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SUPERIOR COURT
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October 18, 2012

Superior Court Clerk's Office
Foreclosure Processing Services
Attn: Objection to Notice of Intention to Foreclose
P.O. Box 971
Trenton, NJ 08625

Hand Delivered

**Re: IN RE APPLICATION BY WELLS FARGO BANK, N.A. TO ISSUE CORRECTED
NOTICES OF INTENT TO FORECLOSE ON BEHALF OF IDENTIFIED FORECLOSURE
PLAINTIFFS IN UNCONTESTED CASES
DOCKET No. F-9564-12**

AND

**DEUTSCHE BANK NATIONAL TRUST Deutsche Bank National Trust Company, as Trustee for
HSI Asset Securitization Corporation Trust 2006- HE2 Vs. Joshua Ross Monica Ross et al
DOCKET No. F-051767-10**

To Whom It May Concern,

Please accept this letter as our written objection to the Order to Show Cause, the Corrected Notice of Intent to Foreclose and a dispute of standing and the accounting of the amount of arrearage and amounts due.

I Joshua Ross and my spouse Monica Boyd Ross are defendants in a foreclosure proceeding.

Joshua Ross became ill in 2010 and had to be hospitalized this had a negative impact on our business. Since I am self employed we fell behind. I have been able to get my business back on track and will have the funds available to pay a reasonable mortgage.

At the time of the foreclosure filing we were not aware of the loan being securitized. We are still uncertain as to who owns our loan. The information received was confusing and conflicts with documents recently received from Wells Fargo and ASC. Specifically the name of the lender differs.

We deny that the plaintiff has standing to bring this foreclosure complaint. To foreclose the plaintiff must demonstrate that it owns or controls the underlying debt. Wells Fargo Bank N.A. v. Ford 418 N.J. Super 592, 597 (App. Div. 2011). See also Deutsche Bank National Trust Company v. Mitchell: Bank of N.Y. v. Raftogianis, 418 N.J. Super 323, 327-28 (Ch. Div. 2010) and is in violation of the Fair Foreclosure Act .J.S.A. 2A:50 et seq

Currently there is a class action lawsuit *Giles v. Phelan Hallinan & Schmieg, LLP*, 1:11-cv-06239 (D.N.J.). The complaint alleges that Wells Fargo and Phelan, Hallinan & Schmieg (Phelan), a high-volume foreclosure law firm in Pennsylvania and New Jersey, engaged in a fraudulent scheme to "pile on" unlawful foreclosure fees from financially troubled families on the brink of losing their homes. The lawsuit contends that, to carry out the scheme, defendants systematically filed falsified complaints, affidavits and mortgage assignments to bring foreclosure actions in the name of parties without legal standing to sue. The outcome of this case will have a direct bearing on us as the Phelan firm issued the initial NOI and the foreclosure complaint.

Under *Us Bank Association v. Guillaume*, 209 N.J. 449 it does not give the right to issue corrected NOIs but only the right to seek such an Order. In *EMC Mortgage Corp v. Chaudri* 400 N.J. Super 126 (App. Div. 2008) in which a New Jersey appellate court upheld a trial court's decision to dismiss a foreclosure action due to the lender's failure to provide the borrower with a NOI which in all ways complied with the Fair Foreclosure Act.

Summary actions are governed by R 4:67-1 to R 4:67-5. The court order of April 4, 2012 does not suggest that cases which the plaintiff acknowledges that it has not complied with the Fair foreclosure Act are entitled to any less due process than any other defendant in which a summary action is permitted. Wells Fargo has stated without any evidence that all NOIs were deficient due to the name of the bank being omitted.

In the *Guillaume* decision the court held that "a trial court adjudicating a foreclosure complaint in which the notice of intent does not comply with N.J.S.A. 2A:50-56©(11) (Fair Foreclosure Act of "FFA") may dismiss the action without prejudice order the service of a corrected notice, or impose other appropriate remedies."

The application by Wells Fargo dated July 17, 2012 and May 29, 2012 omitted the option of dismissing the action without prejudice as an option for this court to consider. Dismissal without prejudice is a fair and equitable way to remedy this situation. It would allow for me and other homeowners the right to due process. It would also level the playing field and prevent punishing homeowners while rewarding the banks that have admitted to widespread wrong doing.

We had been working with NACA to obtain a loan modification. We are no longer working with NACA and have submitted a written request of withdrawl from NACA. We are now working with Tri City Corp a certified HUD counselor and have entered the NJ Mediation program. ASC has acknowledged our modification packet and we are awaiting review. We ask that Wells Fargo be held to the Attorney Generals Consent judgment that:

Dual Track Prohibited: If borrower submits a complete loan modification at any time after 30 days following the mailing of the attorney letter but prior to 37 days before a scheduled foreclosure sale, the servicer must complete its review of the application before going to a foreclosure sale.

Our mediation session is set for 11/05/2012. The amounts shown on the NOI differ from the amount we calculate and we expect to be able to clear this up during mediation. I object to the calculation used to come up with the amount needed to cure the loan. We have a budget and a plan to save our home and just ask that we be given time through due process to negotiate.

For the reasons cited above we ask that the court deny Wells Fargo motion and allow us to continue with pursuit of a settlement negotiations. Secondly, we ask that the court order a stay of all proceedings pending the outcome of the class action lawsuit of which we are a part or a stay based on dual track being prohibited.

I certify that the foregoing statements made by me are true 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.



Joshua Ross



Monica Boyd Ross

Certification of Service

I hereby certify that on 10/18/2012 I sent my objection to the following parties by: (Select which mailing method you chose. If you sent it by both regular and certified mail, check both.

regular mail certified mail other _____

List each party to the lawsuit; send your opposition to the attorney if the party is represented by counsel; if the party is pro se you may send the papers directly to that individual.

Name Judge McVeigh J.S.C.

Name Mark S Melodia Esquire

Address Superior Court of New Jersey Chambers100

Address Reed Smith LLP Princeton Forrestal Village

71 Hamilton Street

136 Main Street

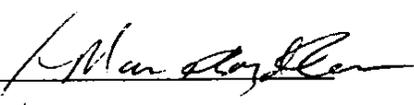
Paterson New Jersey 07505

Princeton New Jersey 08540

Attorney for _____

Attorney for Wells Fargo/America's Servicing Co

10/18/2012
Date

 / 
Signature

Joshua Ross / Monica Boyd Ross
Print or Type Name