

Filed Feb 26, 2013
Paul Innes, P.J.Ch

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**IN RE APPLICATION BY THE
PROVIDENT BANK TO ISSUE
CORRECTIVE NOTICES OF
INTENTION TO FORECLOSE IN
PENDING UNCONTESTED
FORECLOSURE ACTIONS**

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _MERCER
CIVIL ACTION
Docket No: F-5164-13

**ORDER TO SHOW CAUSE TO
PROCEED SUMMARILY PURSUANT
TO RULE 4:67-2**

THIS MATTER being brought before the Court by the law firm Stern, Lavinthal & Frankenberg, LLC, attorneys for plaintiff, Provident Bank (hereinafter "Provident ") seeking relief by way of summary action to permit the service of corrective Notices of Intention to Foreclose (hereinafter "NOI"), based upon the New Jersey Supreme Court decision in U.S. Bank v. Guillaume, 209 N.J. 449 (2012), and as implemented in Chief Justice Stuart Rabner's April 4, 2012 Order, and based upon the facts as 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 26th day of February, 2013

ORDERED that the parties in interest listed in Exhibit B to the Verified Complaint appear and show Cause on the 30th day of May, 2013, before the Honorable Paul Innes, P. J. Ch, Superior Court, at the Mercer County Courthouse, 175 South Broad Street, Trenton, NJ 08650-0068 at 2:00 o'clock to object to this Court allowing Provident to issue corrective Notices of Intention to Foreclose pursuant to this Order to Show Cause, and why an Order should not be entered as follows:

- A. Declaring that Plaintiff's Form of Notice of Intention to Foreclose is compliant with the requirements of the Fair Foreclosure Act;
- B. Authorizing Provident to send new Notices of Intention to Foreclose, which notice will give the borrower/obligor 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;
- 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 upon all individuals obligated on the loans listed in Exhibit B to the Verified Complaint, for loans which have a 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) as indicated in Plaintiff's records, within 30 days of the date of this Order

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, Brief in support of the relief sought and Certification of Laura Scurko, Esq. shall be served upon the parties in interest listed in Exhibit B to the Verified Complaint, by regular mail and simultaneously 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).
4. Along with this Order to Show Cause, Plaintiff is authorized to serve the corrective Notice of Intention to Foreclose allowing the defendant borrower/obligor at least thirty days to cure the default on the subject mortgage without having to pay attorney's fees or costs incurred in the pending action. The Notice of Intention to Foreclose which will be served will be in a form as set forth in Exhibit A to the Verified Complaint.
5. Along with the Notice of Intent to Foreclose, Plaintiff shall also serve an Explanatory Letter in the form set forth in Exhibit C to the Verified Complaint.
6. 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.

7. 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 to Show Cause.
8. In the event that plaintiff does not serve a corrective Notice of Intent to Foreclose with this Order to Show Cause, Plaintiff may not proceed with a foreclosure action until such Notice of Intention is served as authorized by this Court's Order.
9. If plaintiff believes that service of this Order 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 the property is located requesting permission to send a new Notice of Intent to Foreclose

Plaintiff shall not be required to file a new Order to Show Cause for cases currently in bankruptcy.

10. Plaintiff shall publish the legal notice of this action substantially in the form as Set forth in Exhibit A to the Certification of Laura Scurko, Esq. on at least two days prior to April 12, 2013 in the following newspapers:
 - a. Star Ledger
 - b. Bergen Record
 - c. The Press of Atlantic City
 - d. The Gloucester County Times
11. 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**, to the following address:

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:

Honorable Paul Innes, Judge,
Chancery Division, General Equity Part
Mercer County Superior Court
Civil Courthouse
P.O. Box 8068
175 S. Broad Street
Trenton, NJ 08650-0068

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

Laura Scurko, Esq.
STERN, LAVINTHAL & FRANKENBERG, LLC
105 Eisenhower Parkway - Suite 302
Roseland, NJ 07068
Attorneys for Plaintiff

12. Objections to this Order to Show Cause must state with specificity the basis for the objection and must be filed no later than May 3 2013.
13. If a timely objection is not filed, the matter may proceed to judgment in accordance with the Rules of Court.
14. 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 11 above. Objections to a specific NOI will be referred to the Chancery Judge in the vicinage in which the property lies for resolution.
15. Parties in interest are hereby advised that a telephone call to the Plaintiff, to the 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.

16. 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.
17. 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.
18. If written objection to this Order to Show Cause is filed, the Plaintiff's written reply shall be filed and served by May 17 2013. A copy of the reply, if any, shall be served upon the Clerk of Superior Court, with a courtesy copy sent directly to the Honorable Paul 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.
19. 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 5 days before the date this matter is scheduled to be heard.

20. 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 Order.

21. 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 5 days before the return date.

A handwritten signature in cursive script, appearing to read "Paul Innes".

Hon. Paul Innes, P.J.Ch.