

JEFFREY A. DONNER, ESQ.
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RECEIVED

FEB 26 2013

**SUPERIOR COURT
CLERK'S OFFICE**

Attorneys for GMAC Mortgage, LLC Foreclosure Defendant Yuval Gohar in Docket No. F-9278-09
(Monmouth County)

**IN RE APPLICATION BY GMAC
MORTGAGE, LLC TO ISSUE CORRECTED
NOTICE OF INTENT TO FORECLOSE ON
BEHALF OF IDENTIFIED FORECLOSURE
PLAINTIFFS IN UNCONTESTED CASES**

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

DOCKET NO.: F-025354-12

Civil Action

**OBJECTION ON BEHALF OF
FORECLOSURE DEFENDANT YUVAL
GOHAR TO ORDER TO SHOW CAUSE
ENTERED DECEMBER 13, 2012**

To: D. Brian O'Dell, Esq.
Bradley Arant Boult Cummings LLP
1819 Fifth Avenue North
Birmingham, AL 35203

COUNSEL:

PLEASE TAKE NOTICE that Yuval Gohar, the foreclosure defendant in GMAC v. Gohar et als., bearing Docket No.: F-9278-09 and affecting said defendant's residential property located at 38 Old Farm Road, Oakhurst, New Jersey 07755 (the "Residential Foreclosure Action"), by his attorneys, Donner Law Associates, L.L.C., Jeffrey A. Donner, Esq. on this submission, DOES HEREBY OBJECT

to the entry of the captioned Order to Show Cause in this matter permitting Plaintiff GMAC Mortgage, LLC to correct the defects in the Foreclosure Action, that presently prevent that action from proceeding, through the issuance of a corrected Notice of Intent to Foreclose, where no requirement has been made for the Complaint to be re-served and the Foreclosure Action to proceed from the beginning thereof affording Defendant the opportunity to defend said Action, where Plaintiff GMAC Mortgage, LLC has made numerous misrepresentations that the Foreclosure Action was stayed while Mr. Gohar made application for a modification of the underlying obligation, and that should said application be denied, Mr. Gohar would be afforded a full opportunity to file his Answer and Defenses opposing said foreclosure.

Background to Objection

To this end and in reliance thereon, Mr. Gohar withheld filing his Answer and defenses in this matter and made numerous submissions regarding said modification, including, but not limited to, submissions made on January 29, 2010; February 23, 2010; April 13, 2010 and April 29, 2010. At or about the time of the April 29, 2010 submission, Mr. Gohar received a written notice from the Loss Mitigation Department at GMAC Mortgage, LLC advising him that the requested modification was denied under the HAMP Program to which he had been directed by GMAC to apply because the principal balance of the subject loan exceeds the program limitations, a disqualifying fact of which GMAC should have advised Mr. Gohar at the start of this process. The notice further informed Mr. Gohar in writing that the "Account is in review for another workout option".

In subsequent communications, Mr. Gohar and his counsel were assured by representatives of GMAC in its Loss Mitigation Department that the Foreclosure Action had been stayed and remained stayed, and that, if necessary should a modification not be achieved, Mr. Gohar would be afforded

notice and ample opportunity to file his Answer therein.

Mr. Gohar was never afforded the opportunity to file his Answer because he was not given a clear response as to the status of his modification request that remained pending with GMAC, and in or about early to mid 2011, Mr. Gohar learned that issues had been presented in global litigation affecting GMAC Mortgage, LLC and other lenders and loan managers that raised issues as to the manner in which the Foreclosure Action and other similar foreclosures had been handled.

These issues proved to arise from defective Notices of Intent to Foreclose and were provided direction regarding the resolution of same through the ruling in US Bank, N.A. v. Guillaume, 209 N.J. 449 (2012), as identified in the Order to Show Cause. Among the holdings therein is the rejection of the harsh Laks ruling that dismissal without prejudice is the mandated remedy in every case of a defective Notice of Intent to Foreclose. Nevertheless, The US Bank ruling reserves the right of the trial court in appropriate cases to implement measures that are required under the circumstances to correct defective procedures therein.

Mr. Gohar contends that the Order to Show Cause should further provide that foreclosure actions such as the Foreclosure Action, where the lender or loan manager has misled the defendant even unintentionally regarding the filing of the Answer, should be required to re-serve the Complaint and afford said defendant the opportunity to file his Answer and defenses thereto.

Since the Order to Show Cause does not provide for this requirement, Mr. Gohar objects

thereto.

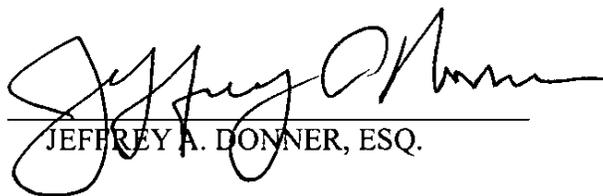
DONNER LAW ASSOCIATES, L.L.C.

By: 
JEFFREY A. DONNER, ESQ.

February 25, 2013

CERTIFICATION OF SERVICE AND FILING

The undersigned does hereby certify that the original plus one (1) copy of this Objection has this date been filed with Superior Court Clerk's Office, Foreclosure Processing Services, Attention: Objection to Notice of Intention to Foreclose, P.O. Box 71, Trenton, New Jersey 08625 with a courtesy copy to The Honorable Paul Innes, P.J. Ch., Superior Court of New Jersey, Mercer County Courthouse, First Floor, 175 South Broad Street, Trenton, New Jersey 08650-0068, and a clear copy of same to D. Brian O'Dell, Esq., Bradley Arant Boult Cummings LLP, 1819 Fifth Avenue North, Birmingham, AL 35203, all by over night U. S. Mail.


JEFFREY A. DONNER, ESQ.

February 25, 2013

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Jeffrey A. Donner, Esq.

February 25, 2013

VIA OVERNIGHT US MAIL
Superior Court Clerk's Office
Foreclosure Processing Services
Attention: Objection to Notice of Intentionally
to Foreclose
Mercer County Courthouse, First Floor
175 South Broad Street
Trenton, New Jersey 08625

RECEIVED
FEB 26 2013
SUPERIOR COURT
CLERK'S OFFICE

Re: In re Application by GMAC Mortgage, LLC to Issue
Corrected Notice of Intent to Foreclose, etc.
Docket No.: F-025354-12

* * *

Deutsche Bank Trust Company Americas, etc. v.
Yuval Gohar, et als.
Docket No.: F-9278-09

Objections to Order to Show Cause and Corrected
Notice of Intent to Foreclose

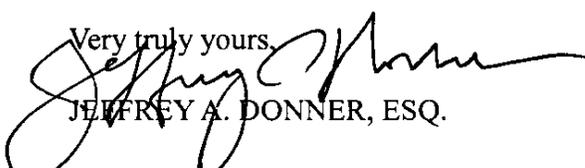
Dear Sir/Madam:

The undersigned represents Defendant Yuval Gohar in regard to the actions as captioned. Enclosed please find the original plus (1) copy of an Objection to the Order to Show Cause in Docket No.. F-025354-12 and an Objection to the Corrected Notice of Intent in Docket No.: F-9278-09.

Please file same and return a filed copy of each back to my attention using the enclosed addressed and stamped envelope for this purpose.

By copy hereof, I am serving these enclosures upon Hon. Paul Innes, P.J.Ch. And upon the respective counsel for GMAC as set forth below and in the Certifications of Filing and Service in each enclosed document.

Very truly yours,


JEFFREY A. DONNER, ESQ.

Superior Court Clerk's Office
February 25, 2013
Page 2.

All Overnight US Mail with Enclosures
cc: Hon. Paul Innes, P.J. Ch.
D. Brian O'Dell, Esq.
Rosemary Diamond, Esq.