

District of Connecticut
FILED AT BRIDGEPORT

JULY 30 2015
By *[Signature]*
Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT
Bridgeport Division

**SHIRLEY DESORMES
KENNETH DESORMES**

Plaintiffs,

Vs.

**BANK OF AMERICA, N.A.;
NATIONSTAR MORTGAGE, LLC.;**

Defendants.

Case No. 3:15-cv-00724

HON. JUDGE UNDERHILL

JURY TRIAL DEMANDED

JULY 30TH, 2015

PLAINTIFFS' ANSWER TO DEFENDANTS' MOTION TO DISMISS

Plaintiffs, Shirley Desormes and Kenneth Desormes, hereby respond to the Motion to Dismiss filed by Bank of America, N.A. ("BAC") and Nationstar Mortgage, LLC. ("NSM") (collectively "The Banks") as follows:

INTRODUCTION

For the past 7 years, the Plaintiffs have spent an immense amount of emotional capital to save the borrower's house from foreclosure. Meanwhile, the banks and various other investors have spent a lot of time circling the property like scavengers waiting for an opportunity to dive in. Plaintiffs' complaint represent the culmination of 7 years of harassment, humiliation, extortion and manipulation, which the borrower had to endure at the hands of the banks and all other parties involved in the administration of her loan.

Since immigrating to the United States, the borrower has worked countless jobs and hours to

save in order to purchase the property in dispute. Her American dream was almost shattered in 2009 when she received a Notice of Foreclosure from BAC. After an exhausting ordeal, Plaintiffs and BAC were able to reach a loan modification agreement which allowed the borrower to make affordable reduced monthly payments (See, Exh. A). Thereafter, BAC without proper notice under RESPA (“Real Estate Settlement Protection Act”) transferred to NSM, their rights to service the borrower’s loan. Until this federal complaint, NSM had categorically refused to honor the borrower’s past modification agreement and/or enter into any new agreement.

BACKGROUND

On November 30, 2005 the borrower purchased the subject property by executing a Deed of Trust and promissory note in the amount of \$191,250.00. At the times the Borrower executed those documents, PRLAP, Inc. acted as Trustee, in favor of Bank of America; with the powers to convey the subject property to the Borrower upon satisfaction of the Note or foreclose in the event of a default. In 2010, in accordance with the latest legislatures enacted by Congress, BAC and the borrower agreed to modify the terms of her loan agreement to allow her to make affordable reduced monthly payments. On April 3rd, 2012, BAC through their Attorneys, Brock and Scott, PLLC appointed Trustee Services of Carolina, LLC as substitute trustee, thereby replacing PRLAP, Inc. BAC then transferred their servicing rights under the loan to NSM who in turn refused to honor the past modification agreement and/or make any new agreement. On or about March 8, 2012, NSM thru their Attorneys Brock & Scott filed a Notice of Default, claiming that the borrower was in default of her monthly obligation under the promissory note and deed of trust provided as security for the loan. On March 11, 2013, Brock & Scott, again this time serving as Attorneys for the Substitute Trustee served on the borrower a Notice of

Trustee's Sale which provided notice of a trustee sale scheduled for August 22, 2013. On or about March 29, 2013, plaintiffs tendered to NSM and the substitute trustee, the sum of approximately \$15,500.00 which constituted total outstanding mortgage payment amounts for approximately 1.5 years under the terms of the loan modification agreement. NSM through their Attorneys rejected the offer and foreclosure litigation ensued. The plaintiffs then retained the services of Stone and Witt, P.A. who were able to obtain a dismissal of the foreclosure action after numerous continuances (See, Exhibit B). However, according to new documents presented by the Defendants in their Motion to Dismiss, it appears that unbeknownst to the Plaintiffs, the Defendants had re-litigated the foreclosure action and obtained a default judgment in 2014 (See, Exhibit C). Plaintiffs plan to file a grievance with the North Carolina Bar for ethic violations against Brock and Scott, and others who may have participated in obtaining this fraudulent judgment in violation of the Plaintiff's rights of due process. Nevertheless, given all the underlying facts, this case is now properly before this Court, as it is the Court best positioned to offer a fair and equitable relief in this case.

STANDARD

To survive a motion to dismiss brought pursuant to Rule 12(b)(6), "a complaint must contain sufficient factual material, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). In ruling on a pending motion to dismiss, the court must construe the allegations in the complaint in a light most favorable to the plaintiff, accept as true all well pleaded factual allegations set forth therein. *Fednav Int'l Ltd. v. Continental Ins. Co.*, 624 F.3d 834, 837 (7th Cir. 2010). In the event the court finds that dismissal is warranted, the court should grant the plaintiff leave to amend unless amendment would be futile. *Ford v. Neese*, 119 F.3d 560, 563 (7th Cir. 1997).

In deciding a Rule 12(b)(3) motion to dismiss based on improper venue, "[t]he court must

take all allegations in the complaint as true, unless contradicted by the defendants' affidavits, and [w]hen an allegation is so challenged [a] court may examine facts outside of the complaint to determine whether venue is proper." *Indymac Mortgage Holdings, Inc. v. Reyad*, 167 F. Supp. 2d 222, 237 (D. Conn. 2001) (internal quotation marks and citations omitted). Furthermore, "[t]he court must draw all reasonable inferences and resolve all factual conflicts in favor of the plaintiff," who has "the burden of showing that venue in the forum is proper." *Id.*

"In resolving a motion to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1), a district court . . . may refer to evidence outside the pleadings." *Makarova v. United States*, 201 F.3d 110, 113 (2d Cir. 2000). The Rooker-Feldman doctrine deprives a court of jurisdiction over claims seeking reversal of a state court judgment. The doctrine applies only to claims that were actually raised before the state court. *Manley v. City of Chicago*, 236 F.3d 392, 396 (7th Cir.2001) (citations omitted); *see also Johnson v. De Grandy*, 512 U.S. 997, 1005–06, 114 S.Ct. 2647, 129 L.Ed.2d 775 (1994) ("a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States district court, based upon the losing party's claim that the state judgment itself violates the loser's federal rights").

ARGUMENT

I. PLAINTIFFS' COMPLAINT SHOULD NOT BE DISMISSED FOR LACK OF SUBJECT MATTER JURISDICTION UNDER THE ROOKER-FELDMAN DOCTRINE

As noted above, the Rooker-Feldman doctrine only applies to claims that were raised in State Court and where the losing party claims that "the state judgment itself violates the loser's federal rights." *Id.* In the present case, Plaintiffs' claims were not raised in the State Court proceedings and Plaintiffs are not seeking a review of the State Court judgment. Alternatively,

Plaintiffs are seeking damages for the wrongful misconduct of the defendants in the administration of the borrower's loan. Moreover, this Federal Court has subject matter jurisdiction over this case because in order to apply the Rooker-Feldman doctrine, the following four requirements must be satisfied: (1) "the federal-court plaintiff must have lost in state court;" (2) the federal-court plaintiff "must 'complain of injuries caused by a state-court judgment;'" (3) the federal court "plaintiff must 'invite district court review and rejection of that judgment;'" and (4) "the state-court judgment must have been 'rendered before the district court proceedings commenced.'" Hoblock, 422 F.3d at 85 (brackets omitted), quoting Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005).

Here, all four requirements are not met. First, although the plaintiffs "lost in state court", they are not "complaining of injuries caused by the state-court judgment." Hoblock, 422 F.3d at 85. Instead, Plaintiffs are complaining about injuries caused during the course of the servicing of the borrower's loan prior to the foreclosure judgment. More specifically, Defendants through their greed, recklessness, negligence, and fraudulent behaviors had slandered the title of the subject property and rendered it unmarketable prior to the Order of foreclosure. Second, Plaintiffs do not "invite district court review and rejection of [the state-court] judgment," Hoblock, 422 F.3d at 85. In fact, Plaintiffs had just learned of the judgment in the defendants' Motion to Dismiss. Although, Plaintiffs in their request for relief have asked this Court to set aside any foreclosure sale, it is important to note that the request was anticipatory and no sale has yet occurred. Instead, since the filing of the Complaint, the Defendants have engaged in a very aggressive settlement negotiation with the Plaintiffs. Third, Plaintiffs are not disputing that the state-court judgment was "rendered before the district court proceedings commenced." Hoblock, 422 F.3d at 85. Lastly, Plaintiffs intend to prove at trial that the state-court judgment

is a nullity since the defendants don't hold neither the Mortgage (i.e. deed of trust) nor the Note. Because the second and third prong of the four requirements test are not satisfied, the Rooker-Feldman doctrine does not apply and this Court has subject matter jurisdiction to preside over the Plaintiffs' claims hereto.

To conclude, North Carolina is what is called a "power of sale" state and no judge will hear a foreclosure, instead foreclosures are heard by the clerk of court. The clerk must find: (1) valid debt that is held by the party seeking to foreclose; (2) a default on that debt; (3) the right for the holder to foreclose according to the deed of trust; and (4) that the debtor received proper notice of the hearing. Any defenses that fall outside the four elements must be brought in a separate action filed in Superior Court. Plaintiffs have never filed any claims in Superior Court against the defendants therefore the claims that are raised in this case have never been previously adjudicated. As such, the application of the Rooker-Feldman doctrine to a constricted foreclosure process that was administered by a Clerk without the full participation of all parties is simply absurd.

II. . PLAINTIFFS' COMPLAINT SHOULD NOT BE DISMISSED FOR IMPROPER VENUE.

A civil action may be brought in "a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated." 28 U.S.C. § 1391(b)(2). Although the alleged Order of foreclosure happened outside this State, all the loan servicing activities between the Plaintiffs and the banks have occurred in this District. For the convenience of the parties and, in the interest of justice, this Court should exercise its discretion to hear this Case in this forum.

Defendants argue that venue is improper simply by mischaracterizing the Plaintiffs' Complaint as an action to discharge mortgage in a property that is outside the State of Connecticut. Rather, Plaintiffs' actions in this Court is to seek remedies that are presently unavailable at the state-court level. Plaintiffs' complaint does not support the defendants' argument that a discharge of the mortgage is being sought. Instead, Plaintiffs' complaint referenced that "a cloud has been placed on the Title to the property rendering it unmarketable." See Compl. ¶ 25. By this reference, Plaintiffs are pointing to Defendants' violations of federal laws in the servicing of the Note. Plaintiffs intend to show at trial that there is no mortgage on the subject property because it was satisfied as part of a settlement agreement between BAC and the federal government. Plaintiffs also intend to show that NSM had sold the borrower's Note to a third party and therefore is not the current holder. *See, Truman Capital Advisors LP et al v. Nationstar Mortgage LLC*, No. 1:2013cv05945 - (S.D.N.Y. 2014).

In sum, venue is proper in this Court because Plaintiffs' federal claims under RESPA could only be heard in this Court, as it is the most convenient forum for Plaintiffs and the best suited Court to hear those claims. Finally, venue is proper under the pendent venue doctrine, which holds that if venue is proper on one claim, the court may find pendent venue for claims that are closely related. *See Beattie v. United States*, 756 F.2d 91, 100–04 (D.C. Cir. 1984), *overruled on other grounds in Smith v. United States*, 507 U.S. 197 (1993). A court may consider the principles of judicial economy, convenience, avoidance of piecemeal litigation, and fairness to the litigants in making its decision. *See Action Embroidery Corp. v. Atl. Embroidery, Inc.*, 368 F.3d 1174, 1181 (9th Cir. 2004) ("When a defendant must appear in a forum to defend against one claim, it is often reasonable to compel that defendant to answer other claims in the same suit arising out of a common nucleus of operative facts"). Defendants

have not argued why venue is improper in this forum to litigate the Plaintiffs' claims under RESPA. Venue must be established as to each claim. *Boudouin v. Dep't of Navy*, 2010 WL 890042, at *2 (N.D. Cal. Mar. 8, 2010).

III. . PLAINTIFFS' COMPLAINT SHOULD NOT BE DISMISSED FOR FAILURE TO STATE A CLAIM UNDER RULE 12(b)(6).

A. Plaintiffs' claims are not barred under Res Judicata and Collateral Estoppel

There are no legal pleadings in State Court alleging the same claims that are in the federal complaint. The Order of foreclosure that magically surfaced in the last two months is the result of a default judgment. The defendants' foreclosure action in an uncontested matter cannot serve as the basis for invoking the doctrine of collateral estoppel and res judicata. Both doctrines preclude a party from re-litigating issues or claims that had been raised in a previous legal proceeding which is clearly not the case here. Plaintiffs have never asserted a claim for violation of RESPA or the Consumer Protection Act in State Court.

B. Plaintiffs Properly Stated a Claim for Breach of Contract

Generally, the issue of "what is the contract" is a question of fact for the jury; but when the contract is admitted, or proven, its construction is a question of law for the court. *Storey v. Stokes*, 178 N.C. 438, 440 (1919). Here, the contract is proven in the conduct of the parties.

a. The borrower had a valid and enforceable contract

In its motion to dismiss, Defendants argue that there is no enforceable contract because Plaintiffs failed to reveal the terms of said contract. The prerequisites for a valid contract are:

offer, acceptance, and consideration. The borrower adequately alleged the formation of a valid and enforceable contract with BAC and its assignee, NSM. (Compl. ¶¶ 52-60).

As stated in the Complaint, BAC and the borrower entered into a modification agreement after she defaulted on her loan. BAC conceded to the existence of a valid loan modification agreement when it accepted the modified payments from the borrower and credited her loan account (See, Exhibit A). The modified payments along with the borrower's deed of trust constituted the terms of the contract.

b. NSM is bound by the conduct of the assignor, BAC

NSM, as an assignee, need not ratify the modification agreement. The obligations of NSM, as a transferee under RESPA, mandate adherence to the loan modification and acceptance of all payments made pursuant during the 60 day transfer of servicing period. 12 U.S.C. § 2605(d). NSM clearly violated this requirement when it refused to honor the previous BAC modification agreement.

In *Wigod v. Wells Fargo Bank, N.A.*, 673 F.3d 547 (7th Cir. 2012), the lender offered a the borrower a three month trial loan modification. After tendering all three trial payments, the lender refused to extend a permanent modification to the borrower. The borrower sued the lender, *inter alia*, for breach of contract. The lender argued that the contract was not enforceable because the contractual terms conditioned a permanent modification on a review of the borrower's financial information and the lender's acceptance of the permanent modification. The *Wigod* court rejected the lender's arguments and found them contrary to long-standing contract formation law. "The test for an offer is whether it induces a reasonable belief in the [offeree] that he can, by accepting, bind the [offeror]." *Id.* at 562 (quoting *Architectural Metal Systems*, 58 F.3d at 1229, citing *McCarty*, 44 Ill. Dec. 570, 411 N.E.2d at 943; see also *Williston on Contracts* § 4.10 (offer existed if the purported offeree "reasonably [could] have supposed that by acting in accordance with it a contract could be concluded.")).

In the present case, there was a valid offer by BAC and a valid acceptance by the Borrower in the form of performance. A reasonable person in the borrower's position would read the modification as a contractual agreement once BAC began accepting the modified payments. This position is not contrary to the reasonable expectations of the parties and long-standing contract law. In exchange for BAC's conditional promise to modify her home mortgage, the borrower sacrificed a lot in order to make her reduced mortgage payments. Based on all the foregoing reasons, a claim for breach of contract is properly stated in this Court against BAC and NSM.

C. Plaintiff, Kenneth Desormes does not Lack Standing

A risk of economic injury or burden is sufficient to provide standing to sue. Plaintiff, Kenneth Desormes is a limited partner in a family limited partnership. The subject property is asset under the management of the limited partnership. (See, Exhibit D) Therefore, the Plaintiff's risk of pecuniary loss through the adverse actions of the defendants is his legal standing to sue. Contrary to the arguments of the defendants, the legal standing to sue doctrine is not concerned with ultimate merits of a case. *Washington Utilities & Transp. Com. v. FCC*, 513 F.2d 1142 (9th Cir. 1975).

D. Plaintiffs Properly Stated a Claim for Fraud

On November 20, 2012, BAC caused to be recorded at the Mecklenburg County register of deeds a satisfaction of mortgage (i.e. deed of trust). The satisfaction of the mortgage instrument as security for the Note rendered the security instrument *prima facie* ineffective and legally unenforceable. (See, Exhibit E). NSM through an assignment dated November 15, 2012 (See, Exhibit F) acquired "together with the Note... all rights under the deed of trust", however that instrument was later nullified in the transaction stated above. Therefore, as a practical matter, NSM only acquired the Borrower's Note or simply the rights to collect on the mortgage debt. Without a deed of trust, there was no right to foreclose conveyed to NSM by BAC.

Since, those documents are all publicly available, NSM knew or should have not known that it lacked “power of sale.” NSM acted with total disregard of Federal and State laws when it instituted a foreclosure action against the borrower. NSM “falsely represented to Plaintiffs, [trustees], and [the court] that they were the owner of the deed of trust.” (Compl. ¶ 43).

For the foregoing reasons, a claim for fraud is properly stated in this Court against NSM and BAC because Plaintiffs believe that the defendants acted in collusion.

E. Plaintiffs Properly Stated a Claim of Negligence

The defendants owed a fiduciary and moral duty to exercise reasonable care in “fulfilling [all] incidents attendant to the maintenance, accounting, and servicing of [the borrower’s] loan.” (Compl. ¶ 39). The defendants breached their duty when they failed to respond to plaintiffs’ “Qualified Written Request” and violated several other laws under RESPA. (Compl. ¶ 37). Defendant, NSM further breach their duty when it sold the borrower’s at auction to a third party without proper notice or legal authorization to do so. *See, Truman Capital Advisors LP et al v. Nationstar Mortgage LLC*, No. 1:2013cv05945 - (S.D.N.Y. 2014). The reckless, negligent, and fraudulent acts of the defendants resulted in the direct and proximate cause of the Plaintiffs’ damages which is to be determined at trial.

For all the foregoing reasons, Plaintiffs properly stated a claim for negligence against NSM and BAC.

F. Plaintiffs Claim to Quiet Title, Set Foreclosure and Declaratory Relief Are Withdrawn.

In light of the recent Order of foreclosure ambush that is referenced throughout this Answer to Motion to Dismiss, Plaintiffs no longer wish to prosecute the following claims. Plaintiffs

initially received a notice of foreclosure sale (See, Exh. ___) in which they intended to ask this Court to set aside. However, since the filing of the Complaint, the defendants have halted the sale and thus the following claims are no longer applicable.

CONCLUSION

Based on the foregoing case law and legal analysis, Plaintiffs Shirley Desormes and Kenneth Desormes pray that this Court enter an order denying all relief requested in Defendants' Motion to Dismiss; and granting all relief prayed for in Plaintiffs' Complaint, and for any other relief this Honorable Court deems just and proper.

DATED: 7/24/2015

Respectfully submitted,



KENNETH DESORMES



SHIRLEY DESORMES

CERTIFICATE OF SERVICE

I, Kenneth Desormes, hereby certify that on July 30th, 2015, a copy of the foregoing was

filed and served by email on Attorneys for Bank of America and Nationstar Mortgage, at zgreudi@zeklaw.com. Notice of this filing will also be sent via first class mail to Zeichner, Ellman & Krause LLP, 35 Mason Street, Greenwich CT 06830.

A handwritten signature in black ink, appearing to read 'Kenneth Desormes', written over a horizontal line.

KENNETH DESORMES

EXHIBIT A



A

Account Number: 871352826
 Statement Period: 01/2010 - 02/2012
 Date Prepared: 02/18/2012

Property Address:
 822 TADLOCK PL
 MATTHEWS, NC 28105

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
05/17/2010	PMI PMT MONTHLY	-82.88	08/2009	.00	.00	-82.88	.00	.00	.00	.00
				181,871.54		-1,263.02			-321.09	1,281.04
06/04/2010	MISC. POSTING	→ 1,054.00	08/2009	.00	.00	.00	.00	.00	.00	1,054.00
				181,871.54		-1,263.02			-321.09	2,335.04
06/07/2010	MISC. POSTING	-1,467.48	08/2009	.00	.00	.00	.00	.00	.00	-1,467.48
				181,871.54		-1,263.02			-321.09	867.56
06/07/2010	REGULAR PAYMENT	1,467.48	09/2009	237.29	909.36	320.83	.00	.00	.00	.00
				181,634.25		-942.19			-366.96	867.56
06/08/2010	LATE CHARGE ADJ.	45.87	09/2009	.00	.00	.00	.00	.00	45.87	.00
				181,634.25		-942.19			-321.09	867.56
06/15/2010	PMI PMT MONTHLY	-82.88	09/2009	.00	.00	-82.88	.00	.00	.00	.00
				181,634.25		-1,025.07			-321.09	867.56
07/08/2010	MISC. POSTING	→ 1,054.00	09/2009	.00	.00	.00	.00	.00	.00	1,054.00
				181,634.25		-1,025.07			-321.09	1,921.56
07/09/2010	MISC. POSTING	-1,467.48	09/2009	.00	.00	.00	.00	.00	.00	-1,467.48
				181,634.25		-1,025.07			-321.09	454.08
07/09/2010	REGULAR PAYMENT	1,467.48	10/2009	238.48	908.17	320.83	.00	.00	.00	.00
				181,395.77		-704.24			-366.96	454.08
07/12/2010	LATE CHARGE ADJ.	45.87	10/2009	.00	.00	.00	.00	.00	45.87	.00
				181,395.77		-704.24			-321.09	454.08
07/15/2010	PMI PMT MONTHLY	-82.88	10/2009	.00	.00	-82.88	.00	.00	.00	.00
				181,395.77		-787.12			-321.09	454.08
08/06/2010	MISC. POSTING	→ 1,054.00	10/2009	.00	.00	.00	.00	.00	.00	1,054.00
				181,395.77		-787.12			-321.09	1,508.08
08/10/2010	MISC. POSTING	-1,467.48	10/2009	.00	.00	.00	.00	.00	.00	-1,467.48
				181,395.77		-787.12			-321.09	40.60
08/10/2010	REGULAR PAYMENT	1,467.48	11/2009	239.67	906.98	320.83	.00	.00	.00	.00
				181,156.10		-466.29			-366.96	40.60



EXHIBIT B

B

COPY

NORTH CAROLINA

MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK

IN RE:

12 SP 3212

Foreclosure of Real Property Under Deed of Trust from *Shirley Desormes*, in the original amount of \$191,250.00, and dated November 30, 2005 and recorded on December 2, 2005 in Book 19711 at Page 375, Mecklenburg County Registry

Current Owner(s): *Shirley Desormes*

Trustee Services of Carolina, LLC, Substitute Trustee

NOTICE OF CONTINUANCE OF HEARING

To: *Shirley Desormes a/k/a Mary Greta a/k/a Mary Shirley Desormes Stone & Witt, P.A. Nationstar Mortgage, LLC Any Spouse of Shirley Desormes a/k/a Mary Greta a/k/a Mary Shirely Desormes 822 Tadlock Place Matthews, NC 28105*

IN ACCORDANCE WITH THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU HAVE RECEIVED A DISCHARGE IN A CHAPTER 7 BANKRUPTCY, WE ARE AWARE YOU ARE NOT PERSONALLY OBLIGATED FOR THIS DEBT. PLEASE BE ADVISED THAT THESE NOTICES ARE REQUIRED FOR FORECLOSURE IN THIS STATE.

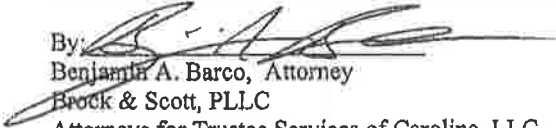
You are hereby notified that the hearing before the Clerk of Superior Court referred to in the Notice previously served upon you has been continued.

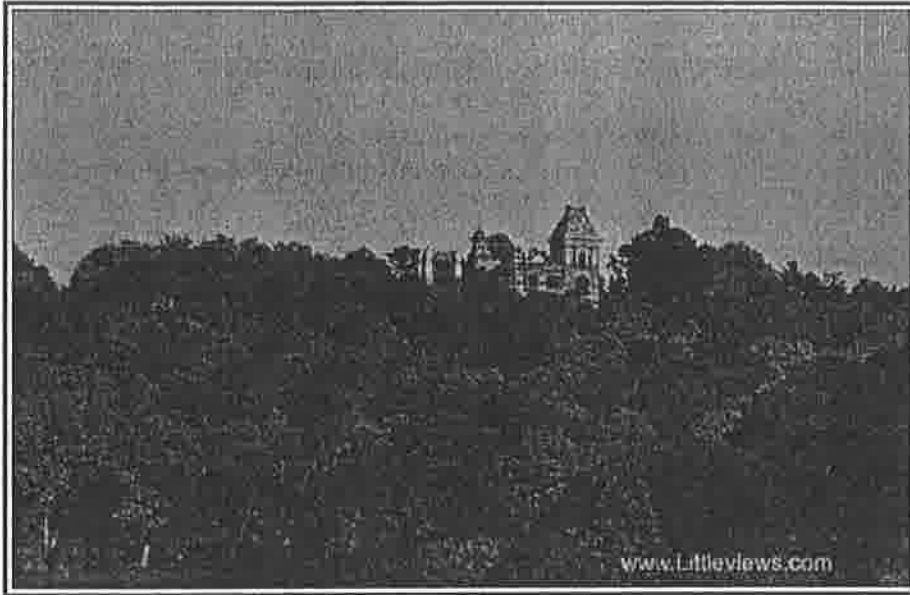
The new date has been scheduled for **March 28, 2014 at 2:00PM** at Mecklenburg County Clerk of Superior Court 832 E. 4th Street, room 3600 Charlotte, NC 28202

Please retain the original notice previously sent to you and read it carefully.

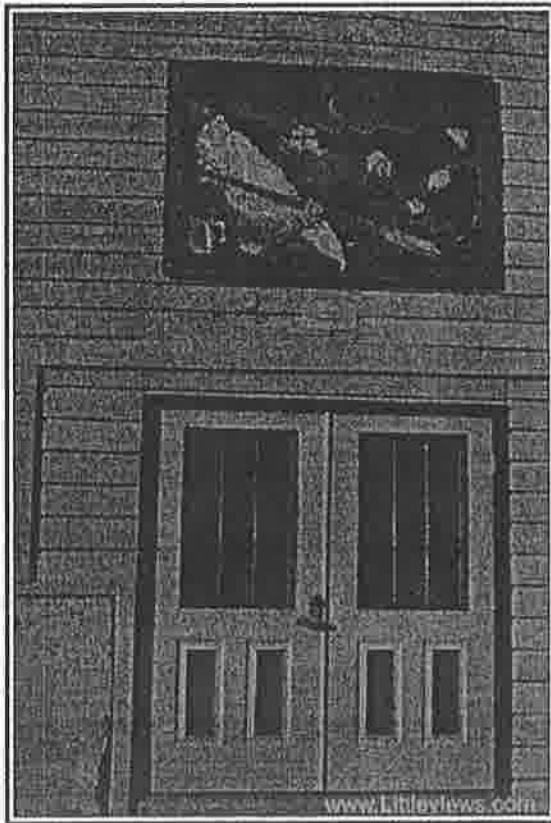
The date of this Notice of Continuance is January 28, 2014.

Trustee Services of Carolina, LLC, Substitute Trustee

By: 
Benjamin A. Barco, Attorney
Brock & Scott, PLLC
Attorneys for Trustee Services of Carolina, LLC
5431 Oleander Drive Suite 200
Wilmington, NC 28403
PHONE: (910) 392-4988, FAX: (910) 392-8587



Catskill's docking area at the Historic Catskill Point is located just south of the Rip Van Winkle Bridge (I 23) and across the river from a lush, hardwood forest.



This October, the Greene County Council of Arts transformed a barn at the Catskill dock into *The Wall of History*, giving the building the look of an 1800s art gallery. Paintings, rendered in a number of different styles, are displayed on all exterior walls. All depict great moments in Greene Country's history, with Don Boutin's "Rip Van Winkle" over the main door in honor of the famous snoozer who enjoyed napping in the Catskill Mountains (then called the "Kaatskills"). The gallery is open during the season and during special events.

Peebles Island State Park:

COPY

B

NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK

IN RE:

12 SP 3212

Foreclosure of Real Property Under Deed of Trust from *Shirley Desormes*, in the original amount of \$191,250.00, and dated November 30, 2005 and recorded on December 2, 2005 in Book 19711 at Page 375, Mecklenburg County Registry
Current Owner(s): *Shirley Desormes*
Trustee Services of Carolina, LLC, Substitute Trustee

NOTICE OF CONTINUANCE OF HEARING

To: *Shirley Desormes a/k/a Mary Greta a/k/a Mary Shirley Desormes*
Any Spouse of Shirley Desormes a/k/a Mary Greta a/k/a Mary Shirely Desormes
822 Tadlock Place
Matthews, NC 28105

IN ACCORDANCE WITH THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU HAVE RECEIVED A DISCHARGE IN A CHAPTER 7 BANKRUPTCY, WE ARE AWARE YOU ARE NOT PERSONALLY OBLIGATED FOR THIS DEBT. PLEASE BE ADVISED THAT THESE NOTICES ARE REQUIRED FOR FORECLOSURE IN THIS STATE.

You are hereby notified that the hearing before the Clerk of Superior Court referred to in the Notice previously served upon you has been continued.

The new date has been scheduled for **September 20, 2013 at 9:00AM** at
Mecklenburg County Clerk of Superior Court
832 E. 4th Street, room 3600
Charlotte, NC 28202

Please retain the original notice previously sent to you and read it carefully.

The date of this Notice of Continuance is July 29, 2013.

Trustee Services of Carolina, LLC, Substitute Trustee

By: 
Benjamin A. Barco, Attorney
Brock & Scott, PLLC

Attorneys for Trustee Services of Carolina, LLC
5431 Oleander Drive Suite 200
Wilmington, NC 28403
PHONE: (910) 392-4988, FAX: (910) 392-8587

EXHIBIT C

2

NORTH CAROLINA

MECKLENBURG COUNTY

IN RE:

Foreclosure of Real Property Under Deed of Trust from Shirley Desormes, in the original amount of \$191,250.00, and dated November 30, 2005 and recorded on December 2, 2005 in Book 19711 at Page 375, Mecklenburg County Registry Trustee Services of Carolina, LLC, Substitute Trustee

MECKLENBURG COUNTY
FILED
JUL 28 2014
10 O'CLOCK
BY CLERK SUPERIOR COURT

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE CLERK

12 SP 3212

ORDER TO ALLOW FORECLOSURE SALE

THIS CAUSE coming on to be heard before the undersigned Honorable Clerk of Superior Court of Mecklenburg County and having heard the evidence and examined the appropriate affidavits and certified copies of documents, makes the following findings of fact:

1. Nationstar Mortgage, LLC, is the holder of the note sought to be foreclosed and it evidences a valid debt owed by Shirley Desormes.
2. That said note is now in default and the instrument securing said debt gives the noteholder the right to foreclose under a power of sale.
3. That notice of this hearing has been served on the record owners of the real estate and to all other persons against whom the noteholder intends to assert liability for the debt.
4. That the Notice of Hearing for this proceeding was filed after the effective date for the Emergency Program to Reduce Home Foreclosures; the underlying mortgage debt is a home loan as defined in N.C.G.S. 45-101(1b); the pre-foreclosure notice required under N.C.G.S. 45-102 was provided in all material respects, and that the periods of time established by Article 11 of this Chapter have elapsed.
5. That the debtors have shown no valid legal reason why foreclosure should not commence.
6. That the sale is not barred under N.C.G.S. 45-21.12A.

NOW, THEREFORE, I find that the Substitute Trustee can proceed to foreclose under the terms of the above described Deed of Trust and give notice of and conduct a foreclosure sale as by statute provided.

This 28 day of Jul, 2014.

Assistant Clerk of Superior Court

Present

- 1) J. Calaban for Sub. Trustee
- 2) K. Deak for Nationstar



EXHIBIT D



Mecklenburg County Tax Collector
 P.O. Box 31457
 Charlotte, NC 28231-1457
<http://tax.charmeck.org>

NEW OWNER TAX NOTIFICATION



September 16, 2014



013563



***AUTO**MIXED AADC 280 13563 T31:67 13563 1 MB 0.435
 ALEXIS CO.
 222 PURCHASE ST UNIT 130
 RYE NY 10580-2101



PARCEL # : 21324147
 LEGAL DESC : L 47 B4 M19-96
 SITUS DESC : 822 TADLOCK PL MATTHEWS NC 28105

Our records indicate that you are the new owner of the above referenced property or a deed change has occurred. The following lists the most current bills with taxes due for this property.

BILL NUMBER	TAX/FEE	+	INTEREST	=	TOTAL DUE
0001996636-2014-2014-0000-00	\$2,470.64		\$0.00		\$2,470.64

For a complete list of tax bills, please visit the Property Tax System online at <http://tax.charmeck.org>.

The Office of the Tax Collector understands that a proration of taxes for this property may have occurred at a real estate closing and/or an escrow account may exist with your mortgage servicing company for payment of these taxes. However, as of the date of this notice, the taxes listed are due and payable to the Mecklenburg County Tax Collector. Please remit payment or authorize your attorney/mortgage servicing company to remit payment. If you have any questions, please call the CharMeck 311 Call Center by dialing 311 if calling within Mecklenburg County or 704-336-7600 for all calls originating outside of Mecklenburg County.

There are several payment options:

- **Cash**
 - o Accepted only in person at 700 E. Stonewall Street
 - o Monday - Friday; 8:00 a.m. to 5:00 p.m.
- **Check & Money Order** ¹
 - o Payable to Mecklenburg County Tax Collector
 - o Pay in person or mail to Mecklenburg County Tax Collector, PO Box 31457, Charlotte NC 28231-1457
 - o 24-digit tax bill number required on check
- **Credit Cards**
 - o A convenience fee is charged
 - o Call 1-800-994-1026 or pay online via <http://paytax.charmeck.org>
 - o 24-digit tax bill number required
- **eCheck**
 - o Free service
 - o Call 1-800-994-1026 or pay online via <http://paytax.charmeck.org>
 - o 24-digit tax bill number required
- **Online Banking** ²
 - o Personal banking online bill pay
 - o 24-digit tax bill number in the account number field required

Sincerely,
 Mecklenburg County Tax Collector

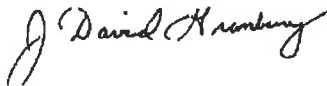
¹ Checks must have drawer's name, drawer's address, check number, financial institution's name and MICR numbers pre-printed on the check. In addition, the check should have the current date, numbers printed, the amount paid spelled out, and a signature. Mecklenburg County does not accept starter, counter, altered, or photocopied checks.
² If the entire tax bill number is not entered in the online bill pay account number field, the payment will be rejected and sent back to the taxpayer's bank. Interest will apply if payment is received on or after the interest begins date.

Rev001_040108

EXHIBIT E

E

For Registration J. David Granberry
Register of Deeds
Mecklenburg County, NC
Electronically Recorded
2012 Nov 20 02:06 PM RE Excise Tax: \$ 0.00
Book: 2454 Page: 940 Fee: \$ 0.00
Instrument Number: 2012165307



DOCID_000680110190178992005N

SATISFACTION OF SECURITY INSTRUMENT

Submitted electronically by Bank Of America in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Mecklenburg County Register of Deeds.

The undersigned is now the secured creditor of record in the security instrument identified as follows:

Type of Security Instrument: Deed of Trust
Original Grantor (s): SHIRLEY DESORMES
Original Secured Party (ies): Bank of America, N.A.
The Security Instrument is recorded in Book 26296 at Page 255 in the office of the Register of Deeds for Mecklenburg, North Carolina.

This satisfaction terminates the effectiveness of the security instrument.

Date: 11/16/2012

Bank of America, N.A.



Justin Harris-El, Assistant Vice President

STATE OF AZ
COUNTY OF Maricopa

} s.s.

On 11/20/2012, before me, Karen P. Accordino, Notary Public, personally appeared Justin Harris-El, Assistant Vice President of Bank of America, N.A., whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be and whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last written.



Karen P. Accordino, Notary Public

Recording Requested and Prepared By:
ReconTrust Company, N.A.
2575 W Chandler Blvd
Mail Stop: AZ1-804-02-11
Chandler AZ 85224

When Recorded Return To:
SHIRLEY DESORMES
8615 AVA PL APT 3C
JAMAICA NY 11432-2952

EXHIBIT F

FOR REGISTRATION
J. David Granberry
REGISTER OF DEEDS
Mecklenburg County, NC
2013 JAN 14 09:50:52 AM
BK:27981 PG:204-204
FEE:\$26.00
INSTRUMENT # 2013005622

F

STITTKS



CORPORATION ASSIGNMENT OF DEED OF TRUST

Doc. ID# 02487135282644346
Commitment# 5200

For value received, the undersigned, BANK OF AMERICA, N.A., 1800 TAPO CANYON ROAD, SIMI VALLEY, CA 93063, hereby grants, assigns and transfers to:
NATIONSTAR MORTGAGE, LLC
350 HIGHLAND DR., LEWISVILLE, TX 75067-4177

All beneficial interest under that certain Deed of Trust dated 11/30/05, executed by: SHIRLEY DESORMES, Trustor as per TRUST DEED recorded as Instrument No. 2005241769 on 12/02/05 in Book N/A Page N/A of official records in the County Recorder's Office of MECKLENBURG County, NORTH CAROLINA. Tax Parcel = 21324147, MECKLENBURG CO TAX COLL-NC Original Mortgage \$191,250.00 822 TADLOCK PL, MATTHEWS, NC 28105

Together with the Note or Notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Deed of Trust.

Dated: 11/15/2012 BANK OF AMERICA, N.A.

By Christy Cafferty
CHRISTY CAFFERTY, VICE PRESIDENT

State of California
County of Ventura

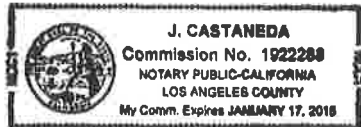
On 11/15/2012 before me, J. Castaneda, Notary Public, personally appeared CHRISTY CAFFERTY, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature: J. Castaneda
J. Castaneda

Prepared by: MARGARET MAGALLAN
Recording requested by AND



Return to:
Orion Financial Group, Inc.
2860 Exchange Blvd. Suite 100
Southlake, TX 76092

Orion Financial Group Inc.
DESORMES, SHIRLEY *12083777*
NBS/ASMT/NSOPD

