
WELLS FARGO BANK, NA etc. : SUPERIOR COURT OF NEW JERSEY
: APPELLATE DIVISION
:
: Docket No. A-3627-06T1
Plaintiff/Respondent, :
:
v. : On Appeal from a Decision of
: the Bergen County Superior
: Court, Chancery Division
:
SANDRA A. FORD, et al., : Docket Below:F-26869-08
:
: Sat Below:
: Hon. Robert P. Contillo
Defendant/Appellant. :
: Civil Action

BRIEF OF DEFENDANT/APPELLANT SANDRA A. FORD
AND JOINT APPENDIX

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TABLE OF CONTENTS

TABLE OF AUTHORITIES iv

I. PRELIMINARY STATEMENT 1

II. ISSUES PRESENTED 3

III. PROCEDURAL HISTORY 4

IV. STATEMENT OF FACTS 10

V. ARGUMENT 15

 A. STANDARD OF REVIEW..... 15

 1. THE APPELLATE DIVISION MUST DECIDE WHETHER A
 GENUINE ISSUE OF MATERIAL FACT WAS IN DISPUTE
 THAT SHOULD HAVE PRECLUDED SUMMARY JUDGMENT,
 AND IF NOT, WHETHER THE TRIAL COURT RULED
 CORRECTLY ON THE LAW 15

 2. THE APPELLATE DIVISION MUST DECIDE WHETHER
 PLAINTIFF’S PROOFS WERE SUFFICIENT TO SUPPORT
 ENTRY OF FINAL JUDGMENT 18

 B. WELLS FARGO’S OWN PROOFS ESTABLISH THAT WELLS FARGO
 IS NOT THE HOLDER OF THE NOTE, AND THEREFORE LACKS
 STANDING TO FORECLOSE 19

 1. IN ORDER TO HAVE STANDING TO FORECLOSE, A
 PLAINTIFF MUST SHOW BOTH (1) THAT DEFENDANT
 OWES A DEBT TO THE PLAINTIFF AND (2) THAT
 PLAINTIFF HAS A SECURITY INTEREST IN THE
 PROPERTY 19

 2. TRANSFER OF A NEGOTIABLE INSTRUMENT IS GOVERNED
 BY THE UNIFORM COMMERCIAL CODE, WHICH REQUIRES
 PHYSICAL POSSESSION AND INDORSEMENT OF A NOTE
 PAYABLE TO ORDER 20

 3. PLAINTIFF’S ALLEGED OWNERSHIP INTEREST IN THE
 NOTE, SUPPORTED ONLY BY AN ASSIGNMENT OF MORTGAGE,
 FAILS TO MEET THE REQUIREMENTS OF THE UNIFORM
 COMMERCIAL CODE AND DOES NOT GIVE RISE TO A CLAIM
 OF RELIEF AGAINST THE MAKER OF THE NOTE 22

4. WELLS FARGO'S CLAIM OF ASSIGNMENT WAS UNSUPPORTED BY COMPETENT EVIDENCE, AND THEREFORE WELLS FARGO FAILED EVEN TO SHOW AN OWNERSHIP INTEREST IN THE NOTE	27
5. AS WELLS FARGO FAILED TO SHOW THAT IT WAS THE HOLDER OF THE NOTE AND THE ASSIGNEE OF THE MORTGAGE IT IS NOT A PROPER PARTY TO THE FORECLOSURE ACTION AND LACKS STANDING TO FORECLOSE	28
C. THE COURT MISAPPLIED THE HOLDER IN DUE COURSE DOCTRINE AND, HAVING FAILED TO SHOW THAT IT WAS THE HOLDER OF THE NOTE, PLAINTIFF ALSO FAILED TO SHOW THAT IT WAS A HOLDER IN DUE COURSE	30
1. HOLDER IN DUE COURSE STATUS IS AN EXCEPTION TO THE GENERAL RULE THAT A HOLDER OF A NOTE IS SUBJECT TO ANY CLAIMS AND DEFENSES THAT COULD BE ASSERTED AGAINST THE ORIGINAL CONTRACTING PARTY AND THE BURDEN OF PROOF FOR HOLDER IN DUE COURSE STATUS RESTS WITH THE HOLDER	30
2. THE COURT MISAPPLIED THE RULING OF <u>CARNEGIE BANK v. SHALLECK</u> BY FAILING TO RECOGNIZE THAT HOLDER IN DUE COURSE STATUS IS A QUESTION OF FACT AND IS NOT PRESUMED MERELY ON THE BASIS OF A MORTGAGE ASSIGNMENT	34
D. HOLDER IN DUE COURSE STATUS DOES NOT IMMUNIZE A PARTY AGAINST ALL DEFENSES, AND HAVING FAILED TO ANALYZE MS. FORD'S DEFENSES, THE TRIAL COURT'S RULING THAT MS. FORD HAD PROFFERED NO DEFENSES AGAINST THE PLAINTIFF WAS IN ERROR.....	36
1. THE COURT ERRED BY FAILING TO RECOGNIZE THAT PURSUANT TO THE UNIFORM COMMERCIAL CODE, REAL DEFENSES SUCH AS FEUD AND ILLEGALITY SURVIVE AGAINST HOLDERS IN DUE COURSE	36
2. THE COURT ERRED BY FAILING TO RECOGNIZE THAT THE TRUTH IN LENDING ACT EXPLICITLY PERMITS RESCISSION AGAINST ASSIGNEES TO THE SAME EXTENT AVAILABLE AGAINST THE ORIGINAL CREDITOR AND DAMAGES AGAINST ASSIGNEES WHERE DISCLOSURE	

VIOLATIONS ARE APPARENT BY A COMPARISON AMONG
SPECIFIED DOCUMENTS 37

3. THE COURT ERRED BY FAILING TO RECOGNIZE THAT
DEFENDANT RAISED DEFENSES AND COUNTERCLAIMS
AS AGAINST THE PLAINTIFF FOR ITS OWN ACTIONS,
AND NOT MERELY IN ITS ROLE AS ASSIGNEE 41

CONCLUSION 43

TABLE OF AUTHORITIES

<u>CASES</u>	<u>Page</u>
<u>Baker v. Carr</u> , 369 <u>U.S.</u> 186 (1962)	29
<u>Bank of North Carolina, NA v. Rock Island Bank</u> , 630 <u>F.2d</u> 1243 (7 th <u>Cir.</u> 1980)	32
<u>Blue v. Everett</u> , 56 <u>N.J. Eq.</u> 455 (E & A 1897)	20
<u>Brill v. Guardian Life Insurance Co.</u> , 142 <u>N.J.</u> 520 (1995) ..	15,16
<u>Brodo v. Bankers Trust Co.</u> , 847 <u>F. Supp.</u> 353 (E.D. Pa. 1994) ..	39
<u>Carnegie Bank v. Shalleck</u> , 256 <u>N.J. Super.</u> 23 (App. Div. 1992)	8,20,34,35
<u>Crescent Parks Tenant Association v. Realty Equities</u> <u>Corp. of New York</u> , 58 <u>N.J.</u> 98 (1971)	28
<u>Dimon v. Dimon</u> , 10 <u>N.J.L.</u> 156 (Sup. Ct. 1828)	20
<u>Federal Reserve Bank of Phila. v. Welch</u> , 122 <u>N.J.</u> 90 (Ch.1937)	20
<u>General Investment Corp. v. Angelini</u> , 58 <u>N.J.</u> 396 (1971)	35
<u>Gilbert v. Gladden</u> , 87 <u>N.J.</u> 275 (1981)	29
<u>Housing Authority of the City of Newark v. West</u> , 69 <u>N.J.</u> 293 (1976)	29
<u>In re AppOnline.Com, Inc.</u> , 290 <u>B.R.</u> 1 (E.D. N.Y. Bankr. 2003) .	32
<u>In re Armstrong</u> , 288 <u>B.R.</u> 404, 416 (Bk. E.D. Pa. 2003)	40
<u>In re: Baby T</u> , 160 <u>N.J.</u> 332, 340 (1999)	28
<u>In re Community Bank of Northern Virginia</u> , 418 <u>F.3d</u> 277 (3 rd <u>Cir.</u> 2005)	39
<u>In re Development Group, Inc.</u> 50 <u>B.R.</u> 588 (S.D. Fla. 1985)	22
<u>In re Porter</u> , 961 <u>F.2d</u> 1066 (3 rd <u>Cir.</u> 1992)	39

<u>In re Rivera</u> , 342 <u>B.R.</u> 435 (Bk. D.N.J. 2006)	2,3
<u>In re Slaw</u> , 178 <u>B.R.</u> 380 (Bk. D.N.J. 1994)	40
<u>In re Taylor</u> , 407 <u>B.R.</u> 618 (Bankr. E.D. Pa. 2009)	24,25
<u>In re Williams</u> , 291 <u>B.R.</u> 636 (Bankr. E.D. Pa 2003)	37,38
<u>Jefferson Loan v. Session</u> , 397 <u>N.J. Super.</u> 520 (App. Div. 2008)	41
<u>Johnson v. Clarke</u> , 28 <u>A.</u> 558 (Ch. 1894)	19
<u>Johnson v. McCrakin-Sturman Ford, Inc.</u> , 527 <u>F.2d</u> 257 (3 rd Cir. 1975)	37
<u>Judson v. Peoples Bank & Trust Co. of Westfield, supra</u> , 17 <u>N.J.</u> 75	16
<u>Manalapan Realty v. Manalapan Twp. Comm.</u> , 140 <u>N.J.</u> 366 (1995) .	16
<u>Manufacturers & Traders Trust Co. v. Murphy</u> , 369 <u>F. Supp.</u> 11 (W.D. Pa. 1974), <u>aff'd</u> 517 <u>F.2d</u> 1398 (3d Cir. 1975)	32
<u>Morris Canal & Banking Co. v. Fisher</u> , 9 <u>N.J. Eq.</u> 667 (E & A 1855)	20
<u>Munday v. Vail</u> , 34 <u>N.J.L.</u> 418 (1871)	29
<u>Northside Bank of Tampa v. Investors Acceptance Corp.</u> 278 <u>F. Supp.</u> 191 (W.D. Pa. 1968)	32
<u>Prudential Prop. & Cas. Ins. Co. v. Boylan</u> , 307 <u>N.J. Super.</u> 162 (App. Div.), <u>certif. denied</u> , 154 <u>N.J.</u> 608 (1998)	16
<u>Psensky v. American Honda Finance</u> , 378 <u>N.J. Super.</u> 221 (App. Div. 2005)	42
<u>Ramadan v. Chase Manhattan Corp.</u> , 229 <u>F.3d</u> 194 (3 rd Cir. 2000) .	38
<u>Sbrolla v. Hess</u> , 133 <u>N.J.L.</u>	29
<u>Schnall v. Amboy Nat'l Bank</u> , 279 <u>F.3d</u> 205 (3 rd Cir. 2002)	39
<u>Smith v. Fidelity Consumer Discount Co.</u> , 898 <u>F.2d</u> 896 (3d Cir. 1990)	37

<u>Stevenson v. Black</u> , 1 <u>N.J. Eq.</u> 338 (Ch. 1831)	20
<u>Vallies v. Sky Bank</u> , 432 <u>F.3d</u> 493 (3 rd Cir. 2006)	39
<u>Walker v. Alt. Chrysler Plymouth</u> , 216 <u>N.J. Super.</u> 255 (App. Div. 1987)	16

STATUTES AND REGULATIONS

15 <u>U.S.C.</u> §1601(a)	37
15 <u>U.S.C.</u> §1602(u)	38
15 <u>U.S.C.</u> §1605(f)	38
15 <u>U.S.C.</u> §1631(a)	38
15 <u>U.S.C.</u> §1635(f)	38
15 <u>U.S.C.</u> § 1635(i) (2)	38
15 <u>U.S.C.</u> § 1641(c)	4, 40
15 <u>U.S.C.</u> § 1641(e) (2) (A)	4, 40
<u>N.J.S.A.</u> 2A:1-201(14)	21
<u>N.J.S.A.</u> 2A:1-201(20)	21
<u>N.J.S.A.</u> 12A:3-203	23, 24
<u>N.J.S.A.</u> 2A:3-203(a)	21, 23, 24
<u>N.J.S.A.</u> 12A:3-302	32
<u>N.J.S.A.</u> 2A:3-305	31
<u>N.J.S.A.</u> 12A:3-305(b)	31, 36
<u>N.J.S.A.</u> 12A:3-308(b)	3, 32
<u>N.J.S.A.</u> 46:9-9	19, 30, 34
<u>N.J.R.E.</u> 602	25
<u>R.</u> 4:46-2(c)	15

R. 4:46-5 16

R. 1:6-6 24

12 C.F.R. §226.23(d) (1) 38

OTHER AUTHORITIES

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White & Summers § 17-3 32

Appendix follows the Brief

I. PRELIMINARY STATEMENT

This matter involves the foreclosure of a mortgage on residential real estate - a family's home - without due process of law. In this matter, the trial court entered summary judgment against the defendant despite an absence of proof and despite the defendant's assertion of significant predatory lending counterclaims and defenses.

While residential mortgage foreclosure in some states is non-judicial, the New Jersey legislature has seen fit to make foreclosure a judicial process - a process that requires all of the same elements of due process inherent in any court matter, such as the requirements of standing, evidence, burden of proof and the opportunity to present a defense.

Despite the current economic climate and a court system overburdened with a voluminous foreclosure docket, due process is no less significant to individual homeowners or to the validity of the judicial system as a whole. Judicial review cannot be abandoned or truncated in the name of expediency.

The burden of proof in a foreclosure is upon the plaintiff seeking this powerful and extraordinary remedy (just as it is in any other judicial matter). In this matter, the plaintiff failed to meet that burden even on a prima facie basis. The only support for the entry of the foreclosure judgment in this matter is a note payable to a non-party. Not only did this judgment

enter unsupported by competent evidence, but it also entered summarily despite the defendant's predatory lending claims and defenses. Despite recognizing that the defendant's claims and defenses were "serious disturbing allegations . . . which if true would be a substantial violation of law and a substantial violation of her rights," the trial court failed to examine them to determine if they were viable against the plaintiff.

The error is magnified by the fact that the defendant appeared pro se in these proceedings. Although it may be more difficult for the court to contend with pro se litigants, and although it may seem unlikely that an unrepresented defendant may have a viable claim or defense, these are exactly the circumstances that require the court to be even more vigilant.

Under similar circumstances, the bankruptcy court for the District of New Jersey recognized that "notwithstanding the volume, pace and electronic systemizing . . . this court must remain mindful of the serious stakes-most often it is the family homestead that is in jeopardy," In re Rivera, 342 B.R. 435, 441 (Bankr. D. N.J. 2006). The court further recognized that "[t]he court depends on the ethical and professional conduct of attorneys. As volume increases, judicial processes and participants are subjected to certain pressures. Electronic filing and retrieval are necessary court aids, but dependable, ethical performance by lawyers remains indispensable. Lawyers

must maintain their independence-and resist, at the risk of losing a client or their employment, pressures which would undercut their professionalism." Id. at 438.

II. ISSUES PRESENTED

1. Whether the trial court erred by granting summary judgment in favor of the plaintiff where plaintiff's own proofs established that plaintiff was not the holder of the note and therefore lacked standing to foreclose?

2. Whether the trial court erred by implicitly shifting the burden of proof for holder in due course status to the defendant in contravention of N.J.S.A. 12A:3-308(b), and by granting plaintiff's motion for summary judgment where the plaintiff failed to present any testimony or evidence whatsoever to support holder in due course status?

3. Even if the plaintiff had shown it was a holder in due course, whether the trial court erred in granting plaintiff's motion for summary judgment where New Jersey's Uniform Commercial Code, N.J.S.A. 2A:3-305, specifies that a holder in due course takes an instrument subject to real defenses asserted by the defendant, such as illegality and fraud?

4. Even if the plaintiff had shown it was a holder in due course, whether the trial court erred in granting plaintiff's motion for summary judgment where the Truth in Lending Act

(TILA) provides that assignees are liability for rescission to the same extent as assignors (15 U.S.C. § 1641(c)) and that assignees are liable to borrowers for damages where, as here, TILA violations are apparent based on a comparison of among the disclosure statement, any itemization of the amount financed, the note, or any other disclosure of disbursement (15 U.S.C. § 1641(e) (2) (A))?

5. If plaintiff showed that it was the holder of the note and assignee of the mortgage, whether the trial court erred by granting summary judgment where the defendant asserted claims against the note holder for its own actions, and not merely in its capacity as assignee?

III. PROCEDURAL HISTORY

Plaintiff "Wells Fargo Bank, N.A. as Trustee" for an unspecified trust filed a foreclosure complaint on or about July 14, 2006 seeking to foreclose a mortgage between Sandra Ford and an unnamed mortgagee. Ja152-159. On or about July 19, 2006, Plaintiff filed an Amended Complaint in which Plaintiff alleged that at some unspecified time "Argent Mortgage Company, LLC assigned its mortgage and bond/note to Wells Fargo Bank as Trustee which assignments have not yet been recorded." Ja145-151. No note or mortgage assignment was attached to either the original or the amended complaint and even through the entry of

final judgment the only note produced continued to show that Argent Mortgage Company, the originator, and not the plaintiff, Wells Fargo, was the current holder of the note.

On or about August 19, 2006, Ms. Ford filed and served a pro se Answer, Defenses and Counterclaims. Ja131-144. The Answer raises a number of very serious predatory lending-related defenses and counterclaims including: (1) the Plaintiff lacked standing to foreclose; (2) the mortgage is invalid; (3) fraud in the inducement; (4) fraud in the factum; (5) negligence in the origination of the loan; (6) fraud and/or negligence in the servicing of the loan; (7) violation of the Fair Foreclosure Act, including that the Plaintiff failed to serve her with a valid Notice of Intention to Foreclose; (8) violation of the Fair Debt Collection Practices Act; (9) violation of the Truth in Lending Act; and (10) violation of the Real Estate Settlement Procedures Act. Simultaneous with her Answer, Ms. Ford also served a demand for production of documents on August 19, 2006 asking for documents relevant to the mortgage. Ja143.

The matter was deemed "Contested" by the Office of Foreclosure, and transmitted to the local vicinage.

On or about September 29, 2006, Wells Fargo filed an Answer to Ms. Ford's Counterclaims consisting of a general denial and three Affirmative Defenses: ratification, laches and waiver. Ja128-130.

Wells Fargo simultaneously filed a Motion for Summary Judgment, which alleged that: (1) no genuine issue of material fact was in dispute; (2) as a matter of law, a mortgagee has the right to accelerate the mortgage and foreclose upon a default in payment; and (3) as a matter of equity, the contract between the parties should be enforced unless the mortgagee induced the default. Ja89-127.

On or about October 27, 2006, Ms. Ford filed written opposition to Wells Fargo's motion for summary judgment and a cross motion to dismiss the complaint or for summary judgment in her favor, again as a pro se litigant. Ja63-88.¹ In these, she detailed her predatory lending claims and provided documentation of forgery and fraud.

Wells Fargo filed an October 31, 2006 reply claiming to be a holder in due course, against which none of defendant's claims could be made. Ja61-62. Wells Fargo apparently appended an unrecorded copy of a mortgage assignment to its reply brief, unsupported by any certification.²

¹ As Ms. Ford proceeded below pro se, her counsel for this appeal requested a copy of the full Court file from the Foreclosure Unit of the Superior Court. Inexplicably, handwritten notations not made by Ms. Ford appear on the court's copy of Ms. Ford's Opposition and Cross Motion for Summary Judgment such as, "CONSIDER AS OPPOSITION NOT CROSS-MOTION PER KELLY," and striking out the words "Cross Motion" on her Notice of Motion. Ja63-64. Thus, it is not clear whether the trial court considered Ms. Ford's cross motion.

² The file produced by the Foreclosure Unit was delivered in a

Defendant filed a pro se sur-reply arguing that the Truth In Lending Act applies to assignees, citing the law and attaching an article explaining it. Ja45-53.

After several adjournments,³ oral argument on the motion for summary judgment was taken on two dates, one is unknown and the second was on January 26, 2007. Ms. Ford appeared at both hearings pro se. After argument on January 26, 2007, the Court entered an order granting Wells Fargo's motion for summary judgment, striking Ms. Ford's Answer, and transferring the matter to the Foreclosure Unit of the Superior Court to proceed as an uncontested matter. Ja43-44. The Order makes no mention of Ms. Ford's cross-motion or counterclaims.

The Court did not make specific findings of fact or conclusions of law, but issued an oral opinion from the bench on

disorganized state, and had to be reconstructed. To make matters worse, the certification supplied by plaintiff in support of its motion for summary judgment makes no reference to any exhibits, except to say that the unspecified documents attached are true copies (and that the mortgage is a copy of the recorded mortgage). The certification does not refer to an assignment. In contrast, plaintiff's October 31, 2006 reply brief states that a copy of the assignment was appended thereto. The undersigned submitted a copy of the proposed joint appendix to plaintiff's counsel about a month before filing and asked plaintiff's counsel to add any missing documents. Despite follow-up, the undersigned received no response from plaintiff's counsel.

³ Ms. Ford sought adjournments on at least one occasion in order to avoid missing work. On another occasion, she sought an adjournment because she was pregnant, and the hearing date fell on her due date. On one occasion, the Court entered an order requiring Ms. Ford to pay Plaintiff's counsel \$400.00 in attorney's fees due to an adjournment. Ja54-55.

January 26, 2007. Apparently based solely on the strength of the unrecorded assignment from Argent to Wells Fargo as Trustee for an unnamed entity (submitted to the Court with no certification to support it), the Court ruled that the Plaintiff "owns" the mortgage and note. T9-24. The Court did not rule that Wells Fargo "holds" the note. Also apparently based on the same deficient assignment, the Court ruled that Wells Fargo "took the papers with no claimed or actual notice of any defaults, and improprieties, and irregularities that Ms. Ford attributes to the originator." The court held that "**if** the holder in due course doctrine applies, and the case of Carnegie v. Shalleck, which we discussed at 256 N.J. Super. 23 (App. Div. 1992), and **if** this authority controls then there is no proffered defense as to this Plaintiff." T10-1(emphasis added). The Court so ruled despite recognizing that "Ms. Ford has raised numerous serious disturbing allegations as to the originator of the loan, which if true would be a substantial violation of law and a substantial violation of her rights." T9-14. On the record before the court Wells Fargo could be the trustee for anyone including Argent.

On or about April 9, 2007, Wells Fargo filed documents with the Foreclosure Unit of the Superior Court, commonly referred to as the final judgment packet. Wells Fargo included in the packet another unrecorded copy of the assignment, in addition to

another copy of the Note payable to Argent Mortgage Company and still not indorsed to the Wells Fargo. Ja7-9. The Note and Assignment are stamped, "Certified to be a True Copy" and signed by Sanford A. Becker, Esq., Wells Fargo's attorney. The Note (but not the assignment) is also stamped, "I certify this to be a true and complete copy. Newcastle Escrow." No certifications are provided to show how either Mr. Becker or Newcastle Escrow ascertained that the documents were true copies. An Order granting Final Judgment was entered by Hon. Neil H. Shuster, P.J.Ch. based on the documents submitted in the final judgment packet that same day. Ja1-3.

On or about March 6, 2007, Ms. Ford filed a pro se appeal to the Appellate Division.⁴ On May 11, 2007, Ms. Ford filed an amended notice of appeal.

Sheriff's sale has been stayed until January 29, 2010 pending participation in the State's foreclosure mediation program. Sheriff's sale was initially scheduled for June 15, 2007, but after two statutory adjournments, Ms. Ford filed a Chapter 13 Bankruptcy, which stayed the sheriff's sale. After dismissal of the bankruptcy and after sheriff's sale was rescheduled, Ms. Ford, represented by counsel, filed a motion for a stay pending appeal with the trial court on October 22,

⁴ Ms. Ford tried to apply for a stay pending appeal at that time, but did not follow correct court procedure.

2009. The trial court did not hear or decide the motion as yet; in the event the parties do not reach settlement, the trial court will hear oral argument on the motion for a stay pending appeal on January 29, 2010.

IV. STATEMENT OF FACTS

As set forth in her certification in support of her stay pending appeal, Sandra Ford owns and resides at 141 Forest Avenue, Westwood, Bergen County, New Jersey, the home that is the subject of this foreclosure action. Ja168-172. She is a single parent raising six children on her own. In addition, Ms. Ford supports her 72 year old mother, Eulie Anthony, who also resides in the home. Ms. Ford is employed full time as a nurse, earning \$48.00 per hour, thirty six hours per week. Ms. Ford purchased the property nearly 10 years ago, in March, 2000 for \$280,000.00, with a \$30,000 down payment and a \$250,000.00 mortgage. Over the years, she had two home equity loans for expenses related to her divorce.

In or around early 2005, Ms. Ford received a telephone solicitation from a mortgage broker inviting her to refinance in order to consolidate her mortgage and home equity loan. On or about February 11, 2005, a notary came to Ms. Ford's house with a stack of mortgage documents, which Ms. Ford signed. About a week later, Ms. Ford received a telephone call in which she was

informed that there was an insignificant error in the mortgage documents, and that Argent Mortgage was redrawing the papers. On or about March 6, 2005, the notary returned to Ms. Ford's home with a second set of documents, which Ms. Ford again signed. On both occasions, the Note and Mortgage were made in favor of Argent Mortgage Company, LLC and not in favor of Wells Fargo.

In Ms. Ford's certification in opposition to summary judgment and in support of her cross-motion, she gives a horrifying account of predatory lending. Attached to her certification, she provided the court mortgage documents that clearly show that her signature had been forged. Ja69-78. Most significantly, her signature had been forged on a handwritten letter that falsified her income. It said, "I Sandra Ford have been employed by Bergen Medical Center for over three years and my gross monthly income is \$9500.00." Ja78. Ms. Ford certified that she never earned that much money, and that the loan was unaffordable, based as it was on this serious misrepresentation. Ms. Ford states that had she been properly advised about the loan she would have sold her house and downsized rather than have the equity depleted and her costs increased. Ja67 ¶ 12.

She also provided the Court with a copy of a Settlement Statement, which had never been provided to her until discovery. Ja87-88. The Settlement Statement is dated March 14, 2006 - nine

days after the closing - and shows that she was charged prepaid closing costs of an outrageous \$36,259.06 -- including over \$1,000.00 in settlement costs, inflated title insurance fees, broker's fees of almost \$10,000.00 to Western Thrift and Loan, and another \$20,000.00 to an unknown entity called "Reliant Direct" which is made to appear to be a creditor of Ms. Ford's. In addition, the settlement statement shows that Argent Mortgage Company paid a yield spread premium to the mortgage broker. A yield spread premium is a clear indication that the client was sold a loan that was more expensive than what she qualified for. These charges alone give rise to significant claims for fraud, consumer fraud, violation of the New Jersey Home Ownership Security Act, and violation of the Truth in Lending Act.

As a matter of public record, Argent Mortgage Company was the wholesale loan origination unit of the notorious sub-prime lending giant Ameriquest Mortgage Company. By February 2005, the month in which Ms. Ford first executed a mortgage with Argent, Ameriquest's and Argent's lending practices were the source of numerous government investigations and consumer complaints, some of which are detailed in a Los Angeles Times article, Los Angeles Times, February 4, 2005: Workers Say Lender Ran 'Boiler Rooms', available at <http://www.latimes.com/business/la-fi-ameriquest4feb0405,1,5202756.story?page=2&cset=true&ctrack=1> (last visited December 15, 2009) including:

* Ameriquest customers filed more complaints with the Federal Trade Commission from 2000 through 2004 than did those of two of its biggest competitors combined, the agency said -- 466 compared with 101 for Full Spectrum Lending (Calabasas-based Countrywide Financial Corp.'s sub-prime unit) and 51 for Irvine-based New Century Financial Corp.

* From 2000 through 2004, 134 complaints (including allegations of fraud and unfair business practices) were registered against Ameriquest with the California Department of Corporations, compared with 39 for New Century and 21 for Full Spectrum.

* Recent lawsuits filed by consumers in California and at least 20 other states allege a pattern of fraud, falsification of documents, bait-and-switch sales tactics and other violations. Six of these suits seek class-action status to represent large groups of borrowers; such status has been granted for a 2001 suit filed in Redwood City, Calif. In a sworn declaration in that case, a former loan officer named Kenneth Kendall said Ameriquest managers encouraged employees to "promise certain interest rates and fees, only to change those rates at the time of the closing."

* On Jan. 10, the Connecticut Department of Banking said it would seek to bar Ameriquest from doing business in the state for allegedly charging excessive fees and repeatedly violating a state law aimed at preventing loan flipping. Ameriquest is challenging the action.

The article specifically notes that "allegations of falsified documents are a common thread in the borrower lawsuits and in more than two dozen accounts from ex-workers," and further details accounts of Ameriquest employees forging documents and misstating information on mortgage applications. "In court

documents and interviews, 32 former employees across the country say they witnessed improper practices, mostly in 2003 and 2004. This behavior was said to have included deceiving borrowers about the terms of their loans, forging documents, falsifying appraisals, and fabricating borrower's income to qualify them for loans that they could not afford."

About a year later, in 2006, Ameriquest settled a lawsuit brought by attorneys general in more than two dozen states (including New Jersey) by agreeing to pay \$325 million and make changes to its lending practices. See e.g., Columbia Journalism Review, October 3, 2007: Tale of Two Cities. Allegations against Ameriquest included "that it gave borrowers inaccurate information about interest rates, discount points, and other mortgage loan terms, inflated property appraisals, and persuaded borrowers to refinance, even when refinancing didn't offer any real advantage to the borrowers. Some borrowers also complained that Ameriquest pressured them to close loans on terms that were different from those originally proposed."

All of Ameriquest's lending activity ceased in 2007. Any company engaged in mortgage-related business with Ameriquest at the time the Ford loan was made and thereafter could not have been ignorant of the serious and profuse allegations of predatory lending. Given the above, it is impossible to

ascertain whether Wells Fargo is a holder in due course absent discovery.

Until receiving the complaint in this matter, Ms. Ford never heard of or had any dealings with Wells Fargo (significantly, including any correspondence that would meet the requirements of the Fair Foreclosure Act). Based upon the court's ruling, Ms. Ford has been deprived of the opportunity to litigate her predatory lending claims.

V. ARGUMENT

A. STANDARD OF REVIEW

1. THE APPELLATE DIVISION MUST DECIDE WHETHER A GENUINE ISSUE OF MATERIAL FACT WAS IN DISPUTE THAT SHOULD HAVE PRECLUDED SUMMARY JUDGMENT, AND IF NOT, WHETHER THE TRIAL COURT RULED CORRECTLY ON THE LAW

Summary judgment should not be granted unless "the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." R. 4:46-2(c). Additionally, "[a]n issue of fact is genuine only if, considering the burden of persuasion at trial, the evidence submitted by the parties on the motion, together with all legitimate inferences therefrom favoring the non-moving party, would require submission of the

issue to the trier of fact." R. 4:46-2(c). Brill v. Guardian Life Insurance Co., 142 N.J. 520 (1995).

The trial court must not decide issues of fact: it must only decide whether there are any such issues. Brill v. Guardian Life Ins. Co., *supra*, 142 N.J. at 540; Judson v. Peoples Bank & Trust Co. of Westfield, *supra*, 17 N.J. at 75; R. 4:46-5. The Court in Brill determined that if a genuine issue of material fact exists, "the motion judge [must] consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party." Brill, 142 N.J. at 540.

An appellate court reviewing an order on a motion for Summary Judgment uses the same standard as the trial court. Prudential Prop. & Cas. Ins. Co. v. Boylan, 307 N.J. Super. 162, 167 (App. Div.), certif. denied, 154 N.J. 608 (1998). It decides first whether there was a genuine issue of fact. If there wasn't, it then decides whether the lower court's ruling on the law was correct. Walker v. Alt. Chrysler Plymouth, 216 N.J. Super. 255, 258 (App. Div. 1987). When an appellate court is reviewing issues that are purely legal in nature, such review is *de novo*, and no deference need be shown to the trial court's

interpretation of the law. Manalapan Realty v. Manalapan Twp. Comm., 140 N.J. 366, 378 (1995).

In the instant matter, as set forth more fully below, although Wells Fargo alleged in its complaint that it "owned" the Note in question, the Note it supplied to the court both in support of its motion for summary judgment and in support of its motion for final judgment belies its claim of ownership: the Note -- which plaintiff repeatedly certified to be a true copy -- was at all times payable to Argent Mortgage Company, and was never indorsed to Wells Fargo. Wells Fargo never presented any testimony or evidence that the Argent transferred the Note to it. Wells Fargo's own proofs clearly show that it lacks standing to foreclose.

Upon receipt of the Note produced by Wells Fargo, Ms. Ford cross-moved for summary judgment. To the degree that ownership of the note was a fact in dispute, summary judgment should not have been granted to either party. To the degree that the unendorsed note constitutes an admission by Wells Fargo that Wells Fargo is not the note holder and hence there was no genuine factual dispute, then summary judgment should have been granted in favor of Ms. Ford.

In addition, plaintiff failed to meet its burden of proof for Holder In Due Course status - plaintiff presented no facts whatsoever in support of its assertion of that Uniform

Commercial Code exception to the ordinary rule that a holder of a negotiable instrument is subject to the same claims and defenses as the original payee. Had plaintiff presented any such facts, Ms. Ford would have been entitled to an opportunity to rebut them. The trial court's grant of summary judgment on the basis that Ms. Ford could assert no claims or defenses against the Plaintiff was unsupported by any facts in the record, and was incorrect as a matter of law.

Moreover, regardless of Holder in Due Course status, Ms. Ford presented serious predatory lending allegations that survive against plaintiff, such as her rescission claim pursuant to the Truth in Lending Act. Plaintiff did not dispute Ms. Ford's claims.

2. THE APPELLATE DIVISION MUST DECIDE WHETHER PLAINTIFF'S PROOFS WERE SUFFICIENT TO SUPPORT ENTRY OF FINAL JUDGMENT

Entry of final judgment by the Foreclosure Unit of the Superior Court of New Jersey was also erroneous, as it too was based on a Note that clearly showed that Wells Fargo was not the Note holder.

B. WELLS FARGO'S OWN PROOFS ESTABLISH THAT WELLS FARGO IS NOT THE HOLDER OF THE NOTE, AND THEREFORE LACKS STANDING TO FORECLOSE

- 1. IN ORDER TO HAVE STANDING TO FORECLOSE, A PLAINTIFF MUST SHOW BOTH (1) THAT DEFENDANT OWES A DEBT TO THE PLAINTIFF AND (2) THAT PLAINTIFF HAS A SECURITY INTEREST IN THE PROPERTY**

In order for a plaintiff to have the right to foreclose, a debt must be owed to that party and that party must have a security interest in the property supported by the debt. A foreclosing plaintiff must show (1) that it holds the note, and (2) that the mortgage was assigned to it in writing. N.J.S.A. 46:9-9. Assignment of the mortgage alone without transfer of the underlying obligation is ineffective. "[W]ithout the assignment of the debt, which is but evidence thereof, the assignment of the securities confers no rights." Johnson v. Clarke, 28 A. 558 (Ch. 1894).

It is axiomatic that the mortgage follows the Note. Thus, the principal thing that the Plaintiff must demonstrate is that the debt obligation underlying the mortgage was owed to the Plaintiff such that the Plaintiff has a right to resort to the collateral securing the debt:

. . . [A]n effective transfer of a real estate mortgage's interest ordinarily involves a transfer of both the secured obligation and the mortgagee's security interest in the land. If the secured obligation is a promissory note, the

Uniform Commercial Code governs its transfer; in other cases, (e.g., bonds) the law of contracts will ordinarily apply. But since **the secured obligation is the principal thing and the mortgage that secures it is only "an incident which follows and attends the principal,"** an assignment of the bond or note evidencing the secured obligation operates as an assignment of the mortgage "in equity."

29 N.J. Prac., Law of Mortgages § 11.2 (2d ed.) (emphasis added), *citing inter alia* Stevenson v. Black, 1 N.J. Eq. 338, 343 (Ch. 1831); Morris Canal & Banking Co. v. Fisher, 9 N.J. Eq. 667, 696-97, 700, (E & A 1855); Dimon v. Dimon, 10 N.J.L. 156, 158 (Sup. Ct. 1828); Sayre v. Fredericks, 16 N.J. Eq. 205, 206 (Ch. 1863); Blue v. Everett, 56 N.J. Eq. 455, 458 (E & A 1897); Federal Reserve Bank of Phila. v. Welch, 122 N.J. 90, 92 (Ch. 1937).

2. TRANSFER OF A NEGOTIABLE INSTRUMENT IS GOVERNED BY THE UNIFORM COMMERCIAL CODE, WHICH REQUIRES PHYSICAL POSSESSION AND INDORSEMENT OF A NOTE PAYABLE TO ORDER

Where the note in question is a negotiable instrument, as Plaintiff here contends (by its assertion of Holder In Due Course status),⁵ its transfer is governed by Article 3 of the

⁵ If the note is not negotiable, then the transaction would be governed solely by N.J.S.A. 46:9-9 and not by the Uniform Commercial Code. As Holder in Due Course is a status attendant to negotiable instruments under the Uniform Commercial Code, if the instrument is non-negotiable then Plaintiff could not be a holder in due course. In that event, Plaintiff would be subject to all claims and defenses that could have been raised against the originator, without exception pursuant to N.J.S.A. 46:9-9. See also Carnegie Bank v. Shalleck, 256 N.J. Super. 23 (App.

Uniform Commercial Code. The central premise of negotiability is that assets can be transferred more readily in a system that allows a physical object (e.g., a Note) to represent all rights in the asset (e.g., the right to receive payment). This approach enhances the liquidity of the asset by reducing the costs a prospective purchaser incurs in acquiring important information about the asset, such as information about clear title to the payment obligation. All of the necessary information is contained on the face of the Note itself. See, e.g., Ronald J. Mann, Searching for Negotiability in Payment and Credit Systems, 44 U.C.L.A. L. Rev. 951 (April 1997).

Negotiation of an instrument first requires physical transfer of that instrument. A negotiable instrument is transferred "when it is delivered by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the instrument," delivery being defined as a "voluntary transfer of possession." N.J.S.A. 2A:3-203(a); N.J.S.A. 2A:1-201(14). For bearer paper, any person in possession of the instrument is a "holder." However, for paper payable to the order of a specific person, a person is a "holder" only where the person in possession is the named payee. N.J.S.A. 2A:1-201(20).

Div. 1992).

As such, an instrument payable to a specific person must be indorsed by each successive payee. "Indorsement" means "a signature . . . made on an instrument for the purpose of negotiating the instrument." N.J.S.A. 12A:3-204. Without the indorsements of the prior payee(s), a transferee is not a holder and cannot enforce that instrument against the maker even if it has rights to that instrument as against the payee. "It is axiomatic that a suit cannot be prosecuted to foreclose a mortgage which secures the payment of a promissory note, unless the Plaintiff actually **holds** the original note." In re Development Group, Inc. 50 B.R. 588 (S.D. Fla. 1985) (emphasis added).

3. PLAINTIFF'S ALLEGED OWNERSHIP INTEREST IN THE NOTE, SUPPORTED ONLY BY AN ASSIGNMENT OF MORTGAGE, FAILS TO MEET THE REQUIREMENTS OF THE UNIFORM COMMERCIAL CODE AND DOES NOT GIVE RISE TO A CLAIM OF RELIEF AGAINST THE MAKER OF THE NOTE.

Here, as to the Note, Plaintiff's sole allegation in its amended complaint is that at some unspecified time, "Argent Mortgage Company, LLC assigned its mortgage and bond/note to Wells Fargo bank as Trustee which assignments have not yet been recorded." Ja146 ¶ 4a. Similarly, the Assignment itself purports to transfer "the described Mortgage, together with the certain note(s) described therein with all interest, all liens,

and any rights due or to become due thereon." Ja29. Plaintiff seeks to substitute a vague allegation of assignment of rights to the note instead of the holder requirement imposed by statute. However, these allegations of assignment of the Note are insufficient to confer standing, because even a person who has ownership rights in an instrument is not a holder entitled to bring an action against the maker to enforce the note. The comments to the Uniform Commercial Code following N.J.S.A.

12A:3-203 explain:

The right to enforce an instrument and ownership of an instrument are two different concepts. A thief who steals a check payable to bearer becomes the holder of the check and a person entitled to enforce it, but does not become the owner of the check. If the thief transfers the check to a purchaser, the transferee obtains the right to enforce the check. If the purchaser is not a holder in due course, the owner's claim to the check can be asserted against the purchaser. Ownership rights in instruments may be determined by the principles of the law of property, independent of Article 3, which do not depend on whether the instrument was transferred under Section 3-203. Moreover, a person who has an ownership right in an instrument might not be entitled to enforce the instrument. For example, suppose X is the owner and holder of an instrument payable to X. X sells the instrument to Y but is unable to deliver immediate possession to Y. Instead, X signs a document conveying all of X's right, title and interest in the instrument to Y. **Although the document may be effective to give Y a claim to ownership of the instrument, Y is not entitled to enforce the instrument until Y obtains possession of the instrument.** No transfer of the instrument occurs under section 3-203(a) until it is delivered to Y.

Uniform Commercial Code Comment to N.J.S.A. 12A:3-203 at paragraph 1 (emphasis added).

Here, the plaintiff never alleged in either its complaint or its motion for summary judgment that it had physical possession of the note, or that the note had been indorsed. To the contrary, in support of its motion for summary judgment, Plaintiff produced a copy of a Note payable to the order of "Argent Mortgage Company" devoid of any indorsement at all - the note remains payable to Argent Mortgage Company.

Moreover, in contravention of New Jersey Court Rule 1:6-6, Plaintiff's Motion for Summary Judgment was completely devoid of competent factual support. Factual evidence submitted in support of a motion where the facts do "not appear of record or not judicially noticeable [may be submitted to the court through] affidavits made on personal knowledge. R. 1:6-6. The affidavit must set forth "only facts which are admissible in evidence to which the affiant is competent to testify." Id.

In this matter, the motion for summary judgment was supported by the certification of a Josh Baxley who identifies himself as a supervisor of "Fidelity National⁶ as attorney in

⁶ Fidelity National Information Services is now known as Lender Processing Services (LPS), and is a default mortgage servicer used by mortgage lenders and servicers to reduce the expense of managing defaulted loans. See In Re Taylor, 407 B.R. 618 (Bankr. E.D. Pa. 2009). The bankruptcy court and the United

fact for HomEq Servicing Corporation as attorney in fact for the Plaintiff." Jal04 at ¶ 1. Thus, Mr. Baxley is neither an employee of the Plaintiff, nor an employee of the servicing agent that has the day-to-day responsibility for administering the loan; he works for a company that is twice removed from the plaintiff. Mr. Baxley never certifies how, as an employee of an attorney in fact for an attorney in fact for the Plaintiff, he came to have personal knowledge of anything about the loan in question.⁷ He never even describes his day-to-day duties or how and where he acquired his information. As such, most if not all of the information in Mr. Baxley's certification is inadmissible hearsay.⁸ In any event, in his certification, Mr. Baxley claims

States Trustee examined some disturbing business practices of LPS in In Re Taylor. The court noted, "It seems reasonable that a mortgage lender should be able to avail itself of economic and expeditious means of collecting defaulted loans through the use of technology and delegation of tasks to lower cost labor. In many cases, the motions are granted by default, the debtors, or often more accurately their attorneys, filing no answer or making no appearance, where there is simply no defense to the relief sought. However, where, as here, the debtor contests the relief sought, the flaws in this automated process becomes apparent."

⁷ A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of that matter. N.J.R.E. 602

⁸ Presumably, plaintiff intended to rely on the so-called "business record" exception to the hearsay rule. However, a document does not meet that exception unless it is:

A statement contained in a writing or other record of acts, events, conditions, and . . . opinions or diagnoses, made at or near the time of observation by a person with actual knowledge

only to have personal knowledge of the amount due under the terms of the mortgage. He does not claim to have knowledge of the transfer or indorsement of the Note, and gives no testimony about transfer or indorsement. He merely states without foundation that, "Plaintiff is still the holder and owner of the said Note/Bond and Mortgage" and that "the exhibits attached hereto and to Plaintiff's brief are true copies of the documents executed by the Parties and, in the case of the Mortgage, recorded in the Union County⁹ [sic] Clerk's/Register's office." Ja 105.

Thus, there was not a scintilla of evidence before the trial court that the Plaintiff was entitled to payment by the maker. Instead, by plaintiff's own admission, the Note clearly shows that the party seeking relief is not its holder, and therefore lacks the right to foreclose.

or from information supplied by such a person, if the writing or other record was made in the regular course of business and it was the regular practice of that business to make it. . . .

Plaintiff offered no such testimony.

⁹ The property is located in Bergen County.

**4. WELLS FARGO'S CLAIM OF ASSIGNMENT WAS UNSUPPORTED BY
COMPETENT EVIDENCE, AND THEREFORE WELLS FARGO FAILED
EVEN TO SHOW AN OWNERSHIP INTEREST IN THE NOTE.**

Although not pertinent to the issue of note holdership, it is instructive to note that Wells Fargo did not even prove its allegation of mortgage assignment by competent evidence. At the summary judgment stage, Mr. Baxley's certification makes no mention of an assignment, and it appears that no assignment was attached thereto. Instead, it appears from the Court's file that Plaintiff did not submit a copy of the assignment to the court until its October 31, 2006 reply brief, at which time it was not supported by any certification and had not been recorded.

Thus, at the motion stage, there was no evidential basis whatsoever for the Court to conclude either as a matter of fact or as a matter of law that the Plaintiff "own[ed]" the note and mortgage, and therefore such a finding is erroneous.

A review of the final judgment packet is not much better. At final judgment, Plaintiff submitted two certifications: one by Jeff Szymendera, an employee of HomEq, the loan servicer, and the other by Samuel Becker, one of plaintiff's attorneys in the foreclosure matter. Neither certification says anything at all about the assignment. However, a copy of the assignment is

attached to the final judgment packet, bearing a stamp that says the assignment is a true copy.¹⁰

5. AS WELLS FARGO FAILED TO SHOW THAT IT WAS THE HOLDER OF THE NOTE AND THE ASSIGNEE OF THE MORTGAGE IT IS NOT A PROPER PARTY TO THE FORECLOSURE ACTION AND LACKS STANDING TO FORECLOSE

A court lacks jurisdiction to adjudicate a claim by a party that lacks standing. Standing is a jurisdictional element of justiciability without which no action can proceed. In re: Baby T, 160 N.J. 332, 340 (1999); Crescent Parks Tenant Association v. Realty Equities Corp. of New York, 58 N.J. 98, 107 (1971). The issue of subject matter jurisdiction "involves merely a threshold determination as to whether the Court is legally

¹⁰ The validity and efficacy of the assignment itself is similarly questionable:

1. It identifies the assignee as "Wells Fargo Bank, NA as Trustee." It does not identify the Trust. This is not an insignificant omission. Anyone can be the beneficial owner, including Argent.
2. The address given on the assignment is not the address of the purported assignee, but is instead the address of Fidelity National, the default servicer.
3. The assignment is signed by a Jessica Ott. Upon information and belief, Jessica Ott was never a corporate officer of Argent, but is or was an employee of Fidelity National.
4. An altogether different assignment was prepared in connection with Ms. Ford's bankruptcy, which purports to assign the mortgage effective September 1, 2006, just before the foreclosure complaint was filed. That assignment was apparently recorded with the Bergen County Clerk on February 14, 2007. Ja 163-167.

authorized to decide the question presented. If the answer to this question is in the negative, consideration of the cause is 'wholly and immediately foreclosed.'" Gilbert v. Gladden, 87 N.J. 275, 280-281 (1981), quoting Baker v. Carr, 369 U.S. 186, 198 (1962). Jurisdiction is defined as:

. . . the right to adjudicate concerning the subject matter in the given case. To constitute this, there are three essentials: First. The court must have cognizance of the class of cases to which the one to be adjudged belongs. Second. **The proper parties must be present.** Third. The point decided must be, in substance and effect, within the issue. That a court cannot go out of its appointed sphere and that its action is void with respect to persons who are strangers to its proceedings, are propositions established by a multitude of authorities.

Munday v. Vail, 34 N.J.L. 418, (1871) (emphasis added). See also, Housing Authority of the City of Newark v. West, 69 N.J. 293, 299 (1976), citing Sbrolla v. Hess, 133 N.J.L. 71 (Sup. Ct. 1945).

Under these circumstance, as to the factual issue before the court, there can be no doubt that either (1) Plaintiff's own evidence showed that it did not have a right to payment under the note (and had not shown assignment by competent evidence) and therefore summary judgment should have been granted in favor of Ms. Ford, or else (2) a genuine issue of material fact was in dispute such that summary judgment was inappropriate.

C. THE COURT MISAPPLIED THE HOLDER IN DUE COURSE DOCTRINE AND, HAVING FAILED TO SHOW THAT IT WAS THE HOLDER OF THE NOTE, PLAINTIFF ALSO FAILED TO SHOW THAT IT WAS A HOLDER IN DUE COURSE

1. HOLDER IN DUE COURSE STATUS IS AN EXCEPTION TO THE GENERAL RULE THAT A HOLDER OF A NOTE IS SUBJECT TO ANY CLAIMS AND DEFENSES THAT COULD BE ASSERTED AGAINST THE ORIGINAL CONTRACTING PARTY AND THE BURDEN OF PROOF FOR HOLDER IN DUE COURSE STATUS RESTS WITH THE HOLDER

Generally, the assignee of a mortgage is subject to any claims and defenses the borrower could have asserted against the original contracting party. N.J.S.A. 46:9-9 provides:

All mortgages on real estate in the State and all covenants and stipulations therein contained, shall be assignable at law by writing, whether sealed or not, and any such assignment shall pass and convey the estate of the assignor in the mortgaged premises, and the assignee may sue thereon in his own name, but in any such action by the assignee, there shall be allowed all just set-offs and other defenses against the assignor that would have been allowed in any action brought by the assignor and existing before notice of such assignment.

If the underlying Note is not a negotiable instrument, this is the end of the analysis. The assignee is liable to the same extent as the assignor.

If the underlying Note is a negotiable instrument, the Uniform Commercial Code controls, and the general rule is the same: the transferee of the negotiable instrument takes the instrument subject to the defenses of the maker. The Uniform Commercial Code provides as follows:

N.J.S.A. 12A:3-305. Defenses and claims in recoupment.

(a) General rule.-- Except as stated in subsection (b), the right to enforce the obligation of a party to pay an instrument is subject to the following:

1. a defense of the obligor based on:
 - i. infancy of the obligor to the extent it is a defense to a simple contract;
 - ii. duress, lack of legal capacity or **illegality of the transaction which, under other law, nullifies the obligation of the obligor;**
 - iii. **fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms;** or
 - iv. discharge of the obligor in insolvency proceedings;
2. **a defense of the obligor stated in another section of this division or a defense of the obligor that would be available if the person entitled to enforce the instrument were enforcing a right to payment under a simple contract; and**
3. **a claim in recoupment of the obligor against the original payee of the instrument if the claim arose from the transaction that gave rise to the instrument, but the claim of the obligor may be asserted against a transferee of the instrument only to reduce the amount owing on the instrument at the time the action is brought.**

N.J.S.A. 12A:3-305. (emphasis added).

The "holder in due course" doctrine is an exception to this general rule. N.J.S.A. 12A:3-305(b) provides:

(b) Status as holder in due course.--If the validity of signatures is admitted or proved and there is compliance with subsection (a), a plaintiff producing the instrument is entitled to payment if the plaintiff proves entitlement to enforce the instrument under section 3-301 (relating to person entitled to enforce instrument), unless the defendant proves a defense or claim in recoupment. If a defense or claim in recoupment is proved, the right to

payment of the plaintiff is subject to the defense or claim, **except to the extent the plaintiff proves that the plaintiff has rights of a holder in due course** which are not subject to the defense or claim.

N.J.S.A. 12A:3-308(b) (emphasis added).

Hence, the burden is upon the holder to establish all the elements of the Holder in Due Course privilege: that he is in fact the holder of an instrument;¹¹ that the instrument is negotiable; and that he took it for value, in good faith, and without notice that it was overdue, had been dishonored, or was subject to any defenses. N.J.S.A. 12A:3-302. See also, Bank of North Carolina, NA v. Rock Island Bank, 630 F.2d 1243 (7th Cir. 1980); Manufacturers & Traders Trust Co. v. Murphy, 369 F. Supp. 11 (W.D. Pa. 1974), aff'd 517 F.2d 1398 (3d Cir. 1975); Northside Bank of Tampa v. Investors Acceptance Corp. 278 F. Supp. 191 (W.D. Pa. 1968); In re AppOnline.Com, Inc., 290 B.R. 1 (E.D. N.Y. Bankr. 2003).

Here, again without any testimony or documentary evidence by Wells Fargo, the Court misapplied both the standard and the burden of proof. Whether a party is a holder in due course is a question of fact. Not only did Wells Fargo fail to plead or prove any facts to show holder status, it also failed to plead or prove any facts as to the elements of holder in due course

¹¹ "Obviously only a holder can be a holder in due course." White & Summers § 17-3. Wells Fargo cannot claim holder in due course status where it has not even shown that it is a holder.

status required to defeat Ms. Ford's defenses. Again, not a scintilla of evidence was presented to the Court as to the elements of the Holder in Due Course defense. The only submission to the trial court regarding Holder in Due Course status was the deficient assignment and the following unsupported statement in plaintiff's October 31, 2006 reply brief to Ms. Ford's October 27, 2006 opposition and cross motion for Summary Judgment:

As plaintiff took the mortgage [sic] for value, in good faith, and without notice of any defense or claim against the originator of the mortgage, Plaintiff is a holder in due course . . . The assignment of mortgage attached hereto establishes that the Assignment [sic] was for value, and no allegation of bad faith as to the plaintiff have been realistically been made. . . . Finally, there is no indication that any of defendant's claims were raised prior to plaintiff's obtaining the Note and Mortgage.¹² Plaintiff would not have taken the assignment with knowledge of any of these claims.

Plaintiff's brief reflects a fundamental misunderstanding of the Uniform Commercial Code, insofar as it refers to assignment of the mortgage - an activity not governed by the Uniform Commercial Code at all. Holder in Due Course status is a Uniform Commercial Code concept that applies to negotiable instruments.

¹² As the Note was never transferred pursuant to the U.C.C., it is impossible for Plaintiff to show that Ms. Ford's claims were not raised before transfer. Plaintiff never alleges proper transfer, much less a date on which effective transfer occurred.

Nevertheless, with no such facts in the record, the Court erroneously found, "the Plaintiff . . . took the papers with no claimed or actual notice of any of the defaults, and improprieties, and irregularities that Ms. Ford attributes to the originator." The Court's conclusion that the Plaintiff is a holder in due course is without factual or legal support.¹³

2. THE COURT MISAPPLIED THE RULING OF CARNEGIE BANK v. SHALLECK BY FAILING TO RECOGNIZE THAT HOLDER IN DUE COURSE STATUS IS A QUESTION OF FACT AND IS NOT PRESUMED MERELY ON THE BASIS OF A MORTGAGE ASSIGNMENT

The Court correctly relied upon the case of Carnegie Bank v. Shalleck, 256 N.J. Super. 23 (App. Div. 1992), but misapplied its holding. In Carnegie, one of the issues before the Court was "whether N.J.S.A. 46:9-9, which permits a mortgage to raise personal defenses against an assignee of the mortgage, applied to a holder in due course of a mortgage note or promissory note secured by a mortgage." Id. at 26. In other words, the Appellate Division was called upon to reconcile the apparent contradiction between N.J.S.A. 46:9-9 (under which assignees are liable to the same extent as assignors) with the holder in due course doctrine (under which holders are not liable to the same

¹³ This Plaintiff can never be a holder in due course as to this Note, because if the Note is indorsed to it now, it will take the Note with notice of default and with notice of defenses.

extent as assignors when they meet the elements of holder in due course status).

The underlying trial court decision in Carnegie Bank v. Shalleck was entered after a bench trial and not on a motion for summary judgment. Both the trial court and the Appellate Division clearly recognized the importance of evaluating the facts in determining whether any particular assignee is actually a holder in due course. The court stated, "the facts giving rise to this litigation involve a convoluted commercial loan transaction, the details of which are essential to a determination of whether plaintiff received the . . . note in good faith." Id. at 27. The Appellate Division then recites several pages of detailed facts, which had been elicited at a bench trial below. Id. at 32. Only after a review of the particular facts elicited at trial did the Appellate Division rule that the note holder was a holder in due course.

Here, the court seems erroneously to have held that the Plaintiff is a holder in due course merely because it purports to be an assignee. Both the trial court and the Appellate Division in Carnegie Bank v. Shalleck realized that this is not so: "the person claiming the rights of holder in due course has the burden of establishing that he is in all respects such a holder," Carnegie Bank v. Shalleck at 394, quoting General Investment Corp. v. Angelini, 58 N.J. 396, 403-404 (1971). The

trial court here did not require Wells Fargo to meet its burden of proof.

Having failed to establish holder in due course status, Wells Fargo is subject to all of Ms. Ford's claims and defenses.

D. HOLDER IN DUE COURSE STATUS DOES NOT IMMUNIZE A PARTY AGAINST ALL DEFENSES, AND HAVING FAILED TO ANALYZE MS. FORD'S DEFENSES, THE TRIAL COURT'S RULING THAT MS. FORD HAD PROFERRED NO DEFENSES AGAINST THE PLAINTIFF WAS IN ERROR

1. THE COURT ERRED BY FAILING TO RECOGNIZE THAT PURSUANT TO THE UNIFORM COMMERCIAL CODE, REAL DEFENSES SUCH AS FRAUD AND ILLEGALITY SURVIVE AGAINST HOLDERS IN DUE COURSE

Pursuant to N.J.S.A. 12A:3-305(b), "[t]he right of a holder in due course to enforce the obligation of a party to pay the instrument is subject to the defenses of the obligor stated in paragraph (1) of subsection a. of this section." The defenses set out in that section are those known as "real" defenses (as opposed to personal defenses) i.e., those that go to the essential nature of the transaction and that void the obligation, including infancy, duress, lack of legal capacity or illegality of the transaction which, under other law, nullifies the obligation of the obligor; fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms; or discharge of the obligor in insolvency proceedings.

Ms. Ford asserted defenses based upon illegality of the transaction and fraud in the factum, but the Court erroneously failed to consider any of her defenses at all.

2. THE COURT ERRED BY FAILING TO RECOGNIZE THAT THE TRUTH IN LENDING ACT EXPLICITLY PERMITS RESCISSION AGAINST ASSIGNEES TO THE SAME EXTENT AVAILABLE AGAINST THE ORIGINAL CREDITOR AND DAMAGES AGAINST ASSIGNEES WHERE DISCLOSURE VIOLATIONS ARE APPARENT BY A COMPARISON AMONG SPECIFIED DOCUMENTS

The Truth in Lending Act was enacted in 1968 to stabilize financial markets, provide fair competition among lenders and to protect consumers. 15 U.S.C. §1601(a). ("Congress finds that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit.") The Truth-In-Lending Act is to be construed liberally in favor of the consumer. Johnson v. McCrackin-Sturman Ford, Inc., 527 F.2d 257 (3rd Cir. 1975); In re Williams, 291 B.R. 636, 643 (Bankr. E.D. Pa 2003). The Truth In Lending Act has been amended several times since 1968 including in 1995 but continues to be a "remedial statute which is designed to balance the scales thought to be weighed in favor of lenders." Smith v. Fidelity Consumer Discount Co., 898 F.2d 896,

Cir. 1992) ("TILA achieves its remedial goals by a system of strict liability....").

TILA rescission liability extends to assignees of the note to the exact same extent as the original lender. The statute provides:

Any consumer who has the right to rescind a transaction under section 1635 of this title may rescind the transaction against any assignee of the obligation.

15 U.S.C. § 1641(c). As an alleged assignee of the mortgage, the plaintiff or any other assignee that may be found through on-going discovery is liable for rescission of the mortgage. 15 U.S.C. §1641(c); In re Slaw, 178 B.R. 380, (Bk. D.N.J. 1994); In re Armstrong, 288 B.R. 404, 416 (Bk. E.D. Pa. 2003).

Moreover, where TILA damages are concerned, assignees are liable for TILA violations where the violation is apparent on the face of the documents assigned. Where real estate is concerned, a violation is apparent on the face of the disclosure statement if:

The disclosure can be determined to be incomplete or inaccurate **by a comparison among the disclosure statement, any itemization of the amount financed, the note, or any other disclosure of disbursement**

15 U.S.C. § 1641(e)(2)(A) (emphasis added). Here, there can be no question that the violation is apparent by a comparison among the disclosure statement and the schedule of disbursement.

Here the pre-paid finance charges were disclosed on the Truth in Lending Disclosure Statement as \$12,894.92. The actual prepaid finance charge according to the Settlement Statement was over \$36,000.00, based on excessive mortgage broker fees and closing costs (including inflating title insurance expenses), and on a disputed \$20,000.00 payment to an entity unknown to Ms. Ford.

The effect of TILA rescission is to void the mortgage entirely which should have led to the dismissal of the foreclosure complaint. Ms. Ford was entitled to discovery on her TILA claim, a claim viable against assignees.

3. THE COURT ERRED BY FAILING TO RECOGNIZE THAT DEFENDANT RAISED DEFENSES AND COUNTERCLAIMS AS AGAINST THE PLAINTIFF FOR ITS OWN ACTIONS, AND NOT MERELY IN ITS ROLE AS ASSIGNEE.

New Jersey law is clear that a party that happens to be an assignee is liable for its own actual unlawful conduct. For example, in the matter of Jefferson Loan v. Session, 397 N.J. Super. 520 (App. Div. 2008), an assignee of a Retail Installment Sales Contract (RISC) for the purchase of an automobile argued that it could not be held liable for violation of the New Jersey Consumer Fraud Act based upon its status as an assignee. The New Jersey Appellate Division disagreed, holding that the assignee was liable for its own "active and direct"

unconscionable commercial practices in connection with its repossession and collection practices.

Similarly, in the earlier case of Psensky v. American Honda Finance, 378 N.J. Super. 221 (App. Div. 2005), the Appellate Division ruled that an assignee was not liable for an expired TILA disclosure violation that the consumer styled as a violation of the New Jersey Consumer Fraud Act. Despite its ruling, the Psensky court recognized that "when the assignee directly participates in the fraud, there is . . . no TILA bar to assignee liability . . . Congress did not intend to immunize any assignee who actively participates in the wrong." Id. at 295 (citations omitted). The Psensky Court carefully limited its holding to "failure to disclose situations," and emphasized that "TILA does not provide complete immunization for assignees from Consumer Fraud or other state claims. Assignees are immunized only when New Jersey law is inconsistent with the TILA." Id. at 296.

Here, without any judicial review of the nature of Ms. Ford's individual defenses and counterclaims, the Court incorrectly concluded that all of her defenses and counterclaims were barred by the holder in due course doctrine and "there is no proffered defense as to this Plaintiff." A cursory review of the pleadings in this matter makes clear that, to the contrary, several of Ms. Ford's defenses and counterclaims go directly to

the conduct of the Plaintiff itself, for its conduct in the servicing and collection of the loan namely:

- (1) fraud and/or negligence in the servicing of the loan;
 - (2) violation of the Fair Foreclosure Act, including that the Plaintiff failed to serve her with a valid Notice of Intention to Foreclose;
 - (3) violation of the Fair Debt Collection Practices Act;
- and
- (4) violation of the Real Estate Settlement Procedures Act.

The court erred in striking any of these defenses that apply directly to the Plaintiff's own conduct, and not to the Plaintiff in its role as assignee.

CONCLUSION

For all of the above reasons, defendant prays this Court overturn the Orders of the trial court granting summary judgment and final judgment in favor of the plaintiff and remand the matter to the trial court either for entry of summary judgment on behalf of Ms. Ford or for a trial on the merits of her claims.

Dated: DECEMBER 23, 2009


By: _____
Rebecca Schore, Esq.

JOINT APPENDIX

TABLE OF CONTENTS TO APPENDIX

Order Granting Final Judgment (April 9, 2007) Ja1

Final Judgment Packet (April 9, 2007) Ja4-Ja40

 Certification of Search Fees by Sanford J. Becker,
 attorney for Plaintiff Ja4

 Superior Court of New Jersey Taxed Costs Ja6

 Adjustable Rate Note Ja7

 Mortgage Ja10

 Assignment of Mortgage Ja29

 Certification of Amount Due and as to Military
 Service by Jeff Szymendera of Homeq Servicing Corp.,
 attorney in fact for Plaintiff Ja31

 Certification of No Response Pursuant to N.J.S.A.
 2A:50-58 by Shannon Acevedo, Paralegal to Sanford
 J. Becker Ja35

 Certification of Mailing of Notice of Intent to
 Enter Judgment by Kelli Forest, Legal Assistant to
 Sandy Becker Ja37

 Proof of Mailing of Order Granting Summary Judgment
 and Striking Answer Ja40

Plaintiff's Notice of Motion for entry of Final Judgment
and Certification of Service Ja41

Order Granting Plaintiff's Motion for Summary Judgment and
Striking Defendant's Answer (January 26, 2007) Ja43

Defendant's Sur-Reply to Wells Fargo Motion for Summary
Judgment Ja45

Order Adjourning Motions for Summary Judgment and awarding
attorneys fees to Plaintiff (December 18, 2006) Ja54

Certification of attorneys fees for attendance
at Motion for Summary Judgment on December 1, 2006 by
Sanford J. Becker Ja57

Plaintiff's Reply to Defendant's Cross-Motion for Summary Judgment	Ja61
Defendant's Opposition to Plaintiff's Motion for Summary Judgment and Cross Motion for Summary Judgment	Ja63
Certification in Opposition to Motion for Summary Judgment and in support of Cross Motion for Summary Judgment by Sandra Ford (with exhibits A-F)	Ja65
Plaintiff's Notice of Motion for Order Granting Summary Judgment and Striking Answer	Ja90
Plaintiff's Brief in Support of Motion for Summary Judgment .	Ja92
Certification in Support of Plaintiff's Motion for Summary Judgment by Josh Baxley, supervisor of Fidelity National	Ja104
Plaintiff's Answer to Counterclaim	Ja128
Defendant's Answer, Counterclaim, Defenses	Ja131
Defendant's Demand for Production of Documents	Ja143
Amended Complaint	Ja145
Complaint	Ja152
Order Adjourning Motion for SJ & Cross Motion to 1/12/07 and awarding fees to Plaintiff	Ja160
Assignment of Mortgage filed with the Bankruptcy Court recorded 2/14/07	Ja164
Certification of Sandra Ford in Support of Her Motion for Stay Pending Appeal	Ja168

FILED
SUPERIOR COURT OF NJ
APR 09 2007

T.J.F.

ENTERED ON ACMS

PLUESE, BECKER & SALTZMAN
Attorneys At Law
20000 Horizon Way
Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
File Number: 60097

WELLS FARGO BANK, NA AS
TRUSTEE

Plaintiff

v.

SANDRA A. FORD, *et al*

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO.: F-12259-06

CIVIL ACTION
FINAL JUDGMENT

This matter being opened to the Court by Plaintiff, by and through Counsel, Pluese, Becker & Saltzman, Sanford J. Becker, Esquire appearing, and it appearing that Summons, Complaint and Amendment to Complaint, if any, have been duly issued and returned served upon the following Defendant, Sandra A. Ford who have filed an Answer, which has been deemed as a contested matter and an Order Granting Summary Judgment and Striking Answer having been entered on January 26, 2007 by the Honorable Robert P. Contillo, J.S.C.:

And it further appearing that service of the said Summons Complaint and Amendment to Complaint, if any, have been made upon the following Defendant(s), in accordance with the Rules of this Court, and default having been entered against said Defendant(s).

And it appearing from the Plaintiff's certification filed in the within action that the plaintiff has made an investigation but is unable to determine whether the defaulting defendant(s), n/a,

is/are in military service and good reason appearing that the judgment applied for should be granted at this time and that the judgment should enter without the filing of a Service Members Civil Relief Act bond and the Plaintiff's Note/Bond, Mortgage, and Assignment of Mortgage, if any, having been presented and marked as exhibits by the Court, and proofs having been submitted of the amount due on Plaintiff's mortgage and on the subsequent encumbrances of the following Defendant(s), whose priority cannot be determined at this time and must await surplus money proceedings, if any:

NONE

and sufficient cause appearing:

IT IS on this 9th day of April 2007, 2006, ORDERED and ADJUDGED

that the Plaintiff is entitled to have the sum of \$432,881.71 together with the lawful interest from September 15, 2006 together with costs of this suit to be taxed, including a counsel fee of \$4,498.82, and raised and paid in the first place out of the mortgaged premises; and it is further

ORDERED that the Plaintiff, its assignee or purchaser duly recover against the following Defendant(s): Sandra A. Ford, and all persons or entities taking, holding, or claiming under said Defendant(s), the possession of the premises mentioned and described in the said Complaint and Amendment to Complaint, if any, with appurtenances, and that a Writ of Possession issue thereon, and it is further,

ORDERED and ADJUDGED that the mortgaged premises be sold to raise and satisfy the several sums of money due, in the first place to the Plaintiff, Wells Fargo Bank, NA as Trustee the sum of \$432,881.71 with lawful interest thereon as aforesaid, and the plaintiff's costs to be taxed, with lawful interest thereon, and that an execution for that purpose duly issued by this Court to the Sheriff of BERGEN County, commanding said Sheriff to make sale according to law of the mortgaged premises described in the Complaint and Amendment to Complaint, if any, and

from the moneys arising from said sale, that said Sheriff pay in the first place to the Plaintiff, Wells Fargo Bank, NA as Trustee said Plaintiff's debt, with interest thereon as aforesaid and said plaintiff's costs with interest thereon as aforesaid, and said Defendant's(s') costs with interest thereon as aforesaid, and in case more money shall be realized by the said sale that shall be sufficient to satisfy such several payments as aforesaid, that such surplus be brought into this Court to abide the further Order of this Court and that the Sheriff aforesaid make a report of the aforesaid sale without delay required by the Rules of this Court; and it is further

ORDERED and ADJUDGED that the Defendant(s) in this cause and each of them, stand absolutely debarred and foreclosed of and from all equity of redemption of, in and to said mortgaged premises described in the Complaint and Amendment to Complaint, if any, when sold as aforesaid by virtue of this Judgment by 28 U.S.C. §2410; and it is further.

Notwithstanding anything herein to the contrary, this judgment shall not affect the rights of any person protected by the New Jersey Tenant Anti-Eviction Act, N.J.S.A. 2A:18-61.1, et seq., the right of redemption given the United States under 28 U.S.C. section 2410, the limited priority rights for the aggregate customary condominium assessment for the six-month period prior to the recording of any association lien as allowed by N.J.S.A. 46:8B-21 or rights afford by the Service Members Civil Relief Act, 50 U.S.C. app. 501 et seq. or N.J.S.A. 38:23C-4.

Respectfully recommended
R. 1:34-6 OFFICE OF FORECLOSURE



Neil H. Shuster, P.J. Ch

FILED
SUPERIOR COURT OF NJ
APR 09 2007

T.J.F.

PLUESE, BECKER & SALTZMAN
Attorneys At Law
20000 Horizon Way
Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
File Number: 60097

ENTERED ON ACMS

WELLS FARGO BANK, NA AS
TRUSTEE

Plaintiff

v.

SANDRA A. FORD, et al.

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO.: F-12259-06

CIVIL ACTION
CERTIFICATION OF
SEARCH FEES

I, Sanford J. Becker, of full age, hereby certify as follows:

1. I am an attorney, licensed to practice Law in the State of New Jersey, am a partner in the firm of Pluese, Becker & Saltzman, and am responsible for the representation of the Plaintiff in the above-captioned action. I have reviewed the file in this matter, which discloses the following:

2. Our office caused a search to be made of the records in the Office of the Clerk/Register of BERGEN County for the purpose of determining the estate of the title to the property encumbered by the Mortgage being foreclosed in this action from the date of the recordation of the mortgage at issue herein.

3. The total amount expended in connection with said foreclosure for which taxation is sought (which sum includes only such fees and charges as were actually and necessarily paid or incurred for the purpose of this action) is the sum of \$477.00, which sum does not exceed that allowed by law.

4. The following is an itemization of search fees and charges expended by this office, including the filing of Notice of Lis Pendens:


County Title & Judgment Searches	\$360.00
Filing Lis Pendens	\$60.00
Sheriff, BERGEN County	\$27.00
Motion to Strike Answer/for Summary Judgment	\$30.00
TOTAL	\$ 477.00

I hereby certify that the foregoing statements made by me are true and correct to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

PLUESE, BECKER & SALTZMAN, LLC

DATED: February 8, 2007

BY:


Sanford J. Becker, Esquire
Attorneys for Plaintiff

Superior Court of New Jersey

FILED
SUPERIOR COURT OF NJ

APR 09 2007

Taxed Costs for Docket No. F- 12259-06

T.J.F.

	<u>Allowed Amount</u>	<u>Maximum</u>
Plaintiff's costs, foreclosure (N.J.S.A. 22A:2-10):	\$ 50.00	\$50.00
Costs on application for writ of execution (N.J.S.A. 22A:2-10):	\$ 10.00	\$10.00
Fee for filing foreclosure complaint (N.J.S.A. 22A:2-8): (as of July 1, 2002 - \$200.00)	\$ 200.00	\$200.00
Fee for filing lis pendens (N.J.S.A. 2A:15-13): (as of July 21, 2003 the maximum fee is \$50.00)	\$ 50.00	\$ 50.00
Fees for filing motion(s) _____ @ \$30.00 per motion: (N.J.S.A. 22A:2-8)	\$ 30.00	
Search fees pursuant (R. 4:42-10(a)): (cannot exceed the greater of 1% of the total amount due plaintiff under the final judgment or \$500.00)	\$ 360.00	\$ 4,328.82 or \$500.00
Service of process on defendant(s): (N.J.S.A. 22A:2-8, R. 4:4-3(c) and R. 4:42-8(c))	\$ 27.00	Maximum of \$35 per Dft.
Costs for service of process by publication (N.J.S.A. 22A:2-8):	\$ -	
Costs for service of process by mail (N.J.S.A. 22A:2-8):	\$ -	
Subtotal	\$ 727.00	
Attorney's fees	\$ 4,478.82	
Total taxed costs	\$ 5,205.82	
Total amount due for FJ Order & Writ:	\$ 432,881.71	

Date Taxed and Filed: 4/9 2007

ENTERED ON ACMS

PFF

ab

ADJUSTABLE RATE NOTE (LIBOR Index - Rate Caps)

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

March 8, 2005
Date

Orange
City

141 FOREST AVENUE, WESTWOOD, NJ 07675
Property Address

CERTIFIED TO BE A TRUE COPY

CA
State

SANFORD J. BECKER, ESQ.

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 403,768.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is Argent Mortgage Company, LLC.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 7.400 %. This interest rate I will pay may change in accordance with Section 4 of this Note. The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month.

I will make my monthly payments on the first day of each month beginning on May 1, 2005.

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on April 1, 2035, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my payments at 565 City Parkway West, Suite 100, Orange, CA 92668

or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments will be in the amount of U.S. \$ 2,785.48. This amount may change.

(C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of April, 2007 and on that day every sixth month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an index. The "index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in The Wall Street Journal. The most recent index figure available as of the date 45 days before the Change Date is called the "Current Index."

If at any point in time the index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding six percentage point(s) (6.000%) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percent (0.125%). Subject to the limits stated in Section 4(C) below, this rounded amount will be my new interest rate until the next Change Date. The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date of my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

[Handwritten Signature]
SANFORD J. BECKER
ESQ.

Initials: SB

(G) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 8.400 % or less than 7.400%. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than One percentage point(s) 1.000% from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than 13.400 % or less than 7.400 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. PREPAYMENT PRIVILEGE

I may repay all or any part of the principal balance of this Note in accordance with the terms of this Section without incurring a prepayment charge. A "prepayment" is any amount that I pay in excess of my regularly scheduled payments of principal and interest that the Lender will apply to reduce the outstanding principal balance on this Note in accordance with this Section.

(A) Application of Funds

I agree that when I indicate in writing that I am making a prepayment, the Lender shall apply funds it receives in accordance with the order of application of payments set forth in Section 2 of the Security Instrument.

(B) Monthly Payments

If I make a prepayment of an amount less than the amount needed to completely repay all amounts due under this Note and Security Instrument, my regularly scheduled payments of principal and interest will not change as a result.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces the principal, the reduction will be treated as a partial prepayment.

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payment

If the Note Holder has not received the full amount of any monthly payment by the end of fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. The date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(D) No Waiver by Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

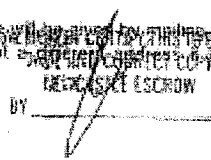
(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I give notice of that different address.

BY  RECEIVED ESCROW

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition, to the protections given to the Note Holder under this Note, A Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises that I make in this Note. That the Security Instrument described here and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without the Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition of Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which the Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

Oral agreements, promises or commitments to lend money, extend credit, or forbear from enforcing repayment of a debt, including promises to extend, modify, renew or waive such debt, are not enforceable. This written agreement contains all the terms the Borrower(s) and the Lender have agreed to. Any subsequent agreement between us regarding this Note or the instrument which secures this Note, must be in a signed writing to be legally enforceable.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

Sandra A Ford 8/6/05 (Seal)
Borrower SANDRA A. FORD

Borrower (Seal)

Borrower (Seal)

Borrower (Seal)

BORROWER
I HEREBY CERTIFY THIS TO BE A
TRUE AND CORRECT COPY
BY
CASTLE ESCROW

CERTIFIED TO BE A TRUE COPY

SAMPSON RECORDS

12/210

Requested by and Return to:
Title Stream
2001 Newton Dr., Suite 201
Coppell, TX 75044
Attn: RECORDING

52248

Prepared By: Argent Mortgage Company, LLC

Larry Gomez
One City Boulevard
West, Orange, CA 92686

FILED
William A. Bennett, Secretary for 200.00
Brown County Clerk
Recorded 02/26/2003 13:26

(Date After This Date No Recording Fee)

MORTGAGE

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 28.

- (A) "Security Instruments" means this document, which is dated on Feb. 4, 2003 together with all Riders to this document.
- (B) "Borrower" is SECTION 4, PAGE

Borrower is the mortgagee under the Security Instruments.
It's "Lender" is Argent Mortgage Company, LLC

Lender is a Limited Liability Company
organized and existing under the laws of Delaware

02/26/2003 13:26

FILED
Title Stream - Single Family - Texas Map/Plat: 100/2003/001/001/001

Page 2011 1000

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Title Stream

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02/26/2003 13:26

100/2003/001/001/001

201423176499

Ja10

Lender's address is One City Boulevard West, Orange, CA 92665

Lender in the mortgage under this Security Instrument.

(D) "Date" means the preliminary note signed by Borrower and dated March 1, 2005

The face amount of the loan is \$100,000.00 (one hundred thousand dollars) less any payments made by Borrower. The interest rate is 5.443% per annum. Borrower has promised to pay this debt in regular periodic payments and to pay the debt in full not later than August 1, 2025.

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Note" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus returns.

(G) "Riders" means all Riders in this Security Instrument that are attached by Borrower. The following Riders are to be removed by Borrower (check box as applicable):

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> 1-4 Family Rider |
| <input type="checkbox"/> VA Rider | <input type="checkbox"/> Biweekly Payment Rider | <input type="checkbox"/> Other(s) (specify) |

(H) "Applicable Law" means all existing applicable federal, state and local statute, regulation, ordinance and administrative rules and orders (that have the effect of law) as well as all applicable laws, not applicable judicial opinions.

(I) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower on the Property by a homeowners association, homeowners' association or similar organization.

(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic account, telephone instrument, computer, or magnetic tape as to origin, transfer, or authorization. Financial institution to which no credit is account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfer, and automated clearinghouse transfers.

(K) "Excess Home" means those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensation, settlement, amount of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverage described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conversion in form of condemnation; or (iv) interruption of, or disturbance to, the value and/or condition of the Property.

(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 1601) or any (and its implementing regulation, Regulation X (24 C.F.R. Part 1989)), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in respect to a "federally related mortgage loan" even if the loan does not qualify as a "federally related mortgage loan" under RESPA.

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(7) "Successor to Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument agrees to Lender: (1) the application of the Law, and all covenants, conditions and modifications of the Note; and (2) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For these purposes, Borrower does hereby assign, grant and convey to Lender the following described property located in the County of _____ of the State of _____.

(Type or Print Name of Borrower)

(Type or Print Name of Lender)

LEGAL DESCRIPTION ATTACHED HERETO AND BEAR A PART HEREOF.

Property Address Number: **BLICK 504 - 100 3** which currently has the address of
141 HIGLEY AVENUE Home
WILMINGTON (City), New Jersey 07475 (Zip Code)
("Property Address")

TOGETHER WITH all the improvements now or hereafter created on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the same hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for the encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT contains without exception for railroad tax and other similar programs with limited exceptions by jurisdiction to describe a uniform security instrument covering all property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:
1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the Note evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 7. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note is in:

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Security instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made by one or more of the following means, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, cashier's check or cashier's check, provided any such check is drawn upon an institution where deposits are insured by a federal agency, instrumentally, or cash; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payment is insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without release of any rights hereunder or prejudice to its right to refuse such payment or partial payment in the future. If Lender accepts such payment, it shall apply such payment as the first such payment not accepted. No effect or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) amounts due under the Note; (b) principal due under the Note; (c) amounts due under Section 2. Such payments shall be applied to each Periodic Payment in the order in which it becomes due. Any remaining amount shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payment if, and to the extent that, such payment can be paid in full. To the extent that any excess exists when the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payment, separate proceeds or Miscellaneous Proceeds to principal due under the Note shall not extend to postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Expense Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attach priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property; if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Investment premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Investment premiums in accordance with the provisions of Section 10. These items are called "Expense Items." At origination or at any time during the term of the Loan, Lender may require that Continually Reassessable Taxes, Fees and Assessments, if any, be estimated by Borrower, and such taxes, fees and assessments shall be an Expense Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay timely the Funds for Expense Items unless Lender waives Borrower's obligation to pay the Funds for any or all Expense Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Expense Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts

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due for any Escrow items for which payment of Funds has been waived by Lender and, if Lender requests, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, in the phrase "covenant and agreement" is used in Section 2. If Borrower is obligated to pay Escrow items directly, pursuant to a written, and Borrower fails to pay the amount due for an Escrow item, Lender may initiate all rights under Section 3 and pay such amount and Borrower shall then be obligated under Section 2 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow items at any time by a notice given in accordance with Section 13 hereof, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 1.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds as for those specified under RESPA, and (b) not in excess of the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of those Funds hereon or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, nonmembered, or entity (including Lender, if Lender is an institution whose deposits are so insured) as in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow items on time and in the order specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, including analyzing the escrow account, or verifying the Escrow items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in excess, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in excess, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than twelve monthly payments. If there is a deficiency of Funds held in excess, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than twelve monthly payments.

Upon payment in full of all items secured by this Security Instrument, Lender shall promptly return to Borrower any Funds held by Lender.

4. **Chargeback Lien.** Borrower shall pay all taxes, assessments, charges, fees, and obligations whatsoever in the Property which take their priority over this Security Instrument, household payments of goods (such as the Property, if any, and Community Association Dues, Fees, and Assessments, if any). To the extent that these items are Escrow items, Borrower shall pay them in the manner provided in Section 2.

Borrower shall promptly discharge any tax which has priority over this Security Instrument unless Borrower (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) assigns the lien in good faith to a third party; or (c) obtains from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can take priority over this Security Instrument, Lender may give Borrower a notice identifying the

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five. Within 10 days of the date on which this notice is given, Borrower shall satisfy the debt or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

A. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amount (including deductible levels) and for the periods (the Lender requires). What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, verification and tracking services; or (b) a one-time charge for flood zone determination and verification services and subsequent charges each time mappings or similar changes occur which reasonably might affect such determination or verification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverage described above, Lender may obtain insurance coverage, in Lender's opinion and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall remain Lender's, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk. Lender or Lender's agent might purchase greater or better coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the then pay from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and receive all certificates. If Lender requires, Borrower shall promptly give to Lender all notices of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make good of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree, in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not impaired. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repair and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Proceeds for public adjustment, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible to Lender's security would be impaired, the insurance proceeds shall be applied to the same account by this Security Instrument, whether or not then due, with

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the extent, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 7.

If Borrower abandons the Property, Lender may file, originate and settle any available insurance claim and related expense. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may originate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquiesces the Property under Section 23 as subrogee, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amount unpaid under the date of this Security Instrument, and (b) any other of Borrower's rights (other than the right to any interest or accrued proceeds paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not this due.

4. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 90 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless compelling circumstances exist which are beyond Borrower's control.

5. **Use, Repair, Maintenance and Condition of the Property.** Borrower shall not lease, damage or impair the Property, other than the Property to be determined or caused under the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Should it be determined pursuant to Section 3 that repair or restoration is not economically desirable, Borrower shall promptly repair the Property or arrange to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repaying or restoring the Property only if Lender has advanced proceeds for such purpose. Lender may advance proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agents may make reasonable entries upon and inspections of the Property, if it has reasonable cause. Lender may inspect the location of the improvements on the Property. Lender shall give Borrower notice in the form of or prior to such an inspection specifying such reasonable cause.

6. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any person or entity acting at the direction of Borrower or with Borrower's knowledge or consent past knowingly falsifies, misleads, or furnishes information or statements to Lender (as filed or provided to Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

7. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, the condemnation or forfeiture, the redemptiveness of a lien which may take priority over this Security Instrument or to enforce lien or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including proceeding and/or enforcing the value of the Property, and executing and/or enforcing the Property. Lender's actions may include, but are not limited to: (a) paying any costs incurred by a lien which has priority over this Security Instrument; (b) appealing in court; and (c) paying reasonable

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owner's fee to protect its interest in the Property and its rights under this Security Instrument, including its interest in the Property, including, but not limited to, securing the Property by making repairs, change locks, replace or board up doors and windows, apply window films, eliminate building or other code violations or dangerous conditions, and have utilities hooked on or off. Although Lender may take action under this Section 9, Lender does not have to do so and it has no duty or obligation to do so. It is agreed that Lender takes no liability for not taking any or all actions authorized under this Section 9.

Any amounts advanced by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is in a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower occupies the fee in the Property, the leasehold and the fee title shall run merge unless Lender agrees to the merger in writing.

18. **Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, if a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments to the extent that when the insurance coverage ceased to be in effect, Lender will accept, use and retain those payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or amounts on such loss reserve. Lender can no longer require that receive payments if Mortgage Insurance coverage for the amount and for the period that Lender required payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or such termination is required by Applicable Law. Nothing in this Section 18 affects Borrower's obligation to pay interest as the rate provided in the Note.

Mortgage Insurance reimburses Lender for any costs that payments the Note for certain losses or any loss if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage Insurance contracts shall not and so all such insurance is free from them in time, and any such loan agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are customary to the mortgage insurer and the other party to the contract. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any portion of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) insurance that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreements provide that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often referred to as "reverse reinsurance." Further:

(a) Any such agreement will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not make Borrower in any respect.

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(d) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that may be accrued at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied in satisfaction or repair of the Property. If the restoration or repair is economically feasible and Lender's security is not impaired. During such repair and reconstruction period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing as Applicable Law requires in order to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be impaired, the Miscellaneous Proceeds shall be applied to the debt secured by this Security Instrument, whether or not then due, with the same, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the debt secured by this Security Instrument, whether or not then due, with the same, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the debt secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the amount secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the net amount of the debt secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the debt secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the debt secured by this Security Instrument whether or not the debt is then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower from the Upgrading Party (as defined in the term sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either in satisfaction or repair of the Property or to the debt secured by this Security Instrument, whether or not then due. "Upgrading Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, mitigate as provided in Section 15, by causing the action or proceeding to be discharged with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are payable to the requirements of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds are hereby assigned to and shall be applied to the debt secured by this Security Instrument whether or not then due, with the same, if any, paid to Borrower.

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12. Borrower Not Released, Performance By Lender Not a Waiver. Extension of the time for payment or modification of contribution of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successor in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify obligations of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successor in Interest of Borrower. Any interference by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, whether or Successor in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability, Co-obligors, Successors and Assigns Bound. Borrower consents and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"); (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall waive all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees in such release in writing. The covenants and agreements of this Security Instrument shall bind successors as provided in Section 20 and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorney's fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may also charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is locally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limits; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower to Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notices to any one Borrower shall constitute notices to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will control the corresponding requirement under this Security Instrument.

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14. **Applicable Law; Jurisdiction; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any restrictions and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract as to which law to apply, but such choice shall not be construed to a prohibition against adjustment by contract. In the event that any provision of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

15. **Borrower's Copy.** Borrower shall be given one copy of the final and of this Security Instrument.

16. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 16, "transfer of the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred by a deed for deed, contract for deed, installment sales contract or other agreement, the terms of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred (if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require accelerated payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice as demanded on Borrower.

17. **Borrower's Right to Redeem After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued as set forth prior to the expiration of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the redemption of Borrower's right to redeem; or (c) entry of a judgment enforcing this Security Instrument. These conditions are that Borrower: (a) pays Lender all sums which shall be due under this Security Instrument and the Note as of no acceleration has occurred; (b) does not default on any other payment or agreement; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorney's fees, property inspection and valuation fees, and other fees incurred for the purpose of enforcing Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to ensure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall remain unchanged. Lender may require that Borrower pay such redemption sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, money order, check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, insurability of which, or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 15.

18. **Sale of Home; Change of Loan Servicer; Notice of Exercise.** The Note or a partial interest in the Note together with this Security Instrument may be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects periodic payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will name and address of the

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new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will continue with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser under the terms provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined in any judicial action (in either an individual litigation or the name of a class) that seeks from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 12) of such alleged breach and afforded the other party herein a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which runs shorter before certain notice can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of notification and opportunity to cure given to Borrower pursuant to Section 12 and the notice of notification given to Lender pursuant to Section 12 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. **Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as such or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or failure to remove any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substances or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spillage, leakage, discharge, release or threat of release of any Hazardous Substances, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

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NON-WARRANT COVENANTS. Borrower and Lender further covenant and agree as follows:

22. **Acceleration Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument that sets forth the acceleration under Section 10 unless Applicable Law provides otherwise. The notice shall specify: (a) the details of the action required to cure the default; (b) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; (c) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property; (d) the Borrower's right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower in application and settlement and (e) any other disclosures required under the Fair Debt Collection Act, codified at Sections 2A:150-53 or part of the New Jersey Statutes, or other Applicable Law. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, attorneys' fees and costs of title evidence permitted by Rules of Court.

23. **Release.** Upon payment of all sums secured by this Security Instrument, Lender shall cancel this Security Instrument. Borrower shall pay any acceleration sums. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party the services rendered and the charging of the fee is permitted under Applicable Law.

24. **No Claim of Credit for Taxes.** Borrower will not make deductions from or claim credit on the principal or interest secured by this Security Instrument by reason of any governmental taxes, assessments or charges. Borrower will not claim any deduction from the taxable value of the Property by reason of this Security Instrument.

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Page 11 of 11 03/04/2025 09:49:57

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BY SIGNING BELOW, Borrower accepts and agrees to the terms and conditions contained in this Security Instrument and to any other instrument by reference and recorded with it.

Signed, sealed and delivered in the presence of:

[Signature] [Name] [Title]

[Signature] [Name] [Title]

[Signature] [Name] [Title]

[Signature] [Name] [Title]

[Signature] [Name] [Title]

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FILED

BK1473176507

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STATE OF NEW JERSEY,

County of Bergen

On this 6th day of March, 2005, before me, the
subscriber, personally appeared

Sandra Ford

who, I am satisfied, is the person(s) named in and who executed the within instrument, and
the person(s) acknowledged that he/she/they signed, sealed and delivered the same as to the other
act and deed, for the purposes therein expressed.

RAMONDA ADINA SANCHEZ
Notary Public
State of New Jersey
My Commission Expires Aug 23, 2008

Ramonada Adina Sanchez
Notary Public

Ramonada Adina Sanchez



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ADJUSTABLE RATE RIDER

LIBOR Six-Month-Index (As Published in the Wall Street Journal- Rate Cap)

THIS ADJUSTABLE RATE RIDER is made this 6th day of March, 2005, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to Argent Mortgage Company, LLC (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

141 FOREST AVENUE, WESTBORO, MA 01581
(Property Address)

THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE AND THE MONTHLY PAYMENT. THE NOTE LIMITS THE AMOUNT THE BORROWER'S INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE THE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial interest rate of 7.400%. The Note provides for changes in the interest rate and the monthly payments, as follows:

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of April, 2007, and on the first day every three months thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in the Wall Street Journal. The most recent index report available at the time 45 days before each Change Date is called the "Current Index."

If the Index is no longer available, the Note holder will choose a new Index which is based upon comparable information. The Note holder will give me notice of this choice.

Lender

Loan Number: 0074884672 0500

Page 1 of 1

Page 1 of 1

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EX 1423 / 0509

Ja25

PRELIMINARY TITLE TO DEEDS

EX-104-20-11-2000-04

Exhibit "A"

TAX MAP REFERENCE: (N.J.S.A. 4:15-2.1) MUNICIPALITY OF BOROUGH OF WESTWOOD, IN THE COUNTY OF BERGEN, BLOCK NO. 504, LOT NO. 1

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE BOROUGH OF WESTWOOD, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

KNOWN AND DESIGNATED AS LOT #40 IN BLOCK 501 ON A CERTAIN MAP ENTITLED "FINAL PLAN, FOREST GARDENS, BOROUGH OF WESTWOOD, BERGEN COUNTY, NJ" DATED NOVEMBER 1971 WHICH SAID MAP WAS FILED IN THE BERGEN COUNTY REGISTER'S OFFICE ON APRIL 9, 1974 AS MAP NO. 7257.

SAID PREMISES ARE FURTHER DESCRIBED IN ACCORDANCE WITH A SURVEY MADE BY GRANITE'S SURVEYOR, ROBERT P. VICARI, L.S., DATED MARCH 23, 2000, AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY SIDELINE OF FOREST AVENUE SAID POINT BEING DISTANT SOUTHERLY ALONG THE SAME 143.00 FEET FROM ITS INTERSECTION WITH THE SOUTHERLY LINE OF LANDS NOW OR FORMERLY OF R. ZARROW AND FROM ITS INTERSECTION WITH THE NORTHERLY LINE OF FILED MAP NO. 7257 AND FROM SAID POINT OF BEGINNING RUNNING THENCE:

- 1) NORTH 81 DEGREES 45 MINUTES 10 SECONDS EAST 130.00 FEET TO A POINT; THENCE
- 2) SOUTH 01 DEGREES 14 MINUTES 50 SECONDS EAST 71.00 FEET TO A POINT; THENCE
- 3) SOUTH 48 DEGREES 45 MINUTES 10 SECONDS WEST 125.48 FEET TO A POINT IN THE SAID EASTERLY SIDELINE OF FOREST AVENUE; THENCE
- 4) ALONG THE SAME ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 2817.75 FEET AN ARC DISTANCE OF 31.84 FEET TO A POINT; THENCE
- 5) STILL ALONG THE SAME, ON A COURSE OF NORTH 01 DEGREES 14 MINUTES 50 SECONDS WEST 21.18 FEET TO THE POINT OR PLACE OF BEGINNING

Legal Description: All that certain property situated in the county of BERGEN, and State of NEW JERSEY, being described as follows, and being more fully described in a deed dated 03/15/2000, and recorded 01/21/2000, among the local records of the county and state set forth above, in Block 504, Lot 1, page 789 Address: 141 FOREST AVE # WESTWOOD

APN: Block 504- Lot 1
ES Order Number: 10-00052148

EX-104-20-11-2000-04

END OF DOCUMENT

Ja28

0324132729

When received next to:
Argent Mortgage Company, LLC
P.O. Box 14130
Orange, CA 92665-1530

Loan Number: 0074994672 - 8002

ASSIGNMENT OF MORTGAGE

FOR GOOD AND VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, whose address is: One City Boulevard West, Orange, CA 92668
by these presents does convey, grant, bargain, sell, assign, transfer and set over to:
Wells Fargo Bank, NA as Trustee

(Assignee)

whose address is: 1720 Birchland Dr., Suite 100, Henderson Heights, NY 51120

the described Mortgage, together with the certain debt(s) described therein with all interest, of fees, and any rights due or to become due thereon.

Said Mortgage, Dated 02/05/05, is recorded in official records of BERGEN County, State of New Jersey
Recorded in Book 14231 on Page 494

Original Loan Amount: four hundred three thousand seven hundred fifty and 00/100 (\$ 403,750.00)

Original Mortgage: SANDRA A FORD

IDENTIFIED TO BE A TRUE COPY

SANDRA A FORD

Original Mortgage: Argent Mortgage Company, LLC

PROPERTY ADDRESS: 141 FOREST AVENUE, WESTWOOD, NY 07095

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

IN WITNESS WHEREOF, the Undersigned has hereunto set its hand and seal or caused these presents to be signed by its proper corporate officers and by corporate seal to be hereunto affixed on 02/11/2005.

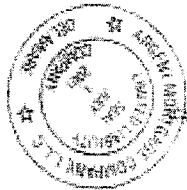
Signed, Sealed and Delivered in the presence of or attested by

Argent Mortgage Company, LLC

By: JESSICA OTT - AGENT

State of California
County of Orange

On 02/11/2005 before me, MARTHA LONDON
personally appeared JESSICA OTT



Corporate Seal

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) appear(s) on the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that he/she/they are the person(s) or the entity upon behalf of which is the person(s) who executed the instrument.

PRELIMINARY TITLE TO PRIZE

TS Order No. 16-20050003

Exhibit "A"

TAX MAP REFERENCE: (N.J.S.A. 46:15-2.1) MUNICIPALITY OF BOROUGH OF WESTWOOD, IN THE COUNTY OF BERGEN, BLOCK NO. 504, LOT NO. 3.

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE BOROUGH OF WESTWOOD, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

KNOWN AND DESIGNATED AS LOT #40 IN BLOCK 501 ON A CERTAIN MAP ENTITLED "FINAL PLAT, FOREST GARDENS, BOROUGH OF WESTWOOD, BERGEN COUNTY, NJ" DATED NOVEMBER 1973 WHICH SAID MAP WAS FILED IN THE BERGEN COUNTY REGISTER'S OFFICE ON APRIL 9, 1974 AS MAP NO. 7257.

SAID PREMISES ARE FURTHER DESCRIBED IN ACCORDANCE WITH A SURVEY MADE BY GRANTEES SURVEYOR, ROBERT P. VICARI, L.S., DATED MARCH 13, 2000, AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY SIDELINE OF FOREST AVENUE SAID POINT BEING DISTANT SOUTHERLY ALONG THE SAME 143.00 FEET FROM ITS INTERSECTION WITH THE SOUTHERLY LINE OF LANDS NOW OR FORMERLY OF R. ZARROW AND FROM ITS INTERSECTION WITH THE NORTHERLY LINE OF FILED MAP NO. 7257 AND FROM SAID POINT OF BEGINNING RUNNING THENCE:

- 1) NORTH 84 DEGREES 45 MINUTES 10 SECONDS EAST 130.00 FEET TO A POINT, THENCE
- 2) SOUTH 01 DEGREES 14 MINUTES 50 SECONDS EAST 75.00 FEET TO A POINT, THENCE
- 3) SOUTH 83 DEGREES 45 MINUTES 10 SECONDS WEST 129.48 FEET TO A POINT IN THE SAID EASTERLY SIDELINE OF FOREST AVENUE, THENCE
- 4) ALONG THE SAME ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 2812.75 FEET AN ARC DISTANCE OF 53.84 FEET TO A POINT, THENCE
- 5) STILL ALONG THE SAME, ON A COURSE OF NORTH 01 DEGREES 14 MINUTES 50 SECONDS WEST 71.18 FEET TO THE POINT OR PLACE OF BEGINNING.

APN: Block 504 - Lot 3
TS Order Number: 16-20050003

FILED
SUPERIOR COURT OF NJ
APR 09 2007
ENTERED ON ACCTS J.F.

PLUESE, BECKER & SALTZMAN, LLC
Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054-4318
(856) 813-1700
Attorneys for Plaintiff
60097

WELLS FARGO BANK, NA AS TRUSTEE

PLAINTIFF,

SANDRA A. FORD, ET AL

DEFENDANT(S)

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

CERTIFICATION OF AMOUNT DUE AND

AS TO MILITARY SERVICE

Jeff Szymendera, does hereby certify:

1. I am Jeff Szymendera of Homeq Servicing Corporation, attorney in fact for the Plaintiff in the above-captioned action. I have knowledge of the amount due Plaintiff for principal, interest and/or other charges pursuant to the mortgage due upon the mortgage made by Sandra A. Ford dated March 6, 2005 and given to Argent Mortgage Company, LLC to secure the sum of \$403,750.00 recorded in Book 14231 of Mortgages in Bergen County on Page 494.
2. The said Mortgage was given to secure the sum of \$403,750.00 in accordance with the terms of the Note/Bond made by Sandra A. Ford.
3. The Defendants is are still in possession of the mortgaged property.
4. The aforesaid Note/Bond provided for payment of the sum of \$3,925.01 per month for interest, principal, and escrows for taxes and insurance premiums.
5. Defendant(s), Sandra A. Ford, has defaulted under the terms and conditions of the Mortgage by failing, refusing and/or neglecting to make the payment and all payments due thereafter.

6. The records of the Plaintiff concerning the above-referenced to obligation and Mortgage have been examined and I find from said records that there is due the Plaintiff in this cause the sum of \$432,881.71 as set forth in the schedule annexed hereto, together with interest thereon from September 15, 2006.

7. I further state that the property described in the Complaint cannot be divided and should be sold as a single tract.

8. There are no just debts, set-offs, credits or allowances due, or to become due, from Plaintiff to the said Defendant(s) other than those set forth herein.

9. Plaintiff is still the holder and owner of the said note/bond and mortgage.

10. None of the Defendants are members of the military service.

SCHEDULE OF CERTIFICATION OF PROOF OF AMOUNT DUE

Date of Obligation (Note):.....March 6, 2005

Original Principal Amount:..... \$403,750.00

Due Date:.....April 1, 2035

Interest Rate:.....7.40 %

Mortgagor/Obligor:.....Sandra A. Ford

Date of Default:.....April 1, 2006

Date Complaint was filed:..... July 14, 2006

Principal balance as of date of default \$400,281.70

Interest from 3/1/06 through 9/15/06 \$15,991.16

Advances for Insurance \$5,243.69

Forced place insurance paid on 09/31/06
i.e. \$5,243.69

Advances for Taxes \$10,711.24

Taxes paid on 12/31/05 i.e. \$3,570.41

Taxes paid on 5/31/06 i.e. \$3,570.41

Taxes paid on 8/31/06 i.e. \$3,570.42

Advances for Property Preservation \$94.84

Advances to Winterize and/or Secure property \$0

Mortgage Insurance Premiums \$0

Late Charges \$559.08

April 1, 2006 to July 14, 2006 @ \$139.75/mo

TOTAL AMOUNT DUE TO PLAINTIFF \$432,881.71

Per Diem \$80.75

NOTE: Attach as a Rider copies of paid bills for Advances to Winterize and/or secure property.

Notice Pursuant to the Fair Debt Collection Practices Act
To the extent the Act may apply, please be advised that:
This is an attempt to collect a debt;
Any information obtained will be used for that purpose.

FILED
SUPERIOR COURT OF NJ
APR 09 2007

T.J.F.

PLUESE, BECKER & SALTZMAN
Attorneys At Law
20000 Horizon Way
Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
File Number: 60097

ENTERED ON ACMS

**WELLS FARGO BANK, NA AS
TRUSTEE**

Plaintiff

v.

SANDRA A. FORD, et al.

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO.: F-12259-06

CIVIL ACTION
CERTIFICATION OF NO RESPONSE
PURSUANT TO N.J.S.A. 2A:50-58

Shannon Acevedo, does hereby certify as follows:

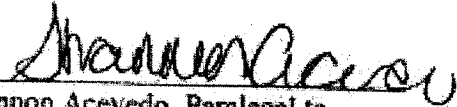
1. I am a Paralegal employed by Pluese, Becker & Saltzman, local Foreclosure counsel for the Plaintiff in the above-caption action. I am familiar with the circumstances surrounding this matter and am authorized to make this Certification.
2. Application is made hereunder for an uncontested Judgment pursuant to R. 4:64-1.
3. All residential Debtor/Defendants have been given at least 14 days prior notice of Plaintiff's application for entry of Final Judgment in accordance with N.J.S.A. 2A:50-58, as evidenced by the Certification of Mailing filed herewith.
4. No Certification from the Debtor/Defendant has been received attesting to a reasonable likelihood that the Debtor/Defendant will be able to provide payment necessary to cure the default within 45 days of the Notice as provided by for by the Fair Foreclosure Act. More than 10 days have elapsed since the Notice was received by the Debtor/Defendant in the ordinary course of mail delivery.

5. I have contacted the Plaintiff (or its Mortgage Servicer, if applicable), Wells Fargo Bank, NA as Trustee, in the above-captioned action. The Plaintiff/Servicer advised me that it has not received any written statement from the Defendant(s) in response to Plaintiff's Notice of Intent to Enter Judgment, within ten (10) days from receipt by Defendant(s) of the said Notice. A review of our file fails to disclose any written statement from the Defendant(s) indicating an intent to cure the default in response to Plaintiff's Notice of Intent to Enter Judgment.

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

PLUESE, BECKER & SALTZMAN, LLC

DATED: February 22, 2007

BY: 
Shannon Acevedo, Paralegal to
Sanford J. Becker, Esquire

PLUESE, BECKER & SALTZMAN, LLC

Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054-4318
(856) 813-1700
Attorneys for Plaintiff
60097

FILED
SUPERIOR COURT OF NJ
APR 09 2007

T.J.F.

WELLS FARGO BANK, NA AS TRUSTEE

Plaintiff,

v.

SANDRA A. FORD, et al

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

ENTERED ON ACMS

CIVIL ACTION

CERTIFICATION OF MAILING
OF NOTICE OF
INTENT TO ENTER JUDGMENT


I, Kelli Forest, Legal Assistant of Pluese, Becker & Saltzman, LLC, hereby certifies as follows:

On February 8, 2007, at least fourteen (14) days prior to the submission of proper proofs for the entry of Final Judgment, I mailed by regular and certified mail, return receipt requested, a Notice in compliance with Section 6 of the Fair Foreclosure Act in New Jersey, to the following parties:

Sandra A. Ford
141 Forest Avenue
Westwood, NJ 07675

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

DATED: February 8, 2007


Kelli Forest
Legal Assistant to Sandy Becker

PLUESE, BECKER & SALTZMAN, LLC

Attorneys at Law

2000 HORIZON WAY
SUITE 900

MT. LAUREL, NEW JERSEY 08054-4318
(856) 813-1700
FACSIMILE: (856) 813-1720

PENNSYLVANIA OFFICE:

425 COMMERCE DRIVE, SUITE 100
FORT WASHINGTON, PA. 19034
(215) 546-3295

Please reply to:
Mt. Laurel, New Jersey

February 8, 2007

NOTICE

Sandra A. Ford
141 Forest Avenue
Westwood, NJ 07675

Re: Wells Fargo Bank, NA as Trustee v. Sandra A. Ford
PROPERTY ADDRESS 141 Forest Avenue, Westwood, NJ 07675
DOCKET NO. F-12259-06

Dear Sir/Madam:

In accordance with the requirements set forth in the Fair Foreclosure Act, you are hereby given notice as to the following:

1. You have ten (10) days from the receipt of this Notice to contact:

Homeq Servicing Corporation, as authorized agent for Wells Fargo Bank, NA as Trustee
Foreclosure Department
P.O. Box 70829
Charlotte, NC 2827-0829
1-800-669-7724

QR

PLUESE, BECKER & SALTZMAN, LLC
2000 Horizon Way, Suite 900
Mt. Laurel, New Jersey 08054

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OF COUNSEL:

Katz, Eitin & Levine, P.C.

The Law Offices of Barbara A. Fern, P.C. *

* PA and NJ Bars

Our File #60097

ROB SALTZMAN *
RSaltzman@pbolaw.org

SANFORD J. BECKER
SBecker@pbolaw.org

ROBERT T. PLUESE
RPluese@pbolaw.org

ROBERT F. THOMAS *
RThomas@pbolaw.org

and

2. Advise and certify to said lender in good faith whether there is a reasonable likelihood that you will be able to provide the necessary payment to cure the default on your mortgage account within 45 days of the date of this notice which is ;

and

3. With respect to whether there is a reasonable likelihood that you can cure the default, that communication **MUST** be in writing. **No Telephone calls will be accepted.** All correspondence must be sent via Registered or Certified Mail-Return Receipt Requested to the address provided in paragraph 1 above;

and

4. Absent a response to said lender, proper proofs will be submitted to the Court for entry of Final Judgment. Upon entry of Final Judgment, you will lose your right to cure the default.

5. The lender that is servicing your loan is:

Homeq Servicing Corporation
P.O. Box 70829
Charlotte, NC 2827-0829
1-800-669-7724

In the event that you require the amount to reinstate your loan you should contact:

Homeq Servicing Corporation
P.O. Box 70829
Charlotte, NC 2827-0829
1-800-669-7724

Should you have any further questions regarding the contents of this letter or your legal rights, please contact your attorney.

Sincerely,
PLUESE, BECKER & SALTZMAN, LLC.

BY: /s/ Sanford J. Becker
SANFORD J. BECKER, ESQUIRE

SJB/kf

FILED
SUPERIOR COURT OF NJ

APR 03 2007

T.J.F.

ENTERED ON ACMS

PLUESE, BECKER & SALTZMAN, LLC

Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700

Attorneys for Plaintiff
File No. 60097

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff

v.

SANDRA A. FORD et al,

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

PROOF OF MAILING


On January 31, 2007, I, Dianne E. Dillon, Paralegal of the Law Firm of Pluese, Becker & Saltzman mailed to the following defendant a copy of the Order Granting Summary Judgment and Striking answer, by regular mail:

Ms. Sandra A. Ford
141 Forest Avenue
Westwood, New Jersey 07675

I certify that the foregoing statements made by me are true and correct to the best of my knowledge, information, and belief. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

PLUESE, BECKER & SALTZMAN

DATED: January 31, 2007


Dianne E. Dillon, Paralegal
to Sanford J. Becker, Esquire

REC'D & FILED
SUPERIOR COURT
OF NEW JERSEY

3000
ACT

MAR 14 2007

5112

Thomas J. Kelly
ACTING CLERK

ACCOUNT PAID
SUPERIOR COURT OF N.J.
PAID
MAR 14 2007
GENERAL CLERK UNIT

ENTERED ON ACME

PLUESE, BECKER & SALTZMAN
Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856)813-1700
Attorneys for Plaintiff
ELR #60097

WELLS FARGO BANK, NA AS
TRUSTEE
Plaintiff,

v.

SANDRA A. FORD, et al
Defendants

TO: Sandra A. Ford
141 Forest Avenue
Westwood, NJ 07675

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-13259-06

CIVIL ACTION

NOTICE MOTION FOR ENTRY OF
FINAL JUDGMENT AND
CERTIFICATION OF SERVICE

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PLEASE TAKE NOTICE that on the date following, at 9:00 AM
in the forenoon, or as soon thereafter as counsel may be heard,
Plaintiff will apply before the Clerk of the Superior Court of New
Jersey, Chancery Division, Office of the Foreclosures, Hughes
Justice Complex, 25 Market Street, Trenton, New Jersey for entry
of Judgment in this action and shall file the proof required by
law, which proof will establish that there is due on the
Plaintiff's Mortgage on 141 Forest Avenue, Westwood, NJ 07675, the
sum of \$432,881.71.

The date this application will be made is February 23, 2007.

DATED: February 9, 2007

PLUESE, BECKER & SALTZMAN

BY:

Sanford J. Becker
Sanford J. Becker, Esquire
Attorneys for Plaintiff

CERTIFICATION OF SERVICE OF NOTICE

Shannon Acevedo, does hereby certify that:

1 I am a foreclosure paralegal employed by the law firm of Plouse, Becker and Saltzman, LLC and on February 8, 2007 I mailed a copy to the within Notice of Motion was sent to the following:

Sandra A. Ford
141 Forest Avenue
Westwood, NJ 07675

by Regular and Certified Mail with the required postage thereon, by depositing an envelope containing said Notice of Motion for Judgment through the United States Mail.

2. I hereby certify that the foregoing statement made by me are true; I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Dated: February 8, 2007

Shannon Acevedo
Shannon Acevedo, Paralegal

FILED

JAN 26 2007

ROBERT P. CONTILLO
J.S.C.

PLUESE, BECKER & SALTZMAN

Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700

Attorneys for Plaintiff
File No. 60097 dd

**WELLS FARGO BANK, NA AS
TRUSTEE,**

Plaintiff,

v.

SANDRA A. FORD, et al

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

ORDER
GRANTING SUMMARY JUDGMENT
AND
STRIKING ANSWER

This matter having come before the Court on Motion of Plaintiff, Wells Fargo Bank, NA as Trustee, by and through counsel, Pluese, Becker & Saltzman, by Robert F. Thomas, Esquire; and the Court having considered the matter and good cause having been shown;

IT IS on this 26 day of January, 2006, ORDERED as follows:

1. Summary Judgment shall be and the same hereby is GRANTED IN favor of Plaintiff and against the Defendant, Sandra A. Ford.
2. The Answer of Defendant, Sandra A. Ford, shall be and the same hereby is stricken and default entered.

ENTERED ON ACMS

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3. This matter shall be transferred to the Foreclosure Unit of the Superior Court of New Jersey to proceed as an uncontested matter.

Papers filed with the Court,

- (xx) Movant's Papers
- Notice of Motion
- Movant's Affidavit/Certification
- Movant's Brief
- () Reply Papers



Hon. Robert P. Contillo, J.S.C.

January 11, 2007

Hon. Robert P. Contillo
Superior Court of New Jersey
Bergen County Justice Center
Hackensack, New Jersey 07601

Clerk, Superior Court of New Jersey
Chancery Division - Bergen County
Bergen County Justice Center
Hackensack, New Jersey 07601

Re: Wells Fargo Bank vs. Sandra Ford
Docket No: F-12259-06
Reconsideration of Liability of Wells Fargo

Dear Judge Contillo:

I am writing to you again with regard to the above matter. In lieu of a more formal certification, I am providing you with a citation regarding the liability of entities that purchase or buy a note or assignment of mortgage. Again, the case you provided to me does not apply. Please see Truth in Lending Act Section 1641 that deals with liability of assignees.

§ 1641. Liability of assignees

(a) Prerequisites

Except as otherwise specifically provided in this subchapter, any civil action for a violation of this subchapter or proceeding under section 1641 of this title which may be brought against a creditor may be maintained against any assignee of such creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, a violation apparent on the face of the disclosure statement includes, but is not limited to

- (1) a disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or
- (2) a disclosure which does not use the terms required to be used by this subchapter.

(b) Proof of compliance with statutory provisions

Except as provided in section 1641 of this title, in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this subchapter shall be conclusive proof of the delivery thereof and, except as provided in subsection (a) of this

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section, of compliance with this part. This section does not affect the rights of the obligor in any action against the original creditor.

(c) Right of rescission by consumer unaffected

Any consumer who has the right to rescind a transaction under section 1602 (b) of this title may rescind the transaction as against any assignee of the obligation.

(d) Rights upon assignment of certain mortgages

(1) In general

Any person who purchases or is otherwise assigned a mortgage referred to in section 1602 (b) of this title shall be subject to all claims and defenses with respect to that mortgage that the consumer could assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary due diligence, could not determine, based on the documentation required by this subchapter, the itemization of the amount financed, and other disclosure of disbursements that the mortgage was a mortgage referred to in section 1602 (b) of this title. The preceding sentence does not affect rights of a consumer under subsection (a), (b), or (c) of this section or any other provision of this subchapter.

Therefore, I would ask that the court reconsider its decision.

Very respectfully submitted,

Sandra Ford

Sandra Ford

Copy to:

Sanford Becker, Esq.

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JAN 25, 2007 01:00P

The Federal Truth in Lending Act: What You Don't Know Can Hurt You

Pamela D. Simmons

Introduction

Ten years ago, I represented the borrower in a case that stemmed from a title company's failure to secure a loan on all of the borrower's land. (The title company had listed only one of several parcels of land and the lender was unable to non-judicially foreclose on the property as a result.) The complaint had already been filed, and listed among the many causes of action was one entitled "Violation of Reg Z." One day an attorney for one of the defendants asked me: "What is this Reg Z? I've never even heard of it." So began my love affair with the Federal Truth in Lending Act.

Most attorneys know the Federal Truth in Lending Act (TILA) as the group of laws requiring certain disclosures about the cost of borrowing money. You have seen the disclosures every time you have received a new credit card. Many readers may also be aware that consumers who are borrowing against their homes have a three-day right to cancel the transaction—another feature of TILA. However, few real estate attorneys know that TILA's right to cancel can last for as long as three years after the loan is made. Moreover, under certain circumstances, TILA can govern individual lenders making a first loan secured by residential property. And even fewer practitioners know that the cost of rescission to the lender is all of the interest, fees, costs, and any other charges not directly for the benefit of the borrower. I have personally seen the loss to the lender exceed \$280,000. In this article I will discuss the history of TILA, describe rescission (its most important provision), and offer some tips on avoiding its pitfalls and attorney malpractice.

I. TILA's History and Predatory Lending

In 1968, Congress enacted TILA (15 USC §§1601-1693f). Section 105 of TILA requires the Federal Reserve Board to promulgate implementing regulations, which are collectively known as Regulation Z (12 CFR pt 226). Regulation Z provides for Official Staff Interpretations (known as the Commentary), which give guidance to the attorney, effectively putting meat on the bones that is TILA; reliance on the Commentary protects the creditor from any civil or criminal liability under TILA.

Initially, TILA was only a disclosure statute; by requiring that consumers be informed of the true cost of their borrowing, it was hoped that consumers could not only make informed decisions, but also make comparisons between similar lending products. In 1980, however, TILA was substantially changed to provide greater simplicity and new consumer protections.

In 1994, TILA was again amended to add the Homeowner's Equity Protection Act (HOEPA), which was implemented through Reg Z §172 and is known as "HOEPA" to those who work with borrowers and "Section 32" to those who work with lenders. HOEPA was an attempt to control predatory lending practices that were perceived to be a problem in the "sub-prime" lending arena. Sub-prime loans are those made to borrowers who do not meet conventional loan criteria—i.e., who have depressed credit scores, high income-to-debt ratios, unconfirmable income sources, and so forth. Sub-prime lenders charge higher interest rates and fees to borrowers because the loans are considered higher risk.

Since interest rates, over time, can vary significantly, HOEPA establishes triggers indexed to the Treasury Bill rate. If the Annual Percentage Rate (APR) of a home loan exceeds 8 percent plus the comparable T-Bill rate on a first deed of trust (10 percent on a second deed of trust), it is a HOEPA loan. Alternatively, if the costs and fees of the loan exceed eight points, it is a HOEPA loan. It was through HOEPA that federal law began to prohibit certain loan terms and lender behavior.

II. How to Find the Law

As mentioned above, the law regarding TILA is comprised of three parts:

- TILA, found at 15 USC §§1601-1691f;
- Reg Z (the implementing regulations), found at 12 CFR pt 226; and
- Official Staff Commentary, found at Supp I of Reg Z.

In many areas, Reg Z fleshes out the meaning of TILA, and the Commentary fleshes out the meaning of Reg Z. If you are doing research in this area of law, you must look to all three components. An example of the interrelationship is as follows:

Title 15 USC §1602(h) defines "consumer":

The adjective "consumer," used with reference to a credit transaction, characterizes the transaction as one in which the party to whom the credit is offered or extended is a natural person, and the money, property, or services which are the subject of the transaction are primarily for personal, family, or household purposes.

Regulation Z [226.2(a)(1)] defines "consumers":

[A] cardholder or a natural person to whom consumer credit is offered or extended. However, for purposes of rescission under §§226.15 and 226.23, the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to the security interest.

Official Staff Commentary [226.2(a)(1)] states:

1. Scope. Guarantors, endorsers, and sureties are not generally consumers for purposes of the regulation, but they may be entitled to rescind under certain circumstances and they may have certain rights if they are obligated on credit card plans.

2. Rescission Rules. For purposes of rescission under §§226.15 and 226.23, a "consumer" includes any natural person whose ownership interest in his or her principal dwelling is subject to risk of loss. Thus, if a security interest is taken in A's ownership interest in a house which is A's principal dwelling, A is a consumer for purposes of rescission, even if A is not liable, either primarily or secondarily, on the underlying consumer credit transaction. An ownership interest does not include, for example, leaseholds or inchoate rights, such as dower.

3. Land Trusts. Credit extended to land trusts, as described in the commentary to [226.3(f)], is considered to be credit extended to a natural person for purposes of the definition of consumer.

As always, case law adds additional clarification, or sometimes more confusion.

III. What Every Real Estate Attorney Should Know About TILA

A. Who Is a Lender Under TILA?

Jim came into my office quite concerned. He had lent money to someone he knew and the balloon payment was due, but had not been paid. He showed me the loan documents, which consisted of a promissory note and short-form deed of trust, which had been recorded by the escrow company. Jim explained that the borrower was someone he was familiar with who had approached Jim for a loan on a house, and had come up with the loan amount, interest rate, and payment terms. Jim had lent \$50,000, secured by a third deed of trust, at 12-percent interest; interest-only payments were to be made monthly, with a balloon payment due at the end of a year. Jim arranged the loan through a real estate broker friend of his and the borrower was charged an additional \$4000 in "points" paid to the broker. Jim knew that the borrower was behind on his other mortgages and was borrowing the money to "catch up." The borrower had fallen behind on the loan due to illness, but he was going to list the house for sale—and it had plenty of equity. The deal had originally sounded great to Jim, but now the balloon was due and the money was not forthcoming. Jim was a plumber and had never made a loan secured by property to anyone before.

Poor Jim. The bad news was that Jim was a lender, as defined by TILA, and had failed to make the disclosures required under TILA and had used prohibited terms. The loan was therefore rescindable by the borrower. If that happened, Jim would lose not only all interest due on the note, but also the broker fee and all other closing costs. Moreover, he would be liable for statutory penalties and the borrower's

reasonable attorney fees. The good news was that so few real estate attorneys know anything about this law that the issue would be missed by virtually any attorney whom the borrower might consult.

How is it possible that plumber Jim, a first time lender, ran afoul of federal law? TILA governs loans made by a lender to consumers for primarily household purposes. A lender is a lender for TILA purposes if the lender has made more than five loans secured by residential property last year or more than five loans this year. However, under HOEPA, a lender is defined as a lender who makes two HOEPA loans, in any 12-month period, secured by the borrower's residence; and if a lender uses a mortgage broker to make a HOEPA loan, that lender is a lender for all TILA purposes on the first HOEPA loan made. 15 USC §1602(f); Reg Z [226.2] n3.

E. Assignee Liability

Inherent in the business of making loans secured by residential property is a continuing need for capital to lend. As such, many home loans are sold to raise additional capital. Liability for violating TILA runs to the lender. Once the loan is sold, the liability, as related to rescission, extends to the assignee as well. 15 USC §1641(e).

When Does a Borrower Have a Right to Rescind?

The general rule is that a borrower whose loan is secured by his or her principal dwelling has the right to rescind, unless the loan is not intended primarily for personal family purposes or the loan is a purchase money loan. 15 USC §1639(f). There are, effectively, two separate rights to rescind. The first is the three-day right to cancel, which can be exercised by the borrower during the three business days after the loan documents are signed. During this three-day period, the lender should not release loan proceeds or record the security interest. This three-day right to cancel ends at midnight on the third business day after the loan documents were signed. A business day is Monday through Saturday, with certain holidays excluded.

* The second right to rescind is the extended right to cancel. The statute of limitations on this extended right is three years; however, it can be tolled for certain reasons, and more importantly, a borrower can always rescind, if the loan is rescindable, if the lender starts foreclosure proceedings.

Under TILA, the extended right to rescind is created when the borrower is not properly notified of the three-day right to cancel or the TILA disclosures are not accurate within certain statutorily defined tolerances. Additional rights to rescind are also afforded under HOEPA, more fully discussed later in this article.

1. The Right to Cancel

Borrowers must be clearly informed when the right to cancel expires and where to cancel. Additionally, each borrower must be given two copies of the form that explains the right to cancel. One is for the borrower to give to the lender if he or she wishes to cancel the loan; the other is for the borrower to keep. Thus, if the person filling out the form miscounts the days, or leaves the form blank, or fails to give each borrower two copies of the right to cancel form, the borrower effectively has never received notice of the right to cancel and the right to cancel continues until either the borrower is given a properly filled out form (with a new current three-day cancellation period) or the statute of limitations expires.

2. The TILA Disclosure Form

* Further, borrowers must be given an accurate disclosure of the terms of the loan (the TILA Disclosure). If no disclosure is made or if certain terms are not accurately disclosed within certain tolerances, the borrowers have an extended right to cancel. The TILA Disclosure is a form that has four boxes at the top of the page (undoubtedly you have seen them before) that disclose the APR, Finance Charge, Amount Financed, and the Total Payments. Some of the other necessary disclosures in the body of the form include the number of payments to be made over the term of the loan and the regular payment amount.

The Total Payments amount is equal to the monthly payment multiplied by the number of payments to be made during the term of the loan. When the loan is a fully amortized fixed-rate mortgage, this calculation is easy. The same holds when it is an interest-only loan with a balloon at the end. However, when the loan is a variable-rate mortgage, the calculation is more complicated. As an example, we will use the loan Jim made, an interest-only mortgage, with a balloon:

Our borrower has borrowed \$50,000 with a fixed rate of 10-percent interest, interest-only payments payable in equal amounts over a one-year term. The first 11 monthly payments are \$416.67, with a balloon payment due on the twelfth month of \$50,416.63. Accordingly, the amount listed in the Total Payments box should be \$55,000. Since the loan principal amount is \$50,000, we can easily determine that \$5000 is interest being paid on the \$50,000 loan. However, our borrower also paid \$4000 in broker fees, which were determined to be finance charges. Thus, the total finance charges that must be disclosed are \$9000.

The APR is considered the true interest rate that will be paid by the borrower over the life of the loan. The Finance Charge is broadly defined as any charge, payable directly or indirectly by the borrower, that is imposed directly or indirectly by the lender as an incident to or a condition of the extension of credit. 15 USC §1602(a); Reg Z §226.4(a). Even for those familiar with the myriad charges incurred by borrowers for a loan secured by their home, the determination of which charges are or are not finance charges can be daunting. It is beyond the scope of this article to address those issues; however, it is important to know that many charges are included in the definition of finance charge and, for purposes of determining the APR, these fees are lumped together with the interest charges.

The Amount Financed is generally the amount of credit provided to the borrower. Essentially, it is the remainder after the Finance Charge has been subtracted from the Total Payments. So, by subtracting the Finance Charge from the Total Payments, the Amount Financed by our borrower is \$41,000. TILA allows several methods of determining the APR. For this article, I used the APR calculator program offered by the Office of the Comptroller of the Currency, located at www.ooc.treas.gov/aprwin.htm. Using that system, the APR on our loan is 31.18 percent, which is considerably higher than the stated interest rate, due to the high fees charged.

3. TILA Disclosure Accuracy Tolerances

The amount disclosed as Finance Charge in the TILA Disclosure must be accurate, up to certain tolerances. The tolerance depends on what action or right the borrower is enforcing. If the borrower is seeking to rescind the loan transaction and the lender has not started foreclosure proceedings, the tolerance is one-half of one percent (.005). If the lender overstates the Finance Charge, there is no extended right to rescind. However, if the lender has started foreclosure proceedings, either judicial or nonjudicial, the tolerance is \$35. Again, if the APR is overstated, there is no extended right to cancel.

The APR must be accurate as well. The tolerance for the APR rate disclosed in the TILA Disclosure is one-eighth of one percent (.00125). TILA states that the APR is inaccurate if it exceeds or is lower than the accurate APR by .00125; however, there is some disagreement about this. See Official Staff Commentary §226.22(a)(2)-1, 15 USC §1602(g); *Ramsey v Vista Mortgage Corp. (In re Ramsey)* (BAP 9th Cir 1994) 176 BR 183; *Barber v Knox County School Employees Credit Union (In re Cox)* (Bankr CD Ill 1990) 114 BR 165.

The accuracy tolerances listed above apply to "regular" transactions. An "irregular" transaction is one that has either multiple advances, irregular payment periods, or irregular payment amounts (other than an irregular first or final payment). Reg Z §226.22(a)(2) n46; Official Staff Commentary §226.22(a)(2)-1. The tolerance for an irregular transaction is one-fourth of one percent (.0025).

* 4. HOEPA

As discussed earlier, HOEPA is a section of TILA enacted to protect consumers from predatory lending practices. Loans governed by HOEPA not only have additional disclosures required, HOEPA also governs certain loan terms and practices. Violation of the disclosure rules or use of a prohibited loan term gives the borrower an extended right to rescind the loan.

Most commercial lenders are no longer making HOEPA loans because, generally, HOEPA loans are no longer accepted in the resale marketplace. As a result, HOEPA loans are becoming rare, although some small "hard money" lenders are still making these loans. Additionally, unsophisticated individuals, such as our "Jim," are also making these loans without ever realizing that they are governed by and have run afoul of HOEPA. I have encountered both very recently. My experience has been that, as interest rates drop to low levels, many retirees have looked for a safe place to make a higher rate of return (relative to, say, government bonds). Some of them have begun to lend money secured by residences, but they have no idea how regulated this area has become.

a. APR and Points and Fees Triggers. For loans in first position, made after October 1, 2002, HOEPA will be triggered if the APR exceeds by more than 8 percent the yield on Treasury securities having comparable maturities on the fifteenth day of the month immediately preceding the time the loan was made. For junior loans the spread must be more than 10 percent. 15 USC §1602(aa)(1)(A); Reg. Z §226.32(a)(1).

The other trigger that activates HOEPA is the points and fees trigger. If the lender charges points and fees totaling more than 8 percent of the total loan amount, it is governed by HOEPA. 15 USC §1602(aa)(1)(B); Reg. Z §226.32(a)(1)(i). In actual practice, a determination of the exact percentage rate of the points and fees, with respect to the total loan amount, is rather complicated and beyond the scope of this article.

b. HOEPA Disclosures. Borrowers obtaining a HOEPA loan are required to receive additional disclosures. These disclosures augment and do not replace the disclosures required under TILA generally. HOEPA disclosures must be given to the borrower three business days before the consummation of the loan. The disclosures require the following statements:

You are not required to complete this agreement merely because you received these disclosures or have signed a loan application.

If you obtain this loan, the lender will have a mortgage on your home. You could lose your home and any money you have put into it, if you do not meet your obligation under the loan.

Additionally, the lender must disclose the accurate APR and monthly payment amount, if the loan is a fixed-rate loan. If the loan is a variable interest rate loan, the disclosure must also inform the borrower that the monthly payment may increase and must state the amount of the maximum potential monthly payment. The monthly payment amount must also include disclosure of any balloon payment. The disclosure also must show the total face amount of the loan and state whether optional credit insurance or debt cancellation coverage is being sold to the borrower. 15 USC §1639; Reg. Z §§226.31-226.32.

c. Prohibited Contract Terms. As discussed earlier, HOEPA prohibits certain loan contract terms. Inclusion of a prohibited term constitutes a failure to deliver the proper disclosures and creates an extended right to rescind the loan. The prohibited contract terms are:

(1) Prepayment Penalties (15 USC §1639(e); Reg. Z §226.32(d)(6), (7)). Allowed under the following conditions: Loan must not cause borrower to pay more than 50 percent of gross monthly income towards "monthly indebtedness payments"; income and expenses must be verified by a financial statement signed by borrower, a credit report, and payment records for any employment income; penalty must not apply when borrower refinances one of his or an affiliate's loans; repayment penalty can only be imposed for the first five years of loan term; and, must be valid under state law.

(2) Default Interest Rate Increases (15 USC §1639(d); Reg. Z §226.32(d)(4)).

(3) Balloon Payments (15 USC §1639(e); Reg. Z §226.32(d)(1)). Allowed if loan has term of five years or longer.

(4) Negative Amortization (15 USC §1639(f); Reg. Z §226.32(d)(2)).

(5) Prepaid Interest Payments (15 USC §1639(g); Reg. Z §226.32(d)(3)). Allowed if up to two months of payments are escrowed.

(6) Due-On-Demand Clauses (Reg Z §226.32(d)(8); Official Staff Commentary §226.32(d)(8)(ii)-(iii)). Allowed if there is fraud or material misrepresentation by the consumer in connection with obtaining the loan, the consumer fails to meet its financial obligations under the terms of the loan, or there is any action or inaction by the consumer that adversely affects the lender's security interest in the home.

IV. The Rescission Process: The Law and Reality

A. The Law

The rescission process was intended to be self-enforcing and able to be completed without the necessity of going to court. If the homeowner does not sell the home, the extended right of rescission can last up to three years after the loan consummation—and longer if the lender initiates foreclosure proceedings. 15 USC §1635(f); Reg Z §§226.15(a)(3), 226.23(s)(3). The regulations set up a three-step process to rescind a loan.

First, the borrower must notify the lender, in writing, of the cancellation of the loan. While the notice must be in writing, it can be transmitted by mail, telegram, or other means. Reg Z §§226.15(a)(2), 226.23(a)(2). It should be sent to the lender's designated place of business. A rescission notice sent by the borrower's attorney is also effective. Official Staff Commentary §226.2(a)(2)-2. While signing the right to cancel and sending it to the lender is effective, my practice is to draft a letter notifying the lender of the rescission and the reasons for it. I usually send the letter to the address provided on the right to cancel form, if there is such a form, as well as any other address that the borrower may have for the lender.

A note on loan servicers: Currently, rescission letters sent to loan servicers are not effective notice to the lender. Many borrowers do not understand the difference between the owner of the loan and a loan servicer. Even savvy attorneys have trouble determining who owns the loan, because assignments are no longer routinely recorded. It is important to review the loan file to determine who was the lender at the time the loan was consummated. Additionally, I always check the chain of title to see if the loan has been assigned. If so, I send a copy of the rescission letter to the new lender as well. A call to the servicer can reveal who the owner is, although they generally do not like to give that information. Additionally, a proper written request under RESPA should work, if you have the time. A new Commentary states that, when the creditor fails to provide an address for a designated agent to whom rescission notice may be sent, delivery to the entity that the borrower makes the payments to will be effective notice to the lender or the lender's assignee. Official Staff Commentary §226.23(a)(2)-1.

Once the loan is rescinded, the security interest or lien becomes automatically void, by operation of law. 15 USC §1635(b); Reg Z §§226.15(d)(1), 226.23(d)(1). The note also is voided. The lender's interest in the property is "automatically negated, regardless of its status and whether or not it was recorded or perfected." Official Staff Commentary §§226.15(d)(1)-1, 226.23(d)(1)-1.

Within 20 days of receipt of the notice of cancellation, the lender must return to the borrower any money or property that has been given to anyone in connection with the loan. 15 USC §1635(b); Reg Z §§226.15(d)(2), 226.23(d)(2). The lender must also take steps to reflect that the security interest has terminated.

Once the lender has terminated the security interest and returned any money or property it received, the borrower is then required to tender any property or money received from the lender. 15 USC §1635(b); Reg Z §§226.15(d)(3), 226.23(d)(3); Official Staff Commentary §§226.15(d)(3)-1, 226.23(d)(3)-1. This step is the reverse of most states' rescission law. The statute does not prescribe a time period in which tender must be accomplished.

As a result of the rescission, the lender retroactively loses the right to charge interest, fees, and costs on the loan, even costs paid to outside third parties such as the title insurer. The amount, therefore, of tender is calculated by first determining what funds the borrower actually received for his or her direct benefit. (Cash out to the borrower and funds released to pay the borrower's debts are

examples of uses for the borrower's direct benefit.) Once that amount is determined, it is reduced by the total payments the borrower has made on the loan. Attorney fees are available against a violating lender, as well as actual and statutory damages. 15 USC §1640(n). The remaining balance is the amount due on tender. Once tender is delivered, the rescission process is complete.

B. How Rescissions Work in Practice

TILA grants the courts power to modify certain aspects of the statutory rescission scheme. In particular, Reg Z enables the courts to modify the second and third steps of the rescission process. Reg Z §§226.15(d), 226.33(d). However, some courts have been uncomfortable with enforcing the statutes' first step as well—the voiding of the security interest. For that reason, I have never forced a lender to remove their security interest prior to tender. I generally require the lender to indicate an acceptance of the rescission within the required 20-day period. Once the rescission has been accepted, I work with the lender to determine the amount of tender. Generally, clients refinance or sell their property to fund the tender. Sometimes lenders agree to rewrite the loan at the new loan balance. Either way, the lender submits a payoff demand, equal to the tender amount, into escrow and title insurance is obtained.

A note on attorney fees: I always require the lenders to pay the reasonable attorney fees in rescission matters. Because it is the lender who is paying the attorney fees, I generally submit my own demand directly into escrow, indicating that the bill should be paid out of the lender's proceeds. Of course, the lender must agree to this in advance.

V. Conclusion

TILA is an extremely powerful tool for borrowers and should be considered every time anyone makes or obtains a loan secured by residential property. At least one court has held that it may be malpractice for an attorney not to review a borrower's rescission rights when representing them in a foreclosure proceeding. This article just scratches the surface of this area of law. Even though there are classes given to consumer law attorneys on this area of practice, it is my experience that most consumer attorneys do not have the background to understand the loan process when it comes to securing the loan against real property. To put it starkly, most of them look like deer caught in headlights when they leave such a class. Real property attorneys, however, already have the preliminary expertise. They understand the escrow process, can read and understand a HUD-1 RESPA Settlement Statement, and know and understand the relationship between a note and deed of trust. While this article will not make you an expert on TILA, it hopefully will allow you to have an informed view of the issue the next time you are consulted on a loan or lender-related issue.

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DEC 18 2006

FILED

DEC 18 2006

John G. ...

ROBERT P. CONTILLO
J.S.C.

PLUESE, BECKER & SALTZMAN, ATTORNEYS AT LAW

Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700

Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al,

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

ORDER

THIS MATTER having been opened to the Court upon a Case Management Conference and Sanford J. Becker, Esquire of the Law Firm of Pluese, Becker & Saltzman, attorney for the Plaintiff, and Sandra A. Ford, appearing Pro Se and for good cause shown;

It is on this 18 day of December, 2006,

hereby ORDERED as follows:

1. Plaintiff's Motion for Summary Judgment and Defendant's Cross Motion are hereby postponed and re-scheduled to be heard on January 12, 2007 on the express condition that Defendant, Sandra A. Ford, pay the attorney fees due the attorneys for Plaintiff as set forth below.

PLUESE, BECKER & SALTZMAN, LLC

Attorneys at Law

ROB SALTZMAN *
RSaltzman@pbclaw.org

SANFORD J. BECKER
SBecker@pbclaw.org

ROBERT T. PLUESE
RPluese@pbclaw.org

ROBERT F. THOMAS *
RThomas@pbclaw.org

20000 HORIZON WAY
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MT. LAUREL, NEW JERSEY 08054-4318
(856) 813-1700
FACSIMILE: (856) 813-1720

PENNSYLVANIA OFFICE:
425 COMMERCE DRIVE, SUITE 100
FORT WASHINGTON, PA. 19034
(215) 546-5205

Please reply to:
Mt. Laurel, New Jersey

December 8, 2006

OF COUNSEL:

Katz, Etna & Levine, P.C.

The Law Offices of Barbara A. Fein, P.C. *

* PA and NJ Bars

Our File # 60097

RECEIVED

DEC 12 2006

ROBERT P. CONTILLO
J.S.C.

S J

Hon. Robert P. Contillo, J.S.C.
Superior Court of New Jersey
10 Main Street
Hackensack, New Jersey 07601

RE: Wells Fargo Bank, NA as Trustee v. Sandra A. Ford et al
Docket No. F-12259-06

Your Honor:

12/18
no app rec'd

Enclosed please find original and copy of Order submit
connection with the above-referenced matter. If the Order me
kindly file same causing Chambers to return a copy to our offi

Thank you for Your Honor's consideration of this matter
questions, please contact our office.

Respectfully Submitted

PLUESE, BECKER & SALTZMAN

By

[Signature]
Sanford J. Becker, Esquire

SJB:dd

Enclosures

cc: Sandra Ford, Pro Se

PLUESE, BECKER & SALTZMAN, LLC
Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 811-1700
Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al,

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

CERTIFICATION
OF SERVICE

- I, Sanford J. Becker, of full age, hereby certify as follows:
1. I am an attorney licensed in New Jersey and a member of the law firm of Pluese, Becker & Saltzman, LLC, Attorneys for Plaintiff.
 2. The following is a break down of the services rendered in connection with my attendance at the return date of a Motion for Summary Judgment on December 1, 2006:
 - (a). Review of file in preparation for oral argument .5
 - (b). Attendance at hearing including all travel time 3.2Total of 3.2 hours at \$125.00.

I hereby certify that the foregoing statements made by me are true and correct to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

PLUESE, BECKER & SALTZMAN, LLC

DATED: December 4, 2006

By



Sanford J. Becker, Esquire
Attorney for Plaintiff

PLUESE, BECKER & SALTZMAN, LLC
Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al,

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

CERTIFICATION
OF SERVICE

I, Sanford J. Becker, of full age, hereby certify as follows:

1. I am an attorney licensed in New Jersey and a member of the law firm of Pluese, Becker & Saltzman, LLC, Attorneys for Plaintiff.

2. The following is a break down of the services rendered in connection with my attendance at the return date of a Motion for Summary Judgment on December 1, 2006:

(a) Review of file in preparation for oral argument .5

(b) Attendance at hearing including all travel time 3.2

Total of 3.2 hours at \$125.00.

I hereby certify that the foregoing statements made by me are true and correct to the best of my knowledge, information and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

PLUESE, BECKER & SALTZMAN, LLC

DATED: December 4, 2006

By 

Sanford J. Becker, Esquire
Attorney for Plaintiff

PLUESE, BECKER & SALTZMAN, LLC

Attorneys at Law

LOG - -

292

9270

ROB SALTZMAN •
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Please reply to:
Mt. Laurel, New Jersey

October 31, 2006

OF COUNSEL:

Katz, Stein & Levine, P.C.

The Law Offices of Barbara A. Fein, P.C. •

• PA and NJ Bars

Our File #60097

RECEIVED

NOV 2 2006

ROBERT P. CONTILLO
J.S.C.

Hon. Robert P. Contillo, J.S.C.
Superior Court of New Jersey
10 Main Street
Hackensack, New Jersey 07601

RE: Wells Fargo Bank, NA as Trustee v. Sandra A. Ford et al
Docket NO. F-12259-06

Your Honor:

Please accept this reply to Defendant's late submission of a response to Plaintiff's Motion for Summary Judgment, received by this office on October 30, 2006.

The entire substance of Defendant's claims in defense of the foreclosure action, and this Motion, revolve around certain actions or inactions of the entity originating the loan at issue. None of the actions complained of implicate Wells Fargo Bank, NA as Trustee which was assigned the Mortgage on March 11, 2005 by Argent Mortgage. See Exhibit "A", Assignment of Mortgage. As Plaintiff took the Mortgage for value, in good faith, and without notice of any defense or claim against the originator or the Mortgage, Plaintiff is a holder-in-due-course. See Carnegie Bank v. Shalleck 256 N.J. Super 23 (App. Div. 1992) The Assignment of Mortgage attached hereto establishes that the Assignment was for value, and no allegation of bad faith as to the Plaintiff have realistically been made. The Defendant's assertion that Plaintiff acted in bad faith in the origination is clearly misplaced, as Plaintiff did not originate the loan, nor did it participate in the closing. All these allegations could only be directed at the originating lender and broker. Finally, there is no indication that any of Defendant's claims were raised prior to Plaintiff's obtaining the Note and Mortgage. Plaintiff would not have taken the assignment with knowledge of any of these claims. As a result, the Defendant's claims of fraud in the inception of the Mortgage cannot be asserted against this Plaintiff as a defense to the foreclosure or for affirmative relief. *Id.* For this reason alone, Defendant's claims must fail, and summary judgment be entered in Plaintiff's favor.

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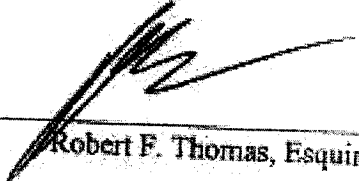
Additionally, the Defendant paid the subject Mortgage for over a year after its origination, not defaulting until April 1, 2006. It is interesting to note that no allegations of fraud were made until after Defendant defaulted and was unable to make the required monthly payments. Clearly, the Defendant has ratified the transaction and the Mortgage by her actions subsequent to the execution of the Mortgage. The Defendant clearly has taken a material act which would assume the Mortgage is valid after the alleged fraud was discovered. See In the Matter of Vandersee Corp. 173 F.Supp. 217 (U.S.D.Ct. D NJ 1959); See also Dennis v. Jones 44 N.J.Eq. 513 (E & A 1888); Martin Glennon, Inc. v. First Fidelity Bank 279 N.J. Super. 48 (App. Div. 1995). As a result of the Defendant's ratification of the Note and Mortgage, entry of Summary Judgment in Plaintiff's favor is appropriate.

By reason of the foregoing, entry of Summary Judgment in Plaintiff's favor is appropriate.

Respectfully Submitted,

PLUSE, BECKER & SALTZMAN

By



Robert F. Thomas, Esquire

cc: Sandra Ford

RECEIVED BUT NOT FILED

OCT 30 2006

CHANCERY DIVISION
GENERAL EQUITY

SUPERIOR COURT BERGEN COUNTY
FILED

October 27, 2006

OCT 30 2006

Hon. Robert P. Contillo
Superior Court of New Jersey
Bergen County Justice Center
Hackensack, New Jersey 07601



DEPUTY CLERK

Clerk, Superior Court of New Jersey
Chancery Division - Bergen County
Bergen County Justice Center
Hackensack, New Jersey 07601

Re: Wells Fargo Bank vs. Sandra Ford
Docket No: F-12259-06
Certification in Opposition to Summary Judgment
Cross Motion for Summary Judgment for Fraud, Forgery
Dismissal for Failure to Produce Documents
Hearing Date: November 3, 2006

*AS
OPPOSITION ONLY*

Dear Judge Contillo and Clerk of the Chancery Division:

I am writing to you in reference to the above matter. I am enclosing my Opposition papers that include a Cross Motion. I have attached documents that are forgeries of my signature, etc. I do not know if I have to pay a fee for my Cross Motion and also do not know if this motion can be heard at the same time or if it has to be adjourned to a new date.

A copy of these papers have been forwarded to the Plaintiff by fax and mail.

Very truly yours,

Sandra Ford

Sandra Ford

11/03/06 RJC

SUPERIOR COURT BERGEN COUNTY
FILED

OCT 30 2006

Sandra Ford, Pro Se Defendant
141 Forest Avenue
Westwood, New Jersey 07675
201-921-7025

Wells Fargo Bank, NA as Trustee,
Plaintiff,

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: BERGEN COUNTY
DEPUTY CLERK

DOCKET NO. F-12259-06-06

vs.

CROSS MOTION FOR SUMMARY JUDGMENT
ON COUNTER CLAIM AND PRODUCTION
OF MISSING DOCUMENTS

Sandra Ford, et al.

Defendants

OPPOSITION

PLEASE TAKE NOTICE THAT the undersigned, Sandra Ford, Pro Se Defendant, moves before the Hon. Robert P. Contillo, Superior Court of New Jersey, Chancery Division, Bergen County at the Bergen County Justice Center, Main Street, Hackensack, New Jersey 07601 on November 3, 2006 at a time set by the Court or on a date set by the Court for a Cross Motion to dismiss the Plaintiff's case; or for Summary Judgment, as the Court may choose; and the movant shall rely upon the attached Certification and Exhibits and shall also seek any other relief that the Court deems to be fair, equitable and just.
October 27, 2006

Respectfully submitted,
Sandra Ford
Sandra Ford, Pro Se Defendant
141 Forest Avenue
Westwood, New Jersey 07675
201-921-7025


CONSIDER AS OPPOSITION
NOT CROSS-MOTION PER
KELLY

WIC - 11/11/06 - 11/23/06

SUPERIOR COURT BERGEN COUNTY
FILED

OCT 30 2008

Sandra Ford, Pro Se Defendant
141 Forest Avenue
Westwood, New Jersey 07675
201-921-7025



Wells Fargo Bank, NA as Trustee,
Plaintiff,

SUPERIOR COURT OF ~~BERGEN COUNTY~~
CHANCERY DIVISION: BERGEN COUNTY

vs.

DOCKET NO. F-12259-06-06

CERTIFICATION IN OPPOSITION
TO MOTION FOR SUMMARY JUDGMENT
UNDER RULE 4:46-2 AND
CROSS MOTION FOR SUMMARY JUDGMENT
ON COUNTER CLAIM AND PRODUCTION
OF MISSING DOCUMENTS

Sandra Ford, et al.

Defendants

I, am Sandra Ford, the Pro Se Defendant in the above matter,
and I hereby certify that the following statements made by me are
true to the best of my knowledge, information and belief; and, I
understand that if any of these statements made by me are willfully
and/or substantially false, I may be subject to penalty of law:

1. I am the main Defendant in this case and I am familiar with
the facts, including the examples of "fraud" and "forgery". Please
compare my Signature Affidavit Exhibit A with forgeries listed below.
2. The Plaintiff maintains the position that because there is
a mortgage and note that this is not a contested case; and, there
are no grounds of dispute and therefore a summary judgment should
be granted.
3. This is a contested case due to the fraud of the lender and
its representatives and it is now supported by records that were
produced as a result of my Demand for Productions of Documents under
Rule 4:10-1.

4. It is well established that predatory lending and predatory mortgage servicing exist in mortgage transactions. The Truth in Lending Act and common law fraud protect consumers. The Plaintiff and/or its agents and predecessors violated the public trust.

5. When I applied for this loan the Plaintiff's predecessors told me that my application would be approved with no problems. I was asked information over the phone that included information about my employment and my salary. I did not sign an application until closing along with my signature affidavit. See Exhibit A.

6. There was no attorney present (as promised) at the closing. It took place in my home and the only other person present was a notary who handed me documents to sign. I questioned her about some of the documents, particularly a \$20,000.00 fee to the mortgage agent. I was told if there was a problem the loan could be cancelled.

7. I was given copies of some of the documents but no one was there to explain anything to me of substance and after the closing I saw some things that were wrong but when the mortgage company finally got back to me I was told it was too late to "rescind" and that I was stuck with the mortgage.

8. Here are the list of the documents that are forgeries:

a. Letter purported to be handwritten by me stating that I was employed at Bergen Medical Center and my monthly salary was \$9500.00 per month. Exhibit B. Attached is my W-2 Form from Bergen Medical Center for 2005. I was employed "part time" and my salary was \$9,633.35 for the entire year. See Exhibit C. That is not my signature at the bottom of Exhibit B. I have never made \$9500.00 a month at Bergen Medical Center or anywhere else. Compare signature of Exhibit A with Exhibit B.

b. Typed letter purported to explain why I was refinancing and why I had been behind in my bills. Exhibit D. Again, the signature is not mine. It is a forgery. It appears to be signed by the same person who signed Exhibit B. It seems obvious that someone was falsifying records so that I could qualify for this loan. Compare signature with Exhibit A.

c. I never authorized a payment of \$20,000.00 to the brokers as a commission; yet, a document was produced by the Plaintiff that purports to be my signature. It too is a forgery. See Exhibit E. Again, compare with Exhibit A Signature Affidavit.

9. The estimate for closing fees that was given to me prior to closing was around \$13,000.00 and the Good Faith Estimate of Closing Costs was for \$13,673.90 but on the closing statement they were \$36,259.06. See Exhibit F. I believe that such a huge difference is unconscionable and in violation of the Truth in Lending Act. This information was not given to me until the closing.

10. In addition, upon closer examination of Exhibit A, it listed my assets as \$950,000.00. That is not correct. It is either a mistake or an outright fraud on the part of the person who prepared this documents.

11. I contend that the Plaintiff knew that I was in a stressful financial situation and led me to believe that I would be able to afford this loan and that I would be getting money back from this closing to pay my outstanding bills; instead, it appears that it was a fraudulent predatory lending practice that the law intended to prevent.

12. Instead of being able to afford the loan, it simply "sucked" the equity out of my property and has caused damage to my credit and has otherwise prevented me from saving my property. I could have sold my property and taken the equity to "downsize" to another home.

13. It is for these reasons that I state the Summary Judgment should be denied. It is clear that there is fraud, forgery and and predatory lending and mortgage servicing.

14. I am asking for the Court to grant me Summary Judgment and I am asking this court to rescind the loan for multiple violations of common law fraud, statutory fraud under the Truth in Lending Act.

15. I am asking for this relief and any other relief that the Court may deem fair and equitable.

October 27, 2006

Respectfully submitted,
Sandra Ford
Sandra Ford

CERTIFICATION OF MAILING

I, Sandra Ford, certify that I mailed a copy of a Certification, Exhibits, Cover Letter and Cross Motion, to the following parties of interest:

Please, Becker & Salzman
20000 Horizon Way
Suite 900
Mount Laurel, New Jersey 08054
Attorney for the Plaintiff

Hon. Robert P. Contillo
Superior Court of New Jersey
Bergen County Justice Center
Hackensack, New Jersey 07601

Clerk, Superior Court of New Jersey
Chancery Division - Bergen County
Bergen County Justice Center
Hackensack, New Jersey 07601

October 27, 2006

Sandra Ford
Sandra Ford

EXHIBIT A

Ja69

SIGNATURE/NAME AFFIDAVIT

DATE: March 6, 2008

LOAN #: 0074594672

BORROWER: SANDRA A. FORD

THIS IS TO CERTIFY THAT MY LEGAL SIGNATURE IS AS WRITTEN AND TYPED BELOW.
(This signature must exactly match signatures on the Note and Mortgage or Deed of Trust.)

^(SF)
SANDRA A. FORD
(Print or Type Name)

^(SF)
Sandra Ford
Signature

(Print or Type Name)

Signature

(Print or Type Name)

Signature

(Print or Type Name)

Signature

(If applicable, complete the following.)

I AM ALSO KNOWN AS:

(Print or Type Name)

Signature

(Print or Type Name)

Signature

(Print or Type Name)

Signature

(Print or Type Name)

Signature

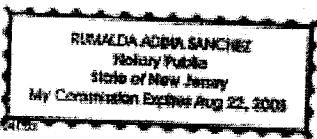
and that

and the same person,

are one

State/Commonwealth of *New Jersey*
County/Parish of *Bergen*

Subscribed and sworn (affirmed) before me *Romalda Adina Sanchez*
this *6th* day of *March*, *2008*



Romalda Adina Sanchez
Notary Public in and for
the State/Commonwealth of *New Jersey*
County/Parish of *Bergen*
My Commission Expires: *08/22/08*

NEW MORTGAGE FORM - 0908021-7201

4/05

Uniform Residential Loan Application

This application is subject to the conditions of the application with the lender's satisfaction. Applicant should complete this form as "Borrower" or "Co-Borrower" as applicable. Co-borrower information must also be provided for the appropriate box (checkbox) when the income or assets of a partner other than the "Borrower" including the borrower's spouse will be used as a basis for loan qualification or the income or assets of the borrower's spouse will not be used as a basis for loan qualification, but his or her liabilities must be considered because the borrower resides in a community property state. The security property is located in a community property state, if the borrower is relying on other property located in a community property state as a basis for repayment of the loan.

Mortgage Applied For: VA FHA Conventional Other (specify): Agency Case Number: Lender Case Number: Amount: \$403,789.00 Interest Rate: 7.400 % No. of Months: 360 Amortization Type: Fixed Rate ARM (specify):

Subject Property Address (street, city, state, & ZIP): 111 KENNETH AVENUE, WOODBRIDGE, NJ 07072 County: MIDDLESEX No. of Units: 1 Year Built: 1975

Purpose of Loan: Purchase Construction Other (specify): Refinance Construction-Permanent Other (specify): Property will be: Primary Residence Secondary Residence Investment

Complete this line if construction or construction-permanent loan. Year Est. Original Cost: \$ Amount Existing Loan: \$ Net Present Value of Lot: \$ (M) Cost of Improvements: \$ Total to + to: \$

Complete this line if this is a refinance loan. Yes No Existing Cost: \$ Amount Existing Loan: \$ Purpose of Refinance: Rate-Change Cash Out Other (specify): Describe Improvements: Trade To be made

Title will be held in what tenancy: Joint Tenants in Common Joint with Right of Survivorship Sole Other (specify):

Score of Down Payment, Satisfaction Charges under Subchapter S (if applicable): Yes No

Borrower's Name (include J. or Sr. if applicable): MARION A. FORD Co-Borrower's Name (include J. or Sr. if applicable):

Social Security Number: 136-88-4519 Home Phone (incl. area code): (201) 792-3887 Date of Birth: 08/31/1948

Present Address (street, city, state, ZIP): 111 KENNETH AVENUE, WOODBRIDGE, NJ 07072 No. Yrs. Owned: 0 Present Address (street, city, state, ZIP): No. Yrs. Owned:

111 KENNETH AVENUE, WOODBRIDGE, NJ 07072 Mailing Address, if different from Present Address:

If residing at present address for less than two years, complete the following: Former Address (street, city, state, ZIP): No. Yrs. Owned: Present Address (street, city, state, ZIP): No. Yrs. Owned:

Name & Address of Employer: Self Employed Yes, on this job Name & Address of Employer: Self Employed Yes, on this job

REVERA REGIONAL MEDICAL CENTER 370 EAST RICHWOOD AVENUE HARKINS, NJ 07022 Business Phone (incl. area code): (201) 942-6800

Position/Title/Type of Business: Self Employed Part Time Full Time Seasonal Other (specify):

Business Phone (incl. area code): (201) 942-6800

Name & Address of Employer: Self Employed Part Time Full Time Seasonal Other (specify):

Business Phone (incl. area code):

Position/Title/Type of Business: Self Employed Part Time Full Time Seasonal Other (specify):

Business Phone (incl. area code):

Continuation Sheet/Residential Loan Application

Use this continuation sheet if you need more space to complete the Residential Loan Application. Mark it for Borrower or C for Co-Borrower.

Borrower	Agency Case Number:
YEED, JACOB A. Co-Borrower:	Lender Case Number:

I/We hereby understand that this is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Borrower's Signature:	Date:	Co-Borrower's Signature:	Date:
x <i>Jacob A. Ford</i>	<i>1/3/05</i>	x	

0274894872
2-1N 2000

Ja74

--- LIABILITIES ---

Creditor Address	: PARAGON FED CREDIT UNI : 100 PARAGON DR	Acct. # Balance Payment Rem. Term	: 4850915 : \$924.00 : \$28.00 : 33
C/S/E Acct. Type In Name Of	: MORTVALE, NJ 07645 : Revolving		
Creditor Address	: CAPITAL 1 BK : PO BOX 85820	Acct. # Balance Payment Rem. Term	: 486236216061 : \$774.00 : \$23.00 : 34
C/S/E Acct. Type In Name Of	: RICHMOND, VA 23285 : Revolving		
Creditor Address	: CAPITAL 1 BK : PO BOX 85820	Acct. # Balance Payment Rem. Term	: 529115193821 : \$715.00 : \$21.00 : 35
C/S/E Acct. Type In Name Of	: RICHMOND, VA 23285 : Revolving		
Creditor Address	: CHOCASSEARS : PO BOX 6189	Acct. # Balance Payment Rem. Term	: 806050932 : \$548.00 : \$15.00 : 44
C/S/E Acct. Type In Name Of	: BIRCK FALLS, SD 57117 : Revolving		
Creditor Address	: CERTIFY : P.O. BOX 30045	Acct. # Balance Payment Rem. Term	: CHILDRENS40100236 : \$83.00 : \$15.00 : 6
C/S/E Acct. Type In Name Of	: TAMPA, FL 33630 : Charge-off		
Creditor Address	: CHAMPION MORTGAGE : 2 GATEBALL DR	Acct. # Balance Payment Rem. Term	: 200631901 : \$39,323.69 : [\$425.00] : 29
C/S/E Acct. Type In Name Of	: HANSHIPPANY, NJ 07054 : Mortgage		
Creditor Address	: G W & C : PO BOX 105677	Acct. # Balance Payment Rem. Term	: 020903023751 : \$11,446.00 : \$497.00 : 24
C/S/E Acct. Type In Name Of	: ATLANTA, GA 30340 : Lease		
Creditor Address	: HSBC/LEVITE : 90 CHRISTIANA RD	Acct. # Balance Payment Rem. Term	: 72060110084 : \$538.00 : \$16.14 : 34
C/S/E Acct. Type In Name Of	: NEW CASTLE, DE 19720 : Charge-off		
Creditor Address	: HSBC/LEVITE : 90 CHRISTIANA ROAD	Acct. # Balance Payment Rem. Term	: 7206011100841901 : [\$538.00] : [\$16.00] : 34
C/S/E Acct. Type In Name Of	: NEW CASTLE, DE 19720 : Charge-off-dup		

I hereby understand that this Federal credit institution is not an insured depository institution, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Borrower's Signature:	Date:	Co-Borrower's Signature:	Date:
x Sandra A Ford	8/6/05	x	

--- LIABILITIES ---

Creditor Address C/S/E Acct. Type In Name Of	:MRCYS/FDSB :911 DUNE DR :MASON, OH 45040 :Revolving	Acct. # Balance Payment Rem. Term	: 507332019720 : \$186.00 : \$15.00 : 13
Creditor Address C/S/E Acct. Type In Name Of	:HEWA AMERICA BANK NA :POB 17054 :WILMINGTON, DE 19884 :Charge-off	Acct. # Balance Payment Rem. Term	: 3692 : \$773.00 : \$17.00 : 46
Creditor Address C/S/E Acct. Type In Name Of	:ORANGE LAKE COUNTRY CL :8505 W IRLO RAINBOW HWY :KISSIMEE, FL 34747 :Repossession	Acct. # Balance Payment Rem. Term	: 75824 : [\$10,791.00] : [\$323.73] : 34
Creditor Address C/S/E Acct. Type In Name Of	:PBN MORTGAGE SVCS CORP :4001 LEADENHALL RD :MOUNT LAUREL, NJ 08054 :Mortgage	Acct. # Balance Payment Rem. Term	: 9540021620232 : *\$306,487.91 : [\$2,585.00] : 119
Creditor Address C/S/E Acct. Type In Name Of	:THD/CB05a :PO BOX 9714 :GRAY, TN 37615 :Charge-off	Acct. # Balance Payment Rem. Term	: 6035320090029446 : 18922.00 : [\$26.00] : 36
Creditor Address C/S/E Acct. Type In Name Of	:GNY FIDELY :1445 LANGHAM CREEK :HOUSTON, TX 77084 :Collection	Acct. # Balance Payment Rem. Term	: 2304354 : \$665.00 : \$19.95 : 36
Creditor Address C/S/E Acct. Type In Name Of	:SUNSHINE ATKINS (SATISFIED) : : :Judgement	Acct. # Balance Payment Rem. Term	: 1114572004 : 166,069.00 : [16,069.00] : 1
Creditor Address C/S/E Acct. Type In Name Of	:SUNSHINE ATKINS MINORS (DOP) : : :Judgement	Acct. # Balance Payment Rem. Term	: 00400001220 : 196,057.00 : [16,057.00] : 1
Creditor Address C/S/E Acct. Type In Name Of	:RELIANT DIRECT : : :Open	Acct. # Balance Payment Rem. Term	: : *\$20,000.00 : *\$200.00 : 34

I hereby understand that I is a personal credit purchase by use of installment, or both, to knowingly make any false statements concerning any of the above facts or applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Borrower's Signature: Sandra A Ford	Date: 3/6/95	Co-Borrower's Signature: X	Date:
--	-----------------	-------------------------------	-------

EXHIBIT B

Ja77

2/9/00

I Sandra Ford have been
employed by Bergen
Medical Center for over
3 years and my gross
monthly income is

\$9500.00

Sandra Ford

EXHIBIT C

Copy D - for Employer			
a Control number	1 Wages, tips, other compensation	2 Federal income tax withheld	
	9653.35	1549.41	
b Employer ID number 84-1460164	3 Social security wages	4 Social security tax withheld	
	9653.35	598.50	
	5 Medicare wages and tips	6 Medicare tax withheld	
	9653.35	139.98	
d Employer's name, address, and ZIP code	Bergen Regional Medical Center, L.P. 230 E. Ridgewood Avenue Paramus NJ 07652-4131		
e Employer's federal security number	138-88-4115		
f Employee's name, address, and ZIP code	SANDRA FORD 141 FOREST AVENUE WESTWOOD NJ 07675		
7 Social security tips	8 Allocated tips	9 Advance EIC payment	
10 Dependent care benefits	11 Nonqualified plans		
12a	13 Stat Emp.	Ret plan	3rd-party sick pay
12b	74 Other		
12c	DI		48.26
12d	UNHC/WF		41.02
NJ 841-460-154-0000	9653.35		342.78
15 State Employer's state I.D. #	16 State wages, tips, etc.	17 State income tax	
18 Local wages, tips, etc.	19 Local income tax	20 Locality name	

Form W-2 Wage & Tax Statement 2004 Dept. of the Treasury-IRS OMB No. 1545-0045

EXHIBIT D

To Whom It May Concern:

February 9, 2005

The reason I have had credit inquiries is because, I was trying to refinance our home, so different lenders checked my credit report resulting inquiries.

The reason that I had some late payments last year was because I had an emergency situation and I needed money to take care of the situation, and my bills were overlooked, but every thing is going good and my life is back in order.

I am using this cash out to pay some bills and do some home improvements and get a fresh start.

Sincerely,

Samira Ford

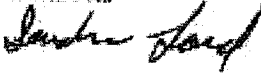


EXHIBIT E

Ja83

Mortgage Broker Fee Agreement

In the following: "I" or "me" = applicant; "You" = mortgage broker

Mortgage Broker Service. You are duly authorized and prepared to assist me in arranging mortgage financing for my home, and you agree to provide such assistance, as set forth below.

Amount of Broker Compensation. I understand that, as compensation for the goods, services and facilities you provide, your total mortgage broker compensation from all sources will not exceed:

\$ 1715

and/or (specify which)

 point(s) (one point equals 1 percent of the original principal balance of the actual mortgage loan obtained).

Method of Broker Compensation Payment. I understand that I may have a choice as to how your compensation is paid. Depending on such factors as my financial circumstances, whether I qualify for a loan under whether a loan program is available:

- I may pay your compensation for the services you provide out of my pocket directly.
- If I want to lower the amount I compensate you out of my pocket directly:
 - I may have the lender pay some or all of your compensation, in which case the lender will charge me a higher interest rate which could result in higher monthly payments; and/or
 - I may use the proceeds of the loan to pay some or all of your compensation, in which case I will be obligated to repay that amount with interest over the term of the loan.

I understand that I should discuss with you in further detail the specific options available to me to pay for your compensation, including the impact of each such option on the amount of such, I want being to the amount, my interest rate, loan amount and monthly payments.

Nature of the Relationship. [Check appropriate box] (initials) I understand that in connection with this Agreement, you are not acting as my agent. You are also not acting as the lender's agent. Although you seek to assist me in meeting my financial needs, you may not make available the products of all lenders or investors in the market or the lowest price or best terms available in the market.

(California/FHA) I understand that in connection with this Agreement and any mortgage loan you arrange for me, you are acting as my agent. You are not acting as the lender's agent. Although you seek to assist me in meeting my financial needs, you do not distribute the products of all lenders or investors in the market and cannot guarantee the lowest price or best terms available in the market.

[lender's agent] In seeking to arrange financing for my home, I understand that you are not my agent and that you are acting as the agent of the lender.

Termination. This Agreement will continue until one of the following events occurs:

- I fail to receive loan approval;
- My loan closes;
- I terminate this Agreement;
- You and I enter into a new Mortgage Broker Fee Agreement; or
- _____ days expire from the date of this Agreement without any of the foregoing occurring.

Mortgage Broker Fee and Disclosure Acknowledgment

By signing below, I have read and agree to the terms of this Agreement. The contractual obligation to comply with this Agreement rests solely with the mortgage broker and the applicant signing below. No other party shall be liable for any misrepresentation or non-performance of the mortgage broker's obligations under this Agreement, or the mortgage broker's collection of compensation in excess of the maximum compensation amount stated herein.

Signing this Agreement does not obligate me to obtain a mortgage loan through you, nor does it prevent me from shopping for mortgage loans with any other mortgage broker or lender. This Agreement does not constitute a loan commitment or otherwise indicate mortgage loan approval.

I acknowledge that you and any lender that makes a loan to me is relying upon this Agreement and upon my statement that I actually understand your role in the transaction and how you will be paid.

** Applicant [Signature] Date 3/3/05

** Applicant _____ Date _____

Mortgage Broker's Signature _____

EXHIBIT F

Ja85

PLUESE, BECKER & SALTZMAN, LLC

Attorneys at Law

ROB SALTZMAN ♦
RSaltzman@pbblaw.org

SANFORD J. BECKER
SBecker@pbblaw.org

ROBERT T. PLUESE
RPluese@pbblaw.org

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(856) 813-1700
FACSIMILE: (856) 813-1720

PENNSYLVANIA OFFICE:
425 COMMERCE DRIVE, SUITE 100
FORT WASHINGTON, PA. 19034
(215) 546-3205

Please reply to:
Mt. Laurel, New Jersey

OF COUNSEL:

Katz, Etkin & Levine, P.C.

The Law Offices of Barbara A. Fein, P.C. ♦

♦ PA and NJ Bars

Our File # 60097

September 22, 2006

RECEIVED BUT NOT FILED

SEP 29 2008

CHANCERY DIVISION
GENERAL EQUITY

2006 SEP 29 PM 12: 08

FINANCE
BERGEN COUNTY

Clerk, Superior Court, Bergen County
Chancery Division
10 Main Street
Hackensack, New Jersey 07601

RE: Wells Fargo Bank, NA as Trustee v. Sandra A. Ford, et al
Docket No. F-12259-06

Dear Sir:

Enclosed please find original and copy of Notice of Motion for Summary Judgment and Striking Answer, Brief, Certification and proposed Order in the above-referenced matter returnable November 3, 2006. Please charge our account 0051172 for the filing costs.

Thank you for your cooperation in this matter.

Very truly yours,

PLUESE, BECKER & SALTZMAN

By 
Robert F. Thomas, Esquire

RFT:dd

Enclosures

cc: Hon. Robert P. Contillo, J.S.C.
Sandra A. Ford, Pro Se

DATE FILED	09/29/06
ATCH #	009
YMENT #	0051172
EA. CK. CC MG CG	(CG)
PAYOR	
AMOUNT	30
OVER	MTN

SUPERIOR COURT BERGEN COUNTY

FILED

SEP 29 2006



DEPUTY CLERK

PLUESE, BECKER & SALTZMAN

Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel Hill, New Jersey 08054
(856) 813-1700

Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

NOTICE OF MOTION
FOR ORDER GRANTING SUMMARY
JUDGMENT AND STRIKING ANSWER

TO: Sandra A. Ford, Pro Se
141 Forest Avenue
Westwood, New Jersey 07675

PLEASE TAKE NOTICE that the undersigned will apply to the above named Court, at Superior Court of New Jersey, Bergen County at 10 Main Street, Hackensack, New Jersey 07601 at 9:00 a.m. on November 3, 2006, or as soon thereafter as counsel may be heard, for an Order granting Summary Judgment and Striking Answer of Defendant, Sandra A. Ford.

Plaintiff will rely on the accompanying Certification and brief in support of its motion.

Ja90

O/R: N

11/8/06

T@TV

M65 REC

Pursuant to R. 1:6-2 (d) the undersigned waives oral argument and consents to dispositions on the papers, unless opposition is timely filed and served, in which case Plaintiff specifically requests oral argument.

A Proposed form of Order is annexed.

PLUESE, BECKER & SALTZMAN

DATED: September 22, 2006

BY:


Robert F. Thomas, Esquire

SUPERIOR COURT BERGEN COUNTY
FILED

SEP 20 2008



DEPUTY CLERK

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

PLUESE, BECKER & SALTZMAN, LLC

Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700

Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al

Defendants

BRIEF
IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

PLUESE, BECKER & SALTZMAN

BY: 

Robert F. Thomas, Esquire
Attorney for Plaintiff
Wells Fargo Bank NA as Trustee

TABLE OF CONTENTS

	<u>Page</u>
Table of Contents	i
Table of Citations	ii
Statement of Material Facts and Procedure	1
Argument	
Point I: No Genuine Issues of Material Fact are Extant Herein.	2
Point II: Plaintiff is Entitled to Summary Judgment as a Matter of Law:	4
Point III: Plaintiff Should Not be Denied Its Equitable Remedy	6
Conclusion	8

TABLE OF CITATIONS

CASES

Brill v. Guardian Life Insurance Company of America,
142 N.J. 520 (1995) 2

Century Fed. Sav. & Loan Ass'n of Bridgeton v. Van Glahn,
144 N.J. Super. 48 (Ch. Div. 1976) 5

Davis v. Flagg, 25 N.J. Eq. 491 (E. & A. 1882) 5

Dorman v. Fisher, 31 N.J. 13 (1959) 4

Eisen v. Kostakos, 116 N.J. Super. 358 (App. Div. 1971) 4

Glorsky v. Nexler, 142 N.J. Eq. 55 (Ch. Div. 1948) 6

Guttenberg Sav. and Loan Ass'n. v. Rivera, 85 N.J. 617 (1981) 4

Industrial Land Dev. Co. v. Abram S. Post,
55 N.J. Eq. 559 (E. & A. 1897) 5

Investors Sav. & Loan Ass'n v. Ganz,
174 N.J. Super. 356 (Ch. Div. 1980) 5

Kaminski v. London Pub. Inc.,
123 N.J. Super. 112 (App. Div. 1973) 4

Matter of Community Medical Center, 623 F. 2d 864 (3rd Cir. 1980) 6

Pols v. Strand of Atlantic City, 136 N.J. Eq. 1 (Ch. Div. 1944) 6

Poydan, Inc. v. Agia Kiriaki, Inc.,
130 N.J. Super. 141, aff'd. 149 N.J. Super. 365 (Ch. Div. 1974) 5

Sanderson v. Price, 21 N.J.L. 637 (E. & A. 1846) 4

Shields v. Lozear, 34 N.J.L. 496 (E. & A. 1869) 4

COURT RULES

N.J.Ct.R. 4:46-2 2

TREATISES

4 AM. L. Property 462 4

C.J.S. Mortgages 494, N.J. Practice, Law of Mortgages 171 4

Osborne, Mortgages 325 4

Tiffany, Real Property 1512 4

STATEMENT OF MATERIAL FACTS AND PROCEDURE

1. This is a residential mortgage foreclosure action concerning premises located at 141 Forest Avenue, Borough of Westwood, Bergen County in the State of New Jersey.

2. On March 6, 2005, the Defendant(s), Sandra A. Ford, executed a Note in the amount of \$403,750.00 in favor of Argent Mortgage Company, LLC.

3. In order to secure payment of the Note, the Defendant(s) gave to Argent Mortgage Company, LLC a Mortgage on the subject property.

4. On or about April 1, 2006, the Defendant(s) defaulted on their obligation to maintain regular monthly payments pursuant to the Note and Mortgage.

5. Plaintiff elected to exercise its contractual right to accelerate the balance due under the Note and Mortgage and this action was instituted on July 14, 2006.

6. Defendant(s) has/have filed an Answer deemed to contest Plaintiff's right to foreclosure.

8. Plaintiff now moves for Summary Judgment against the Defendant(s), Sandra A. Ford, on all issues, and this brief is respectfully submitted in support thereof.

ARGUMENT

POINT I: NO GENUINE ISSUES OF MATERIAL FACT ARE EXTANT HEREIN

New Jersey Court rule 4:46-2 provides for entry of Summary Judgment where:

The pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.

See also Brill v. Guardian Life Insurance Company of America, 142 N.J. 520, 528 (1995). The Brill Court held that:

When deciding a motion for summary judgment under Rule 4:46-2, the determination whether there exists a genuine issue with respect to a material fact challenged requires the motion judge to consider whether the competent evidential materials presented, when viewed in light most favorable to non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. This assessment of the evidence is to be conducted in the same manner as that required under Rule 4:37-2(b). [142 N.J. 520, 523]

The Court further stated that:

By its plain language, Rule 4:46-2 dictates that a court should deny a summary judgment motion only when the party opposing the motion has come forward with evidence that creates a "genuine issue as to any material fact challenged." That means a non-moving party cannot defeat a motion for summary judgment by pointing to any fact in dispute. [142 N.J. 520, 529 emphasis added].

It is respectfully submitted that the Defendants have not come forward with any evidence creating a dispute as to any material fact, and rely only upon supposition and unsupported allegations. As a result, Summary Judgment should be granted in Plaintiff's favor.

**POINT II: PLAINTIFF IS ENTITLED TO SUMMARY JUDGMENT
AS A MATTER OF LAW**

SEC 233
X
blue
not
E

The right to foreclose the equity of redemption arises whenever there is a default. See Generally, 4 AM. L. Property 462; Osborne, Mortgages 325; C.J.S. Mortgages 494, N.J. Practice, Law of Mortgages 171; Tiffany, Real Property 1512; Walsh, Mortgages 290. Plaintiff now supplies proof of the amount due in the Certification of Plaintiff's Representative annexed hereto as Exhibit, "E". It has long been well settled in this State that upon and after default, the Lender is entitled to possession of the mortgaged premises. Guttenberg Sav. and Loan Ass'n. v. Rivera, 85 N.J. 617 (1981) citing Dorman v. Fisher, 31 N.J. 13 (1959); Shields v. Lozear, 34 N.J.L. 496 (E. & A. 1869); Sanderson v. Price 21 N.J.L. 637 (E. & A. 1846). Accordingly, Plaintiff's right to possession accrued on May 1, 2006, as set forth in the Complaint herein. A default in the payment of principal or interest is ipso facto an impairment of security and a violation of the principal condition of the mortgage conveyance. Kaminski v. London Pub. Inc., 123 N.J. Super. 112 (App. Div. 1973).

Generally, a provision in a mortgage granting the Lender the option to accelerate the maturity of the mortgage upon default in a payment of principal, interest, taxes or insurance is a proper contractual stipulation and the Lender has the right to insist upon strict observance of such a stipulation, unless the default can be attributed to its conduct. Kaminski, supra., citing Eisen v. Kostakos, 116 N.J. Super. 358 (App. Div. 1971) (lender not required to accept payments of overdue principal). Where an acceleration clause is express and certain in its terms, such a clause requiring payment of the entire

balance due on the mortgage upon default in performance of any covenant or condition therein is a legitimate contractual obligation for credit on condition and not a penalty or forfeiture clause. Investors Sav. & Loan Ass'n. v. Ganz, 174 N.J. Super. 356 (Ch. Div. 1980); Poydan, Inc. v. Agia Kiriaki, Inc., 130 N.J. Super. 141, Aff'd. 149 N.J. Super. 365 (Ch. Div. 1974) (acceleration by reason of Borrower's failure to perform terms of contract not a penalty or forfeiture disfavored in Law or Equity).

The mere failure to exercise an option to accelerate and foreclose for a period of time is insufficient to constitute a waiver of Lender's right to foreclosure. Industrial Land Dev. Co. v. Abram S. Post, 55 N.J. Eq. 559 (E. & A. 1897.)

The motive for invoking acceleration is irrelevant. Century Fed. Sav. & Loan Ass'n of Bridgeton v. Van Glahn, 144 N.J. Super. 48 (Ch. Div. 1976). Similarly the motive of the Plaintiff in foreclosing is immaterial. Davis v. Flagg, 35 N.J. Eq. 491 (E. & A. 1882).

As a result, Plaintiff is entitled to the entry of Judgment as a matter of law.

POINT III: PLAINTIFF SHOULD NOT BE DENIED ITS EQUITABLE REMEDY

Defendants have failed to assert any viable defense to Plaintiff's foreclosure action. Defendants have been in default since April 1, 2006. Nothing has been produced by Defendants to contest the Certification of Plaintiff's Representative annexed hereto as Exhibit "E".

A mortgage and note/bond constitute a contract between the parties thereto, and a Court of Equity may not grant relief where a default arises by reason of the fault of one of parties, unless the other party has, by its conduct, induced the default. Pols v. Strand of Atlantic City, 136 N.J. Eq. 1 (Ch. Div. 1944). In the instant action, there has been no proof that Movant/Lender has caused, created or induced Defendant/Borrowers' default. The contractual rights of the Lender are not less entitled to recognition and protection in Equity than those of the Borrower. Glorsky v. Wexler, 142 N.J. Eq. 55 (Ch. Div. 1948). The mortgage is clear and unambiguous and this Court should not make a different contract from that to which the parties have agreed. Matter of Community Medical Center, 623 F. 2d 864 (3rd Cir.) 1980).

It would be contrary to the letter and spirit of the law and principles of equity to restrict the Movant/Lender from enforcing the rights which inure to it under the said contract. Significantly, the Lender is also restricted by the terms and provisions of the mortgage instrument and is obligated to continue its contractual obligations for the length of the mortgage, which in most cases may be 30 years, as long as the Borrower continues to perform its obligations

thereunder. While it may be advantageous for the Lender to invest money in other more attractive loans, it is not permitted to do so as long as the Borrower has not breached the contract.

Accordingly, it would be unfair and unconscionable in equity to deny enforcement of the remedies available to a Lender against a defaulting Borrower under the circumstances extant herein.

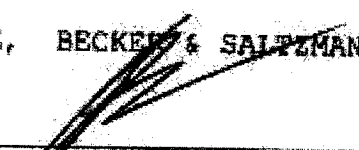
CONCLUSION

By reason of the foregoing, Plaintiff respectfully requests that its Motion for Summary Judgment be granted, the Defendants' Answer be stricken, and this matter be returned to the Foreclosure Unit to proceed as uncontested.

PLUESE, BECKER & SALTZMAN

DATED: September 22, 2006

BY:


Robert F. Thomas, Esquire
Attorneys for Plaintiff
Wells Fargo Bank NA as Trustee

SUPERIOR COURT BERGEN COUNTY
FILED

SEP 29 2006



DEPUTY CLERK

PLUESE, BECKER & SALTZMAN, LLC
Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

CERTIFICATION

Josh Boxley

, does hereby certify:

1. I *Josh Boxley*, Supervisor, of Fidelity National as attorney in fact for HomeEq Servicing Corporation as attorney in fact for the Plaintiff in the above-captioned action. I have knowledge of the amount due Plaintiff for principal, interest and/or other charges pursuant to the mortgage due upon the mortgage made by Sandra A. Ford dated March 6 2005, given to Argent Mortgage Company, LLC, to secure the sum of \$403,750.00 recorded on March 28, 2005, in Book 14231, Page 494.
2. The said Mortgage was given to secure the sum of \$403,750.00 in accordance with the terms of the Note/Bond made by Sandra A. Ford

3. The Defendant(s) is/are still in possession of the mortgage property.

4. Defendant(s), Sandra A. Ford, has defaulted under the term and conditions of the Mortgage by failing, refusing and/or neglecting to make the April 1, 2006 payment and all payments due thereafter.

5. The Answer filed by the Defendant(s), Sandra A. Ford, is a sham and interposed solely for the purpose of delay.


6. Plaintiff is still the holder and owner of the said Note/Bond and Mortgage.

7. The exhibits attached hereto, and to Plaintiff's Brief, are true copies of the documents executed by the Parties and, in the case of the Mortgage, recorded in the Union County Clerk's/Register's Office.

8. To the best of my knowledge, information and belief, none of the Defendant(s) is/are members of the military service.

I hereby certify that the foregoing statements made by me are true and correct to the best of my knowledge, information and belief; I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: Sept. 20th, 2006


Josh Borby - Supervisor

ADJUSTABLE RATE NOTE (LIBOR Index - Rate Caps)

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

March 6, 2006 Date
Orange City CA State
141 FOREST AVENUE, WESTWOOD, NJ 07875 Primary Address

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 403,750.00 (the amount is called "principal"), plus interest, to the order of the Lender. The Lender is Argent Mortgage Company, LLC.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 7.400 %. This interest rate I will pay may change in accordance with Section 4 of this Note. The interest rate described by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making payments every month. I will make my monthly payments on the first day of each month beginning on May 1, 2006. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on April 1, 2008, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date." I will make my payments at: 306 City Parkway West, Suite 200, Orange, CA 92668 or at a different place if requested by the Note Holder.

(B) Amount of my initial Monthly Payments

Each of my initial monthly payments will be in the amount of U.S. \$ 2,796.43. This amount may change.

(C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of April 2007 and on that day every sixth month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an index. The "Index" is the average of interbank offered rates for six-month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in The Wall Street Journal. The most recent index figure available as of the date 45 days before the Change Date is called the "Current Index." If at any point in time the index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding six percentage point(s) (0.0600%) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percent (0.125%). Subject to the limits stated in Section 4(D) below, the rounded interest will be my new interest rate until the next Change Date. The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date of my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

Witness my hand and signature this 6th day of March 2006.

ARGENT MORTGAGE COMPANY, LLC

(4) Limits on Interest Rate Changes
The interest rate I am required to pay at the first Change Date will not be greater than 3.40% or less than 7.00%. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than one percentage point (1.00%) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than 12.00% or less than 7.00%.

(5) Effective Date of Changes
My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(6) Notice of Changes
The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the title and telephone number of a person who will answer any questions I may have regarding the notice.

6. PREPAYMENT PRIVILEGE
I may repay all or any part of the principal balance of this Note in accordance with the terms of this Section without incurring a prepayment charge. A "prepayment" is any amount that I pay in excess of my regularly scheduled payments of principal and interest that the Lender will apply to reduce the outstanding principal balance on this Note in accordance with this Section.

(A) Application of Funds
I agree that when I indicate in writing that I am making a prepayment, the Lender shall apply funds I receive in accordance with the order of application of payments set forth in Section 2 of the Security Instrument.

(B) Prepayment Penalties
If I make a prepayment of an amount less than the amount needed to completely repay all amounts due under this Note and Security Instrument, my regularly scheduled payments of principal and interest will not change as a result.

8. LOAN CHARGES
If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the amount or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then (i) any such loan charges shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal amount under this Note or by making a direct payment to me. If a refund reduces the principal, the reduction will be treated as a partial prepayment.

7. BORROWER'S FAILURE TO PAY ALL OWED
(A) Late Charges for Overdue Payments
If the Note Holder has not received the full amount of any monthly payment by the end of fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 0.50% of my overdue payment of principal and interest. I will pay the late charge promptly but not later than the next business day.

(B) Default
If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default
If I am in default, the Note Holder may send me a written notice telling me that I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. The date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(D) No Waiver by Note Holder
Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses
If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorney's fees.

9. GIVING OF NOTICES
Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address shown or at a different address if I give the Note Holder a notice of my different address. Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given notice of that different address.

8. OBLIGATIONS OF PARTIES UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or assignor of this Note is also obligated to do these things. Any person who takes over these obligations, including the assignor of a guarantor, surety or assignor of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of government and notice of default. "Government" means the right to require the Note Holder to demand payment of amounts due. "Notice of Default" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. UNIFORM SECURED NOTE

This Note is a secured instrument with limited variations in some jurisdictions. In addition, to the protections given in the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument") dated the same as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises that I make in this Note. The Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without the Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument. Lender also shall not exercise this option if (A) Borrower causes to be submitted to Lender information required by Lender to exercise the intended transferee as if a sale were being made to the transferee; and (B) Lender reasonably determines that Lender's security will not be impaired by the loan assignment and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition of Lender's consent to the loan description. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in this Note and in this Security Instrument. Borrower will continue to be obligated under this Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises its option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered in which the Borrower would pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may exercise any remedies permitted by this Security Instrument without further notice or demand on Borrower.

Oral agreements, promises or commitments to lend money, extend credit, or finance (from whatever equipment of a debt, including promises to extend, modify, renew or waive such debt, are not enforceable. This written agreement contains all the terms the Borrower(s) and the Lender have agreed to. Any subsequent agreement between us regarding this Note or the instrument which secures this Note, must be in a signed writing to be legally enforceable.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED

Landra A. Ford 8/6/05 (2005)
Borrower LANDRA A. FORD _____ (Seal)
Borrower _____ (Seal)

Lender _____ (Seal)
Lender _____ (Seal)

Prepared by and Formed as
The Trust
2011 South St., Suite 201
Covington, LA 70008
JAN 2011

Prepared by: Argent Mortgage Company, LLC

10101
The City of New Orleans
New Orleans, LA 70112

10101
10101
10101

MORTGAGE

DEFINITIONS

Each and all multiple sections of this document are defined herein and also hereby are defined as Sections 1, 11, 15, 18, 20 and 21. Certain other sections of this document are also defined as follows:

- (A) "Security Instruments" means the documents, which include but are not limited to, the documents, which are defined in this document.
- (B) "Trustee" is defined as...

Reference to the mortgage under the Security Instruments, the "Mortgage" is Argent Mortgage Company, LLC.

Argent is a Special Purpose Vehicle Company organized and existing under the laws of the State of Louisiana.

ARGENT MORTGAGE COMPANY, LLC

10101

June 2011 (01)

10101

01/11/2011 10:11:11

10101

10101

10101

25 "Provision to Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note under the Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument remains in full force and effect in the event of any transfer of the Property, and the provisions of this Security Instrument shall apply to the Property whether or not the Borrower has transferred the Property to another party. The Borrower shall remain liable for the performance of the obligations under the Note and this Security Instrument, whether or not the Borrower has transferred the Property to another party. The Borrower shall remain liable for the performance of the obligations under the Note and this Security Instrument, whether or not the Borrower has transferred the Property to another party.

Security Instrument Number: **2008-001 - 1st** which already has the address of
144 Street **WALDEN** (City)
MARTINE (City)
1501-1502 Street **STANFORD** (City)
("Property Address")

TOGETHER WITH all the improvements now or hereafter erected on the property, and all fixtures, appliances, and fixtures now or hereafter a part of the property, all requirements and conditions that may be required by the Security Instrument. All of the foregoing is referred to as the "Property".

RECIPIENT'S COVENANTS: Borrower is hereby bound to the extent herein provided and for the term of years and during the term of the Property is unincumbered, except for encumbrances of record. Borrower, successors and heirs shall defend the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT constitutes evidence of the indebtedness and shall remain in full force and effect until the indebtedness is satisfied by the payment of the principal and interest thereon.

APPROVED: **WALDEN**, Borrower and Lender success and agent in interest.

1. Payment of Principal, Interest, Finance Charge, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay when due the Finance Charge pursuant to Section 3. Payment due under the Note and this Security Instrument shall be made in U.S. dollars. However, if any check or other instrument tendered by Lender as payment under the Note is the

WALDEN - 1501

1501-1502 Street **STANFORD** 94304-5082

8142314994

If any such agreement will not affect the right hereunder, it may, with respect to the Mortgage, be subject to the Mortgagee's power of sale in 1933 or any other law. This right may include the right to receive certain payments, to require and enforce satisfaction of the Mortgage, to have the Mortgage instrument amended, reissued, renewed, extended, or to do any other thing which the Mortgagee may lawfully do in the exercise of its powers.

In the event of foreclosure, the Mortgagee's power of sale shall be subject to the provisions of the Mortgage instrument and to the provisions of any law which may be applicable to the exercise of such power.

If the Property is mortgaged, the Mortgagee's power of sale shall be subject to the provisions of the Mortgage instrument and to the provisions of any law which may be applicable to the exercise of such power. If the Mortgagee is not the holder of the Mortgage, the Mortgagee's power of sale shall be subject to the provisions of the Mortgage instrument and to the provisions of any law which may be applicable to the exercise of such power. If the Mortgagee is not the holder of the Mortgage, the Mortgagee's power of sale shall be subject to the provisions of the Mortgage instrument and to the provisions of any law which may be applicable to the exercise of such power.

In the event of a sale by the Mortgagee, the Mortgagee's power of sale shall be subject to the provisions of the Mortgage instrument and to the provisions of any law which may be applicable to the exercise of such power.

In the event of a sale by the Mortgagee, the Mortgagee's power of sale shall be subject to the provisions of the Mortgage instrument and to the provisions of any law which may be applicable to the exercise of such power.

In the event of a sale by the Mortgagee, the Mortgagee's power of sale shall be subject to the provisions of the Mortgage instrument and to the provisions of any law which may be applicable to the exercise of such power.

If the Property is mortgaged by the Mortgagee, or if it is mortgaged by the Mortgagee, the Mortgagee's power of sale shall be subject to the provisions of the Mortgage instrument and to the provisions of any law which may be applicable to the exercise of such power.

The Mortgagee shall be in default if any notice or proceeding, whether or not commenced, is begun after the date of the Mortgage instrument, or if any notice or proceeding, whether or not commenced, is begun after the date of the Mortgage instrument, or if any notice or proceeding, whether or not commenced, is begun after the date of the Mortgage instrument.

All provisions of the Mortgage instrument shall be subject to the provisions of any law which may be applicable to the exercise of such power.

REGISTERED COPY

RECORDED IN THE OFFICE OF THE COUNTY CLERK OF THE COUNTY OF LOS ANGELES, CALIFORNIA, ON 10/15/33 AT 10:15 AM.

1122314502

14. Governing Law, Arbitration, Choice of Jurisdiction. This Security Agreement shall be governed by the laws of the State of New York and the jurisdiction of the courts of the State of New York shall be exclusive. The parties hereby irrevocably and exclusively agree to submit to the jurisdiction of the courts of the State of New York and to the arbitration of the American Arbitration Association in New York, New York, for the resolution of any dispute arising out of or in connection with this Security Agreement. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association. The arbitration shall be confidential and the parties shall keep confidential all information relating to the arbitration.

15. Assignment. This Security Agreement shall be assignable by the Lender and the Borrower. The Borrower shall be deemed to have assigned all its rights and interests in this Security Agreement to the Lender upon the date of the first payment made by the Borrower to the Lender under this Security Agreement.

16. Counterparty Risk. The Lender shall be deemed to have accepted the creditworthiness of the Borrower and the Borrower shall be deemed to have accepted the creditworthiness of the Lender. The Lender shall not be liable for any loss or damage suffered by the Borrower as a result of the creditworthiness of the Lender or the creditworthiness of the Borrower.

17. Entire Agreement. This Security Agreement, together with the promissory note referred to in Article I hereof, shall constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all other agreements, understandings, and negotiations between the parties with respect to the subject matter hereof.

18. Counterparty Risk. The Lender shall be deemed to have accepted the creditworthiness of the Borrower and the Borrower shall be deemed to have accepted the creditworthiness of the Lender. The Lender shall not be liable for any loss or damage suffered by the Borrower as a result of the creditworthiness of the Lender or the creditworthiness of the Borrower.

19. Counterparty Risk. The Lender shall be deemed to have accepted the creditworthiness of the Borrower and the Borrower shall be deemed to have accepted the creditworthiness of the Lender. The Lender shall not be liable for any loss or damage suffered by the Borrower as a result of the creditworthiness of the Lender or the creditworthiness of the Borrower.

20. Counterparty Risk. The Lender shall be deemed to have accepted the creditworthiness of the Borrower and the Borrower shall be deemed to have accepted the creditworthiness of the Lender. The Lender shall not be liable for any loss or damage suffered by the Borrower as a result of the creditworthiness of the Lender or the creditworthiness of the Borrower.

AMERICAN ARBITRATION ASSOCIATION

Case No. 1210472888 2/19/21 Form 2017-2021

EM1723176584

BY SIGNING BELOW, Receiver accepts and agrees to the terms and conditions specified in the Security Agreement and H.W. Bill presented by Receiver and attached with it.

Signed, read and delivered in the presence of:

_____ Wardan H. Brown, Jr. _____
Receiver

_____ (Self)
Receiver

_____ (Self)
Receiver

_____ (Self)
Receiver

_____ (Self)
Receiver

007404000 - 0001
FORM NO. 02/04/2004 IS. 00/10/04

007404000

STATE OF NEW JERSEY
County of BERGEN
Case No. 06-12 Dkt. No. March 2005
Subscribed, personally appeared Sandra Ford

I, the undersigned, being the petitioner named in and who executed the within instrument, do hereby acknowledge that I have signed, sealed and delivered the same to the proper authorities and stand in the presence of the undersigned.


Sandra Ford
Residence Address: _____
Residence Telephone: _____
By _____
Residence Address: _____



RECORDED - 2005
INDEXED - 2005
MAY 10 2005

001423175508

ADJUSTABLE RATE BLENDED

Blended Rate Mortgage (As Published in the Trust Deed Secured by this Note)

THE ADJUSTABLE RATE BLENDED is made this day of March, 2006, and is incorporated into and shall be deemed to be part of the mortgage, dated as above, and shall be read as "Schedule B" of the mortgage given by the undersigned (the "Borrower") to the lender (the "Lender") of the same date and containing the property described in the deed referred to and recited in.

181 HUNTER AVENUE, WESTWOOD, NJ 07093
Borrower

THE NOTE CONTAINS PROVISIONS RELATING TO THE BLENDED RATE AND THE MONTHLY PAYMENTS. THE NOTE LIMITS THE AMOUNT THE BORROWER'S MONTHLY PAYMENTS AS ONE TIME AND THE MAXIMUM PERCENT THE BORROWER MUST PAY.

ADDITIONAL PROVISIONS. In addition to the provisions and agreements made in the Security Instrument, Schedule and Exhibit hereto contained and upon as follows:

1. INTEREST RATE AND MONTHLY PAYMENT CHANGES
The Note provides for an initial interest rate of 3.000%. The Note provides for changes in the interest rate and the monthly payments, as follows:

2. INTEREST RATE AND MONTHLY PAYMENT CHANGES
[a] Change Date
The Borrower will pay any change on the first day of April, 2007, and on any day every year, except however, each date on which any interest rate change is called a "Change Date."

[b] The Index
Depending upon the day Change Date, any interest rate will be based on an index. The "Index" is the average of interest offered rates for the month of 12, then compounded annually in the London market ("LIBOR"), as published in the last business day. The most recent date upon available as of the date of any Change Date is called the "Current Index."

If the index is no longer available, the Note holder will choose a new index which is based upon comparable information. The Note holder will give the notice of the index.

Loan Number: 06080421-0000

DATE: 03/01/06

PAGE: 1 OF 2

06080421-0000-0001

MIRZAJANSON

(C) Calculation of Charges
Before each Change Date, the Rate Maker will calculate my new interest rate by adding the percentage points (0.00% to 0.00%) to the Current Rate. The Rate Maker will then round the result of this addition to the nearest percentage point (0.00%). Except in the event stated in Section 4(B)(2) below, the rounded amount will be my new interest rate and the next Change Date.

The Rate Maker will then determine the amount of the monthly payment that would be sufficient to repay the amount advanced to me if my interest rate were the Change Date rate for the monthly term of my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes
The interest rate I am required to pay at the first Change Date will not be greater than 1.00% or less than 1.00%. However, my interest rate will never be increased or decreased at any single Change Date by more than 0.00% (0.00%) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than 0.00% or less than 1.00%.

(E) Effective Date of Payment
My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date and the amount of my monthly payment changes again.

(F) Notice of Changes
The Rate Maker will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given me and also the file and telephone number of a person who can answer any questions I may have regarding the notice.

8. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN SOMEONE'S

Section 14 of the Security Agreement is amended to read as follows:

Transfer of the Property or a Beneficial Interest in Someone. As used in this Section 14, "transfer of the Property" means any legal or beneficial interest in the Property, including but not limited to, direct beneficial interests established by a trust for the same, interests in joint tenancy with right of survivorship, or interests in a partnership, the benefit of which is the benefit of one or more persons or a future child or a descendant.

Loan Number: 00040-0072-0001

SP

00040-0072

Page 2 of 2

00040-0072-0001

00123106510

Ja124

If all or any part of the Property or any interest in the Property is sold or transferred for a purpose other than a natural person and a limited liability company, it shall be deemed that the Seller has not complied with the requirements of the Act and the Seller shall be liable for the amount of the tax imposed by the Act on the transfer of the Property, whether or not the Seller is a resident of the United States, and the Seller shall be liable for the amount of the tax imposed by the Act on the transfer of the Property, whether or not the Seller is a resident of the United States, and the Seller shall be liable for the amount of the tax imposed by the Act on the transfer of the Property, whether or not the Seller is a resident of the United States.

In the event provided by Article 10 of the Act, the Seller shall be liable for the amount of the tax imposed by the Act on the transfer of the Property, whether or not the Seller is a resident of the United States, and the Seller shall be liable for the amount of the tax imposed by the Act on the transfer of the Property, whether or not the Seller is a resident of the United States, and the Seller shall be liable for the amount of the tax imposed by the Act on the transfer of the Property, whether or not the Seller is a resident of the United States.

BY SIGNING BELOW, Seller hereby accepts and agrees to the terms and conditions contained in the foregoing Rule 10(b).

 _____
Name: _____ Title: _____

SAAS Number: 004889022 - 0000

Page 1 of 1

W142317511

EXHIBIT 'A'

TAX MAP REFERENCE: D.L.S.A. 1611 3 THE MUNICIPALITY OF BOROUGH OF WESTWOOD, IN THE COUNTY OF BERGEN, BLOCK NO. 50, LOT 102 A

ALL THAT CERTAIN TRACT OR PARCELS OF LAND SITUATE, LYING AND BEING IN THE BOROUGH OF WESTWOOD, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

RETURNED AND DESIGNATED AS LOT 102 IN BLOCK 50 ON A CERTAIN MAP ENTITLED "TRAIL PLAY FOREST (LARGESIDE) BOROUGH OF WESTWOOD, BERGEN COUNTY, N.J." DATED NOVEMBER 1977 WHICH SAID MAP WAS FILED IN THE BERGEN COUNTY CLERK'S OFFICE ON APRIL 8, 1974 AS MAP NO. 7377.

SAID PARCELS ARE FURTHER DESCRIBED IN ACCORDANCE WITH A SURVEY MADE BY GEORGE S. BRYANT, ROBERT F. VICARI, L.S., DATED MARCH 11, 1980, AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERN SHORELINE OF FOREST AVENUE SAID POINT BEING DISTANT SOUTHERLY ALONG THE SAME 40.00 FEET FROM ITS INTERSECTION WITH THE SOUTHERLY LINE OF LARGESIDE NOW OR FORMERLY OF E. BARNETT AND FROM ITS INTERSECTION WITH THE SOUTHERLY LINE OF FILED MAP NO. 7377 AND FROM SAID POINT OF BEGINNING RUNNING THENCE:

- 1) NORTHERLY BEARING 43 MINUTES 48 SECONDS EAST 146.00 FEET TO A POINT, THENCE
- 2) SOUTHERLY BEARING 34 MINUTES 58 SECONDS EAST 75.00 FEET TO A POINT, THENCE
- 3) SOUTH 88 DEGREES 41 MINUTES 16 SECONDS WEST 129.98 FEET TO A POINT IN THE SAID EASTERN SHORELINE OF FOREST AVENUE, THENCE
- 4) ALONG THE SAME ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 282.29 FEET AN ARC DISTANCE OF 53.84 FEET TO A POINT, THENCE
- 5) STILL ALONG THE SAME ON A CURVE ON NORTHERLY BEARING 44 MINUTES 28 SECONDS WEST 25.88 FEET TO THE POINT OF BEGINNING

Land Description: All the aforesaid property situated in the county of BERGEN, and State of NEW JERSEY, being described as follows: and being more fully described by a deed dated 09/11/1980, and recorded 02/12/1981, among the land records of the county and state as set forth above, in Book 1627, page 200 Address: 141 FOREST AVE WESTWOOD.

APN: Block 50A, Lot 3
TS Code Number: 18-000123-1

0142316512

END OF DOCUMENT

SUPERIOR COURT BERGEN COUNTY
FILED

SEP 28 2006



DEPUTY CLERK

PLUESE, BECKER & SALTZMAN

Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700

Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al
Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06
CIVIL ACTION

PROOF OF MAILING

On September 22, 2006, I, Dianne E. Dillon, Paralegal of the law firm of Pluese, Becker & Saltzman, mailed to the following defendant(s):


Sandra A. Ford
141 Forest Avenue
Westwood, New Jersey 07675

by regular and certified mail the following:

NOTICE OF MOTION FOR ORDER GRANTING SUMMARY JUDGMENT
BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT
CERTIFICATION IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT
PROPOSED FORM OF ORDER GRANTING SUMMARY JUDGMENT

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

DATED: September 22, 2005


Dianne E. Dillon, Paralegal to
Robert F. Thomas, Esq.

Ja127

SUPERIOR COURT BERGEN COUNTY
FILED

SEP 29 2006



DEPUTY CLERK

PLUESE, BECKER & SALTZMAN, LLC
Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al,

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

ANSWER TO COUNTERCLAIM

Plaintiff, Wells Fargo Bank, NA as Trustee, by way of Answer to
Defendant's Counterclaim says:

1. Denied.
2. The allegations of this Paragraph constitute conclusions of law to which no responsive pleading is required. In the event it is determined that a responsive pleading is required, the allegations of this Paragraph are denied.
3. The allegations of this Paragraph constitute conclusions of law to which no responsive pleading is required. In the event it is

WFL CIVIL No: 11/03/06

determined that a responsive pleading is required, the allegations of this Paragraph are denied.

4. The allegations of this Paragraph constitute conclusions of law to which no responsive pleading is required. In the event it is determined that a responsive pleading is required, the allegations of this Paragraph are denied.

5. The allegations of this Paragraph constitute conclusions of law to which no responsive pleading is required. In the event it is determined that a responsive pleading is required, the allegations of this Paragraph are denied.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

WHEREFORE, Plaintiff demands that the Counterclaim in this matter be dismissed.

AFFIRMATIVE DEFENSES

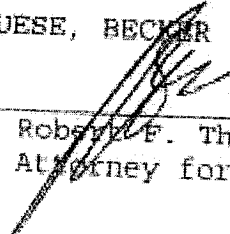
1. The Defendant's claims are barred by the Doctrine of Ratification, as she tendered payments pursuant to the Note and Mortgage for over one year.

2. Defendant's claims are barred by the Doctrine of Laches and Estoppel.

3. Defendant's claims are barred by the Doctrine of Waiver.

PLUESE, BECKER & SALTZMAN

By


Robert F. Thomas, Esquire
Attorney for Plaintiff

010000

CONTESTED
OFFICE OF FORECLOSURE

AUG 24 2006

SUPERIOR COURT OF N.J.
PAID

Sandra Ford
141 Forest Avenue
Westwood, New Jersey 07675
Pro Se Defendant

AUG 25 2006

[Signature]
ACTING CLERK

GENERAL EQUITY UNIT

Wells Fargo Bank, NA as Trustee,
Plaintiff,

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: BERGEN COUNTY

DOCKET NO. F-12259-06-06

vs.

ANSWER, COUNTERCLAIM,
DEFENSES

Sandra Ford, et al.

Defendants

I am Sandra Ford, a Defendant in this case, I am acting in a Pro Se for the moment for the purpose of this Answer, Counterclaim and Defenses. I do not know the Plaintiff. To the best of my knowledge, information and belief, the Plaintiff is not the holder of the note or mortgage, and, although I have received communications from the Plaintiff about this loan, I have been given several different names of companies and/or agents that are supposedly related to this loan, but, the Plaintiff was not the "entity" that took my original loan application and I was charged fees and costs that I have been told were not proper and there is no mention of this in the Complaint or Amended Complaint. There is some mistake or fraud or other gross misrepresentations in this Complaint about what is being said about this transaction it is proof that there is negligence and mortgage lending fraud and mortgage servicing fraud on the part of the original lender and agent and its successors in interest.

Therefore, I question the legitimacy of the Plaintiff to even bring this claim. The New Jersey Supreme Court has said that "The judicial branch has an overarching constitutional responsibility to

ENTERED ON ACMS

guarantee the proper administration of justice, N.J. Const. (1947), Art. VI; *Winberry v. Salisbury*, 5 N.J. 240, (1950). The mortgage has no efficacy if unaccompanied by a debt or obligation. Without the manifestation of debt (the note) the lien (mortgage) is a nullity. 54A Am Jur 2d Mortgages § 61 Necessity of Valid Obligation.

The mortgage can not be separated from the note. That is exactly what seems to have happened in the claims made by the Plaintiff and the changes from the Complaint to the Amended Complaint demonstrate that the Plaintiff had no idea what it was claiming at first and I have proof that the amount it claims I owe on a monthly basis is different what I was told in my Truth in Lending Statement. Since the Plaintiff has not produced the note or mortgage and claims it received an assignment of a mortgage, it should produce all of these documents.

The Plaintiff first says that I executed a note and mortgage to it for \$403,750.00 at 7.4% and a payment of \$2,795.49 for interest and principal and taxes and insurance premiums; and then, without any explanation it says that I executed a mortgage to Argent Mortgage Company and my payments are \$3,925.01. How could there be such a big difference. Any alleged transfer of note by separate and independent writing, without delivery of note, does not authorize alleged assignee to sue on note when he did not have possession of note of assignment when suit was instituted. *Dolin v Darnell*, 115 N.J.L. 508, (1935). Since no documents were produced with the Complaint, the Court must assume that the Plaintiff has no standing. The statements of the Plaintiff are nothing more than ipse dixit.

I say that the following is the truth to the best of my knowledge, information and belief and I understand that if any of the statements made by me are willfully false, I may be subject to penalty.

I am a Pro Se Defendant and I request that if my Answer or any other pleading is deficient in any way that this Court give me instructions in accordance with the leading New Jersey, Federal and U.S. Supreme Court cases that deal with Pro Se litigants. I am not trained or schooled in the law but it is also my understanding that said treatment includes guidance and consideration from the Court when my pleadings might be inartfully drawn, keeping in mind that I am not a lawyer. See *Platsky v. C.I.A.*, 953 F.2d 26, 28 (2d.Cir.1991), in which the Court held, "Pro se parties are often unfamiliar with the formalities of pleading requirements. Recognizing this, the Court has instructed all Courts to construe Pro Se pleadings liberally and to apply a more flexible standard in determining the sufficiency of a Pro Se pleading than they would be reviewing a pleading submitted by counsel." See *Haines v. Kerner*, 404 U.S. at 521, *Conley v. Gibson*, 355 U.S. 41 45-46, (1957) and *Elliot v. Bronson*, 872 F.2d 20, 21 (2d.Cir.1989). These cases ensure that claims of Pro Se litigants are given "fair and meaningful consideration" even if their pleadings are not artfully pleaded. This information is available from Pro Se forms and the judiciary website.

By way of Answer to the Complaint, I have no knowledge about the corporate status of the Plaintiff, nor any of its alleged predecessors and/or successors, if any, nor do I have any knowledge about the actual

legal status or standing of the Plaintiff to bring this claim and I leave the Plaintiff to its proofs; and, I have no knowledge of the relationship of the Plaintiff to any other party. I question the validity of the mortgage, the standing of the Plaintiff to bring this action, and, I claim that the Plaintiff and/or its agents and/or its predecessors failed to give me a Notice of Intention to foreclose as is required under the Fair Foreclosure Act and the Fair Debt Collection Practices Act. This information is required and can be found in the Ad Hoc Committee Report to the Chancery Division and the case of G.E. Capital Mortgage Services, Inc. v. Weisman, 339 N.J. Super 590 (Ch 2000).

1. As to the First Paragraph of the First Count of the Complaint, I deny that knowingly executed any document that is allegedly attributed to the Plaintiff or any assignor or predecessor of the Plaintiff under the terms as set forth in the Complaint. Plaintiff did not produce any documents to support this claim and I demand that same be done in accordance with Rule 4:10-1.

I do not know who the Plaintiff is regarding any Note or Mortgage and I deny that the Plaintiff has standing to bring this Complaint and otherwise leave the Plaintiff to its proofs. I admit that there is a mortgage and note that I signed; however, it is fraudulent to the extent that it complies with the law. I do not recall receiving the pre-closing documents, settlement documents, post-closing documents, debt collection records or proof of payments that I was promised and this leads me to believe that there is fraud and gross negligence involved in this transaction.

I was charged an illegal and exorbitant broker's fee of around \$20,000.00 and this was never put in any preclosing papers or mortgage application that I signed. I was never advised that I could refuse to sign the closing papers and I was led to believe that this was the "law" and this was the only way I could close. I say that the acts of the Plaintiff and/or its predecessor amounts to a fraud and fraud can cause a the transaction to be voided.

2. As to the Second Paragraph First Count of the Complaint, I deny the allegations of same and I repeat the same Answer as in Paragraph 1 herein and I have no knowledge about the document that the Plaintiff failed to ever provide me with a copy of said documents and it is interesting to note that the original complaint and not recording information and the amendment does but it proves that the note and mortgage were not in the name of the Plaintiff but of Argent Mortgage Company and the Plaintiff must stand in the shoes of said entity and any mistakes, fraud or misrepresentations that it made to me prior to, at or post closing. I was not given any notice of any assignment to the Plaintiff and if it was in papers that I signed it was never pointed out to me and in any event the assignment did not comply with the law.

3. As to the Third Paragraph of the First Count of the Complaint, I state again that I have no knowledge about these allegations except to say that the address of the property is correct.

4. As to the Fourth Paragraph of the First Count of the Complaint, I have no knowledge about the allegations in that the Plaintiff or its predecessors and all failed to give me a copy of the documents, and it

is interesting to note that the assignment was never recorded. Thus, the Plaintiff should produce proof.

5. As to the Fifth Paragraph of the First Count of the Complaint, I state I have no knowledge about any of these claims and I leave the Plaintiff to its proofs.

6. As to the Sixth Paragraph of the First Count of the Complaint, I state that I deny any allegations mentioned herein. I am prepared to pay but the Plaintiff will not respond to my requests regarding its fraudulent charges, increase in mortgage payment amounts. It cannot or will not respond to my questions and give me an accurate or full accounting of this transaction and has not given me a specific breakdown. I state that the Plaintiff and/or its predecessors breached the terms of the agreement by fraudulent mortgage lending and servicing practices of overcharging escrow accounts, late fees and other costs and the Plaintiff is in breach of the agreement for failure to abide by the Fair Foreclosure Act of New Jersey and in breach of federal law for failure to comply with the Real Estate Settlement Procedures Act and Truth in Lending Act.

7. As to the Seventh Paragraph of the First Count of the Complaint, I deny that my husband has anything to do with this transaction in that I was not married at the time and otherwise leave the Plaintiff to its proofs regarding same. With regard to any claim regarding the State of New Jersey, I know of no such claim and leave the Plaintiff to its proofs.

8. As to the Eighth Paragraph of the First Count of the Complaint, I have no knowledge regarding the allegations in this claim and otherwise leave the Plaintiff to its proofs. I have not defaulted. I have attempted to pay what is owed but there is a legitimate dispute and the

Plaintiff and or its agents or debt collectors have failed to respond in a timely fashion regarding the alleged arrears and have otherwise refused to take monthly payments or partial payment of arrears as a sign of good faith. I have attempted to pay and pay responsibly but all I get is a run around. I should not be held responsible for fees and costs that are the mistake of the holder of the mortgage or any of its mortgage servicing agents or representatives. Plaintiff knows that it has multiple and repeated violations and lawsuits for fraudulent lending practices and fraudulent servicing practices. It buys mortgages and or assignments without regard to the unlawful practices of its predecessors and that is its problem, not mine. The federal and state law allows one to reinstate a loan; but, I am not obligated to pay for services that are fraudulent, nor should I be responsible for other fees and costs that are the result of the Plaintiff's mistakes. I have the right to have the negligence and fraud of the Plaintiff or other participants reviewed by the Court.

9. As to the Ninth Paragraph of the First Count of the Complaint, I repeat the same answer as above as if set forth at length herein.

10. As to the Tenth Paragraph of the First Count of the Complaint, I repeat the same answer as above as if set forth at length herein.

11. As to the Eleventh Paragraph of the First Count, I say that the Plaintiff did not comply with provisions of a Notice of Intent to Foreclose by either federal or state law. It jumped the gun and filed the Complaint before the 30 days went by and otherwise prevented me from reinstating the loan and otherwise did not comply with the law.

WHEREFORE THE DEFENDANT DEMANDS JUDGMENT:

- (a) Dismissing the Complaint for failure to state a claim upon which relief can be granted;
- (b) Adjudging that the Plaintiff did not comply with the requisite federal and state laws regarding mortgages and notes;
- (c) Adjudging that the Defendant is entitled to a recoupment for overpayment of fees, charges and other related costs;
- (d) Adjudging that the Defendant is entitled to other appropriate relief that is deemed fair and equitable by the Court.

SECOND COUNT OF THE COMPLAINT

1. As to the First Paragraph of the Second Count of the Complaint, I state that there is no breach, except by the Plaintiff, or its predecessors, as the case may be, and the Plaintiff is not entitled to possession of the property in question and otherwise leaves the Plaintiff to its proofs; also, Defendant has the right to cure any defect or deficiency.

2. As to the Second Paragraph of the Second Count of the Complaint, I state that the Plaintiff, and or, its predecessors, is in breach of the terms of the bond or mortgage and that the Plaintiff is not entitled to possession of the property in questions and otherwise leaves the Plaintiff to its proofs. I state that the Plaintiff is in breach of the agreement and that the Defendant is not depriving the Plaintiff of possession of the property in question because it is not entitled to possession of same and has violated the law and may have committed a fraud.

3. As to the Third Paragraph of the Second County of the Complaint, I repeat the same as in Paragraph One and Two.

WHEREFORE THE DEFENDANT DEMANDS JUDGMENT:

- (a) Dismissing the Complaint for failure to state a claim upon which relief can be granted;
- (b) Adjudging that the Plaintiff did not comply with the requisite federal and state laws regarding mortgages and notes;
- (c) Adjudging that the Defendant is entitled to a recoupment for overpayment of fees, charges and other related costs;
- (d) Adjudging that the Defendant is entitled to other appropriate relief that is deemed fair and equitable by the Court.

MERITORIOUS DEFENSES TO PLAINTIFF'S COMPLAINT

1. Plaintiff's Complaint is barred by Plaintiff's lack of standing to bring the complaint in that it has offered no proof that it is the holder of the mortgage.
2. Plaintiff is not the holder in due course and/or Defendant denies Plaintiff is holder due course.
3. Plaintiff's Complaint is barred by lack of consideration.
4. Plaintiff's Complaint is barred by fraud in fact for Plaintiff's misrepresentations, mistake and/or false inducements or violations of state and/or federal law.
5. Plaintiff's Complaint is barred by Plaintiff's fraud in inducement.
6. Plaintiff's Complaint is barred by multiple violations of the Fair Debt Collections Practices Act (as set forth herein) and Fair Foreclosure Act of New Jersey.

7. Plaintiff's Complaint is barred by multiple violations of the Real Estate Settlement Procedures Act (as set forth herein).

8. Plaintiff's Complaint is barred by Plaintiff's breach of the agreement and/or contract and illegal and fraudulent closing charges and fees.

9. Plaintiff is barred by failure to produce the amount of the alleged debt; the accounting of any and all charges attributed to the alleged debt; and the standing to bring the claim for the alleged debt.

COUNTERCLAIM

1. Defendant states that the Plaintiff failed to comply with the Federal and State Truth in Lending Acts and Good Faith Estimate and otherwise violated the Real Estate Settlement Procedure Act, and the Fair Debt Collection Practices Act. See *Associates Home Equity Services v. Troup* 343 N.J. Super 254 (App.Div. 2001) about the true cost of the mortgage rates, interest and payments and same was concealed and never explained to me and therefore Defendant is entitled to "recompent" for damages, including fees and costs. Defendant also states that the Plaintiff did not comply with the Fair Foreclosure Act or Real Estate Settlement Procedures Act regarding assignments. See Below.

2. Under the Real Estate Settlement Procedures Act, 12 U.S.C.2604(c), Defendant was entitled to receive an estimate of charges and this was not done in violation of the law. This "good faith" estimate was to provide a "range of charges for specific settlement services" Defendant was likely to incur. Plaintiff violated said law and either was grossly negligent in failing to provide said information and otherwise misled the Defendant

with regard to the true cost of the loan.

3. Under the Real Estate Settlement Procedures Act, 12 U.S.C. 2604(d), Defendant was entitled to receive a "booklet" regarding my loan application, but no such booklet was given to me. This is in violation of the law and Plaintiff was not in compliance with same. This failure was meant to deceive the Defendant about the true cost of the loan.

4. Under the Real Estate Settlement Procedures Act, 12 U.S.C. 2605(a) Defendant was entitled to receive a disclosure if there was an "assignment, sale or transfer of loan servicing" and failed to supply same to the Defendant and this is in violation of the law. Due to the failure to comply with the law, additional fees and charges were assessed against the Defendant. Failure to comply with this act enables the Defendant to be entitled to damages, costs and fees.

5. Plaintiff did not provide a Fair Estimate or a copy of the application so that Defendant could determine whether or not the rate was fair and equitable and otherwise knew or should have known that the loan was issued as part of predatory lending scheme or practice to overcharge the Defendant closing costs without revealing to the Defendant that such practices are in violation of the Truth-In-Lending-Law, Real Estate Settlement Procedures Act, Civil Rights Act and therefore the Defendant is entitled to a recoupment defense and entitled to costs and fees. Plaintiff failed to provide HOEPA Disclosures.

6. Defendant states that the Plaintiff has a history of violations of the Fair Debt Collection Practices Act and Real Estate Settlement Procedures Act according to information that is contained on the internet

regarding predatory lending practices. I have attempted to amicably payoff the arrears. I am ready, willing and able to satisfy a legitimate and clearly defined; but, the fees and charges keep going up and up. So, it appears that a Court must intervene to resolve this dispute.

7. Plaintiff and/or its predecessors failed to provide Settlement Documents, including but not limited to the HUD-1, Truth in Lending Disclosure Statement, Note, Mortgage, Right of Recession, Closing Statement regarding errors, late payment notices, escrow statements, notices of transfer to another lender and/or mortgage servicer. See U.S. v. Fairbanks, No 3 CV -1221 and Curry v. Fairbanks, No 3 CV-10895.

8. Plaintiff has engaged in mortgage fraud or gross negligence regarding its mortgage lending practices or mortgage service practices. This is against the law and against the public policy of the State of New Jersey and these type of practices have resulted in thousands of claims being made by unsuspecting consumers like me.

9. Plaintiff failed to comply with the law regarding the Fair Foreclosure Act of New Jersey; and, Defendant has "supposedly" incurred additional fees and charges by Plaintiff's counsel by its failure to comply with the law and terms of the note and mortgage.

Wherefore, the Defendant demands judgment against the Plaintiff for fees and costs and any other relief that the court may deem appropriate and equitable.

Respectfully submitted,

Sandra Ford

Sandra Ford

August 19, 2006

Sandra Ford
141 Forest Avenue
Westwood, New Jersey 07675
Pro Se Defendant

Wells Fargo Bank, NA as Trustee,

Plaintiff,

vs.

Sandra Ford, et al

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: BERGEN COUNTY

DOCKET NO. F-12259-06

DEMAND FOR PRODUCTION OF
DOCUMENTS RULE 4:10-1

I, Sandra Ford, make a Demand for the Production of Documents under Rule 4:10-1, including but not limited to the following:

1. All papers related to the execution of the note and mortgage which is the subject matter of the Complaint including the mortgage application, and pre-closing documents, good faith estimate, HOEPA disclosures, offering circulars/brochures, all settlement/closing documents, HUD-1, closing correspondence by the plaintiff or its agents and employees, fair estimate documents, Affidavit of Title, Truth in Lending Disclosure Statement, closing statement, disbursement of funds statement, assignment of mortgage, mortgage, original note, credit report of Defendants, any and all mortgage servicing documents and records of account, and any documents required by the Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq.; or, other applicable laws.
2. Any and all notices required in accordance with the Fair Debt Collection Practices Act 15 U.S.C. 1692 and Fair Foreclosure Act of NJ.
3. The documents shall be produced on September 29, 2006 or in lieu of appearing, said documents may be sent to the address listed herein.

This Demand for Production of Documents is made in accordance with Rule 4:10-1 and objections may be made in under the rules.

Respectfully submitted,

August 19, 2006

Sandra Ford

Sandra Ford

Copy to:

Pluese, Becker & Saltzman
Attorney for Plaintiff

Ja143

CERTIFICATION OF MAILING

I, Sandra Ford, certify that I mailed a copy of an Answer, Counterclaim and Demand for Production of Documents to the following parties of interest:

Plause, Becker & Salzman
20000 Horizon Way
Suite 900
Mount Laurel, New Jersey 08054
Attorney for the Plaintiff

Clerk, Superior Court of New Jersey
Hughes Justice Complex
CN-971
Trenton, New Jersey 08625

August 19, 2006

Sandra Ford
Sandra Ford

ENTERED ON ACM

REC'D & FILED
SUPERIOR COURT
OF NEW JERSEY

JUL 24 2006

Richard J. Patis
ACTING CLERK

PLUESE, BECKER & SALTZMAN
Attorneys At Law
20000 Horizon Way
Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
Our File Number: 60097

WELLS FARGO BANK, NA AS TRUSTEE :

Plaintiff,

~~A~~ SANDRA A. FORD and ~~M~~ MR. FORD, HUSBAND OF
SANDRA A. FORD;
~~T~~ JOHN DOE AND ~~W~~ WANE DOE 1-10 (NAMES BEING
FICTITIOUS) TENANTS/OCCUPANTS;
~~S~~ STATE OF NEW JERSEY;

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12254-06

CIVIL ACTION

AMENDED COMPLAINT

Wells Fargo Bank, NA as Trustee, having its principal place of business at 1270 Northland Drive, Suite 200, Mendota Heights, MN 55120, the Plaintiff in the above-entitled cause, states the following by way of Complaint:

FIRST COUNT

1. On March 6, 2005, Sandra A. Ford executed to Argent Mortgage Company, LLC or its assignors or its predecessors, an obligation to secure the sum of \$403,750.00, payable on April 1, 2035, with the initial interest rate of 7.40% per annum, by payment of the sum of \$3,925.01 per month for interest and principal, taxes and insurance premiums.

2. To secure the payment of the aforesaid obligation, Sandra A. Ford executed and delivered to Argent Mortgage Company, LLC or its assignors or its predecessors, a Mortgage dated March 6, 2005, and thereby conveyed to Argent Mortgage Company, LLC in fee the land hereinafter described, on the express condition that such conveyance should be void if payment should be made at the time and times and in the manner described in the said obligation. The said Mortgage was duly recorded on March 28, 2005, in the office of the Bergen County Clerk, in Mortgage Book 14231, Page 494.

3. The mortgaged premises are described in Schedule A attached hereto. Also known as 141 Forest Avenue, Westwood, NJ 07675.

4. The holder of the obligation and Mortgage referred to in paragraphs 1 and 2 above assigned said obligation and Mortgage as follows:

4a. By written mesne Assignment(s) of Mortgage, the said Argent Mortgage Company, LLC assigned its mortgage and bond/note to Wells Fargo Bank, NA as Trustee which assignment(s) have not yet been recorded.

5. The obligation aforesaid contained an agreement that if any installment payment of interest and principal, taxes and insurance premiums should remain unpaid for 30 days after the same shall fall due, the whole principal sum, with all unpaid interest and any other charges, should at the option of the above-named Mortgagee, its heirs, executors, administrators, representatives or assigns, become immediately due and payable.

6. Defendants / Mortgagors have defaulted upon the obligations of the said mortgage by failing to maintain regular monthly payments thereunder and/or otherwise breaching the covenants and/or conditions thereof.

7. The following instruments appear of record which affect or may affect the premises described in paragraph 3 above, all of which instruments are subordinate to the lien of the Mortgage set forth in paragraph 2 above.

7a. Mr. Ford, husband of Sandra A. Ford, is joined herein as an additional party Defendant to this foreclosure action for any lien, claim or interest he may have in, to or against the mortgaged premises, including his courtesy and possessory interests, if any.

7b. John Doe and Jane Doe 1-10 (Names Being Fictitious) Tenants / Occupants are joined as additional party Defendants to this foreclosure action because they are occupants in possession of part of the mortgaged premises and for any lien, claim or interest they may have in, to or against the mortgaged premises. No demand for possession will be made against any occupant protected by the provisions of the New Jersey Eviction for Cause Act, N.J.S.A. 2A: 18-61.1, et seq.

7c. The State of New Jersey, is joined herein as an additional party Defendant to this foreclosure action for any lien, claim or interest the State may have in, to or against the mortgaged premises.

8. Pursuant to the terms of the obligation referred to in paragraph 1 above (the terms of which are incorporated in the Mortgage referred to in paragraph 2 above), the Obligee named in said obligation reserved the right to pay taxes or other liens affecting the premises herein described, which liens are

superior to the lien of the Mortgage referred to in paragraph 2 above and which liens, when paid by the Obligee or Assignee, together with interest thereon as provided in said obligation and Mortgage, are to be added to the amount due on the obligation and Mortgage. The Obligee may be required to pay such liens during the pendency of this action and will demand that such payments so made by said Obligee or Assignee be added to the Mortgage debt as aforesaid.

9. The Defendant named in paragraph 1 above, or the grantee or grantees, if any of said Defendant, have defaulted in making the payments to the Plaintiff herein as required by the terms of the obligation and Mortgage referred to in paragraphs 1 and 2 above, and said payments have remained unpaid for more than 30 days from the date of the said payments were due, and are still unpaid. Plaintiff, herein, by reason of said default, elected that the whole unpaid principal sum due on the aforesaid obligation and Mortgage referred to in paragraphs 1 and 2 above, with all unpaid interest and advances made thereon, shall now be due.

10. Any interest or lien on the premises described in paragraph 3 above which the Mortgagors named in paragraph 2 above or the grantee of said Mortgagors, or which subsequent encumbrancers or lienholders, if any, named in paragraph 7 above, who are the Defendants herein have or claims to have in or upon the aforesaid mortgaged premises or some part thereof are subject and subordinate to the lien of the Mortgage set forth in paragraph 2 above which Mortgage is held by the Plaintiff herein.

11. Notices were sent out in compliance with the Fair Foreclosure Act more than 31 days prior to the filing of the complaint.

WHEREFORE, the Plaintiff demands Judgment:

- (a) Fixing the amount due on the Mortgage referred to in paragraph 2 above;
- (b) Debarring and foreclosing the Defendants and each of them of all equity of redemption in and to the aforesaid lands;
- (c) Directing that Plaintiff be paid the amount due to Plaintiff as provided in the Mortgage set forth in paragraph 2 above together with interest and costs;
- (d) Adjudging that the lands described in paragraph 3 above be sold according to the law to satisfy the amount due to Plaintiff on the Mortgage set forth in paragraph 2 above;
- (e) Appointing a receiver of rents, issues and profits of the lands described in paragraph 3 above.

SECOND COUNT

1. By the terms of the Note/Bond and Mortgage referred to in paragraphs 1 and 2 of the First Count of this Complaint, the Plaintiff herein is entitled to possession of the tract of land with appurtenances as more particularly described in paragraph 3 of the First Count herein.

2. On April 1, 2006 the Plaintiff, by the terms of the Bond and Mortgage, aforesaid became entitled to possession of the premises described in paragraph 3 of the First Count of the Complaint.

3. The Defendants named in paragraph 1 and paragraph 7 of the First Count of this Complaint have or may claim to have certain rights in the premises described in paragraph 3 of the First Count of this Complaint and by reason thereof have since the date set forth in paragraph 2 above deprived the Plaintiff herein of the possession of the premises aforesaid.

WHEREFORE, the Plaintiff demands judgment against the Defendants:

- (a) for possession of said premises in favor of Plaintiff or its assignee or any purchaser at the foreclosure sale;
- (b) for damages, including mesne profits;
- (c) for costs.

BY: 
Sanford J. Becker, Esq.

DATED: July 18, 2006

I hereby certify that the matter in controversy is not the subject of any other Court proceeding or arbitration and that, to the best of our knowledge and belief, no other parties need be joined at this time, and that no other proceedings are contemplated.



Sanford J. Becker, Esq.

July 18, 2006

Notice Pursuant to the Fair Debt Collection Practices Act
To the extent the Act may apply, please be advised that:
This is an attempt to collect a debt;
Any information obtained will be used for that purpose.

Ja149

**NOTICE REQUIRED BY THE
FAIR DEBT COLLECTION
PRACTICES ACT, (the act),
15 U.S.C. SECTION 1601 AS AMENDED**

To the extent the act may apply, please be advised of the following:

1. The amount of the original debt is stated in paragraph one of the Complaint attached hereto.
2. The Plaintiff who is named in the attached Summons and Complaint is the Creditor to whom the debt is owed.
3. The debt described in the Complaint attached hereto and evidenced by the copy of the mortgage/note will be assumed to be valid by the Creditor's law firm, unless the Debtor(s), within thirty days after receipt of this notice, disputes, in writing, the validity of the debt or some portion thereof.
4. If the Debtor notifies the Creditor's law firm in writing within thirty days of the receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will obtain verification of the debt and a copy of the verification will be mailed to the Debtor by the Creditor's law firm.
5. If the Creditor who is named as Plaintiff in the attached Summons and Complaint is not the original creditor, and if the Debtor makes written request to the Creditor's law firm within thirty (30) days from the receipt of this notice, the name and address of the original Creditor will be mailed to the Debtor by the Creditor's law firm.
6. Written request should be addressed to Pluese, Becker & Saltzman, LLC, 20000 Horizon Way, Suite 900, Mt. Laurel, NJ 08054. Attention: Sanford J. Becker, Esquire.

PRELIMINARY TITLE TO FINISH

TG Order No. 10-00052348

Exhibit "A"

TAX MAP REFERENCE: (N.J.S.A. 16-13-2.1) MUNICIPALITY OF BOROUGH OF WESTWOOD, IN THE COUNTY OF BERGEN, BLOCK NO. 504, LOT NO. 3.

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE BOROUGH OF WESTWOOD, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

KNOWN AND DESIGNATED AS LOT 400 IN BLOCK 501 ON A CERTAIN MAP ENTITLED "FINAL PLAN, FOREST GARDENS, BOROUGH OF WESTWOOD, BERGEN COUNTY, NJ" DATED NOVEMBER 1973 WHICH SAID MAP WAS FILED IN THE BERGEN COUNTY REGISTER'S OFFICE ON APRIL 9, 1974 AS MAP NO. 7257.

SAID PREMISES ARE FURTHER DESCRIBED IN ACCORDANCE WITH A SURVEY MADE BY GRANTEE'S SURVEYOR, ROBERT P. VICARI, L.S., DATED MARCH 13, 2000, AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY SIDELINE OF FOREST AVENUE SAID POINT BEING INSTANT SOUTHERLY ALONG THE SAME 143.04 FEET FROM ITS INTERSECTION WITH THE SOUTHERLY LINE OF LANDS NOW OR FORMERLY OF R. ZARROW AND FROM ITS INTERSECTION WITH THE NORTHERLY LINE OF FILED MAP NO. 7257 AND FROM SAID POINT OF BEGINNING RUNNING THENCE:

- 1) NORTH 88 DEGREES 43 MINUTES 14 SECONDS EAST 130.60 FEET TO A POINT; THENCE
- 2) SOUTH 01 DEGREES 14 MINUTES 50 SECONDS EAST 75.00 FEET TO A POINT; THENCE
- 3) SOUTH 88 DEGREES 43 MINUTES 10 SECONDS WEST 129.48 FEET TO A POINT IN THE SAID EASTERLY SIDELINE OF FOREST AVENUE; THENCE
- 4) ALONG THE SAME ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 2812.79 FEET AN ARC DISTANCE OF 31.34 FEET TO A POINT; THENCE
- 5) STILL ALONG THE SAME ON A COURSE OF NORTH 88 DEGREES 14 MINUTES 50 SECONDS WEST 21.48 FEET TO THE POINT OR PLACE OF BEGINNING.

Legal Description: All that certain property situated in the county of BERGEN, and State of NEW JERSEY, being described as follows: and being more fully described in a deed dated 03/15/2000, and recorded 03/21/2000, among the land records of the county and state set forth above, in Deed Book 7257, page 749 Address: 141 FOREST AVE # WESTWOOD.

APN: Block 504- Lot 3
TG Order Number: 10-00052348

M 1473176512

END OF DOCUMENT

Schedule A
Ja151

SUPERIOR COURT
OF NEW JERSEY

JUL 14 2006

~~REGISTERED ON ACTS~~ *J. P. Kelly*
ACTING CLERK

57112
ACCOUNT CHARGED
SUPERIOR COURT OF N.J.
PAID
JUL 18 2006
GENERAL EQUITY UNIT

PLUESE, BECKER & SALTZMAN

Attorneys At Law
20000 Horizon Way
Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
Our File Number: 60097

WELLS FARGO BANK, NA AS TRUSTEE :

Plaintiff,

v.

SANDRA A. FORD and MR. FORD, HUSBAND OF
SANDRA A. FORD; JOHN DOE AND JANE DOE 1-10
(NAMES BEING FICTITIOUS) TENANTS /
OCCUPANTS; STATE OF NEW JERSEY;
/**SUB12**

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-

12259-06

CIVIL ACTION

COMPLAINT

BER-ORF

Wells Fargo Bank, NA as Trustee, having its principal place of business at 1270 Northland Drive, Suite 200, Mendota Heights, MN 55120, the Plaintiff in the above-entitled cause, states the following by way of Complaint:

FIRST COUNT

1. On March 11, 2005, Sandra A. Ford executed to Wells Fargo Bank, NA as Trustee or its assignors or its predecessors, an obligation to secure the sum of \$403,750.00, payable on March 1, 2035, with the initial interest rate of 7.40% per annum, by payment of the sum of \$2795.49 per month for interest and principal, taxes and insurance premiums.

2. To secure the payment of the aforesaid obligation, Sandra A. Ford executed and delivered to Wells Fargo Bank, NA as Trustee or its assignors or its predecessors, a Mortgage dated March 11, 2005, and thereby conveyed to Wells Fargo Bank, NA as Trustee in fee the land hereinafter described, on the express condition that such conveyance should be void if payment should be made at the time and times and in the

manner described in the said obligation. The said Mortgage was duly recorded on N/A , in the office of the Bergen County Clerk , in Mortgage Book , Page . The said Mortgage was a purchase money mortgage and was given to secure a greater portion of the purchase price.

3. The mortgaged premises are described in Schedule A attached hereto. Also known as 141 Forest Avenue, Westwood, NJ 07675.

4. The holder of the obligation and Mortgage referred to in paragraphs 1 and 2 above assigned said obligation and Mortgage as follows: n/a.

5. The obligation aforesaid contained an agreement that if any installment payment of interest and principal, taxes and insurance premiums should remain unpaid for 30 days after the same shall fall due, the whole principal sum, with all unpaid interest and any other charges, should at the option of the above-named Mortgagee, its heirs, executors, administrators, representatives or assigns, become immediately due and payable.

6. Defendants / Mortgagors have defaulted upon the obligations of the said mortgage by failing to maintain regular monthly payments thereunder and/or otherwise breaching the covenants and/or conditions thereof.

7. The following instruments appear of record which affect or may affect the premises described in paragraph 3 above, all of which instruments are subordinate to the lien of the Mortgage set forth in paragraph 2 above.

7a. Mr. Ford, husband of Sandra A. Ford , is joined herein as an additional party Defendant to this foreclosure action for any lien, claim or interest he may have in, to or against the mortgaged premises, including his courtesy and possessory interests, if any.

7b. John Doe and Jane Doe 1-10 (Names Being Fictitious) Tenants / Occupants are joined as additional party Defendants to this foreclosure action because they are occupants in possession of part of the mortgaged premises and for any lien, claim or interest they may have in, to or against the mortgaged premises. No demand for possession will be made against any occupant protected by the provisions of the New Jersey Eviction for Cause

Act, N.J.S.A. 2A: 18-61.1, et seq.

7c. The State of New Jersey, is joined herein as an additional party Defendant to this foreclosure action for any lien, claim or interest the State may have in, to or against the mortgaged premises.

8. Pursuant to the terms of the obligation referred to in paragraph 1 above (the terms of which are incorporated in the Mortgage referred to in paragraph 2 above), the Obligee named in said obligation reserved the right to pay taxes or other liens affecting the premises herein described, which liens are superior to the lien of the Mortgage referred to in paragraph 2 above and which liens, when paid by the Obligee or Assignee, together with interest thereon as provided in said obligation and Mortgage, are to be added to the amount due on the obligation and Mortgage. The Obligee may be required to pay such liens during the pendency of this action and will demand that such payments so made by said Obligee or Assignee be added to the Mortgage debt as aforesaid.

9. The Defendant named in paragraph 1 above, or the grantee or grantees, if any of said Defendant, have defaulted in making the payments to the Plaintiff herein as required by the terms of the obligation and Mortgage referred to in paragraphs 1 and 2 above, and said payments have remained unpaid for more than 30 days from the date of the said payments were due, and are still unpaid. Plaintiff, herein, by reason of said default, elected that the whole unpaid principal sum due on the aforesaid obligation and Mortgage referred to in paragraphs 1 and 2 above, with all unpaid interest and advances made thereon, shall now be due.

10. Any interest or lien on the premises described in paragraph 3 above which the Mortgagors named in paragraph 2 above or the grantee of said Mortgagors, or which subsequent encumbrancers or lienholders, if any, named in paragraph 7 above, who are the Defendants herein have or claims to have in or upon the aforesaid mortgaged premises or some part thereof are subject and subordinate to the lien of the Mortgage set forth in paragraph 2 above which Mortgage is held by the Plaintiff herein.

11. Notices were sent out in compliance with the Fair Foreclosure Act more than 31 days prior to the filing of the complaint.

WHEREFORE, the Plaintiff demands Judgment:

- (a) Fixing the amount due on the Mortgage referred to in paragraph 2 above;
- (b) Debarring and foreclosing the Defendants and each of them of all equity of redemption in and to the aforesaid lands;
- (c) Directing that Plaintiff be paid the amount due to Plaintiff as provided in the Mortgage set forth in paragraph 2 above together with interest and costs;
- (d) Adjudging that the lands described in paragraph 3 above be sold according to the law to satisfy the amount due to Plaintiff on the Mortgage set forth in paragraph 2 above;
- (e) Appointing a receiver of rents, issues and profits of the lands described in paragraph 3 above.

SECOND COUNT

1. By the terms of the Note/Bond and Mortgage referred to in paragraphs 1 and 2 of the First Count of this Complaint, the Plaintiff herein is entitled to possession of the tract of land with appurtenances as more particularly described in paragraph 3 of the First Count herein.

2. On April 1, 2006 the Plaintiff, by the terms of the Bond and Mortgage, aforesaid became entitled to possession of the premises described in paragraph 3 of the First Count of the Complaint.

3. The Defendants named in paragraph 1 and paragraph 7 of the First Count of this Complaint have or may claim to have certain rights in the premises described in paragraph 3 of the First Count of this Complaint and by reason thereof have since the date set forth in paragraph 2 above deprived the Plaintiff herein of the possession of the premises aforesaid.

WHEREFORE, the Plaintiff demands judgment against the Defendants:

- (a) for possession of said premises in favor of Plaintiff or its assignee or any purchaser at the foreclosure sale;
- (b) for damages, including mesne profits;
- (c) for costs.

BY: _____


Sanford J. Becker, Esq.

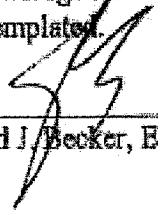
DATED: July 13, 2006

**NOTICE REQUIRED BY THE
FAIR DEBT COLLECTION
PRACTICES ACT, (the act),
15 U.S.C. SECTION 1601 AS AMENDED**

To the extent the act may apply, please be advised of the following:

1. The amount of the original debt is stated in paragraph one of the Complaint attached hereto.
2. The Plaintiff who is named in the attached Summons and Complaint is the Creditor to whom the debt is owed.
3. The debt described in the Complaint attached hereto and evidenced by the copy of the mortgage/note will be assumed to be valid by the Creditor's law firm, unless the Debtor(s), within thirty days after receipt of this notice, disputes, in writing, the validity of the debt or some portion thereof.
4. If the Debtor notifies the Creditor's law firm in writing within thirty days of the receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will obtain verification of the debt and a copy of the verification will be mailed to the Debtor by the Creditor's law firm.
5. If the Creditor who is named as Plaintiff in the attached Summons and Complaint is not the original creditor, and if the Debtor makes written request to the Creditor's law firm within thirty (30) days from the receipt of this notice, the name and address of the original Creditor will be mailed to the Debtor by the Creditor's law firm.
6. Written request should be addressed to Phuse, Becker & Saltzman, LLC, 20000 Horizon Way, Suite 900, Mt. Laurel, NJ 08054. Attention: Sanford J. Becker, Esquire.

I hereby certify that the matter in controversy is not the subject of any other Court proceeding or arbitration and that, to the best of our knowledge and belief, no other parties need be joined at this time, and that no other proceedings are contemplated.



Sanford J. Becker, Esq.

July 13, 2006

Notice Pursuant to the Fair Debt Collection Practices Act
To the extent the Act may apply, please be advised that:
This is an attempt to collect a debt;
Any information obtained will be used for that purpose.

Exhibit "A"

TAX MAP REFERENCE: (N.J.S.A. 46:12-2.1) MUNICIPALITY OF BOROUGH OF WESTWOOD, IN THE COUNTY OF BERGEN, BLOCK NO. 504, LOT NO. 3.

ALL THAT CERTAIN TRACT OR PARCEL OF LAND SITUATE, LYING AND BEING IN THE BOROUGH OF WESTWOOD, COUNTY OF BERGEN, AND STATE OF NEW JERSEY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

KNOWN AND DESIGNATED AS LOT #40 IN BLOCK 501 ON A CERTAIN MAP ENTITLED "FINAL PLAT, FOREST GARDENS, BOROUGH OF WESTWOOD, BERGEN COUNTY, NJ" DATED NOVEMBER 1971 WHICH SAID MAP WAS FILED IN THE BERGEN COUNTY REGISTER'S OFFICE ON APRIL 3, 1974 AS MAP NO. 7257.

SAID PREMISES ARE FURTHER DESCRIBED IN ACCORDANCE WITH A SURVEY MADE BY GRANITZ'S SURVEYOR, ROBERT F. VICARI, L.S., DATED MARCH 11, 2000, AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERLY SIDELINE OF FOREST AVENUE SAID POINT BEING DISTANT SOUTHERLY ALONG THE SAME 143.06 FEET FROM ITS INTERSECTION WITH THE SOUTHERLY LINE OF LANDS NOW OR FORMERLY OF R. ZARROW AND FROM ITS INTERSECTION WITH THE NORTHERLY LINE OF FILED MAP NO. 7257 AND FROM SAID POINT OF BEGINNING RUNNING THENCE:

- 1) NORTH 81 DEGREES 43 MINUTES 10 SECONDS EAST 130.00 FEET TO A POINT; THENCE
- 2) SOUTH 01 DEGREES 14 MINUTES 30 SECONDS EAST 75.00 FEET TO A POINT; THENCE
- 3) SOUTH 28 DEGREES 43 MINUTES 10 SECONDS WEST 129.48 FEET TO A POINT IN THE SAID EASTERLY SIDELINE OF FOREST AVENUE; THENCE
- 4) ALONG THE SAME ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 2812.79 FEET AN ARC DISTANCE OF 31.14 FEET TO A POINT; THENCE
- 5) STILL ALONG THE SAME, ON A COURSE OF NORTH 01 DEGREES 14 MINUTES 30 SECONDS WEST 21.11 FEET TO THE POINT OR PLACE OF BEGINNING.

Legal Description: All that certain property situated in the county of BERGEN, and State of NEW JERSEY, being described as follows: and being more fully described in a deed dated 03/15/2000, and recorded 02/11/2001, among the land records of this county and state as forth above, in Deed Book 8257, page 749 Address: 141 FOREST AVE # WESTWOOD.

APN: Block 504- Lot 3
TS Order Number: 10-00022148

10142316512

END OF DOCUMENT

Schedule A
Ja159

PLUESE, BECKER & SALTZMAN, LLC

Attorneys at Law

ROB SALTZMAN +
RSaltzman@pbclaw.org

SANFORD J. BECKER
SBecker@pbclaw.org

ROBERT T. PLUESE
RPluese@pbclaw.org

ROBERT F. THOMAS +
RThomas@pbclaw.org

3000 HORIZON WAY
SUITE 900
MT. LAUREL, NEW JERSEY 08054-4313
(856) 813-1700
FACSIMILE: (856) 813-1720

PENNSYLVANIA OFFICE:
419 COMMERCE DRIVE, SUITE 100
FORT WASHINGTON, PA. 19034
(315) 546-3205

Please reply to:
Mt. Laurel, New Jersey

December 8, 2006

OF COUNSEL:

Katz, Eulin & Levine, P.C.

The Law Offices of Barbara A. Fria, P.C. +

+ PA and NJ Bars

Our File # 60097

RECEIVED

DEC 12 2006

**ROBERT P. CONTILLO
J.S.C.**

Hon. Robert P. Contillo, J.S.C.
Superior Court of New Jersey
10 Main Street
Hackensack, New Jersey 07601

RE: Wells Fargo Bank, NA as Trustee v. Sandra A. Ford et al
Docket No. P-12259-06

Your Honor:

Enclosed please find original and copy of Order submit
connection with the above-referenced matter. If the Order me
kindly file same causing Chambers to return a copy to our off

12/18
no app rec'd

Thank you for Your Honor's consideration of this matter
questions, please contact our office.

Respectfully Submitted,

PLUESE, BECKER & SALTZMAN

By 
Sanford J. Becker, Esquire

SJB:dd

Enclosures

cc: Sandra Ford, Pro Se

Ja160

FILED

DEC 18 2006

ROBERT P. CONTILLO
J.S.C.

PLUESE, BECKER & SALTZMAN, LLC
Attorneys At Law
20000 Horizon Way, Suite 900
Mount Laurel, New Jersey 08054
(856) 813-1700
Attorneys for Plaintiff
File No. 60097 dd

WELLS FARGO BANK, NA AS
TRUSTEE,

Plaintiff,

v.

SANDRA A. FORD, et al,

Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
BERGEN COUNTY
DOCKET NO. F-12259-06

CIVIL ACTION

ORDER

THIS MATTER having been opened to the Court upon a Case Management Conference and Sanford J. Becker, Esquire of the Law Firm of Pluese, Becker & Saltzman, attorney for the Plaintiff, and Sandra A. Ford, appearing Pro Se and for good cause shown;

It is on this 18 day of December, 2006, hereby ORDERED as follows:

1. Plaintiff's Motion for Summary Judgment and Defendant's Cross Motion are hereby postponed and re-scheduled to be heard on January 12, 2007 on the express condition that Defendant, Sandra A. Ford, pay the attorney fees due the attorneys for Plaintiff as set forth below.

Ja161

2. Defendant shall pay to Plaintiff the sum of \$ 400⁰⁰ to
Pluase, Becker & Saltzman, LLC for attorneys fees.

Handwritten signature

Hon. Robert P. Contillo, J.S.C.

* 3.2 hours @ \$125/hr.

ORDERED THAT A COPY OF THIS ORDER
IS TO BE SERVED UPON ALL PARTIES
WITHIN SEVEN (7) DAYS OF THE DATE
HEREOF.

EXHIBIT A

Ja163

Loan# 0324132729

PREPARED BY:

Sanford J. Becker, Esquire
PLUESE, BECKER & SALTZMAN

18496 Assignment of Mortgage
Kathleen A. Donovan Recording Fee 70.00
Bergen County Clerk
Recorded 02/14/2007 14:14

ASSIGNMENT OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS:

That Argent Mortgage Company, LLC, located at 505 City Parkway West, Suite 100, Orange, CA 92868, herein designated as the Assignor, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, does by these presents assign to Wells Fargo Bank, NA as Trustee, located at C/O Fidelity National Foreclosure & Bankruptcy Solutions 1270 Northland Dr., Suite 200, Mendota Heights, MN 55120, herein designated as the Assignee, a certain Mortgage dated March 6, 2005, made by Sandra A. Ford, on lands located in the Borough of Westwood, in the County of Bergen and State of New Jersey, to secure payment of the sum of FOUR HUNDRED THREE THOUSAND, SEVEN HUNDRED FIFTY DOLLARS (\$403,750.00), which Mortgage is recorded or registered in the Clerk's Office of Bergen County on March 28, 2005, in Book 14231 of Mortgages on page 494.

Together with the Bond, Note or other Obligation therein described, and interest thereon and any and all rights thereunder. To Have and to Hold the same unto the said Assignee forever, subject only to all the provisions contained in the said Mortgage and Bond, Note or other Obligation.

And the said Assignor hereby constitutes and appoints the Assignee as the Assignor's true and lawful attorney, irrevocable in law or in equity, in the Assignor's name, place and stead but at the Assignee's cost and expense, to have, use and take all lawful ways and means for the recovery of all the said money and interest; and in case of payment, to discharge the same as fully as the Assignor might or could do if these presents were not made. And the Assignor covenants that there is now due and owing upon the said Mortgage and the Bond, Note or other Obligation secured thereby, the sum of FOUR HUNDRED THOUSAND, TWO HUNDRED EIGHTY ONE

Ja164

110396202

DOLLARS AND SEVENTY CENTS (\$400,281.70) principal with interest thereon to be computed at the rate of 7.40% percent per year from March 1, 2006, and that there are no set-offs, counterclaims or defenses against the same, in law or in equity, nor have there been any modifications or other changes in the original terms thereof, other than as stated herein.

In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.

Ja165

IN WITNESS WHEREOF, the said Assignor has caused these presents to be signed by its proper corporate officers and its corporate seal to be hereto affixed as of the 1 day of September, 2006.

Witness or Attest:

Argent Mortgage Company, LLC by its attorney in fact, Homeq Servicing Corporation

Sara Warner
(Asst.) Secretary

By: [Signature]
John A. Dunnery
(Vice) President

(Corporate Seal)

STATE OF North Carolina
COUNTY OF Wake

: ss

BE IT REMEMBERED that on this 1 day of September, 2006, before me, the undersigned witnessing authority, personally appeared John A. Dunnery who is the (Vice) President of Argent Mortgage Company, LLC by its attorney in fact, Homeq Servicing Corporation, who I am satisfied is the person who signed the within instrument, and he acknowledged that he signed the same as such officer aforesaid, and that the within instrument is the voluntary act and deed of such corporation duly authorized by a proper resolution of its Board of Directors, and that the seal affixed to said instrument is the proper corporate seal of such corporation.

[Signature]
Notary Public
Printed Name:
My Commission Expires:

Ja166

88 1403 P6 204

EDGETON MONROE
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires October 27, 2010

ASSIGNMENT OF MORTGAGE

Argent Mortgage Company, LLC

T O

Wells Fargo Bank, NA

Dated as of _____, 2006

Record and Return to:
Sanford J. Becker, Esquire
Pluese, Becker & Saltzman
2000 Horizon Way
Suite 900
Mt. Laurel, NJ 08054

Ja167

04 1403 PG 205

END OF DOCUMENT

LEGAL SERVICES OF NEW JERSEY, INC.
Melville D. Miller, Jr., President
100 Metroplex Drive, Suite 402
Edison, NJ 08818-1357
Tel.: (732) 572-9100 Fax: (732) 572-0666
Attorneys for Defendant, Sandra A. Ford
By: Rebecca Schore

SUPERIOR COURT BERGEN COUNTY
FILED

OCT 2 2009



DEPUTY CLERK

SUPERIOR COURT OF NEW

CHANCERY DIVISION
BERGEN COUNTY

Docket No. F-12259-06

Civil Action

**CERTIFICATION OF
SANDRA FORD IN SUPPORT
OF HER MOTION FOR
STAY PENDING APPEAL**

WELLS FARGO BANK, NA AS TRUSTEE,
JERSEY

Plaintiff,

v.

SANDRA A. FORD, and MR. FORD,
HUSBAND OF SANDRA A. FORD;
JOHN DOE AND JANE DOE 1-10
NAMES BEING FICTITIOUS)
TENANTS/OCCUPANTS, STATE OF
NEW JERSEY,

Defendant.

Sandra Ford, of full age, certifies as follows:

1. I am the defendant in the above-captioned matter, and as such I have personal knowledge of the facts set forth herein.
2. I make this certification in support of my motion for a stay pending appeal.
3. I am a single mother raising six children on my own.
4. I also support my 72 year old mother, Eulie Anthony, who lives with me in my home.
5. I am employed full time as a nurse, earning \$48.00 per hour, thirty-six hours per week.

Ja168

6. I bought my home at in or around March, 2000 for \$280,000.00 with my then-husband with a down-payment of \$30,000.00 and a mortgage of \$250,000.00.

7. Unfortunately, my husband and I divorced, and I took two home equity loans for divorce-related expenses.

8. In late 2005 or early 2006, I received a flyer in the mail from a mortgage broker advertising refinances.

9. I called the telephone number on the flyer and explained my circumstances to a mortgage broker. She took my information over the telephone and told me that she would look around for the best interest rate available to me.

10. A short time later, she called me back and told me that she found a lender willing to refinance the mortgage, and told me that a notary public would come to my house with the mortgage papers.

11. In or around January or February of 2006, the notary came to my house with a large stack of papers. It was evening, and she was in a hurry to pick up her child from sports practice.

12. She flipped through the papers, telling me, "sign here, sign here, sign here."

13. The loan was from Argent Mortgage Company.

14. When I saw the amount of my new mortgage payment, I was pleased because it appeared affordable to me. However, I later learned that the payment amount did not include escrows for taxes and insurance, and was therefore far more expensive than the loan I already had.

15. About a week later, I received a call from the mortgage broker. She told me that there was a minor problem with the mortgage papers, and that the notary would come back to have me re-sign.

16. On or around March 6, 2005, the notary did return and I signed the new papers.

17. I began to have trouble making the mortgage payments. I called someone who advertised that he could help people with mortgage problems.

18. He got copies of the mortgage and pointed out to me that there were significant differences in the two mortgages, including an increased interest rate, an enormous broker's fee, and some forged documents. He explained to me that my taxes had not been escrowed.

19. In or around July 14, 2006, "Wells Fargo Bank, N.A. as Trustee" filed a foreclosure complaint. A copy is attached as Exhibit A. I never heard of "Wells Fargo Bank, N.A. as Trustee" before then.

20. In or around July 19, 2006, "Wells Fargo Bank, N.A. as Trustee" filed an Amended Complaint. A copy is attached as Exhibit B.

21. On or around August 19, 2006, I filed an Answer with Defenses and Counterclaims against the Plaintiff. A copy is attached as Exhibit C.

22. On or around August 19, 2006, I served the Plaintiff with a demand for the production of documents together with my Answer and a Proof of Service. A copy of the Document Demand and Proof of Service is attached as Exhibit D. The Plaintiff produced no documents in response.

23. On or around September 29, 2006, the Plaintiff filed an Answer to my counterclaims. A copy is attached as Exhibit E.

24. On or around September 29, 2006, the Plaintiff and also filed a Motion for Summary Judgment. A copy is attached as Exhibit F.

25. I filed a pro se response to the Motion for Summary Judgment and a Cross Motion. A copy of my response and Cross Motion is attached as Exhibit G.

26. Attached as Exhibit H is a copy of the transcript of the Court's January 26, 2007 decision granting the Plaintiff summary judgment.

27. Attached as Exhibit I is a copy of the Court's January 26, 2007 Order Granting Summary Judgment and Striking Answer.

28. Attached as Exhibit J is a copy of the Final Judgment that entered on April 9, 2007.

29. Attached as Exhibit K is a copy of my original application for an appeal, the notice of deficiency I received from the Appellate Division, and my amended application for an appeal.

30. I tried unsuccessfully to request a stay pending appeal, but I used the wrong procedure and never was able to apply for a stay on my own. Sheriff's Sale was initially scheduled for June 15, 2007. The Sheriff's Office granted me two adjournments of the sale: once to June 29, 2007 and the second to July 13, 2007.

31. At that point, I sought the assistance of Northeast New Jersey Legal Services, which filed a Chapter 13 Bankruptcy Petition on my behalf, automatically staying all legal proceedings against me.

32. As a result, the Appellate Division temporarily dismissed the appeal without prejudice. Attached as Exhibit L is a copy of the Order from the Appellate Division

dismissing the appeal without prejudice, but allowing me to reinstate the appeal at the conclusion of the bankruptcy.

30. I applied to the court for a judicial stay of the sheriff's sale in order to participate in the State's foreclosure mediation program. Mediation is scheduled to take place on October 16, 2008.

31. I have this home, my family and I will undoubtedly suffer irreparable harm. I live in our family home, and have been for almost ten years. With a family of four, as usual, I expect that it will be very difficult to find alternative housing. My family is in serious danger of being separated.

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

Date: 10/12/08

Sandra A. Ford
Sandra A. Ford

