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ZUCKER, GOLDBERG & ACKERMAN, LLC
200 Sheffield Street, Suite 101
P.O. Box 1024
Mountainside, New Jersey 07092-0024
(908) 233-8500
Attorneys for Plaintiffs

IN RE NOTICES OF INTENTION TO
FORECLOSE SERVED BY MIDFIRST
BANK

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
Civil Action
Docket No: F -012399-12
VERIFIED COMPLAINT

Plaintiff MidFirst Bank, through their attorneys, Zucker, Goldberg & Ackerman, LLC, by way of Verified Complaint, hereby say as follows:

FACTS:

1. MidFirst Bank (hereinafter "MidFirst") is a federally chartered savings association headquartered in Oklahoma City, Oklahoma.

2. MidFirst services residential mortgage loans throughout the country, including loans in the State of New Jersey.¹

3. When a loan is delinquent, foreclosure is always the last resort. Multiple attempts are made to contact the borrower to see if any arrangement short of foreclosure can be reached, including a repayment plan, loan modification, forbearance agreement, deed in lieu of foreclosure or short sale. If the borrower opts not to communicate with MidFirst or does not otherwise resolve the default, MidFirst sends out a Notice of Intention to Foreclose (hereinafter "NOI") as required by the Fair Foreclosure Act, giving the borrower at least thirty days to cure the default and reinstate the loan. If the default is not cured or other arrangements made to resolve the default, after the NOI expires, the loan is referred to local foreclosure counsel to initiate foreclosure.

4. On February 27, 2012, the New Jersey Supreme Court issued its opinion in U.S. Bank National Association v. Guillaume, 209 N.J. 449 (2012), requiring strict compliance with the requirements of the Fair Foreclosure Act, including identification of the name and address of the lender rather than the servicer contact information alone.

¹ Prior to July 2011, servicing was done through Midland Mortgage Co., a wholly owned operating subsidiary of MidFirst.

5. MidFirst has completed a revision to its form NOI to add the name and address of the lender in addition to the servicer.

6. Attached as Exhibit "A" to the Certification of Thad Burr is a true and accurate copy of the revised form NOI that MidFirst currently utilizes and should the Court so order, the form that Plaintiff would re-send to all borrowers affected by the outcome of this Order to Show Cause.

7. The new NOI has already been mailed by regular and certified mail by Plaintiff to all borrowers in default. More than thirty days have elapsed since the NOIs were mailed but the borrowers on the attached exhibit have failed to reinstate their loans.

8. Subsequent to the Guillaume opinion, Chief Justice Stuart Rabner issued an Order on April 4, 2012, in furtherance of the Supreme Court's holding in U.S. Bank National Association v. Guillaume, authorizing the Honorable Margaret Mary McVeigh, P.J.Ch., Passaic Vicinage and the Honorable Paul Innes, P.J.Ch., Mercer Vicinage to entertain summary actions by Order to Show Cause as to why plaintiffs in uncontested pre-judgment residential foreclosure matters should not be allowed to re-serve corrected NOIs.

COUNT I: MidFirst Bank

9. Plaintiff hereby incorporates by reference Paragraphs 1 through 8 as if set forth herein.

10. Attached as Exhibit "B" to the Certification of Thad Burr is a list of uncontested residential foreclosure actions where MidFirst Bank is the plaintiff and MidFirst requests relief from this Court to issue an Order to Show Cause consistent with the Supreme Court's April 4, 2012 Order.

WHEREFORE, MidFirst Bank respectfully request judgment:

- (a) Deeming the form Notice of Intention to Foreclose attached as Exhibit "A" to the Certification of Thad Burr compliant with the requirements of the Fair Foreclosure Act;
- (b) Permitting Plaintiff to serve new Notice of Intentions to Foreclose, in the form attached as Exhibit "A" to the Certification of Thad Burr, to defendant mortgagors and/or parties obligated on the underlying debt, for pre-judgment foreclosure actions listed on Exhibit "B" of the Certification of Thad Burr where MidFirst Bank is the plaintiff; and
- (c) Any further relief the Court deems equitable and just.

COUNT II: Mortgage Electronic Registration Systems, Inc.

11. Plaintiff hereby incorporates by reference Paragraphs 1 through 10 as if set forth herein.

12. MidFirst Bank is servicing three loans where the foreclosure action was filed in the name of Mortgage Electronic Registration Systems, Inc. MidFirst will be making an

application to the Court to substitute itself as the plaintiff prior to applying for entry of final judgment in both of these cases.

13. Attached as Exhibit "B" to the Certification of Thad Burr is a list of uncontested residential foreclosure actions including the foreclosures in which Mortgage Electronic Registration Systems, Inc. is the plaintiff.

14. MidFirst respectfully requests this Court issue an Order to Show Cause consistent with the Supreme Court's April 4, 2012 Order.

WHEREFORE, MidFirst Bank respectfully request judgment:

- (a) Deeming the form Notice of Intention to Foreclose attached as Exhibit "A" to the Certification of Thad Burr compliant with the requirements of the Fair Foreclosure Act;
- (b) Permitting Plaintiff to serve new Notice of Intentions to Foreclose, in the form attached as Exhibit "A" to the Certification of Thad Burr, to defendant mortgagors and/or parties obligated on the underlying debt, for pre-judgment foreclosure actions listed on Exhibit "B" of the Certification of Thad Burr where Mortgage Electronic Registration Systems, Inc. is the plaintiff; and
- (c) Any further relief the Court deems equitable and just.

COUNT III: GMAC Mortgage, L.L.C.

15. Plaintiff hereby incorporates by reference Paragraphs 1 through 14 as if set forth herein.

16. MidFirst Bank is servicing two loans where the foreclosure action was filed in the name of the prior servicer, GMAC Mortgage, L.L.C.

17. Attached as Exhibit "B" to the Certification of Thad Burr is a list of uncontested residential foreclosure actions including the two foreclosures in which GMAC Mortgage, L.L.C. is the plaintiff.

18. MidFirst respectfully requests this Court issue an Order to Show Cause consistent with the Supreme Court's April 4, 2012 Order.

WHEREFORE, MidFirst Bank respectfully request judgment:

- (a) Deeming the form Notice of Intention to Foreclose attached as Exhibit "A" to the Certification of Thad Burr compliant with the requirements of the Fair Foreclosure Act;
- (b) Permitting Plaintiff to serve new Notice of Intentions to Foreclose, in the form attached as Exhibit "A" to the Certification of Thad Burr, to defendant mortgagors and/or parties obligated on the underlying debt, for pre-judgment foreclosure actions listed on Exhibit "B" of the Certification of Thad Burr where GMAC Mortgage, L.L.C. is the plaintiff but MidFirst Bank is the servicer; and
- (c) Any further relief the Court deems equitable and just.

COUNT IV: American Home Mortgage Servicing

19. Plaintiff hereby incorporates by reference Paragraphs 1 through 18 as if set forth herein.

20. MidFirst Bank is servicing one loan where the foreclosure action was filed in the name of the prior servicer, American Home Mortgage Servicing.

21. Attached as Exhibit "B" to the Certification of Thad Burr is a list of uncontested residential foreclosure actions including the foreclosure in which American Home Mortgage Servicing is the plaintiff.

22. MidFirst respectfully requests this Court issue an Order to Show Cause consistent with the Supreme Court's April 4, 2012 Order.

WHEREFORE, MidFirst Bank respectfully request judgment:

- (a) Deeming the form Notice of Intention to Foreclose attached as Exhibit "A" to the Certification of Thad Burr compliant with the requirements of the Fair Foreclosure Act;
- (b) Permitting Plaintiff to serve new Notice of Intentions to Foreclose, in the form attached as Exhibit "A" to the Certification of Thad Burr, to defendant mortgagors and/or parties obligated on the underlying debt, for pre-judgment foreclosure actions listed on Exhibit "B" of the Certification of Thad Burr where American Home Mortgage Servicing is the plaintiff but MidFirst Bank is the servicer; and
- (c) Any further relief the Court deems equitable and just.

Zucker, Goldberg & Ackerman, LLC
Attorneys for Plaintiff MidFirst
Bank

By: _____



Brian C. Nicholas, Esq.

DATED: 7/12/12

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 proceeded contemplated, other than the pending foreclosure actions on Exhibit "B" to the Certification of Thad Burr, 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.



Brian C. Nicholas, Esq.

Dated: 7/2/12

VERIFICATION

I, Thad Burr, of full age certify as follows:

1. I am a First Vice President of MidFirst Bank.

2. I have read the contents of the Verified Complaint and verify the statements contained therein are true to the best of my knowledge and personal information.

3. I 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.

Thad Burr

THAD BURR

DATED: 7-2-12