Richard A. Epstein, P.C.
2 Bucks Lane
Marlboro, NJ 07746
(732) 303-8599
Attorneys for Emigrant Mortgage Company, Inc.

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Paul Innes, P.J.Ch

IN RE SPECIAL SUMMARY ACTION AUTHORIZED BY ORDER OF THE NEW JERSEY SUPREME COURT DATED APRIL 4, 2012 BY EMIGRANT MORTGAGE COMPANY, INC. TO ISSUE CORRECTED NOTICES OF INTENT TO FORECLOSE	**SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION MERCER COUNTY** **DOCKET NO. MER-F-035539-13** **ORDER TO SHOW CAUSE**

THIS MATTER being brought before the Court by the law firm of Richard A. Epstein, P.C., attorneys for Emigrant Mortgage Company, Inc. ("Emigrant"), seeking relief by way of summary action as set forth in Chief Justice Stuart Rabnor's April 4, 2012 Order and based upon the facts set forth in the Verified Complaint filed herewith, and based upon the Court having determined that this matter may be commenced by Order to Show Cause as a summary proceeding pursuant to R. 4:67-2 and for good cause shown;

It is on this **18th** day of **October**, 2013,

ORDERED that the parties in interest listed in Exhibit "B" of the Verified Complaint appear and show cause on the **24th** day of **January**, **2014** before The Honorable **Paul Innes**, P.J.Ch., Superior Court, **Mercer** County, Chancery Division at **175 South Broad Street, Trenton** NJ **08650** at **2:00** o'clock, why judgment should not be entered as follows:

A. Allowing Plaintiff to send new Notices of Intention to Foreclose, giving the borrower(s) at least thirty days from the date the letter is mailed to cure the default on the mortgage without having to pay legal fees or costs; and

B. Granting such other relief as the Court deems equitable and just.

It is FURTHER ORDERED that:

1. Plaintiff shall serve a copy of this Order to Show Cause and Verified Complaint (without exhibits) upon all individuals obligated on the Note secured by a Mortgage on residential property that is the borrower's, or their immediate family's, principle residence in the matters listed in Exhibit "B" of the Verified Complaint. Service shall be effectuated by certified mail return receipt requested and regular mail to the property address and the last known address (if different) in Plaintiff's records.

2. A copy of this Order to Show Cause and the Verified Complaint shall be posted on Judiciary Web Page at http://www.judiciary.state.nj.us.

3. A true copy of this Order to Show Cause and the Verified Complaint shall be served upon borrowers listed in Exhibit "B" to the Verified Complaint, by certified mail, return receipt requested (or by registered mail, return receipt requested with respect to any borrower listed in Exhibit "B" of the Verified Complaint who resides outside the United States) and regular mail.

4. Along with the Order to Show Cause, Plaintiff may serve the corrective Notice of Intention to Foreclose allowing the borrower at least thirty days to cure the default on the subject mortgage without having to pay attorneys fees or costs, in a form as set forth in Exhibit "D" of the Verified Complaint. Plaintiff shall also serve an Explanatory Letter in the form set forth in Exhibit "E" of the Verified Complaint.

a. For any borrower in an active Bankruptcy case where the provisions of the automatic stay are still in place, Plaintiff may serve a copy of this Order to Show Cause and Verified Complaint but may choose to delay serving a corrective Notice of Intention to Foreclose until such time as the stay is vacated if it believes that service of the corrective Notice of Intention to Foreclose will violate the automatic stay.

b. If the Court grants final relief on the return date of this Order to Show Cause and Plaintiff has not already sent a corrective Notice of Intention to Foreclose, Plaintiff shall serve the corrective Notice of Intention to Foreclose once the provisions of the automatic stay in the bankruptcy case are no longer in place. In the alternative, Plaintiff may apply to the United States Bankruptcy Court for relief from the provisions of the automatic stay to effectuate service of the corrective Notice of Intention to Foreclose pursuant to this Order.

c. In the event that Plaintiff does not serve a corrective Notice of Intention to Foreclose with this Order to Show Cause, Plaintiff may not proceed with a foreclosure action until such Notice of Intention is served as authorized by this Court's Order.

d. If Plaintiff believes that service of this application will be a violation of the provisions of the automatic stay, once the stay is vacated, Plaintiff may file a motion with the Chancery Judge in the vicinage where the property lies requesting permission to send a new Notice of Intention to Foreclose. Plaintiff shall not be required to file a new Order to Show Cause for cases currently in bankruptcy.

5. If service cannot be made by regular and certified mail as set forth in paragraph 1 above, then Plaintiff shall publish a legal notice of this action at least two days prior to **November 15, 2013** in the following newspapers in a manner consistent with similar legal notices:

a. The Star Ledger

b. The Herald News
c. The Press of Atlantic City
d. The Courier Post
e. The Asbury Park Press
f. The News of Cumberland County

6. The Court will only entertain objections to the process outlined in the Supreme Court's April 4, 2012 Order. Any party in interest who wishes to object to the process shall file the objection under the docket number for this Order to Show Cause, **in writing**, with the:

The Clerk of the Superior Court, Foreclosure Processing Services
Attention Objection to Notice of Intention to Foreclose
P.O. Box 971
Trenton, New Jersey 08625.

A copy of the objection to the Order to Show Cause must also be sent to:

Honorable **Paul Innes**, P.J. Ch.
Mercer County Courthouse
175 South Broad Street
Trenton, NJ **08650**

A copy of the objection to the Order to Show Cause must also be served upon the attorney for the Plaintiff at:

Richard A. Epstein, Esquire
2 Bucks Lane
Marlboro, NJ 07746

Objections to this Order to Show Cause must state with specificity the basis for the objection and must be filed no later than **December 13**, 2013.

7. If a timely objection is not filed, the matter may proceed to judgment in accordance with the Rules of Court.

8. Any objection in regard to a specific corrected NOI in a specific foreclosure case must be filed **in writing under the docket number of the individual foreclosure action, NOT this Order to Show Cause**. Any objection must state the basis for the objection with specificity

and be filed and served as set forth in Paragraph 6 above. Objections to a specific NOI will be referred to the Chancery Judge in the vicinage in which the property lies for resolution.

9. Parties in interest are hereby advised that a telephone call to the Plaintiff, to the Plaintiff's attorney, to the Superior Court Clerk's office, or to the Court, will not protect your rights. You must file and serve your written objection as outlined in this Order.

10. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. If you do not have an attorney or are not eligible for free legal assistance through the Legal Services office (or such office does not provide services for this particular type of proceeding), you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these offices is provided with the corrective NOI

11. If no party in interest timely files and serves an objection to this Order to Show Cause as provided above, the application may be decided by the Court on the date this matter is scheduled to be heard, provided that the Plaintiff has filed a proof of service and a proposed form of judgment as required by this Order to Show Cause.

12. If written objection to this Order to Show Cause is filed, the Plaintiff's written reply shall be filed and served by **January 3, 2014.** A copy of the reply, if any, shall be served upon the Clerk of the Superior Court, with a courtesy copy directly to the Honorable **Paul Innes**, P.J. Ch. Plaintiff is only required to serve its response upon any party or parties who have filed written objections to this Order to Show Cause.

13. Plaintiff shall submit to the court an original and two copies of a proposed form of judgment addressing the relief sought on the date this matter is scheduled to be heard no later than **10** days before the date this matter is scheduled to be heard.

14. The Plaintiff shall file proof of service of the Verified Complaint, this Order to Show Cause and all supporting documents with the Clerk of the Superior Court no later than **10** days before the return date of this matter.

15. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the Court is advised to the contrary no later than 9 days before the return date.

HONORABLE **PAUL INNES** , P.J.CH.