Filed Apr 05, 2013
Paul Innes, P.J.Ch

REED SMITH LLP
Formed in the State of Delaware
Diane A. Bettino, Esquire
Princeton Forrestal Village
136 Main Street, Suite 250
Princeton, New Jersey 08540
Tel. (609) 987-0050

Attorneys for PHH Mortgage Corporation

IN RE APPLICATION BY PHH MORTGAGE CORPORATION TO ISSUE CORRECTED NOTICES 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- 7924-13** **CIVIL ACTION** AMENDED **ORDER TO SHOW CAUSE**

THIS MATTER being brought before the Court by Reed Smith LLP, attorneys for PHH Mortgage Corporation ("PHH"), authorized to act on behalf of Foreclosure Plaintiffs in pending foreclosure cases in New Jersey, seeking relief by way of summary action for an Order permitting PHH to issue corrected Notices of Intent to Foreclose ("NOI") to the defendant mortgagor and/or parties obligated on the debt ("Foreclosure Defendants") in the pending, pre-judgment, uncontested foreclosure cases listed on the Exhibits 1 through 22 to the Verified Complaint ("Corrected NOI List") to (1) include the name and address of the lender, and (2) include the list of financial counseling services provided by the Department of Banking and Insurance ("DOBI List"), and based upon the New Jersey Supreme Court's decision in US Bank, N.A. v. Guillaume, 209 N.J. 449 (2012), the implementing Order of the New Jersey Supreme Court dated April 4, 2012, and for good cause shown;

It is on this **5th** day of **April**, 2013 **ORDERED** that the Foreclosure Defendants listed in Exhibits 1, 3-10, 12-22 of the complaint may appear before the Superior Court at the **Mercer** County Courthouse, **Trenton**, New Jersey at **10:00** o'clock, on the **27th** day of **June**, 2013 to show cause why judgment should not be entered as follows:

A. Allowing PHH 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 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, simultaneously with regular mail, addressed 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 shall be served upon the borrowers listed in Exhibits 1 through 22 to the Verified Complaint, by certified mail,

return receipt requested (or by registered mail, with respect to any borrowers listed in Exhibit 1 through 22 to the Verified Complaint who reside outside the United States) simultaneously with 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 days to cure the default on the subject Mortgage without having to pay attorneys' fees or costs.

   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 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 the corrective NOI. 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 at least two days prior to **May 10**, 2013 in the following papers:

a. The Star-Ledger
b. The Bergen Record
c. The Press of Atlantic City
d. The Courier Post

6. The Court will only entertain objections to the process outlined in the Supreme Court's April 4, 2012 Order. Any party 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: Objections 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 Courthouse
175 South Broad Street
Trenton, New Jersey 08650

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

Diane A. Bettino, Esq.
Reed Smith LLP
Princeton Forrestal Village
136 Main Street, Suite 250
Princeton, New Jersey 08540

Objections to this Order to Show Cause must state with specificity the basis for the objection and must be filed no later than **May 31, 2013**.

7. In the event 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 corrective Notice of Intention 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 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.

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. In the event no party in interest files and serves a timely objection to this Order to Show Cause, as provided for above, then 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. In the event a written objection to this Order to Show Cause is filed, Plaintiff's written reply brief shall be filed and served by **June 14, 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 **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.

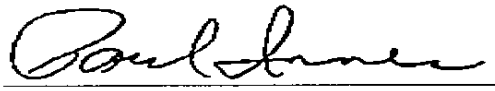
13. Plaintiff shall submit to the court an original and two copies of a proposed form of judgment addressing the relief sought on the date this matter is scheduled to be heard no later than **10** days before the date this matter is scheduled to be heard.

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 advised to the contrary no later than **10** days before the return date.

16. The court dismisses without prejudice Counts 2 and 11 of the complaint said counts to be refiled before Judge Margaret McVeigh, P.J. Ch.

17. This Order amends the Order to Show Cause signed and filed on April 2, 2013.



PAUL INNES, P.J. CH.