

CARMINE AMELIO
Defendant Pro Se
60 West 23rd Street, Apt #830
New York, NY 10010
212-352-9228

October 19, 2012

Honorable Margaret M. McVeigh, P.J. Ch.
Passaic County Superior Court of New Jersey
77 Hamilton Street
Paterson, New Jersey 07505

RECEIVED
OCT 22 2012
SUPERIOR COURT
CLERK'S OFFICE

RE: In Re Application by Wells Fargo Bank, N.A. to Issue Corrected Notice of Intent to Foreclose on Behalf of Identified Foreclosure Plaintiffs in Uncontested Cases
Order to Show Cause Docket No. F-009564-12
Docket No: F-13278-09 (Hudson County)

Dear Judge McVeigh:

The enclosed Affidavit of Carmine Amelio is respectfully submitted to supplement my previous submission on September 24, 2012 to this Court in opposition to Plaintiff's Order to Show Cause.

Respectfully submitted,



Carmine Amelio
Defendant, Pro Se

TO: Mark S. Melodia, Esquire (via facsimile & Fedex Next Business Day Delivery)
Diane A. Bettino, Esquire (facsimile & email)
Reed Smith LLP
Princeton Forrestal Village
136 Main Street #250
Princeton, NJ 07505 08540

Superior Court Clerk's Office, Foreclosure Processing Services (via Fedex Next Business Day Delivery)
Attn: Objection to Notice of Intention to Foreclose
Richard Hughes Justice Complex
25 Market Street, 6 North
Trenton, NJ 08611

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OCT 22 2012

Carmine Amelio, Defendant Pro Se
60 West 23rd Street, Apt #830
New York, NY 10010
718-650-0086

SUPERIOR COURT
CLERK'S OFFICE

IN RE APPLICATION BY WELLS
FARGO, 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 Number F-009564-12

**AFFIDAVIT OF CARMINE AMELIO
IN OBJECTION TO PLAINTIFF'S
ORDER TO SHOW CAUSE**

STATE OF NEW YORK

ss.:

COUNTY OF NEW YORK

Dedendant, Carmine Amelio, being duly sworn upon his oath, hereby states:

1. Carmine Amelio, recipient of applicant's Order to Show Cause and defendant in Docket No. F-13278-09, objects to Wells Fargo Bank, N.A.'s order to show cause:
2. **The Order to Show Cause is not applicable to Carmine Amelio as specified by the category of homeowners identified in the order to show cause;** The order to show cause refers to foreclosure cases that are prior to judgment. Defendant's case is post judgment for the above docket. Therefore, defendant objects to being subjected to the order to show cause and asks the court for permission to file a corrective Notice of Intent to Foreclose. Defendant will prepare a Motion to Vacate Final Judgment, addressing the issue of the sufficiency of the Notice of Intent to foreclose.
3. **The Order to Show Cause applies to Uncontested foreclosure cases;** The order to show cause applies only to uncontested foreclosure cases. Defendant's case is a contested foreclosure.
4. **Defective Notice of Intent to Foreclose;** the plaintiff is not permitted to proceed with the foreclosure action because the Notice of Intent to Foreclose are defective.
5. **Lack of Standing to Foreclose;** In order to maintain a foreclosure action under New Jersey State law, the plaintiff must own both the mortgage and the note. Because the plaintiff does not own the note, and possibly does not own the mortgage as of the date this action was commenced, the Plaintiff lacks legal capacity and standing to bring this foreclosure action. The Plaintiff has neither the standing and/or cannot claim a cause of

action was commenced. That as a condition precedent to commencing this mortgage foreclosure action the Plaintiff must have the original note in its possession or custody. As the ad damnum clause posits that the Plaintiff does not have the original note, the complaint must be dismissed.

6. **The Complaint fails to attach a copy of the note and mortgage upon which the Plaintiffs are allegedly suing;** Defendants are precluded from proceeding with this foreclosure action because Plaintiff has not provided detail of the subject note or mortgage obtained as required by Wells Fargo Bank, NA v. Ford, 418 N.J. Super. 592, 597, 15 A.3d 327 (App. Div. 2011) and Bank of New York v. Raftogianis, 418 N.J. Super. 323, 13 A.3d 435 (Ch. Div. 2010). Plaintiff has not shown ownership of the subject note and mortgage and therefore lacks standing to proceed with the foreclosure action and the complaint must be dismissed.
7. **Notice of Intent to Foreclose was deceptive and flawed;** The Notice of Intent to Foreclose was defective because the correct Plaintiff was not named. The Notice of Intent to Foreclose was fraudulent and intentionally deceptive by not identifying the correct Plaintiff. The Order to Show Cause has been brought by Wells Fargo Bank, N.A., however, Wells Fargo does not appear in any document or the corrected Notice of Intent to Foreclose as servicer or owner of these mortgages. It appears that America's Servicing Company, as servicer, should bring forth the Order to Show Cause. The foreclosure action also contains the wrong Plaintiff and therefore must be dismissed.
8. **Notice of acceleration of debt was not delivered;** As a condition precedent and in order to maintain this action, plaintiff pursuant to the mortgage documents was required to deliver a notice of acceleration of debt prior to the commencement of this action. The Plaintiff cannot maintain this action because it did not send a notice of acceleration prior to the commencement of this action.
9. **Wells Fargo did not attach the Complaint to the issued notices;** Pursuant to Rules of Court R. 4:67-2 and R. 4:52-1(b), the complaint was not attached to the letter received by the defendant regarding the Order to Show Cause, even though the complaint was referenced in the letter. Wells Fargo did not serve the complaint as per court rules thus voiding the proper service of the Order to Show Cause and thus the defendant rejects such improper service.
10. **Breach of Good Faith Dealing;** Loan is unenforceable because the Plaintiff failed to contract in good faith with Defendant.

Dated: New York, New York
October 19, 2012

Your etc.,

Carmine Amelio

Carmine Amelio, Defendant Pro Se
60 West 23rd Street, Apt #830
New York, NY 10010
212-352-9228

TO: Mark S. Melodia, Esquire (via facsimile & Fedex Next Business Day Delivery)
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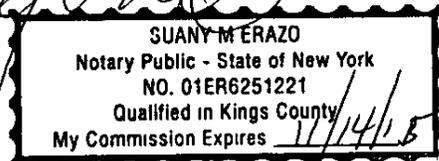
Judge McVeigh, J.S.C. (via Fedex Next Business Day Delivery)
Superior Court of New Jersey
Chambers 100
71 Hamilton Street
Paterson, New Jersey 07505

Superior Court Clerk's Office, Foreclosure Processing Services (via Fedex Next Business Day Delivery)
Attn: Objection to Notice of Intention to Foreclose
Richard Hughes Justice Complex
25 Market Street, 6 North
Trenton, NJ 08611

Signed and sworn to before
me on October 19, 2012

Carmine Amelio

Carmine Amelio



Carmine Amelio, Defendant Pro Se
60 West 23rd Street, Apt #830
New York, NY 10010
718-650-0086

September 24, 2012

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

RE: Alfonso Amelio
Docket No.: F-009564-12
America's Servicing Co./Wells Fargo 106/1218062998

Dear Madam/Sir

OBJECTION TO ORDER TO SHOW CAUSE

The Defendant Carmine Amelio respectfully requests that the Court accept this letter memorandum as Objection to Plaintiff's Order to Show Cause. The Notice of Intention to Foreclose served by the Plaintiff prior to the commencement of the foreclosure action did not comply with the requirements of the Fair Foreclosure Act.

In addition to the above violation, the defendant asks the Court to consider the following Federal and State violations and fraudulent actions committed by the Plaintiff the Plaintiff's Attorney:

1. There is no allonge attached to the note
2. When the "MIN" number on the mortgage is run on the MERS website, www.mers-servicerid.org it shows the investor as JPMorgan Chase Bank, N.A. fka EMC. Therefore, the lawsuit should in the name of JPMorgan Chase Bank. JPMorgan Chase Bank appears to be the trustee for the asset backed security
3. Plaintiff must provide a copy of the "Pooling and Servicing Agreement" to see if the chain of title has been properly assigned and, if Plaintiff did not violate NYS REMIC laws, then it will say how the "endorsement should read" which clearly is not on the documents.
4. The assignment of the mortgage is fraudulent. Judith T Romano, signed as the assignor for MERS. Judith T Romano is NOT and officer for MERS, where she signed as Assistant Secretary and Vice President, because she does not work for the bank. In fact, she is an attorney who works for the Plaintiff's Attorney, Phelan, Hallinan & Schmeig. Attached in Exhibit A is Judith T Romano's attorney registration number.

5. Certification of the amount due is signed by "Herman John Kennerty", who has been confirmed as a robo signor where he has signed depositions stating that he has no personal knowledge of the affidavits the he signs. See Exhibit B.

In summary, the Defendant asks to court do dismiss the foreclosure action by the Plaintiff and request sanctions and monetary relief in light of the Federal and State violations and fraudulent actions committed by the Plaintiff and Plaintiff's Attorney. Judith T Romano cannot sign for the assignor when she works for the law firm representing the assignee. This is an ethical violation as an attorney and she has committed fraud by representing herself as an employee of MERS and by misrepresenting herself and not disclosing her position as an attorney for the Plaintiff's law firm. Given the fact that Wells Fargo cannot organize its records in this matter nor comply with the law, an Order to Show Cause will be filed in Superior Court requesting appropriate relief, sanctions and Courts.

Thank you for your attention to this matter.

Respectfully,



Carmine Amelio, Pro Se

CC: Mark S. Melodia, Esquire
Reed Smith LLP
Princeton Forrestal Village
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Princeton, NJ 07505 08540

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