

FILED Oct 04, 2013

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#200  
B-100  
10-3-13

**RECEIVED**

OCT 03 2013

Richard A. Epstein, P.C.  
2 Bucks Lane  
Marlboro, NJ 07746  
(732) 303-8599

SUPERIOR COURT  
CLERK'S OFFICE

Attorney for Emigrant Mortgage Company, Inc.

**IN RE SPECIAL SUMMARY ACTION  
AUTHORIZED BY ORDER OF THE  
NEW JERSEY SUPREME COURT  
DATED APRIL 4, 2012 BY  
EMIGRANT MORTGAGE  
COMPANY, INC. TO ISSUE  
CORRECTED NOTICES OF INTENT  
TO FORECLOSE**

**SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MERCER COUNTY**

**DOCKET NO. F -035539-13**

**VERIFIED COMPLAINT IN SUPPORT OF  
SUMMARY ACTION AUTHORIZED BY  
ORDER OF THE SUPREME COURT OF  
NEW JERSEY DATED APRIL 4, 2012 TO  
ISSUE CORRECTED NOTICES OF  
INTENT TO FORECLOSE**

Emigrant Mortgage Company, Inc. ("Emigrant"), by way of Verified Complaint, hereby brings this action pursuant to the April 4, 2012 Order of the New Jersey Supreme Court entered after the New Jersey Supreme Court's decision in U.S. Bank, N.A. v. Guillaume, 209 N.J. 449 (2012), and states as follows:

1. Emigrant is a lender and mortgage loan servicer for residential properties located in the State of New Jersey.
2. When Emigrant services mortgage loans for residential properties located in the State of New Jersey its functions include, but are not limited to, the issuance of statements for payment, the collection of payments, loss mitigation, and the coordination of and assistance with mortgage foreclosure actions commenced by counsel in the name of Emigrant or the owner of the mortgage loan for whom Emigrant provides services. Emigrant provides its services to the owners of mortgage loans pursuant to and in accordance with written contracts that govern the

12. In *Guillaume*, the New Jersey Supreme Court held that an NOI must strictly adhere to N.J.S.A. 2A:50-56(c)(11) by identifying the name and address of the lender, and where an NOI does not strictly adhere to N.J.S.A. 2A:50-56(e)(11), the trial court has discretion to choose the appropriate remedy for such deficiency.

13. On April 4, 2012, the Supreme Court of New Jersey issued an Order in which, The Honorable Paul Innes, P.J. Ch. Div., Mercer County, and The Honorable Mary McVeigh, P.J.Ch. Div., Passaic County, were each empowered to entertain summary actions by Order to Show Cause as to why the Plaintiffs in any uncontested residential mortgage foreclosure actions filed on or before February 27, 2012 in which final judgment has not been entered at that time, who served NOIs that are deficient under N.J.S.A. 2A:50-56, should not be allowed to serve corrected NOIs. A copy of that Order is attached hereto as Exhibit "C."

14. Each of the Subject Foreclosure Matters, in light of being uncontested residential mortgage foreclosure actions filed on or before February 27, 2012 in which final judgment was not yet entered, falls within the purview of the April 4, 2012 Order of the New Jersey Supreme Court.

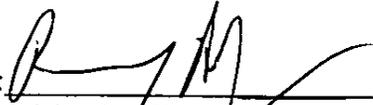
15. To comply with the April 4, 2012 Order of the New Jersey Supreme Court, in the event this Court enters judgment in favor of Emigrant as requested herein, attached hereto as Exhibit "D" is the corrected NOI that is compliant with N.J.S.A. 2A 50-56, that Richard A. Epstein, P.C. (Richard A. Epstein, Esq.), on behalf of Emigrant, will send to the Foreclosure Defendants. Each corrected NOI sets forth, among other things, the information specific to the Foreclosure Defendants' mortgage loan, their default, the lender's name and address, the amount required to reinstate their mortgage loan and the date by which such payment is due.

16. To further comply with the April 4, 2012 Order of the New Jersey Supreme Court, in the event this Court enters judgment in favor of Emigrant as requested herein, attached hereto as Exhibit "E" is the proposed form of explanatory letter that Richard A. Epstein, P.C. (Richard A. Epstein, Esq.), on behalf of Emigrant, will send to the Foreclosure Defendants with the corrected NOI that is fully compliant with N.J.S.A. 2A:50-56. The explanatory letter sets forth, among other things, why the corrected NOI is being issued, the procedure to follow in the event the Foreclosure Defendant wishes to object to the NOI, and the individual the Foreclosure Defendants should contact with any questions. The explanatory letter also notifies the Foreclosure Defendants of the right to object to the corrected NOI, as well as the right to cure the default within 30 days of the date of the corrected NOI.

**WHEREFORE**, Emigrant Mortgage Company, Inc. respectfully requests that this Court enter judgment in its favor as follows:

1. Deeming the form NOI attached as Exhibit "D" hereto compliant with the requirements of the Fair Foreclosure Act.
2. Permitting Emigrant, through its designee, Richard A. Epstein, P.C. (Richard A. Epstein, Esq.) to serve new NOIs, in the form attached hereto as Exhibit "D" hereto, to the Foreclosure Defendants, along with the Explanatory Letter in the form attached hereto as Exhibit "E"; and
3. For such other and further relief as this Court deems, just, proper, and equitable.

RICHARD A. EPSTEIN , P.C.  
Attorney for Emigrant Mortgage Company, Inc.

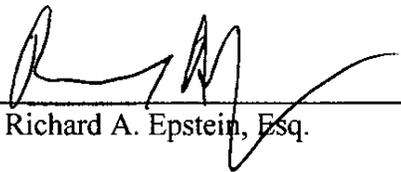
By:   
Richard A. Epstein, Esq.

Dated: October 2, 2013

**CERTIFICATION**

I certify pursuant to Rule 4:5-1 that, to the best of my knowledge, this matter is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated, other than the Subject Foreclosure Matters.

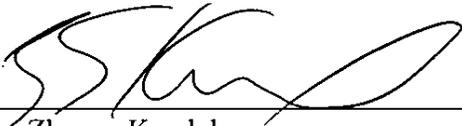
RICHARD A. EPSTEIN, P.C.  
Attorney for Emigrant Mortgage Company, Inc.

By:   
Richard A. Epstein, Esq.

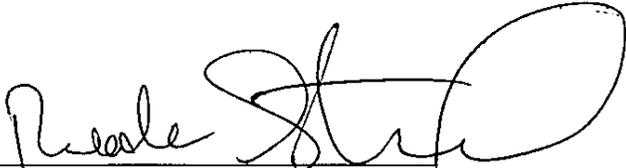
Dated: October 2, 2013

VERIFICATION

I, Zhanna Kandel, being duly sworn state: I am First Vice-President and Director of Foreclosure for Emigrant Mortgage Company, Inc., and I am authorized to execute this Verification. The allegations in this Verified Complaint are true and accurate to the best of my knowledge and belief; and the Exhibits attached to this Verified Complaint are true and accurate to the best of my knowledge and belief.

  
\_\_\_\_\_  
Name: Zhanna Kandel  
Title: First Vice-President and Director of Foreclosure

Sworn to and subscribed before me  
this 15<sup>th</sup> day of October, 2013.

  
\_\_\_\_\_  
Notary Public

**Theodore Stavropoulos**  
Notary Public, State of New York  
No. 01ST5020488  
Qualified in Queens County  
Commission Expires November 22, 2013

**EXHIBIT A**

**STATE OF NEW YORK**  
**DEPARTMENT OF STATE**

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the  
Department of State, at the City of Albany, on  
March 12, 2013.



A handwritten signature in black ink, appearing to read "Daniel B. Shapiro".

Daniel B. Shapiro  
First Deputy Secretary of State

COPY 43  
DRAWN DOWN

180812000583

CERTIFICATE OF MERGER  
OF

ESB - MH Holdings, LLC; ESB - B/Q Holdings, LLC; ESB - B/W Holdings, LLC; ESB - LI  
Holdings, LLC

*(Insert Name of Domestic Entity)*

AND

Emigrant Residential, LLC

*(Insert Name of Domestic Limited Liability Company)*

INTO

Emigrant Residential, LLC

*(Insert Name of Domestic Limited Liability Company)*

Under Section 1003 of the Limited Liability Company Law

FIRST: The name (and if the name has been changed, the name under which it was formed) and jurisdiction of formation or organization of each domestic limited liability company or other domestic business entity that is to merge is:

ESB - MH Holdings, LLC, a New York limited liability company; ESB - B/Q Holdings, LLC, a New York limited liability company; ESB - B/W Holdings, LLC, a New York limited liability company; ESB - LI Holdings, LLC, a New York limited liability company and Emigrant Residential, LLC (formerly, BMC, L.L.C.), a New York limited liability company

SECOND: For each domestic limited liability company and domestic other business entity, the date when its initial articles of organization or formation document was filed with Department of State is:

ESB - MH Holdings, LLC - April 8, 2008; ESB - B/Q Holdings, LLC - April 8, 2008; ESB - B/W Holdings, LLC - April 8, 2008; ESB - LI Holdings, LLC - April 8, 2008; Emigrant Residential, LLC (formerly, BMC, L.L.C.) - March 15, 2001

THIRD: The name of the surviving domestic limited liability company is:

Emigrant Residential, LLC

FOURTH: The agreement of merger has been approved and executed by each of the domestic limited liability companies or domestic other business entities that is a party thereto.

FIFTH: The future effective date of the merger, which does not exceed 30 days from the date of filing, is: N/A

SIXTH: The Secretary of State is designated as agent of the surviving limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

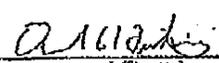
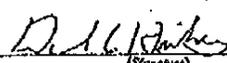
Attn: Daniel C. Hickey, Esq., 5 East 42nd Street, New York, New York 10017

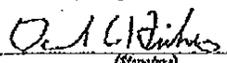
SEVENTH: The agreement of merger is on file at the following place of business of the surviving domestic limited liability company:

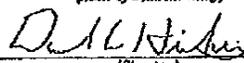
5 East 42<sup>nd</sup> Street, New York, New York 10017

EIGHTH: A copy of the agreement of merger will be furnished by the surviving domestic limited liability company on request and without cost to any member of any domestic limited liability company or to any person holding an interest in any other business entity that is to merge pursuant to such agreement.

IN WITNESS WHEREOF, each constituent company has caused this certificate to be signed by an authorized officer, this 1st day of MARCH, 2013.

X	<u>Emigrant Residential, LLC</u> <i>(Name of Domestic Entity)</i>	X	<u>BSB - MH Holdings, LLC</u> <i>(Name of Domestic Limited Liability Company)</i>
	<u></u> <i>(Signature)</i>		<u></u> <i>(Signature)</i>
	<u>Daniel C. Hlokey, Esq.</u> <i>(Type or print name)</i>		<u>Daniel C. Hlokey, Esq.</u> <i>(Type or print name)</i>
	<u>Authorized Person</u> <i>(Capacity of signor)</i>		<u>Authorized Person</u> <i>(Capacity of signor)</i>

X	<u>BSB - B/Q Holdings</u> <i>(Name of Domestic Entity)</i>	X	<u>BSB - B/W Holdings, LLC</u> <i>(Name of Domestic Limited Liability Company)</i>
	<u></u> <i>(Signature)</i>		<u></u> <i>(Signature)</i>
	<u>Daniel C. Hlokey, Esq.</u> <i>(Type or print name)</i>		<u>Daniel C. Hlokey, Esq.</u> <i>(Type or print name)</i>
	<u>Authorized Person</u> <i>(Capacity of signor)</i>		<u>Authorized Person</u> <i>(Capacity of signor)</i>

X	<u>BSB - LI Holdings, LLC</u> <i>(Name of Domestic Entity)</i>
	<u></u> <i>(Signature)</i>
	<u>Daniel C. Hlokey, Esq.</u> <i>(Type or print name)</i>
	<u>Authorized Person</u> <i>(Capacity of signor)</i>

180312000SF3

CERTIFICATE OF MERGER  
OF

ESB - MH Holdings, LLC; ESB - D/Q Holdings, LLC; ESB - B/W Holdings, LLC; ESB - LI Holdings, LLC

(Insert Name of Domestic Entity)

AND

Emigrant Residential, LLC

(Insert Name of Domestic Limited Liability Company)

INTO

Emigrant Residential, LLC

(Insert Name of Domestic Limited Liability Company)

Under Section 1003 of the Limited Liability Company Law

Filed by: Sullivan & Cromwell LLP  
(Name)

125 Broad Street  
(Mailing address)

New York, NY 10004-2498  
(City, State and ZIP code)

STATE OF NEW YORK  
DEPARTMENT OF STATE

FILED MAR 12 2013

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BY: EW

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CUSTOMER REF. #

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2013 MAR 12 PM 1:43

N. Y. S. DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS AND STATE RECORDS

ALBANY, NY 12231-0001

FILING RECEIPT

ENTITY NAME: EMIGRANT RESIDENTIAL, LLC

DOCUMENT TYPE: MERGER (DOM LLC)  
PROCESS

COUNTY: NEWY

FILED: 03/12/2013 DURATION: \*\*\*\*\* CASH#: 130312000682 FILM #: 130312000583

FILER:

SULLIVAN & CROMWELL LLP  
125 BROAD STREET

NEW YORK, NY 10004-2490

ADDRESS FOR PROCESS:

ATTN: DANIEL C. HICKEY, ESQ.  
5 EAST 42ND STREET  
NEW YORK, NY 10017

REGISTERED AGENT:

EFFECT DATE

03/12/2013



CONSTITUENT NAME: ESB - MH HOLDINGS, LLC (ET AL)

SERVICE COMPANY: CORPORATION SERVICE COMPANY - 45

SERVICE CODE: 45

FEE\$	220.00
FILING	60.00
TAX	0.00
CERT	0.00
COPIES	10.00
HANDLING	150.00

PAYMENTS	220.00
CASH	0.00
CHECK	0.00
CHARGE	0.00
DRAWDOWN	220.00
OPAL	0.00
REFUND	0.00

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DOB-1025 (04/2007)

**CORPORATION SERVICE COMPANY**

www.cscglobal.com

CSC - New York  
Suite 210  
1180 Avenue Of the Americas  
New York, NY 10036-8401  
212-299-5600  
212-299-5656 (Fax)

Matter# na  
Project id :

Order# 550260-5  
Order Date 02/27/2013

Entity Name: IMMIGRANT RESIDENTIAL, LLC  
Jurisdiction: NY - Department of State  
Request for: Domestic Merger Filing  
File Date: 03/12/2013  
Result: Filed

Ordered by CAMBRON HOOD at SULLIVAN & CROMWELL, LLP

Thank you for using CSC. For real-time 24 hour access to the status of any order placed with CSC, access our website at [www.cscglobal.com](http://www.cscglobal.com).

If you have any questions concerning this order or CSCGlobal, please feel free to contact us.

Jason Welch  
[jwelch1@esolinfo.com](mailto:jwelch1@esolinfo.com)

The responsibility for verification of the files and determination of the information therein lies with the filing officer; we accept no liability for errors or omissions.

**EXHIBIT B**

Exhibit B

SCHEDULE OF FORECLOSURE MATTERS

Order to Show Cause

Caption	Docket No.	Loan Origination Date	Date of Default	Date of NOI	Date Complaint Filed	Litigation	NOI Deficiency
Emigrant Mortgage Company, Inc. v. Zamichiehl, et als	F-008335-11	9/25/2007	2/1/2011	2/24/2011	9/30/2011	NO	NOI did not contain lenders address and misidentified name of lender
Emigrant Mortgage Company, Inc. v. Ostrowicz	F-007547-11	3/6/2009	1/1/2011	3/10/2011	9/2/2011	NO	NOI did not contain lender address
ESB-BW Holdings, LLC v. Schira, et als.	F-003363-11	12/15/2006	9/1/2010	10/29/2010	5/11/2011	NO	NOI did not contain lender address and misidentified name of lender
Emigrant Mortgage Company, Inc. v. Wollack, et als.	F-23644-10	12/15/2006	12/1/2009	1/26/2010	4/16/2010	NO	NOI did not contain name or address of lender
Emigrant Mortgage Company, Inc. v. Martinez, et als.	F-22970-10	10/27/2006	10/1/2009	12/23/2009	4/15/2010	NO	NOI did not contain name or address of lender
Emigrant Residential, LLC v. Gardner, et als.	F-24653-10	12/19/1997	12/1/2009	1/20/2010	4/23/2010	NO	NOI did not contain address of lender

**EXHIBIT C**

SUPREME COURT OF NEW JERSEY

In furtherance of the Court's holding in U.S. Bank N.A. v. Guillaume, A-11-11 (February 27, 2012), it is ORDERED that Hon. Paul Innes, P.J.Ch., Morcer Vichuge, and Hon. Margaret Mary McVoigh, P.J.Ch., Passaic Vicinage, are each authorized to entertain summary actions by Orders to Show Cause as to why plaintiffs in any uncontested residential mortgage foreclosure actions filed on or before February 27, 2012 in which final judgment has not yet been entered, who served Notices of Intention to Foreclose that are deficient under the Fall Foreclosure Act, N.J.S.A. 2A:50-56, should not be allowed to serve corrected Notices of Intention to Foreclose on defendant mortgagors and/or parties obligated on the debt. Such summary actions should be filed with the Clerk of the Superior Court and assigned to each judge upon filing.

It is FURTHER ORDERED that, if approved by the court, any corrected Notice of Intention to Foreclose served pursuant to an order issued as a result of such an action must be accompanied by a letter to the defendant mortgagor and/or parties obligated on the debt setting forth the reasons why the corrected Notice of Intention to Foreclose is being served, the procedure to follow in the event a defendant wishes to object to the Notice of Intention to Foreclose, the individuals to contact with any questions, and that the receipt of the corrected Notice of Intention to Foreclose allows defendant mortgagors and/or parties obligated on the debt 30 days in which to object or to cure the default.

It is FURTHER ORDERED that any Rule 4:64-1(a) or Rule 4:64-2(d) Certification of Diligent Inquiry filed by a plaintiff who has served a corrected Notice of Intention to

Foreclose pursuant to an order issued as a result of such summary action shall list therein with specificity the steps taken to cure the deficient Notice of Intention to Foreclose.

It is FURTHER ORDERED that the Office of Foreclosure is authorized to recommend the entry of final judgment pursuant to Rule 1:34-6 in uncontested actions in which the procedures set forth in this Order have been followed.

For the Court,



Chief Justice

Dated: April 4, 2012

**EXHIBIT D**

[LETTERHEAD OF PLAINTIFF'S ATTORNEY]

VIA CERTIFIED AND REGULAR MAIL

[DATE]

[BORROWER'S NAME]  
[BORROWER'S ADDRESS]

RE: Mortgage No.: [LOAN NO.]

Dear Mortgagor(s):

NOTICE OF INTENTION TO FORECLOSE MORTGAGE

YOU SHOULD READ THIS DOCUMENT IMMEDIATELY!

Notice is hereby given that the mortgage made by Emigrant Mortgage Company, Inc., the present servicer of the mortgage loan described below, and assigned to [LENDER], the current owner of and lender under such mortgage loan, as identified below in Paragraph 1 is in default. Notice is being sent to you because the records of Emigrant Mortgage Company, Inc., the servicer of this loan, show that you are a person obligated to pay the obligation secured by the mortgage.

Emigrant Mortgage Company, Inc. intends to accelerate the maturity (due date) of the mortgage obligation and commence legal action, including foreclosure to take possession of the property and obtain a deficiency judgment against you, if allowed by applicable law and the facts of this matter.

This notice is being sent to you pursuant to Section 4 of the Fair Foreclosure Act. The information you are hereby put on notice of is as follows:

1 (a). **The Obligation.** The particular obligation is a certain Adjustable Rate Note dated [LOAN DATE] given by [MORTGAGOR] to Emigrant Mortgage Company, Inc. and thereafter assigned to [LENDER] in the principal sum of [LOAN AMOUNT] plus interest.

1 (b). **Property to be Foreclosed.** The real estate given as security for the Adjustable Rate Note identified in Paragraph 1 (a), above is:

Street Address: [ADDRESS]  
City: [CITY]  
State: New Jersey  
Tax: [BLOCK NO.]                      Lot [LOT NO.]

2. **Nature of Default.** The failure to make monthly payments of interest, principal, escrow payments, handling charges and late charges beginning [DATE].

3. **Your Right to Cure the Default.** You have the right to cure the default as provided in Section 5 of the *Fair Foreclosure Act*. A copy of Section 5 of the *Fair Foreclosure Act* is attached to this letter.

**4. The Amount You Must Pay to Cure the Default.** In order to cure the default, you must pay to Emigrant Mortgage Company, Inc., on or before the date set forth in Paragraph 5, below the following sums of money:

Principal	\$[	]
Interest	\$[	]
Late Charges	\$[	]
NG Charges	\$[	]
Monthly Escrow	\$[	]
Life Insurance	\$[	]
Acc/Health Ins.	\$[	]
Total	\$[	]

This figure is the amount you must pay on [CURE DATE – 35 DAYS FROM DATE OF LETTER], to reinstate your mortgage loan. If you make the payment earlier than [CURE DATE – 35 DAYS FROM DATE OF LETTER], call Carlos Camacho at 212-850-4756 or 1-800-836-3752, ext. 4756 to find out the amount which must be paid on such earlier date.

By reason of your default and pursuant to the Default Interest Rate Rider to your loan documents, your loan has been accruing interest at the rate of [CURRENT INTEREST RATE] per year and this default interest rate shall continue until you cure the default.

**5. Timing of the Payment to Cure the Default.** In order to avoid the institution of foreclosure proceedings, you must pay the full amount set forth at Paragraph 4, above, no later than [CURE DATE – 35 DAYS FROM DATE OF LETTER], and the person to whom the payment shall be made is:

Carlos Camacho  
Emigrant Mortgage Company, Inc.  
5 East 42nd Street  
New York, New York 10017

**6. Your Failure to Cure the Default.** If you do not cure the default by the date specified in Paragraph 5, above, Emigrant Mortgage Company, Inc. or [LENDER] may take steps to terminate your ownership in the property by commencing a foreclosure suit in a court of competent jurisdiction. Should a foreclosure suit be commenced, you will have the right to assert in the foreclosure proceedings the non-existence of a default or any other defense you may have to the acceleration or foreclosure.

**7. Additional Costs and Expenses You May Have to Pay.** If Emigrant Mortgage Company, Inc. or [LENDER] take steps as described in Paragraph 6, above, you shall have the right to cure the default pursuant to Section 5 of the *Fair Foreclosure Act*, but you shall be responsible for Emigrant Mortgage Company, Inc.'s or [LENDER'S] court costs and attorneys fees in an amount not to exceed that amount permitted pursuant to the rules governing the courts of the State of New Jersey.

**8. Transferring the Property.**

[ X ] If this box is checked, you do NOT have the right to transfer the property described in Paragraph 1 to another person subject to the lender's mortgage.

[ ] If this box is checked, you DO have the right to transfer the property described in Paragraph 1 to another person subject to the lender's mortgage.

**9. You Should Confer With a Lawyer.** You are advised to seek counsel from an attorney of your own choosing concerning your residential mortgage default situation. If you are unable to obtain an attorney, you may communicate with the New Jersey Bar Association or Lawyer Referral Service in the County in which the property securing the mortgage loan is located. If you are unable to afford an attorney, you may communicate with the Legal Services Office in the County in which the property is located. Attached to this letter is a statewide list of the Lawyer Referral Services and Legal Services Offices for each County, and the address and phone number of the New Jersey Bar Association.

**10. Possible Assistance.** You may be eligible for financial assistance for curing a default from programs operated by the State of New Jersey or the Federal Government or non-profit organizations. You may obtain the identity of any such programs or organizations from the State of New Jersey Commissioner of Banking at the following address and phone number:

Steven M. Goldman, Commissioner  
Division of Banking  
P.O. Box 040  
Trenton, New Jersey 08625  
(609) 292-7272

**11. Person You Should Contact At Emigrant.** If you disagree with Emigrant Mortgage Company, Inc.'s assertion that a default has occurred or the correctness of Emigrant Mortgage Company, Inc.'s calculation of the amount required to cure the default, you may contact the following authorized representative of the lender:

Carlos Camacho  
Emigrant Mortgage Company, Inc.  
5 East 42nd Street  
New York, New York 10017  
212-850-4756 or 1-800-836-3752, ext. 4756

Who is the representative of [LENDER]  
5 East 42nd Street  
New York, New York 10017

Partial payments may be credited to your account but will not cure the outstanding defaults or affect Emigrant Mortgage Company, Inc.'s or [LENDER's] right to pursue the remedies referenced above. This letter is written without waiver of, or prejudice to, any of Emigrant Mortgage Company, Inc.'s or [LENDER's] rights or remedies.

**Payment must be made in the form of a money order, personal check, or bank check.  
Business checks will not be accepted.**

Very truly yours,

2A:50-57. Right to cure default; procedures

a. Notwithstanding the provisions of any other law to the contrary, as to any residential mortgage for which a notice of intentions to foreclose is required to be given pursuant to section 4 of this act(i), whether or not such required notice was in fact given, the debtor, or anyone authorized to act on the debtor's behalf, shall have the right at any time, up to the entry of final judgment or the entry by the office or the court of an order of redemption pursuant to subsection g. of section 11 of this act(ii), to cure the default, de-accelerate and reinstate the residential mortgage by tendering the amount or performance specified in subsection b. of this section. The payment or tender shall be made to the person designated in the notice pursuant to paragraph (5) of subsection c. of section 4 of this act. The debtor may exercise the right to cure a default as to a particular mortgage and reinstate that mortgage only once every 18 months, provided, however, that this limitation shall not apply if the mortgage debtor cures a default by the date specified in paragraph (5) of subsection c. of section 4 of this act. The 18-month time period shall run from the date of cure and reinstatement.

b. To cure a default under this section, a debtor shall:

(1) pay or tender to the person identified pursuant to paragraph (5) of subsection c. of section 4 of this act, in the form of cash, cashier's check, or certified check, all sums which would have been due in the absence of default, at the time of payment or tender;

(2) perform any other obligation which the debtor would have been bound to perform in the absence of the default or the exercise of acceleration clause, if any;

(3) pay or tender court costs, if any, and attorneys' fees in an amount which shall not exceed the amount permitted under the Rules Governing the Courts of the State of New Jersey; and

(4) pay all contractual late charges, as provided for in the note or security agreement.

c. To cure a default under this section, a debtor shall not be required to pay any charge, fee or penalty attributable to the exercise of the right to cure a default as provided for in this act.

d. Cure of a default reinstates the debtor to the same position as if the default had not occurred. It nullifies, as of the date of cure, any acceleration of any obligation under the mortgage, note or bond arising from the default.

e. If a default is cured prior to the filing of a foreclosure action, the lender shall not institute a foreclosure action for that default. If a default is cured after the filing of a foreclosure action, the lender shall give written notice of the cure to the court. Upon such notice, the court shall dismiss the action without prejudice.

f. The right to cure a default under this section is independent of any right of redemption or any other right or remedy under the common law, principles of equity, State or federal statute, or rule of court.

L.1995,c.244,s.5.

(i). NISA.s.2A:50-56

(ii). NISA.s.2A:50-63

## Lists of Entities Providing Assistance

Fair Housing Act - Notice of Intention To Foreclose - List of Entities Providing Assistance		
The following is a list of governmental and non-profit entities that may provide financial assistance or counseling to borrowers in foreclosure.		
American Credit Alliance, Inc. 26 S. Warren St. Trenton, NJ 08608 609-393-5400	Atlantic Human Resources, Inc. 1 S. New York Ave. Atlantic City, NJ 08401 609-348-4131	Citizen Action (Offices statewide) 400 Main Street Hackensack, NJ 07601 1-800-NJ Owner 201-488-2804
Consumer Credit Counseling Service of Central New Jersey 1931 Nottingham Way Hamilton, NJ 08619 609-586-2574	Consumer Credit Counseling Service of Central New Jersey 253 Nassau Street Princeton, NJ 08540 609-924-2896	Consumer Credit Counseling Service of New Jersey 185 Ridgedale Ave. Cedar Knolls, NJ 07927-1812 973-267-4324
Fair Housing Council of Northern New Jersey 131 Main St. Hackensack, NJ 07601 201-489-3552	Garden State Consumer Credit Counseling, Inc. 225 Willowbrook Road Freehold, NJ 07728 1-800-992-4557	Housing Coalition of Central Jersey 78 New Street New Brunswick, NJ 08901 732-249-9700
Jersey Counseling & Housing Development, Inc. 29 S. Blackhorse Pike Blackwood, NJ 08012 856-227-3683	Jersey Counseling & Housing Development, Inc. 1840 S. Broadway Camden, NJ 08104 856-641-1000	Mercer County Hispanic Association 200 E. State St., 2nd Floor Trenton, NJ 08607 609-392-2446
Middlesex County Economic Opportunities Corporation 1215 Livingston Ave. North Brunswick, NJ 08902 732-790-3344	Monmouth County Human Services Housing Services Unit P.O. Box 3000 Freehold, NJ 07728 732-431-7998	Morris County Fair Housing Council 65 Spring Street Morristown, NJ 07953 973-538-2975
NJ Citizen Action (main office/financial education center) 744 Broad St., Suite 2080 Newark, NJ 07102 973-643-8800 1-800-NJ-OWNER (loan counseling) 1-888-TAXES-11 (free tax preparation assistance)	NJ Citizen Action (Central Jersey) 85 Raritan Ave., Suite 100 Highland Park, NJ 08904 732-246-4772	NJ Citizen Action (South Jersey) 2 Riverside Drive, Suite 362 Camden, NJ 08103 856-966-3091
Ocean Community Economic Action Now, Inc. 22 Hyers St. Toms River, NJ 08753-0773 732-244-2351, ext. 2	Ocean Community Economic Action Now, Inc. 10 Washington Street Toms River, NJ 08753-0773 732-244-2351, ext. 14	Paterson Coalition for Housing, Inc. 262 Main St., 5th Floor Paterson, NJ 07505 973-684-5998
Paterson Task Force for Community Action, Inc. 155 Ellison St. Paterson, NJ 07505 973-279-2333	Puerto Rican Action Board Housing Coalition Unit 90 Jersey Ave. New Brunswick, NJ 08903 732-249-9700	Tri-County Community Action Agency, Inc. 110 Cohansey St. Bridgeton, NJ 08302 856-451-6330
Urban League for Bergen County 106 W. Palisade Ave. Englewood, NJ 07631 201-568-4988	Urban League for Essex County 508 Central Ave. Newark, NJ 07101 973-624-9535	Urban League of Union County 288 N. Broad St. Elizabeth, NJ 07208 908-351-7200
Homelessness Prevention Program New Jersey Department of Community Affairs (866) 889-6270*		

## Court/Clerk/Legal Offices

Directory of Superior Court Deputy Clerk's Offices; County Lawyer Referral & Legal Services Offices

<p><b>ATLANTIC COUNTY:</b> Deputy Clerk of the Superior Court Civil Division, Direct Filing 1201 Bacharach Blvd., First Fl. Atlantic City, NJ 08401 LAWYER REFERRAL (609) 345-3444 LEGAL SERVICES (609) 348-4200</p>	<p><b>CUMBERLAND COUNTY:</b> Deputy Clerk of the Superior Court Civil Case Management Office Broad &amp; Fayette Sts. P.O. Box 10 Bridgeton, NJ 08302 LAWYER REFERRAL (856) 692-6207 LEGAL SERVICES (856) 451-0003</p>	<p><b>MERCER COUNTY:</b> Deputy Clerk of the Superior Court Local Filing Office, Courthouse 175 S. Broad Street, P.O. Box 8068 Trenton, NJ 08650 LAWYER REFERRAL (609) 585-6200 LEGAL SERVICES (609) 695-6249</p>	<p><b>SALEM COUNTY:</b> Deputy Clerk of the Superior Court 92 Market Street P.O. Box 29 Salem, NJ 08079 LAWYER REFERRAL (856) 678-8363 LEGAL SERVICES (856) 451-0003</p>
<p><b>BERGEN COUNTY:</b> Deputy Clerk of the Superior Court Civil Division, Room 115 Justice Center, 10 Main St. Hackensack, NJ 07601 LAWYER REFERRAL (201) 488-0044 LEGAL SERVICES (201) 487-2166</p>	<p><b>ESSEX COUNTY:</b> Deputy Clerk of the Superior Court Civil Customer Service Hall of Records, Room 201 465 Dr. Martin Luther King Jr. Blvd. Newark, NJ 07102 LAWYER REFERRAL (973) 622-6204 LEGAL SERVICES (973) 624-4500</p>	<p><b>MIDDLESEX COUNTY:</b> Deputy Clerk of the Superior Court, Middlesex Vicinage 2nd Floor - Tower 56 Paterson Street, P.O. Box 2633 New Brunswick, NJ 08903-2633 LAWYER REFERRAL (732) 828-0053 LEGAL SERVICES (732) 249-7600</p>	<p><b>SOMERSET COUNTY:</b> Deputy Clerk of the Superior Court Civil Division P.O. Box 3000 40 North Bridge Street Somerville, N.J. 08876 LAWYER REFERRAL (908) 683-2323 LEGAL SERVICES (908) 231-0840</p>
<p><b>BURLINGTON COUNTY:</b> Deputy Clerk of the Superior Court Central Processing Office Attn: Judicial Intake First Fl., Courts Facility 49 Rancocas Rd. Mt. Holly, NJ 08060 LAWYER REFERRAL (609) 261-4862 LEGAL SERVICES (800) 496-4570</p>	<p><b>GLOUCESTER COUNTY:</b> Deputy Clerk of the Superior Court Civil Case Management Office Attn: Intake First Fl., Court House 1 North Broad Street, P.O. Box 750 Woodbury, NJ 08096 LAWYER REFERRAL (856) 848-4589 LEGAL SERVICES (856) 848-3360</p>	<p><b>MONMOUTH COUNTY:</b> Deputy Clerk of the Superior Court Court House 71 Monument Park Freehold, NJ 07728-1269 LAWYER REFERRAL (732) 431-5544 LEGAL SERVICES (732) 866-0020</p>	<p><b>SUSSEX COUNTY:</b> Deputy Clerk of the Superior Court Sussex County Judicial Center 43-47 High Street Newton, NJ 07860 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 383-7400</p>
<p><b>CAMDEN COUNTY:</b> Deputy Clerk of the Superior Court Civil Processing Office Hall of Justice 1st Fl., Suite 150 101 South 5th Street Camden, NJ 08103 LAWYER REFERRAL (856) 964-4520 LEGAL SERVICES (856) 964-2010</p>	<p><b>HUDSON COUNTY:</b> Deputy Clerk of the Superior Court Superior Court, Civil Records Dept. Brennan Court House--1st Floor 583 Newark Ave. Jersey City, NJ 07306 LAWYER REFERRAL (201) 798-2727 LEGAL SERVICES (201) 792-6363</p>	<p><b>MORRIS COUNTY:</b> Morris County Courthouse Civil Division Washington and Court Streets P. O. Box 910 Morristown, NJ 07963-0910 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 285-6911</p>	<p><b>UNION COUNTY:</b> Deputy Clerk of the Superior Court 1st Fl., Court House 2 Broad Street Elizabeth, NJ 07207-6073 LAWYER REFERRAL (908) 353-4715 LEGAL SERVICES (908) 354-4340</p>
<p><b>CAPR MAY COUNTY:</b> Deputy Clerk of the Superior Court 9 N. Main Street Capo May Court House, NJ 08210 LAWYER REFERRAL (609) 463-0313 LEGAL SERVICES (609) 465-3001</p>	<p><b>HUNTERDON COUNTY:</b> Deputy Clerk of the Superior Court Civil Division 65 Park Avenue Flemington, NJ 08822 LAWYER REFERRAL (908) 735-2611 LEGAL SERVICES (908) 782-7979</p>	<p><b>OCEAN COUNTY:</b> Deputy Clerk of the Superior Court 118 Washington Street, Room 121 P.O. Box 2191 Toms River, NJ 08754-2191 LAWYER REFERRAL (732) 240-3666 LEGAL SERVICES (732) 341-2727 Rev. 10/2008, CN 10153-English Page 3</p>	<p><b>WARREN COUNTY:</b> Deputy Clerk of the Superior Court Civil Division Office Court House 413 Second Street Belvidere, NJ 07823-1500 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (908) 475-2010 Rev. 10/2008, CN 10153-English</p>
		<p><b>PASSAIC COUNTY:</b> Deputy Clerk of the Superior Court Civil Division Court House 77 Hamilton Street Paterson, NJ 07505 LAWYER REFERRAL (973) 278-9223 LEGAL SERVICES (973) 523-2900</p>	

SCHEDULE

LIST OF NEW JERSEY STATE BAR ASSOCIATION  
LAWYER REFERRAL SERVICES OR LEGAL SERVICES OFFICES

New Jersey Bar Association - Tel. 908-249-5000

<u>LAWYER REFERRAL SERVICES</u>	<u>TELEPHONE NO.</u>
Atlantic County Bar Association	609-345-3444
Bergen County Bar Association	201-488-0044
Burlington County Bar Association	609-261-4862
Camden County Bar Association	856-964-4520
Cape May County Bar Association	609-463-0313
Cumberland County Bar Association	856-692-6207
Essex County Bar Association	973-622-6207
Gloucester County Bar Association	856-848-4589
Hudson County Bar Association	201-798-2727
Hunterdon County Bar Association	908-735-2611
Mercer County Bar Association	609-890-6200
Middlesex County Bar Association	732-828-0053
Monmouth County Bar Association	732-431-5544
Morris County Bar Association	973-267-5882
Ocean County Bar Association	732-240-3666
Passaic County Bar Association	973-278-9223
Salem County Bar Association	856-678-8363
Somerset County Bar Association	908-685-2323
Sussex County Bar Association	973-267-5882
Union County Bar Association	908-353-4715
Warren County Bar Association	973-267-5882

LEGAL SERVICES OFFICE

TELEPHONE NO

Atlantic County	609-348-4200
Bergen County	201-487-2166
Burlington County	609-261-1088
Camden County	856-964-1002
Cape May County	609-465-3001
Cumberland County	856-451-0003
Essex County	973-624-4500
Gloucester County	856-848-5360
Hudson County	201-792-6363
Hunterdon County	908-782-7979
Mercer County	609-695-6249
Middlesex County	732-249-7600
Monmouth County	732-747-7400
Morris County	973-285-6911
Ocean County	732-341-2727
Passaic County	973-345-7171
Salem County	856-451-0003
Somerset County	908-231-0840
Sussex County	973-383-7400
Union County	908-354-4340
Warren County	973-475-2010

Legal Services of New Jersey, Inc. - Tel. 908-246-0770

NO GUARANTEE AS TO THE ACCURACY OF THE TELEPHONE NUMBERS  
SET FORTH ABOVE IS ASSUMED OR IMPLIED  
PLEASE CHECK YOUR TELEPHONE DIRECTORY

**EXHIBIT E**

Form Letter to be Attached to Corrected NOIs Pursuant to an Order to Show Cause

[Letterhead of Plaintiff's Attorney]

[Date]

[Defendant Name(s)]

[Defendant Address]

[Defendant City, State ZIP]

Re: Order to Show Cause – [Caption and Docket Number of Order to Show Cause]  
Your Foreclosure Action – [Caption and Docket Number of Defendant's  
Foreclosure Action]

Dear [Defendant Name(s)]

Please be advised that the New Jersey Supreme Court recently held in *U.S. Bank N.A. v. Guillamme*, 209 N.J. 449 (2012), that mortgage lenders seeking to foreclose must comply with the New Jersey Fair Foreclosure Act's requirement that a Notice of Intention to Foreclose set forth the name and address of the lender.

Why You Are Receiving This Letter

You are receiving this letter because you are the defendant in a pending foreclosure action, and it is believed that the Notice of Intention to Foreclose served upon you prior to the commencement of the foreclosure action did not comply with the requirements of the Fair Foreclosure Act.

By the court's Order to Show Cause dated [month] [day], 2013, and in compliance with the Supreme Court's opinion in *U.S. Bank N.A. v. Guillamme*, [Hon. Paul Innes, P. J. Ch., Mercer Vicinage or Hon. Margaret Mary McVeigh, P. J. Ch., Passaic Vicinage], gave permission to [plaintiff or servicer name] to serve, along with the Order to Show Cause and verified complaint, corrected Notices of Intention to Foreclose on all defendant mortgagors/parties obligated on the debt in pending foreclosure actions filed before February 28, 2012 in which [plaintiff name] is the plaintiff.

Information About the Order to Show Cause and Verified Complaint

Enclosed with this letter are copies of the Order to Show Cause and Verified Complaint. The Verified Complaint lists the following lenders:

Emigrant Residential, LLC, f/k/a EMC, LLC a/k/a EMC-LLC

ESB-B/W Holdings, LLC n/k/a Emigrant Residential, LLC

Emigrant Savings Bank n/k/a Emigrant Bank

The attachments to the Verified Complaint, which list the foreclosure actions in which the above named lenders or Emigrant Mortgage Company, Inc. (as servicer and holder) are the plaintiffs, will be made available on the New Jersey Courts website at <http://www.judiciary.state.nj.us/>. If you are unsure of the docket number for your foreclosure action, you can access that information on the court's website in the attached exhibits to the Verified Complaint by entering your name on the automatic search field on the court's website. If you do not have access to a computer or have trouble locating that information on the court's website you can contact the *plaintiff's attorney*, Richard A. Epstein, Esq. at (732-303-8599), who can assist you in locating the information about your foreclosure.

#### Information About the Corrected Notice of Intention to Foreclose

Also enclosed with this letter is the corrected Notice of Intention to Foreclose. It allows you an additional 30 days in which to cure the default without have to pay the plaintiff's court costs and attorneys' fees. It also sets forth important information about your loan, including information on how you can cure the default; the consequences of failing to cure the default, contact information for the plaintiff, and information about retaining counsel and borrower assistance. If you fail to cure the default by the date set forth in the corrected Notice of Intention to Foreclose, the foreclosure action against you will proceed.

With the passage of time since the foreclosure action was filed against you, the lender on your loan may have changed from the named plaintiff in the foreclosure action. The corrected Notice of Intention to Foreclose lists the name and address of the current lender on your loan.

#### Questions about the Notice of Intention to Foreclose

Should you have questions with regard to your loan or the corrected Notice of Intention to Foreclose, please contact Emigrant Mortgage Company, Inc. at (212-850-4756 or 1-800-836-3752, ext. 4756. Additional contact information is provided in the corrected Notice of Intention to Foreclose.

#### How to File an Objection

You have the right to object to the enclosed Order to Show Cause (the process by which the court gave the plaintiff permission to serve the corrected Notice of Intention to Foreclose). To do so, you must file a written objection under the docket number for the Order to Show Cause.

You also have the right to object to the enclosed corrected Notice of Intention to Foreclose. To do so, you must file a written objection under the docket number for the foreclosure action in your individual case.

For either type of objection, you must set forth with specificity the basis of the objection, and file the objection with the Superior Court Clerk's Office at the following address within 30 days.

Supreme Court Clerk's Office, Foreclosure Processing Services  
Attention: Objection to Notice of Intention to Foreclose  
P. O. Box 971  
Trenton, New Jersey 08625

You must also serve a copy of the objection on the plaintiff's attorney, Richard A. Epstein, Esq., at 2 Bucks Lane, Marlboro, NJ 07746, and mail a copy of the objection to [*Judge Innes or Judge McVeigh*] at [*address*].

Your personal appearance at the Superior Court Clerk's Office or your local courthouse will not qualify as an objection. A telephone call will not protect your rights; you must file your objection and serve it on the plaintiff's attorney if you want the court to hear your objection to the relief the plaintiff is seeking. If you file a specific written objection, the case will be sent to a Judge for resolution. You will be informed by the Judge of the time and place of the hearing on your objection.

#### Questions about Filing an Objection

Should you have questions related to the procedures for filing an objection, please visit the New Jersey Courts on-Line Self-Help Center at <http://www.judiciarystatenj.us/prose/indexhtm>. You may also contact the Superior Court Clerk's office at (609) 421-6100, or at [SCCOForeclosureMailbox@judiciarystatenj.us](mailto:SCCOForeclosureMailbox@judiciarystatenj.us).

**RECEIVED**

OCT 03 2013

SUPERIOR COURT  
CLERK'S OFFICE

**Richard A. Epstein, P.C.**

Attorney at Law  
2 Bucks Lane & Hwy. 79, Suite 3  
Marlboro, N.J. 07746

(732) 303-8599  
(732) 303-1566 (Fax)

Richard A. Epstein, Esq.

E-Mail: [raelaw@optonline.net](mailto:raelaw@optonline.net)

October 3, 2013

**HAND DELIVERED**

Clerk, Superior Court of New Jersey  
25 W. Market Street  
Trenton, NJ 08625

Re: Emigrant Mortgage Company, Inc. – Summary Action/NOI Order to Show Cause

Dear Sir or Madam:

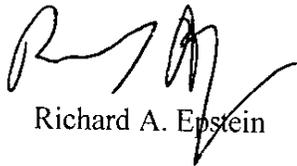
Please be advised that I represent Emigrant Mortgage Company, Inc. in the above referenced matter.

Enclosed for filing with the Court please find an original and copy of Emigrant's Verified Complaint, Order to Show Cause and Brief in Support, along with two (2) checks in the amount of \$200.00 and \$30.00.

Kindly file the above and return a copy marked "filed" to my office in the stamped return envelope enclosed herewith.

If you have any questions or require any additional information, please contact me.

Very truly yours,



Richard A. Epstein

RAE:dee  
Enclosures