

FILED Jan 10, 2014

EPSTEIN, COHEN & GILBERTI, L.L.C.  
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25 Sycamore Avenue, Suite 101  
Little Silver, New Jersey 07739  
(732) 212-0400  
Attorneys for Defendants, Louis and Lisa Baron

IN RE NOTICES OF INTENTION TO  
FORECLOSE SERVED BY PNC  
MORTGAGE, A DIVISION OF PNC BANK  
N.A.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MERCER COUNTY

DOCKET NO: F-035457-13

Civil Action

RESPONSE OF RESPONDENTS' LOUIS  
BARON AND LISA BARON TO  
PETITIONER'S ORDER TO SHOW  
CAUSE

Respondents, Louis Baron and Lisa Baron by their attorneys, Epstein Cohen & Gilberti, LLC, respond to plaintiff PNC's "Order to Show Cause to Proceed Summarily Pursuant to R. 4:67-2," filed on October 18, 2013 (the "OTSC"), as follows:

**REPLY**

1. Plaintiff's Order to Show Cause, was filed on October 18, 2013. [See Certification of Sandra L. Cohen ¶4, Exhibit B]
2. Respondents' counsel received a notice from the Court, dated September 6, 2013, that if nothing was filed in the matter captioned, "*PNC Mortgage v. Louis Baron et al.*," Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, on or before October 6, 2013, the case would be dismissed for lack of prosecution. [Cohen Cert. ¶3, Ex. A]
3. The Order to Show Cause and verified complaint should be dismissed and the foreclosure complaint should be dismissed for lack of prosecution as by the Court's own notice

plaintiff was out of time to further prosecute this case.

4. As the plaintiff did not timely file the Order to Show Cause, it should not be permitted to take any action in the foreclosure case as that case should be dismissed for failure to prosecute as per the Court's notice.

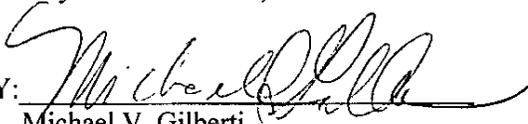
5. Consistent with the Court's notice, dated September 6, 2013, if no filing is made by October 6, 2013 the matter of *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10 would be dismissed for lack of prosecution. [Cohen Cert. ¶3, Ex. A]

6. In addition, the OTSC is meant to address those cases where in an uncontested matter Notices of Intent to Foreclose were found to be deficient, as permitted by Judge Rabner's April 4, 2012 Order. In the underlying case, the Barons filed an answer. The Notice of Intent to Foreclose was not raised as an issue in this case. As a result, the OTSC does not apply.

7. Further, petitioner is using the OTSC to excuse its own failure and to avoid dismissal of the foreclosure against the Barons for its failure to prosecute.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

EPSTEIN COHEN & GILBERTI, L.L.C.  
Attorneys for Defendants, Louis Baron and Lisa Baron

BY:   
Michael V. Gilberti

DATED: December 18, 2013

**EPSTEIN, COHEN & GILBERTI, L.L.C.**  
230-1981  
25 Sycamore Avenue, Suite 101  
Little Silver, New Jersey 07739  
(732) 212-0400  
Attorneys for Defendants, Louis and Lisa Baron

IN RE NOTICES OF INTENTION TO  
FORECLOSE SERVED BY PNC  
MORTGAGE, A DIVISION OF PNC  
BANK N.A.

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

**DOCKET NO: F-035457-13**

Civil Action

**CERTIFICATION OF  
SANDRA L. COHEN IN SUPPORT OF  
RESPONSE OF RESPONDENTS'  
LOUIS BARON AND LISA BARON TO  
PETITIONER'S ORDER TO SHOW  
CAUSE**

Sandra L. Cohen, hereby certifies as follows:

1. I am a partner in the law firm of Epstein, Cohen & Gilberti, L.L.C. and am one of the attorneys responsible for handling this case. As a result, I have knowledge of the events contained in this Certification.
2. I submit this Certification is support of the respondent's opposition to petitioner's Order to Show Cause.
3. On or about September 13, 2013, I received a foreclosure dismissal notice from the Superior Court of New Jersey with regard to *PNC Mortgage v. Louis Baron et al.*," Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10. A copy of the notice is attached to and made part of this certification as Exhibit A.

4. On or about October 18, 2013 plaintiff filed the within Order to Show Cause captioned *In Re Notices of Intention to Foreclose Served By PNC Mortgage, A Division of PNC Bank, N.A.*, Docket No F-035457-13. A copy of the Order to Show Cause is attached and made part of this certification as Exhibit B.

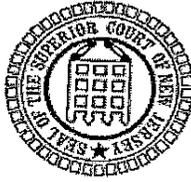
I hereby certify that the foregoing statements are true and accurate to the best of my knowledge. I am aware that if any of the foregoing statements are willfully false I am subject to punishment.

  
SANDRA L. COHEN

Dated: December 12, 2013

**EXHIBIT A**

## SUPERIOR COURT OF NEW JERSEY



Office of the Clerk  
 Richard J. Hughes Justice Complex  
 P.O. Box 971  
 Trenton, New Jersey 08625-0971  
 (609) 421-6100

RECEIVED  
 SEP 13 2013  
 BY: .....

## FORECLOSURE DISMISSAL NOTICE

DATE: September 06, 2013  
 PARTY: LOUIS BARON  
 RE: PNC BNK NA VS BARON LOUIS  
 DOCKET: SWC F-046400-10

Please take notice that on October 06, 2013 (30 days from the date of this notice), the Clerk will dismiss the above case for lack of prosecution without prejudice pursuant to Rule 4:64-8, unless one of the following papers is filed:

- AMENDED COMPLAINT
- REQUEST FOR DEFAULT OR MOTION TO ENTER DEFAULT OUT OF TIME
- MOTION TO STRIKE ANSWER
- MOTION FOR SUMMARY JUDGMENT
- MOTION TO ENTER JUDGMENT
- PROOF OF BANKRUPTCY FILING OR OTHER CONDITION THAT STAYS THE CASE
- AFFIDAVIT or CERTIFICATION OF EXCEPTIONAL CIRCUMSTANCES (asserting that failure to file or take the next required action is due to exceptional circumstances, and laying out the nature of those circumstances)

For further information, please contact the Superior Court Clerk's Office by calling (609) 421-6100 between the hours of 8:30 am - 4:30 pm or sending an email to [SCCO.Mailbox@judiciary.state.nj.us](mailto:SCCO.Mailbox@judiciary.state.nj.us).

ELISABETH ANN STROM, ESQ.

ACTING CLERK OF THE SUPERIOR COURT OF NEW JERSEY

**EXHIBIT B**

Filed Oct 18, 2013  
Paul Innes, P.J.Ch

ZUCKER, GOLDBERG & ACKERMAN, LLC  
200 Sheffield Street, Suite 101  
P.O. Box 1024  
Mountainside, New Jersey 07092-0024  
(908) 233-8500  
Attorneys for PNC Mortgage, a division of PNC Bank, N.A.

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IN RE NOTICES OF INTENTION TO  
FORECLOSE SERVED BY PNC  
MORTGAGE, A DIVISION OF PNC  
BANK, N.A.

SUPERIOR COURT OF NEW JERSEY  
MERCER COUNTY  
CHANCERY DIVISION

Civil Action

Docket No: **MER-F-035457-13**

ORDER TO SHOW CAUSE TO PROCEED  
SUMMARILY PURSUANT TO R. 4:67-2

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THIS MATTER being brought before the court by the law firm of Zucker, Goldberg & Ackerman, L.L.C., attorneys for Petitioner, PNC Mortgage, a Division of PNC Bank, N.A., seeking relief by way of summary action as set forth in Chief Justice Stuart Rabner's April 4, 2012 Order and based upon the facts set forth in the Verified Complaint filed herewith; and the Court having determined that this matter may be commenced by Order to Show Cause as a summary proceeding pursuant to R. 4:67-2 and for good cause shown;

IT IS on this 18th day of October, 2013,

**ORDERED** that the parties in interest listed in Exhibits A through U of the Verified Complaint appear and show cause on the 24th day of January, 2014 before the Hon. Paul Innes, P.J.Ch., Mercer County Civil Courts Building, 175 South Broad Street, Trenton, NJ 08650-0068 at 10:00 o'clock, why judgment should not be entered as follows:

- A. Allowing PNC Mortgage, a Division of PNC Bank, N.A. to send new Notices of Intention to Foreclose, giving the borrower(s) at least thirty days from the date the letter is mailed to cure the default on the mortgage without having to pay legal fees or costs; and
- B. Granting such other relief as the court deems equitable and just.

**IT IS FURTHER ORDERED** that:

1. Petitioner shall serve a copy of this Order to Show Cause and Verified Complaint (without exhibits) upon all individuals obligated on the Note secured by a Mortgage on residential property that is the borrower's, or their immediate family's, principle residence. Service shall be effectuated by certified mail return receipt requested and regular mail to the property address and the last known address (if different) in Petitioner's records.

2. A copy of this Order to Show Cause and Verified Complaint shall be posted on the Judiciary Web Page at <http://www.judiciary.state.nj.us>.
3. A true copy of this Order to Show Cause, Verified Complaint, and Certification of Anita Holbrook, shall be served upon the parties in interest listed in Exhibits A through U to the Verified Complaint, by certified mail, return receipt requested (or by registered mail, return receipt requested with respect to any party in interest who resides outside the United States) and regular mail.
4. Along with this Order to Show Cause, Petitioner may serve the corrective Notice of Intention to Foreclose allowing the borrower at least thirty days to cure the default on the subject mortgage without having to pay attorneys fees or costs, in a form as set forth in Exhibit "1" of the Certification of Anita Holbrook. Petitioner shall also serve a Cover Letter in the form set forth in Exhibit "T" of the Certification of Brian C. Nicholas, Esq.
  - a. For any borrower in an active Bankruptcy case where the provisions of the automatic stay are still in place, Petitioner may serve a copy of this Order to Show Cause and Verified Complaint but may choose to delay serving a corrective Notice of Intention to Foreclose until such time that the stay is vacated,

if it believes that doing so will violate the automatic stay.

b. If the Court grants final relief on the return date of this Order to Show Cause and Petitioner has not already sent a corrective Notice of Intention to Foreclose, Petitioner shall serve the corrective Notice of Intention to Foreclose once the provisions of the automatic stay in the bankruptcy case are no longer in place. In the alternative, Petitioner may apply to the United States Bankruptcy Court for relief from the provisions of the automatic stay to effectuate service of the corrective Notice of Intention to Foreclosure pursuant to this Order.

c. In the event that Petitioner does not serve a corrective Notice of Intention to Foreclose with this Order to Show Cause, Petitioner may not proceed with a foreclosure action until such Notice of Intention is served as authorized by this Court's Order.

d. If Petitioner believes that service of this application will be a violation of the provisions of the automatic stay, once the stay is vacated, Petitioner may file a motion with the Chancery Judge in the vicinage where there property lies requesting permission to send a new NOI. Petitioner shall not

be required to file a new Order to Show Cause for cases currently in bankruptcy.

5. Petitioner shall publish the legal notice of this action as set forth in Exhibit "S" to the Certification of Brian C. Nicholas, Esq. on at least two days prior to November 15, 2013 in the following newspapers:

- a. Star Ledger
- b. Bergen Record
- c. The Press of Atlantic City
- d. The Gloucester County Time

6. The Court will only entertain objections to the process outlined in the Supreme Court's April 4, 2012 Order. Any party in interest who wishes to object to the process shall file the objection under the docket number for this Order to Show Cause, in writing, with the:

Clerk of the Superior Court, Foreclosure  
Processing Services  
Attn: Objection to Notice of Intention to  
Foreclose  
25 Market Street  
P.O. Box 971  
Trenton, New Jersey 08625-0971

A copy of the objection to the Order to Show Cause must also be sent to:

Hon. Paul Innes, P.J.Ch  
Mercer County Civil Courts Building  
175 South Broad Street  
Trenton, NJ 08650-0068

A copy of the objection to the Order to Show cause must also be served upon the attorney for the Petitioner at:

Brian C. Nicholas, Esq.  
Zucker, Goldberg & Ackerman, L.L.C.  
200 Sheffield Ave, Suite 101

Mountainside, N.J. 07092

Objections to this Order to Show Cause must state with specificity the basis for the objection and must be filed no later than December 16, 2013.

7. If a timely objection is not filed, the matter may proceed to judgment in accordance with the Rules of Court.
8. Any objection in regard to a specific corrected NOI in a specific foreclosure case must be filed in writing under the docket number of the individual foreclosure action, NOT this Order to Show Cause. Any objection must state the basis for the objection with specificity and be filed and served as set forth in Paragraph 6 above. Objections to a specific NOI will be referred to the Chancery Judge in the vicinage in which the property lies for resolution.
9. Parties in interest are hereby advised that a telephone call to the Petitioner, to the Petitioner's attorney, to the Superior Court Clerk's Office, or to the Court, will not protect your rights; you must file and serve your written objection as outlined in this Order.
10. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. If you do not have an attorney or are not eligible for free legal assistance through the Legal Services office (or such office does not provide services for this particular type

of proceeding), you may obtain a referral to an attorney by calling one of the Lawyer Referral Services.

11. If no party in interest timely files and serves an objection to this Order to Show Cause as provided for above, the application may be decided by the Court on the date this matter is scheduled to be heard, provided that the Petitioner has filed a proof of service and a proposed form of judgment as required by this Order to Show Cause.
12. If written objection to this Order to Show Cause is filed, the Petitioner's written reply shall be filed and served by January 6, 2014. A copy of the reply, if any, shall be served upon the Clerk of Superior Court, with a courtesy copy directly to the Hon. Paul Innes, P.J.Ch. Petitioner is only required to serve its response upon any party or parties who have filed written objections to this Order to Show Cause.
13. Petitioner shall submit to the Court an original and two copies of a proposed form of judgment addressing the relief sought on the date this matter is scheduled to be heard no later than 10 days before the date this matter is scheduled to be heard.
14. The Petitioner shall file proof of service of the Verified Complaint, this Order to Show Cause and all supporting documents with the Clerk of Superior Court no later than nine (9) days before the return date of this matter.

15. If not already done, Petitioner shall provide the Clerk of Superior Court with a spreadsheet of the individual foreclosure cases included in this Order to Show Cause. The Clerk of the Court shall notate the Courts records to ensure that none of the cases listed on the spreadsheet are sent a notice of dismissal for lack of prosecution.
16. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court advised to the contrary no later than 9 days before the return date.



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Hon. Paul Innes, P.J.Ch.

**EPSTEIN, COHEN & GILBERTI, LLC**  
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Attorneys for Defendants, Louis and Lisa Baron

IN RE NOTICES OF INTENTION TO  
FORECLOSE SERVED BY PNC  
MORTGAGE, A DIVISION OF PNC BANK  
N.A.

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

**DOCKET NO: F-035457-13**

Civil Action

**DEFENDANTS, LOUIS AND LISA  
BARON'S ANSWER AND AFFIRMATIVE  
DEFENSES TO VERIFIED COMPLAINT**

Defendants, Louis Baron and Lisa Baron by their attorneys, Epstein Cohen & Gilberti, LLC, answer the Verified Complaint as follows:

**ANSWER**

**FACTS:**

1. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs.
2. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs.
3. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs.
4. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs.

5. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs.

6. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs.

7. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs.

8. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs.

#### **COUNT I: PNC Mortgage**

9. The Barons incorporate by reference their responses to all previous allegations.

10. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves. To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

#### **COUNT II: PNC BANK**

11. The Barons incorporate by reference their responses to all previous allegations.

12. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves.

To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT III: Federal Home Loan Mortgage Corporation**

13. The Barons incorporate by reference their responses to all previous allegations.

14. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves. To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT IV: Columbia Bank**

15. The Barons incorporate by reference their responses to all previous allegations.

16. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves.

To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT V: Commonwealth United Mortgage**

17. The Barons incorporate by reference their responses to all previous allegations.

18. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves. To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT VI: Deutsche Bank Trust Company as Trustee**

19. The Barons incorporate by reference their responses to all previous allegations.

20. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves.

To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT VII: Federal National Mortgage Association**

21. The Barons incorporate by reference their responses to all previous allegations.

22. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves. To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT VIII: Residential Funding Company**

23. The Barons incorporate by reference their responses to all previous allegations.

24. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves.

To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT IX: HSBC Bank as Trustee**

25. The Barons incorporate by reference their responses to all previous allegations.

26. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves. To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT X: Mortgage Electronic Registration Systems, Inc.**

27. The Barons incorporate by reference their responses to all previous allegations.

28. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves.

To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT XI: Citibank, NA as Trustee**

29. The Barons incorporate by reference their responses to all previous allegations.

30. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves. To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT XII: National City Mortgage**

31. The Barons incorporate by reference their responses to all previous allegations.

32. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves.

To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT XIII: National City Real Estate Services, LLC**

33. The Barons incorporate by reference their responses to all previous allegations.

34. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves. To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT XIV: The Bank of New York as Trustee**

35. The Barons incorporate by reference their responses to all previous allegations.

36. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves.

To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT XV: U.S. Bank, N.A. as Trustee**

37. The Barons incorporate by reference their responses to all previous allegations.

38. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves. To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

**COUNT XVI: Wachovia Bank, N.A.**

39. The Barons incorporate by reference their responses to all previous allegations.

40. The Barons are without sufficient information to form a belief as to the truth of these allegations and leave petitioner to its proofs. Further, the documents speak for themselves.

To the extent that they state, suggest or imply any liability on the part of the Barons. They are denied.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

### **AFFIRMATIVE DEFENSES**

The Barons make the following affirmative defenses to petitioner's claims:

#### **FIRST AFFIRMATIVE DEFENSE**

Petitioner did not comply with the service requirements of R. 4:67-2 *et seq.* and as set forth in the Order to Show Cause and so the Order to Show Cause and verified complaint should be dismissed and the foreclosure complaint against the defendants should be dismissed for lack of prosecution.

#### **SECOND AFFIRMATIVE DEFENSE**

The foreclosure complaint is not listed in the exhibits attached to the Verified Complaint as one of the uncontested foreclosure actions and so should not be part of this Order to Show Cause and as a result, the Order to Show Cause and verified complaint should be dismissed and the foreclosure complaint should be dismissed for lack of prosecution.

#### **THIRD AFFIRMATIVE DEFENSE**

The foreclosure complaint is improperly included in this Order to Show Cause because there was no issue in the pleadings as to the notice of intent to foreclosure, and as a result, the Order to Show Cause and verified complaint should be dismissed and the foreclosure complaint should be dismissed for lack of prosecution.

**FOURTH AFFIRMATIVE DEFENSE**

The complaint fails to state a cause of action upon which relief may be granted.

**FIFTH AFFIRMATIVE DEFENSE**

Any damages that the plaintiff allegedly sustained resulted solely from its own conduct or that of third parties over whom the defendants had no control.

**SIXTH AFFIRMATIVE DEFENSE**

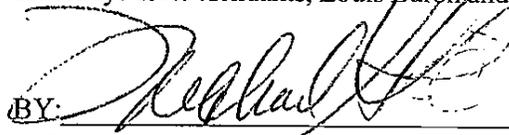
The doctrines of estoppel, laches and/or waiver bar the plaintiff's claims.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate its damages.

WHEREFORE, defendants Louis Baron and Lisa Baron demand judgment in their favor an order dismissing this Order to Show Cause and Verified Complaint against them, an order dismissing the foreclosure action, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10, together with costs, interest, reasonable attorney's fees and such other relief as the Court deems appropriate.

EPSTEIN COHEN & GILBERTI, L.L.C.  
Attorneys for Defendants, Louis Baron and Lisa Baron

BY:   
Michael V. Gilberti

DATED: December 12, 2013

**DESIGNATION OF TRIAL COUNSEL**

Michael V. Gilberti, Esq. of the law firm of Epstein Cohen & Gilberti, L.L.C., attorneys for defendants Louis Baron and Lisa Baron, is hereby designated as trial counsel under Rule 4:25-4.

EPSTEIN COHEN & GILBERTI, L.L.C.  
Attorneys for Defendants, Louis Baron and Lisa Baron

BY:   
Michael V. Gilberti

DATED: December 12, 2013

**CERTIFICATION UNDER N.J. RULE 4:5-1**

I HEREBY CERTIFY that this case is not presently, and has not been, the subject of any other pending action in any court or pending arbitration proceeding, nor is any other action or arbitration presently contemplated other than the foreclosure complaint, *PNC Mortgage v. Louis Baron et al.*, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. F-046400-10.

EPSTEIN COHEN & GILBERTI, L.L.C.  
Attorneys for Defendants, Louis Baron and Lisa Baron

BY:   
Michael V. Gilberti

DATED: December 12, 2013

Appendix XII-B2



**FORECLOSURE  
CASE INFORMATION STATEMENT  
(FCIS)**

Use for initial Chancery Division — General Equity  
foreclosure pleadings (not motions) under Rule 4:5-1.  
Pleading will be rejected for filing, under Rule 1:5-6(c),  
if information is not furnished or if attorney's signature  
is not affixed.

**FOR USE BY CLERK'S OFFICE ONLY**

|                                                                                                                               |
|-------------------------------------------------------------------------------------------------------------------------------|
| PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA <input type="checkbox"/> MO |
| RECEIPT NO.                                                                                                                   |
| AMOUNT:                                                                                                                       |
| OVERPAYMENT:                                                                                                                  |
| BATCH NUMBER:                                                                                                                 |
| BATCH DATE:                                                                                                                   |

**SECTION A: TO BE COMPLETED BY ALL PARTIES**

|                                                                                                            |  |                                                                                                                               |
|------------------------------------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------|
| CAPTION<br>In Re Notices of Intention to Foreclose Served by PNC<br>Mortgage, A Division of PNC Bank, N.A. |  | COUNTY OF VENUE<br>Mercer                                                                                                     |
| NAME(S) OF FILING PARTY(IES) (e.g. John Doe, Plaintiff)<br>Louis and Lisa Baron, Defendants                |  | DOCKET NUMBER (when available)<br>F-035457-13                                                                                 |
| ATTORNEY NAME (IF APPLICABLE)<br>Michael V. Gilberti, Esq.                                                 |  | DOCUMENT TYPE<br><input type="checkbox"/> COMPLAINT <input checked="" type="checkbox"/> ANSWER <input type="checkbox"/> OTHER |
| FIRM NAME (IF APPLICABLE)<br>Epstein, Cohen & Gilberti, L.L.C.                                             |  |                                                                                                                               |
| MAILING ADDRESS<br>25 Sycamore Avenue, Ste 101, Little Silver, New Jersey 07739                            |  | DAYTIME TELEPHONE NUMBER<br>(732) 212-0400                                                                                    |

**SECTION B: TO BE COMPLETED BY PLAINTIFF TO INITIAL COMPLAINT**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| FORECLOSURE CASE TYPE NUMBER<br><input type="checkbox"/> 088 IN PERSONAM TAX FORECLOSURE<br><input type="checkbox"/> 089 IN REM TAX FORECLOSURE<br><input checked="" type="checkbox"/> 0RF RESIDENTIAL MORTGAGE FORECLOSURE<br><input type="checkbox"/> 0CF COMMERCIAL MORTGAGE FORECLOSURE<br><input type="checkbox"/> 0CD CONDOMINIUM OR HOMEOWNER'S ASSOCIATION<br>LIEN FORECLOSURE<br><input type="checkbox"/> 091 STRICT FORECLOSURE<br><input type="checkbox"/> 0FP OPTIONAL FORECLOSURE PROCEDURE (NO SALE)<br><input type="checkbox"/> 0TS TIME SHARE FORECLOSURE | IS THIS A HIGH RISK MORTGAGE PURSUANT<br>TO P.L.2009,C.84 AND P.L.2008,C.127 <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO<br><br>PURCHASE MONEY MORTGAGE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO<br><br>RELATED PENDING CASE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO<br>IF YES, LIST DOCKET NUMBERS:<br>F-046400-10 |
| FULL PHYSICAL STREET ADDRESS OF PROPERTY:<br>114 Pension Road, Manalapan, New Jersey<br><br>ZIP CODE 07726                      COUNTY: Monmouth                                                                                                                                                                                                                                                                                                                                                                                                                          | MUNICIPALITY CODE (*) 1326<br><br>MUNICIPAL BLOCK: 1314<br><br>(LOTS) 30.02                                                                                                                                                                                                                                                                                                                        |

**ALL FILING PARTIES MUST SIGN AND PRINT NAMES(S) AND DATE THE FORM BELOW**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

|                                           |                                                               |                  |
|-------------------------------------------|---------------------------------------------------------------|------------------|
| ATTORNEY / SELF REPRESENTED SIGNATURE<br> | PRINT ATTORNEY / SELF REPRESENTED NAME<br>Michael V. Gilberti | DATE<br>12-12-13 |
|-------------------------------------------|---------------------------------------------------------------|------------------|

\*The Municipality Codes can be found at [http://www.judiciary.state.nj.us/forms/11343\\_municodes.pdf](http://www.judiciary.state.nj.us/forms/11343_municodes.pdf)

**EPSTEIN, COHEN & GILBERTI, L.L.C.**  
230-1981  
25 Sycamore Avenue, Suite 101  
Little Silver, New Jersey 07739  
(732) 212-0400  
Attorneys for Defendants, Louis and Lisa Baron

IN RE NOTICES OF INTENTION TO  
FORECLOSE SERVED BY PNC  
MORTGAGE, A DIVISION OF PNC  
BANK N.A.

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

**DOCKET NO: F-035457-13**

Civil Action

**CERTIFICATION OF SERVICE**

I, Mary Lynn Wentway, a paralegal with the law firm of Epstein, Cohen & Gilberti, L.L.C., counsel for defendants, Louis and Lisa Baron, hereby certify that defendants' Response to Petitioners' Order to Show Cause, Certification of Sandra L. Cohen, Answer & Affirmative Defenses to Verified Complaint, Case Information Statement and Certification of Service were mailed for filing on December 12, 2013 via Federal Express to the Clerk of the Superior Court, Foreclosure Processing Services, Attn: Objection to Notice of Intention to Foreclosure, 25 Market Street, Trenton, New Jersey 08625.

A copy was also sent via Federal Express to:

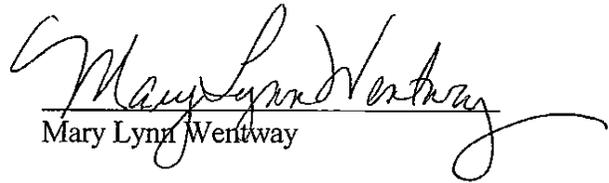
Hon. Paul Innes, P.J. Ch.  
Mercer County Civil Courts Building  
175 South Broad Street  
Trenton, New Jersey 08650-0068

Hon. Patricia Del Bueno Cleary, P.J. Ch.  
Hall of Records  
1 East Main Street  
Freehold, New Jersey 07728

Brian C. Nicholas, Esq.  
Zucker, Goldberg & Ackerman, L.L.C.  
200 Sheffield Ave., Suite 101  
Mountainside, New Jersey 07092

I hereby further certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I made be subject to punishment.

Dated: December 12, 2013

  
Mary Lynn Wentway

EPSTEIN, COHEN & GILBERTI  
A LIMITED LIABILITY COMPANY

COUNSELORS AT LAW

SUITE 101  
25 SYCAMORE AVENUE  
LITTLE SILVER, NEW JERSEY 07739

MICHAEL V. GILBERTI\*  
DAVID M. EPSTEIN  
SANDRA L. COHEN

T: (732) 212-0400  
F: (732) 212-8408  
E: ATTORNEY@ECG-LAW.COM

\* CERTIFIED BY THE SUPREME COURT OF NEW JERSEY  
AS A CRIMINAL TRIAL ATTORNEY

RECEIVED

JAN 10 2014

SUPERIOR COURT  
CLERK'S OFFICE

December 12, 2013

FILE NO.:

*Via Federal Express*

Clerk of the Superior  
Foreclosure Processing Services  
Attn: Objection to Notice of Intention to Foreclose  
P.O. Box 971  
25 Market Street  
Trenton, New Jersey 08625-0971

**RE: In Re Notices of Intention to Foreclose Served by PNC Bank, N.A.**  
**Docket No.: F-035457-13**  
**PNC Mortgage v. Baron**  
**Docket No.: F-046400-10**

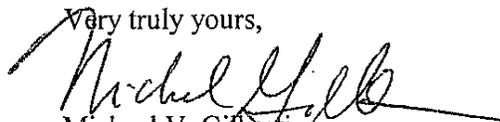
Dear Sir or Madam:

This office represents defendants, Louis and Lisa Baron in the above-captioned matters. Enclosed you will find an original and two copies of defendants' Response to Petitioner's Order to Show Cause, supporting Certification of Sandra L. Cohen, Answer and Affirmative Defenses to Verified Complaint, Case Information Statement and Certification of Service.

Defendants are not requesting oral argument at this time.

Kindly file the enclosed documents and return a filed copy to me in the enclosed self addressed stamped envelope. Please charge this firm's depository account #141453 the fee for this filing. Thank you for your courtesy and cooperation in this matter.

Very truly yours,

  
Michael V. Gilberti

MVG/mlw  
Enclosures

EPSTEIN, COHEN & GILBERTI  
A LIMITED LIABILITY COMPANY

COUNSELORS AT LAW

December 12, 2013

Page 2

cc: Hon. Paul Innes, P.J. Ch. (via Federal Express)  
Hon. Patricia Del Bueno Cleary, P.J. Ch. (via Federal Express)  
Brian C. Nicholas, Esq. (via Federal Express)



January 8, 2014

Dear Customer:

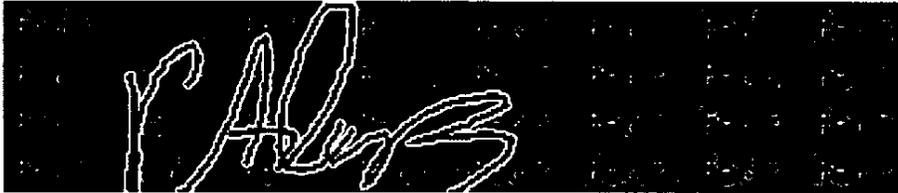
The following is the proof-of-delivery for tracking number **804751949735**.

---

**Delivery Information:**

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|                          |                          |                           |                              |
|--------------------------|--------------------------|---------------------------|------------------------------|
| <b>Status:</b>           | Delivered                | <b>Delivered to:</b>      | Mailroom                     |
| <b>Signed for by:</b>    | P.ADAMS                  | <b>Delivery location:</b> | 25 MARKET STREET<br>NJ 08625 |
| <b>Service type:</b>     | FedEx Priority Overnight | <b>Delivery date:</b>     | Dec 13, 2013 10:36           |
| <b>Special Handling:</b> | Deliver Weekday          |                           |                              |



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**Shipping Information:**

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|                         |              |                   |                |
|-------------------------|--------------|-------------------|----------------|
| <b>Tracking number:</b> | 804751949735 | <b>Ship date:</b> | Dec 12, 2013   |
|                         |              | <b>Weight:</b>    | 2.0 lbs/0.9 kg |

**Recipient:**  
CLERK FORICLOSUN PROCESSING  
ATTN OBJECTION TO NOTICE OF IN  
25 MARKET ST PO BOX 971  
NJ 08625 US

**Shipper:**  
MICHAEL GILBERTI  
EPSTEIN COHEN GILBERTI LLC  
25 SYCAMORE AVE STE 101  
LITTLE SILVER, NJ 077391249 US

**Reference** 9055-03

Thank you for choosing FedEx.

EPSTEIN, COHEN & GILBERTI  
A LIMITED LIABILITY COMPANY

COUNSELORS AT LAW

SUITE 101  
25 SYCAMORE AVENUE  
LITTLE SILVER, NEW JERSEY 07739

MICHAEL V. GILBERTI\*  
DAVID M. EPSTEIN  
SANDRA L. COHEN

T: (732) 212-0400  
F: (732) 212-8408  
E: ATTORNEY@ECG-LAW.COM

RECEIVED

JAN 10 2014

SUPERIOR COURT  
CLERK'S OFFICE

\* CERTIFIED BY THE SUPREME COURT OF NEW JERSEY  
AS A CRIMINAL TRIAL ATTORNEY

January 9, 2014

FILE NO.:

*Via Federal Express*

Clerk of the Superior  
Foreclosure Processing Services  
**Attn: Tiffany Pitts**  
25 Market Street  
Trenton, New Jersey 08625-0971

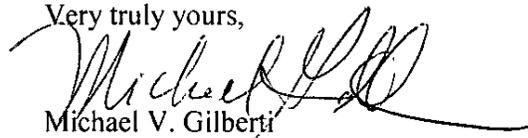
**RE: In Re Notices of Intention to Foreclose Served by PNC Bank, N.A.**  
**Docket No.: F-035457-13**  
**PNC Mortgage v. Baron, Docket No.: F-046400-10**

Dear Ms. Pitts:

As you discussed with my paralegal, Mary Lynn Wentway, this office represents defendants, Louis and Lisa Baron in the above-captioned matters. On December 12, 2013 we forwarded, via Federal Express, an original and two copies of defendants' Response to Petitioner's Order to Show Cause, supporting Certification of Sandra L. Cohen, Answer and Affirmative Defenses to Verified Complaint, Case Information Statement and Certification of Service. Evidence of the delivery of the Federal Express delivery to the Court is attached. The submitted documents were not filed and you requested that another set of documents be forwarded directly to your attention for filing. You further advised that the Court would not consider this a late filing. Judge Innes' chambers has confirmed their receipt of the courtesy copy of the attached documents.

I appreciate your assistance with the filing of the enclosed documents. Please return a filed copy to me in the enclosed self addressed stamped envelope. Thank you for your courtesy and cooperation in this matter.

Very truly yours,

  
Michael V. Gilberti

MVG/mlw  
Enclosures

cc: Brian C. Nicholas, Esq. (w/o encl., via email)