing is working with the attorneys to

10 process, I guess foreclosures and

11 bankruptcies; correct?

12 MR. TEITELBAUM: Objection.

13 A. I believe, yes, ma'am.

14 Q. How are attorneys selected?

15 MR. TEITELBAUM: Objection.

16 A. I don't know.

17 Q. Do you know whether or not the

18 attorneys who file items such as motion for

19 relief from stay, do those attorneys

20 communicate directly with Chase?

21 MR. TEITELBAUM: Objection.

22 A. In some instances, yes, ma'am.

23 Q. How do they communicate with

24 Chase?

25 A. Via email, via phone call.

1 C. HERNDON 32

2 Q. Do the attorneys prosecuting a  
3 foreclosure action motion for relief, do  
4 they have to go through LPS?

5 MR. TEITELBAUM: Objection.

6 A. I don't know.

7 Q. Do the attorneys who file  
8 motions for relief, do they have a signed  
9 contract with Chase?

10 MR. TEITELBAUM: Objection.

11 A. I don't know.

12 Q. Do they have a signed contract  
13 with LPS?

14 MR. TEITELBAUM: Objection.

15 A. I don't know.

16 Q. Do you know what a broker's  
17 print option is?

18 MR. TEITELBAUM: Objection.

19 A. No, ma'am.

20 Q. Do you know what a broker's  
21 price option is?

22 A. No, ma'am.

23 Q. Have you ever seen one before?

24           A. I don't know what it is so I

25           don't know if I've seen one.

1 C. HERNDON 33

2 Q. Are you familiar with the  
3 Chapter 7 bankruptcy filing of Ms. Nuer?

4 A. No, ma'am.

5 Q. You haven't reviewed any of the  
6 records filed in the bankruptcy proceeding?

7 A. I scanned some filings.

8 Q. What exactly did you scan?

9 A. I couldn't even say for certain  
10 which filings they were.

11 Q. Did you see the motion for  
12 relief from stay?

13 A. Yes, ma'am, I believe so.

14 Q. Did you see the objection to  
15 motion for relief of stay?

16 A. I believe so.

17 Q. Did you see the supporting  
18 affidavits for motion of relief of stay?

19 A. If they were part of the  
20 documents that you looked over, yes. I  
21 couldn't attest to --

22 Q. I'm just asking if you saw  
23 them.

24 A. I don't recall.

25 Q. When you say you scanned the



1 C. HERNDON 34

2 documents, the filings, do you mean you  
3 scanned them as in you looked over them with  
4 your eyes or you put them through an  
5 electronic scanner?

6 A. I looked over them with my  
7 eyes.

8 Q. When did Chase first acquire  
9 Washington Mutual?

10 MR. TEITELBAUM: Objection.

11 A. September of 2008.

12 Q. Does Chase, by the way, protect  
13 its data from hackers and spam?

14 MR. TEITELBAUM: Objection.

15 A. I don't know.

16 Q. Are you familiar with the  
17 Fannie Mae single servicing guidelines?

18 MR. TEITELBAUM: Objection.

19 A. I've heard of them.

20 Q. What's a pooling and servicing  
21 agreement?

22 A. It's an agreement between  
23 parties regarding pooling and servicing of

- 24 mortgage loans that I'm not certain if
- 25 pooling and servicing agreement apply to

1 C. HERNDON 35

2 anything other than mortgage loans as to the  
3 ones I've seen.

4 Q. Have you seen one in this case?

5 A. Yes, ma'am.

6 Q. Which pooling and servicing  
7 agreement would that be?

8 A. The one between Long Beach  
9 Mortgage Company and Long Beach Securities  
10 and Deutsches Bank as trustee for the trust.  
11 I believe those were the parties, if I'm  
12 remembering.

13 Q. Have you ever been in the  
14 servicing center in New Jersey?

15 A. No, ma'am.

16 Q. Are you the only witness that  
17 Chase designates for examinations such as  
18 this?

19 MR. TEITELBAUM: Objection.

20 A. No, ma'am.

21 Q. There are others that do what  
22 you're doing right now?

23 A. Yes, ma'am.

24 Q. And testify in the fashion

25 you're testifying now?

1 C. HERNDON 36

2 MR. TEITELBAUM: Objection.

3 A. Yes, ma'am.

4 Q. Do you know how it was decided  
5 that you would be the best party to testify  
6 today in this particular case?

7 MR. TEITELBAUM: Objection.

8 A. No, ma'am.

9 Q. Do you know where JP Morgan  
10 Chase is incorporated?

11 MR. TEITELBAUM: Objection.

12 A. No, ma'am.

13 Q. Do you know how many employees  
14 there are at JP Morgan?

15 MR. TEITELBAUM: Objection.

16 A. No, ma'am.

17 Q. Do you know how many offices it  
18 has?

19 MR. TEITELBAUM: Objection.

20 A. No, ma'am.

21 Q. Do you know who the officers  
22 are of JP Morgan Chase?

23 MR. TEITELBAUM: Officers, all

24 of them, every vice-president in

25 every JP Morgan Chase?

1 C. HERNDON 37

2 Q. I'm asking if you know who they  
3 are.

4 A. I'm familiar with some  
5 officers.

6 Q. Are you familiar with the  
7 officers that you would be familiar with?

8 MR. TEITELBAUM: Objection.

9 A. Yes, ma'am.

10 Q. Who would they be?

11 MR. TEITELBAUM: Objection.

12 How is this even remotely relevant  
13 to --

14 MS. TIRELLI: Objection is  
15 noted, Jay.

16 Q. Can you answer the question,  
17 please.

18 MR. TEITELBAUM: If you're  
19 asking if he knows people in a  
20 professional capacity --

21 MS. TIRELLI: I'm not asking --

22 MR. TEITELBAUM: Read back the  
23 question, please.

24 MS. TIRELLI: Could you,

25 please.



1 C. HERNDON 38

2 (Whereupon, the reporter read  
3 back the requested material.)

4 MR. TEITELBAUM: Want to start  
5 listing people you know at the  
6 organization professionally, go  
7 ahead.

8 Q. Do you know some officers in a  
9 professional capacity at JP Morgan Chase?

10 A. Yes, ma'am.

11 Q. Approximately how many do you  
12 know?

13 MR. TEITELBAUM: Objection.

14 A. That I know, three or four.

15 Q. Who are they?

16 A. Jennifer Kile, Bruce Marshak,  
17 M-A-R-S-H-A-K, I believe, probably those are  
18 the ones I can think of that -- Ann Thorn.

19 Q. Are you familiar with the  
20 entity known as Long Beach Mortgage Company?

21 A. Yes, ma'am.

22 Q. How are you familiar with that  
23 company?

24 A. They were -- through my job. I

25 can't --

1 C. HERNDON 39

2 Q. How are you familiar with them  
3 through your job, did you work with them,  
4 did you do something for them?

5 MR. TEITELBAUM: Objection.

6 A. They were at -- they were a  
7 subsidiary of Washington Mutual and became  
8 absorbed into Washington Mutual.

9 Q. Have you ever worked for Long  
10 Beach Mortgage Company?

11 A. No, ma'am.

12 Q. Does Long Beach Mortgage  
13 Company exist today, if you know?

14 A. I don't believe it does, no,  
15 ma'am.

16 Q. Do you know where it was  
17 headquartered?

18 A. No, ma'am.

19 Q. Do you know the names of any  
20 officers of Long Beach Mortgage Company?

21 A. No, ma'am.

22 Q. It's your testimony to the best  
23 of your knowledge Washington Mutual was the

24 parent company of Long Beach Mortgage

25 Company?

1 C. HERNDON 40

2 A. I'm not certain of the legal

3 ramifications of a parent company.

4 Washington Mutual acquired Long Beach.

5 Q. When you worked for Washington

6 Mutual, what capacity did you work for

7 Washington Mutual?

8 MR. TEITELBAUM: Objection.

9 A. Same capacity I'm in now.

10 Q. Were you a paralegal with

11 Washington Mutual?

12 A. No, ma'am.

13 Q. Have you ever been a paralegal?

14 A. In title, yes, ma'am.

15 Q. When you say in title, you mean

16 you don't have a certificate?

17 A. No, ma'am.

18 Q. Did you graduate college?

19 A. Yes, ma'am.

20 Q. Where did you graduate college?

21 A. University of North Florida.

22 Q. What was your degree in?

23 A. Finance.

24 Q. Four year degree?

25 A. Yes, ma'am.

1 C. HERNDON 41

2 Q. Did you have any education  
3 beyond the four years of college?

4 A. No, ma'am.

5 Q. Do you have any special  
6 training in accounting?

7 A. Other than accounting courses I  
8 took in college, no, ma'am.

9 Q. Do you have any special  
10 training in legal matters?

11 A. I don't know what you mean by  
12 legal matters.

13 Q. You said you worked for risk  
14 research and you said that has to do with  
15 assisting legal matters.

16 Am I misunderstanding something?

17 MR. TEITELBAUM: Objection.

18 A. I believe I testified it was  
19 litigation support.

20 Q. What exactly are the support  
21 services that you offer?

22 MR. TEITELBAUM: Objection.

23 A. I research mortgage accounts

24 for in-house and outside counsel, I make

25 appearances such as today for counsel.



1 C. HERNDON 42

2 Q. What is the research of a  
3 mortgage account as in this case, what does  
4 that entail?

5 A. In this case it was reviewing  
6 the chain of title for the mortgage.

7 Q. What did you learn when you  
8 reviewed chain of title for this mortgage?

9 A. I learned chain of title.

10 Q. What is the chain of title?

11 A. The mortgage originated with  
12 Long Beach Mortgage Company. The way a  
13 mortgage purchase loan agreement, it was --

14 MR. ZIPES: Speak slowly,  
15 please.

16 A. -- through, I believe the  
17 documents, mortgage loan purchase agreement,  
18 I believe is the term. I'd have to look at  
19 the documents. It was sold to --

20 Q. Sorry, you said the loan  
21 originated with Long Beach Mortgage Company?

22 A. Yes.

23 Q. And then what happened after

24 Long Beach Mortgage Company, where did it

25 go?

1 C. HERNDON 43

2 A. It was sold through the  
3 mortgage loan purchase agreement to, I  
4 believe it was Long Beach Securities.

5 MR. ZIPES: Can we go off the  
6 record just a second?

7 MS. TIRELLI: Sure.

8 (Whereupon, a discussion was  
9 held off the record.)

10 A. Again, I'm going off memory  
11 here but I believe that was the correct  
12 document and it was pooled and sold to  
13 Deutsches Bank as trustee and Long Beach  
14 Limited Loan Trust, I believe it's 2006-2.

15 Q. You're saying it was pooled.

16 What does that mean exactly?

17 A. It was put together with other  
18 loans of similar -- other similar loans and  
19 sold to that investor.

20 Q. When you worked for Washington  
21 Mutual, what was the address of your  
22 employment?

23 A. The same as it is today, 7301

24 Baymeadows Way.

25 Q. What was the name of the

1 C. HERNDON 44

2 department you worked for with Washington  
3 Mutual, the same as it is today?

4 A. I believe so.

5 Q. Your duties haven't changed any  
6 from the transfer of Washington Mutual  
7 becoming JP Morgan Chase?

8 MR. TEITELBAUM: Objection.

9 A. No, ma'am.

10 Q. Your duties are the same;  
11 correct?

12 A. Yes, ma'am.

13 Q. Is there a document that you  
14 could review here today that would assist  
15 you with going through the chain --  
16 assignment chain of title for this loan?

17 MR. TEITELBAUM: Objection.

18 A. I don't know if the documents  
19 are here.

20 Q. What document would you need?

21 A. There's documents that I  
22 referenced earlier, the pooling and  
23 servicing agreement, the mortgage loan

24 purchase agreement, I believe is the

25 document, the FDIC affidavit and sale

1 C. HERNDON 45

2 agreement. I apologize if I'm getting the  
3 exact name of the documents incorrect.

4 Q. Is it your testimony that this  
5 loan started off with -- just so I'm  
6 following you here -- it was originated by  
7 Long Beach Mortgage Loan -- Long Beach  
8 Mortgage Company?

9 A. I believe so, yes, ma'am.

10 Q. And then it was transferred to  
11 Long Beach Security Corporation?

12 MR. TEITELBAUM: Objection.

13 A. I don't know -- I don't believe  
14 it's Security Corporation.

15 Q. Security Company?

16 MR. TEITELBAUM: Objection.

17 Just show him the documents.

18 Q. Do you know the name of the  
19 company?

20 MR. TEITELBAUM: Objection.

21 A. Not the exact name off the top  
22 of my head, no, ma'am.

23 Q. Do you know what a depositor

24 is?

25 MR. TEITELBAUM: Objection.



1 C. HERNDON 46

2 A. In what capacity?

3 Q. In reference to a pooling and  
4 servicing agreement often as in this case,  
5 do you know what a depositor is?

6 A. Outside what the document says,  
7 no.

8 Q. You can take a look at this.

9 (Handed)

10 Q. Is this the pooling and  
11 servicing agreement that you looked at in  
12 relation to preparing for this case?

13 MR. TEITELBAUM: Can you help  
14 me for a second before the witness  
15 answers the question because I know  
16 that we produced copies, pooling and  
17 servicing agreements that have bait  
18 stamped numbers on them and this  
19 doesn't. Can you tell us where you  
20 got this document?

21 MS. TIRELLI: It's published on  
22 the securities and exchange web site.

23 MR. TEITELBAUM: Is this a

24 document that was obtained from the

25 SCC web site?

1 C. HERNDON 47

2 MS. TIRELLI: Yes, exactly it

3 is.

4 Q. Is that the same pooling and  
5 servicing agreement that you observed in  
6 preparing for today?

7 A. I believe it is. I mean,  
8 obviously it's very thick and I couldn't  
9 attest to -- it appears to be.

10 Q. Have you read that document?

11 A. Not entirely, no, ma'am.

12 Q. In preparing for today, did you  
13 scan that document as you mentioned earlier?

14 A. Yes, ma'am.

15 Q. How much time did you spend  
16 with that document?

17 A. I don't recall.

18 Q. Do you recall what the chain of  
19 title is supposed to be according to that  
20 document?

21 MR. TEITELBAUM: Objection.

22 A. I believe the document -- it  
23 says what it says. I don't -- I believe it

24 was exactly as I indicated that it was.

25 Q. So, is it your testimony that

1 C. HERNDON 48

2 this loan did in fact originate with Long  
3 Beach Mortgage Company and did in fact be  
4 transferred to Long Beach Mortgage -- Long  
5 Beach Security Corp.?

6 A. Yes, ma'am.

7 Q. What is a sponsor on the  
8 pooling and servicing agreement?

9 A. I don't know; whatever the  
10 documents indicates the sponsor is.

11 Q. But you don't know what a  
12 sponsor is?

13 A. No, ma'am.

14 Q. You don't know what a depositor  
15 is; was that your testimony earlier?

16 MR. TEITELBAUM: Objection.

17 A. Not the legal -- I'm not an  
18 attorney, so, no, ma'am, not the --

19 Q. I'm not asking for a legal  
20 opinion.

21 If you reviewed this document, did  
22 you learn what a depositor is?

23 A. I learned who the depositor is.

24 Q. Who is the depositor?

25 A. Long Beach Securities

1 C. HERNDON 49

2 Corporation.

3 Q. Do you know what the depositor  
4 is supposed to make when transferring these  
5 loans to the trust?

6 MR. TEITELBAUM: Objection.

7 A. I don't recall, no, ma'am.

8 Q. Based on this document which  
9 you said you reviewed in preparation for  
10 today, what is the chain of title? Take me  
11 through one more time.

12 MR. TEITELBAUM: Objection.

13 Asked and answered.

14 A. The loan originated with Long  
15 Beach Mortgage Company. There was, and I  
16 don't know -- again, I don't know the exact  
17 legal ramifications but it originated with  
18 Long Beach Mortgage Company, it was  
19 transferred to Long Beach Security Corp and  
20 ultimately to Deutsches Bank as trustee.

21 Q. How long did Long Beach  
22 Security Corp maintain this note?

23 A. I don't know.

24 Q. Do you know when the transfer

25 occurred between the originator and



1 C. HERNDON 50

2 depositor?

3 A. No -- not off the top of my

4 head, no, ma'am.

5 Q. Do you know what the closing

6 date is for the pooling and servicing

7 agreement?

8 A. There's a date on the document

9 of March 1st, 2006.

10 Q. Do you know what the closing

11 date is?

12 A. If it's specified in here then

13 I can read it, but --

14 Q. But you're not familiar enough

15 with the document to see what the closing

16 date is?

17 MR. TEITELBAUM: Objection.

18 A. I did not memorize the

19 document, no, ma'am.

20 Q. Do you know what a closing date

21 is in general?

22 MR. TEITELBAUM: Objection.

23 A. Yes, ma'am.

24 Q. What is a closing date?

25 A. It's a date in which a mortgage

1 C. HERNDON 51

2 closing occurs.

3 Q. In relation to the pooling and  
4 servicing agreement, do you know what a  
5 closing date is?

6 A. It defines closing date as  
7 March 7th, 2006.

8 Q. What's the significance of that  
9 date --

10 MR. TEITELBAUM: Objection.

11 Q. -- if you know?

12 A. It's the closing date.

13 Q. But you don't know what the  
14 significance of -- what it means?

15 MR. TEITELBAUM: Objection.

16 A. Outside the document, no,  
17 ma'am.

18 Q. Is it your testimony today that  
19 Ms. Nuer's loan is owned by a trust?

20 A. Yes, ma'am.

21 Q. What trust would that be?

22 A. The Long Beach Mortgage Loan  
23 Trust 2006-2.

24 Q. Is it true that Deutsches Bank

25 National Trust Company is the trustee for

1 C. HERNDON 52

2 the trust which owns Ms. Nuer's loan?

3 A. Yes, ma'am.

4 Q. Do you understand the concept  
5 of securitization?

6 A. Somewhat.

7 Q. What is your understanding of  
8 securitization?

9 MR. TEITELBAUM: Objection.

10 A. Then perhaps I don't.

11 Q. You can't testify whether or  
12 not Ms. Nuer's loan is securitized in the  
13 loan?

14 MR. TEITELBAUM: Objection.

15 A. Again, if it's in -- it's owned  
16 by -- the loan is owned by the trust.

17 Q. When you're looking and  
18 researching loans in preparation for  
19 testimony such as you are today, how do you  
20 decipher which pooling servicing agreement  
21 governs which loans?

22 A. I would look to see who the  
23 investor was and what pooling and servicing

24 agreement it would fall under.

25 Q. To get that information, you go

1 C. HERNDON 53

2 into Ms. Nuer's record on your system?

3 A. Yes, ma'am.

4 Q. Is that the LPS system?

5 A. Yes.

6 Q. LPS maintains the system that

7 tells you where this loan is?

8 A. That maintains the system that

9 tells me who the investor is.

10 Q. Can you testify today for

11 certain whether or not the transaction you

12 described earlier actually took place?

13 MR. TEITELBAUM: Objection.

14 A. Based on review of the records,

15 yes, ma'am.

16 Q. What record did you review to

17 be able to testify with certainty that this

18 loan was transferred from the originator to

19 the depositor?

20 A. The mortgage loan purchase

21 agreement, I believe is the name of the

22 document.

23 Q. Where did you observe that

24 document?

25 A. In counsel's office.



1 C. HERNDON 54

2 Q. Counsel's office meaning

3 Mr. Teitlebaum's office?

4 A. Yes, ma'am.

5 MS. TIRELLI: Request

6 production.

7 MR. TEITELBAUM: It's been

8 produced. You want the bait numbers?

9 MS. TIRELLI: When you have

10 time, yes.

11 MR. TEITELBAUM: Right now

12 instead of wasting our time --

13 MS. TIRELLI: If you need to

14 produce a list of pooling and

15 servicing agreements --

16 MR. TEITELBAUM: Wait, you just

17 asked me for something. Give me the

18 courtesy of --

19 MS. TIRELLI: I don't need it

20 right this second, Jay.

21 MR. TEITELBAUM: I'll give it

22 to you right now.

23 MS. TIRELLI: Off the record,

24           please.

25           (Whereupon, a discussion was

1 C. HERNDON 55

2 held off the record.)

3 MR. TEITELBAUM: In response to  
4 your question, the mortgage loan  
5 purchase agreement with the schedule  
6 identifying Mrs. Nuer's mortgage  
7 attached as part of that agreement  
8 were previously produced to you under  
9 bait stamp numbers 0121 through and  
10 including 0159.

11 MS. TIRELLI: Thank you, Jay.

12 Q. Back to LPS.

13 What is your understanding LPS stands  
14 for?

15 A. I don't have any understanding  
16 what LPS stands for.

17 Q. To the best of your knowledge,  
18 is LPS a company or just a name of a system?

19 A. I don't know.

20 Q. You said LPS offers services to  
21 support your company.

22 What services do they provide?

23 MR. TEITELBAUM: Objection.

24 It's been asked and answered.

25 A. They provide bankruptcy

1 C. HERNDON 56

2 processing services for loans and  
3 bankruptcies.

4 Q. Like what?

5 MR. TEITELBAUM: Objection.

6 A. I'm not exactly sure what  
7 services they offer. I just know they're a  
8 bankruptcy vendor.

9 Q. You know they're a vendor but  
10 you don't know what services they provide?

11 A. I don't personally know that.  
12 I don't deal with them, so --

13 Q. Are you familiar with an entity  
14 known as Deutsches Bank National Trust  
15 Company?

16 A. Familiar with the name, yes,  
17 ma'am.

18 Q. How are you familiar with the  
19 name?

20 A. I'm looking at it. Plus, I  
21 mean it's a common trustee on several loans  
22 that I've seen.

23 Q. Do you know where it's

24      headquartered?

25          A.  No, ma'am.

1 C. HERNDON 57

2 Q. Do you know who the officers  
3 are?

4 A. No, ma'am.

5 Q. Do you know whether or not  
6 there's a parent company to Deutsches Bank  
7 National Company?

8 MR. TEITLEBAUM: Objection.

9 A. I don't know.

10 Q. Do you know where it's  
11 headquartered?

12 MR. TEITLEBAUM: Objection.

13 A. No, ma'am.

14 Q. You testified earlier it's the  
15 trustee for the trust?

16 A. I believe so, yes, ma'am.

17 Q. Is it true that there's a  
18 limited power of attorney between Deutsches  
19 Bank and JP Morgan Chase which forbids JP  
20 Morgan Chase for naming Deutsches Bank to  
21 party to any of its litigation?

22 MR. TEITLEBAUM: Objection.

23 A. I don't know.

24 Q. Is it true that JP Morgan Chase  
25 filed a motion in its own name as servicer



1 C. HERNDON 58

2 to the trust because it's not able to, for  
3 some reason or other, name Deutsches Bank as  
4 the real trustee?

5 MR. TEITLEBAUM: Objection.

6 A. I don't know.

7 Q. Who's the holder of Ms. Nuer's  
8 note?

9 MR. TEITLEBAUM: Objection.

10 A. The trust.

11 Q. The trust of the holder?

12 A. My understanding, yes, ma'am.

13 Q. Has JP Morgan ever been the  
14 holder of this note?

15 A. No, ma'am.

16 Q. What's a holder?

17 A. Well, my understanding, and if  
18 I misunderstood, I apologize, is the owner  
19 of the note.

20 Q. So, the owner is the owner is  
21 what you're saying?

22 MR. TEITLEBAUM: Objection.

23 A. That's my understanding. I

24 don't know if it's the same understanding

25 you have.

1 C. HERNDON 59

2 Q. Has JP Morgan Chase ever been  
3 the owner of this note?

4 A. This note being Ms. Nuer's?

5 Q. To be clear, yes.

6 A. No, ma'am.

7 Q. Has JP Morgan Chase ever been  
8 the holder of Ms. Nuer's note?

9 MR. TEITLBAUM: Objection.

10 A. Again, as I understand holder,  
11 no, ma'am.

12 Q. What is JP Morgan's  
13 relationship to Ms. Nuer's note?

14 A. It's the servicer.

15 Q. What exactly does that entail?

16 A. It entails servicing the loan.

17 Q. What exactly does that mean?

18 A. That means providing collecting  
19 payments if they're made, paying taxes,  
20 paying insurance, doing whatever is called  
21 for to service a mortgage.

22 Q. When Ms. Nuer, prior to  
23 bankruptcy, made payments on her mortgage

24 and at the time she would be paying

25 Washington Mutual, was Washington Mutual in

1 C. HERNDON 60

2 fact acting as a servicer?

3 A. They were servicing the loan.

4 Q. When Ms. Nuer would make  
5 payments to Washington Mutual, what would  
6 Washington Mutual do with those payments?

7 MR. TEITLEBAUM: Objection.

8 Go ahead, if you know.

9 A. They would be applied to the  
10 loan.

11 Q. Who ultimately would receive  
12 the monies from Ms. Nuer's payments?

13 A. I don't know.

14 Q. Do you know who would be  
15 entitled to the payments --

16 MR. TEITLEBAUM: Objection.

17 Q. -- from Ms. Nuer's loan?

18 A. No, ma'am.

19 Q. Are you aware of the fact that  
20 prior to filing bankruptcy Ms. Nuer was in  
21 foreclosure?

22 A. No, ma'am.

23 Q. Are you aware of the fact that

24 Washington Mutual brought an action in

25 foreclosure against Ms. Nuer prior to her

1 C. HERNDON 61

2 filing bankruptcy?

3 A. No, ma'am.

4 Q. Are you aware of the fact that  
5 Washington Mutual claimed to be the holder  
6 of this note at the time they filed a  
7 foreclosure action against Ms. Nuer?

8 MR. TEITLEBAUM: Objection.

9 A. No, ma'am.

10 Q. But it's your testimony that  
11 Washington Mutual would not have been the  
12 holder of Ms. Nuer's note?

13 A. As I understand the word  
14 holder, no, ma'am.

15 Q. Is it your testimony that  
16 Washington Mutual never owned Ms. Nuer's  
17 note?

18 A. No, ma'am.

19 Q. Are you aware that a different  
20 holder of the note was identified in the  
21 motion for relief and stay than was named in  
22 the foreclosure action in the lower court?

23 MR. TEITLEBAUM: Objection.

24           A. I believe I testified I wasn't

25           aware of a foreclosure action. I was not



1 C. HERNDON 62

2 aware of who was named in that action.

3 Q. Is it possible there could be

4 two holders to the same note?

5 MR. TEITLBAUM: Objection.

6 Q. As you understand it, again I

7 want your personal knowledge on it. I'm not

8 asking you to assume anything.

9 A. I don't know.

10 Q. Who's the custodian of the

11 mortgage note involved in this case?

12 A. My understanding is Deutsches

13 Bank National Trust Company.

14 Q. They're the custodian?

15 A. That's my understanding.

16 Q. Do you know where Ms. Nuer's

17 original note and original mortgage are

18 today?

19 A. I have not seen them, so no.

20 Q. Have you heard where they are?

21 A. No, ma'am. Again, I've not

22 seen them so I can't attest to where they

23 are.

24 Q. Would you be aware of whether

25 or not they're in Mr. Teitlebaum's safe in

1 C. HERNDON 63

2 his office?

3 MR. TEITLEBAUM: They are not.

4 He's aware of.

5 Q. Are you aware of whether or not  
6 these items are located in Mr. Teitlebaum's  
7 safe?

8 A. I'm not aware of the contents  
9 of Mr. Teitlebaum's safe.

10 Q. Did Mr. Teitlebaum ever suggest  
11 that the original note and original mortgage  
12 are contained within his safe?

13 MR. TEITLEBAUM: Objection.

14 A. Again, I'm not aware of any of  
15 the contents of his safe.

16 Q. What I'm asking you is, did Mr.  
17 Teitlebaum ever represent to you that these  
18 items were in his safe?

19 MR. TEITLEBAUM: Objection.

20 Attorney/client communication is  
21 privileged and I'm directing the  
22 witness not to answer and you know  
23 that.

24 Q. Is Mr. Teitlebaum your

25 attorney?

1 C. HERNDON 64

2 MR. TEITLEBAUM: Yes.

3 A. Yes, ma'am.

4 Q. Who is Scott Walter?

5 A. Scott Walter is a  
6 representative of LPS, I believe.

7 Q. Again, do you know what LPS  
8 stands for?

9 A. No, ma'am.

10 Q. Is he an employee of JP Morgan  
11 Chase?

12 A. Not that I'm aware of, no,  
13 ma'am.

14 Q. Has he ever been an employee of  
15 JP Morgan Chase?

16 A. I don't know his work history.

17 Q. Fair enough.

18 In the company JP Morgan Chase -- how  
19 long have you said you work for JP Morgan  
20 Chase

21 A. Since they acquired Washington  
22 Mutual, September last year.

23 Q. Over a year now, approximately?

24 A. For JP Morgan Chase directly,

25 yes, ma'am.

1 C. HERNDON 65

2 Q. Would you know what the title  
3 "attorney in fact" means?

4 MR. TEITLEBAUM: Objection.

5 A. No, ma'am. I believe it to be  
6 a legal conclusion that I'm not qualified to  
7 answer.

8 Q. Do you know anybody at JP  
9 Morgan Chase who has title of attorney in  
10 fact?

11 A. No, ma'am.

12 Q. Are you aware of that title  
13 being anywhere in the corporate hierarchy?

14 A. No, ma'am.

15 Q. But to the best of your  
16 knowledge, has Mr. Scott Walter ever been an  
17 employee of JP Morgan Chase?

18 A. I'm not aware of his employment  
19 history.

20 Q. Would you happen to know if  
21 there's a difference between an attorney in  
22 fact and vice-president at your company?

23 MR. TEITLEBAUM: Objection.

24           A. Since I'm not certain what the

25           term attorney of fact means, no, ma'am, I



1 C. HERNDON 66

2 can't answer that.

3 Q. Does vice-president signify at  
4 your company?

5 A. Signify a vice-president,  
6 officer of the company.

7 Q. Would you know whether or not  
8 Mr. Scott Walter was ever an employee or  
9 vice-president of Deutsches Bank National  
10 Trust Company?

11 MR. TEITLEBAUM: Objection.

12 A. I'm not aware of his employment  
13 history.

14 Q. Are you aware of him being an  
15 employee of JP Morgan?

16 MR. TEITLEBAUM: Objection.

17 A. I'm not aware.

18 Q. Would you be aware whether or  
19 not Mr. Scott Walter has authority to sign  
20 on behalf of Chase?

21 MR. TEITLEBAUM: Objection.

22 A. Yes, ma'am.

23 Q. What's your understanding?

24           A. I believe there's a power of

25           attorney that grants him authority to sign

1 C. HERNDON 67

2 certain documents.

3 Q. What capacity would he be  
4 signing?

5 A. Whatever the limited power of  
6 attorney -- what capacity that provides to  
7 him.

8 Q. Have you seen limited power of  
9 attorney naming Mr. Scott Walter as party  
10 with the authority to sign?

11 A. Yes, ma'am.

12 Q. Where did you see that  
13 document?

14 A. I believe in counsel's office.

15 Q. Counsel meaning Jay Teitlebaum?

16 A. Yes, ma'am, and possibly before  
17 that in my office. I don't recall.

18 Q. Have you ever seen an  
19 assignment that was signed by Mr. Scott  
20 Walter?

21 MR. TEITLEBAUM: With respect  
22 to this case or in general?

23 Q. Have you ever seen any

24 assignment signed by Mr. Scott Walter?

25 A. Yes, ma'am.

1 C. HERNDON 68

2 Q. How many assignments signed by  
3 Mr. Scott Walter would you say you've seen  
4 over the years?

5 A. That I recall, one.

6 Q. Which one would that be?

7 A. Relating to this case, Ms.

8 Nuer.

9 Q. What capacity did he sign that?

10 A. Whatever the document says. I  
11 don't recall exactly what capacity he signed  
12 it; whatever power attorney granted him.

13 Q. What exactly does limited power  
14 of attorney allow one to do?

15 MR. TEITLEBAUM: Objection.

16 A. I believe that to be a legal  
17 conclusion that I'm not qualified to answer.

18 Q. Do you know someone who would  
19 be qualified to answer that?

20 MR. TEITLEBAUM: Objection.

21 A. No, ma'am.

22 Q. If you wanted to know whether  
23 or not somebody at JP Morgan had authority

24 to sign a particular document, how would you

25 go about finding out?

1 C. HERNDON 69

2 A. I don't know. I mean, if there  
3 was power of attorney I may be inclined to  
4 check with in-house counsel to see if it was  
5 valid to see whatever document was signed.

6 Q. Can a non-employee of JP Morgan  
7 Chase become a vice-president or attorney of  
8 fact of JP?

9 MR. TEITLEBAUM: Objection.

10 A. I believe that to be a legal  
11 conclusion that I'm not qualified to answer.

12 Q. You testified earlier that you  
13 saw an assignment signed by Mr. Scott  
14 Walter?

15 A. Yes, ma'am.

16 Q. Are you aware of Mr. Scott  
17 Walter being a JP Morgan Chase employee?

18 A. No, ma'am, I'm not.

19 Q. Are you aware of him being an  
20 LPS employee?

21 A. I believe I saw something to  
22 that fact, yes, ma'am.

23 Q. It would be your testimony he's

24 not an employee of JP Morgan?

25 MR. TEITLEBAUM: Objection.



1 C. HERNDON 70

2 A. That would not be my testimony.

3 Q. What would your testimony be?

4 A. My testimony would be that --

5 if he's an LPS employee, he's an LPS

6 employee.

7 Q. In relation to his employment

8 with JP Morgan Chase?

9 MR. TEITLEBAUM: Objection.

10 A. I'm not familiar with his

11 employment history.

12 Q. Other than he's an employee of

13 LPS?

14 A. Based on documents I've seen,

15 yes, ma'am.

16 Q. Would you be aware if Mr. Scott

17 Walter appeared as an officer for Indymac

18 Bank?

19 MR. TEITLEBAUM: Objection.

20 A. No, ma'am.

21 Q. Are you aware of Scott Walter

22 appearing on May 8th, 2008 as an officer of

23 Franklin Credit Management Corp.?

24 MR. TEITLEBAUM: Objection.

25 A. No, ma'am.

1 C. HERNDON 71

2 Q. Are you aware on March 10th,  
3 2008 Scott Walter appeared in Middleburg,  
4 Florida as officer of Washington Mutual Bank  
5 as servicer to Long Beach Mortgage loan?

6 MR. TEITLEBAUM: Objection.

7 A. No.

8 Q. Are you aware on January 21st,  
9 2008 Scott Walter appeared in Middleburg as  
10 an officer of PHH Mortgage Corporation d/b/a  
11 Merrill Lynch Credit Corporation?

12 MR. TEITLEBAUM: Objection.

13 A. No, ma'am.

14 Q. Are you aware on August 6th,  
15 2008 Scott Walker appeared as secretary for  
16 Option One Mortgage Corporation?

17 A. No, ma'am.

18 MR. TEITLEBAUM: Objection.

19 Q. By my count, Mr. Scott Walter  
20 appeared as officer no less than five  
21 mortgage servicers in Florida in less than a  
22 year and you're not aware of any of this?

23 MR. TEITLEBAUM: Objection.

24        There is no question.

25        Q. I'm asking, are you aware of

1 C. HERNDON 72

2 any of this?

3 A. No, ma'am.

4 Q. Do all LPS employees have the  
5 authority to sign on behalf of JP Morgan  
6 Chase?

7 MR. TEITLEBAUM: Objection.

8 A. I don't know.

9 Q. Does JP Morgan Chase have any  
10 regulations regarding officers moonlighting  
11 as officers of other competitors?

12 MR. TEITLEBAUM: Objection.

13 A. I'm not certain what you mean  
14 by moonlighting.

15 Q. Well, holding positions at  
16 other servicers, other lenders.

17 A. I don't know.

18 Q. Who is Helen Ann Garbis?

19 A. She's an employee of JP Morgan  
20 Chase.

21 Q. How long has she been an  
22 employee there?

23 A. I don't know.

24 Q. Do you know what her capacity

25 is?

1 C. HERNDON 73

2 A. No.

3 Q. Do you know what her title is?

4 A. No.

5 Q. Do you know where her office is

6 located?

7 A. Yes.

8 Q. Where would that be?

9 A. Jacksonville, Florida.

10 Q. Is that the same office you're

11 in?

12 A. No, ma'am.

13 Q. Same building?

14 A. No, ma'am.

15 Q. Where is her office located, do

16 you know the address?

17 A. I don't know the address, no,

18 ma'am.

19 Q. In Jacksonville, Florida

20 there's more than one location of JP Morgan

21 Chase?

22 A. Yes, ma'am.

23 Q. Would you know if Ann Garbis

24 was ever an attorney in fact for JP Morgan

25 Chase or WaMu?



1 C. HERNDON 74

2 A. No, ma'am.

3 Q. Would you know any other titles  
4 that Ann Garbis held at Washington Mutual or  
5 Chase?

6 A. I believe she was  
7 vice-president.

8 Q. Do you know if she still holds  
9 that capacity today?

10 A. I don't know her title.

11 Q. Is it your testimony that she  
12 still works for JP Morgan Chase?

13 A. It is my understanding, yes,  
14 ma'am.

15 Q. If Ann Garbis is a  
16 vice-president of JP Morgan Chase and Scott  
17 Walter is through a limited power of  
18 attorney also named as vice-president of JP  
19 Morgan Chase, would they be considered equal  
20 in terms of vice-presidents?

21 MR. TEITLEBAUM: Objection.

22 Q. Would you think they both have  
23 powers to sign certain documents?

24 MR. TEITLEBAUM: Objection.

25 A. They have powers, custody on

1 C. HERNDON 75

2 them provided by whatever documents are  
3 provided to them.

4 Q. Would you know if there's a  
5 corporate resolution naming Ann Garbis  
6 naming her to sign certain documents?

7 A. I don't know if it's a  
8 corporate resolution or not.

9 Q. What are you aware of that  
10 enables her to sign on behalf of JP Morgan  
11 Chase?

12 A. I believe it's called an  
13 Incumbency Certificate.

14 Q. What exactly is an Incumbency  
15 Certificate?

16 A. I'm not certain. I believe  
17 that to be a legal conclusion that I'm not  
18 qualified to answer.

19 Q. In order for Ann Garbis to sign  
20 as vice-president, is it your understanding  
21 she must have an Incumbency Certificate that  
22 you described?

23 A. I don't know what her title

24 would entitle her to sign.

25 Q. What does an Incumbency

1 C. HERNDON 76

2 Certificate do?

3 MR. TEITLBAUM: Objection.

4 A. Whatever it states it does.

5 Q. If I show you the Incumbency

6 Certificate, it would show you what she's

7 entitled to do?

8 MR. TEITLBAUM: Objection.

9 A. It will state whatever it

10 states. I can --

11 (Handed)

12 Q. You have in front of you right

13 now is an Incumbency Certificate.

14 MS. TIRELLI: I'd like to have

15 that marked as Debtor's 2, please.

16 (Whereupon, Debtors's Exhibit

17 2, Pooling & Servicing Agreement, was

18 marked for Identification.)

19 (Whereupon, Debtors's Exhibit

20 3, Incumbency Certificate, was marked

21 for Identification.)

22 (Handed)

23 Q. What you have in front of you

24 as marked as Debtor's Exhibit 3, I believe

25 and I believe it's an Incumbency

1 C. HERNDON 77

2 Certificate.

3 Do you see the name Helen Ann Garbis

4 listed in that document

5 A. Yes, ma'am.

6 Q. Based on that document, what is

7 your understanding of her authority?

8 A. She is designated, according to

9 this document, as vice-president.

10 Q. Does that document indicate

11 what exactly a vice-president is permitted

12 to do?

13 MR. TEITLEBAUM: Objection.

14 A. Not specifically as

15 vice-president but the document notes what

16 that person is titled is authorized to do.

17 Q. Is that document notarized?

18 A. Yes, ma'am.

19 Q. What is the date of that

20 document, please.

21 A. January 26th, 2009.

22 Q. Are you aware of when Ms. Nuer

23 filed for bankruptcy protection?

24 A. Not off the top of my head, no,

25 ma'am.



1 C. HERNDON 78

2 Q. Have you seen an assignment  
3 signed by Helen Ann Garbis, if you will, in  
4 this matter?

5 A. Yes, ma'am.

6 Q. When did you see that document?

7 A. In preparation of this case.

8 Q. Who showed you that document?

9 A. I believe counsel.

10 Q. When you say counsel, who are  
11 you referring to, please.

12 A. Mr. Teitlebaum.

13 Q. I'm handing you a four-page  
14 document.

15 (Handed)

16 Q. Have you seen this before?

17 A. This is a document I've seen,  
18 yes, ma'am.

19 Q. What document is that?

20 A. It is an assignment of  
21 mortgage.

22 MS. TIRELLI: Can I have this  
23 marked as Debtor's Exhibit 4, please.

24 (Whereupon, Debtor's Exhibit 4,

25 Assignment of Mortgage, was marked

1 C. HERNDON 79

2 for Identification.)

3 Q. I'm handing to you a four-page  
4 document.

5 (Handed)

6 MR. TEITLEBAUM: I'm just going  
7 to note a technical objection. It's  
8 not one document. It's actually two  
9 separate documents put together as  
10 one document.

11 Q. The third page there's actually  
12 handwritten numeral two at the top left  
13 corner. The low number on that document,  
14 could you read it, please.

15 A. 0697215101.

16 Q. Is that the loan number that  
17 was perhaps with the original loan at the  
18 time the loan was originated?

19 MR. TEITLEBAUM: Objection.

20 A. I don't believe so, no, ma'am.

21 Q. Are there in fact two different  
22 loan numbers for Ms. Nuer's loan?

23 MR. TEITLEBAUM: Objection.

24 A. For this loan?

25 Q. Yes.

1 C. HERNDON 80

2 A. No, ma'am.

3 Q. That loan number, where did

4 that loan number come from?

5 A. That was a Washington Mutual

6 signed loan when Washington Mutual took over

7 servicing from Long Beach Servicing Company.

8 Q. Took over servicing for?

9 A. Washington Mutual began

10 servicing the loan. It assigned a

11 Washington Mutual loan number which that is

12 a Washington Mutual loan number.

13 Q. That's a loan number that's

14 used for assignment on land records;

15 correct?

16 MR. TEITLEBAUM: Objection.

17 A. I'm sorry?

18 Q. In other words, is that the

19 same loan number that we would find say in

20 documents that are filed with the Security

21 Exchange Commission?

22 A. I'm not certain. That is the

23 loan number pertaining to Ms. Nuer's loan.

24 Q. Did Ms. Nuer's loan ever have

25 another number?

1 C. HERNDON 81

2 A. I believe, yes, ma'am.

3 Q. Why would the number be changed  
4 from the origination number?

5 A. Because the origination  
6 documentation was a Long Beach Mortgage  
7 Company loan number. This is a Washington  
8 Mutual loan number.

9 Q. Are you familiar with  
10 Regulation AB?

11 MR. TEITLEBAUM: Objection.

12 A. No, ma'am.

13 Q. Are you aware that the assets  
14 of the securitized pool need to be  
15 identified with the Security Exchange  
16 Commission?

17 MR. TEITLEBAUM: Objection.

18 A. That sounds like a legal  
19 conclusion that I'm not qualified to answer.

20 Q. Back to this document then.

21 What's the date that Ann Garbis  
22 signed that document?

23 A. I believe it's November 1st,

24 2008.

25 Q. You said the Incumbency



1 C. HERNDON 82

2 Agreement is dated what exactly?

3 A. January 26th, 2009.

4 Q. What is that document that Ms.  
5 Garbis signed?

6 MR. TEITLEBAUM: What are you  
7 referring to?

8 Q. The document in front of you,  
9 what is that that she signed?

10 A. Exhibit 4 is assignment of  
11 mortgage.

12 Q. Who did Ms. Garbis sign on  
13 behalf of?

14 A. States JP Morgan Chase National  
15 Association from Federal Deposit Insurance  
16 Corporation acting as receiver for the  
17 savings bank and pursuant to this insurance  
18 policy SC81021D.

19 Q. What exactly does assignment of  
20 mortgage purport to do?

21 A. Assigns a mortgage from one  
22 party to another.

23 Q. Who is this assignment being

24 assigned from and to, who are the parties?

25 A. JP Morgan Chase National

1 C. HERNDON 83

2 Association and the assignee is Deutsches  
3 Bank National Trust Company for Long Beach  
4 Mortgage Trust 2006-2.

5 Q. How long has JP Morgan Chase  
6 owned this loan?

7 MR. TEITLBAUM: Objection.

8 A. I don't know that JP Morgan  
9 ever owned this loan.

10 Q. Can you explain to me then how  
11 it is JP Morgan assigned the loan back to  
12 the party you already said owned the loan?

13 A. No, ma'am. I did not prepare  
14 this document.

15 Q. Do you know who did prepare  
16 this document?

17 A. I believe it was prepared at  
18 the request of counsel.

19 Q. Which counsel would that be?

20 A. Foreclosure or default counsel,  
21 Stephen J. Baum, Law Office of Stephen J.  
22 Baum.

23 Q. Do you believe it was their

24 office who's responsible for making -- it's

25 your testimony it is the Law Office of

1 C. HERNDON 84

2 Stephen J. Baum that made this assignment?

3 MR. TEITLEBAUM: When you say

4 made --

5 Q. Sorry, not effectuated, made

6 the physical document, created the physical

7 document.

8 MR. TEITLEBAUM: Prepared,

9 would that be fair?

10 MS. TIRELLI: Prepared would be

11 fair. I'm not trying to confuse you.

12 A. I was not there. I don't know

13 who prepared it. It's my understanding it

14 was prepared by them at their request.

15 Q. If they were?

16 A. I'm not sure what you mean what

17 are they requesting.

18 Q. I thought you just said it was

19 either made by them or at their request.

20 If they were to request a document be

21 prepared, who would they request the

22 document from?

23 A. I don't know.

24 Q. What is the association between

25 Stephen J. Baum and LPS?

1 C. HERNDON 85

2 A. I don't know.

3 Q. LPS providing the support  
4 services that you described earlier, are  
5 they in contact with Stephen J. Baum's  
6 office?

7 A. I don't know.

8 Q. You testified earlier that LPS  
9 is in contact with default counsel.

10 In what capacity would they be in  
11 contact with default counsel?

12 A. I don't know that they were in  
13 contact. I don't know the relationship  
14 between Stephen J. Baum and LPS.

15 Q. But the relationship between --  
16 you are familiar, though, with the  
17 relationship between LPS and JP Morgan  
18 Chase; is that fair to say?

19 MR. TEITLEBAUM: Objection.

20 A. I'm aware they're a vendor of  
21 JP Morgan Chase that provides some services.  
22 The exact nature of those services, I'm not  
23 certain.

24 Q. Does Stephen J. Baum's office

25 have direct contact with Chase or do they go



1 C. HERNDON 86

2 through LPS?

3 A. Yes, they have direct contact  
4 with Chase. I don't know if they go through  
5 LPS, as well.

6 Q. Well, Ann Garbis you testified  
7 is in fact an employee of JP Morgan and she  
8 did in fact sign that document; is that fair  
9 to say?

10 A. Well, she did sign the document  
11 and as of several weeks ago she was an  
12 employee. I assume she still is.

13 Q. Do you know whether or not she  
14 was an employee at the time she signed this  
15 document?

16 A. Yes.

17 Q. However, the Incumbency  
18 Agreement seems to be dated well after she  
19 made that assignment; doesn't it?

20 MR. TEITLEBAUM: Objection.

21 A. Dates speak for themselves.

22 Q. The date on the assignment is  
23 in fact November 11th, 2008?

24 A. No, ma'am.

25 Q. What's the date on the

1 C. HERNDON 87

2 assignment?

3 A. November 1st.

4 Q. Beg your pardon, November 1st,  
5 2008.

6 A. Yes, ma'am.

7 Q. And the date on the Incumbency  
8 Agreement is what?

9 A. January 26th, 2009.

10 Q. Would you agree that's well  
11 after March --

12 A. It is -- well, I don't know  
13 what you mean by well after. It's after  
14 that date.

15 Q. The Incumbency agreement is  
16 what authorized Ms. Garbis to sign that  
17 agreement?

18 MR. TEITLEBAUM: Objection.

19 It's not an agreement.

20 Q. Sorry, Incumbency Certificate  
21 agreement, I beg your pardon.

22 A. It does authorize her to sign,  
23 among other documents, to sign this.

24 Q. Is it true then she was not

25 authorized under the Incumbency Agreement

1 C. HERNDON 88

2 after she received the assignment?

3 MR. TEITLEBAUM: Objection.

4 Q. The assignment of mortgage is  
5 dated November 1st, 2008; correct?

6 A. Yes, ma'am.

7 Q. But the document giving Ms.  
8 Garbis the authority to make an assignment,  
9 to sign an assignment was not given until  
10 January 9th, was it the 9th?

11 A. 26th.

12 Q. 26th, 2009, correct?

13 MR. TEITLEBAUM: Objection.

14 You're assuming that's the first time  
15 she was given the authority and  
16 you're assuming facts not in  
17 evidence.

18 We'll get you a stip covering  
19 November 2008.

20 MS. TIRELLI: That's one that  
21 was already disclosed, Jay.

22 MR. TEITLEBAUM: That's fine.

23 You don't want it, fine.

24 MS. TIRELLI: That's one I was

25 given.

1 C. HERNDON 89

2 MR. TEITLEBAUM: That's fine.

3 You're assuming facts not in

4 evidence.

5 MS. TIRELLI: Jay, Jay --

6 MR. TEITLEBAUM: You're

7 assuming this is the first time Ms.

8 Garbis was authorized to sign

9 documents and you're assuming

10 something wrong. To the extent one

11 exists --

12 MS. TIRELLI: This document is

13 not the correct Incumbency

14 Certificate.

15 MR. TEITLEBAUM: I'm saying

16 this was a document that was proceed,

17 and by the way, this document was

18 attached to the pleadings filed with

19 the court.

20 MS. TIRELLI: By Baum's office?

21 MR. TEITLEBAUM: To the extent

22 there are prior Incumbency

23 Certificates authorizing Ms. Garbis

24 as of November 1st, 2008 and they

25 exist, we'll produce it.



1 C. HERNDON 90

2 MS. TIRELLI: You're not  
3 testifying, Jay. We'll take it up  
4 after the fact.

5 MR. TEITLEBAUM: Do whatever  
6 you want.

7 MS. TIRELLI: All right.  
8 That's why we're here.

9 MR. TEITLEBAUM: We're here to  
10 waste time. Go ahead.

11 Q. Do you know whether or not  
12 there's a corporate resolution designating  
13 Ms. Garbis authorized to sign on behalf of  
14 JP Morgan?

15 A. I don't know.

16 Q. Are you aware of what documents  
17 would be necessary to authorize Ann Garbis  
18 as a person to sign -- with authority to  
19 sign on behalf of JP Morgan Chase?

20 A. No, ma'am, I do not know.

21 Q. Do you know who is in charge  
22 with the responsibility of drafting  
23 Incumbency Certificates?

24 A. No, ma'am.

25 Q. Do you know who was charged

1 C. HERNDON 91

2 with responsibility of drafting and  
3 preparing the Incumbency Certificate that  
4 was presented in this case?

5 A. No, ma'am.

6 Q. Are you aware of there being  
7 another Incumbency Certificate pertaining to  
8 Ann Garbis?

9 A. No, ma'am.

10 Q. Have you ever seen another  
11 Incumbency Certificate prepared naming Ann  
12 Garbis?

13 A. I don't recall if I have or  
14 not.

15 Q. Without Incumbency Certificate  
16 or power of attorney or corporate resolution  
17 how does an employee of JP Morgan Chase or  
18 even non-employees of JP Morgan for that  
19 matter have authority to sign on behalf of  
20 JP Morgan Chase?

21 MR. TEITLEBAUM: Objection.

22 A. I believe that to be a legal  
23 conclusion that I'm not qualified to answer.

24 Q. Under what authority did Ann

25 Garbis act to assign a loan that actually

1 C. HERNDON 92

2 belonged to the trust?

3 A. I was not involved in  
4 preparation or execution of that document.

5 Q. Looking back at the assignment  
6 that was signed by Ann Garbis dated November  
7 1st, 2008, can you tell me what was done to  
8 negotiate the note; in other words, what  
9 monetary value was exchanged for the note?

10 MR. TEITLEBAUM: Objection.

11 A. No, ma'am.

12 Q. There is no monetary exchange  
13 for consideration of that note?

14 A. It references a monetary  
15 consideration for assignment of the  
16 mortgage. I don't -- it doesn't  
17 specifically state anything regarding the  
18 note in that paragraph regarding monetary  
19 consideration.

20 Q. That's an assignment of  
21 mortgage but not a transfer of the note?

22 MR. TEITLEBAUM: Objection.

23 A. The document speaks for itself.

24 It is what it is.

25 Q. Do you know approximately when

1 C. HERNDON 93

2 Ms. Nuer defaulted on her loan?

3 MR. TEITLEBAUM: Objection.

4 Shall we look at your Notice to

5 Admit, your responses?

6 A. I believe -- well, I'm not sure

7 what you mean by the term "defaulted". I

8 believe the last payment the bank received

9 was September 1st -- payment for the

10 September 2007 payment.

11 Q. If we go with that date just

12 for argument sake --

13 MR. TEITLEBAUM: Objection.

14 Q. -- would it be fair to say that

15 Ann Garbis signed a non-performing mortgage

16 to the trust?

17 MR. TEITLEBAUM: Objection.

18 A. She signed -- the document

19 speaks for itself and the due date is the

20 due date.

21 Q. Under the PSA agreement, what

22 is a non-performing mortgage loan?

23 MR. TEITLEBAUM: Objection.

24 A. I don't know.

25 Q. Do you know what a swap



1 C. HERNDON 94

2 agreement is?

3 MR. TEITLEBAUM: Objection.

4 A. No. Even looking at the  
5 document I'm not certain I'm qualified to  
6 interpret the document.

7 Q. But you did review that  
8 document in preparation for today?

9 A. I did not read it in its  
10 entirety, no, ma'am, but I did review the  
11 document.

12 Q. Who at JP Morgan would be  
13 better qualified to testify pertaining to  
14 the pooling and servicing agreement?

15 A. No one that I'm aware of.

16 Q. There is no authority you go to  
17 at JP Morgan regarding servicing and pooling  
18 agreement?

19 MR. TEITLEBAUM: Objection.

20 A. Not specifically, no, ma'am.

21 Q. Is there anybody in general  
22 that you would go to?

23 MR. TEITLEBAUM: Objection.

24           A. I may go to in-house counsel if

25           I had a specific question.

1 C. HERNDON 95

2 Q. In-house counsel interprets the  
3 document for you?

4 MR. TEITLEBAUM: Objection.

5 A. Possibly.

6 Q. Would it be your testimony  
7 there are people at JP Morgan who are more  
8 qualified to testify to the contents and  
9 pooling and servicing agreement?

10 MR. TEITLEBAUM: Objection.

11 A. No, ma'am.

12 Q. There is no one better  
13 qualified than you?

14 A. I can't speak for anyone else.

15 Q. But you don't feel qualified to  
16 testify to the matters contained in the  
17 pooling and servicing agreement?

18 MR. TEITLEBAUM: Objection.

19 A. No, ma'am. I can read you what  
20 the document says.

21 Q. I'm not asking you to read the  
22 document. I'm asking you to interpret and  
23 explain the terms of the document to me.

24           Would you be able to do that?

25           MR. TEITLEBAUM: Objection.

1 C. HERNDON 96

2 A. I can tell you what it says.

3 Q. In terms of actually

4 interpreting it for legal services --

5 MR. TEITLBAUM: Objection.

6 The witness is not a lawyer.

7 Q. Who would be better suited to

8 interpret that document?

9 A. I can't speak to JP Morgan

10 Chase other than my own.

11 Q. Okay.

12 When the mortgage, when Ms. Nuer's  
13 mortgage and note were transferred, signed,  
14 negotiated into the trust, were there any  
15 receipts that would have been produced to  
16 document that?

17 MR. TEITLBAUM: Objection.

18 A. I don't know.

19 Q. When you reviewed Ms. Nuer's  
20 account on your screens, did you see any  
21 receipts there?

22 A. I wouldn't have seen any  
23 receipts in there, no, ma'am.

24 Q. Where would the receipts be if

25 there were any?

1 C. HERNDON 97

2 A. I don't know.

3 Q. Did you review any documents  
4 that would evidence an actual transfer from  
5 the originator to the depositor and from the  
6 depositor to the trust?

7 A. I saw the mortgage loan  
8 purchase agreement, the pooling and  
9 servicing agreement.

10 Q. The pooling and servicing  
11 agreement describes what is supposed to  
12 happen but do you have any actual documents  
13 to show what really did happen?

14 MR. TEITLEBAUM: Objection.

15 A. Outside of those documents, no,  
16 ma'am.

17 Q. Is it your understanding if  
18 it's in the pooling and servicing agreement  
19 whatever is described in there is what  
20 happened?

21 A. I don't believe that was my  
22 testimony, but --

23 Q. Well, what is your testimony?

24 MR. TEITLEBAUM: Objection.

25 Don't answer that. If you want to



1 C. HERNDON 98

2 ask the question, ask the question.

3 Q. If you wanted to be certain and  
4 confirm that in fact there was a transfer  
5 from the originator to the depositor, how  
6 would you go about getting that information?

7 A. Pooling and servicing the  
8 agreement, the mortgage loan purchase  
9 agreement and indication on the servicing  
10 system that the transfer had taken place.

11 Q. How do you access that transfer  
12 taking place that you just described, on a  
13 screen?

14 A. Yes.

15 Q. Would there be anything  
16 contained in that document regarding the  
17 mortgage being filed?

18 A. I'm not -- of a paper file, no,  
19 I don't know if there would be or not.

20 Q. If a servicer needs or requires  
21 the original note and original mortgage, how  
22 do they go about requesting it?

23 A. They would request it from the

24 custodian or whoever is holding the original

25 note and mortgage.

1 C. HERNDON 99

2 Q. Who's the custodian in this  
3 matter?

4 A. Again, I use the term custodian  
5 in the terms I use is the entity that holds  
6 the original mortgage documents and I  
7 believe that it had to be Deutsches Bank  
8 National Trust.

9 MR. TEITLEBAUM: Let's take a  
10 break, please.

11 (Whereupon Mr. Teitlebaum and  
12 Mr. Herndon exited the room.)

13 Q. When a mortgage loan is being  
14 transferred to a trust, how is the note  
15 negotiated?

16 A. I'm not certain what you mean.  
17 If you could --

18 Q. Well, how is it determined what  
19 the value of the note is?

20 MR. TEITLEBAUM: Objection.

21 A. I don't know.

22 Q. Is there a bargain or exchange?

23 A. I don't know.

24 Q. Do you know anybody at JP

25 Morgan Chase who would know?

1 C. HERNDON 100

2 A. No, ma'am.

3 Q. When making an assignment of  
4 mortgage such as the one by Ann Garbis, who  
5 determines what an appropriate price to pay  
6 for such an assignment?

7 MR. TEITLEBAUM: Objection.

8 A. I don't know.

9 Q. Do you understand the  
10 distinction between a mortgage and a  
11 mortgage note?

12 A. Yes, ma'am.

13 Q. What is the distinction between  
14 a mortgage and a note?

15 MR. TEITLEBAUM: Your  
16 understanding.

17 A. A note is a promise to pay  
18 money, return or money borrowed, excuse me,  
19 and the terms of which that money is to be  
20 repaid. A mortgage is a lien against the  
21 property in case the mortgage -- in case the  
22 terms of the note are not honored. It  
23 provides remedy to the mortgage holder to

24 the mortgagee.

25 Q. With regard to the pool of

1 C. HERNDON 101

2 loans, mortgage loans, when I'm saying  
3 mortgage loans, I'm referring to both  
4 documents as a pair, if you will, a mortgage  
5 and a mortgage note make up the mortgage  
6 loan and that comes right from the PSA.

7 Who is it that determines which asset  
8 they're suitable to be part of this mortgage  
9 pool?

10 MR. TEITLEBAUM: Objection.

11 A. I don't know.

12 Q. Would you know who would know?

13 A. No, ma'am.

14 Q. Would you know how appropriate  
15 assets for such a pool are identified?

16 MR. TEITLEBAUM: Objection.

17 A. No, ma'am.

18 Q. Who are the certificate  
19 holders, I don't mean them individually but  
20 in general between the loan trust 2006-2?

21 A. I believe them to be defined in  
22 the pooling servicing agreement, I believe.

23 Q. Who answers to them?

24 MR. TEITLEBAUM: Objection.

25 A. I don't know what you mean by



1 C. HERNDON 102

2 answers.

3 Q. I guess who communicates with  
4 the certificate holders to tell them what  
5 exactly is going on with their investment?

6 A. I don't know.

7 Q. When a borrower on a loan  
8 that's contained in one of these pools or  
9 pool like this one here makes a payment,  
10 does that money ultimately become part of an  
11 asset that's owned by the certificate  
12 holder?

13 MR. TEITLBAUM: Objection.

14 A. I don't know.

15 Q. Have you seen prospectus  
16 pertaining to the Long Beach Loan Trust as  
17 filed by the --

18 A. I don't know.

19 Q. Would you know whether or not  
20 Long Beach is currently in compliance with  
21 the --

22 A. I would not.

23 Q. Who at JP Morgan Chase would

24 know that?

25 A. I don't know.

1 C. HERNDON 103

2 Q. If you needed to find that  
3 information out, how would you go about  
4 doing it?

5 A. I don't know.

6 Q. Are you aware of what  
7 information has been filed with the SEC?

8 MR. TEITLEBAUM: Objection.

9 A. No, ma'am.

10 Q. Are you aware of whether or not  
11 the pooling and servicing agreement has been  
12 filed with the SEC?

13 A. I don't know.

14 Q. Are you aware that information  
15 filed with the SEC in relation to Long Beach  
16 Mortgage Loan is filed under penalty of  
17 perjury?

18 A. I don't know that.

19 MR. TEITLEBAUM: Objection.

20 Q. When a loan like Ms. Nuer's  
21 becomes a non-conforming loan and goes into  
22 default under the pooling and servicing  
23 agreement, can you say what is supposed to

24      happen to such assets?

25               MR. TEITLEBAUM: Objection.

1 C. HERNDON 104

2 A. No.

3 Q. Would you know whether or not  
4 those sort of loans are removed from the  
5 pool?

6 MR. TEITLEBAUM: Objection.

7 A. I don't know.

8 Q. Would you know whether or not  
9 the certificate holders are made aware of  
10 loans that are transferred in and out of the  
11 mortgage pool?

12 A. I don't know.

13 Q. Who at JP Morgan Chase is in  
14 charge of communicating with the certificate  
15 holders of this trust?

16 MR. TEITLEBAUM: Objection.

17 You're assuming facts not in  
18 evidence.

19 A. I don't know.

20 Q. Well, would you know of anybody  
21 at JP Morgan Chase communicates with the  
22 certificate holders of the Long Beach --

23 A. No, ma'am, I don't know.

24 Q. Under the pooling and servicing

25 agreement, do you know how assets are

1 C. HERNDON 105

2 acquired other than what you already  
3 described, is there another way that assets  
4 would be acquired by this pool?

5 MR. TEITLEBAUM: Objection.

6 A. The document would speak for  
7 itself.

8 Q. But is there any other way that  
9 you're aware of other than what you  
10 described with the originator transferring  
11 to the depositor, aside from that, is there  
12 any other way an asset would be part of this  
13 pool of loans?

14 MR. TEITLEBAUM: Objection.

15 A. I don't know.

16 Q. It's possible, you just don't  
17 know; is that what you're saying?

18 MR. TEITLEBAUM: Objection.

19 A. I'm saying I don't know.

20 Q. Is there any reason that you're  
21 aware of that a non-conforming loan would be  
22 assigned to this pool?

23 MR. TEITLEBAUM: Objection.

24 A. I don't know.

25 Q. Who is the actual owner or



1 C. HERNDON 106

2 owners, if you will, of the assets of this  
3 trust?

4 MR. TEITLEBAUM: Objection.

5 A. I don't know.

6 Q. Do you work with a variety of  
7 pooling and servicing agreements or  
8 exclusively the Long Beach Trust?

9 A. I'm not certain what you mean  
10 by variety.

11 MR. TEITLEBAUM: Objection.

12 Q. Have you seen more than one  
13 pooling and servicing agreement for the time  
14 working for JP Morgan and Washington Mutual  
15 as servicers?

16 A. Yes, ma'am.

17 Q. Do you currently work with more  
18 than one pooling and servicing agreement or  
19 reference more than one pooling and  
20 servicing agreement?

21 MR. TEITLEBAUM: Objection.

22 A. I believe so.

23 Q. So, this is not the first time

24 you've seen a pooling and servicing

25 agreement; correct?

1 C. HERNDON 107

2 A. That is correct.

3 Q. Over the years, approximately  
4 how many pooling and servicing agreements  
5 have you seen?

6 A. I don't know.

7 Q. More than ten?

8 A. Possibly.

9 Q. More than twenty?

10 A. I don't know.

11 Q. In the seventy-five cases that  
12 you testified, have they all pertained to  
13 pooling and servicing agreements?

14 A. No, ma'am.

15 Q. Approximately what percentage  
16 did?

17 A. I don't know.

18 Q. Is there a servicing agreement  
19 in existence today that you're aware of  
20 between JP Morgan Chase and the trust that  
21 actually owns this loan?

22 A. I believe so.

23 Q. What was the date on that

24 agreement?

25 A. I believe -- my understanding

1 C. HERNDON 108

2 this pooling and servicing agreement --

3 MR. TEITLEBAUM: Listen to the  
4 question. Read the question back. I  
5 think the witness just misunderstood  
6 your question.

7 (Whereupon, the reporter read  
8 back the requested material.)

9 A. I'm not aware specifically.

10 Q. Are you aware of any service or  
11 agreement naming JP Morgan Chase as a party?

12 A. Not specifically, no, ma'am.

13 Q. Not specifically.  
14 Can you just elaborate on what you  
15 mean not specifically?

16 A. I don't recall seeing one  
17 naming JP Morgan Chase.

18 MR. TEITLEBAUM: Back up.  
19 She's not asking about a pooling and  
20 servicing agreement.

21 MS. TIRELLI: I'm talking about  
22 a servicing agreement.

23 A. No, ma'am. Sorry, I

24 misunderstood.

25 Q. Washington Mutual, at the time

1 C. HERNDON 109

2 that it was Washington Mutual and was acting  
3 as servicer to the Long Beach Mortgage  
4 Service Loan 2006-2, did it have greater  
5 rights than the rights as servicer?

6 MR. TEITLEBAUM: Objection.

7 A. I don't believe -- I believe  
8 that to be a legal issue that I'm not  
9 qualified to answer.

10 Q. Washington Mutual was the  
11 servicer of Long Beach Mortgage Loan Trust  
12 2006-2 --

13 A. We service their mortgage.

14 Q. When Washington Mutual was no  
15 longer and Chase took over by one way or  
16 another --

17 MR. TEITLEBAUM: Objection.

18 You know how Chase took over. Be  
19 specific, please.

20 Q. When Chase took over, how  
21 exactly did Chase become the servicer for  
22 Long Beach Service Loan Trust 2006-2?

23 A. I believe the FDIC affidavit

24 and purchase and sale agreement or I'm not

25 sure of the exact name of the document from



1 C. HERNDON 110

2 the FDIC to JP Morgan Chase sold the  
3 servicing rights, as well. JP Morgan  
4 purchased all servicing rights to Washington  
5 Mutual.

6 Q. Which would make JP Morgan  
7 Chase the servicer of Long Beach Mortgage  
8 Trust Loan 2006-2?

9 MR. TEITLBAUM: Objection.

10 A. That's my understanding.

11 Q. Did the documents you just  
12 described in any way as far as you're aware  
13 of make JP Morgan Chase a holder or an owner  
14 of the assets of the Long Beach Mortgage  
15 Loan Trust 2006-2?

16 A. No, ma'am, not that I'm aware  
17 of.

18 Q. Would you know whether or not  
19 the servicing rights to the Long Beach  
20 Mortgage Loan Trust 2006-2 were considered  
21 an asset of Washington Mutual?

22 A. I don't know.

23 Q. Who is the master servicer of

24 Long Beach 2006-2 today?

25 A. I don't know specifically who

1 C. HERNDON 111

2 the master servicer is.

3 Q. Do you understand the  
4 distinction between a master servicer and a  
5 mortgage servicer under the pooling and  
6 servicing agreement?

7 A. Whatever the document -- the  
8 document states what it is.

9 Q. What do you know about the  
10 difference between a master servicer and any  
11 servicer?

12 A. I don't know the actual legal  
13 distinction.

14 Q. Are you aware of JP Morgan  
15 Chase acquiring anything else in terms of an  
16 asset as it pertains to the Long Beach  
17 Mortgage Loan Trust 2006-2?

18 MR. TEITLEBAUM: Objection.

19 A. No, ma'am, I don't know that.

20 Q. When Washington Mutual ceased  
21 performing as a servicer, was there a lapse  
22 between the time that Washington Mutual  
23 ceased operations as servicer and JP Morgan

24 Chase took over as servicer?

25 MR. TEITLEBAUM: Objection.

1 C. HERNDON 112

2 A. No, ma'am, not that I'm aware  
3 of.

4 Q. So, there was no lapse.

5 So, during the FDIC take over,  
6 Washington Mutual continued to be the  
7 servicer until JP Morgan became servicer?

8 A. That's a legal distinction as  
9 far as how -- there was no lapse in  
10 servicing of the loan. Whether there was a  
11 technical legal lapse between JP Morgan and  
12 with the FDIC or any other party, I don't  
13 know.

14 Q. But the loan continued to be  
15 serviced on a regular basis; in other words,  
16 there was no lapse in servicing of the loans  
17 as far as you know?

18 A. I'm certain of that.

19 Q. How are you certain of that?

20 A. Because I was there as one day  
21 Washington Mutual came in and worked the  
22 same loans at the next job at JP Morgan  
23 Chase. I have personal knowledge.

24 Q. Do you know what the process is

25 to become a new servicer for this trust?

1 C. HERNDON 113

2 MR. TEITLEBAUM: Objection.

3 A. No, ma'am.

4 Q. Do you know whether or not a  
5 separate servicing agreement would be  
6 required for any servicer?

7 MR. TEITLEBAUM: Objection.

8 A. I don't know.

9 Q. Is there any documents that  
10 you're aware of pertaining to the Long Beach  
11 Mortgage Loan Trust 2006-2 which identifies  
12 JP Morgan Chase Bank as anything other than  
13 a servicer?

14 MR. TEITLEBAUM: Can you  
15 restate that -- read it back.

16 (Whereupon, the reporter read  
17 back the requested material.)

18 MR. TEITLEBAUM: Objection.

19 A. I'm not aware of.

20 Q. When a servicer needs to  
21 acquire the original note of the loan, I  
22 believe you testified earlier that it makes  
23 the request to the custodian; is that

24 correct?

25 A. That is my understanding, yes,



1 C. HERNDON 114

2 ma'am.

3 Q. How is that request made?

4 A. Specifically, I don't know.

5 Q. Do you know whether or not  
6 there's a current list of assets held by the  
7 trust published?

8 A. I don't know.

9 Q. If you needed to obtain a list  
10 of the assets that are owned by the Long  
11 Beach Mortgage Loan Trust 2006-2, how would  
12 you go about getting it?

13 A. Since I'm not certain if it  
14 exists, I wouldn't even know how to begin to  
15 look at --

16 Q. When you're servicing a loan in  
17 your office in Florida and you need to  
18 figure out who the investor is, you just  
19 look up the individual account, you don't  
20 have a list that would tell you what those  
21 were?

22 A. No, ma'am, I would look up the  
23 individual account.

24 Q. Is there any way to compile a

25 list of assets of a particular trust?

1 C. HERNDON 115

2 A. I don't know.

3 Q. So, there might be but you're

4 just not aware of it?

5 A. I don't know.

6 Q. Do you know anybody who would

7 know?

8 A. No, ma'am.

9 Q. Would you be able to walk me

10 through the process of removing an asset

11 from a pool?

12 MR. TEITLEBAUM: Objection.

13 A. No, ma'am.

14 Q. Would you know who or what

15 entity benefited from the proceeds of Ms.

16 Nuer's mortgage and note while it was still

17 a performing loan?

18 MR. TEITLEBAUM: Objection.

19 A. No, ma'am.

20 Q. Are you at all familiar with

21 the facts and circumstances surrounding the

22 closing of Ms. Nuer's loan with the

23 originator?

24 A. No, ma'am.

25 Q. So, you would not be aware of

1 C. HERNDON 116

2 whether or not Ms. Nuer was ever able to  
3 enter the property that she purchased with  
4 the proceeds of this loan?

5 MR. TEITLEBAUM: Objection.

6 A. No, ma'am.

7 Q. If in fact Ms. Nuer closed on a  
8 loan, this loan and used the proceeds to  
9 purchase a property and then was not for  
10 whatever reason able to enter the property  
11 and Washington Mutual was made aware of this  
12 fact, would that appear somewhere in your  
13 system?

14 MR. TEITLEBAUM: Objection.

15 A. Possibly.

16 Q. How might it appear?

17 A. It may appear as -- if we  
18 receive correspondence to that effect or if  
19 she advised us and maybe it was noted in the  
20 system.

21 Q. Are you saying all  
22 correspondence regarding this loan would be  
23 kept in your system somewhere?

24           A.   Would be kept as a business --

25           should be kept as a business record.

1 C. HERNDON 117

2 Q. Would you be able to retrieve  
3 that?

4 A. Possibly.

5 MS. TIRELLI: Request  
6 production.

7 MR. TEITLEBAUM: What are you  
8 requesting production? We produced  
9 the entire loan file and I  
10 represented that to you. There are  
11 no other documents to produce from  
12 the loan file of Ms. Nuer.

13 MS. TIRELLI: I've shown you  
14 copies of correspondence back and  
15 forth from Washington Mutual you  
16 haven't produced.

17 MR. TEITLEBAUM: Then we don't  
18 have it.

19 MS. TIRELLI: Okay. I request  
20 it anyway. If you don't have it,  
21 that's the answer, Jay.

22 MR. TEITLEBAUM: I already said  
23 we don't have it and I represented to

24           you that we have produced the loan --

25           we have requested from the bank the



1 C. HERNDON 118

2 entire loan file and we have produced  
3 to you whatever we obtained from the  
4 bank with respect to Ms. Nuer's loan.

5 MS. TIRELLI: You also told me  
6 you had the original note and loan in  
7 your safe in your office.

8 MR. TEITLEBAUM: And we did and  
9 we returned it to the bank. You  
10 know, look --

11 MS. TIRELLI: What's the  
12 circumstances of that?

13 MR. TEITLEBAUM: It's not  
14 relevant.

15 MS. TIRELLI: It's extremely  
16 relevant. Okay, we'll take that up.

17 Q. When Long Beach Mortgage Loan  
18 Trust received the physical note, physical  
19 mortgage, the originals, would you be able  
20 to tell me who it is that actually received  
21 those documents?

22 A. I don't know that Long Beach  
23 received the original. I know that

24 Deutsches Bank did as trustee.

25 Q. As trustee.

1 C. HERNDON 119

2 How do you know they actually  
3 received those documents

4 A. When I spoke with  
5 representative of the Deutsches Bank, they  
6 confirmed they received the original  
7 documents.

8 Q. Maybe I misunderstand. I  
9 thought you testified you didn't know where  
10 the originals were.

11 A. I do not currently know where  
12 they are.

13 Q. When did you learn -- when did  
14 you have this conversation with somebody  
15 from Deutsches Bank?

16 A. Yesterday. They confirmed  
17 receipt of the original documents.

18 Q. Who did they receive them from?

19 A. I don't know specifically if I  
20 asked that question.

21 Q. Where are these documents  
22 physically?

23 A. In my conversation with

24 Deutsches Bank yesterday they advised they

25 were sent to JP Morgan Chase, the original

1 C. HERNDON 120

2 documents. They verified receipt of them,  
3 verified they forwarded them on to JP Morgan  
4 Chase and I currently requested my office in  
5 Jacksonville to locate the documents. I'm  
6 here so I have not seen them.

7 Q. So then in fact you do have  
8 knowledge as to where the originals are?

9 A. No, ma'am, I have not seen  
10 them. I cannot testify to where the  
11 documents are.

12 Q. What's your understanding where  
13 they are?

14 A. My understanding they have been  
15 forwarded to JP Morgan in Jacksonville.

16 Q. Where in Jacksonville?

17 A. Deutsches Bank forwarded them  
18 to Monroe, Louisiana. Loan Records indicate  
19 they were forwarded to an address in  
20 Jacksonville, 7255 Baymeadows Way.

21 Q. When did that happen?

22 A. I believe they were forwarded  
23 to Jacksonville sometime in September. I

24 don't remember the exact date from Loan

25 Records.

1 C. HERNDON 121

2 Q. When these documents were  
3 transferred from Deutsches Bank to Loan  
4 Records or to the servicer or whoever --

5 MR. TEITLEBAUM: Objection.

6 Q. -- was a truth and lending  
7 disclosure sent to the debtor?

8 MR. TEITLEBAUM: Objection.

9 A. I don't know.

10 Q. Are you familiar with the Truth  
11 and Lending Act?

12 A. Some, yes, ma'am.

13 Q. Are you aware of when a Notice  
14 of Transfer is required?

15 A. No, ma'am.

16 Q. What do you know about the  
17 Truth and Lending Act?

18 MR. TEITLEBAUM: Objection.

19 A. That it calls for certain  
20 disclosures to be sent to the borrower and  
21 that's all I know.

22 Q. What disclosures are you aware  
23 of that is required?

24 A. I'm not certain which specific

25 disclosures.



1 C. HERNDON 122

2 Q. Well, based on your experience,  
3 when is a disclosure normally sent to a  
4 borrower?

5 MR. TEITLEBAUM: Objection.

6 A. Typically prior to closing.

7 Q. At the time a servicer is  
8 changed as happened in this case, were the  
9 disclosures sent to the borrower?

10 MR. TEITLEBAUM: Which change  
11 in service are you referring to?

12 Q. When JP Morgan Chase took over  
13 as servicer, that's the only change I'm  
14 aware of, was a notice issued to the  
15 borrower?

16 A. I don't know.

17 Q. How would you be able to find  
18 out?

19 A. I don't know.

20 Q. Would that be in the record?

21 A. Possibly.

22 Q. Well, would you normally have  
23 that in the loan records the records you

24        said you pull up on your screen?

25            A.    Not necessarily, no, ma'am.

1 C. HERNDON 123

2 Q. Who is in charge of sending out  
3 such disclosures?

4 A. I don't know.

5 Q. How do you know it was sent  
6 out?

7 A. I testified -- I don't believe  
8 I did testify that they were. I said I  
9 believe they are. I don't know.

10 Q. What makes you think they are?

11 MR. TEITLEBAUM: Objection.

12 A. I don't know if they are or  
13 not.

14 Q. So, is this a rumor that you  
15 heard or --

16 MR. TEITLEBAUM: Objection.

17 A. I don't know if they are or  
18 not.

19 Q. Can you say where Deutsches  
20 Bank stored the original note and original  
21 mortgage?

22 A. No, ma'am.

23 Q. Can you say for sure where in

- 24 Jacksonville the physical original note and
- 25 physical original mortgage are being stored?

1 C. HERNDON 124

2 MR. TEITLEBAUM: Asked and  
3 answered.

4 A. No, ma'am.

5 Q. Are they in a safe?

6 A. I don't know where they are.

7 Q. Who took possession of them?

8 A. I don't know.

9 Q. Could you find out?

10 A. I don't know.

11 Q. Well, you have an address.

12 Who works there?

13 MR. TEITLEBAUM: Objection.

14 A. Many people work there.

15 Q. Who did you speak to yesterday  
16 that gave you this chain of transfer?

17 A. I spoke to Deutsches Bank who  
18 advised they sent them to Monroe.

19 Q. When you say Deutsches Bank,  
20 who did you speak to there?

21 A. I believe his name is Rinaldo  
22 Reyes.

23 Q. What is Mr. Reyes' position at

24 Deutsches Bank?

25 A. I don't know.

1 C. HERNDON 125

2 Q. Why were you talking to him?

3 A. To find out what happened or

4 where the documents were.

5 Q. How did you know to call

6 Mr. Reyes?

7 A. I believe that was from

8 counsel.

9 Q. So, is it your testimony that

10 counsel knows more about the whereabouts of

11 this original loan -- sorry, note and

12 mortgage than you do?

13 A. No, ma'am.

14 Q. You know more about it than

15 counsel does?

16 MR. TEITLEBAUM: Objection.

17 A. That was not my testimony.

18 Q. What do you know about the

19 whereabouts of this loan?

20 MR. TEITLEBAUM: Objection.

21 Asked and answered.

22 A. I answered it previously.

23 Q. You didn't know to call

24 Mr. Reyes, that was something somebody

25 advised to you do?



1 C. HERNDON 126

2 A. That name specifically, I

3 wasn't aware of Mr. Reyes.

4 Q. If you were to try to track

5 down the original note and original mortgage

6 in normal circumstances, how would you do

7 it?

8 A. I would contact our loan

9 records department.

10 Q. What would you say to the loan

11 records department?

12 A. I would request copy of the

13 original loan documents.

14 Q. How would you request that?

15 A. I would normally email.

16 Q. Is there a form to fill out?

17 A. Not that I'm aware of.

18 Q. Have you ever received an

19 original note or original mortgage from your

20 loan records department?

21 A. Yes, ma'am.

22 Q. What's the process to obtain

23 that?

24           A. If I may qualify my answer. I

25           have not received an original since JP

1 C. HERNDON 127

2 Morgan acquisition where the loan records  
3 have been moved to Monroe, Louisiana. They  
4 were in Jacksonville, Florida. I would  
5 contact people in our loan records in  
6 Jacksonville and typically drive around the  
7 corner to get them.

8 Q. When you pick them up, do you  
9 sign a receipt?

10 A. No, ma'am, they indicate on  
11 their system that they were checked out to  
12 me.

13 Q. So, there's absolutely nothing  
14 in writing, no form to fill out, no specific  
15 document to complete, sign, fill out,  
16 nothing, you just call up you say let me  
17 have the documents, you go drive around the  
18 corner and you pick them up and take them  
19 home?

20 MR. TEITLEBAUM: Objection.

21 A. I never once said I took them  
22 home.

23 Q. Where would you take them?

24 A. Back to my office.

25 Q. What would you do with them in

1 C. HERNDON 128

2 your office?

3 A. Typically the only reason I  
4 would request such documents is to forward  
5 to counsel.

6 Q. How would you go about  
7 forwarding it to counsel?

8 A. I would forward -- I would  
9 forward it to counsel.

10 Q. Just stick it into like a Fed  
11 Ex envelope and send it out to counsel?

12 A. Typically we Fed Ex.

13 Q. But your experience when you do  
14 that do you consider yourself at that point  
15 to be a holder of that note or holder of  
16 that mortgage?

17 A. I don't, no, ma'am.

18 Q. Are you --

19 MR. TEITLEBAUM: Objection.

20 A. That's a legal conclusion that  
21 I'm not qualified to answer.

22 Q. Well, when you have it in your  
23 possession, an original note and original

24 mortgage, what's your relationship to those

25 documents?

1 C. HERNDON 129

2 MR. TEITLEBAUM: Objection.

3 A. My personal relationship?

4 Q. Yes.

5 MR. TEITLEBAUM: Objection.

6 A. I never really anticipate --

7 determined I had relationship with the

8 documents.

9 Q. Are you familiar with Bailer?

10 A. No, ma'am.

11 Q. Are you familiar with a Form

12 2009?

13 A. No, ma'am.

14 Q. Nothing to do with the year?

15 A. No, ma'am.

16 Q. Have you been around Washington

17 Mutual before you guys had some sort of

18 eternal email?

19 MR. TEITLEBAUM: Objection.

20 A. No, ma'am.

21 Q. Ever since you worked for

22 Washington Mutual you always had this

23 eternal email?

24 A. Yes, ma'am.

25 Q. You always made original



1 C. HERNDON 130

2 requests through email?

3 A. I may have called over there,

4 as well. I don't recall.

5 Q. But you never in the past had

6 to fill out a form or send in a written

7 request?

8 A. Well, email would be written

9 request but no, outside of email or possible

10 phone call, no.

11 Q. What's your understanding when

12 you forward an original document, original

13 note and original mortgage to counsel,

14 what's your understanding with the policy

15 with regard to how that would be returned

16 and who would counsel actually return those

17 documents to?

18 A. As far as policy, I don't know.

19 As far as experience, counsel would return

20 the documents to me and I would deliver them

21 back to loan records around the corner where

22 I got them.

23 Q. Have you ever not received an

24 original note or loan back from counsel?

25 A. Not that I recall, no, ma'am.

1 C. HERNDON 131

2 Q. Were you aware that counsel in  
3 this case requested the original note and  
4 original mortgage?

5 A. Yes, ma'am.

6 Q. When did you become aware of  
7 that?

8 A. In preparation for this  
9 deposition.

10 Q. And when was that?

11 A. Past week or two.

12 Q. Just to be clear, you can't  
13 tell me for sure when this note was  
14 transferred from the depositor to where did  
15 you say it went to, to your loan records  
16 department?

17 MR. TEITLEBAUM: From whom?

18 Q. I beg your pardon, from the  
19 Deutsches Bank.

20 A. When --

21 Q. You don't know exactly when it  
22 was that these originals were transferred  
23 from Deutsches Bank to JP Morgan Chase?

24 A. I believe in my conversation

25 with Rinaldo he gave a date. I don't recall

1 C. HERNDON 132

2 the specific date. Again, I don't recall  
3 the specific date but I believe he provided  
4 a specific date.

5 Q. If you had to, would you be  
6 able to produce that date for me?

7 A. If I'm correct, I mean, I can  
8 --

9 Q. If we leave a blank in your  
10 transcript, would you be able to fill it in  
11 later?

12 A. I can't say for certain. I'll  
13 defer to counsel on that. I believe he  
14 provided a date.

15 Q. If you wanted to call Mr. Reyes  
16 on your own, could you do that?

17 A. I believe.

18 Q. Do you normally communicate  
19 with Deutsches Bank?

20 A. Not very often, no, ma'am.

21 Q. You service the loans for  
22 Deutsches Bank but you don't actually  
23 communicate with them directly?

24 MR. TEITELBAUM: Objection.

25 A. I don't.

1 C. HERNDON 133

2 Q. But you could?

3 MR. TEITLEBAUM: Objection.

4 A. I did yesterday so the

5 assumption is that I can, yes.

6 Q. Thank you.

7 Have you reviewed any sort of

8 document, receipts for any of the transfers

9 that took place from the date that this loan

10 was originated until the date it ended up in

11 the pool of other documents?

12 MR. TEITLEBAUM: Documents from

13 who?

14 MS. TIRELLI: Anybody.

15 MR. TEITLEBAUM: Objection.

16 Q. Are you aware of any document

17 receipts?

18 A. I'm not certain what you mean

19 by document receipts but I don't recall

20 seeing it, viewing any documents that was

21 entitled document receipt.

22 Q. Could you provide the names and

23 addresses of all the parties who had custody

24 of this original note and mortgage at

25 one-time or another?



1 C. HERNDON 134

2 A. Don't know.

3 MS. TIRELLI: Request produce.

4 MR. TEITLEBAUM: To the extent

5 the record exists, we'll take it

6 under advisement.

7 Q. Has this note or mortgage ever

8 been deemed lost that you're aware of?

9 A. Not that I'm aware of.

10 Q. Have you ever seen an

11 electronic copy of the original note?

12 A. Yes, ma'am.

13 Q. That appears on your system at

14 your office?

15 A. I take that back. Electronic

16 copy, no, ma'am. I've seen paper copies.

17 Q. But you never seen an

18 electronic copy that you actually save on a

19 disk on your system?

20 A. I have not had cause to look.

21 I have a paper copy.

22 Q. Would you be able to list any

23 documents that would confirm that trust is

24 actually received, the original note and

25 loan?

1 C. HERNDON 135

2 A. I don't know.

3 Q. To the best of your knowledge,  
4 having not ever seen the original note,  
5 would you be able to say whether or not the  
6 original note was endorsed?

7 A. I have not seen the document.

8 Q. The copies that you've seen, do  
9 you recall if they were endorsed?

10 A. I don't recall.

11 Q. When JP Morgan Chase filed a  
12 motion for relief from stay in this  
13 particular case, were they -- do they have  
14 authority to do so on their own or do they  
15 have to acquire that authority from  
16 Deutsches Bank?

17 A. I don't know.

18 Q. Would you be able to walk me  
19 through the process how it's determined that  
20 a motion for relief has to be filed?

21 A. No, ma'am.

22 Q. Would you be able to walk me  
23 through the process determining whether or

24 not a foreclosure action needs to be filed?

25 A. No, ma'am.

1 C. HERNDON 136

2 Q. Would you know whose decision  
3 it was to file a motion for relief from stay  
4 in this case?

5 A. No, ma'am.

6 Q. Well, who at JP Morgan Chase  
7 gives direction to your default counsel,  
8 Stephen J. Baum's office?

9 MR. TEITLEBAUM: Objection.

10 A. I don't know.

11 MS. TIRELLI: I have nothing  
12 further.

13 MR. ZIPES: Can we just take  
14 one minute and Linda and I have a  
15 brief discussion?

16 MR. TEITLEBAUM: Sure.

17 (Whereupon ms. Tirelli and  
18 Mr. Zipes exited the room.)

19 EXAMINATION BY MR. ZIPES:

20 Q. Let me introduce myself. I'm  
21 Greg Zipes with the Office of the United  
22 States Trustee. In case you haven't heard  
23 of our office, we're component of the

24 criminal justice. We get involved in

25 bankruptcy cases. We review cases for

1 C. HERNDON 137

2 whether there's improprieties whether on the  
3 debtor's side or creditor's side. We  
4 sometimes file papers whether or not we  
5 think it's appropriate or not, so with that,  
6 I listened to the testimony and I just have  
7 a few questions.

8 Let me just ask you, it sounded as I  
9 listened here you have no personal knowledge  
10 about the motion to vacate that was filed in  
11 this case and the documents that were filed  
12 in this case by JP Morgan Chase; is that  
13 accurate?

14 A. I have no personal knowledge.

15 Q. But you're produced today in  
16 order to tell us about the chain of title  
17 among other things in this case; is that  
18 your understanding why you're here today?

19 A. Yes.

20 Q. Presumably you can tell that to  
21 us today; correct, if I ask you some  
22 questions about it?

23 A. I can do my best.

24 Q. That's all we can ask. I might  
25 be repeating a little bit what we have heard



1 C. HERNDON 138

2 before but I'll move on quickly, so let's  
3 start we had a note and mortgage in this  
4 case; correct?

5 A. Yes, sir.

6 Q. That note and mortgage was  
7 held, if I understood your testimony  
8 correctly, by Long Beach Mortgage Company  
9 initially?

10 A. They're the originator, yes,  
11 sir.

12 Q. Then you testified, I believe  
13 it went to Long Beach Security Corporation;  
14 correct?

15 A. Long Beach Securities.

16 Q. Then from there it went to  
17 Deutsches Bank National Trust, it just went  
18 from one, two, three, is that your  
19 understanding what happened here in terms of  
20 ownership?

21 A. That's my understanding.

22 Q. Have you personally seen the  
23 documents that would show this chain of

24 title, I call it chain of title but these

25 three owners of the note and mortgage?

1 C. HERNDON 139

2 A. I seen what I believe to be  
3 documents, yes, sir.

4 Q. Let me ask you, you're not  
5 going to have personal knowledge by way of  
6 these motions but I'm going to ask you if  
7 you seen a document attached to JP Morgan  
8 Chase documents that was filed in this case,  
9 I have a binder and I'm going to direct your  
10 attention what I marked as UST Exhibit 15.

11 (Handed)

12 Q. I actually put a yellow sticky  
13 on it.

14 MR. TEITLEBAUM: You want to  
15 mark this?

16 MR. ZIPES: I'll mark it as  
17 UST-1.

18 Look at it and I'll represent  
19 to you, Jay, this is the initial  
20 motion for termination of automatic  
21 stay filed by JP Morgan Chase  
22 National Association dated --

23 MR. TEITLEBAUM: The sticky is

24 on one page of that.

25 MR. ZIPES: The entire

1 C. HERNDON 140

2 document, but the motion is dated  
3 November 14th, 2008 and it's signed  
4 by Maron Buczkowski of Stephen J.  
5 Baum, PC law firm and it's a motion  
6 to terminate.

7 I'll represent, Jay, that I  
8 pulled this off the document and  
9 there's a series attached as Exhibit  
10 A to this motion, and just flip about  
11 --

12 MR. TEITLEBAUM: We got it.

13 Q. Exhibit A, these are the  
14 documents represented by JP Morgan Chase to  
15 show the chain of title in this case.

16 If you turn to the first page of  
17 Exhibit A there's a fixed adjustable rate  
18 note. Do you see that on top there?

19 A. Yes, sir.

20 Q. This shows on -- it's dated  
21 January 6th, 2006?

22 A. Yes, sir.

23 Q. And this shows the borrowers

24      promise to pay a hundred four thousand

25      dollars to Long Beach Mortgage Company; do

1 C. HERNDON 141

2 you see that?

3 A. Yes, sir.

4 Q. Would this be a document you  
5 looked at to establish that Long Beach  
6 Mortgage Company is the initial owner of  
7 this document, of the note and mortgage?

8 A. Well, I did look at this  
9 document, yes, sir.

10 Q. Is this how you formed your  
11 basis that JP Morgan -- that Long Beach  
12 Mortgage Company was the initial owner of  
13 the mortgage company and note?

14 A. They're the initial lender,  
15 yes, sir.

16 Q. Is there any other documents  
17 you would have referred to?

18 A. Well, the mortgage, the actual  
19 mortgage.

20 Q. If you turn a little bit  
21 further, I think it's there.

22 A. Yes, sir, it's further in  
23 there.

24 Q. But these would have been the

25 two documents you would have looked at to



1 C. HERNDON 142

2 establish that, that Long Beach Mortgage  
3 Company was the initial owner?

4 A. Yes, sir.

5 Q. You also testified that Long  
6 Beach Securities Corporation was the next  
7 owner of this.

8 As you flip through Exhibit A, I  
9 couldn't see anything at least in Exhibit A,  
10 it's not to say you haven't reviewed  
11 something. I couldn't see anything in  
12 Exhibit A that shows ownership to Long Beach  
13 Security; is that correct?

14 A. I don't know.

15 Q. But, there is -- did you review  
16 a note and mortgage similar to this that  
17 shows it went to Long Beach?

18 A. Not in those.

19 Q. What did you review?

20 A. I believe it was entitled a  
21 mortgage loan purchase agreement. I think  
22 that was the title.

23 Q. Again, you're not personally

24 familiar with what's been filed but do you

25 know -- you're not specifically familiar

1 C. HERNDON 143

2 with everything but do you happen to know if  
3 the mortgage loan document that you're  
4 referring to now was attached as a document  
5 in the bankruptcy proceeding by JP Morgan  
6 Chase at anytime?

7 MR. TEITLBAUM: Just give me a  
8 second.

9 Off the record.

10 (Whereupon, a discussion was  
11 held off the record.)

12 MR. ZIPES: I just ask that you  
13 review your files and see if it's  
14 been filed in some way with the  
15 court. I can represent to you that I  
16 didn't see it but that's not to say  
17 --

18 MR. TEITLBAUM: My  
19 recollection is that it is not part  
20 of the filing that was made by the  
21 Baum office in connection with the  
22 MFO. What I'm trying to recollect  
23 and give me half a second -- I don't

24 believe it was attached to any of the

25 pleadings filed thus far in the case.

1 C. HERNDON 144

2 MR. ZIPES: I would ask you  
3 produce that document and it may have  
4 been produced already.

5 MR. TEITLBAUM: Well, it was  
6 produced to Ms. Tirelli. I'm happy  
7 to send you copy of it.

8 MR. ZIPES: Would you mind  
9 because I don't have it. Would you  
10 mind giving it to the witness and  
11 just having him see that and testify  
12 that's what he reviewed.

13 MR. TEITLBAUM: Sure. If  
14 you'd like, do you want to make copy  
15 of it so we can mark it as an  
16 exhibit?

17 MS. TIRELLI: Sure.

18 MR. ZIPES: Off the record.

19 (Whereupon, a discussion was  
20 held off the record.)

21 MR. ZIPES: Let's move on while  
22 we're waiting for copy to the third  
23 owner of this property which is

24 Deutsches Bank.

25 Q. Can you, again I'll refer you

1 C. HERNDON 145

2 to Debtor's 2 which is the pooling and  
3 servicing agreement dated March 1st, 2006  
4 between Long Beach Securities Corp,  
5 depositor, and Deutsches Bank National Trust  
6 Company.

7 (Handed)

8 Q. Let me just ask you, how do you  
9 know that Deutsches Bank is the owner of  
10 this note and mortgage?

11 A. Well, I believe Deutsches Bank  
12 is trustee and that the trust itself is the  
13 owner, but again, that's getting to legal  
14 distinctions.

15 Q. Tell me who you think the owner  
16 is, I guess that makes it easiest.

17 A. The Long Beach Mortgage Loan  
18 Trust 2006-2 is my understanding with  
19 Deutsches Bank National Trust Company as the  
20 trustee.

21 Q. Let me just back up here.

22 We started off we had the note and  
23 mortgage for Long Beach Mortgage Company,

- 24 then we went to Long Beach Securities
- 25 Corporation which we're making photocopies



1 C. HERNDON 146

2 of that document and then I think you  
3 testified that Deutsches Bank was the third  
4 owner of the property, but I didn't mean to  
5 confuse you.

6 Is Long Beach, this trust entity, the  
7 actual owner of this property now?

8 A. My understanding the way it is  
9 that Long Beach is the trust, is the owner  
10 and Deutsches Bank is the trustee.

11 MR. TEITLBAUM: Can I help?

12 MR. ZIPES: Yes.

13 MR. TEITLBAUM: In the pooling  
14 and servicing agreement and I don't  
15 know what Ms. Tirelli has provided,  
16 if it's a complete document but the  
17 definition mortgage loan, there's a  
18 defined term that's attached as  
19 Exhibit C to the pooling and  
20 servicing agreement, so the document  
21 which we represented to you, the MLPA  
22 is Exhibit C to this document and  
23 that's how the two tie together.

24 MR. ZIPES: Jay, this witness

25 was here to testify on the chain of

1 C. HERNDON 147

2 title, so --

3 MR. TEITLEBAUM: Right, and I'm

4 trying to help you -- trying to get

5 there.

6 MR. ZIPES: You're not

7 testifying today.

8 MR. TEITLEBAUM: I'm not

9 testifying but you've asked the

10 witness about a document that was

11 produced to him which doesn't have

12 all exhibits to it.

13 Q. My initial question was just to

14 get chain of ownership, so Long Beach

15 Mortgage Company -- we satisfied ourselves

16 at this point -- Long Beach you testified

17 was owner, as well.

18 What's your basis for determining

19 that Long Beach Securities Corporation was

20 owner?

21 A. Well, the document that is

22 being copied, the mortgage loan purchase

23 agreement.

24 Q. Let's wait on that.

25 You further testified I thought that

1 C. HERNDON 148

2 Deutsches Bank was the owner, as well, but I  
3 don't -- who is the third owner of this  
4 property after Long Beach Securities  
5 Corporation?

6 A. If I get the document, my  
7 understanding was the trust, the Long Beach  
8 Mortgage Loan Trust 2006-2 with Deutsches  
9 Bank as trustee.

10 Q. Just so we're clear, I'm not  
11 asking about trustee at the moment.

12 So, the Long Beach Mortgage Trust  
13 2006-2; correct?

14 A. That's my understanding, yes,  
15 sir.

16 Q. What do you base your  
17 understanding on?

18 A. Based on the loan -- the system  
19 notes JP Morgan Chase, as well as the  
20 pooling and servicing agreement.

21 Q. You're looking at a document  
22 right now.

23 Can you just identify that document,

24 first of all?

25 A. It is the pooling and servicing

1 C. HERNDON 149

2 agreement dated March 1st, 2006.

3 Q. That's Debtor's Exhibit 2?

4 A. Yes.

5 Q. Something in that document

6 refresh your recollection as to who the

7 third owner is? I say the third owner but

8 Long Beach Securities Corporation and Long

9 Beach Mortgage Trust 2006-2, there anything

10 in that document that refreshes your

11 recollection as to chain of title here?

12 A. Yes, sir.

13 Q. Chain of ownership, I should

14 say.

15 A. Section 2.01 states depositor

16 currently with the execution and delivery

17 hereof is hereby transferred --3.

18 MR. TEITLEBAUM: We can give

19 you the page if you want.

20 Go ahead.

21 A. Otherwise convey to the trustee

22 without recourse without benefit of

23 certificate holder all rights, interest

24 including any security interest therein for

25 the benefit of the depositor in and to the



1 C. HERNDON 150

2 mortgage loans identified on the mortgage  
3 loan schedule.

4 Q. You'll represent the schedule  
5 refers to the newer mortgage, is that on the  
6 schedule?

7 A. Yes, sir.

8 Q. So --

9 MR. TEITLEBAUM: I want to  
10 interpose an objection because I  
11 don't know -- Ms. Tirelli produced  
12 this. I don't know if this document  
13 that she's produced is complete. I  
14 don't know if it contains exhibits,  
15 schedules, et cetera. We're working  
16 off her document. I didn't bring the  
17 full document.

18 Q. Have you seen the document in  
19 its complete form?

20 A. Similar. I assume it appears  
21 to be the same document, but --

22 Q. The document you reviewed it  
23 had a Schedule A on it that lists the newer

24 mortgage, did you see the newer mortgage on

25 it?

1 C. HERNDON 151

2 A. I think the newer mortgage  
3 actually was on the mortgage loan purchase  
4 agreement.

5 Q. The pooling agreement has a  
6 reference to Exhibit A; correct?

7 A. It says mortgage loans  
8 identified on the mortgage loan schedule.

9 Q. On the schedule, okay, so that  
10 schedule has the newer mortgage on it; is  
11 that --

12 A. Yes, sir.

13 Q. You personally saw that at some  
14 point on the complete documents?

15 A. Yes.

16 Q. That would be your basis for  
17 establishing that the Long Beach Mortgage  
18 Trust 2006-2 is the current owner of this  
19 document --

20 A. That is correct.

21 Q. -- of the mortgage, I'm sorry?

22 A. Yes, sir.

23 Q. Let's go back to this document

24      which was photocopied.

25            It's the mortgage loan purchase

1 C. HERNDON 152

2 agreement.

3 MR. ZIPES: Can we mark this as

4 UST Exhibit 1, please.

5 (Whereupon, UST Exhibit 1,

6 Motion for termination of automatic

7 stay, was marked for Identification.)

8 (Whereupon, UST Exhibit 2,

9 Mortgage Loan Purchase Agreement, was

10 marked for Identification.)

11 Q. We're now on the second one

12 which is Long Beach Securities Corp., and

13 what was the basis for your conclusion they

14 were owner of this mortgage?

15 A. Well, the mortgage loan

16 purchase agreement, UST Exhibit 2.

17 Q. What is in there that shows you

18 it was transferred from Long Beach Mortgage

19 Company to Long Beach Securities Corp.?

20 A. It designates Long Beach

21 Security Corporation as purchaser and Long

22 Beach as the seller.

23 Q. We see a marking that the loan

24 Long Beach Mortgage Company was recorded,

25 and you know what a recording is?

1 C. HERNDON 153

2 A. Yes, sir.

3 Q. Have you seen any proof that  
4 there was a recording of the Long Beach  
5 Securities Corp from or Long Beach Mortgage  
6 Trust 2006-2 in any of your review of the  
7 documents?

8 MR. TEITELBAUM: Excuse me,  
9 proof of recording of the transfer?

10 MR. ZIPES: The transfers.

11 A. I mean, there's -- the  
12 documents, Exhibit 2 and Debtor's Exhibit 2  
13 and UST Exhibit 2, I don't know whether  
14 these documents need to be recorded.

15 Q. That wasn't my question.  
16 I'm asking if you seen any documents  
17 evidencing any recordings of these  
18 assignments.

19 A. Not that I can recall.

20 Q. So, let me turn you back to UST  
21 Exhibit 1 for a moment and this is the  
22 motion to vacate the stay which you don't  
23 have a lot of personal knowledge about but

24 to make it a little easier I put a little

25 sticky, that's my little sticky, this was



1 C. HERNDON 154

2 filed as part of the motion to vacate the  
3 stay and this is the assignment of mortgage;  
4 do you see that?

5 A. Yes, sir.

6 Q. So, this assignment of  
7 mortgage -- what is an assignment of  
8 mortgage in your understanding?

9 A. It is assigning a mortgage from  
10 one -- from one entity to another or one  
11 person to another.

12 Q. Do you see that line assignor  
13 JP Morgan Chase Bank National Association?

14 A. Yes, sir.

15 Q. And the assignee is Deutsches  
16 Bank National Trust Company as trustee for  
17 Long Beach Mortgage Trust 2006-2; do you see  
18 that?

19 A. Yes, sir.

20 Q. What is your understanding of  
21 what's being assigned here?

22 A. My understanding it's assigning  
23 the mortgage.

24 Q. So, how does that -- I'm just

25 trying to understand in chain of title, is

1 C. HERNDON 155

2 there another piece of this chain of title  
3 of who owned the mortgage?

4 A. Not that I'm aware of, no, sir.

5 Q. Can you explain this document?

6 A. No, sir. This was prepared at  
7 the request of counsel -- of foreclosure or  
8 bankruptcy counsel, default counsel and I  
9 was not involved in creation of this  
10 document.

11 Q. It appears to be assignment of  
12 the mortgage, so correct?

13 A. That's what it's titled, yes,  
14 sir.

15 Q. Let me turn to the servicers of  
16 the note and mortgage.

17 We went through chain of title here,  
18 the servicers. I think you testified before  
19 that WaMu was a servicer of the note and  
20 mortgage and JP Morgan sort of took over the  
21 servicing, that's your understanding of JP  
22 Morgan Chase's involvement in the case

23 A. Yes, sir.

24 Q. Is that the totality of the  
25 servicers with respect to this note and

1 C. HERNDON 156

2 mortgage throughout the life of it?

3 A. Well, again, it was originated  
4 by Long Beach Mortgage Company, Washington  
5 Mutual became servicer and then JP Morgan  
6 Chase, yes.

7 Q. So, when did WaMu become the  
8 servicer of the mortgage?

9 A. In January of 2006.

10 Q. What document did you review to  
11 reach that conclusion?

12 A. There's a reference in here  
13 specifically indicating -- I apologize.

14 Q. That's fine.

15 MR. TEITLEBAUM: Want to help  
16 him move it along?

17 MR. ZIPES: I'm just asking the  
18 witness what he reviewed.

19 MR. TEITLEBAUM: Do you want to  
20 make copies of these two letters?

21 MR. ZIPES: We'll mark those as  
22 UST Exhibit 3. Do we want to  
23 interrupt the flow?

24

MR. TEITLEBAUM: It directly

25

answers your question. Can we get

1 C. HERNDON 157

2 copies?

3 MS. TIRELLI: Sure.

4 (Whereupon, UST Exhibit 3,  
5 January 6th, 2006 Letter, was marked  
6 for Identification.)

7 (Whereupon, UST Exhibit 4,  
8 January 11th, 2006 letter, was marked  
9 for Identification.)

10 Q. We're now running through the  
11 totality of servicers of the note and  
12 mortgage so you testified before that WaMu  
13 was first and then it became JP Morgan so  
14 what was your basis for --

15 A. Well, actually, Long Beach was  
16 first as the originator.

17 Q. Go ahead.

18 A. And they transferred service to  
19 Washington Mutual.

20 Q. When did that occur?

21 A. Basically -- January 6th which  
22 I believe was date of closing.

23 Q. Why does that happen on day of

24 closing?

25 A. Primarily Long Beach is



1 C. HERNDON 158

2 originator and it was a subsidiary of  
3 Washington Mutual and Washington Mutual is a  
4 servicer.

5 Q. Your basis for concluding that  
6 Long Beach Mortgage Company was first and  
7 then it was transferred to WaMu, what  
8 document did you review?

9 A. The UST 3 and UST 4.

10 Q. That's a letter dated January  
11 --UST 3 is a letter dated January 6th by  
12 Washington Mutual Bank and Long Beach  
13 Mortgage Company to Sylvia Nuer; correct?

14 A. Yes, sir.

15 Q. And UST 4 is a January 11th,  
16 2006 letter again from Washington Mutual  
17 Bank?

18 A. Yes, sir.

19 Q. So let me just turn to the  
20 trustees involved with this loan -- note and  
21 mortgage.

22 You testified before that Deutsches  
23 Bank was trustee of the note and mortgage.

24            Let's just run through the trustees

25            to the extent that you can do that starting

1 C. HERNDON 159

2 from beginning.

3 Who is the first trustee of the note  
4 and mortgage, and let me just back up one  
5 step by asking you what's your understanding  
6 of what a trustee is?

7 A. As relates to this, I'm not  
8 certain.

9 Q. But you do know there were  
10 trustees involved, so let's go through the  
11 trustee sequence here.

12 When was the first trustee put in  
13 place and when was it and why?

14 A. The only trustee that I'm aware  
15 of is Deutsches Bank.

16 Q. When was Deutsches Bank put in  
17 place?

18 A. I believe on the servicing  
19 agreement dated March 1st, 2006.

20 Q. That's Debtor's 2?

21 A. Yes, sir.

22 MR. TEITLEBAUM: Subject to my  
23 objection, Debtor's 2 is not a

24 complete document.

25 Q. Now I heard the word custodian,

1 C. HERNDON 160

2 as well being used by you at one point.

3 Tell me what your understanding of a  
4 custodian is in the context of this note and  
5 mortgage.

6 A. Well, the way that I was using  
7 it was around the office we refer to  
8 custodian whoever is holding the original  
9 mortgage documents. I apologize if that's  
10 not the correct legal term. When I use the  
11 term custodian, I'm referring to the person  
12 in charge or entity charged with holding the  
13 original documents whatever they may be.

14 MR. TEITLEBAUM: Custodian  
15 isn't -- if you want to ask it's  
16 referred to in Section 8.11 of the  
17 PSA.

18 Q. Is that your understanding of  
19 what a custodian is referring to?

20 A. When I used the term custodian  
21 during my deposition --

22 Q. The actual holder?

23 A. Whatever entity is actually

24 holding the --

25 Q. Physically holding it?

1 C. HERNDON 161

2 A. Yes, and again if that's not  
3 the definition called for in the PSA, that's  
4 the definition I was referring to.

5 MR. ZIPES: Let me take one  
6 minute with Ms. Tirelli.

7 THE WITNESS: If I may clarify  
8 one thing.

9 MR. ZIPES: Go ahead.

10 THE WITNESS: In the instance  
11 that the custodian sends documents to  
12 me if I request them I do not become  
13 custodian because the original entity  
14 that's charged with holding them is  
15 still what I would refer to as  
16 custodian even though I was  
17 technically holding them if they were  
18 sent to me for whatever purpose.

19 MR. ZIPES: I understand.

20 Thank you.

21 (Whereupon Mr. Zipes and Ms.  
22 Tirelli exited the room.)

23 MR. ZIPES: We're done for

24            today's purpose but there is -- you

25            were produced to give us chain of



1 C. HERNDON 162

2 title of notice of assignment of  
3 mortgage which you weren't able to  
4 explain so I think it is appropriate  
5 to hold the record open and if you  
6 think if there's a way of explaining  
7 this --

8 MR. TEITLEBAUM: Explain the  
9 documents?

10 MS. TIRELLI: Talking about the  
11 Scott Walter assignment or Ann Garbis  
12 assignment or both?

13 MR. ZIPES: I was focusing on  
14 the Scott Walter but the Garbis --

15 MR. TEITLEBAUM: They're dated  
16 the same date.

17 MS. TIRELLI: Scott Walter  
18 couldn't be explained. They said  
19 take this one.

20 MR. ZIPES: We need an  
21 explanation as to what these  
22 documents are and how they affect the  
23 chain of title.

24 MR. TEITELBAUM: If, at all, if

25 they have any effect at all. That's

1 C. HERNDON 163

2 possibly the --

3 MR. ZIPES: I'd like to leave  
4 the record open but we'll work on  
5 that.

6 MR. TEITLEBAUM: If it's okay,  
7 I have one or two questions.

8 MR. ZIPES: Sure, go ahead.

9 EXAMINATION BY MR. TEITLEBAUM:

10 Q. My name is Jay Teitlebaum, as  
11 you know. This just for the record. I just  
12 want to ask you a couple follow-up questions  
13 if I may.

14 Directing your attention to UST  
15 Exhibit 1 and the Promissory Note that is  
16 attached as Exhibit A, do you see that,  
17 that's the hundred four thousand dollar  
18 note?

19 A. Yes, sir.

20 Q. Is there a loan number on that  
21 note?

22 A. Yes, sir.

23 Q. What's that loan number,

24 please.

25 A. 6641562.

1 C. HERNDON 164

2 Q. What is your understanding as  
3 to what that loan number references?

4 A. That is the Long Beach loan  
5 number, Long Beach Mortgage Company.

6 Q. Is it your understanding that's  
7 a loan number that was generated by Long  
8 Beach as the originator of the loan?

9 A. Yes, sir.

10 Q. Let me direct your attention to  
11 Exhibit 3, UST Exhibit 3, letter dated  
12 January 6th, 2006 which is a letter from  
13 Long Beach Mortgage to Ms. Nuer.

14 Do you see a loan number on that  
15 document?

16 A. Yes, sir.

17 Q. What is that loan number?

18 A. 6641562.

19 Q. Is that the same loan number as  
20 the loan number on the note?

21 A. Yes, sir.

22 Q. Can I direct your attention to  
23 Exhibit 4, please, which is the letter from

24 WaMu -- before we go there, Exhibit 3, can

25 you just read the paragraph after the first

1 C. HERNDON 165

2 full paragraph that it's sort of titled loan  
3 number?

4 A. Yes, sir. Loan number above  
5 you will find our Long Beach Mortgage loan  
6 number. Within the next few weeks you will  
7 be receiving an official welcome letter from  
8 Washington Mutual Bank which will provide  
9 you with a newer Washington Mutual loan  
10 number, first payment due date and loan  
11 amount.

12 Q. I direct your attention to  
13 Trustee Exhibit 4, please.

14 What is that?

15 A. At Washington Mutual we  
16 consider this a welcome letter.

17 Q. You're an employee of  
18 Washington Mutual; correct?

19 A. Yes, sir.

20 Q. Do you have personal knowledge  
21 whether that is a welcome letter based on  
22 your employment at WaMu?

23 A. Yes, sir.

24 Q. What is the loan number on that

25 document?



1 C. HERNDON 166

2 A. 0697215101.

3 Q. If I can direct your attention  
4 to UST Exhibit 2 which is the mortgage loan  
5 purchase agreement and there's a schedule at  
6 the back of that document; do you see that  
7 schedule?

8 A. Yes, sir.

9 Q. What is the title on the  
10 schedule?

11 A. Long Beach Mortgage Company  
12 mortgage loan schedule.

13 Q. Do you see on the first page  
14 bait stamp number 0121 a reference to a  
15 mortgage loan schedule?

16 A. Yes, sir.

17 Q. Could you read that sentence?

18 A. Enclosing schedule shall  
19 confirm -- conform to the requirements set  
20 forth to this agreement and mortgage loan  
21 schedule under the --

22 Q. If you take a look at the  
23 schedule attached to the mortgage loan

24 agreement, I'm going to make representation

25 that is a document produced to Ms. Tirelli

1 C. HERNDON 167

2 and it is a redacted version of the mortgage  
3 loan schedule because the determination was  
4 made by the bank that the identity of all  
5 the other borrowers was private information  
6 so that's a redacted version and that was  
7 produced.

8 Can you just please on the first page  
9 of that schedule, is there -- are there loan  
10 numbers?

11 A. Yes, sir.

12 Q. Is there more than one loan  
13 number?

14 A. Yes, sir.

15 Q. What's the first loan number  
16 that you see?

17 A. 6641562.

18 Q. Does that refer to a specific  
19 loan, borrower?

20 A. Yes, sir.

21 Q. Who is the borrower?

22 A. Named Nuer.

23 Q. How much is the amount of that

24 loan?

25 MR. TEITLEBAUM: By the way,

1 C. HERNDON 168

2 just to clarify, it's three pages but  
3 it's actually a spread sheet that's  
4 long. In other words, it's not a  
5 three-page document. We couldn't get  
6 it on one page.

7 A. One hundred four thousand  
8 dollars.

9 Q. Is that the same amount as the  
10 loan attached to UST Exhibit 1?

11 A. Yes, sir.

12 Q. Is that first loan number the  
13 same loan number that you read off of the  
14 note?

15 A. Yes, sir.

16 Q. Is there another loan number  
17 right next to that loan?

18 A. Yes, 697215101.

19 Q. Is that the same loan number  
20 that's on UST Exhibit 4?

21 A. With the exception of the  
22 preceding zero which sometimes is not picked  
23 up, yes, it's the same loan number.

24 Q. Can you, just based upon your

25 experience having worked at Washington

1 C. HERNDON 169

2 Mutual, testify as to why there are two  
3 different loan numbers?

4 A. Yes, sir.

5 Q. Why is that?

6 A. Many times with servicing  
7 transfers there's a change in loan number  
8 from the prior servicer which is Long Beach  
9 to Washington Mutual would be a change in  
10 loan numbers.

11 MR. TEITLEBAUM: I have nothing  
12 further.

13 (Whereupon this examination  
14 concluded at 4:58 p.m.)

15

16

17

\_\_\_\_\_

18

CHARLES HERNDON

19

20 Subscribed and sworn to

21 before me this \_\_\_\_\_ day

22 of \_\_\_\_\_, 2009.

23

24

---

25

Notary Public



C E R T I F I C A T E

STATE OF NEW YORK )  
                          )ss.:  
COUNTY OF WESTCHESTER)

I, LISA DOBBO, a Shorthand  
Reporter and Notary Public within and for  
the State of New York, do hereby certify:

That CHARLES HERNDON, the  
witness whose deposition is hereinbefore set  
forth, was duly sworn by me, and that such  
deposition is a true record of the testimony  
given by the witness.

I further certify that I am not  
related to any of the parties to this action  
by blood or marriage, and that I am in no  
way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 9th day of  
October, 2009.

---

LISA DOBBO  
SHORTHAND REPORTER

INDEX

| EXAMINATION BY: | Page |
|-----------------|------|
| MS. TIRELLI     | 4    |
| MR. ZIPES       | 136  |
| MR. TEITLEBAUM  | 163  |

\* \* \*

DEBTOR'S EXHIBITS

| No. | Description                   | Page |
|-----|-------------------------------|------|
| 1   | Notice of Deposition          | 7    |
| 2   | Pooling & Servicing Agreement | 76   |
| 3   | Incumbency Certificate        | 76   |
| 4   | Assignment of Mortgage        | 78   |

\* \* \*

UST EXHIBITS

| No. | Description                              | Page |
|-----|--|------|
| 1   | Motion for termination of automatic stay | 152  |
| 2   | Mortgage Loan Purchase Agreement         | 152  |

3 January 6th, 2006 Letter 157

4 January 11th, 2006 157  
letter

REQUESTS

Page

Production of copies of the 22  
screens that Mr. Herndon  
reviewed

Production of the names and 133  
addresses of all the parties  
who had custody of this  
original note and mortgage at  
one time or another

ERRATA SHEET

The following corrections, additions or deletions were noted on the transcript of the testimony which I gave in the above-captioned matter held on 10/6/09:

Page \_\_\_ Line \_\_\_ SHOULD READ: \_\_\_\_\_

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\_\_\_\_\_  
CHARLES HERNDON

Subscribed and sworn to  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

---

Notary Public

