
From: jakada@taok.co
Sent: Thursday, December 6, 2018 1:26 PM
To: Comments Mailbox
Subject: RE: Opposition to proposed rule change -Notice to the Bar dated November 14, 2018
Attachments: Ad Hoc Opposition Statement to Proposed Rule Change 12 6 18.pdf; EXHIBIT A .pdf; EXHIBIT B.pdf

To whom it may concern:

Please see attached documents which supports our open opposition to the proposed rule change as cited in the "notice to the Bar" dated November 14, 2018. To allow the Plaintiffs in foreclosure matters to submit a "mere" certification in support of there application / motion for final judgment is proof positive that collusion exist between the foreclosing Plaintiffs counsel of record and the Courts. The June 9, 2011 amended rule change set the standard for exparte testimony via sworn affidavit. Now the Special Committee on Residential Foreclosure wants to erase the foreclosing Plaintiffs testimony all together. Shame.

To attempt to "sneak" that rule change (R.4:64-2 "**or certification**") over this holiday season is a bad business practice at worst and a terrible "Special Committee on residential foreclosure" recommendation. In addition, the insertion of the phrase "**or certification**" into R.4:64-2 does not cure the thousands of final judgments which where obtained and maintained currently in hundred's if not thousand's of foreclosure cases curtly docketed.

The Honorable Judge Stuart Rabner, Chief Justice got it right on June 9, 2011. (See the Notice to the Bar Dated June 9, 2011). Affidavits Must Be Submitted, and the "Model Forms" proved this point. We shall be taking up the matter with the Press during the week of December 14, 2018.

Respectfully submitted,

S. Hoffman, DTA

Declarant:

Ad Hoc Valens Committee
174 Nassau Street - # 329
Princeton, NJ 08542
Attn: Samuel Hoffman, Data Integrity Chief.

Respondent:

Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Proposed Foreclosure Rule Amendments
Hughes Justice Complex: P O Box 037
Trenton, New Jersey 08625-0037

Date: December 6, 2018

RE: OBJECTION TO PROPOSED RULE CHANGE. [R.4:64-2] (or certification.)

Dear Hon. Judge Grant:

First I would like to say that I could not believe my eyes when I saw the report from the special committee on residential foreclosures report dated August 2018. As you fully well know our focus has been on the issue cited in your report lodged on page 25. (Rule 4:64-2. Proof; Affidavit).

I was more shocked and appalled when I read the “Notice to the Bar” Rule Amendments proposed by the Special Committee on Residential Foreclosure – Comments Sought dated November 14, 2018. Clearly, due process and full disclosure rights are under attack again based upon the issue of allowing Plaintiffs to file mere “certifications” in lieu of the required sworn Affidavits. Must I remind you that the Supreme court has already fixed and amended the issue of false statements and swearing when it amended the rule on June 11, 2011, which made mandatory the filing of affidavits as instructed by the new model forms attached to that order of June 9, 2011 as cited in the notice to the bar of same date.

Please be reminded that the Supreme Court of New Jersey considered the differences between an Affidavit and certifications in the case of Alan J. Cornblatt, P.A. v. Barrow, 153 N.J. 218 (1997). An affidavit is a “written or printed declaration or “statement of Facts”, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.” Id. At 236. A certification, unlike an affidavit is merely a “formal assertion in writing of some fact.” Id. At 237. So, now the Special Committee wants to allow for a “mere formal assertion in writing to some fact” be the platform for granting final judgments in residential foreclosure matters? Isn’t it bad enough that no direct testimony or evidentiary hearings are granted to defendants as they defend their real property rights from certain weak claims of defaulted note payments.

The proposed **or certification** addition to rule 4:64-2 will allow certifications to be used in lieu of the previously described affidavits would open up the flood gates for more false statements and false swearing via certifications which are already suspect in the majority of foreclosure cases filed by mere mortgage assignees. It will be very destructive to communities which are already under siege by the broken foreclosure system which treats Plaintiffs with kid gloves, while they foreclosure on residence with weak unsupported claims. The proposed rule change will destroy the already lack of confidence homeowners have in the current judicial system.

If the committee wants proof that the previous Amended Supreme Court order (June 9, 2011) was ignored and shunned by Plaintiffs counsel when applications for final judgments where made, the Special committee need only do a random search of 200 applications for final judgment and you will find 98% of those applications where not compliant with the amended Supreme Court rule dated June 9, 2011.

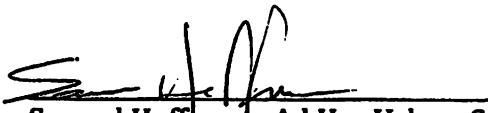
The proposed rule should not be yet another abandonment of homeowners rights by attempting to fix what might be perceived by the special committee as a burden on Plaintiffs counsel, but a failure of the judiciary to enforce the rules, which already exists. We firmly stand by the Legal Services of New Jersey Report and Recommendations to the New Jersey Supreme Court Concerning False Statements and Swearing in Foreclosure Proceedings – Dated November 4th, 2010.

This expedited rush to change Rule 4:64-2 over the holiday season, to include the term **or certification** is highly suspect at worst, and a failure of the Judiciary to follow up on its June 9, 2011 order with a full report to determine if the June 9, 2011 was fully complied with. The real issue which will explain the covertness of this rule change will be when the Judiciary make this new amendment to the rule effective from June 11, 2011 to the date of its enactment. There currently lay's in the New Jersey Superior Court record in Trenton New Jersey thousands of non-compliant certifications of amounts due and owing filed in blatant disregard for the amended rules enacted by the New Jersey Supreme Court on June 9, 2011. I pray the Special Committee's" fast track approach to adding the term **or certifications** is fully investigated before enactment.

We shall remain vigilant in moving this attempt to pander to plaintiffs in foreclosure matters in the direction which will enhance exposure of the blatant attempt to allow plaintiffs to totally evade true evidentiary procedures, fact finding and support of loosely fit pleadings held together by "some facts" found in certifications non-confirmed under oath by representatives of mostly foreign based financial entities. This proposed rule change would be yet another black eye for homeowners attempting to get truth of the claims being presented to them in foreclosure matters. The Report of the Special Committee on Residential Foreclosures dated August 2018 failed to mention the proposed insertion of the phrase -or certification into rule 4:64-2. See ("**Exhibit A**") The Notice to the Bar Dated September 20, 2018 failed to mention the proposed insertion of the phrase -or certification into rule 4:64-2. See ("**Exhibit B**") The Notice to the Bar Rule Amendments Proposed by the Special Committee on Residential Foreclosure – Comments Sought dated November 14, 2018, Mysteriously inserts the phrase -or certification into rule 4:64-2. See ("**Exhibit C p.7 and 6**"). This attempt to insert the phrase or certification into the rule is very deceptive and gives the public very little time to respond to this very important rule change. This rule change will give the foreclosing Plaintiff and Plaintiff counsel of record "carte blanche" to file whatever it deems to be facts regarding business records and mortgage servicing employees submitting such statements will not be held accountable.

Our objection here now stands firm to the proposed change of rule 4:64-2. (The addition of: or certifications)

Best regards,



Samuel Hoffman – Ad Hoc Valens Committee
Data integrity / Data Mining Researcher

cc. Joseph R. Gannon, Esquire
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CERTIFICATION OF SERVICE

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c.c. State Senator Steven V. Oroho

**PETITION IN OBJECTION TO THE PROPOSED AMENDMENT OF
RULE 4:64-2. PROOF; CERTIFICATION OR AFFIDAVIT**

To: Hon. Glenn A. Grant, J.A.D. Chair, Acting Administrative Director of the Courts
Michelle M. Smith, Clerk of the Superior Court
Kathryn Gilbertson Shabel, Esquire, Deputy Clerk of the Superior Court
Professor Linda E. Fisher, Center for Social Justice, Seton Hall School of Law
Carrie Ferraro, Esquire, Legal Services of Northwest Jersey

We the Citizens of the State of New Jersey hereby put the above named individuals and entities on notice that final judgments are being rendered to Plaintiffs in foreclosure cases which fail to meet and comply with R.4:64-2 established in June 9, 2011. See notice to the Bar attached exhibit **A**. We the citizens of New Jersey are contemplating class action if the matter is not corrected. Our financial environment and the health of our families and communities are placed at risk by non-compliant final judgment application procedures filed and accepted by the Superior Court foreclosure-processing unit, The Superior Court Clerk and the Office of Foreclosure.

It is imperative that the above-identified authorities enforce the New Jersey Court Rule 4:64-2 as they were written and duly promulgated on June 9, 2011.

Since the above identified agencies have been duly commissioned with the inherit responsibility to guarantee that the foreclosure process works fairly with full disclosure, and because said agencies are in a position to enforce the New Jersey Court rules, we call upon the above named entities to take the appropriate and immediate action to enforce R.4:64-2 and R. 4:64-2 (b)(c)(d).

1. Immediately implement a program to address the non-compliant affidavit of diligent inquiry and affidavits and proof of amounts due and owing schedule already filed for final judgments granted.
2. Adopt a strict policy to make sure only compliant applications for final judgment are approved pursuant to the requirements directed by R.4:64-2(d) and R. 4:64-2 (b).
3. Create a plan to immediately correct, withdraw or vacate the final judgments that where granted utilizing the non-conforming motion applications, non-compliant affidavits of diligent inquiry and non-compliant affidavits and proof of amounts due and owing schedule filed in foreclosure actions.

Notice: If the Office of Foreclosure Processing Unit, the Superior Court Clerk's office and the "Special Committee on Residential Foreclosures" wish to retain foreclosure defendants and homeowners trust, we ask that you commit to making sure that only sworn affidavits are utilized to obtain and maintain final judgments in residential foreclosure matters. In addition, the Report of the Special committee on residential foreclosure dated August 2018 failed to identify the proposed rule change of Rule 4:64-2. Proof; Affidavit on page 25

Listen to our 4 part series soon to be aired on WBAI radio, before further homeowner's rights are stolen over the holiday season. Please look for our soon to be released 360 page free report titled - The Great Deception - " New Jersey Foreclosure Fraud Run Amok".

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