

Radford P. and Kathryn J. Tucker
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Superior Court of New Jersey
Chancery Division
General Equity

CitiMortgage, Inc.

Camden County

RECEIVED
AUG 19 2013
SUPERIOR COURT
CLERK'S OFFICE

Plaintiff(s)

Docket No F-17318-13

Vs.

CIVIL ACTION
OBJECTION TO:

Kathryn J. Tucker

Order to Show Cause

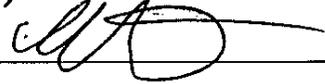
Defendant(s)

We, Kathryn J. and Radford P. Tucker, the defendants in the aforementioned foreclosure matter (Docket F-17318-13), hereby object to the Plaintiffs filing of the **Order to Show Cause** for the following specific reasons:

1. The trial court in *U.S. Bank, N.A. v Guillaume* held that, among other things, "*Dismissal without prejudice is not the exclusive remedy for the service of a notice of intent (Henseforth termed NOI) that does not satisfy N.J.S.A. 2A:50-56 (c) (11)*", further stating that "*A trial court Adjudicating a foreclosure complaint in which the notice of intention does not comply with N.J.S.A. 2A:50-56 (c) (11) may dismiss the action without prejudice, order the service of a corrected notice, or impose another remedy appropriate to the circumstance of the case*". It's understood that in individual cases, such a remedy as the submittal of a revised NOI is an appropriate response to the defect. However, what differentiates this case from others is the sheer gross negligence, rampant incompetence, or willful misconduct of the Plaintiffs and their attorneys at the time the defect on each case originally occurred. Reviewing Exhibits 1-17 of the Verified Complaint, currently posted on the NJ Courts Website, there are no fewer than 529 examples of CitiMortgage failing to comply with NJ Statutes. **Rule 4:50-1 (c)** grants relief from default judgment based on "*fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party*". Were it not for the pervasive nature of CitMortgage's misrepresentations in various courts, Rule 4:50-1 (c) may not apply. In THIS instance, simply curing the defective NOI is not an appropriate remedy.
2. Also citing the decision in *U.S. Bank, N.A. v Guillaume*, the court decided that because Guillaume had "*thorough familiarity with the status of their mortgage, reflected in their consultations with a professional advisor and active loan modification negotiations with AFC*, then allowing a

revised NOI was an equitable cure. They were stating that the nature of the default and explanation by U.S. Bank took precedence over a faulty NOI. This can't be said for every defendant in every foreclosure case listed in Exhibit's 1 – 17. It certainly isn't in our situation. The last thing I was aware of in my case was the Notice of Default Judgment, at which point I was unaware of any other remedy other than curing my default. I don't submit my case for review, only as an example of why such a simple cure as to the redeployment of a corrected NOI is insufficient in this case. Honestly, there should be a summary dismissal without prejudice on each and every case listed on Exhibits 1-17.

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

Date:	8/16/13	Signature:	
Date:	9/16/13	Signature:	

Certification of Service

I hereby certify that on 08/16/2013 I sent my objection to the following parties by: (Select which mailing method you chose. If you sent it by both regular and certified mail, check both.

regular mail certified mail other _____

List each party to the lawsuit; send your opposition to the attorney if the party is represented by counsel; if the party is pro se you may send the papers directly to that individual.

Name <u>Thodore V. Wells, Esq., at Paul Weiss,</u>	Name _____
<u>Ritkind, Wharton & Garrison LLP</u>	
Address _____	Address _____
<u>1285 Avenue of the Americas</u>	_____
<u>New York, NY 10019</u>	_____
Attorney for <u>Citi Mortgage, Inc.</u>	Attorney for _____

8/16/13
Date


Signature _____
Bradford P. Tucker
Print or Type Name

*Also sent to Superior Court Clerk's office
and Hon. Margaret Mary McVeigh*