

**RECEIVED**

SEP 16 2013

SUPERIOR COURT  
CLERK'S OFFICE

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

By: Michael W. Landis, Esquire  
Attorney I.D. No. 001952003  
499 Marlboro Road, Suite 4  
Old Bridge, New Jersey 08857  
Tel: (732) 360-4700  
Fax: (866) 361-4701

Attorney for Joe Wayne Findley and Jane  
Findley

IN RE APPLICATION BY JPMORGAN	:	SUPERIOR COURT OF NEW JERSEY
CHASE BANK, N.A., TO ISSUE	:	CHANCERY DIVISION
CORRECTED NOTICE OF	:	PASSAIC COUNTY
INTENTION TO FORECLOSE ON	:	DOCKET NO.: <b><u>F-21511-13</u></b>
BEHALF OF IDENTIFIED	:	
FORECLOSURE PLAINTIFFS IN	:	<u>Civil Action:</u>
CERTAIN UNCONTESTED CASES	:	
	:	<b>OBJECTION</b>
	:	<b>TO ORDER TO SHOW CAUSE ON</b>
	:	<b>BEHALF OF JOE WAYNE FINDLEY</b>
	:	<b>JANE FINDLEY</b>

Foreclosure Defendants, Joe Wayne Findley and Jane Findley, Husband and Wife,  
(hereinafter referred to collectively as "Findley Defendants") by and through their attorney,  
Michael W. Landis, Esq., hereby submit and file their Objection to Order to Show Cause in the  
above captioned matter, and aver as follows:

1. Findley Defendants currently reside at 1244 Winston Way, Cherry Hill, New Jersey 08034.
2. The Findley Defendants were named as defendants in a purported claim against them allegedly in the form of a foreclosure action, which is listed as no. 423, page 60, of Exhibit 14, in the Complaint docketed at F-21511-13 in this Passaic County matter. See Exhibit "A" attached hereto. The docket number for that underlying foreclosure action is F-4643-10, currently venued within the Camden County Superior Court, Chancery Division.

3. Findley Defendants never received or were served with a notice of intent to foreclose or a Complaint, as that docketed at F-4643-10, naming them as defendants in the year 2010 or any year thereafter. Neither of the Findley Defendants were served with the Complaint in that matter as is required pursuant to R. 5:4-1(a) and R. 4:4.

4. Findly Defendants only became aware of such action when they received the correspondence dated July 25, 2013, from Chase alerting them of this Passaic County matter and proposed Order to Show Cause.

5. Clearly, there is no question that the purported Complaint filed in 2010 was never served upon Findley Defendants. It has also never been provided and/or sent to defendants' counsel as well.

6. As such, Findley Defendants have filed a Motion to Dismiss the Complaint docketed at F-4643-10, and have attached their Certifications confirming the above averments. A true and correct copy of Findley Defendants' Motion, which includes Findley Defendants' Certifications, is attached hereto as Exhibit "B".

7. Therefore, since Findley Defendants have sought the dismissal of the underlying action, they hereby object to the Order to Show Cause as it affects their interests in the matter.

8. Moreover, should the Findley Defendants' Motion be granted and the action in Camden County Superior Court be dismissed, then the Order to Show Cause would not be applicable to the merits of the foreclosure claims against the Findley Defendants and should not subject them to any further application of that Order.

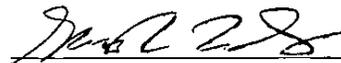
9. In addition, when the Complaint is dismissed in Camden County, a new notice of intent to foreclose must be issued.

10. Findley Defendants therefore object to the Order to Show Cause as applied to them and request that their action be removed from the alleged pre-judgment, uncontested foreclosure cases attached to the Passaic County matter.

WHEREFORE, Findley Defendants request that this Honorable Court sustain their Objection and remove them and the underlying action from the pre-judgment, uncontested foreclosure cases.

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

Date: 9/13/2013

By:   
\_\_\_\_\_  
Michael W. Landis, Esquire  
Attorney for Defendants  
Joe Wayne Findley and Jane Findley

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

By: Michael W. Landis, Esquire  
Attorney I.D. No. 001952003  
499 Marlboro Road, Suite 4  
Old Bridge, New Jersey 08857  
Tel: (732) 360-4700  
Fax: (866) 361-4701

Attorney for Joe Wayne Findley and Jane Findley

_____	:	SUPERIOR COURT OF NEW JERSEY
IN RE APPLICATION BY JPMORGAN	:	CHANCERY DIVISION
CHASE BANK, N.A., TO ISSUE	:	PASSAIC COUNTY
CORRECTED NOTICE OF	:	
INTENTION TO FORECLOSE ON	:	DOCKET NO.: <b><u>F-21511-13</u></b>
BEHALF OF IDENTIFIED	:	
FORECLOSURE PLAINTIFFS IN	:	<u>Civil Action:</u>
CERTAIN UNCONTESTED CASES	:	<b>PROOF OF SERVICE</b>
_____	:	

**PROOF OF SERVICE**

I, Michael W. Landis, Esq., sent the within Objection to Order To Show Cause and proposed Order on September 16, 2013, via First Class USPS, postage prepaid, to the following:

To: Kristofor T. Henning, Esquire  
Douglas J. Gush, Esquire  
Morgan, Lewis & Bockius, LLP  
1701 Market Street  
Philadelphia, Pennsylvania 19103-2921  
*Attorney for Plaintiff*

I hereby certify that all statements herein made by me are true and correct to the best of my knowledge, information and belief and that I am responsible for any false statements knowingly made herein.

  
\_\_\_\_\_  
Michael W. Landis



**IT IS FURTHER ORDERED** that a copy of this Order shall be served upon all parties and counsel of record within seven (7) days from the date of receipt hereof;

---

J.S.C.

- Opposed
- Unopposed

**EXHIBIT "A"**

JPMORGAN CHASE BANK, NA

414	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F045736-10	EDISON F SAKKAR	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Essex
415	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F045739-10	JOHN SWEDLIE	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Prattville
416	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION	F-4595-10	TATIANA Z. FERRELA AND SHERYL T. FERRELA, HIS WIFE, CITIZENSHIP SERVICES, INC., THE STATE OF NEW JERSEY	N	Pfeifer Hallinan & Spang, P.C. (N)	Cumtland
417	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F045995-10	JIN HWAN CHOI	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Bryson
418	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046327-10	YECHERUEL DERSHOMITZ	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Ocean
419	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046356-10	MIGUEL E GONZALEZ	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Wilson
420	J P Morgan Chase Bank, NA	CHASE HOME FINANCE LLC	F-4630-10	DOUGLAS P. FERRELA, MELISSA FERRELA	N	Pfeifer Hallinan & Spang, PC (N)	Ocean
421	J P Morgan Chase Bank, NA	CHASE HOME FINANCE LLC	F-4631-10	USBERTH ARGIBENGA EDGAR DUVAL	N	Pfeifer Hallinan & Spang, PC (N)	Mounts
422	J P Morgan Chase Bank, NA	CHASE HOME FINANCE LLC	F-4637-10	LOUISHER PETERSON	N	Pfeifer Hallinan & Spang, PC (N)	Birmingham
423	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION	F-4643-10	JOE WAYNE FINDEY, JAMETREBE FINDEY, DANIEL E. SAULER, MARY SAULER	N	Pfeifer Hallinan & Spang, PC (N)	Ocean
424	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION	F-4645-10	ALEXANDER SARGA, PRESLEY SARGA, LUBERT L. CORRO, COUNTY OF HUDSON, INVESTMENT GROUP NO7 FVA/CROSS COUNTY BY BANK MIDLAND FUNDING LLC.	N	Pfeifer Hallinan & Spang, PC (N)	Hudson
425	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION	F-4646-10	OLYMPIA LYNN MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC, AS NOMINEE FOR WEBICERT FINANCIAL SERVICES	N	Pfeifer Hallinan & Spang, PC (N)	Warren
426	J P Morgan Chase Bank, NA	CHASE HOME FINANCE, LLC	F-4650-10	BOYOUNG HYUN	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Bergen
427	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046540-10	EDWARD FARMINGEN	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Prattville
428	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046681-10	GARY E ROBERS	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Hudson
429	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046778-10	WILLIAM M DANKSK	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Cape May
430	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046779-10	DANIAN VASQUEZ AND CYNTHIA VASQUEZ HUSBAND AND WIFE, UNITED STATES OF AMERICA	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Hudson
431	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK, NA	F046927-09	AMARCA BOURCHENO	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Mounts
432	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046984-10	JOSEPH DISALVA	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Cumtland
433	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046993-10	JOHN PERLESS	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Mounts
434	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F046994-10	BRANDY S SAUER	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Birmingham
435	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F047023-10	JAMES HOWACH	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Middlesex
436	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F047027-10	TIRIYA KATZ	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Ocean
437	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F047056-10	DOROTHY OLESKY	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Ocean
438	J P Morgan Chase Bank, NA	JPMORGAN CHASE BANK NATIONAL ASSOCIATION SUCCESSOR BY MERGER TO CHASE HOME FINANCE LLC	F047070-10	MICHAEL N PERBANO	N	Pfeifer Hallinan & Diamond, PC (Ia) Pfeifer Hallinan & Spang, P.C. (N)	Mounts

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**EXHIBIT "B"**

Appendix XII-B2



**FORECLOSURE  
CASE INFORMATION STATEMENT  
(FCIS)**

Use for initial Chancery Division — General Equity  
foreclosure pleadings (not motions) under Rule 4:5-1.  
Pleading will be rejected for filing, under Rule 1:5-6(c),  
if information is not furnished or if attorney's signature  
is not affixed.

**FOR USE BY CLERK'S OFFICE ONLY**

PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA <input type="checkbox"/> MO
RECEIPT NO.
AMOUNT:
OVERPAYMENT:
BATCH NUMBER:
BATCH DATE:

**SECTION A: TO BE COMPLETED BY ALL PARTIES**

CAPTION JP Morgan Chase Bank, National v. Joe Wayne Findley and Jane Findley		COUNTY OF VENUE Camden
NAME(S) OF FILING PARTY(IES) (e.g. John Doe, Plaintiff) Joe Wayne Findley and Jane Findley		DOCKET NUMBER (when available) 5-4643-2010
ATTORNEY NAME (IF APPLICABLE) Michael W. Landis, Esq	FIRM NAME (IF APPLICABLE) Law Offices of Michael W. Landis, LLC	DOCUMENT TYPE <input type="checkbox"/> COMPLAINT <input type="checkbox"/> ANSWER <input checked="" type="checkbox"/> OTHER
MAILING ADDRESS 499 Marlboro Road, Suite 4 Old Bridge, New Jersey 08857		DAYTIME TELEPHONE NUMBER (732) 360-4700

**SECTION B: TO BE COMPLETED BY PLAINTIFF TO INITIAL COMPLAINT**

<p>FORECLOSURE CASE TYPE NUMBER</p> <p><input type="checkbox"/> 088 IN PERSONAM TAX FORECLOSURE</p> <p><input type="checkbox"/> 089 IN REM TAX FORECLOSURE</p> <p><input checked="" type="checkbox"/> 0RF RESIDENTIAL MORTGAGE FORECLOSURE</p> <p><input type="checkbox"/> 0CF COMMERCIAL MORTGAGE FORECLOSURE</p> <p><input type="checkbox"/> 0CD CONDOMINIUM OR HOMEOWNER'S ASSOCIATION LIEN FORECLOSURE</p> <p><input type="checkbox"/> 091 STRICT FORECLOSURE</p> <p><input type="checkbox"/> 0FP, OPTIONAL FORECLOSURE PROCEDURE (NO SALE)</p> <p><input type="checkbox"/> 0TS TIME SHARE FORECLOSURE</p>	<p>IS THIS A HIGH RISK MORTGAGE PURSUANT TO P.L.2009,C.84 AND P.L.2008,C.127 <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>PURCHASE MONEY MORTGAGE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>RELATED PENDING CASE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>IF YES, LIST DOCKET NUMBERS:</p>
<p>FULL PHYSICAL STREET ADDRESS OF PROPERTY: 1244 Winston Way, Cherry Hill, New Jersey 08034</p> <p>ZIP CODE 08034 COUNTY: Camden</p>	<p>MUNICIPALITY CODE (*) 0409</p> <p>MUNICIPAL BLOCK: (LOTS)</p>

**ALL FILING PARTIES MUST SIGN AND PRINT NAMES(S) AND DATE THE FORM BELOW**

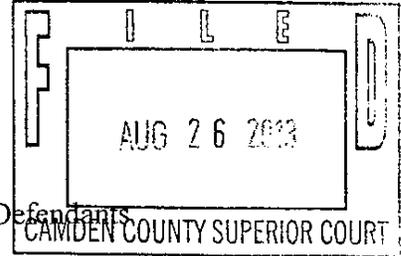
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

ATTORNEY / SELF REPRESENTED SIGNATURE 	PRINT ATTORNEY / SELF REPRESENTED NAME Michael W. Landis, Esq.	DATE 08/23/2013
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\*The Municipality Codes can be found at [http://www.judiciary.state.nj.us/forms/11343\\_municodes.pdf](http://www.judiciary.state.nj.us/forms/11343_municodes.pdf)

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

By: Michael W. Landis, Esquire  
499 Marlboro Road, Suite 4  
Old Bridge, New Jersey 08857  
Tel: (732) 360-4700  
Fax: (866) 361-4701



Attorney for Defendants

\_\_\_\_\_  
JP MORGAN CHASE BANK,  
NATIONAL,  
Plaintiff,  
vs.  
JOE WAYNE FINDLEY and JANE,  
FINDLEY, H/W,  
Defendants.  
\_\_\_\_\_

SUPERIOR COURT OF NEW JERSEY  
CAMDEN COUNTY  
CHANCERY DIVISION

DOCKET NO.: **F-4643-10**

Civil Action:

**NOTICE OF MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT  
PURSUANT TO R. 4:6-2**

TO: Alan Such, Esquire  
Fein, Such, Kahn and Shepard, P.C.  
7 Century Drive, Suite 201  
Parsippany, New Jersey 07054  
*Attorney for Plaintiff*

**PLEASE TAKE NOTICE** that the undersigned will apply to the above named Court located at the Superior Court of New Jersey, Camden County, Chancery Division, Hall of Justice, 101 South 5<sup>th</sup> Street, Suite 150, Camden, New Jersey 08103-4001 on ~~September 27, 2013~~ <sup>October 25, 2013</sup> at 9:00 a.m., or as soon thereafter as counsel may be heard for entry of an Order dismissing Plaintiff's Complaint pursuant to R. 4:6-2.

**PLEASE TAKE FURTHER NOTICE** that Defendants shall rely upon the accompanying Certification of Michael W. Landis, Esq., Certification of Joe Wayne Findley and Certification of Jane Findley, as well as all other memoranda on file in this matter.

**PLEASE TAKE FURTHER NOTICE** that the within motion is made pursuant to R. 4:6-2 and that the Court, in its discretion, may enter the proposed form of Order submitted

herewith if you do not object in writing to both the Clerk of the Court and the moving party with ten days (10) days prior to the return date of the instant motion.

**PLEASE TAKE FURTHER NOTICE** that no trial date has been set by this Honorable Court.

**Oral argument** is requested only if this motion is timely opposed.

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

Date: 8/22/13

By:   
Michael W. Landis, Esquire  
Attorney for Defendants  
Joe Wayne Findley and Jane Findley

**PROOF OF SERVICE**

I, Michael W. Landis, Esq., sent the within Notice of Motion, Certifications of Counsel and defendants in Support of Motion to Dismiss, Brief in Support of Motion and proposed Order via First Class USPS, postage prepaid, to the following:

To: Alan Such, Esquire  
Fein, Such, Kahn and Shepard, P.C.  
7 Century Drive, Suite 201  
Parsippany, New Jersey 07054

I hereby certify that all statements herein made by me are true and correct to the best of my knowledge, information and belief and that I am responsible for any false statements knowingly made herein.

  
Michael W. Landis

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

By: Michael W. Landis, Esquire  
499 Marlboro Road, Suite 4  
Old Bridge, New Jersey 08857  
Tel: (732) 360-4700  
Fax: (866) 361-4701

Attorney for Defendants

JP MORGAN CHASE BANK,  
NATIONAL,

Plaintiff,

vs.

JOE WAYNE FINDLEY and JANE,  
FINDLEY, H/W,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
CAMDEN COUNTY  
CHANCERY DIVISION

DOCKET NO.: **F-4643-10**

Civil Action:

**CERTIFICATION OF MICHAEL W.  
LANDIS, ESQUIRE, IN SUPPORT OF  
DEFENDANTS, JOE WAYNE  
FINDLEY AND JANE FINDLEY'S,  
MOTION TO DISMISS PLAINTIFF'S  
COMPLAINT PURSUANT TO  
R. 4:6-2**

I, MICHAEL W. LANDIS, ESQUIRE, of full age, hereby certify as follows:

1. I am attorney for defendants, Joe Wayne Findley and Jane Findley, in the abovecaptioned matter.
2. This matter involves a purported claim against defendants allegedly in the form of a foreclosure action.
3. Neither of the Defendants were served with the Complaint in this matter as is required pursuant to R. 5:4-1(a) and R. 4:4.
4. Defendant, Mr. Findley, never received the alleged Complaint in this matter. See Certification of Joe Wayne Findley attached hereto as Exhibit "A".
5. Defendant, Mrs. Findley, never received the alleged Complaint in this matter. See Certification of Jane Findley attached hereto as Exhibit "B".

6. Plaintiff's Complaint appears to have been filed in 2010 based upon the year of the docket number in this matter.

7. During counsel's telephone conversations with plaintiff's counsel and with plaintiff's mortgage payoff unit(s) at various times during the year 2012 in efforts to resolve the outstanding debt, counsel specifically asked whether any legal proceeding had been filed against defendants. Plaintiff's counsel responded that no such legal action was pending.

8. Clearly, there is no question that the purported Complaint supposedly filed in 2010 was never served upon defendants. It has also never been provided and/or sent to defendants' counsel.

10. As such, defendants request that this Honorable Court dismiss plaintiff's Complaint against them without prejudice due to insufficiency of process and insufficiency of service of process.

I certify that all statements made herein by me are true and correct to the best of my knowledge and that I am responsible for any false statements knowingly made herein.

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

Date: 8/23/13

By:



Michael W. Landis, Esquire  
Attorney for Defendants  
Joe Wayne Findley and Jane Findley

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

By: Michael W. Landis, Esquire  
499 Marlboro Road, Suite 4  
Old Bridge, New Jersey 08857  
Tel: (732) 360-4700  
Fax: (866) 361-4701

Attorney for Defendants

---

JP MORGAN CHASE BANK,  
NATIONAL,

Plaintiff,

vs.

JOE WAYNE FINDLEY and JANE,  
FINDLEY, H/W,

Defendants.

---

SUPERIOR COURT OF NEW JERSEY  
CAMDEN COUNTY  
CHANCERY DIVISION

DOCKET NO.: **F-4643-10**

Civil Action:

**DEFENDANTS' BRIEF IN SUPPORT  
OF MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

Defendants, Joe Wayne Findley and Jane Findley, husband and wife, by and through their attorney, Michael W. Landis, Esq., hereby submit their Brief in Support of Motion to Dismiss Plaintiff's Complaint, and state the following.

**I. BACKGROUND**

On or about July 30, 2013, defendants received a notice and correspondence from plaintiff concerning the mortgage on their home. Upon review of the notice and correspondence, defendants noticed a docket number on the materials and reference to a foreclosure action purportedly filed against them. Upon defendants' information and belief, the action was filed sometime in the year 2010 according to the docket number displayed therein. Moreover, defendants' counsel discussed the mortgage with plaintiff's counsel and staff in an attempt to verify payoff amounts and possible resolutions of the outstanding debt during the year 2012. During those conversations, counsel questioned whether any legal action had been filed against

defendants. Plaintiff's counsel and staff responded in the negative that no such action had been filed against defendants. The defendants were never served with such Complaint. Therefore, defendants respectfully request that this matter be dismissed for insufficiency of process and insufficiency of service of process pursuant to R. 4:6-2.

## II. LEGAL ARGUMENT

### A. Defendants' Motion Should Be Granted Because Plaintiff's Action Was Never Properly Processed And Served Upon Defendants.

Defendants certify that until the receipt of the most recent correspondence from plaintiff, neither of them had any knowledge that a legal action was pending against them. See Exhibits "A" and "B". Defendants received that correspondence on or about July 30, 2013. See Exhibits "A", "B" and "C". As such, defendants just became of aware of the 2010 matter some three (3) years post its filing.

Under the New Jersey Court Rules, the defendant may assert the defenses of insufficiency of process and insufficiency of service of process by motion prior to any pleading in a matter. R. 4:6-2. According to R. 5:4-1(a) for matters in the Chancery Division, the summons shall be in the form prescribed by R. 4:4-2 and shall be served in accordance with R. 4:4. Pursuant to R. 4:4-2, "[t]he plaintiff, plaintiff's attorney or the clerk of the court may issue the summons. If a summons is not issued within 15 days from the date of Track Assignment Notice, the action may be dismissed in accordance with R. 4:37-2. Separate or additional summonses may issue against any defendants." Pursuant to R. 4:4-3, the "primary method of obtaining *in personam* jurisdiction over a defendant in this State is by causing the summons and complaint to be personally served within the State. . . ." Failure to properly issue process and/or serve the legal document are grounds for dismissal of the action. However, dismissals for inadequacy of service of process are generally without prejudice because they are not adjudications on the merits of a claim. See

Watkins v. Resorts Int'l Hotel & Casino, Inc., 124 N.J. 398, 416 (1991); Hoffman v. Hampshire Labs, Inc., 405 N.J. Super. 105, 116 (App. Div. 2009).

In this matter, the complaint was filed in 2010, almost three years before defendants had any knowledge of such action against them. See Exhibits "A" and "B". There was never any summons or other legal correspondence concerning the complaint sent to or served upon defendants. See Exhibits "A" and "B". In addition, counsel for defendants was informed that no legal action had been filed. See Certification of counsel attached hereto. Defendants have been severely prejudice by the lack of summons and service of the complaint, in that, they had no opportunity to address the matter for three years during which time fees, costs, interest and other expenses had accumulated against defendants. In addition, defendants are prejudiced because they have no knowledge of the substance and accuracy of the allegations purportedly within the Complaint, and because their rights to object in a timely fashion to such Complaint have been compromised.

Therefore, this matter should be dismissed against defendants for insufficient process and insufficient service of process.

### III. CONCLUSION

Based on the above, defendants respectfully request that this Honorable Court grant their Motion to Dismiss plaintiff's Complaint against them.

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

Date: 8/23/13

By:   
Michael W. Landis, Esquire  
Attorney for Defendants  
Joe Wayne Findley and Jane Findley

**EXHIBIT "A"**

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

By: Michael W. Landis, Esquire  
499 Marlboro Road, Suite 4  
Old Bridge, New Jersey 08857  
Tel: (732) 360-4700  
Fax: (866) 361-4701

Attorney for Defendants

---

JP MORGAN CHASE BANK,  
NATIONAL,  
Plaintiff,  
  
vs.  
  
JOE WAYNE FINDLEY and JANE,  
FINDLEY, H/W,  
Defendants.

---

SUPERIOR COURT OF NEW JERSEY  
CAMDEN COUNTY  
CHANCERY DIVISION

DOCKET NO.: **F-4643-10**

Civil Action:

**CERTIFICATION OF JOE WAYNE  
FINDLEY**

I, Joe Wayne Findley, an adult individual of full age, hereby certify as follows:

1. I currently reside at 1244 Winston Way, Cherry Hill, New Jersey 08034, with my wife, Jane Findley. No one else resides in our home.
2. I never received a complaint naming me as a defendant in the year 2010 or any year thereafter.
3. No one in my household had ever received a summons or complaint naming me as a defendant in this matter.
4. On July 30, 2013, I received a notice and correspondence from plaintiff. See Exhibit "C" attached hereto.
5. Upon review of that notice and correspondence, I saw a docket number on the forms and reference by plaintiff to an action against me in foreclosure.
6. Upon further review, it was learned that this alleged action against me had been filed in 2010.

7. Upon information and belief, I am severely prejudiced by the lack of service and knowledge of this action against me, in that, several years of costs, fees, interest and penalties have been accumulating against me through this action for which I had no knowledge.

8. In addition, I am prejudiced by the lack of service as I do not know what has been alleged against me in the complaint and, therefore, cannot respond adequately thereto without such knowledge of how such averments may affect my rights, liberty, home and other privileges.

9. I humbly request that this matter be dismissed against me.

I certify that all statements made herein by me are true and correct to the best of my knowledge and that I am responsible for any false statements knowingly made herein.

Date: 8/23/2013

By:

Joe Wayne Findley

Sworn to before me this 23 day  
of August 2013.

Rose A. Moffa  
NOTARY PUBLIC

ROSE A MOFFA  
Notary Public  
State of New Jersey  
My Commission Expires Jun 7, 2017

**EXHIBIT "B"**

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

By: Michael W. Landis, Esquire  
499 Marlboro Road, Suite 4  
Old Bridge, New Jersey 08857  
Tel: (732) 360-4700  
Fax: (866) 361-4701

Attorney for Defendants

_____	:	SUPERIOR COURT OF NEW JERSEY
JP MORGAN CHASE BANK,	:	CAMDEN COUNTY
NATIONAL,	:	CHANCERY DIVISION
Plaintiff,	:	
	:	DOCKET NO.: <b><u>F-4643-10</u></b>
vs.	:	
	:	<u>Civil Action:</u>
JOE WAYNE FINDLEY and JANE,	:	
FINDLEY, H/W,	:	<b>CERTIFICATION OF JANE</b>
Defendants.	:	<b>FINDLEY</b>
_____	:	

I, Jane Findley, an adult individual of full age, hereby certify as follows:

1. I currently reside at 1244 Winston Way, Cherry Hill, New Jersey 08034, with my husband, Joe Wayne Findley. No one else resides in our home.
2. I never received a complaint naming me as a defendant in the year 2010 or any year thereafter.
3. No one in my household had ever received a summons or complaint naming me as a defendant in this matter.
4. On July 30, 2013, I received a notice and correspondence from plaintiff, as did my husband. See Exhibit "C" attached hereto.
5. Upon review of that notice and correspondence, I saw a docket number on the forms and reference by plaintiff to an action against me in foreclosure.
6. Upon further review, it was learned that this alleged action against me had been filed in 2010.

7. Upon information and belief, I am severely prejudiced by the lack of service and knowledge of this action against me, in that, several years of costs, fees, interest and penalties have been accumulating against me through this action for which I had no knowledge.

8. In addition, I am prejudiced by the lack of service as I do not know what has been alleged against me in the complaint and, therefore, cannot respond adequately thereto without such knowledge of how such averments may affect my rights, liberty, home and other privileges.

9. I humbly request that this matter be dismissed against me.

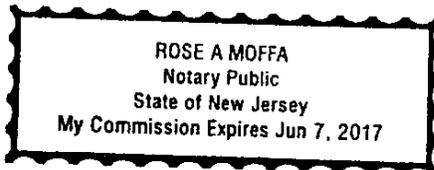
I certify that all statements made herein by me are true and correct to the best of my knowledge and that I am responsible for any false statements knowingly made herein.

Date: 08/23/2013

By: Jane Findley  
Jane Findley

Sworn to before me this 23 day  
of August 2013.

Rose A. Moffa  
NOTARY PUBLIC



**EXHIBIT "C"**



7190 1075 4460 2559 5145

CHASE

July 25, 2013



Chase (FL5-5110)  
P.O. Box 44120  
Jacksonville, FL 32231-4120

00000126 HDL0 JC 20613 -BW377  
JOE WAYNE FINDLEY  
1244 WINSTON WAY  
CHERRY HILL, NJ 08034-0000



Chase  
PO BOX 469030  
GLENDALE, CO 80246-9030

**Notice!**  
Do not discard!

When returning your  
mail documents be sure  
this address shows through  
the return envelope.

\*\*\*\*\* NOTICE! DO NOT DISCARD! \*\*\*\*\*

Chase (FL5-5110)  
P.O. Box 44120  
Jacksonville, FL 32231-4120



7190 1075 4460 2559 5145



July 25, 2013

CERTIFIED MAIL: Return Receipt Requested and First Class Mail



0000126 HDLO JC 20813 -BW377  
JOE WAYNE FINDLEY  
1244 WINSTON WAY  
CHERRY HILL, NJ 08034-0000



Re: Order to Show Cause: In re Application by JPMorgan Chase Bank, N.A., to Issue Corrected Notices of Intent to Foreclose on Behalf of Identified Foreclosure Plaintiffs in Certain Uncontested Cases (Superior Court of New Jersey, Chancery Division, Passaic County, Docket No.: F-21511-13)

Borrower Name: JOE WAYNE FINDLEY  
Loan Number: 0610904104  
Plaintiff Name in Foreclosure action: JPMORGAN CHASE BANK, NATIONAL  
ASSOCIATION  
Docket Number in Foreclosure action: F-4643-10

Dear JOE WAYNE FINDLEY:

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 and/or JPMorgan Chase Bank, N.A. ("Chase"), the servicer of your loan, may lack sufficient information to adequately confirm mailing of the original Notice of Intention to Foreclose.

By the court's Order to Show Cause dated June 28, 2013, and in compliance with the Supreme Court's opinion in *U.S. Bank N.A. v. Guillaume*, Hon. Margaret Mary McVeigh, P.J.Ch., Passaic Vicinage, gave permission to Chase to serve, along with the Order to Show Cause, corrected Notices of Intention to Foreclose on all defendant mortgagors/parties obligated on the debt in pending foreclosure actions filed before February 28, 2012.

The docket number for your foreclosure action may be found in the subject line of this letter.

**Information About the Order to Show Cause and Verified Complaint**

Enclosed with this letter is a copy of the Order to Show Cause and a copy of the verified complaint filed with the Order to Show Cause. The verified complaint lists the following lenders in the following counts

of the verified complaint:

1. Bank of America
2. Capital One
3. Citibank
4. Columbia Bank
5. Commerce Bank
6. Deutsche Bank
7. Dollar Bank
8. EMC
9. Federal Home Mortgage Loan Corporation
10. First Horizon
11. Federal National Mortgage Association
12. Hudson City
13. Investor Savings Bank
14. JPMorgan Chase Bank, N.A.
15. LaSalle Bank
16. Metlife
17. North Fork Bank
18. PNC Bank
19. Raymond James Bank
20. Sovereign Bank
21. TD Bank
22. The Bank of New York
23. US Bank
24. Washington Mutual
25. Wells Fargo

The verified complaint sent to you does not include the attachments. The verified complaint with attachments, 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/>.

#### **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 35 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:

Overnight/Regular Mail: Bruno Mejia  
Chase  
Attention: Collections Department  
Mail Code: OH4-7356  
3415 Vision Drive  
Columbus, OH 43219-6009

Phone:

1-800-848-9380

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. The docket number for your foreclosure action may be found in the subject line of this letter.

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 on or before September 16, 2013 at the following address:

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 the plaintiff's attorney, at Morgan, Lewis & Bockius LLP, 502 Carnegie Center, Princeton, NJ 08540-6241 (Attention: JPMorgan Chase Order to Show Cause), and mail a copy of the objection to Judge McVeigh at:

The Superior Court of New Jersey, Passaic County Courthouse  
71 Hamilton Street  
Chambers 100  
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 1-609-421-6100, or at [SCCOForeclosure.Mailbox@judiciary.state.nj.us](mailto:SCCOForeclosure.Mailbox@judiciary.state.nj.us).

If you are represented by an attorney in your foreclosure case, you should notify him or her that you received these papers. These papers are not being sent directly to your attorney if you have one.

If you cannot afford an attorney, you may apply for free legal assistance online at [www.lsnjlaw.org](http://www.lsnjlaw.org) or call the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529) or call the Legal Services office in the county where you live. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is attached.

Enclosures

- Copy of the Order to Show Cause



- Copy of the Verified Complaint
- Directory for Local Services Offices and Lawyer Referral Services
- Corrected Notice of Intention to Foreclose

We are attempting to collect a debt, and any information obtained will be used for that purpose.

If you are represented by an attorney, please refer this letter to your attorney and provide us with the attorney's name, address, and telephone number.

To the extent your original obligation was discharged, or is subject to an automatic stay of bankruptcy under Title 11 of the United States Code, this notice is for compliance and/or informational purposes only and does not constitute an attempt to collect a debt or to impose personal liability for such obligation. However, a secured party retains rights under its Security Instrument, including the right to foreclose its lien.

BW377

**LAW OFFICES OF MICHAEL W. LANDIS, LLC**

By: Michael W. Landis, Esquire  
499 Marlboro Road, Suite 4  
Old Bridge, New Jersey 08857  
Tel: (732) 360-4700  
Fax: (866) 361-4701

Attorney for Defendants

JP MORGAN CHASE BANK,  
NATIONAL,  
Plaintiff,

vs.

JOE WAYNE FINDLEY and JANE,  
FINDLEY, H/W,  
Defendants.

SUPERIOR COURT OF NEW JERSEY  
CAMDEN COUNTY  
CHANCERY DIVISION

DOCKET NO.: **F-4643-10**

Civil Action:

**ORDER DISMISSING PLAINTIFF'S  
COMPLAINT WITHOUT PREJUDICE  
PURSUANT TO R. 4:6-2**

**THIS MATTER** having come before the Court on Motion of Michael W. Landis, Esq., attorney for defendants, Joe Wayne Findley and Jane Findley, in the above captioned matter, and the Court having reviewed the certification of counsel and defendants submitted in support of Defendants' Motion to Dismiss Plaintiff's Complaint, and the Court having considered any timely opposition, and good cause having been shown;

**IT IS HEREBY ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2013, that plaintiff's Complaint be, and the same hereby is, dismissed WITHOUT PREJUDICE; and,

**IT IS FURTHER ORDERED** that a copy of this Order shall be served upon all parties and counsel of record within seven (7) days from the date of receipt hereof;

\_\_\_\_\_  
J.S.C.

Opposed

Unopposed