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JAN 15 2013

SUPERIOR COURT
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8 Hudson City Savings Bank

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
ESSEX COUNTY:

9 Plaintiff (s)

10 vs.

Docket No.: F-023925-12 (order to show cause)

11 Marleci Ronquini

(Foreclosure Docket No F-44572-09)

12 Defendant (s)

CIVIL ACTION

Opposition to Order to Show Cause

13 **TO: Superior Court Clerk's Office, Foreclosure Processing Service**

14
15 The plaintiff Hudson City Savings seeks an order for permission to issue a correct Notice of
16 Intent to Foreclose. Please accept this format in lieu of a more formal brief on behalf of the
17 Defendant Marleci Ronquini in support of her opposition to Plaintiff 's Hudson City Savings
18 Bank Order to Show Cause.
19

20 **LEGAL ARGUMENT**

21
22 Pursuant to N.J.S.A. 2A:50-56(c)(11) (Notice of Intention to Foreclose), "the name and
23 address of the lender and the telephone number of a representative of the lender whom the debtor
24 may contact if the debtor disagrees with the lender's assertion that a default has occurred or the
25 correctness of the mortgage lender's calculation of the amount required to cure the default".

1 In the case at bar, the plaintiff's notice of intention to foreclosure did not have the name
2 and address of the lender, but rather the servicer's information was listed instead. Subsequent to
3 the Notice of Intention, the plaintiff/lender filed a foreclosure proceeding against the defendant
4 Marleci Fonquini. Currently the plaintiff seeks permission to re-serve the notice of intention
5 while the foreclosure action is pending.

6
7 In Bank of New York vs. Laks, 422 N.J. Super. 201 (2011), the Appellate Division stated
8 that "a violation of N.J.S.A. 2A:50-56 is best addressed by dismissal of the foreclosure complaint
9 without prejudice". Moreover the court stated, "Dismissal without prejudice ensures that
10 defendants are not deprived of those non-waivable rights and that a plaintiff who has not fulfilled
11 its duty under the Act will not reap a benefit from its noncompliance. Second, the remedy of
12 dismissal without prejudice is constituent with the statutory mandate that a plaintiff in a
13 residential foreclosure action plead compliance with the notice of intention precondition in its
14 complaint". Bank of New York vs. Laks, 422 N.J. Super. at 212.

15 After the Laks case, the Supreme Court of New Jersey in U.S. Bank National Association
16 vs. Guillaume 209 N.J. Super 499 (2012), stated "A trial court adjudicating a foreclosure
17 complaint in which the notice of intention does not comply with N.J.S.A. 2A:50-56(c)(11) may
18 dismiss the action without prejudice, order the service of a corrected notice, or imposed other
19 appropriate remedies.

20
21 The circumstances of the case warrant that a trial court judge in Essex County Chancery
22 Division should make the determination of the appropriate remedy due to the plaintiff's violation
23 of the N.J.S.A 2A:50-56.

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**SUPERIOR COURT
CLERK'S OFFICE**

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Please respond to the New Jersey Office

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January 7, 2013

Via Mail

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

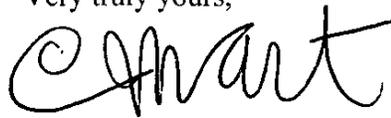
**Re: Order to Show Cause F-023925-12
Hudson City Savings Bank vs. Ronquini
Docket No.: F-44572-09**

Dear Sir or Madam:

Enclosed please find the defendants objection to the plaintiff's order to show cause.

Thank you.

Very truly yours,



Christopher S. Martone, ESQ.

CSM/me

Cc. Gayl Spivak, Esq- Attorney for Plaintiff
Judge Innes-Superior Court of New Jersey