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SEP 12 2012

SUPERIOR COURT
CLERK'S OFFICE

Law Offices Michael Botton
1800 Main Street
Suite 1
Lake Como, NJ 07719
732-894-3686
Attorney for Defendants Norma
Ben-Haim & Eli Ben Haim

IN RE APPLICATION BY WELLS
FARGO BANK, N.A. TO ISSUE
CORRECTED NOTICES OF
INTENT TO FORECLOSE ON
BEHALF OF IDENTIFIED
FORECLOSURE PLAINTIFFS IN
UNCONTESTED CASES

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: PASSAIC
COUNTY
DOCKET NO. F-9564-12

CERTIFICATION OF MICHAEL BOTTON
IN OPPOSITIONS TO THE PLAINTIFF'S
ORDER TO SHOW CAUSE

MICHAEL BOTTON, ESQ of full age, hereby certifies:

1. Plaintiff is seeking to serve a corrected Notice of Intent to Foreclose (NOI) in the case of U.S. Bank, National Association v. Norma Ben-Haim, et al Docket No.: F-57599-10.
2. The Complaint was filed on November 24, 2010 by Plaintiffs. (See Exhibit A a true and accurate copy of the Complaint.)
3. Defendants Norma Ben Haim and Eli Ben Haim filed a contesting answer to the complaint on June 1, 2011. (See Exhibit B a true and accurate copy of the Defendants Answer).

4. The Defendant in this case filed a cross motion to dismiss the Plaintiff's complaint for failure to Provide a proper NOI. (See Exhibit C a true and accurate copy of the order issued that granted the motion.)
5. The motion was listed on 9/16/11; 10/16/11 and 11/4/11 until it was granted by Judge Cavanaugh on November 15, 2012. (See Exhibit C).
6. The Plaintiff's complaint was dismissed without prejudice on November 15, 2011 and the order contained the following language:

"The Plaintiff's complaint in this Foreclosure matter is dismissed without prejudice in accordance with the following:

- 1) The failure of the plaintiff to include the lender on the Notice of Intention which was served pursuant to N.J.S.A. 2A:50-56 (c) (11) causes the notice to be deficient in accordance with the holding in Bank of New York v. Laks, 422 N.J. Super. 201 (App. Div. 2011).
- 2) The plaintiff is to forward a new notice of intention to the defendant(s) by certified mail, which notice shall contain all the information required by N.J.S.A. 2A:50-56. Subsequent to the passing of the 30 day period required by the aforementioned statute, Plaintiff may file a new foreclosure matter under a different docket number.
- 3) Subsequent to the filing of a new notice of intention which comports with all of the requirements in N.J.S.A. 2A:50-56, the plaintiff may alternatively make use of the following procedure. Currently pending before the New Jersey Supreme Court is U.S. Bank National Association vs. Guillaume, 2011 N.J. Super Unpublished, Lexus 983 (App. Div. 2011), cert. granted - N.J. Supreme Court, A-11-11 (#068176). The plaintiff may apply to this Court for reinstatement of this case within 60 days of the date of this order if the Supreme Court establishes authority to do so in deciding the foregoing matter. Thereafter the procedure in Par 2 will apply.

(See Exhibit C page 3 of the order)

7. Pursuant to the order in this case the Plaintiff was required to file a new foreclosure matter under a new docket number 30 days after the service of a new NOI on the Defendants.
8. The only way Plaintiff could continue under Docket # F-57599-10 is if the New Jersey State Supreme Court issued a finding in U.S. Bank National Association vs. Guillaume, 2011 N.J. Super Unpublished, Lexus 983 (App. Div. 2011), cert. granted - N.J. Supreme Court, A-11-11 (#068176) allowing them to do so within 60 days of the order. That would be January 15, 2012. The Court handed down their decision after January 15, 2012, therefore pursuant to Judge Cavanagh's order the Plaintiff must file under a new docket number, they can not continue under F-57599-10.
9. Plaintiff has stated in paragraph 10 of the Amended Verified Complaint that seeks to serve new NOI's on "the portfolio of loans that are pre-judgment, uncontested foreclosures that Wells Fargo is servicing and which deficient NOI's were served by Wells Fargo." (See Exhibit D, a true and accurate copy of portions of the Plaintiff's verified complaint. See page 4 paragraph 10)
10. Plaintiff also states in Count 33 of the Amended Verified Complaint that attached as Exhibit 33 to the Verified Complaint is a list of "uncontested foreclosures in New Jersey that are being serviced pursuant by Wells Fargo...". (Id at page 15 paragraph 83.)

11. As stated above Mrs. Ben-Haim's foreclosure action is not an uncontested foreclosure. The matter was contested, a motion to dismiss was heard by Judge Cavanagh, and the Plaintiff's action was dismissed without prejudice.
12. Plaintiffs are bring this OTSC pursuant to the New Jersey Supreme Courts April 4, 2012 Order which only applies to uncontested matters. This is a contested matter and therefore the OTSC must be denied.
13. Further, to grant this OTSC would over rule the Order entered by Judge Cavanagh, with first presenting the case to him to be heard.
14. Based upon the above the Plaintiff's OTSC as to Mr. & Mrs. Ben-Haim should be denied.

I hereby 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 am subject to punishment.



MICHAEL BOTTON, ESQ
Dated: September 10, 2012

EXHIBIT A

ASC-12848
Phelan Hallinan and Schmieg, P.C.
400 Fellowship Road, Suite 100
Mount Laurel, NJ 08054
(856) 813-5500
Attorneys for Plaintiff

US BANK NATIONAL ASSOCIATION,
AS SUCCESSOR TRUSTEE TO BANK OF
AMERICA, NATIONAL ASSOCIATION,
(SUCCESSOR BY MERGER TO LASALLE
BANK NATIONAL ASSOCIATION) AS
TRUSTEE FOR MORGAN STANLEY
MORTGAGE LOAN TRUST 2006-15XS
PLAINTIFF

Vs.

NORMA BEN-HAIM;
MR. BEN-HAIM, HUSBAND OF NORMA
BEN-HAIM;
ELI BEN-HAIM;
MRS. ELI BEN-HAIM, HIS WIFE;
UNITED STATES OF AMERICA
DEFENDANT(S)

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MONMOUTH COUNTY

DOCKET NO: F -057599-10

CIVIL ACTION
FORECLOSURE COMPLAINT

US BANK NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO BANK OF
AMERICA, NATIONAL ASSOCIATION, (SUCCESSOR BY MERGER TO LASALLE
BANK NATIONAL ASSOCIATION) AS TRUSTEE FOR MORGAN STANLEY
MORTGAGE LOAN TRUST 2006-15XS, having its place of business at 3476 STATEVIEW
BLVD., MAIL STOP X7801-02T FORT MILL, SC 29715 by way of Complaint says:

FIRST COUNT

1. On July 27, 2006, NORMA BEN-HAIM, executed to FIRST FINANCIAL EQUITIES,
INC. an obligation (NOTE), to secure the sum of \$800,000.00, payable on August 1, 2036, with
the initial rate of interest of 7.625 % per annum, payable by payments of Interest only for the

EXHIBIT B

CONTESTED

MICHAEL BOTTON, ESQ.

1800 Main Street Suite 1
Lake Como, NJ 07719
732-894-3683
Attorney for Defendants
Norma Ben-Haim & Eli Ben Haim

US BANK NATIONAL ASSOCIATION, AS
SUCCESSOR TRUSTEE TO BANK OF
AMERICA, NATIONAL ASSOCIATION,
(SUCCESSOR BY MERGER TO LASALLE
BANK NATIONAL ASSOCIATION) AS
TRUSTEE FOR MORGAN STANLEY
MORTGAGE LOAN TRUST 2006-15XS

Plaintiff,

v.

~~NORMA BEN-HAIM, ET AL~~

Defendants.

NORMA BEN-HAIM, ELI BEN HAIM

Third Party Plaintiffs

v.

ELIYAHU WEINSTEIN, FIRST FINANCIAL

EQUITIES, INC, AND GAVIN KATZ

Third Party Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: MONMOUTH
COUNTY
DOCKET NO. F-57599-10

ANSWERS

EXHIBIT C

MICHAEL BOTTON, ESQ.

1800 Main Street Suite 1
Lake Como, NJ 07719
732-894-3683
Attorney for Defendants
Norma Ben-Haim & Eli Ben Haim

US BANK NATIONAL ASSOCIATION, AS
SUCCESSOR TRUSTEE TO BANK OF
AMERICA, NATIONAL ASSOCIATION,
(SUCCESSOR BY MERGER TO LASALLE
BANK NATIONAL ASSOCIATION) AS
TRUSTEE FOR MORGAN STANLEY
MORTGAGE LOAN TRUST 2006-15XS

Plaintiff,

v.

NORMA BEN-HAIM, ET AL

Defendants.

NORMA BEN-HAIM, ELI BEN HAIM

Third Party Plaintiffs

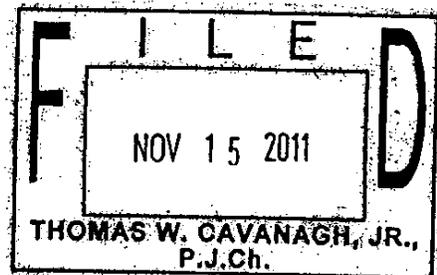
v.

ELIYAHU WEINSTEIN, FIRST FINANCIAL
EQUITIES, INC, AND GAVIN KATZ

Third Party Defendants

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: MONMOUTH
COUNTY
DOCKET NO. F-57599-10

ORDER



listed 9/16; 10/6/11; 11/4/11

THIS MATTER having been opened to the Court by Michael Botton, Esq attorney for the Defendant, on a Cross motion to Dismiss the Plaintiff's Complaint for failure to Provide a Proper Notice of Intent to Foreclose, and the Court having considered the moving papers and any

written opposition thereto, if any; and the Court having heard the arguments, if any, of counsel; and good cause having been shown;

IT IS On this 15 day of November, 2011;

ORDERED that order that the Plaintiff's Motion is Denied ; and

IT IS FURTHER ORDERED That Plaintiff's complaint is dismissed without prejudice. ** See page 3*

IT IS FURTHER ORDERED that a copy of this Order shall be served on all interested parties and counsel of record within seven (7) days from the receipt thereof.

See Page 3

HON. THOMAS W. CAVANAGH, JR.,

Decision & Findings of the Court were
set forth on the record on

*oral
argument*

en 11/4/11

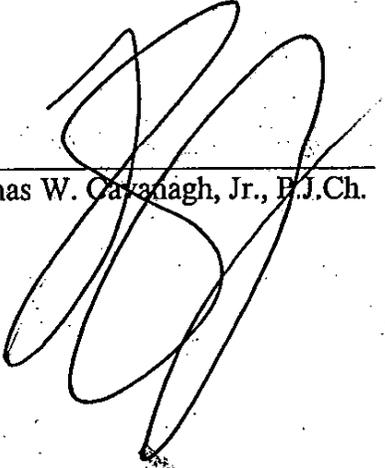
The Plaintiff's complaint in this Foreclosure matter is dismissed without prejudice in accordance with the following:

1) The failure of the plaintiff to include the lender on the Notice of Intention which was served pursuant to N.J.S.A. 2A:50-56(c)(11) causes the notice to be deficient in accordance with the holding in Bank of New York v Laks, 422 N.J. Super. 201 (App. Div. 2011).

2) The plaintiff is to forward a new notice of intention to the defendant(s) by certified mail, which notice shall contain all the information required by N.J.S.A. 2A:50-56. Subsequent to the passing of the 30 day period required by the aforementioned statute, Plaintiff may file a new foreclosure matter under a different docket number.

3) Subsequent to the filing of a new notice of intention which comports with all of the requirements in N.J.S.A. 2A:50-56, the plaintiff may alternatively make use of the following procedure. Currently pending before the New Jersey Supreme Court is U.S. Bank National Association vs. Guillaume, 2011 N.J. Super Unpublished, Lexus 983 (App. Div. 2011), cert. granted - N.J. Supreme Court, A-11-11(#068176). The plaintiff may apply to this Court for reinstatement of this case within 60 days of the date of this order if the Supreme Court establishes authority to do so in deciding the foregoing matter.

Thereafter, the procedure in Par. 2 will apply.



Thomas W. Cavanagh, Jr., E.J.Ch.

EXHIBIT D

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

Attorneys for Wells Fargo Bank, N.A.

IN RE APPLICATION BY WELLS
FARGO BANK, N.A. TO ISSUE
CORRECTED NOTICES OF INTENT
TO FORECLOSE ON BEHALF OF
IDENTIFIED FORECLOSURE
PLAINTIFFS IN UNCONTESTED
CASES

) SUPERIOR COURT OF NEW JERSEY
) CHANCERY DIVISION
) PASSAIC COUNTY
) DOCKET NO.: F-009564-12

) CIVIL ACTION

) **AMENDED VERIFIED COMPLAINT**
) **IN SUPPORT OF SUMMARY ACTION**

Wells Fargo Bank, N.A., ("Wells Fargo"), authorized to act on behalf of the Foreclosure Plaintiffs in pending, pre-judgment uncontested foreclosure actions, brings this action pursuant to the April 4, 2012, Order of the New Jersey Supreme Court (the "April 4th Order"), that was entered following the Court's decision in U.S. Bank, N.A. v. Guillaume, 209 N.J. 449 (2012), ("Guillaume"). Wells Fargo respectfully states as follows:

1. Wells Fargo is a national banking association and a wholly-owned subsidiary of Wells Fargo & Company, a bank holding company.
2. Wells Fargo services mortgage loans for residential properties in New Jersey either through its division, Wells Fargo Home Mortgage or its trade name, America's Servicing

9. Wells Fargo reviewed its pending foreclosure cases with its counsel to identify those foreclosure cases which will require a corrected NOI because the lender and the lender's address were not included in the previously served NOIs. The Corrected NOI List was reviewed for accuracy to verify the status of the foreclosures, the effect of loss mitigation on pending foreclosures, whether there are relevant bankruptcy proceedings and whether, since the original NOIs were sent, there were intervening deaths of Foreclosure Defendants.

10. The Corrected NOI List attached as Exhibits 1 through 34 includes the portfolio of loans that are pre-judgment, uncontested foreclosures that Wells Fargo is servicing and in which deficient NOIs were served by Wells Fargo. Specifically, as directed by the Supreme Court in Guillaume and the April 4, 2012 Order, the Corrected NOI List includes a listing of:

- a. foreclosures that were filed on or before February 27, 2012 and which Wells Fargo is servicing the loans and acting as agent for a Foreclosure Plaintiff,
- b. in which final judgment has not been entered, and
- c. in which Wells Fargo is seeking leave to file a corrected NOI to include the identity of the lender and the lender's address.

11. The Corrected NOI List also identifies (1) the name of the lender on each loan which is listed as the Plaintiff in the foreclosure action, (2) the name of the first named Foreclosure Defendant, (3) the foreclosure docket number and, (4) the vicinage.² While Wells Fargo is not the Plaintiff in each of the foreclosure actions, it is the servicer of each such loan, maintains the records for each such loan, and is responsible for mailing the corrected NOI pursuant to the relevant contracts with the Foreclosure Plaintiffs.

² Because considerable time has passed since NOIs were originally sent in the foreclosure actions, the Foreclosure Plaintiff initially identified in the caption may not be the current correct entity that will be listed in the corrected NOI. For sake of clarity, the corrected NOI will list the current lender and lender's address and Wells Fargo will require that foreclosure counsel take appropriate steps to change the plaintiff in affected foreclosure actions where required.

and some of its affiliates pursuant to an agreement between the parties.

79. Attached as Exhibit 31 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by Wells Fargo for UBS and in which Wells Fargo previously served a NOI that did not include the name and address of the lender.

COUNT 32 - UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

80. Wells Fargo services residential mortgage loans in New Jersey for the United States Department of Housing and Urban Development ("HUD") pursuant to an agreement between the parties.

81. Attached as Exhibit 32 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by Wells Fargo for HUD and in which Wells Fargo previously served a NOI that did not include the name and address of the lender.

COUNT 33 - U.S. BANK, NATIONAL ASSOCIATION

82. Wells Fargo services residential mortgage loans in New Jersey for U.S. Bank, N.A. and some of its affiliates pursuant to an agreement between the parties.

83. Attached as Exhibit 33 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by Wells Fargo for U.S. Bank and in which Wells Fargo previously served a NOI that did not include the name and address of the lender.

COUNT 34 - WILMINGTON TRUST COMPANY

84. Wells Fargo services residential mortgage loans in New Jersey for the Wilmington Trust Company and some of its affiliates pursuant to an agreement between the parties.

85. Attached as Exhibit 34 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by Wells Fargo for Wilmington Trust in which Wells Fargo

previously served a NOI that did not include the name and address of the lender.

COUNT 35 – PENDING BANKRUPTCY MATTERS

86. Attached as Exhibit 35 is a list of the pending, uncontested foreclosures in New Jersey that are being serviced by Wells Fargo for the lenders identified in Counts 1 through 34 that are currently subject to the Automatic Bankruptcy Stay. It is the intention of Wells Fargo to send corrected NOIs in these matters when permitted by the Bankruptcy Court and in accordance with the instructions of this Court.

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order permitting Wells Fargo to issue corrected NOIs in an omnibus manner as permitted in the April 4, 2012 Order to include the name and address of the lender in the pending, uncontested foreclosure cases listed on the Corrected NOI List and for such other and further relief as this Court deems just and equitable.

REED SMITH LLP



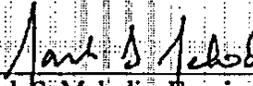
Mark S. Melodia, Esquire

Dated:

CERTIFICATION

I certify pursuant to Rule 4-5-1 that, to the best of my knowledge, this matter is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated, other than the pending foreclosure actions on the Corrected NOI List attached hereto and any pending, separate actions initiated outside of the uncontested foreclosure proceedings in which Foreclosure Defendants may have raised claims concerning, *inter alia*, their NOIs but which are not at issue in this application. I further

certify that I am unaware of any non-party who should be joined in this action pursuant to Rule 4:28 or who is subject to joinder pursuant to Rule 4:29-1(b) because of potential liability to any party based on the same transactional facts.


Mark S. Melodia, Esquire

Dated:

VERIFICATION

STATE OF _____ :
COUNTY OF _____ :

I, Timothy P. O'Brien, being duly sworn states:

1. I am Senior Vice President, Manager of Default Operations for Wells Fargo, the applicant named in the foregoing Amended Verified Complaint.

2. The allegations in the Amended Verified Complaint are true to the best of my knowledge and belief.

3. The Exhibits attached to the Amended Verified Complaint are true and correct copies.



Timothy P. O'Brien

Sworn and subscribed before me
this 13th day of July 2012



MEMBER

New Jersey Bar
New York Bar

ADMITTED

U.S. Federal District Courts

LAW OFFICES

MICHAEL BOTTON, ESQ

Mailing Address:

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MICHAELBOTTONESQ@YAHOO.COM

TEL: 732-894-3686 FAX: 732-894-3688

RECEIVED

SEP 12 2012

**SUPERIOR COURT
CLERK'S OFFICE**

September 10, 2012

Superior Court Clerk's Office
Foreclosure Processing Services
P.O. Box 971
Trenton, New Jersey 08625

Re: In Re Application of Wells Fargo Bank v. Ben Haim
Docket No.: F-9564-12

Dear Sir or Madam:

I enclose herein for filing an original and one copy of a Certification in Opposition to the Plaintiff's Order to Show Cause in the above matter on behalf of the defendants, Norma and Eli Ben Haim, with regard to the above matter.

Kindly schedule this matter for hearing. By copy of this correspondence, I am supplying my adversary with same. Thank you.

Very truly yours,

Michael Botton/s/
MICHAEL BOTTON, ESQ

MB/dpm
Enc.

Cc: Mark S. Melodia, Esquire
Reed Smith LLP
Princeton Forrestal Village
136 Main Street
Suite 2050
Princeton, NJ 08540

Norma and Eli Ben Haim
279 Elberon Terrace
Long Branch, NJ 07740