

CABANILLAS & ASSOCIATES, P.C.

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Attorneys for Defendant Roger Villatoro

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**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

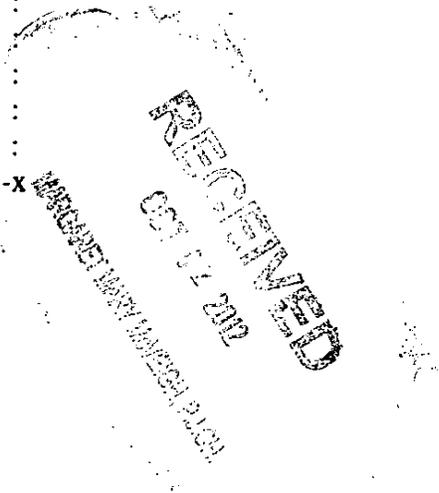
**OBJECTION TO PLAINTIFF'S
CORRECTIVE NOTICE OF INTENT TO
FORECLOSE WITH REQUEST FOR
ATTORNEY'S FEES AND COSTS**

-----X

TO: Superior Court Clerk's Office
Foreclosure Processing Services
25 Market Street
P.O. Box 971
Trenton, NJ 08625

Hon. Margaret Mary McVeigh, P.J.Ch.
Passaic County Courthouse
77 Hamilton Street, Chambers 100
Paterson, NJ 07505

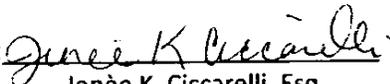
Reed Smith LLP
Mark Melodia, Esq.
136 Main Street, Suite 250
Princeton, NJ 08540



PLEASE TAKE NOTICE THAT on Wednesday, October 3, 2012 at 10:00 a.m. or as soon thereafter as counsel can be heard, the undersigned attorneys for defendant **Roger Villatoro** shall, pursuant to R.4:6-2, move the Superior Court of New Jersey, Passaic County, Chancery Division, 77 Hamilton Street,

Room 621, Paterson, New Jersey 07505, before the Honorable Margaret Mary McVeigh, P.J.Ch. for an order directing a stay of the foreclosure, revision and re-service of the notice of intention to foreclose, attorneys fees and costs, and other such relief the court deems just and appropriate.

Cabanillas & Associates, P.C.
Attorneys for Roger Villatoro

By: 
Jenèe K. Ciccarelli, Esq.

Dated: September 28, 2012

PRELIMINARY STATEMENT AND STATEMENT OF FACTS

This foreclosure action was filed against defendant, Roger Villatoro (“Defendant”) on May 28, 2009 by HSBC USA, National Association, as Trustee for the holders of Nomura Home Equity Inc., Home Equity Loan Trust Series 2007-1. (“HSBC” or the “Plaintiff”). The Defendants did not retain counsel, but attempted to work directly with the bank and obtain a loan modification for two and a half years. Defendants did not file an Answer or seek legal counsel and the matter has remained uncontested.

On February 27, 2012, the New Jersey Supreme Court decided the seminal case of US Bank Nat. Ass'n v. Guillaume, 209 N.J. 449, 472 (2012), resolving the split among the Appellate Division regarding compliance with the Fair Foreclosure Act (“FFA”). To implement the Supreme Court’s interpretation of the Fair Foreclosure Act, the Supreme Court entered an order dated April 4, 2012, permitting plaintiffs to file summary actions for Orders to Show Cause to ask the Court for permission to comply with the FFA.

Upon information and belief, Plaintiff did not comply with the FFA prior to filing its Complaint. Plaintiff attempted to cure the violation on August 14, 2012 by having its servicer American Home Servicing send a new notice, which identified the Plaintiff, HSBC USA, National Association, as Trustee for the holders of Nomura Home Equity Inc., Home Equity Loan Trust Series 2007-1. The letter also enclosed an order dated July 18, 2012, under docket number F-009564-12, captioned, *In Re Application Wells Fargo Bank, N.A. to Issue Corrected Notices to Intent to Foreclose on Behalf of Identified Foreclosure Plaintiffs in Uncontested Cases*. The order gives Wells Fargo Bank, N.A., permission to resend a corrective NOI, but does not identify American Home Servicing. The order further gives Wells Fargo Bank, N.A., permission in its capacity as a “servicer.” The order does not identify the relationship between

Wells Fargo Bank, N.A. and American Home Servicing. In addition, none of the documentation supplied in the OSC packet describes the relationship between Wells Fargo Bank, N.A. and American Home Servicing.

Mortgage loan servicers and/or plaintiffs have each independently made their own application to the court for permission to serve corrected NOIs. See <http://www.judiciary.state.nj.us/superior/documents.htm> last visited September 18, 2012. There is no indication that it was the Court's intention to permit a servicer to rely on the Order obtained by a different servicer.

In addition, the NOI itself fails to comply with the Court's July 18, 2012 order ("Cure Order"). Paragraph 2 of the Cure Order states that "the corrected NOI will exclude attorneys fees and foreclosure costs that have been incurred in the pending foreclosure." Certification of Jenee K. Ciccarelli, Esq. (hereinafter "Ciccarelli Cert."), Exhibit A. However, the letter of explanation provided by Plaintiff's servicer explains on page 2 "[The new notice] allows you an additional 30 days in which to cure the default without having to pay Plaintiff's court costs and attorneys fees." See Ciccarelli Cert., Exhibit A. The Cure Order and the explanation letter differ significantly on the definition of fees and costs. The calculation of the reinstatement amount included in the August 14, 2012 NOI provided to the Defendant specifically includes fees and costs in direct contradiction to the court's Cure Order. Thereby, Defendant requests a stay of foreclosure, re-service of the NOI without costs, and compensation for attorneys fees and costs in objecting to the notice.

LEGAL ARGUMENT

I. PLAINTIFF HAS FAILED TO OBTAIN PERMISSION TO CORRECT VIA ITS SERVICER, AMERICAN HOME SERVICING.

The Fair Foreclosure Act (“FFA”) was enacted by the legislature to provide protection to residential mortgage debtors. It is remedial legislation which “sets forth in considerable detail the steps required of a lender seeking to accelerate maturity and foreclose a residential mortgage. This clear and unambiguous statute requires strict adherence to its terms and requirements.” Spencer Savings Bank, SLA v. Shaw, 401 N.J. Super 1, 6-7 (App. Div. 2008); Cho Hung Bank v. Kim, 361 Super. 331, 343 (App. Div. 2003); US Bank Nat. Ass’n v. Guillaume, 209 N.J. 449, 472 (2012). Indeed, foreclosure plaintiffs are required to plead compliance with the FFA in the foreclosure complaint, lest their complaint be rejected by the Foreclosure Unit. See R. 4:64-1(b)(13).

The terms of the FFA are specific and exacting. “Before the mortgage lender can accelerate the maturity of the mortgage obligation and commence a foreclosure action, it must give the mortgage debtor notice of its intention to foreclose (“NOI”) at least 30 days in advance of taking such action.” N.J.S.A. 2A:50-56. The FFA expressly identifies the “residential mortgage lender” as the party that bears the responsibility for compliance with its terms. The “residential mortgage lender” or “lender” is defined in the FFA as the “person, corporation, or other entity which *makes or holds a residential mortgage* and any person, corporation or other entity to which such *residential mortgage* is assigned” N.J.S.A.2A:50-55. (emphasis added)

In addition, among other requirements, the NOI is required to state:

(11) The name and address of the lender and the telephone number of a representative of the lender whom the debtor may contact if the debtor disagrees with the lender’s assertion that a default has

occurred or the correctness of the mortgage lender's calculation of the amount required to cure the default.

N.J.S.A. 2A:50-56(c)(11).

New Jersey courts have consistently demanded strict adherence with the FFA's requirements. The Appellate Division repeatedly held that the notice requirement cannot be waived and that courts are not free to deviate from its express requirements. See Cho Hung Bank v. Kim, 361 Super. at 343, 825 A.2d at 573. Indeed, the New Jersey Supreme Court found that the FFA should be strictly construed. US Bank Nat. Ass'n v. Guillaume, 209 N.J. 449, 472-473 (2012). The Court expressly held that "substantial compliance" with the terms of the statute or constructive notice from a defective NOI is not sufficient to establish statutory compliance. Id. Thus, among other specific requirements, the NOI must be sent by the "lender" and if not sent by the "lender," the NOI must include the name and address of the "actual lender" or Plaintiff in a foreclosure action. Id. To provide guidance, the Supreme Court stated that in cases in which the NOI is sent by a mortgage loan servicer on behalf of the lender, the servicer's information and lender's information should be included. Id.

In US Bank Nat. Ass'n v. Guillaume, 209 N.J. 449, 472 (2012), the New Jersey Supreme Court further held that if a foreclosure Plaintiff fails to comply with the FFA, then it is up to a trial court to determine the appropriate remedy on a case by case basis¹. Although the Court held that a violation of the FFA was not a meritorious defense for the purposes of vacating judgment under R. 4:50-1, the Court made it clear that remediation was required. Id. Generally, the trial courts in New Jersey have permitted Plaintiff to correct an NOI by sending a new, compliant

¹ New Jersey Supreme Court empowered trial courts "adjudicating a foreclosure complaint in which the notice of intention does not comply with N.J.S.A. 2A:50-56(c)(11) . . . to dismiss the action without prejudice, order the service of a corrected notice or impose another remedy appropriate to the circumstances of the case." Id. at 476.

notice and ordering that the notice does not include foreclosure fees and costs. Despite its decision to require an individual evaluation of an FFA violation, the Supreme Court entered an order that granted permission for plaintiffs to file summary actions with numerous cases and shifted the burden to defendants to establish why a plaintiff should not be given permission to cure violations of the FFA.

Upon information and belief, Plaintiff did not comply with the FFA prior to filing its Complaint. Plaintiff attempted to cure the violation on August 14, 2012 by having its servicer American Home Servicing send a new notice, which identified the Plaintiff, HSBC USA, National Association, as Trustee for the holders of Nomura Home Equity Inc., Home Equity Loan Trust Series 2007-1. The letter also enclosed an order dated July 18, 2012, under docket number F-009564-12, captioned, *In Re Application Wells Fargo Bank, N.A. to Issue Corrected Notices to Intent to Foreclose on Behalf of Identified Foreclosure Plaintiffs in Uncontested Cases*. The order gives Wells Fargo Bank, N.A., permission to resend a corrective NOIs, but does not identify American Home Servicing. The order further gives Wells Fargo Bank, N.A., permission in its capacity as a “servicer.” The order does not identify the relationship between Wells Fargo Bank, N.A. and American Home Servicing. In addition, none of the documentation supplied in the OSC packet describes the relationship between Wells Fargo Bank, N.A. and American Home Servicing. Therefore, it appears that the Plaintiff’s servicer has included an unrelated order as a basis for its remediation of the non-compliant NOI. Furthermore, page 1 of the explanation letter provided to the Defendant specifically states that American Home Servicing was given permission to send a corrective NOI by the Court. Ciccarelli Cert., Exhibit

A. However, nowhere in the documentation supplied by the Plaintiff and its servicer, is there a court order that permits American Home Servicing to send a corrective notice.²

The New Jersey Supreme Court empowered trial courts to adjudicate appropriate remediation for a non-compliant NOI. It is therefore in the providence of the court, not an individual servicer or plaintiff to determine the appropriate form to cure post-complaint violations of the FFA. See Guillaume, 209 N.J. Super at 476. There is nothing in the Supreme Court's April 4, 2012 Order, court rules or case law that would permit a plaintiff or its servicer to rely upon a remediation order from a different plaintiff or servicer. Furthermore, other servicers and/or plaintiffs have each independently made their own application to the court for summary orders to serve corrected NOIs. See <http://www.judiciary.state.nj.us/superior/documents.htm> last visited September 18, 2012. Accordingly, plaintiff's service did not make the appropriate application to the court to adjudicate the violation of the FFA and does not have permission from the court to cure and proceed with the foreclosure. Plaintiff or Plaintiff's servicer must make an independent application to the court and obtain its own order.

II. PURSUANT TO THE ORDER ENTERED BY THE COURT, THE DEFENDANT SHOULD GET THE OPPORTUNITY TO REINSTATE WITHOUT FEES AND COSTS, THE REINSTATEMENT AMOUNT INCLUDES FEES AND COSTS AND THEREFORE PLAINTIFF'S CURATIVE NOTICE IS DEFECTIVE.

If this court finds that the order put forth by the Plaintiff provides a legitimate basis for Plaintiff's servicer, unnamed in the Order, to send a post-complaint curative NOI, then it is necessary for the court to review the notice and order dated July 18, 2012 (hereinafter "Cure Order") to determine whether the notice sent to Defendant complies with the Cure Order. In this case, the notice does not comply with the Cure Order because it includes fees and costs that were adjusted by the Cure Order. In addition, Defendant objects to the amount due on the notice

² In addition, there is no application by American Home Servicing on the court's website,

because the calculation includes fees that should be waived, does not serve the purposes of putting a defendant in the same position as if no violation had occurred, and the amounts listed lack transparency in their calculation.

Paragraph 2 of the Cure Order states that “the corrected NOI will exclude attorneys fees and foreclosure costs that have been incurred in the pending foreclosure.” Ciccarelli Cert, Exhibit A. However, the letter of explanation provided by Plaintiff’s servicer explains on page 2 “[The new notice] allows you an additional 30 days in which to cure the default without having to pay Plaintiff’s court costs and attorneys fees.” See Ciccarelli Cert., Exhibit A. The Cure Order and the explanation letter differ significantly on the definition of fees and costs. If the court reviews the notice, the numbers specifically include fees and costs in direct contradiction to the court’s order. In addition, the notice on its face violates the order.

Case law in New Jersey has established that a trial court is permitted to reduce the fees and costs in order to adjust for the service of a noncompliant notice of intention. In GE Capital Mortg. Services, Inc. v. Weisman, 339 N.J.Super. 590, 595 (Ch. Div. 2000) a New Jersey trial court considered the statutory compliance of an NOI with the FFA. This case presented the court with an issue first impression in New Jersey. Not only did the court in GE Capital determine the issue of compliance, the court also to set forth the cure remedy by permitting the plaintiff in that case to reserve a correct NOI. The court directed that “plaintiff . . . forward, within ten days, by certified mail, return receipt requested, a new notice of intention setting forth the information required by the FFA. The defendants shall have thirty days from the mailing of the notice to reinstate the mortgage without liability for costs and attorneys fees.” Id. The court went further to specifically define fees and costs by stating that “the notice shall not contain any fees or costs associated with the foreclosure action, but only those fees and costs which would have been due

had no foreclosure been commenced.” Id. The court gave a clear definition of foreclosure fees and costs. Although the GE Capital case itself did not go up on appeal, the issues presented did go up on appeal to the Supreme Court in Guillaume. The GE Capital court’s definition of fees and costs and the ability of the court to determine the scope of fees and costs permitted in a corrective NOI was upheld by the New Jersey Supreme Court in Guillaume. .” Guillaume, 209 N.J. at 478. The Court held, “[a] trial court that permits a foreclosure plaintiff to cure a defective notice of intention has the discretion to reduce the fees and costs owed by the homeowner under *N.J.S.A. 2A:50–57(b)(3)* to adjust for the lender's service of a noncompliant notice of intention. Id. In fact, the Court then cited the GE Capital case in its opinion, endorsing the definition created by the GE Capital court.

In this case, the Cure Order entered by court and signed by Judge McVeigh, specifically directed that the notices exclude “foreclosure” fees and costs. The July 18, 2012 Cure Order relied upon by Plaintiff was made at the direction of the court with the purpose of implementing the ruling of Guillaume. See Ciccarelli Cert., Exhibit A. The Court made the choice to enter this order in light of the fact that as a matter of business practice, many plaintiff and plaintiff’s servicers failed to comply with the FFA, and in light of the fact that most foreclosures are uncontested. Id. Because the Cure Order relies upon Guillaume for its authority, and Guillaume supports the definition of “foreclosure fees and costs” to mean only those fees and costs which would have been due had no foreclosure been commenced, the notices on their face do not comply with the Cure Order. The explanation letter itself admits the Plaintiff’s intention to ignore the court’s order by excluding only court costs and attorney fees. This definition embraced by Plaintiff, in contravention of the court’s order, includes interest, inspection fees, late fees, and other miscellaneous fees that accrue during the foreclosure process. These fees are

outside the scope of the court's order. In addition, the notice merely provides lump some numbers for the various calculations. For example, "payments" or "miscellaneous fees," but does not provide transparency in that calculation by showing principal, interest, taxes and insurance or identify what the fees were or when the fees were incurred so a defendant can determine whether the amount due is correct. The amount of these fees may be significant and may impact a defendant's ability to cure.

Although the notice presented by the Plaintiff may comply with the FFA, the notice as sent by Plaintiff does not represent a "remedy" for a violation of the FFA. The notice does not place a defendant in the position that the court intended, that is, to have the ability to reinstate without foreclosure fees and costs. As defined, a remedy is "a means of . . . redressing a wrong." Black's Law Dictionary, p. 1320 (8th Ed. 2004). The notice sent by Plaintiff attempts to cure the violation of the FFA, but does not redress the wrong as the Court directed. Implicit in the Court's Cure Order excluding foreclosure fees and costs, is an attempt to place a defendant in same or similar position that he would have been in had a proper notice been sent.

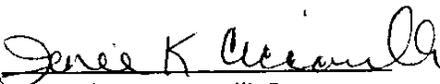
The Cure Order as interpreted by the Plaintiff puts the defendant in no better position and gives the Defendant no more rights than Defendant already has under the FFA. The FFA gives a defendant the ability to reinstate by remitting all missed payments including principal, interest, taxes, insurance with foreclosure fees and costs. Therefore, to be given the opportunity to reinstate without court costs and attorneys fees represents a remedy without substance and therefore Plaintiff's interpretation is unreasonable. The only interpretation of the Cure Order that is appropriate requires the Plaintiff to allow a defendant to reinstate without any foreclosure fees or costs – the position the Defendant would be in had no foreclosure commenced. Otherwise, the

Court's order is not a remedy, but compensates the defendant by giving a defendant a right he/she already has in the absence of the Cure Order

. The Plaintiff's failure to exclude the foreclosure fees and costs is a blatant disregard for the court's order and there is no excuse for Plaintiff's failure to appropriately calculate the reinstatement charges in the NOI.³ Accordingly, Plaintiff should be responsible for Defendant's attorneys fees and costs in enforcing the Cure Order.

The calculation of the reinstatement amount in the NOI provided to the Defendant specifically includes foreclosure fees and costs in direct contradiction to the court's order. Thereby, Defendant requests a stay of foreclosure, re-service of the NOI without foreclosure fees and costs, and attorneys fees and costs in objecting to the notice.

Cabanillas & Associates, P.C.
Attorneys for Defendant Santos Rosado

By: 
Jenèe K. Ciccarelli, Esq.

Dated: September 28, 2012

³ As the Third Circuit recognized in Marshak v. Treadwell, 595 F.3d 478, 485 (3rd Cir. 2009), in order to establish contempt, a party must show by "clear and convincing" evidence three elements (1) that a valid order of the court existed; (2) that the defendants had knowledge of the order; and (3) that the defendants disobeyed the order." Moreover, "failure to *obey* a court judgment is an indirect contempt." Harley-Davidson, Inc. v. Morris, 19 F.3d 142, 146 (3rd Cir. 1994)(citing Interdynamics, Inc. v. Firma Wolf, 653 F.2d 93, 97 (3rd Cir. 1981)(emphasis added).

CABANILLAS & ASSOCIATES, P.C.
A New York Professional Corporation
245 Main Street - Suite 210
White Plains, New York 10601
(914) 385-0292
Attorneys for Defendant Roger Villatoro

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**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**

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

CIVIL ACTION

CERTIFICATION OF COUNSEL

I, Jenèe K. Ciccarelli, Esq. does certify and say:

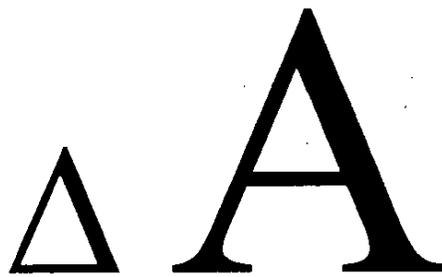
1. I am an attorney at law of the State of New Jersey with the law firm of Cabanillas & Associates, P.C., attorneys for defendant **Roger Villatoro** ("Defendant"). As such, I am familiar with the facts contained herein.

2. Attached hereto as Exhibit A is a true and correct copy of Defendant's OSC package including the July 18, 2012 order.

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


Jenèe K. Ciccarelli, Esq.

Dated: September 28, 2012



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

FILED

JUL 18 2012

Chancery/General Equity

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
)
) ORDER TO SHOW CAUSE
)
)
)

THIS MATTER being brought before the Court by Reed Smith LLP, attorneys for Wells Fargo Bank, N.A. ("Wells Fargo"), 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 Wells Fargo 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 34 to the Amended Verified Complaint ("Corrected NOI List") to include the name and address of the lender, 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 19 July day of 2012 ORDERED that the Foreclosure Defendants whose names appear on the Corrected NOI List may appear before the Superior Court at the Passaic County Courthouse, 71 Hamilton Street, Paterson, New Jersey at 10 o'clock in the ~~noon or as~~ soon thereafter as counsel can be heard, on the 3 day of October, 2012 to object to this Court's Order allowing Wells Fargo to issue corrected NOIs pursuant to this Order to Show Cause.

AND IT IS FURTHER ORDERED THAT FOR EACH FORECLOSURE ACTION IN WHICH WELLS FARGO ISSUES A CORRECTED NOI TO A FORECLOSURE DEFENDANT:

1. Wells Fargo will issue a letter ("Explanatory Letter") to each Foreclosure Defendant in the form attached as Exhibit A to the Verified Complaint. The Explanatory Letter will explain:

- the reasons why the corrected NOI is being served;
- the procedure to follow in the event a Foreclosure Defendant wishes to object to the NOI;
- the individuals to contact with any questions; and
- their right to object to the corrected NOI or their right to cure the default within 30 days of the date of the corrected NOI.

2. Wells Fargo will issue a corrected NOI in the form attached as Exhibit B to the Verified Complaint and shall attach such NOI to the Explanatory Letter referenced in paragraph 1 above. The corrected NOI will exclude attorneys' fees and foreclosure costs that have been incurred in the pending foreclosure cases. In accordance with the servicing guidelines and as required by N.J.S.A. 2A:50-56(e), the Explanatory Letter and corrected NOI will be sent by Wells Fargo, the servicing agent.

3. Wells Fargo will serve the corrected NOI, the Explanatory Letter and a copy of this Order to Show Cause (collectively, the "OSC Package"), via certified mail, return receipt requested and regular mail at the last known address of the Foreclosure Defendant. For purposes of this Order to Show Cause, Wells Fargo may serve each marital couple residing at the same address with one OSC Package via certified mail and regular mail.¹

4. A copy of Wells Fargo's complete application to this Court shall be loaded onto the New Jersey Courts website within 5 days of the date of this Order where it will be available for review by the general public at the website link - http://www.judiciary.state.nj.us/
and all attachments will be provided in searchable PDF's files

5. In addition to providing service of the OSC Package by certified and regular mail, Wells Fargo will, within 2 days *Prior to Sept 1, 2012* of the date of this Order, provide publication notice two (2) times in each of the following four (4) daily newspapers in a manner consistent with similar legal notices: Star Ledger, Bergen Record, The Press of Atlantic City, Gloucester County Times

6. Wells Fargo shall file with the Court its proof of service of the OSC Package on Foreclosure Defendants on the Corrected NOI List in the manner consistent with this Order no later than nine (9) days before the return date.

7. You [Foreclosure Defendants] have the right to object in this proceeding to this Order to Show Cause (the process by which this Court gave Wells Fargo permission to serve the corrected NOI). To do so, you must file a written objection under the docket number listed on the first page of this Order for this case. You must set forth with specificity the basis for your objection and file your objection with the Superior Court Clerk's Office at the following address within days: on or before September 24, 2012.

¹ In the event Wells Fargo has been provided an address for the estate of a deceased Foreclosure Defendant, the OSC Package shall be mailed to the address of the estate and/or the executor or administrator, if known and available.

Superior Court Clerk's office, Foreclosure Processing Services
Attention: Objection to Notice of Intention to Foreclose
P.O. Box 971
Trenton, New Jersey 08625

You must also serve a copy of the objection on Wells Fargo's attorney, Mark Melodia, Esquire at Reed Smith LLP, Princeton Forrestal Village, 136 Main Street, Princeton, New Jersey 08540, and mail a copy of your objection to Judge McVeigh at the Superior Court of New Jersey, Passaic County Courthouse, Chambers 100, 71 Hamilton Street, Paterson, New Jersey 07505.

8. You [Foreclosure Defendants] also have the right to object to the corrected NOI that you will receive. You will also have 30 days from service of the OSC Package to cure your default. If you object to any of the contents of your corrected NOI, you must file written objection under the docket number for your foreclosure action. If you are unsure of the docket number for your foreclosure action, you can access that information on the Court's website on the attached exhibits to the verified complaint or by calling the Wells Fargo representative listed on the Explanatory Letter that will be sent with the corrected NOI. You must set forth with specificity the basis for your objection and file your objection with the Superior Court Clerk's Office at the following address within on or before Sept 24, 2012 days of receipt of the corrected NOI:

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

You must also serve a copy of the objection on Wells Fargo's attorney, Mark Melodia, Esquire at Reed Smith LLP, Princeton Forrestal Village, 136 Main Street, Princeton, New Jersey 08540, and mail a copy of your objection to Judge McVeigh at the Superior Court of New Jersey, Passaic County Courthouse, Chambers 100, 71 Hamilton Street, Paterson, New Jersey 07505.

9. Wells Fargo may file and serve any written reply to any opposition papers received by Sept 25, 2012. The reply papers must be filed with the Clerk of the

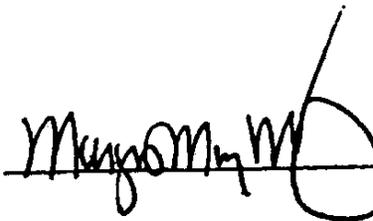
Superior Court in Mercer County, with a copy to Judge McVeigh and to each Foreclosure Defendant who filed an opposition.

10. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of these offices is provided with the corrected NOI.

11. A proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court by Wells Fargo no later than nine (9) days before the return date.

12. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause.

13. In the event a foreclosure action has been suspended or stayed as a result of a bankruptcy filing or loss mitigation activity, the OSC Package shall not be sent unless and until the suspension or stay is lifted. In such circumstances, the following procedure shall be used. Wells Fargo shall mail the OSC Package within 45 days of the lifting of the stay or suspension of the foreclosure action. You [Foreclosure Defendants] will have 30 days in which to object to the corrected NOI or 30 days from service of the OSC Package to cure your default. Any objections to the relief set forth in this Order to Show Cause shall be made in writing to the Court in the County in which your foreclosure action is pending. You must also send a copy of your written papers to Wells Fargo's attorneys, Mark Melodia, Esquire, Reed Smith LLP, Princeton Forrestal Village, 136 Main Street, Princeton, New Jersey 08540, or the Court handling your foreclosure action will not be able to consider your objection.



U.S.C.



AMERICA'S SERVICING COMPANY

3480 Stateview Blvd
MAC# D3348-027
Fort Mill, SC 29715

NISA0814122128
ROGER VILLATORO
126 TERRACE AVE
JERSEY CITY, NJ 07307

This communication is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge of this debt in bankruptcy or are currently in a bankruptcy case, this notice is not intended as an attempt to collect a debt and, this company has a security interest in the property and will only exercise its rights as against the property.



8/14/2012

ROGER VILLATORO
126 TERRACE AVE
JERSEY CITY, NJ 07307

Re: *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*

Docket Number F- 009564-12

Dear ROGER VILLATORO:

Please be advised that the New Jersey Supreme Court recently held in *U.S. Bank N.A. v. Guillaume*, 209 N.J. 449 (2012), that mortgage lenders seeking to foreclose must comply with the New Jersey Fair Foreclosure Act's requirement that a Notice of Intention to Foreclose set forth the name and address of the lender.

Why You Are Receiving This Letter

You are receiving this letter because you are the defendant in a pending foreclosure action, and it is believed that the Notice of Intention to Foreclose served upon you prior to the commencement of the foreclosure action did not comply with the requirements of the Fair Foreclosure Act.

By the court's Order to Show Cause dated July 19, 2012, and in compliance with the Supreme Court's opinion in *U.S. Bank N.A. v. Guillaume*, the Hon. Margaret Mary McVeigh, P.J.Ch., Passaic Vicinage, gave permission to America's Servicing Co. to serve, along with the Order to Show Cause and verified complaint, corrected Notices of Intention to Foreclose on all defendant mortgagors/parties obligated on the debt in pending foreclosure actions filed before February 28, 2012.

Information About the Order to Show Cause and Verified Complaint

Enclosed with this letter are copies of the Order to Show Cause and verified complaint. The verified complaint lists the following lenders in the following counts of the verified complaint:

- Count 1 - Bank of America, N.A.
- Count 2 - Bank of New York Mellon
- Count 3 - BankAtlantic
- Count 4 - Bayview Financial
- Count 5 - CitiBank, N.A.
- Count 6 - Commerce Bancorp.
- Count 7 - Copperfield Investments
- Count 8 - Deutsche Bank
- Count 9 - DLJ Mortgage Capital, Inc.
- Count 10 - E*Trade
- Count 11 - EMC Mortgage

- Count 12 - Federal Deposit Guaranty Insurance Corporation
- Count 13 - Federal Home Loan Mortgage Corporation
- Count 14 - Federal National Mortgage Association
- Count 15 - Federal Home Loan Bank of Chicago
- Count 16 - FTN Financial
- Count 17 - GE Capital Mortgage Services, Inc.
- Count 18 - GMAC Bank
- Count 19 - HSBC Bank, N.A.
- Count 20 - Hudson City Savings Bank
- Count 21 - Investors Savings Bank
- Count 22 - JP Morgan Chase Bank
- Count 23 - LaSalle Bank, N.A.
- Count 24 - Lehman Brothers
- Count 25 - LEX Special Assets
- Count 26 - MidFirst Bank
- Count 27 - New York Life Assurance and Annuity Corporation
- Count 28 - PNC Bank
- Count 29 - Residential Accredited Loans, Inc.
- Count 30 - Riggs Real Estate Investment Corporation
- Count 31 - UBS Bank
- Count 32 - United States Department of Housing and Urban Development
- Count 33 - U.S. Bank, N.A.
- Count 34 - Wilmington Trust Company

The attachments to the verified complaint, which list the foreclosure actions in which the above-named lenders are the plaintiffs, will be made available on the New Jersey Courts web site at <http://www.judiciary.state.nj.us/>. If you are unsure of the docket number for your foreclosure action, you can access that information on the court's website on the attached exhibits to the verified complaint by entering your name into the automatic search field on the website. If you do not have access to a computer or have trouble locating that information on the Court's website, you can contact the following America's Servicing representative who can assist you with locating the information about your foreclosure action:

Randy Bockenstedt, Senior Vice President
 America's Servicing Co.
 Address: 3480 Stateview Boulevard
 MAC X7802-03H
 Fort Mill, SC 29715
 Phone Number: 1-800-868-0043

Information About the Corrected Notice of Intention to Foreclose

Also enclosed with this letter is the corrected Notice of Intention to Foreclose. It allows you an additional 30 days in which to cure the default without having to pay the plaintiff's court costs and attorneys' fees. It also sets forth important information about your loan, including information on how you can cure the default; the consequences of failing to cure the default; contact information for the plaintiff; and information about retaining counsel and borrower assistance. If you fail to cure the default by the date set forth in the corrected Notice of Intention to Foreclose, the foreclosure action against you will proceed.

With the passage of time since the foreclosure action was filed against you, the lender on your loan may have changed from the named plaintiff in the foreclosure action.

The corrected Notice of Intention to Foreclose lists the name and address of the current lender on your loan.

Questions about the Notice of Intention to Foreclose

Should you have questions with regard to your loan or the corrected Notice of Intention to Foreclose, please contact:

Randy Bockenstedt, Senior Vice President
America's Servicing Co.
Address: 3480 Stateview Boulevard
MAC X7802-03H
Fort Mill, SC 29715
Phone Number: 1-800-868-0043

Additional contact information is provided in the corrected Notice of Intention to Foreclose.

How to File an Objection

You have the right to object to the enclosed Order to Show Cause (the process by which the court gave the plaintiff permission to serve the corrected Notice of Intention to Foreclose). To do so, you must file a written objection under the docket number for the Order to Show Cause.

You also have the right to object to the enclosed corrected Notice of Intention to Foreclose. To do so, you must file a written objection under the docket number for the foreclosure action in your individual case.

For either type of objection, you must set forth with specificity the basis of the objection, and file the objection with the Superior Court Clerk's Office at the following address within 30 days:

Superior Court Clerk's Office, Foreclosure Processing Services
Attention: Objection to Notice of Intention to Foreclose
P.O. Box 971
Trenton, New Jersey 08625

You must also serve a copy of the objection on America's Servicing Co.'s attorney, Mark S. Melodia, Esquire, Reed Smith LLP, Princeton Forrestal Village, 136 Main Street, Princeton, New Jersey 08540 and mail a copy of the objection to Judge McVeigh, J.S.C., Superior Court of New Jersey, Chambers 100, 71 Hamilton Street, Paterson, New Jersey 07505.

Your personal appearance at the Superior Court Clerk's Office or your local courthouse will not qualify as an objection. A telephone call will not protect your rights; you must file your objection and serve it on the plaintiff's attorney if you want the court to hear your objection to the relief the plaintiff is seeking. If you file a specific written objection, the case will be sent to a Judge for resolution. You will be informed by the Judge of the time and place of the hearing on your objection.

Questions about Filing an Objection

Should you have questions related to the procedure for filing an objection, please visit the New Jersey Courts On-Line Self-Help Center at <http://www.judiciary.state.nj.us/prose/index.htm>. You may also contact the Superior Court Clerk's Office at (609) 421-6100, or at SCCOForeclosure.Mailbox@judiciary.state.nj.us.



3480 Stateview Blvd
MAC# D3348-027
Fort Mill, SC 29715

Date: 8/14/2012

ROGER VILLATORO
126 TERRACE AVE
JERSEY CITY, NJ 07307

RE: America's Servicing Co. 106/1256039705
Mortgagor(s): ROGER VILLATORO
Mortgaged Premises: 126 TERR AVE
JERSEY CITY
NJ
07307-4149

NOTICE OF INTENTION TO FORECLOSE

Dear Borrower(s):

America's Servicing Co. services a mortgage (hereafter, the "Mortgage") in the original principal amount of \$ 520,000.00 on the residential property commonly known as 126 TERR AVE, JERSEY CITY, NJ 07307-4149, which Mortgage was made on 11/3/2006.

Your Mortgage is now in default because you have not made the required payments. The total amount required to cure this default, in other words, the amount required to bring your mortgage current as of 9/17/2012 is as follows:

Monthly payments (principal, interest, and escrow) from 11/1/2008 are as follows:

Payments- Totaling	\$	182,323.94
Total Accrued Unpaid Late Charges (Monthly Late Charge \$ 157.08)	\$	5,996.15
Unapplied Funds	\$	0.00
Miscellaneous Fees	\$	1,646.25
Total Delinquency as of 8/14/2012	\$	189,966.34

Your Pre-Foreclosure Action Right to cure this Default

To avoid the possibility of acceleration, you must pay this amount plus any additional monthly payments, late charges and other charges that may be due under applicable law after the date of this notice and on or before 9/17/2012 in CERTIFIED funds, to:

Payments only address:

America's Servicing Co.
1200 W 7th Street
Suite L2-200
Los Angeles, CA 90017

Correspondence only address:

Randy Bockenstedt, Senior Vice President
America's Servicing Co.
Address: 3480 State view Boulevard
MAC X7802-03H
Fort Mill, SC 29715
Phone Number: 1-800-868-0043

Please be advised that America's Servicing Co. cannot guarantee that payments received at the "correspondence only address" will be applied within the required timeframes.

If you do not cure this default and bring your account current by 9/17/2012, then America's Servicing Co. may take steps to terminate your ownership of the Property by starting a mortgage foreclosure action against you.

If you cure this default before the filing of the foreclosure action, America's Servicing Co. may not institute a foreclosure action against you for that default; your Mortgage will be reinstated to the same position as if the default had not occurred, and any acceleration of any obligation under the Mortgage or Note will be nullified as of the date of cure.

You have the right to transfer the property to another person subject to the Mortgage; that person will have the right to cure this default, subject to the Mortgage and the Note, and this Notice.

Your Post-Foreclosure Action Right to cure this Default

Even if America's Servicing Co. starts a mortgage foreclosure action against you, you shall still have the right to cure this default, de-accelerate and reinstate your Mortgage up to the time when a final judgment for foreclosure is entered. To do so, you must pay America's Servicing Co., at the address specified above, by cashier's check or certified check, all sums which would have been due in the absence of default and which are due at the time of payment including principal and interest payments, escrow payments and other necessary charges which come due prior to the date of payment and you must perform any other obligation which you would have been bound to perform in the absence of default or the exercise of an acceleration clause, if any. In addition you must pay court costs, if any, and attorney(s) fees in an amount which shall not exceed the amount permitted under the Rules governing the Courts of the State of New Jersey, plus all contractual late charges, as provided for in the Note and Mortgage. You shall not be required to pay any separate charge, fee or penalty attributable to the exercise of your right to cure this default. This right to cure your default, de-accelerate and reinstate the Mortgage after a foreclosure action has been started may only be exercised by you once every 18 months. You have the right to bring a court action to assert the non-existence of a default or any other defense you may have to acceleration and sale.

If you cure the default after a foreclosure action has been started, America's Servicing Co. shall give written notice of the cure to the Court and, upon such notice, the Court shall dismiss the foreclosure action, without prejudice. Your Mortgage will be reinstated to the same position as if the default had not occurred and any acceleration of any obligation under the Mortgage and Note arising from the default will be nullified as of the cure date.

We urge you to immediately seek the advice of an attorney(s) of your own choosing concerning this residential mortgage default. If you are unable to obtain an attorney(s), you may communicate with the New Jersey Bar Association or the Lawyers Referral Service of the county where the property is located. If you are unable to afford an attorney(s), you may communicate with the Legal Services Office in the county where the property is located. These telephone numbers are listed on the attached sheet; they can also be found in the local telephone directory.

There may be available to you financial assistance for curing a default from programs operated by the state or federal government or non-profit organizations, if any, as identified by the Commissioner of Banking and Insurance. A list of such governmental and non-profit entities is enclosed. You may also wish to call the following numbers to ascertain whether you qualify for such assistance:

- | | |
|--|----------------|
| * HUD Housing Counseling Service | 1-800-569-4287 |
| * Veterans Affairs | 1-800-827-1000 |
| * New Jersey Commissioner of Banking | 1-609-292-7272 |
| *New Jersey Commissioner of Banking Hotline: | 1-800-446-7467 |

If you disagree with America's Servicing Co.'s assertion that a default has occurred, or if you disagree with the correctness of America's Servicing Co.'s calculation of the amount required to cure this default, you may contact America's Servicing Co. at the following:

Randy Bockenstedt, Senior Vice President
America's Servicing Co.
Address: 3480 Stateview Boulevard
MAC X7802-03H
Fort Mill, SC 29715
Phone Number: 1-800-868-0043

The lender of your loan is:

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF NOMURA
HOME EQUITY LOAN, INC. HOME EQUITY LOAN TRUST, SERIES 2007-1
452 Fifth Avenue
New York, NY 10018

Your right to cure this default, as provided in this Notice, is independent of any right of redemption or any other right or remedy under the common law, principles of equity, state or federal statute or rule of court. Financial Assistance for curing your default may be available. Attached you will find a list of possible programs.

Very truly yours,

America's Servicing Co.
Default Management Department

This communication is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge of this debt in bankruptcy or are currently in a bankruptcy case, this notice is not intended as an attempt to collect a debt and, this company has a security interest in the property and will only exercise its rights as against the property.

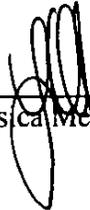
Fair Foreclosure Act Notice of Intention to Foreclose - List of Entities Providing Assistance

The following is a list of governmental and non-profit entities that may provide financial assistance or counseling to borrowers in foreclosure.

<p>American Credit Alliance, Inc. 26 S. Warren St. Trenton, NJ 08608 609-393-5400</p>	<p>Atlantic Human Resources, Inc. 1 S. New York Ave. Atlantic City, NJ 08401 609-348-4131</p>	<p>Consumer Credit Counseling Service of Central New Jersey 1931 Nottingham Way Hamilton, NJ 08619 609-586-2574</p>
<p>Consumer Credit Counseling Service of New Jersey 185 Ridgedale Ave. Cedar Knolls, NJ 07927-1812 973-267-4324</p>	<p>Fair Housing Council of Northern New Jersey 131 Main St. Hackensack, NJ 07601 201-489-3552</p>	<p>Garden State Consumer Credit Counseling, Inc. 225 Willowbrook Road Freehold, NJ 07728 1-800-992-4557</p>
<p>Jersey Counseling & Housing Development, Inc. 29 S. Blackhorse Pike Blackwood, NJ 08012 856-227-3683</p>	<p>Jersey Counseling & Housing Development, Inc. 1840 S. Broadway Camden, NJ 08104 856-541-1000</p>	<p>Mercer County Hispanic Association 200 E. State St., 2nd Floor Trenton, NJ 08607 609-392-2446</p>
<p>Middlesex County Economic Opportunities Corporation 1215 Livingston Ave. North Brunswick, NJ 08902 732-790-3344</p>	<p>Monmouth County Human Services Housing Services Unit P.O. Box 3000 Freehold, NJ 07728 732-431-7998</p>	<p>NJ Citizen Action (main office/financial education center) 744 Broad St., Suite 2080 Newark, NJ 07102 973-643-8800 1-800-NJ-OWNER (loan counseling) 1-888-TAXES-11 (free tax preparation assistance)</p>
<p>NJ Citizen Action (Central Jersey) 85 Raritan Ave., Suite 100 Highland Park, NJ 08904 732-246-4772</p>	<p>NJ Citizen Action (South Jersey) 2 Riverside Drive, Suite 362 Camden, NJ 08103 856-966-3091</p>	<p>Ocean Community Economic Action Now, Inc. 22 Hyers St. Toms River, NJ 08753-0773 732-244-2351, ext. 2</p>
<p>Peterson Coalition for Housing, Inc. 262 Main St., 5th Floor Paterson, NJ 07505 973-684-8998</p>	<p>Peterson Task Force for Community Action, Inc. 155 Edison St. Paterson, NJ 07505 973-279-2333</p>	<p>Puerto Rican Action Board Housing Coalition Unit 90 Jersey Ave. New Brunswick, NJ 08903 732-249-9700</p>
<p>Tri-County Community Action Agency, Inc. 110 Cohansy St. Bridgeton, NJ 08302 856-451-6330</p>	<p>Urban League for Bergen County 106 W. Palisade Ave. Englewood, NJ 07631 201-568-4988</p>	<p>Urban League for Essex County 508 Central Ave. Newark, NJ 07101 973-624-9535</p>
<p>Urban League of Union County 288 N. Broad St. Elizabeth, NJ 07208 908-351-7200</p>	<p>Homelessness Prevention Program New Jersey Department of Community Affairs (866) 889-6270*</p>	

*Basic eligibility is limited to: (a) single family owner/occupied dwellings with all those on the deed and mortgage occupying the house; (b) no more than one mortgage or lien encumbrance on the property; (c) no initiated or ongoing bankruptcy. Assistance will be in the form of a loan, and a lien will be placed on the property. The family must document the financial reason for nonpayment. At the time of the eligibility decision, the household must have and document income sufficient to support the household and repay the loan. There is a fee for the credit check and property search.

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



Jessica Mercado

Dated: September 28, 2012