



well as the loan documents, Rules of Court and any applicable laws. As the entity collecting and processing payments, CENLAR has the information relevant to the payments, escrows paid, amounts due and whether a loan is in default and by how much. This information is maintained on CENLAR's systems of record. In cases in which CENLAR is only the servicer (and not also the lender), the lender is not likely to have possession of the relevant servicing information, as was recognized by the Supreme Court when it revised the Court Rules governing foreclosures at R. 4:64-1 and R. 4:64-2 in June, 2011. CENLAR makes this application to the Court pursuant to the authority granted to CENLAR as the servicing agent of Foreclosure Plaintiffs in pending foreclosure cases.

4. The identities of the Foreclosure Plaintiffs in the foreclosure cases for which CENLAR is seeking to issue corrected Notices of Intent are identified alphabetically in the Counts 1 through 4. Attached as Exhibits 1 through 4 to each of those Counts are the current lists of pending, uncontested foreclosure cases that require corrected NOIs (collectively referred to hereafter as the "Corrected NOI List").

5. One of the duties of a servicer on a defaulted mortgage loan in New Jersey is to prepare and serve the Notice of Intent to Foreclose ("NOI"), in accordance with the applicable contracts and as required by N.J.S.A. 2A:50-56 of the Fair Foreclosure Act. The NOI is prepared based on current loan information held by CENLAR and includes, among other data elements, information about the amount that is required to reinstate the loan and the date by which reinstatement must occur.

6. On February 27, 2012, the Supreme Court decided Guillaume and held that the Fair Foreclosure Act requires strict adherence to the notice requirements set forth in N.J.S.A. 2A:50-56(c) for all NOIs. The Court further held that a court adjudicating a foreclosure action in

which the strict requirements of N.J.S.A. 2A:50-56 were not followed has the discretion to choose the appropriate remedy, permitting a cure of the deficient NOI, or imposing such other remedy as may be appropriate to the specific case.

7. Following its decision in Guillaume, the Court entered the April 4<sup>th</sup> Order which authorizes the Hon. Margaret Mary McVeigh, P.J.Ch., Passaic Vicinage, and the Hon. Paul Innes, P.J.Ch., Mercer Vicinage, 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 been entered, who caused NOIs to be served that are deficient under the Fair Foreclosure Act, N.J.S.A. 2A:50-56, should not be allowed to serve corrected NOIs on defendant/mortgagors and/or parties obligated on the debt (the "Foreclosure Defendants").

8. The April 4<sup>th</sup> Order further states that any corrected NOI must be accompanied by a letter to the Foreclosure Defendants setting forth the reasons why the corrected NOI is being served, the procedure to follow in the event a Foreclosure Defendant wishes to object to the NOI, the name of a person to contact with any questions, and that the receipt of the corrected NOI allows Foreclosure Defendants 30 days in which to object or to cure the default.

9. CENLAR reviewed its pending foreclosure cases with its counsel to identify those foreclosure cases which will require a corrected NOI because the lender and/or the lender's address were not correctly identified in the previously served NOIs.

10. The Corrected NOI List attached as Exhibits 1 through 4 includes the portfolio of loans that are pre-judgment, uncontested foreclosures that CENLAR is servicing and in which deficient NOIs were served by CENLAR. Specifically, as directed by the Supreme Court in Guillaume and the April 4, 2012 Order, the Corrected NOI List includes a listing of:

- a. foreclosures that were filed on or before February 27, 2012 and which CENLAR is servicing the loans and acting as agent for a Foreclosure Plaintiff or itself,
- b. in which final judgment has not been entered, and
- c. in which CENLAR is seeking leave to file a corrected NOI to include the identity of the lender and the lender's address.

11. The Corrected NOI List also identifies (1) the name of the lender on each loan which is listed as the Plaintiff in the foreclosure action, (2) the name of the first named Foreclosure Defendant, (3) the foreclosure docket number and, (4) the vicinage.<sup>1</sup> While CENLAR is not the Plaintiff in all of the foreclosure actions, it is the servicer of each such loan, maintains the records for each such loan, and is responsible for mailing the corrected NOI pursuant to the relevant contracts with the Foreclosure Plaintiffs.

12. To comply with the April 4<sup>th</sup> Order, attached as Exhibit "A" to the Verified Complaint is the proposed form of letter ("Explanatory Letter") that CENLAR intends to send to Foreclosure Defendants, Young Kwon, David Tripet, John and Myron Daniels. As instructed by the Supreme Court in the April 4<sup>th</sup> Order, the proposed form of Explanatory Letter:

- a. explains the reason why the corrected NOI is being served,
- b. the procedure to follow in the event a Foreclosure Defendant wishes to object to the NOI,
- c. identifies the individual(s) a Foreclosure Defendant should contact with any questions, and
- d. advises the Foreclosure Defendant 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.

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<sup>1</sup> Because considerable time has passed since NOIs were originally sent in the foreclosure actions, the Foreclosure Plaintiff initially identified in the caption may not be the current correct entity that will be listed in the corrected NOI. For sake of clarity, the corrected NOI will list the current lender and lender's address and CENLAR will require that foreclosure counsel take appropriate steps to change the plaintiff in affected foreclosure actions where required.

The corrected NOIs will exclude attorneys' fees and costs incurred in the pending foreclosure cases.

13. Attached as Exhibit "B" to the Verified Complaint is the proposed form of corrected NOI which CENLAR will send to each of the Foreclosure Defendants identified on the Corrected NOI List. Each Foreclosure Defendant will be served with a corrected NOI that includes, *inter alia*, the information specific to their mortgage loan, their default, the lender/holder's name and address and the amount to reinstate, as provided for in the Order to Show Cause.

#### **COUNT 1 – CENLAR, FSB**

14. CENLAR services residential mortgage loans in New Jersey for New Jersey Housing pursuant to an agreement between the parties.

15. Attached as Exhibit 1 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by CENLAR and in which CENLAR previously served a NOI that did not include the name and address of the lender.

#### **COUNT 2 – NEW JERSEY HOUSING AUTHORITY**

16. CENLAR services residential mortgage loans in New Jersey for New Jersey Housing Authority pursuant to an agreement between the parties.

17. Attached as Exhibit 2 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by CENLAR for New Jersey Housing Authority and in which CENLAR previously served a NOI that did not include the name and address of the lender.

#### **COUNT 3 – POLICE & FIREMAN RETIREMENT FUND**

18. CENLAR, FSB services residential mortgage loans in New Jersey for New Jersey Housing Authority pursuant to an agreement between the parties.

19. Attached as Exhibit 3 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by Police and Fireman Retirement Fund and in which CENLAR previously served a NOI that did not include the name and address of the lender.

**COUNT 4 – REAL ESTATE MORTGAGE NETWORK**

20. CENLAR services residential mortgage loans in New Jersey for Real Estate Mortgage Network pursuant to an agreement between the parties.

21. Attached as Exhibit 4 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by CENLAR for Real Estate Mortgage Network and in which CENLAR previously served a NOI that did not include the name and address of the lender.

**WHEREFORE**, Plaintiff respectfully requests that this Court enter an Order permitting CENLAR to issue corrected NOIs in an omnibus manner as permitted in the April 4, 2012 Order to include the name and address of the lender in the pending, uncontested foreclosure cases listed on the Corrected NOI List and for such other and further relief as this Court deems just and equitable.

**REED SMITH LLP**



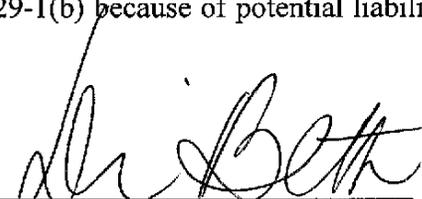
Diane A. Bettino, Esquire

Dated:

1/11/13

**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 pending foreclosure actions on the Corrected NOI List attached hereto and any pending, separate actions initiated outside of the uncontested foreclosure proceedings in which Foreclosure Defendants may have raised claims concerning, *inter alia*, their NOIs but which are not at issue in this application. I further certify that I am unaware of any non-party who should be joined in this action pursuant to Rule 4:28 or who is subject to joinder pursuant to Rule 4:29-1(b) because of potential liability to any party based on the same transactional facts.

  
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Diane A. Bettino, Esquire

Dated:

1/19/13

**VERIFICATION**

STATE OF                               :  
  :  
COUNTY OF                        :

I, Diane Constantine, being duly sworn states:

1. I am Diane Constantine, Foreclosure Manager for Cenlar FSB, the applicant named in the foregoing Verified Complaint.

2. The allegations in the Verified Complaint are true to the best of my knowledge and belief.

3. The Exhibits attached to the Verified Complaint are true and correct copies.

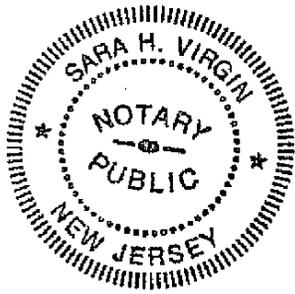
  
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**Diane Constantine  
Foreclosure Manager**

Sworn and subscribed before me  
this 11 day of XI 2013

  
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**SARA H VIRGIN**  
ID # 2418816  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
My Commission Expires March 19, 2017



CERTIFICATION  
NOT  
REQUIRED

CERTIFICATION  
NOT  
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CERTIFICATION  
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