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Matter No. 348-0152 - 19776

IN RE NOTICES OF INTENTION TO FORECLOSE SERVED BY CAPITAL ONE, N.A.	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION MERCER COUNTY Docket No. F-044169-13 Civil Action **ORDER TO SHOW CAUSE TO PROCEED SUMMARILY PURSUANT TO R. 4:67-2**

THIS MATTER being brought before the Court by the law firm of McCabe, Weisberg & Conway, P.C., attorneys for Plaintiff, Capital One, 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 _____ day of _____, 2013,

ORDERED that the parties in interest listed in Exhibit C to the Verified Complaint, appear and show cause on the _____ day of _____, 2013 before the Honorable Judge Innes, P.J.Ch., Superior Court, Mercer County, Chancery Division, at the Mercer County Civil Courts Building, 175 South Broad Street, P.O. Box 8068, Trenton, NJ 08650-0068 ___ o'clock a.m./p.m., why an Order should not be entered as follows:

A. Declaring Plaintiff's form Notice of Intention to Foreclose to be compliant with the requirements of the Fair Foreclosure Act; and

B. Allowing Plaintiff to send new Notices of Intention to Foreclose, giving the borrower(s) at least thirty (30) days from the date the letter is mailed to cure the default on the mortgage without having to pay legal fees or costs; and

C. Granting such other relief as the Court deems equitable and just.

IT IS FURTHER ORDERED that:

1. Plaintiff 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 principal 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 Plaintiff'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 and Verified Complaint (without exhibits) shall be served upon the borrowers listed in Exhibit **C** to the Verified Complaint by certified mail, return receipt requested, (or by registered mail, return receipt requested, with respect to any borrower listed in Exhibit C to the Verified Complaint who resides outside the United States) and regular mail. All other interested parties shall be served by publication as outlined in this Order.

4. Along with this Order to Show Cause, Plaintiff may serve the corrective Notice of Intention to Foreclose allowing the borrower at least thirty (30) 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 "A" of the Verified Complaint. Plaintiff shall also serve a Cover Letter in the form set forth in Exhibit "B" of the Verified Complaint.

a. For any borrower in an active Bankruptcy case where the provisions of the automatic stay are still in place, Plaintiff 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 Plaintiff has not already sent a corrective Notice of Intention to Foreclose, Plaintiff 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, Plaintiff 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 Foreclose, pursuant to this Order.

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

d. If Plaintiff believes that service of this application will be a violation of the provisions of the automatic stay, once the stay is vacated, Plaintiff may file a motion with the Chancery Judge in the vicinage where their property lies

requesting permission to send a new Notice of Intention to Foreclose. Plaintiff shall not be required to file a new Order to Show Cause for cases currently in bankruptcy.

5. Plaintiff shall publish the legal notice of this action as set forth in Exhibit "1" attached hereto on at least two (2) days prior to _____, 2013 in the following newspapers:

   a. Star Ledger
   b. New Jersey Herald
   c. The Press of Atlantic City
   d. Courier-Post

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
   Attention: 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
   P.O. Box 8068
   Trenton, NJ 08650-0068

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

   Andrew P. Carroll, Esq.
   McCabe, Weisberg & Conway, P.C.
   216 Haddon Avenue - Suite 303
   Westmont, New Jersey 08108

Objections to this Order to Show Cause must state with specificity the basis for the objection and must be filed no later than _____, 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 Plaintiff, to Plaintiff'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 Plaintiff 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 Plaintiff's written reply shall be filed and served by _____, 2013. A copy of the reply, if any, shall be served upon the Clerk of Superior Court, with a courtesy copy directly to the Honorable Judge Innes, P.J.Ch. Plaintiff is only required to serve its response upon any party or parties who have filed written objections to this Order to Show Cause.

13. Plaintiff 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 _____ days before the date this matter is scheduled to be heard.

14. The Plaintiff 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. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the Court advises to the contrary no later than _____ days before the return date.

_____

Hon. Judge Innes, P.J.Ch.

NOTICE
Docket No.:
Superior Court of New Jersey
Chancery Division

STATE OF NEW JERSEY TO:

Any defendant in an uncontested residential mortgage foreclosure action in which Capital One, N.A. is the Plaintiff or servicer

YOU ARE HEREBY ORDERED TO SHOW CAUSE why the relief requested by Capital One, N.A. in the Verified Complaint and Order to Show Cause in a civil action pending in the Superior Court of New Jersey, Chancery Division, bearing Docket _____should not be granted by the Court. Copies of all pleadings in regard to this matter may be obtained from the Court's web page at http://www.judiciary.state.nj.us.

This action has been instituted for the purpose of whether or not the Court should allow Capital One, N.A. to re-send Notices of Intention to Foreclose pursuant to the process established by the Supreme Court of New Jersey on April 4, 2012. Any objection to this action must be **in writing** and filed with the Clerk of the Superior Court, Hughes Justice Complex - CN 971, Trenton, New Jersey 08625. A copy of any objection must also be sent to Honorable Judge Innes, P.J.Ch. Mercer County Courthouse, 175 South Broad Street, P.O. Box 8068, Trenton, NJ 08650-0068 and Andrew P. Carroll, Esq., McCabe, Weisberg & Conway, P.C., 216 Haddon Avenue - Suite 303, Westmont, New Jersey 08108. Any objection must be filed no later than _____. If timely objection is filed, the Court may conduct oral argument on _____. If no timely objection is filed, the Court may rule on the application on the papers on the return date.

If you are unable to obtain an attorney, you may communicate with the New Jersey Bar Association by calling **732-249-5000**. You may also contact the Lawyer Referral Service of the county of venue by calling **973-267-5882**. If you cannot afford an attorney, you may communicate with the Legal Services office of the county of venue by calling **973-383-7400**.

Jennifer M. Perez
JENNIFER M. PEREZ, CLERK
SUPERIOR COURT OF NEW JERSEY

This is an attempt to collect a debt and any information obtained will be used for that purpose.

"The Fair Housing Act prohibits "any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status or national origin, or intention to make such preference, limitation or discrimination" in connection with any aspect of a residential real estate transaction. McCabe, Weisberg & Conway, LLC encourages and supports the equal housing practices of the Fair Housing Act in the conduct of business."