

P R A E C I P E

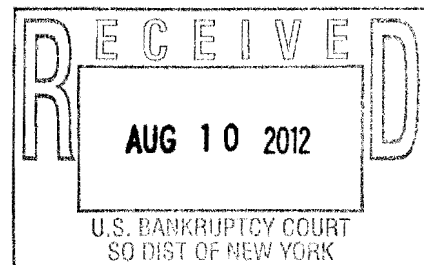
TO: Clerk of BR Court of N.Y., S. D.

please file the following documents;

1. Settlement Conference Report on Aug. 8, 2012

2. Motion For Judicial Notice of Recorded Federal
Preemptions of Art. III Courts... [sic].

with attached EX. 1, Notice and Application... [sic];
EX. 2, Appellants' Motion for Temporary Restraining
Order (TRO)... [sic]; EX. 3, Motion for Judicial
filed Aug. 7, 2012.



UNITED STATES BANKRUPTCY COURT, SOUTHERN DISTRICT OF NEW YORK;

In Re: Residential Capital, LLC., et al., And,) Case No. 12-bk-12020 (MG)
In Re: GMAC, Mortgage Co., et al,) Chapter (Ch.11, Joint Admin.)
Debtors) (Related BR Case No.07-bk-57237, S.D., OHIO)
) (Related BR Case No. 12-bk-12032, S.D., N.Y.)
) JUDGE: GLENN, MARTIN
UNITED STATES of America, Ex Rel.,)
Yvonne D. Lewis, et al.,) Adversary Case No.: 12-01731
Plaintiffs/ Surplus Creditors) (Related Case No. 12-bk-12020 (MG);
Vs.) 05-CV-7346 (03-CV-7478); 03-CV-10836;
) 05-CV-4555; 03-CV-6954);(11-AP-875,
GMAC, Mortgage Co., et al,) 10-AP-110, 12-AP-506 COA10th Dist., OH.);
Defendants/ Bankrupt Debtor,) (2:96-cv-494, USDC, SD, OH., E. Div.)

SETTLEMENT CONFERENCE REPORT REPORT HELD ON AUGUST 8, 2012

The undersigned Plaintiffs in the above adversary proceeding reports to the Court as follows:

A. The parties conducted a settlement (phone) conference as required under Local Rule

7016-1 C. on August 7, 2012 at 7:11 P.M., est.

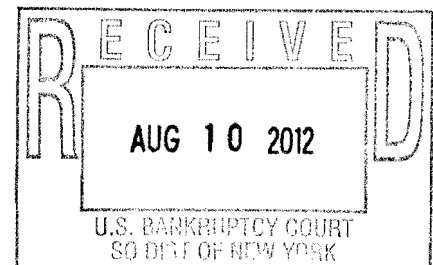
B. The conference resulted in the following:

A final agreement was postponed for partial or total resolution.

The parties have not reached an impasse for complete settlement.

The parties settled the following issues:

1. GMAC's title (judicial reports) filed June 22, 2007 and Sept. 8, 2011 contained Errors & Omissions for which an E & O policy was in effect. A Sept. 12, 2011 judgment was procured by the Court's reliance upon aforesaid errors.
2. GMAC is unwilling to pay the deductible on "E & O policy" for the limits of the policy.
3. Plaintiffs' are willing to settle within the E & O policy limits. (See Attached: Exhibit A, "E & O Policy", Declarations Page)



The parties and counsel in attendance were:

Plaintiffs: Yvonne D. Lewis, pro se Defendant: GMAC, Mortgage Co.,
Sidney T. Lewis By: Samantha Martin, ESQ.

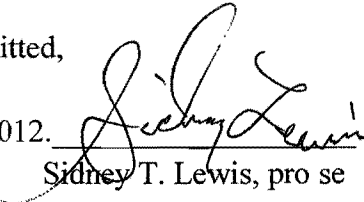
Parties or counsel who failed to appear were: N/A

C. The matter may be settled in a mediation conference. (Within the E & O policy's limits.)

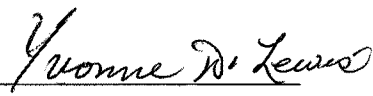
D. The parties were not able to meet for a settlement conference for the reason stated: Long Distance
Call.

Respectfully Submitted,

Dated: August 8, 2012.


Sidney T. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

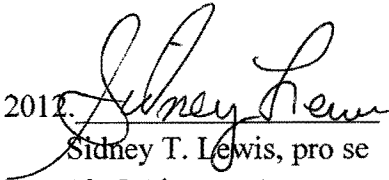
Dated: August 8, 2012.


Yvonne D. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306


CERTIFICATE OF SERVICE

I, Sidney T. Lewis, certify that on August 8, 2012 the "Settlement Conference Report Held on August 7, 2012" was served on the counsel of GMAC in the Adversary Complaint, by personal (hand) delivery or ordinary U.S. Mail.

Dated: August 8, 2012.


Sidney T. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

Dated: August 8, 2012.


Yvonne D. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306



ENDORSEMENT/RIDER

Effective date of
this endorsement/rider: December 31, 2006

FEDERAL INSURANCE COMPANY

Endorsement/Rider No. 12

To be attached to and
form part of Policy No. 82077768

Issued to: GMAC, LLC

AMENDED DEFINITIONS ENDORSEMENT

In consideration of the premium charged, it is agreed that Section 2, DEFINITIONS, is amended as follows:

- (1) The definition of **Application** is deleted and replaced with the following:

Application means all signed applications, including attachments and other materials submitted therewith or expressly incorporated therein, submitted by the **Insured** to the Company for this Policy or for any policy of which this Policy is a direct or indirect renewal or replacement. **Application** shall also include all of the following documents, whether or not submitted with or attached to any such signed application:

- a. the Annual Report (including financial statements) last issued to shareholders before this Policy's inception date;
- b. the report last filed with the Securities and Exchange Commission on Form 10-K before this Policy's inception date; and
- c. the report last filed with the Securities and Exchange Commission on Form 10-Q before this Policy's inception date.

All such applications, attachments, materials and other documents expressly incorporated thereto are deemed attached to, incorporated into and made a part of this Policy.

- (2) The definition of **Claim** is deleted and replaced with the following:

Claim means any **BPL Claim**, **Broker-Dealer Claim**, **Insurance Services Claim**, **Insurance Agent and Broker Claim**, or **Lending Claim**.

- (3) The definition of **Loan Servicing** is deleted and replaced with the following:

Loan Servicing means the servicing of any loan, lease or extension of credit (whether consumer, commercial, mortgage banking or otherwise, but not including financing for investment banking, or leveraged or management buyouts). **Loan Servicing** includes but is not limited to the following servicing activities: record keeping, billing and disbursements of principal or interest, receipt or payment of insurance premiums and taxes, credit reporting or statements of creditworthiness, determination of the depreciation amount of property (but not projections of or an appraisal for residual or future value of property), master servicing activities in connection with **Securitized Debt Instruments**, or any similar administrative activity. **Loan Servicing** shall also include, but solely with respect to the servicing of a loan, lease or extension of credit: foreclosure activities, management and preservation of collateral, or administration or liquidation of real estate properties.

Q07-1094 (05/2007)

Page 1

EX. A

E X H I B I T 1

REC'D AUG - 7 2012

IN THE COURT OF APPEALS, FRANKLIN COUNTY; OHIO
TENTH DISTRICT COURT OF APPEALS

[APP. RULE 26, 12(A); U.S. Const., Art. VI, cl. 2; Exec. Order 12630 (see 53 FR 8859, 2800¹)]

UNITED STATES OF AMERICA, EX REL.

GMAC, Mortgage Co., et al.,

Plaintiffs/Creditor

Vs.

Yvonne D. Lewis, et al.,

Defendants/Discharged Debtors

: Case No. 12-AP-506, COA10th Dist., Ohio
(Related Case Nos. 02-MS-20; 05-JG-6455;
05-CV-7346 (03-CV-7478); 03-CV-10836;
05-CV-4555; 03-CV-6954)(04-AP-469; 04-
AP-1135; 11-AP-875; 12-AP-506)

UNITED STATES OF AMERICA, EX REL.

SIDNEY T LEWIS, et al.,

Plaintiffs

Vs.

J E WIGGINS & CO, et al.,

And

HUNTINGTON NATIONAL BANK, et al.,

Defendants

: Case No. 04-AP-469, COA10th Dist., Ohio
(Consolidated and Related Cases; 05-JG-6455;
05-CV-7346 (03-CV-7478); 03-CV-10836;
05-JG-7388; 05-CV-4555; 03-CV-6954)(04-
AP-1135; 11-AP-875; 12-AP-88; 12-AP-506)

**NOTICE AND APPLICATION FOR RECONSIDERATION OF DENIAL ENTRY FILED
AUGUST 1, 2012; ON GROUNDS OF (1) "POLITICAL SUBDIV. PREEMPTION" 42 USC
§ 7573; (2) PREEMPTION BY COORDINATION OF FEDERAL PROGRAM 42 USC §
4903(c)(2); 49 USC §§ 44715(c)², 47502, ORDER CASE 12-cv-363, USDC, DC, AUG. 1, 2012;**

UNITED STATES BANKRUPTCY COURT, SOUTHERN DISTRICT OF NEW YORK;

In Re: Residential Capital, LLC., et al., And,

In Re: GMAC, Mortgage Co., et al,

Debtors

) Case No. 12-bk-12020 (MG)

) Chapter (Ch.11, Joint Admin.)

) (Related BR Case No.07-bk-57237, S.D., OHIO)

¹ "**** the FAA's approval of the Port Columbus International Airport noise compatibility program is September 25, 1987 *** approved *** operational controls, ***." (See: 53 FR 2800, 8859);

² See: 49 USC §106(g) "FAA"; 49 USC § 47502 "SINGLE SYSTEM"; 49 USC § 47504(c)(2)(B) ("to acquire residential properties"); 42 USC §7571(a)(2) "The Administrator shall, ****, any air pollutant from any class or classes of *aircraft engines* **** anticipated to endanger public health or welfare."; 42 USC §4903(a) "Furtherance of Congressional policy.***."; 42 USC §4903(b) "Presidential authority ***."; 42 USC §4903(c)(1) "The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control.";

UNITED STATES of America, Ex Rel.,
Yvonne D. Lewis, et al.,
Plaintiffs/ Surplus Creditors
Vs.
GMAC, Mortgage Co., et al,
Defendants/ Bankrupt Debtor,

) (Related BR Case No. 12-bk-12032, S.D., N.Y.)
) JUDGE: GLENN, MARTIN
)
) Adversary Case No.: 12-01731
) (Related Case No. 12-bk-12020 (MG);
) 05-CV-7346 (03-CV-7478); 03-CV-10836;
) 05-CV-4555; 03-CV-6954);(11-AP-875,
) COA10th Dist., OHIO), (10-AP-110, COA10th
) Dist., OHIO)

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF OHIO;
(at Columbus)

[18 USC §§ 242, 245(b)(2)(B), 664, 666, 1962][29 USC §§ 1109, 1131, 1132(h), 1140]
[26 USC §§ 101(h), 267(b)(1)][42 USC § 4651(3³)[49 USC § 44715(c)⁴]

In Re: SIDNEY T. LEWIS, pro se,
Debtor
Social Security No.: xxx-xx-5959

) Case No. 2:07-bk-57237
) (Ch.7)
) (Related Bankr Case No. 2:05-bk-75111)
)
) JUDGE: HOFFMAN, JOHN, Jr.

In Re: Yvonne D. Lewis,
Debtor
Social Security No.: xxx-xx-2390

) Case No. 2:05-bk-75111
) (Ch.7)
) (Related Case No. 2:07-bk-57237)
)
) JUDGE: HOFFMAN, JOHN, Jr.

IN THE UNITED STATES DISTRICT COURT, S. D. OF OHIO
EASTERN DIVISION (at Columbus)

[ERISA AND RICO 18 USC §§ 664, 666, 1962]

UNITED STATES of America, Ex Rel.,
Sidney T. Lewis, et al.,
Plaintiffs
Vs.
Larry McClatchey, et al.,
Defendants

)
) Action No. 2:08-cv-1042
) (Related Dist. Ct. Cases 2:08-cv-16; 2:96-cv-494;
) 2:09-cv-179);
) JUDGE: HOLSCHUH
) Magistrate Judge: KING

³ See: 42 U.S.C. § 4651(3)

⁴ See: 49 U.S.C. § 44715(c) reads: "(c) Proposed Regulations***;"

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[CLEAN AIR ACT, 42 U.S.C.A. §§ 7401–7671q, 7407(d)(1)(C)(i) and (5) “LEAD”; AND ASNA⁵,
49 U.S.C.A. §§ 47501 et seq., 47504 (14 CFR § 150.21(e)); 18 USC §§ 666, 1001]

FRIENDS OF THE EARTH, et al.,
Plaintiff,

Vs.

UNITED STATES E.P.A. and
LISA JACKSON, Administrator,
Defendants.

)
) Case: 1: 12-cv-00363
)
)

) Assigned To: Jackson, Amy Berman, Judge
)
)

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

SECURITIES AND EXCHANGE COMM.
Plaintiff,

vs.

AMERICAN EQUITY INVESTMENT LIFE
HOLDING COMPANY;
DAVID J. NOBLE; and
WENDY C. WAUGAMAN,
Defendants.

)
)
) Case No. 4:10-cv-87
)
)

) (Related Case: 2:96-cv-494, USDC, S.D., Ohio)
)
)
)
)

NOTICE

TO: Bankrupt Debtor GMAC Mortgage, LLC., as the alleged grantee of default judgment procured
by a fraudulent Judicial Report filed September 8, 2011 in case no. 05-CV-4555 absent an **‘AVI-
GATION NOISE/EASEMENT DISCLOSURE STATEMENT’** (see: 62 FR 16413)

PLEASE TAKE NOTICE that the undersigned Appellants/Defendants, SIDNEY LEWIS and
YVONNE D. LEWIS (Relators/“whistleblowers”) and U.S. Attorney General, of the US DOJ, by

⁵ “ASNA, codified at 49 U.S.C. § 47501 et seq., directs the Secretary of Transportation to establish
“a *single system* of measuring noise” from aircraft operations and the exposure of individuals to that
noise. 49 U.S.C. § 47502.”(See: Nat’l Bus. Aviation Ass’n v. City of Naples Airport Auth., 162 F.
Supp. 2d 1343, 1350 (2001))

GLENN D. GILLETTE, Civil Division, and MARK KAPPELHOFF, Chief, Criminal Section; and S.E.C. by Sean McKessy, Chief of the Office of the Whistleblower, and an Investor of Mortgage Backed Securities ("Third-Party Investor", "FNMA" and/or "GNMA", 12 USC § 1716B) will move the Tenth District Court of Appeals, OHIO on AUGUST 7, 2012, or as soon thereafter as Ex. Relator as counsel can be heard, for an order to examine the "2011 Endorsement Update, "Judicial Report's AVIGATION NOISE/EASEMENT disclosure statement"; 2012 Confirmation Entry; i.e. 2011 Default Judgment of Foreclosure and 2012 Writ of Possession for FNMA" on the ground(s) of "FRAUD ON THE COURT" due to the fact that on Sept 8, 2011 the State Court's Subject Matter Jurisdiction was statutorily preempted [See: 42 U.S.C. §§ 7573, 7571] by virtue of the (partial acquisition) in a recorded 1992 Permanent Subdivision AVIGATION NOISE/EASEMENT for Lot 17 in the Argyle Park Subdivision ("APS") as coordinated in a Federal Program [See: 42 U.S.C. § 4903; 49 U.S.C. § 44715(c); (FAR part 150)] [See: TRO filed Aug. 7, at Exhibit A-1, EASEMENT].


Appellee, GMAC Mortgage LLC filed a 2011 false "judicial report" relative to federal preemptions in a recorded 1992 Permanent AV-Easement for Lot 17 in APS. Appellee obstructs a 2006 "administrative petition [see 49 U.S.C. § 40113]" filed by Friends of the Earth vs. the U.S. EPA. And obstructs a August 1, 2012 Order in the United States District Court for the District of Columbia in case no. 12-cv-363, pursuant to 42 U.S.C. §§ 4903, 7571(a)(2)(A), (See Attached: Exhibit A-3, Order issued August 1, 2012). GMAC through its May 14, 2012 voluntary petition in the United States Bankruptcy Court for the Southern District of New York in case no. 12-bk-12032 and 12-bk-12020 (MG) failed to disclose the 1992 FAA AVIGATION NOISE/EASEMENT and "federal preemptions, Id. 7573" as a bar to the 2011 Default Judgment on said "at issue" real property in OHIO as denying debtor-in-possession status for the Chapter 11 Trustees for Region 2, being the US Trustees for the Southern District of NY., TRACY HOPE DAVIS, LINDA A. RIFFKIN and BRIAN S. MASUMOTO, 33 Whitehall St 21st Fl, Region 2, New York, NY 10004, pursuant to the United States Constitution, Art. VI, Cl.2, "Supremacy Clause", Id § 7573; and Art. I, sect. 1, "Separation of Powers Clause", Id § 47502.

Respectfully submitted,

Dated: August 7, 2012.


Sidney T. Lewis, pro se

Dated: August 7, 2012.


Yvonne D. Lewis, pro se

1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

APPLICATION FOR RECONSIDERATION

Appellants SIDNEY LEWIS and YVONNE D. LEWIS purported defendant-appellants herein, requests reconsideration of the Journal Entry of Denial announced by this Court on **AUGUST 1, 2012**, in cases 11-AP-875 and 12-AP-506 pursuant to the “Supremacy Clause” [U.S. Const., Art. VI, cl. 2]; “Separation of Powers Clause” [U.S. Const., Art. I, §1.]; Rules of Civ. Proc., Rule 60(b)(5) or (6); ASNA (49 U.S.C. §§ 47501 et seq, 47509); CAA (42 U.S.C. §§7401-7476(q) et seq.); UPA (42 U.S.C. §§4651(3)); Authorities in *Hal Artz Lincoln-Mercury v. Ohio Motor Vehicle Dealers Bd.*, 118 Ohio App. 3d 501, 507 (Ohio Ct. App., Franklin County 1997), Citing: *Gaston v. Bd. of Review* (1983), 17 Ohio App. 3d 12, 477 N.E.2d 460; *State ex rel. Lawrence Development Co. v. Weir* (1983), 11 Ohio App. 3d 96, 463 N.E.2d 398; *In re Kerry Ford, Inc.* (1995), 106 Ohio App. 3d 643, 666 N.E.2d 1157, (“***, it is well-established that subject matter jurisdiction may be raised at any stage of the proceedings.”); *Fid. Fed. Sav. & Loan Ass’n v. de la Cuesta*, 458 U.S. 141, 152-153 (U.S. 1982)(“The pre-emption doctrine, which has its roots in the Supremacy Clause, U.S. Const., Art. VI, cl. 2***); and this court’s inherent powers; and in support thereof respectfully states:

**I. APPELLEE’S “FRAUD ON THE COURT” BY FALSE TITLE REPORT FILED
SEPT. 8, 2011, WITHOUT A ‘FAA, AVIGATION NOISE/EASEMENT
DISCLOSURE STATEMENT’ (see: 62 FR 16413, at “disclosure”)**

1. This Appellate State Court (i.e. “State or political subdivision”) in its **AUGUST 1, 2012** Journal Entry of Denial (See Attached: **EXHIBIT 1**, Journal Entry, filed Aug. 1, 2012) made a prejudicial error by usurping Federal subject matter jurisdiction, incorporated herein by reference to a recorded “1992 Permanent Avigation Subdivision Easement” (**EXHIBIT**

A-1, "AV-EA") as a 'partial' statutory acquisition by FAA, 49 U.S.C. § 106(f)&(g), under Federal 'FAR part §§150⁶ et seq.' as Law.

(See and Compare: Motion For TRO, filed 8-7-12, at **EXHIBIT A-1**, "AV-EA", at page 4, lines 1-4, "Noise, Air Pollution"; Compare With: 49 U.S.C. § 47504(a)(2)(E), at "Acquisition, Easement").

II. FRAUD ON THE COURT "FOTC"; RULES OF CIV. PROC., Rule 60(b)(5) or (6);

1. Elements of "FOTC":

"*Demjanjuk* defined fraud on the court as conduct: 1) on the part of an officer of the court; that 2) is directed to the judicial machinery itself; 3) is intentionally false, willfully blind to the truth, or is in reckless disregard for the truth; 4) is a positive averment or a concealment when one is under a duty to disclose; and 5) deceives the court. *Demjanjuk v. Petrovsky*, 10 F.3d 338, 348 (6th Cir. 1993)." (See: *Carter v. Anderson*, 585 F.3d 1007, pp. 1011; 2009 U.S. App. LEXIS 23904, p9, at HN2); (also See: *Coulson v. Coulson*, 5 Ohio St. 3d 12, pp.15-16, 448 N.E.2d 809 (1983), "Where an officer of the court, e.g., an attorney, however, actively participates in defrauding the court, then the court may entertain a Civ. R. 60(B)(5) motion for relief from judgment.")

2. "FOTC" Conduct:

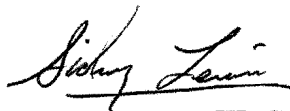
GMAC attorney's fraud on the court as conduct: 1) on the part of an officer of the court, being Matthew J. Richardson, Supr. Ct. Reg. No. 0077157, counsel for GMAC Mortgage Co., [See: TRO filed 8-7-12, at **EXHIBIT A-2**, Notice of Filing of Endorsement, file no. 05-2846, absent a "AVIGATION NOISE/EASEMENT disclosure statement"]; that 2) is directed to the judicial machinery itself, in the Common Pleas Court, Franklin County Ohio [See: Id TRO at **EXHIBIT A-2**]; 3) is in reckless disregard for the truth concerning preemptions of State and Political Subdivisions in FAA Noise Mitigation Programs [See: Id at **EXHIBIT A-1**, at page 2, FAR part §§ 150, FAA, Noise Mitigation Programs]; 4) is a concealment when one is under a duty to disclose all "adverse interest" in a recorded "AVIGATION NOISE/EASEMENT disclosure statement" 1992 AV-EA, [compare: Id at **EXHIBIT A-1**; with: Id at **EXHIBIT A-2**]; and 5) deceived the court to issue the 2012

⁶ (See: *Burbank v. Lockheed Air Terminal, Inc.*, 411 U.S. 624, pp.633-634, "It is the pervasive nature of the scheme of federal regulation of aircraft noise that leads us to conclude that there is preemption. *** *Northwest Airlines, Inc. v. Minnesota*, 322 U.S. 292, 303");

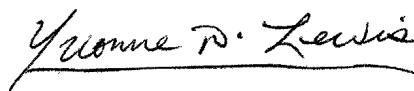
Confirmation Entry; i.e. 2011 Default Judgment of Foreclosure and 2012 Writ of Possession for FNMA without a AV-EA disclosure statement filed on Sept 8, 2011.

(See: Carter v. Anderson, 585 F.3d 1007, pp. 1011; 2009 U.S. App. LEXIS 23904, p9, at HN2, (October 30, 2009, Filed) citing *Demjanjuk v. Petrovsky*, 10 F.3d 338, 348 (6th Cir. 1993))

It follows that on Sept 8, 2011, Appellee-Plaintiff, GMAC, thru Matthew J. Richardson, an officer of the court, was under a duty to disclose an accurate Judicial Report Endorsement by disclosure statement incorporating the "1992 AV-EA" (**EXHIBIT A-1**), when he filed Appellee's "2011 Notice of Filing of Endorsement" (**EXHIBIT A-2**). The omission of an accurate 2011 AV-EA disclosure statement 'is a concealment', and 'in reckless disregard for the truth', which deceived the court (Id.) on June 4, 2012 to issue a 2012 Writ of Possession (**EXHIBIT C**) for non-party Federal National Mortgage Association "FNMA" (See: 12 USC § 1716B, "FNMA" and "GNMA") subject to Federal "*Field Preemption*" (Id. § 7573) as rooted in the "Supremacy Clause" [U.S. Const., Art. VI, cl. 2], and triggers the "Separation of Powers Clause" [U.S. Const., Art. I, §1.] (see: 42 U.S.C. §§ 4901(a)(1)&(b), 4903(a), "CONGRESSIONAL FINDINGS AND STATEMENT OF POLICY"), for lead federal agency jurisdiction between the "2012 FNMA Writ of Possession" (see Id., **EXHIBIT C**); and the "1992 Av-Ea.", FAR part §§ 150, FAA, Noise Program's preemption (see Id., **EXHIBIT A-1**)).



III. Conclusion



The Court, in its August 1, 2012 Entry of Denial, has clearly failed to apply the mandates of the Preemption Doctrine rooted in "Supremacy Clause"⁷ that an accurate AVIGATION NOISE/EASEMENT disclosure statement must be proffered in the court's record and disclose all

⁷ (See: *Fid. Fed. Sav. & Loan Ass'n v. de la Cuesta*, 458 U.S. 141, 152-153 (U.S. 1982) ("The pre-emption doctrine, which has its roots in the Supremacy Clause, U.S. Const., Art. VI, cl. 2, requires us to examine congressional intent. Pre-emption may be either express or implied***");

administratively recorded, adverse interest, as should have been incorporated in the JUDICIAL REPORT endorsement filed September 8, 2011 disclosing the Federal "*Field Preemption*" (Id. § 7573) as incorporated herein by reference to the TRO filed 8-7-12, at Ex. A-1, on page 4, at lines 1-4 of the subject 1992 Av-Ea..

(see Id. at **EXHIBIT A-1**, "AV-EA", at page 4, lines 1-4, [codified 49 USC § 47502]); (See Also: *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 85 (U.S. 1998), "For a court to pronounce upon a law's meaning or constitutionality when it has no jurisdiction to do so is, by very definition, an *ultra vires* act. Pp. 8-17.")

(See also: *Burbank v. Lockheed Air Terminal, Inc.*, 411 U.S. 624, pp.633-634, "It is the pervasive nature of the scheme of federal regulation of aircraft noise that leads us to conclude that there is preemption. *** *Northwest Airlines, Inc. v. Minnesota*, 322 U.S. 292, 303")

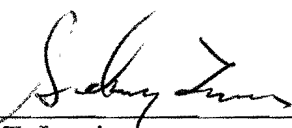
It follows that the Ohio COA10th District's Denial Entry is related to federal regulation of aircraft noise and leaded air pollution from aircraft engines in APS, a "non-attainment area" (Id. § 7573), as entered on **AUGUST 1, 2011** (See: **EXHIBIT 1**). Said Denial Entry appears to be federally barred by the United States District Court, District of Columbia's Order granting the EPA's Stipulated Dismissal (Id, Art. VI, cl. 2) related to federal regulation of aircraft noise and leaded air pollution from aircraft engines in "non-attainment areas" (Id. § 7571(a)(2)(A)) as entered on **AUGUST 1, 2011** (Compare Attached: **EXHIBIT A-3**; With: **EXHIBIT 1**). Said State Denial Entry appears to be in noncompliance with U.S. Exec. Order No. 12630 (Id. § 4903(b)), 53 Fed. Reg. 8859 (March 15, 1988), as affirmed by U.S. Executive Order 13406 (Id. § 4903(b)), 71 FR 36974 (June 23, 2006) "Protecting the Property Rights of the American People", and possibly alters U.S. Congressional Intent for a Federal single-system, scheme of preemption for "Takings Implications Assessments"

under federal regulations for aircraft noise and air pollution from leaded aircraft engine emissions pursuant to Burbank, *supra*. (see: 75 FR 22444⁸, 22445)

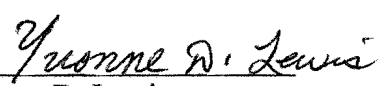
Wherefore, on the foregoing grounds of federal preemptions in Appellant's duly recorded 1992 Av-Easement (see *Id.* at **EXHIBIT A-1**) and Appellee's False 2011 Judicial Report Endorsement absent the 1992 "AVIGATION NOISE/EASEMENT disclosure statement" (see *Id.* at **EXHIBIT A-2**), and as more fully developed in the Motion for TRO with Declaration of Yvonne Lewis filed 8-7-12 as *incorporated by reference herein* to support the Application for reconsideration, it is respectfully urged that this application for reconsideration be granted and that the 2011 - 2012 Judgments of the Court of Common Pleas, Franklin County, Civil Division, in case no. 05-CV-4555, upon further consideration, be set aside or vacated under authorities in *Steel Co., Id.*, 523 U.S. at pp. 85 (*supra*), *De la Cuesta Id.* 458 U.S. at pp. 152-153 (*supra*); *Res. Invs., Id.*, 97 Fed. Cl., at pp. 548, at *fn. 5 (supra)*; *First English Evangelical Lutheran Church, Id.*, 482 U.S. at pp. 316 n.9 (*supra*), and authorities in attached **EXHIBIT A-3**,

Respectfully submitted,

Dated: August 7, 2012.

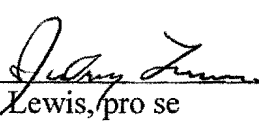

Sidney T. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

Dated: August 7, 2012.


Yvonne D. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

I certify that I have mailed or otherwise delivered a copy of this Application For Reconsideration of Denial Entry filed August 1, 2012 to all counsel of record this 7th day of August, 2012.

Dated: August 7, 2012.


Sidney T. Lewis, pro se

Dated: August 7, 2012.


Yvonne D. Lewis, pro se

⁸ "Section 231 of the CAA sets forth EPA's authority to regulate aircraft emissions of air pollution." (See: 75 FR 22444).;

EXHIBIT 1

20878 - J80

**IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT**

FILED
COURT OF APPEALS
2012 AUG -1 PM 1:58
CLERK OF COURTS

GMAC Mortgage Corporation,	:	
Plaintiff-Appellee,	:	
v.	:	No. 12AP-506
Yvonne D. Lewis aka	:	(ACCELERATED CALENDAR)
Yvonne D. Webb-Lewis et al.,	:	
Defendants-Appellants.	:	

JOURNAL ENTRY

**This court is without authority to issue a temporary restraining order.
Accordingly, appellants' July 31, 2012 motion therefor is denied.**



JUDGE


EXHIBIT A-3



Activity in Case 1:12-cv-00363-ABJ FRIENDS OF THE EARTH v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY et al Order

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08/01/2012 10:36 AM

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U.S. District Court

District of Columbia

Notice of Electronic Filing

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Case Name: FRIENDS OF THE EARTH v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY et al

Case Number: 1:12-cv-00363-ABJ

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER. In light of the stipulation of voluntary dismissal [Dkt. # 23], it is ORDERED that the first and second claims for relief in the complaint [Dkt. # 1] are DISMISSED. The parties are directed to address only the remaining claim in their joint status report due on August 16, 2012. Signed by Judge Amy Berman Jackson on 8/1/12. (lcabj1)

1:12-cv-00363-ABJ Notice has been electronically mailed to:

Eric G. Hostetler eric.hostetler@usdoj.gov, efile_eds.enrd@usdoj.gov, mary.edgar@usdoj.gov

Timothy David Ballo tballo@earthjustice.org, dwoodsmall@earthjustice.org, sratte@earthjustice.org

Bridget M. Lee blee@earthjustice.org, egreenlee@earthjustice.org, gtolley@earthjustice.org

Marianne L. Engelman Lado mengelmanlado@earthjustice.org, aallison@earthjustice.org, egreenlee@earthjustice.org

1:12-cv-00363-ABJ Notice will be delivered by other means to::

YVONNE D. WEBB-LEWIS
1875 Alvason Avenue
Columbus, OH 43219

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FRIENDS OF THE EARTH,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, et al.,

Defendants.

Civ. Action No. 1:12-CV-00363 (ABJ)

EPA'S MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, Defendants United States Environmental Protection Agency and Lisa Jackson, Administrator of the United States Environmental Protection Agency (collectively "EPA") hereby move for summary judgment. As set forth in the accompanying memorandum, summary judgment should be entered for EPA on all of Plaintiff's claims.

Plaintiff contends in its First and Second Claims for Relief that EPA has unreasonably delayed responding to an administrative petition, EPA, however, has now issued a final decision responding to the administrative petition at issue, and therefore these claims are moot.

Plaintiff's remaining Third Claim for Relief lacks merit. In this claim, Plaintiff contends that EPA has unreasonably delayed making a determination under Section 231(a)(2)(A) of the Clean Air Act, 42 U.S.C. § 7571(a)(2)(A), concerning whether lead emissions from general aviation aircraft engines using leaded aviation gasoline (avgas) "cause[] or contribute[] to, air pollution which may reasonably be anticipated to endanger public health or welfare." An unreasonable delay claim, however, must be premised on some action that an agency is required to take. Section 231(a)(2)(A) of the Clean Air Act does not contain any requirement that EPA

make an endangerment determination for each pollutant, including lead, emitted by aircraft engines. Further, even if Section 231(a)(2)(A) were deemed to contain such a requirement, EPA is entitled to summary judgment because EPA has not unreasonably delayed making an endangerment determination with respect to lead emissions from general aviation aircraft engines. EPA is instead expending reasonable effort and time to engage in the rigorous scientific inquiry that will form the basis of a scientifically sound and legally defensible endangerment determination concerning lead emissions.

WHEREFORE, EPA respectfully requests that summary judgment be granted for EPA on all of the claims set forth in Plaintiff's complaint.

Respectfully submitted,

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources
Division

/s/Eric G. Hostetler
ERIC G. HOSTETLER
D.C. Bar # 445917
Environmental Defense Section
Environment and Natural Resources
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United States Department of Justice
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Case 1:12-cv-00363-ABJ Document 22 Filed 07/20/12 Page 3 of 3

OF COUNSEL:

JOHN T. HANNON
MICHAEL W. THRIFT
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

DATED: July 20, 2012

Case 1:12-cv-00363-ABJ Document 23 Filed 07/31/12 Page 1 of 2

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FRIENDS OF THE EARTH,

Plaintiff,

V.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY and
LISA JACKSON, Administrator,

Defendants.

Civ. No. 1: 12-cv-00363-ABJ

STIPULATION OF VOLUNTARY DISMISSAL

It is hereby stipulated and agreed, by and between the undersigned, counsel for Plaintiff Friends of the Earth and Defendants U.S. Environmental Protection Agency (“EPA”) and Administrator Lisa Jackson (collectively, “the Parties”), that, pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure and in light of EPA’s July 19, 2012 response to Plaintiff’s October 2006 Petition to regulate lead emissions from general aviation aircraft, Plaintiff’s first and second claims for relief in its March 7, 2012 complaint—alleging unreasonable delay in violation of the Clean Air Act and Administrative Procedure Act for failure to respond to Plaintiff’s Petition—be dismissed without prejudice. Plaintiff reserves the right to seek attorney’s fees, and Defendants reserve the right to oppose fees.

Respectfully submitted this 31st day of July 2012.

IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

/s/ Bridget M. Lee
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MARIANNE L. ENGELMAN LADO
Admitted *Pro Hac Vice*
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(212) 791-1881
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Counsel for Defendants

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Counsel for Plaintiff



Activity in Case 1:12-cv-00363-ABJ FRIENDS OF THE EARTH v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY et al Order on Motion for Extension of Time to File

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U.S. District Court

District of Columbia

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Case Name: FRIENDS OF THE EARTH v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY et al

Case Number: 1:12-cv-00363-ABJ

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER granting [24] Motion for Extension of Time to File Joint Status Report. The joint status report will be due 8/16/12. Signed by Judge Amy Berman Jackson on 8/1/12. (lcabj1)

1:12-cv-00363-ABJ Notice has been electronically mailed to:

Eric G. Hostetler eric.hostetler@usdoj.gov, efile_eds.enrd@usdoj.gov, mary.edgar@usdoj.gov

Timothy David Ballo tballo@earthjustice.org, dwoodsmall@earthjustice.org, sratte@earthjustice.org

Bridget M. Lee blee@earthjustice.org, egreenlee@earthjustice.org, gtolley@earthjustice.org

Marianne L. Engelman Lado mengelmanlado@earthjustice.org, aallison@earthjustice.org, egreenlee@earthjustice.org

1:12-cv-00363-ABJ Notice will be delivered by other means to::

YVONNE D. WEBB-LEWIS
1875 Alvason Avenue
Columbus, OH 43219

EXHIBIT 2

REC'D AUG - 7 2012

IN THE COURT OF APPEALS, FRANKLIN COUNTY; OHIO
TENTH DISTRICT COURT OF APPEALS

UNITED STATES OF AMERICA, EX REL.

GMAC, Mortgage Co., et al.,
Plaintiffs/Creditor/Appellees,

Vs.

Yvonne D. Lewis, et al.,
Defendants/Discharged Debtors/Appellants,

: Case No. 12-AP-506, COA10th Dist., Ohio
(Related Case Nos. 02-MS-20; 05-JG-6455;
05-CV-7346 (03-CV-7478); 03-CV-10836;
05-CV-4555; 03-CV-6954)(04-AP-469; 04-
AP-1135; 11-AP-875; 12-AP-506)

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO
2012 AUG - 7 AM 10:22
CLERK OF COURTS

UNITED STATES OF AMERICA, EX REL.

SIDNEY T LEWIS, et al.,
Plaintiffs/Appellants,

Vs.

J E WIGGINS & CO, et al.,
And
HUNTINGTON NATIONAL BANK, et al.,
Defendants/Appellees.

: Case No. 04-AP-469, COA10th Dist., Ohio
(Consolidated and Related Cases; 05-JG-6455;
05-CV-7346 (03-CV-7478); 03-CV-10836;
05-JG-7388; 05-CV-4555; 03-CV-6954)(04-
AP-1135; 11-AP-875; 12-AP-885; 12-AP-506)

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ATTORNEY
COLUMBUS, OHIO

**APPELLANTS' MOTION FOR TEMPORARY RESTRAINING ORDER (TRO) OR
PRELIMINARY INJUNCTION WITHOUT NOTICE; GROUNDED ON APPELLEES
DEFECTIVE TITLE REPORT ABSENT "AVIATION NOISE DISCLOSURE STATEMENT"
(SEE: 62 FR 16413) CONCEALING "FEDERAL PREEMPTIONS" (SEE: 42 USC §7573)**

Appellants Sidney Lewis and Yvonne D. Lewis as husband and wife, residing at 1875 Alvason Avenue, Columbus, Ohio 43219, appear pro se and move this COA10th District Court, Ohio for a Temporary Restraining Order (TRO) and/or preliminary injunction in the above-entitled cause enjoining the Appellee GMAC Mortgage Company, "GMAC" and the Common Pleas Court of Franklin County, case no. 05-CV-4555 under Judge Julie Lynch, their agents, servants, employees and attorneys, etc., and those persons in active concert or participation with them from "unjust enrichment" and inconsistent pleadings (i.e. False change in position) in case no. 05-CV-4555 absent the mandatory "Disclosure Statement" for valuable "Adverse Interest" held by the FAA under the recorded "APRIL 20, 1992 Permanent Avigation Subdivision Easement under FAR part 150 program" [See EXHIBIT A-1, "AV-EA"] upon Appellee GMAC's filing of its "SEPT. 8 2011 Title Update Endorsement" [See EXHIBIT

A-2] which intentionally omitted and concealed the “Federal Statutory Preemptions” on FAA’s “Land Use Controls [53 FR 2800]” pursuant to 42 USC § 7573 and 49 USC § 47502 as controlling Administrative Authorities (See 49 USC §§ 40113, 47101; 42 USC §4903) in FAR part 150 program as administered by the Administrators of the U.S. Environmental Protection Administration (US EPA) and Federal Aviation Administration (FAA) with statutory duties under the RELOCATION ASSISTANCE IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE ACT (See 42 USC §§ 4632, 4651(3))**[49 CFR 24.207]** pursuant to 42 USC §7573 and 49 USC §47502 (See: 42 USC §§ 4632, 4651(3), 7573, 7571(a)(2)(A) and 49 USC § 44715(c).

Succinctly, the acts Appellees and others to be enjoined from are: the use of the **SEPT. 12, 2011** Default Judgment Entry of Foreclosure [See **EXHIBIT B**], with Appellee “GMAC” in the occupied position as a Creditor (without possession) while naming Appellant Sidney Lewis as a Discharged Debtor in possession through its **SEPT. 8 2011** Title Update Endorsement [See **EXHIBIT A-2**] for Lot 17 of the Argyle Park Subdivision “APS” under Federal Regulations and FAA Guidelines (“FAR Part 150”) and section 233 of the Clean Air Act for the 2011.

In addition, the acts Appellees and others to be enjoined from are: the use of the **JUNE 4, 2012** Confirmation Entry of Foreclosure [See **EXHIBIT C**, Confirmation Entry], with Appellee “GMAC” in the occupied position as a Debtor (in possession) while naming Appellants Sidney Lewis and Yvonne D. Lewis as Creditors (without possession) by concealment of the “Federal Statutory Preemptions” [42 USC §7573; 49 USC §47502] and “Aviation Noise Disclosure Statement” [49 USC §47501 et seq.] (See: 62 FR 16413 at “Aviation Noise Disclosure Statement”) and its **SEPT. 8 2011** Title Update Endorsement Disclosure Statement [See **EXHIBIT A-2**].

Appellee GMAC's unlawful 'change of positions' of Creditor [See **EXHIBIT B**] to Debtor [See **EXHIBIT C**] (plaintiff under ORC § 1311.14 Creditor/Mortgagee to defendant under 11 USC § 362 Debtor/Mortgagee) alters the *law of the case* in case no. 05-CV-4555 and that decision [**EXHIBIT B**] "should continue to govern the same issues (i.e. writ of possession) in subsequent stages in the same case." *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 815-16 pursuant to *In re Grossinger's Assocs.*, 184 B.R. 429, 434 which states:

"Under the *law of the case* doctrine, a decision on an issue of law made at one stage of a case becomes binding precedent to be followed in subsequent stages of the same litigation. 1B J. Moore, J. Lucas & T. Currier, *Moore's Federal Practice* P 0.404[1], at 117 (1991) (hereinafter "*Moore's Federal Practice*"). "The doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case." *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 815-16, 108 S. Ct. 2166, 2177, 100 L. Ed. 2d 811 (1988) (quoting *Arizona v. California*, 460 U.S. 605, 618, 103 S. Ct. 1382, 1391, 75 L. Ed. 2d 318 (1983) (dictum))."

(See: *In re Grossinger's Assocs.*, 184 B.R. 429, 434 (Bankr. S.D.N.Y. 1995))

It follows that "GMAC" should continue on the same (without possession, **EXHIBIT B**) issues in subsequent (confirmation, **EXHIBIT C**) stages in the same case no. 05-CV-4555 (*Christianson*, Id, *Supra*, pp. 815-16) as in the occupied position as a Creditor not Debtor.

The grounds in support of this motion are as follows:

A) LACK OF SUBJECT MATTER JURISDICTION

"It is well settled that a court's lack of subject matter jurisdiction is not an issue which can be waived. See, e.g., *Painesville v. Lake Cty. Budget Comm.* (1978), 56 Ohio St.2d 282, 284-285, 10 O.O.3d 411, 412-413, 383 N.E.2d 896, 898-899; *Gates Mills Invest. Co. v. Parks* (1971), 25 Ohio St.2d 16, 19-20, 54 O.O.2d 157, 158-159, 266 N.E.2d 552, 554-555."

(See: *State ex rel. Riehl v. Malone*, 94 Ohio App. 3d 448, 454 (Ohio Ct. App., Summit County 1994); followed by: *Hal Artz Lincoln-Mercury v. Ohio Motor Vehicle Dealers Bd.*, 118 Ohio App. 3d 501, 507

(Ohio Ct. App., Franklin County 1997), Citing: Gaston v. Bd. of Review (1983), 17 Ohio App. 3d 12, 477 N.E.2d 460; State ex rel. Lawrence Development Co. v. Weir (1983), 11 Ohio App. 3d 96, 463 N.E.2d 398; In re Kerry Ford, Inc. (1995), 106 Ohio App. 3d 643, 666 N.E.2d 1157, (“***, it is well-established that subject matter jurisdiction may be raised at any stage of the proceedings.”)

It follows that the Defective Title Update Endorsement absent Appellees “2011 Aviation Noise Disclosure Statement” (See: 62 FR 16413 at “Disclosure Statement”) attached and filed with an Amended **SEPT. 8 2011** Title Update Endorsement Disclosure Statement the court lacks SUBJECT MATTER JURISDICTION to issue a Default Judgment Entry of Foreclosure on **SEPT. 12 2011** (**EXHIBIT B**) subsequent to **SEPT. 8 2011** as an issue which cannot be waived. (see Malone, Supra)

1. Law of the case¹

Authorities: See Christianson v. Colt Indus. Operating Corp., 486 U.S. 800, 815-16, 108 S. Ct. 2166, 2177, 100 L. Ed. 2d 811 (1988) (quoting Arizona v. California, 460 U.S. 605, 618, 103 S. Ct. 1382, 1391, 75 L. Ed. 2d 318 (1983) (dictum)).(also See: **In re Grossinger's Assocs., 184 B.R. 429, 434 (Bankr. S.D.N.Y. 1995)**)

2. “Federal Statutory Preemptions”[42 USC §7573 & 49 USC § 47502]

Authorities: See NAT'L ASS'N OF CLEAN AIR AGENCIES v. EPA, 489 F.3d 1221, p.1225, ““No State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless such standard is identical to [the federal] standard.” *Id.* § 7573.”

(Also See: **BURBANK v. LOCKHEED AIR TERMINAL, Inc., 411 U.S. 624, pp.633-634, “It is the pervasive nature of the scheme of federal regulation of aircraft noise that leads us to conclude that there is pre-emption.”)**

Unless restrained Appellees and others will immediately cause the interference with Federal FAA and US EPA duties (See 42 USC § 4651(3)) and deprive Appellants of RELOCATION

¹“ “Under the law of the case doctrine, a decision on an issue of law made at one stage of a case becomes binding precedent to be followed in subsequent stages of the same litigation. '[T]he doctrine posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.’” In re PCH Assoc., 949 F.2d 585, 592 (2d Cir. 1991) (quoting Christianson v. Colt Indus. Operating Corp., 486 U.S. 800, 815-16, 108 S.Ct. 2166, 2177, 100 L. Ed. 2d 811 (1988)).” (See: **Martal Cosmetics, Ltd. v. Int'l Beauty Exch. Inc., 2011 U.S. Dist. LEXIS 95021, pg. 3-4, (E.D.N.Y. Aug. 23, 2011)**)

ASSISTANCE IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE ACT (See Id §§ 4632, 4651(3))

Also unless restrained Appellees and others will immediately alter the *law of the case* in case no. 05-CV-4555 and deprive Appellants of rights associated with the *Federal Statutory Preemptions* and deprive Appellants of their right to continue on the same issues of the absent “Aviation Noise Disclosure Statement” (See: 62 FR 16413 at “Aviation Noise Disclosure Statement”) and fatally defective **SEPT. 8 2011** Title Update Endorsement Disclosure Statement until the FAA and US EPA fulfill their statutory duties of “Endangerment Rulemaking” and RELOCATION ASSISTANCE IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE ACT (See Id §§ 4632, 4651(3), 7571(a)(2)(A))

Immediate and irreparable injury, loss, and damage will result to the Appellants by reason of the threatened action of the Appellees and Others, as more particularly appears in the Appellants’ Application for Reconsideration of Denial Entry filed **AUGUST 1, 2012** grounded on LACK OF SUBJECT-MATTER JURISDICTION based on Appellee’s inaccurate Judicial Report-Endorsement which lacks a “disclosure statement” [62 FR 16413] to reveal the recorded 1992 “avigation easement” (see Ex. A-1) under Federal Statutory Preemptions [see 42 USC §7573] filed in this action on **SEPT. 8, 2011** at fiche no. E-1299 at L-79 to L-87 referenced by the attached declaration of Appellant Yvonne Lewis. The Appellants and others have no adequate remedy at State law without Appellees filing and serving their amended Judicial Report incorporating Appellee’s “Disclosure Statement” [62 FR 16413].

If this preliminary injunction is granted, the injury, if any, to Appellees, if Remand is in Appellants’ favor, will be inconsiderable and will be adequately indemnified by FAA and US EPA for “unreasonable delay” of their duties under 42 U.S.C. §§ 7401-7671q, 7573[40 CFR §§ 93.100]; 49 USC §47502, (See 42 USC §§7401-7671q, 7573, 7571(a)(2)(A), 4651(3); 49 USC §§ 47502, 44715(c)).

Appellants further move the Court that the preemption of all Orders of this action no. 12-AP-506 and case no. 04-AP-469 and the action below in case no. 05-CV-4555 as *upon the merits*² to be advanced and consolidated with the hearing of this motion for TRO or preliminary injunction. The grounds in support of consolidation on the single issue of preemption are as follows: The violation of the consent decree entered in case no. 96-cv-494, USDC, S.D., Ohio, E. Div., between **(A)** the Vacy O. Webb, Joint Trust With Right of Survivor (CA **plaintiff**), as between **(B)** Emens, Hurd, Kegler, Brown, Hill, & Ritter, LLP, with Huntington National Bank HNB as custodian of Meeder Financial through Dublin Securities ("DSI") as RICO case (CA **defendants**) [18 USC 1962] as is intricately-intertwined with:

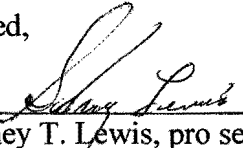
The Appellants Sidney Lewis and Yvonne D. Lewis as Taxpayers and Beneficiaries of the **VACY O. WEBB, REVOCABLE LIVING TRUST**³ through the AEL "trust mill". Vacy O. Webb Savings Bonds as U.S. Government Securities were allegedly retrieved from the safe deposit box at the

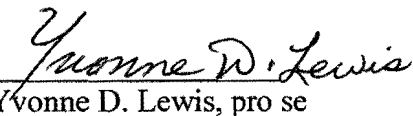
² "'Ohio case law expressly recognizes that '[a] default judgment is a valid and final judgment *upon the merits*, and it can be, therefore, a proper bar to later claims for purposes of claim preclusion.'" Chapman v. PNC Bank, No. 1:11CV2229, 2012 U.S. Dist. LEXIS 5616, 2012 WL 163040, at *4 (N.D. Ohio Jan. 18, 2012) (quoting Stand Energy Corp. v. Ruyan, No. C-050004, 2005 Ohio 4846, 2005 WL 2249107 (Ohio Ct. App.)); *** Astar Abatement, Inc., v. Cincinnati City Sch. Dist. Bd. of Educ., No. 1:11CV587, 2012 U.S. Dist. LEXIS 18422, 2012 WL 481799, at *6 (S.D. Ohio Feb. 14, 2012) ("Under Ohio law, default judgments are judgments on the merits which can be attacked only on direct appeal. Default judgment, therefore, can act as a bar to alter claims under the doctrine of claim preclusion." (citations omitted))."(See: **Frazier v. Matrix Acquisitions, LLC**, 2012 U.S. Dist. LEXIS 43371, pg.9 (N.D. Ohio Mar. 29, 2012);

³ Vacy O. Webb, Joint Trust With Right of Survivor (CA **plaintiff**) in case 96-cv-494, was unlawfully converted to the **VACY O. WEBB, LIVING TRUST** through an illegal "trust mill" operated by American Equity Investment Life Holding Company (CA defendant, "AEL"). See **STRUBE v. AEL**, case no. 01-cv-1236, USDC, MD, Florida, (2001) Vacy O. Webb Revocable Living Trust was solicited to Vacy O. Webb by AEL through non-attorneys working for Jay Moreland, Atty at Law, under the Ohio Supreme Court. See case **COLUMBUS BAR ASSOCIATION v. MORELAND**, no. 2002-1462 (2001), at Order issued December 18, 2002. Jay Moreland, was sanctioned for unlawfully aiding and abetting the Marketing of Defective Living Trust by non-attorneys hired by Michael McIntyre, previously sanctioned for Unlawfully Selling Defective Living Trusts without a law license, and sanctioned by the Federal Trade Commission under a Twenty Year Consent Decree (1997 to 2017) in case no. 123 FTC 1092-1097 (1997) (See **FTC v. MICHAEL MCINTYRE**, no. 123 FTC 1092-1097 (1997))

Huntington National Bank ("HNB") as custodian/fiduciary of the Vacy O. Webb, Series E/EE Bonds as admitted in HNB's answer filed in 2003 in the underlying CPC case no. 03-CV-7478, Franklin County, Ohio. Huntington National Bank ("HNB") (as custodian/fiduciary defendant) in case no. 03-CV-7478 "changed positions" in case no 04-AP-469 through a December 14, 2004 judgment [31 CFR part §§321 et seq.,]. Being the preempted prevailing party on Savings Bonds, E/EE [See: 63 FR 38042] on appeal to the Ohio Supreme Court case no. 05-150, HNB obtained a fraudulent \$28K Judgment against Appellants associated with AEL's "trust mill" (case no. Id. 1236) and DSI's "RICO consent decree case" (case no. Id. 494). As Judgment lienholder HNB as paying agent [Id CFR part §§321] then reduced its preempted judgment to a Judgment lien disguised under case no. 05-JG-6455, then attached to encumber the 1875 Alvason Avenue Property as assigned to GMAC by HNB and concealed from the "Disclosure Statement" of adverse interest in the underlying Title Report Update filed **June 22, 2007** at fiche no. D1708, frame D08 in case no. 05-CV-4555 as under "*Federal Statutory Preemptions*" (31 USC §§ 3717, 3105(d), 3126(a)[31 CFR part §§321 et seq., 321.6 - 321.10])] absent a Waiver from the IRS pursuant to 26 USC §§ 101(f)(3)(H), 267(b)(1) and (c)(4).

Respectfully submitted,

Dated: Aug. 3, 2012. 
Sidney T. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219

Dated: Aug. 3, 2012. 
Yvonne D. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219

Motion Enjoining Interference with Public Access

Appellants Sidney Lewis and Yvonne D. Lewis moves the Court for a preliminary injunction enjoining the Clerks of the Common Pleas Court, Civil Division, and their officers, agents, servants and employees and all other persons acting in concert with them, pending the final hearing and determination of this action from:

1. Interfering in any manner with the right of the public to enter the case nos. 03-CV-7478, 05-CV-4555, 05-CV-7346, 05-CV-4814, 05-JG-7388 and 05-JG-6455 as associated with this motion, for the purpose of “trust mill” and “RICO” matters.

- a. “trust mill” by American Equity Investment Life Holding Company (CA defendant) in Strube Vs. AEL, case no. 01-cv-1236, USDC, MD, Florida, (2001) [*describe*].
- b. “RICO case” by association of Huntington National Bank HNB and GMAC Mortgage Co. in case no. 96-cv-494, USDC, S.D., Ohio, E. Div., between the Vacy O. Webb, Joint Trust With Right of Survivor (CA **plaintiff**) and Emens, Hurd, Kegler, Brown, Hill, & Ritter, LLP, with Huntington National Bank HNB as custodian of Meeder Financial through Dublin Securities (“DSI”).

2. Interfering in access to courts for filing any manner with the right of Appellants to have unfettered access to file and performing any and all duties relating to a bona fide “trust mill” and “RICO” victim.

“It is beyond dispute that the right of access to the courts is a fundamental right protected by the Constitution. ***Accordingly, interference with or deprivation of the right of access to the courts is actionable under § 1983. See Harrison, 780 F.2d at 1428; Ryland v. Shapiro, 708 F.2d 967, 972 (5th Cir. 1983).”

(See: Graham v. National Collegiate Athletic Asso., 804 F.2d 953, 959 (6th Cir. 1986))

It follows that Appellants are bona fide “trust mill” and “RICO” victims since the death of Vacy O. Webb on Sept. 28, 2001 by the non-payment of death benefits case no. 96-cv-494, USDC, S.D., Ohio, E. Div., (2001); and case no. 01-cv-1236, USDC, MD, Florida, (2001), and case no. 10-cv-87, USDC, Iowa, (2010) on or BEFORE May 4, 2010. The Appellants were unlawfully declared vexatious litigators by complaint of preempted plaintiff HNB in case no. 05-CV-7346 as a direct result of the 2004 Judgment to HNB entered on December 14, 2004 in 04-AP-469 under **31 USC §§ 3717, 3105(d), 3126(a)[31 CFR part §§321 et seq., 321.6 - 321.10]**, absent a “Disclosure of Adverse Interest” of the United States of America under **31 USC § 3126(a)**.

(See: **EXHIBIT D**, 61 FR 37196 at Final Rule, “Relief of a paying agent from liability for a loss related to the redemption of a savings bond is a determination made under authority of **31 USC § 3126(a)**.”)

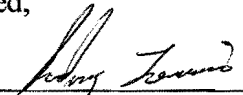
3. Interfering in any other manner with on-going litigation.

Unless restrained by this Court, these Clerks of the Common Pleas Court, Civil Division will perform the acts referred to. Such action will result in immediate and irreparable loss and damage to Appellants

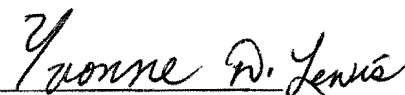
as bona fide "trust mill" and "RICO" victims, as more particularly appears from all the pleadings as read together.

Respectfully submitted,

Dated: Aug. 3, 2012.


Sidney T. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

Dated: Aug. 3, 2012.


Yvonne D. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

MOTION REQUESTING HEARING ON THE INSTANT MATTERS

Appellants Sidney Lewis and Yvonne D. Lewis move the Court to issue a Preliminary Injunction enjoining the Appellee GMAC and others as follows:

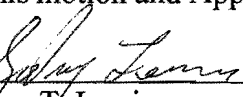
Petitioning the Court for Relief for FNMA on July 16, 2012 after Transfer of interest on Assignment dated May 31, 2012.

The grounds of this application are as follows:

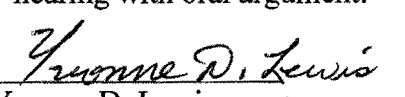
FNMA was not a party to the action on July 16, 2012 due to the defective Title Report's non-disclosure of Federal Preemptions (42 USC 7573) in its "Aviation Noise Disclosure Statement" (See: 62 FR 16413) unfiled on Sept. 8, 2011.

Appellants Sidney Lewis and Yvonne D. Lewis have not had contact with Appellees, but presumes they would not object to this motion and Appellants request an evidentiary hearing with oral argument.

Dated: Aug. 3, 2012.


Sidney T. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

Dated: Aug. 3, 2012.


Yvonne D. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

I certify that I have mailed or otherwise delivered a copy of this Application For Reconsideration of Denial Entries filed July 24, 2012 to all counsel of record this 3rd day of August, 2012.

Dated: Aug. 3, 2012.


Sidney T. Lewis, pro se

Dated: Aug. 3, 2012.


Yvonne D. Lewis, pro se

EXHIBIT A-1

20318F14

ATTACHMENT B
Avigation Easement

137475

TIME 10:20A M
RECORDER FRANKLIN CO., OHIO

SEP 2 1992

~~HOMEOWNER PARTICIPATION AGREEMENT~~
RESIDENTIAL SOUND INSULATION PROGRAM
Port Columbus International Airport

RICHARD B. METCALE RECORDER

RECORDER'S FEE 18⁰⁰

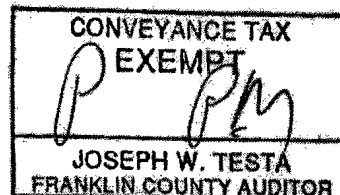
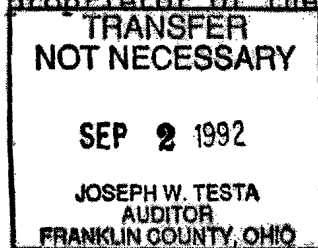
This easement is conveyed from YVONNE DECARDL WEBB.,
hereinafter called "Grantor", to the Columbus Municipal Airport
Authority of Columbus, Ohio, hereinafter called the "Grantee".
This easement is entered into this 20th day of APRIL,
1992.

Grantor is the owner of land and improvements thereto located at
1875 ALVASON AVE., COLUMBUS, of the State of Ohio, and
described as follows:

DESCRIPTION

Being Lot Number Seventeen (17) of Argyle Park Subdivision, as
the same is numbered and delineated upon the recorded plat
thereof, of record in Plat Book 36, page 6, Recorder's Office,
Franklin County, Ohio.

The Grantee is the proprietor of the Port Columbus International
Airport.



MAILED
ENVELOPE FURNISHED

20318F15

ATTACHMENT B (continued)
Avigation Easement

HOMEOWNER PARTICIPATION AGREEMENT
RESIDENTIAL SOUND INSULATION PROGRAM
Port Columbus International Airport

WHEREAS, The Property is subject to existing or forecast aircraft noise levels of 65 Ldn or higher, is subject to frequent aircraft overflights, and is subject to occasionally loud aircraft noise associated with takeoff and landing; and

WHEREAS, Grantor has been advised that the Property is located in a noise-impacted area (65 Ldn or higher); and

WHEREAS, Grantor acknowledges that the approximate aircraft flight path in relation to the Property is as shown on the "1991 Noise Exposure Map from the Part 150 Noise Compatibility Program" which is attached hereto and marked Exhibit A; and

WHEREAS, Grantee intends to sound insulate the Property to meet Federal Aviation Administration (FAA) guidelines for Part 150 Noise Mitigation Programs;

NOW, THEREFORE, in consideration of the foregoing, Grantor does hereby grant a permanent avigation easement and right of way for noise to the Columbus Municipal Airport Authority, owner and operator of Port Columbus International Airport in all airspace extending from the surface of the property to an infinite height above the Property.

Grantor further agrees that no structures exceeding 50 feet in height (as measured from ground level) shall be constructed on the Property and no other improvements, fixtures or structures in excess of 50 feet in height (as measured from ground level) shall be permitted to be located or remain on the Property. Grantor further grants to the Columbus Municipal Airport Authority the right to trim any trees or other vegetation which exceed 50 feet in height (as measured from

20318F16

ATTACHMENT B (continued)
Avigation Easement

HOMEOWNER PARTICIPATION AGREEMENT
RESIDENTIAL SOUND INSULATION PROGRAM
Port Columbus International Airport

ground level), at no cost or expense to Grantor. By virtue of this Agreement, the Grantor, for and on behalf of itself and its successors and assigns, waives as to the Columbus Municipal Airport Authority, and any successor agency legally authorized to operate said airport, but only to said Columbus Municipal Airport Authority and said successor agencies, any and all claims for damage of any kind.

Grantor hereby grants to Grantee all that certain avigation easement over and above the Property hereinafter described for the use and benefit of the Grantee, its successors and assigns, for the use and benefit of the public, as an easement and right-of-way appurtenant to the Port Columbus International Airport, for the unobstructed passage of all aircraft, ("aircraft" being defined for the purpose of this easement as any contrivance now known or hereinafter invented, used or designed for navigation or flight in the air by whomsoever owned and operated), which easement is bounded and described as follows, to wit:

Grantor shall not permit or create any electrical interference with radio communication between any installation at Port Columbus International Airport and aircraft, and shall not make it difficult for flyers to distinguish between airport lights and others, and shall not impair visibility in the vicinity of the airport or otherwise to endanger landing, taking off or maneuvering of aircraft, it being understood and agreed that all of the aforementioned covenants and agreements contained shall run with the land.

The Grantor, for and on behalf of itself and its successors and assigns, does further hereby covenant and agree with the Columbus Municipal Airport Authority that it will not, from and after the effective date hereof, sue, prosecute, molest or trouble the Columbus Municipal

20318F17

ATTACHMENT B (continued)
Avigation Easement

HOMEOWNER PARTICIPATION AGREEMENT
RESIDENTIAL SOUND INSULATION PROGRAM
Port Columbus International Airport

Airport Authority in respect to or on account of the flight of any and all aircraft over or near the Property or for any effects resulting therefrom, including, but not limited to, noise, air pollution, or any and all other possible damages (except damage resulting from negligent operation of the airport) to or taking of the Property resulting from such flights.

This easement and non-suit covenant is granted solely to the Columbus Municipal Airport Authority and any successor agency (but only in their capacities as airport operators) and does not grant any right to private persons or entities, and no such persons or entities shall be the direct or indirect beneficiary of this easement and non-suit covenant.

Said easement and right of way, and all rights appertaining thereunto, to the Columbus Municipal Airport Authority, its successors and assigns, shall remain in effect until said Port Columbus International Airport shall be abandoned and shall cease to be used for public airport purposes.

Grantor covenants that Grantor is the owner in fee simple of the Premises, and that at the time of signing this avigation easement, Grantor has full ownership rights and powers to convey this easement free and clear from all other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatever kind or nature, and Grantor covenants with the Grantee, its successors, and assigns, to warrant and forever defend against all and every person or persons claiming any right or title adverse to the easement herein granted.

20318F18
ATTACHMENT B (continued)
Avigation Easement

HOMEOWNER PARTICIPATION AGREEMENT
RESIDENTIAL SOUND INSULATION PROGRAM
Port Columbus International Airport

IN WITNESS WHEREOF, the said Grantor has caused this Avigation Easement to be executed
this 20th day of APRIL, 1992.

WITNESS(ES):

Tiffany R. Parker
Anthony C. Sacoloni

GRANTOR(S):

Yvonne D. Welch

20318F19

ATTACHMENT B (continued)
Avigation Easement

HOMEOWNER PARTICIPATION AGREEMENT
RESIDENTIAL SOUND INSULATION PROGRAM
Port Columbus International Airport

STATE OF OHIO)
)
) ss.:
COUNTY OF FRANKLIN)

On this 20TH day of APRIL, 1992, before me the undersigned Notary Public in and for the State of OHIO, duly commissioned and sworn, personally appeared YVONNE D. WEBB and _____, to me known to be the individual(s) described in and who executed the within instrument and acknowledged that he/she/they signed and sealed the same as his/her/their free and voluntary act and deed for the uses and purposes herein mentioned.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal.

Notary Public in and for the
State of OHIO
residing at WORTHINGTON

My Commission Expires On: NO EXPIRATION

Rod Courtney Borden

ROD COURTNEY BORDEN
ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
LIFETIME COMMISSION

CERTIFICATE OF RESIDENCE

I, (we) YVONNE D. Webb, do hereby certify that grantor's precise residence is,
1825 ALVASON AVENUE. Dated this 20th day of April, 1992.

GRANTOR(S):

Yvonne D. Webb

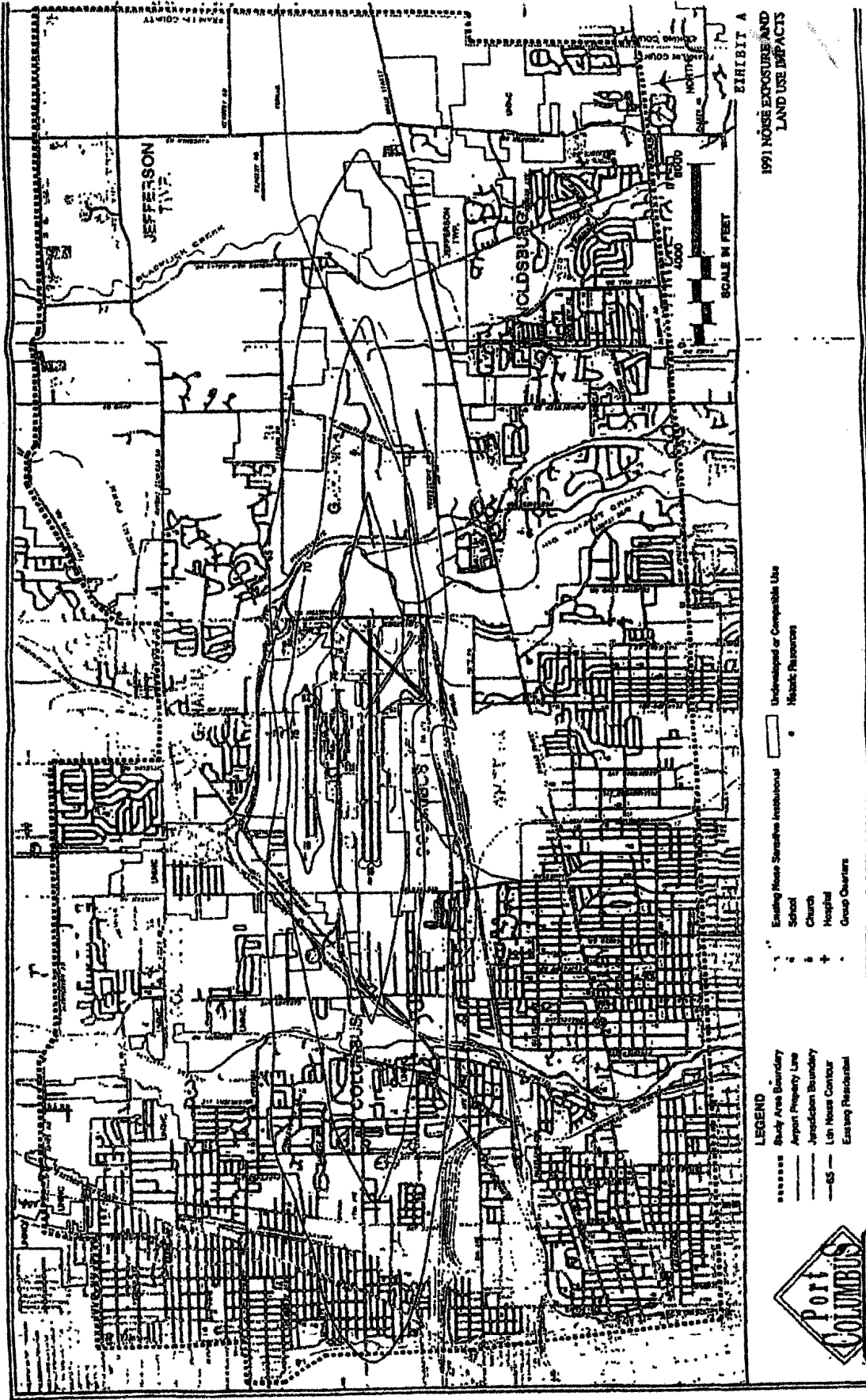


EXHIBIT A-2

E1299 - L79

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

.....
GMAC Mortgage Corporation

Plaintiff,

vs.

**Yvonne D. Lewis aka Yvonne D. Webb-Lewis,
et al.**

Defendants.


Case No. 05CVE-04-4555

Judge Julie M. Lynch

**NOTICE OF FILING OF
ENDORSEMENT**

Attached hereto is a Endorsement in reference to the above captioned case.

Respectfully submitted,


Matthew J. Richardson (0077157)
Manley Deas Kochalski LLC
P. O. Box 165028
Columbus, OH 43216-5028
Telephone: 614-222-4921
Fax: 614-220-5613
Email: mjr2@mdk-llc.com
Attorney for Plaintiff

FILED
COMMON PLEAS COURT
SEP -8 AM 11:23
CLERK OF COURTS

9

E1299 - L80

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Notice of Filing of
Endorsement was sent to the following by ordinary U.S. Mail, postage prepaid, on the date
indicated below:

Yvonne D. Lewis aka Yvonne D. Webb-
Lewis
1875 Alvason Avenue
Columbus, OH 43219

Sidney T. Lewis
1875 Alvason Avenue
Columbus, OH 43219



Matthew J. Richardson



September , 2011
Dated

E1299 - L81

IFAMTS OH
FORM ITS-105A
JUDICIAL REPORT
SCHEDULE A



FILE NUMBER: 05-2846

First American Title Insurance Company

ENDORSEMENT

Prepared for: **Manley Deas Kochalski LLC**
Attorneys at Law
P. O. Box 165028
Columbus, OH 43216-5028

In the Case of GMAC MORTGAGE CORPORATION v. YVONNE D. LEWIS AKA YVONNE D. WEBB-LEWIS, et al., now pending in the County Court of Common Pleas, Franklin County, Ohio, as Case No. 05CVE-04-4555, THE FIRST AMERICAN TITLE INSURANCE COMPANY after a search of the records of said Franklin County, pertaining to the premises involved in said action since June 12, 2007, to the date September 1, 2011, hereby guarantees that there appear of record, during said period, no instruments of proceedings relating to or affecting said premises except as shown below.

(Continued)

E1299 - L83

as Case No. 05CVE-04-4555, reflects that all parties necessary for the adjudication of this dispute have been named. A review of the proceedings in Case No. 05CVE-04-4555, Common Pleas Court, Franklin County, Ohio has been made and the Company finds no record in said proceedings of service completed on the following parties:

NONE

Service results for the parties are as follows:

- Yvonne D. Lewis aka Yvonne D. Webb-Lewis, Served by Ordinary Mail on or about July 26, 2005;
- Sidney T. Lewis, Served by Ordinary Mail on or about July 26, 2005;

E1299 - L82

Endorsement (Continued)

1. **TAX INFORMATION:** The property stands charged on the Franklin County Auditor's Duplicate in the name of Sidney T. Lewis and Yvonne D. Webb-Lewis. It carries parcel number 010-136633-00 and has a physical street address of 1875 Alvason Avenue, Columbus, OH 43219.

The Treasurer has a first lien for taxes in an amount to be determined.

Taxes or assessments approved, levied or enacted by the State, County, Municipality, Township or similar taxing authority, but not yet certified to the tax duplicate of the County in which the land is situated, including any retroactive increases in taxes or assessments resulting from any retroactive increase in the valuation of the land by the State County, Municipality, Township or other taxing authority.

2. Schedule B, Item 3, Sub-item a is hereby amended to read as follows:

- 3a. An examination of the PACER index of the United States Bankruptcy Court, Northern and Southern Districts of Ohio, reflects the following: Yvonne DeCarol Lewis aka Yvonne D. Webb-Lewis aka Yvonne D. Webb, 1875 Alvason Avenue, Columbus, OH 43219, filed a Chapter 7 Petition for Bankruptcy in the United States Bankruptcy Court, Southern District of Ohio, Eastern Division, Case No. 05-75111, on October 14, 2005; debtor was discharged on February 21, 2006; the case was terminated on March 16, 2006.

3. Schedule B is updated by adding Item 3, Sub-item b as follows:

- 3b. An examination of the PACER index of the United States Bankruptcy Court, Northern and Southern Districts of Ohio, reflects the following: Sidney Tyler Lewis, 1875 Alvason Avenue, Columbus, OH 43219, filed a Chapter 7 Petition for Bankruptcy in the United States Bankruptcy Court, Southern District of Ohio, Eastern Division, Case No. 06-53508, on July 13, 2006; the case was dismissed on September 5, 2006; the case was terminated on December 11, 2006.

4. Schedule B is updated by adding Item 3, Sub-item c as follows:

- 3c. An examination of the PACER index of the United States Bankruptcy Court, Northern and Southern Districts of Ohio, reflects the following: Sidney T. Lewis, 1875 Alvason Avenue, Columbus, OH 43219, filed a Chapter 7 Petition for Bankruptcy in the United States Bankruptcy Court, Southern District of Ohio, Eastern Division, Case No. 07-57237, on September 12, 2007; debtor was discharged on January 29, 2008; the case was terminated on March 4, 2010.

5. The foreclosure action styled GMAC Mortgage Corporation v. Yvonne D. Lewis aka Yvonne D. Webb-Lewis, et al. of record in the Franklin County Court of Common Pleas,

E1299 - L84

FIRST AMERICAN TITLE INSURANCE COMPANY

Number

File Number 05-2846

ENDORSEMENT

This is a guarantee of record title only and is made for the use and benefit of all parties to said proceedings, and the purchaser at judicial sale thereunder. Liability hereunder and under any Title Commitment issued on the property described in said proceedings shall not exceed, in the aggregate, the sum of \$53,138.32.

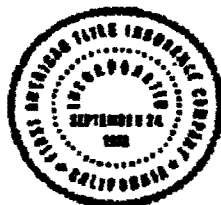
Dated: September 1, 2011 at 7:59 a.m.

In witness whereof, *FIRST AMERICAN TITLE INSURANCE COMPANY* has caused its corporate name and seal to be hereunto affixed.

First American Title Insurance Company

BY: _____

Nicole P. Bontrager, Agent
Authorized Signatory



First American Title Insurance Company

Jay L. Bontrager PRESIDENT
Mark E. Arnold SECRETARY

Ref# 05-2846/RLG

E1299 - L85

Appellate: 373 S. High St., 23rd FL (614) 522 - 3624 Clerk: 349 S. High St., 1st FL (614) 522 - 3621 Courtroom: 349 S. High St., 1st FL (614) 522 - 3620 County Clerk: 373 S. High St., 4th FL (614) 522 - 4410 Juvenile: 373 S. High St., 4th FL (614) 522 - 4411 Juvenile Traffic: 308 S. Front St., 1st FL (614) 522 - 5270	 <p>Marjorie D. Shaughnessy Franklin County Clerk of Courts</p>
---	---

Home

Case Information Online

Court Schedule

Last Name:

First Name:

Middle Init:

Court: All

Case: 05 CV 004555

Search

☒ Advanced Search☐ Email Updates

CIVIL CASE DETAIL

Previous Case

Next Case

CASE NUMBER

05 CV 004555

TYPE of CASE

FORECLOSURES

STATUS

CLOSED

DATE FILED

04/22/2005

JUDGE

JULIE LYNCH

COURTROOM

COURTROOM 7E
345 SOUTH HIGH STREET
7TH FLOOR
COLUMBUS, OH 43216

PLAINTIFF(S)

Name

☒ GMAC MORTGAGE CORPORATION
DEFENDANT(S)

Attorney

PAMELA S PETAS

Name

☒ YVONNE D LEWIS
☒ SIDNEY T LEWIS

Attorney

DAVID F HANSON
SIDNEY T LEWIS

CASE SCHEDULE

Date	Description
04/22/05	CASE FILED
04/22/05	INITIAL STATUS CONFERENCE
05/09/05	INITIAL JOINT DISCLOSURE OF ALL WITNESSES
11/04/05	SUPPLEMENTAL JOINT DISCLOSURE OF ALL WITNESSES
11/18/05	TRIAL CONFIRMATION DATE
01/27/06	DISPOSITIVE MOTIONS
02/10/06	DISCOVERY CUT-OFF
03/24/06	DECISIONS ON MOTIONS
04/22/06	FINAL PRE-TRIAL CONFERENCE/ORDER (OR BOTH)
04/22/06	TRIAL ASSIGNMENT

DOCKET

Show All Descriptions ☐

Select Docket Category All

Date	Description	Image	File	Page
05/03/11	MASS TRANSFER OF JUDGE LOCATION			
	OLD COURTROOM: COURTROOM 7C			
	NEW COURTROOM: COURTROOM 7E			
05/25/08	NOTICE		D6203	X98 6
05/25/08	NOTICE OF FILING		D6203	X97 1
05/25/08	NOTICE OF SERVICE		D6200	J02 1
05/25/08	ATTORNEY WITHDRAWAL		D6201	P08 2
	TIE FILING DATE: 04/22/05			
05/25/08	NOTICE OF SUBSTITUTION OF COUNSEL		D6201	P08 2
05/25/08	APPEARANCE FILED			
	NAME: GMAC MORTGAGE CORPORATION			
	PLNTIFF/DEFNDT IND: P			
	ATTORNEY NAME: PAMELA S PETAS			
	ATTORNEY ADDRESS: GERNER & KEARNS CO LPA 8TH FLOOR 1 RIVERFRONT PLACE NEWPORT, KY 41071 (513) 241-7722			
11/21/07	MISCELLANEOUS PAPER		D6406	C05 1
10/26/07	SERVICE COMPLETE - CERTIFIED MAIL		D6607	F19 1
10/24/07	PROOF OF SERVICE ISSUED - CERTIFIED MAIL		D6630	E02 1
10/06/07	ADDITIONAL COST BILL CREATED			
08/21/07	REQUEST FOR SERVICE - CERTIFIED MAIL			
08/21/07	INSTRUCTIONS FOR SERVICE		D4484	G02 1
08/21/07	TERMINATE CASE		D4484	G02 11
08/21/07	REMOVE TO UNITED STATES DISTRICT COURT		D4484	G02 11
08/21/07	MISCELLANEOUS PAPER		D4483	J15 1
08/13/07	MOTION FOR LEAVE TO FILE		D4186	J03 3
	NAME: YVONNE D LEWIS			
	PLNTIFF/DEFNDT IND: D			
	PRO SE NAME: YVONNE D LEWIS			
	MOTION COUNTER: 0009			
08/01/07	MOTION DENIED		D2773	D12 1
	TIE FILING DATE: 07/02/07			
08/01/07	DECISION/ENTRY		D2773	D12 1
07/12/07	AFFIDAVIT FILED		D2258	D10 1

Civil Case Detail

E1299 - L86

07/12/07	MOTION TO DISMISS	D2256	D07	23
07/10/07	MOTION TO STAY	D2186	D03	20
07/10/07	APPEARANCE FILED - PRO SE	D2186	D03	1
NAME: SIDNEY T LEWIS				
PLNTIF/DEFNDT IND: D				
PRO SE NAME: SIDNEY T LEWIS				
PRO SE ADDRESS: 1875 ALVASON AVE				
COLUMBUS, OH 43219				
07/08/07	AFFIDAVIT FILED	D2136	G09	1
07/08/07	MOTION TO QUASH	D2136	G09	4
NAME: YVONNE D LEWIS				
PLNTIF/DEFNDT IND: D				
PRO SE NAME: YVONNE D LEWIS				
MOTION COUNTER: 0006				
07/02/07	MOTION TO SET ASIDE	D1990	J13	4
07/02/07	APPEARANCE FILED - PRO SE	D1990	J13	4
08/22/07	COMMITMENT FOR TITLE INSURANCE	D1708	D06	3
08/22/07	NOTICE OF FILING	D1708	D06	5
08/22/07	MOTION FOR DEFAULT JUDGMENT	D1707	J15	4
NAME: GMAC MORTGAGE CORPORATION				
PLNTIF/DEFNDT IND: P				
ATTORNEY NAME: RACHEL A LEIER				
ATTORNEY ADDRESS: MANLEY DEAS KOCHALSKILLC				
1400 GOODALE BLVD				
SUITE 200				
COLUMBUS, OH 43212				
(614) 220-5811				
MOTION COUNTER: 0004				
09/11/07	MEMO CONTRA FILED	D1336	H07	12
09/08/07	CASE REINSTATED BY ORDER	D1224	H05	1
09/08/07	MOTION GRANTED	D1224	H05	1
09/08/07	ORDER	D1224	H05	1
09/08/07	MOTION TO REINSTATE	D0993	H11	33
01/18/07	REFUND OF DEPOSIT FOR FEES AND COSTS			
01/18/07	COST PAID BY DEPOSIT			
01/18/07	COST BILL PREPARED			
01/12/07	ADDITIONAL COST BILL CREATED			
01/03/07	ADDITIONAL COST BILL CREATED			
12/29/06	TERMINATE CASE	C6002	G19	1
12/20/06	TERMINATE CASE	C6013	C10	1
12/20/06	ORDER	C6013	C10	1
09/08/06	CASE REMANDED - U. S. DISTRICT COURT	C3048	J04	1
09/18/06	APPEAL DISMISSED BY COURT OF APPEALS	B0649	H10	1
03/21/06	ADDITIONAL COST BILL CREATED			
03/07/06	STRIKE SCHEDULE DATE	B8406	C07	1
03/07/06	TERMINATE CASE	B8406	C07	1
08/01/05	RECORD TRANSMITTED TO COURT OF APPEALS	00000	A01	
08/01/05	MISCELLANEOUS PAPER	00000	A01	
07/28/05	SUMMONS ISSUED	B3579	J06	1
07/28/05	PROOF OF SERVICE ISSUED - ORDINARY MAIL	B3579	J06	1
07/28/05	SUMMONS ISSUED	B3579	J06	1
07/28/05	PROOF OF SERVICE ISSUED - ORDINARY MAIL	B3579	J06	1
07/28/05	REQUEST FOR SERVICE - ORDINARY MAIL			
07/28/05	REQUEST FOR SERVICE - ORDINARY MAIL			
07/28/05	INSTRUCTIONS FOR SERVICE	B3519	B08	1
07/18/05	DOCKETING STATEMENT FILED	B3385	C16	1
07/18/05	NOTICE OF APPEAL FILED - COURT OF APPEALS	B3385	C16	1
07/16/05	ORIGINAL COPY OF FAILURE OF SERVICE NOTICE FILED			
07/15/05	ORIGINAL COPY OF FAILURE OF SERVICE NOTICE FILED			
07/15/05	SERVICE FAILED - CERTIFIED	B3316	A13	1
07/15/05	SERVICE FAILED - CERTIFIED	B3316	A12	1
07/08/05	MOTION DENIED	B3049	G08	1
07/08/05	JUDGMENT ENTRY	B3049	G08	1
06/23/05	WITHDRAW PAPER FILING	B2658	C04	2
06/21/05	SUMMONS ISSUED	B2841	G20	1
06/21/05	PROOF OF SERVICE ISSUED - CERTIFIED MAIL	B2841	G20	1
06/21/05	SUMMONS ISSUED	B2841	G19	1
06/21/05	PROOF OF SERVICE ISSUED - CERTIFIED MAIL	B2841	G19	1
06/20/05	DECREE OF FORECLOSURE	B2719	F14	4
06/20/05	JUDGMENT ENTRY	B2719	F14	4
06/17/05	REQUEST FOR SERVICE - CERTIFIED MAIL			
06/17/05	REQUEST FOR SERVICE - CERTIFIED MAIL			
06/17/05	INSTRUCTIONS FOR SERVICE	B2727	B18	1
06/17/05	ADDRESS CORRECTION	B2727	B18	1
06/17/05	APPEARANCE FILED	B2727	B18	1
06/18/05	MEMO IN OPPOSITION	B2745	E16	2
06/18/05	APPEARANCE FILED	B2745	E16	1
06/08/05	MOTION FOR DEFAULT JUDGMENT	B2562	J03	2
06/08/05	MEMO CONTRA FILED	B2578	E15	2
06/03/05	AFFIDAVIT FILED	B2355	J01	1
06/03/05	AFFIDAVIT FILED	B2355	I20	1
06/03/05	MOTION TO DISMISS	B2355	I17	2
06/03/05	APPEARANCE FILED - PRO SE	B2355	I17	2
06/24/05	ORIGINAL COPY OF FAILURE OF SERVICE NOTICE FILED			
06/24/05	SERVICE FAILED - CERTIFIED	B2242	J14	1
06/24/05	ORIGINAL COPY OF FAILURE OF SERVICE NOTICE FILED			
06/24/05	SERVICE FAILED - CERTIFIED	B2243	I04	1
06/10/05	AFFIDAVIT OF MILITARY SERVICE	B1855	G11	3
06/03/05	SERVICE COMPLETE - PROCESS SERVER	B1808	I10	1
06/03/05	SERVICE COMPLETE - PROCESS SERVER	B1808	I09	1

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E1299 - L87

05/02/05	SUMMONS ISSUED	B1770	F14	1
05/02/05	PROOF OF SERVICE ISSUED - CERTIFIED MAIL	B1770	F14	1
05/02/05	SUMMONS ISSUED	B1770	F13	1
05/02/05	PROOF OF SERVICE ISSUED - CERTIFIED MAIL	B1770	F13	1
05/02/05	SUMMONS ISSUED	B1784	A18	1
05/02/05	PROOF OF SERVICE ISSUED - PROCESS SERVER	B1784	A17	1
05/02/05	SUMMONS ISSUED	B1784	A16	1
05/02/05	PROOF OF SERVICE ISSUED - PROCESS SERVER	B1784	A15	1
04/22/05	COMMITMENT FOR TITLE INSURANCE	B1818	B15	8
04/22/05	DEPOSIT - FOR COSTS	B1818	A05	1
04/22/05	MISCELLANEOUS PAPER	B1818	A02	1
04/22/05	JUDGE ASSIGNED - ORIGINAL			
JUDGE JULIE LYNCH				
04/22/05	CLERKS ORIGINAL CASE SCHEDULE FILED	B1818	C03	1
04/22/05	COMPLAINT FILED	B1818	A04	4
04/22/05	APPEARANCE FILED	B1818	A04	4
04/22/05	APPLIED - CLERK	B1818	A04	4
04/22/05	APPLIED - DAILY REPORTER	B1818	A04	4
04/22/05	APPLIED - COURT COMPUTERIZATION	B1818	A04	4
04/22/05	APPLIED - COMPUTERIZED RESEARCH LEGAL FEES	B1818	A04	4
04/22/05	APPLIED - LEGAL AID	B1818	A04	4
04/22/05	HEARING/EVENT SCHEDULED			
04/22/05	REQUEST FOR SERVICE - PROCESS SERVER			
04/22/05	REQUEST FOR SERVICE - CERTIFIED MAIL			
04/22/05	REQUEST FOR SERVICE - PROCESS SERVER			
04/22/05	REQUEST FOR SERVICE - CERTIFIED MAIL			
04/22/05	INSTRUCTIONS FOR SERVICE	B1818	A03	1

E1307 - Q74

TERMINATION NO. <u>12</u>
BY: <u>gwp</u> <u>9/12/12</u>

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

FILED A. J. HARRIS CLERK

GMAC Mortgage Corporation

Plaintiff,

vs.

Yvonne D. Lewis aka Yvonne D. Webb-Lewis,
et al.

Defendants.

Case No. 05CVE-04-4555

Judge Julie M. Lynch

JUDGMENT ENTRY AND DECREE
IN FORECLOSURE

This matter is before the Court on Plaintiff's Motion for Default Judgment. The real property that is the subject of this foreclosure action (the "Property") is as follows:

Situated in the County of Franklin, in the State of Ohio, and in the City of Columbus:

Being Lot Number Seventeen (17) of ARGYLE PARK SUBDIVISION, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 36, Page 6, Recorder's Office, Franklin County, Ohio.

Parcel No. 010-136633-00

Address: 1875 Alvason Avenue, Columbus, OH 43219

The Court further finds that Yvonne D. Lewis aka Yvonne D. Webb-Lewis executed the promissory note referenced in the Complaint (the "Note") and therefore promised, among other things, to make monthly payments on or before the date such payments were due. The Court further finds that the sums due under the Note were accelerated in accordance with the terms of the Note and Mortgage. The Court further finds that Yvonne D. Lewis aka Yvonne D. Webb-Lewis and Sidney T. Lewis executed and delivered the mortgage referenced in the Complaint (the "Mortgage"), that the Mortgage secures the amounts due under the Note.

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COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
SEP 12 PM 3:55
CLERK OF COURTS - JY

E13Q7 - Q75

The Court finds that the Note and Mortgage are in default because payments required to be made under the Note and Mortgage have not been made. The Court further finds that the conditions of the Mortgage have broken, the break is absolute, and Plaintiff is entitled to have the equity of redemption and dower of the current title holders foreclosed.

The Court further finds that there is due to Plaintiff on the Note principal in the amount of \$53,138.32 plus interest on the principal amount at the rate of 7% per annum from January 1, 2005. The Court further finds that there is due on the Note all late charges imposed under the Note, all advances made for the payment of real estate taxes and assessments and insurance premiums, and all costs and expenses incurred for the enforcement of the Note and Mortgage, except to the extent the payment of one or more specific such items is prohibited by Ohio law.

The Court notes that, all personal obligations of Yvonne D. Lewis aka Yvonne D. Webb-Lewis on the Note have been discharged under the United States Bankruptcy Code. As a result, the Court does not grant personal judgment against Yvonne D. Lewis aka Yvonne D. Webb-Lewis for the amount due on the Note.

The Court finds that the Mortgage was recorded with the County Recorder and is a valid and subsisting first mortgage on the Property. The Court further finds that the parties to the Mortgage intended that it attach to the entire fee simple interest in the Property. The Mortgage is, however, junior in priority under Ohio law to the lien held by the County Treasurer to secure the payment of real estate taxes and assessments. All amounts payable under Section 323.47 of the Ohio Revised Code shall be paid from the proceeds of the sale before any distribution is made to other lien holders.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that unless the sums found to be due to Plaintiff are fully paid within three (3) days from the date of the entry of this

E13Q7 - Q76

decree, the equity of redemption of the defendant title holders in the Property shall be foreclosed and the Property shall be sold free of the interests of all parties to this action. In addition, an order of sale shall issue to the Sheriff of Franklin County, directing him to appraise, advertise and sell the Property according to the law and the orders of this Court and to report his proceedings to this Court.

Notice of the time and place of the sale of the Property shall be given to all persons who have an interest in the Property according to the provisions of Section 2329.26 of the Ohio Revised Code.

IT IS FURTHER ORDERED that the Sheriff shall send counsel for the party requesting the Order of Sale a copy of the publication notice promptly upon its first publication. There is no just reason for delay in entering Judgment as aforesaid.
IT IS SO ORDERED.



Judge Julie M. Lynch
Common Pleas Judge

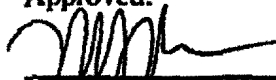
9/12/11

E1307 - Q77

Direction to Clerk:

Pursuant to Civ.R.58(B), you are to serve notice of this judgment and its date of entry upon the journal to all parties not in default for failure to appear within three days of the judgment's entry up the journal, and note the service in the appearance docket.

Approved:



Matthew J. Richardson (0077157)
Manley Deas Kochalski LLC
P. O. Box 165028
Columbus, OH 43216-5028
Telephone: 614-222-4921
Fax: 614-220-5613
Email: mjr2@mdk-llc.com
Attorney for Plaintiff
MDK File Number 05-2846

UNITED STATES BANKRUPTCY COURT, SOUTHERN DISTRICT OF NEW YORK;

In Re: Residential Capital, LLC., et al., And,	) Case No. <u>12-bk-12020</u> (MG)
In Re: GMAC, Mortgage Co., et al,	) Chapter (Ch.11, Joint Admin.)
Debtors	) (Related BR Case No.07-bk-57237, S.D., OH.)
	) (Related BR Case No. 12-bk-12032, S.D., NY)
	) JUDGE: GLENN, MARTIN
UNITED STATES of America, Ex Rel.,)
Yvonne D. Lewis, et al.,	) Adversary Case No.: <u>12-01731</u>
Plaintiffs/ Surplus Creditors	) (Related Case No. 12-bk-12020 (MG);
Vs.	) 05-CV-7346 (03-CV-7478); 03-CV-10836;
	) 05-CV-4555; 03-CV-6954);(11-AP-875,
GMAC, Mortgage Co., et al,	) and 12-AP-506, COA10th Dist., OHIO),
Defendants/ Bankrupt Debtor,)

MOTION FOR JUDICIAL NOTICE OF RECORDED FEDERAL PREEMPTIONS OF
ARTICLE III COURTS IN APPELLEE'S SEPT. 8, 2011 DEFECTIVE JUDICIAL REPORT
ABSENT THE 1992 'AVIGATION NOISE/EASEMENT DISCLOSURE STATEMENT' (see:
62 FR 16413) Evid R. §§201(d), 902(5); GROUNDED ON "EXPRESSED" FEDERAL
PREEMPTIONS [42 USC §§ 4903(b) &(c), 7571(a)(2)(A), 7573][49 USC §§ 47502, 44715(c)]

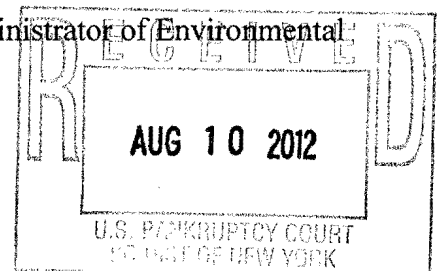
**UNITED STATES BANKRUPTCY COURT FOR SOUTHERN DISTRICT OF OHIO;
(at Columbus)**

[18 USC §§ 242, 245(b)(2)(B), 664, 666, 1962][29 USC §§ 1109, 1131, 1132(h), 1140]
[26 USC §§ 101(h), 267(b)(1)][42 USC § 4651(3¹)] [49 USC §§ 47502, 44715(c)²]

In Re: SIDNEY T. LEWIS, pro se,	) Case No. 2:07-bk-57237
	) (Ch.7)
Debtor	) (Related Bankr Case No. 2:05-bk-75111)
)
Social Security No.: xxx-xx-5959	) JUDGE: HOFFMAN, JOHN, Jr.
)
In Re: Yvonne D. Lewis,	) Case No. 2:05-bk-75111
	) (Ch.7)
Debtor	) (Related Case No. 2:07-bk-57237)
)

¹ See: 42 U.S.C. § 4651(3)

² See: 49 U.S.C. § 44715(c) reads: "(c) Proposed Regulations of Administrator of Environmental Protection Agency;"



Social Security No.: xxx-xx-2390

) JUDGE: HOFFMAN, JOHN, Jr. AUG 10 2012

**IN THE COURT OF APPEALS, FRANKLIN COUNTY; OHIO
TENTH DISTRICT COURT OF APPEALS**

UNITED STATES OF AMERICA, EX REL.

GMAC, Mortgage Co., et al.,
Plaintiffs/Creditor

Vs.

Yvonne D. Lewis, et al.,
Defendants/Discharged Debtors

: Case No. 12-AP-506, COA10th Dist., Ohio
(Related Case Nos. 02-MS-20; 05-JG-6455;
: 05-CV-7346 (03-CV-7478); 03-CV-10836;
05-CV-4555; 03-CV-6954)(04-AP-469; 04-
: AP-1135; 11-AP-875; 12-AP-506)

MOTION FOR JUDICIAL NOTICE

Now comes Plaintiffs, Sidney T. Lewis and Yvonne D. Lewis (surplus creditors) pursuant to Evidence Rules 201(d) and 902(5); U.S. Executive Order no. 12630³ filed March 15, 1988 (see: 53 FR 2800, 8859), [codified 42 USC § 4903(b)]; ASNA and CAA, [codified 49 U.S.C. §§ 106(g), 40113, 47501 et seq, 44715(c); 42 USC §§ 4901, 7571(a)(2)(A), 7573][**See: U.S. Const., Art. I, Sect. 1, and Art. II**]; and under pre-empted Federal Regulations and FAA Guidelines ("FAR Part 150)[14 CFR, part 150.01 et seq.,] pursuant to authorities in *Panama R. Co. v. Johnson*, 289 F. 964, 982 (2d Cir. 1923) followed by; *Canadian Overseas Ores, Ltd. v. Compania de Acero del Pacifico S.A.*, 727 F.2d 274, 278 (2d Cir. N.Y. 1984)("Where a court has no jurisdiction over the subject-matter, it cannot be conferred by consent of parties. This want of jurisdiction of the subject-matter cannot be waived by a failure to raise the objection in limine, or at any particular stage of the proceedings. **The want of such jurisdiction may be raised, even**

³ U.S. EXECUTIVE ORDER NO. 12630

"Pursuant to a 1988 Executive Order, executive agencies must analyze the takings implications of certain actions and must report any significant findings to the Office of Management and Budget: these reports are called "Takings Implications Assessments." See Cong. Budget Office, *Regulatory Takings and Proposals for Change 45* (1998) (discussing **Exec. Order No. 12630**, 53 Fed. Reg. 8859 (1988)), available at <http://www.cbo.gov/doc.cfm?index=1051&type=0&sequence=6>."(see: **Res. Invs., Inc. v. United States**, 97 Fed. Cl. 545, 548, at fnt. 5, (Fed. Cl. 2011));

on appeal. In re Winn, 213 U.S. 458, 29 Sup. Ct. 515, 53 L. Ed. 873; Andrews v. Andrews, 188 U.S. 14, 23 Sup. Ct. 237, 47 L. Ed. 366; Creighton v. Kerr, 20 Wall. 8, 22 L. Ed. 309.”). This motion is grounded on “want of subject matter jurisdiction” by Art. III, Court (adjunct) over FAA property acquisitions in federal programs as follows:

JURISDICTIONAL STATEMENT FOR “EXPRESSED” PREEMPTIONS

1. Federal Agency jurisdiction. On AUGUST 1, 2012, in the U.S. District Court for D.C., The US EPA announced its final decision responding to a 2006 “Administrative Petition” regarding unreasonable delay making an Endangerment Determination concerning federal regulation of aircraft noise and leaded air pollution from aircraft engine emissions in “non-attainment area” in Argyle Park Subdiv. “APS” (Id. §§ 4903(a),(b) and (c)(2), 7571(a)(2)(A)) as entered on AUGUST 1, 2012.

(See: Notice and Appl. For Recons., at EXHIBIT A-3, ORDER, **U.S. Const., Art. III, court**).

2. Preempted Adjunct Bankruptcy Court jurisdiction. [See: **U.S. Const., Art. III**] On AUGUST 8, 2012, the Appellee’s Amended Proposed Status Report Agenda is directly related to Federal Property Interest of the FAA (Id. § 106(f)(2)(A)(ii)) under federal regulations of aircraft noise and leaded air pollution from aircraft engine emissions in “APS”, a “non-attainment area” (Id. § 7573). [See: **U.S. Const., Art. III, court**]

Here, Appellee GMAC Mrtg. Co. filed a AUGUST 7, 2012 Amended Proposed Status Report which omitted the “Settlement Report” and Defective 2011 Judicial Report Endorsement absent a FAR part 150, Aviation Noise/Air Pollution Easement Disclosure Statement.

(see: **EXHIBIT 2**, Id, Infra, at Exhibit A-1, “**PERMANENT**”, FAA, FAR part 150, Aviation Noise/Air Pollution Easement.)

In support of this request and to enable the court to take judicial notice of this DISPOSITIVE matter by virtue of "lack of subject matter jurisdiction" 'of property'⁴ under FAA authority⁵ petitioners are incorporating by reference the following documents:

1. **EXHIBIT 1**, Notice and Application For Reconsideration filed AUGUST 7, 2012 as Ohio COA10th District's Denial Entry filed AUGUST 1, 2012)
2. **EXHIBIT 2**, Motion For TRO, 1992 Avigation Noise/Air Pollution Easement filed AUGUST 7, 2012 as preempted 1992 Avigation Noise/Air Pollution Easement Recorded SEPT. 2, 1992)
3. **EXHIBIT 3**, Judicial Notice filed AUGUST 7, 2012 as U.S. District Court, DC's Entry Granting (partial) Stipulated Dismissal filed AUGUST 1, 2012)

Respectfully Submitted,

Sidney T. Lewis
Dated: AUGUST 8, 2012. Sidney T. Lewis

Sidney T. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

Yvonne D. Lewis
Dated: AUGUST 8, 2012. Yvonne D. Lewis

Yvonne D. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

CERTIFICATE OF SERVICE

I, Sidney T. Lewis and Yvonne D. Lewis, pro se, certify that on **AUGUST 8, 2012** the JUDICIAL NOTICE ***[SIC.]***, was served on the United States Attorney, S.D., Ohio, and other Appellee parties, by e-mail, personal delivery, or ordinary U.S. Mail.

Sidney T. Lewis
Dated: **AUGUST 8, 2012.** Sidney T. Lewis
Sidney T. Lewis, pro se

Yvonne D. Lewis
Dated: **AUGUST 8, 2012.** Yvonne D. Lewis
Yvonne D. Lewis, pro se

⁴ (partial acquisitions (Id. § 47504(a)(2)(E)))

⁵ (Id. § 106(f)(2)(A)(ii) "the acquisition and maintenance of property, services, and equipment of the Administration;").

E X H I B I T 3

REC'D AUG - 7 2012

**IN THE COURT OF APPEALS, FRANKLIN COUNTY; OHIO
TENTH DISTRICT COURT OF APPEALS**

FILED
COURT OF APPEALS
FRANKLIN CO. OHIO
2012 AUG - 7
CLERK OF COURT

UNITED STATES OF AMERICA, EX REL.

GMAC, Mortgage Co., et al.,
Plaintiffs/Creditor

Vs.

Yvonne D. Lewis, et al.,
Defendants/Discharged Debtors

: Case No. 12-AP-506, COA10th Dist., Ohio
(Related Case Nos. 02-MS-20; 05-G-6415;
05-CV-7346 (03-CV-7478); 03-CV-10836;
05-CV-4555; 03-CV-6954)(04-AP-469; 04-
AP-1135; 11-AP-875; 12-AP-506)

MOTION FOR JUDICIAL NOTICE

UNITED STATES BANKRUPTCY COURT, SOUTHERN DISTRICT OF NEW YORK;

In Re: Residential Capital, LLC., et al., And,
In Re: GMAC, Mortgage Co., et al,
Debtors

) Case No. 12-bk-12020 (MG)
) Chapter (Ch.11, Joint Admin.)
) (Related BR Case No.07-bk-57237, S.D., OH.)
) (Related BR Case No. 12-bk-12032, S.D., NY)
) JUDGE: GLENN, MARTIN

UNITED STATES of America, Ex Rel.,
Yvonne D. Lewis, et al.,
Plaintiffs/ Surplus Creditors

Vs.

GMAC, Mortgage Co., et al,
Defendants/ Bankrupt Debtor,

) Adversary Case No.: 12-01731
) (Related Case No. 12-bk-12020 (MG);
) 05-CV-7346 (03-CV-7478); 03-CV-10836;
) 05-CV-4555; 03-CV-6954); (11-AP-875,
) and 12-AP-506, COA10th Dist., Ohio),
)

UNITED STATES BANKRUPTCY COURT FOR SOUTHERN DISTRICT OF OHIO;
(at Columbus)

[18 USC §§ 242, 245(b)(2)(B), 664, 666, 1962][29 USC §§ 1109, 1131, 1132(h), 1140]
[26 USC §§ 101(h), 267(b)(1)][42 USC § 4651(3¹)[49 USC §§ 47502, 44715(c)²]

In Re: SIDNEY T. LEWIS, pro se,
Debtor

) Case No. 2:07-bk-57237
) (Ch.7)
) (Related Bankr Case No. 2:05-bk-75111)
)

Social Security No.: xxx-xx-5959

) JUDGE: HOFFMAN, JOHN, Jr.

¹ See: 42 U.S.C. § 4651(3)

² See: 49 U.S.C. § 44715(c) reads: "(c) Proposed Regulations of Administrator of Environmental Protection Agency;"

In Re: Yvonne D. Lewis,) Case No. 2:05-bk-75111
Debtor) (Ch.7)
) (Related Case No. 2:07-bk-57237)
)
Social Security No.: xxx-xx-2390) JUDGE: HOFFMAN, JOHN, Jr.

MOTION FOR JUDICIAL NOTICE OF RECORDED FEDERAL PREEMPTIONS IN 1992
AVIGATION NOISE/EASEMENT [EXHIBIT A-1] AND APPELLEE'S SEPT. 8, 2011
DEFECTIVE JUDICIAL REPORT ABSENT THE 1992 'AVIGATION NOISE/EASEMENT
DISCLOSURE STATEMENT' (see: 62 FR 16413) Evid R. §§201(d), 902(5); GROUNDED ON
"EXPRESSED" FEDERAL PREEMPTIONS [42 USC §§ 4903(b), 7571(a)(2)(A), 7573].

Now comes Appellants, Sidney T. Lewis and Yvonne D. Lewis (surplus creditors) pursuant to Evidence Rules 201(d) and 902(5); U.S. Executive Order no. 12630³ filed March 15, 1988 (see: 53 FR 2800, 8859), [codified 42 USC § 4903(b)]; ASNA and CAA, [codified 49 U.S.C. §§ 106(g), 40113, 47501 et seq, 44715(c); 42 USC §§ 7571(a)(2)(A), 7573]; and under pre-empted Federal Regulations and FAA Guidelines ("FAR Part 150)[14 CFR, part 150.01 et seq.,] with LEAVE Previously GRANTED for matters in case no. 11-AP-875 and 12-AP-506 under RC 2323.52⁴ pursuant to authority in RICKELS V. GOYINGS, 2008 Ohio 2119, p15, (COA10th Dist., Franklin County, Ohio, 2008).

³ U.S. EXECUTIVE ORDER NO. 12630

"Pursuant to a 1988 Executive Order, executive agencies must analyze the takings implications of certain actions and must report any significant findings to the Office of Management and Budget: these reports are called "Takings Implications Assessments." See Cong. Budget Office, Regulatory Takings and Proposals for Change 45 (1998) (discussing **Exec. Order No. 12630**, 53 Fed. Reg. 8859 (1988)), available at <http://www.cbo.gov/doc.cfm?index=1051&type=0&sequence=6>."(see: **Res. Invs., Inc. v. United States**, 97 Fed. Cl. 545, 548, at fnt. 5, (Fed. Cl. 2011));

⁴ "Romane filed a request for leave to appeal with this court, which we subsequently granted. (Application for leave to appeal, 9/6/07; JE, 9/27/07); R.C. 2323.52(D)(3); R.C. 2323.52(F)(2). Consequently, we will not summarily dismiss Romane's appeal, but rather, address the assignments of error on the merits." (See: **Rickels v. Goyings**, 2008 Ohio 2119, p15, HN4, and P8)

JURISDICTIONAL STATEMENT FOR “EXPRESSED” PREEMPTIONS

1. Federal Agency jurisdiction. On **AUGUST 1, 2012**, The US EPA announced its final decision responding to a 2006 “Administrative Petition” regarding unreasonable delay making an Endangerment Determination concerning federal regulation of aircraft noise and leaded air pollution from aircraft engine emissions in “non-attainment area” in Argyle Park Subdiv. “APS” (Id. §§ 4903(a),(b) and (c)(2), 7571(a)(2)(A)) as entered on **AUGUST 1, 2012**.

(See: Notice and Appl. For Recons., at **EXHIBIT A-3**, ORDER BY FEDERAL COURT).

2. Preempted State jurisdiction. On **AUGUST 1, 2012**, the Ohio COA10th District’s Denial Entry is related to federal regulation of aircraft noise and leaded air pollution from aircraft engine emissions in “APS”, a “non-attainment area” (Id. § 7573), as entered on **AUGUST 1, 2012**.

(See Notice and Appl. For Recons., at **EXHIBIT 1**, ORDER BY STATE COURT).

Here, Appellee GMAC Mrtg. Co. filed a **SEPTEMBER 8, 2011** Defective Judicial Report Endorsement absent an FAR part 150, Aviation Noise/Air Pollution Easement Disclosure Statement.

(see: **EXHIBIT A-2**, Id, Infra)

In support of this request and to enable the court to take judicial notice of this DISPOSITIVE matter by virtue of “lack of subject matter jurisdiction” ‘of property⁵ under FAA authority⁶ petitioners are incorporating by reference the following documents:

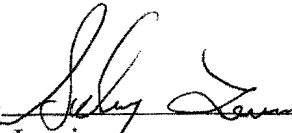
⁵ (partial acquisitions (Id. § 47504(a)(2)(E)))

⁶ (Id. § 106(f)(2)(A)(ii) “the acquisition and maintenance of property, services, and equipment of the Administration;”).

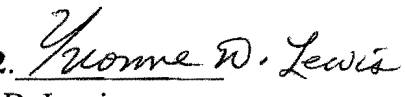
1. **EXHIBIT 1** attached to Notice and Appl. For Reconsideration filed **AUGUST 7, 2012** as Ohio COA10th District's Denial Entry filed **AUGUST 1, 2012**)
2. **EXHIBIT A-1** attached to Notice and Appl. For Reconsideration filed **AUGUST 7, 2012** as 1992 Avigation Noise/Air Pollution Easement Recorded **SEPTEMBER 2, 1992**)
3. **EXHIBIT A-3** attached to Notice and Appl. For Reconsideration filed **AUGUST 7, 2012** as U.S. District Court, DC's Entry Granting (partial) Stipulated Dismissal filed **AUGUST 1, 2012**)
4. **EXHIBIT A-2** attached to Motion for TRO filed **AUGUST 7, 2012** as Title Report Update filed September 8, 2011)

Respectfully Submitted,

Dated: **AUGUST 7, 2012.**


Sidney T. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

Dated: **AUGUST 7, 2012.**


Yvonne D. Lewis, pro se
1875 Alvason Avenue
Columbus, Ohio 43219
(614) 940-3306

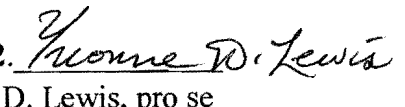
CERTIFICATE OF SERVICE

I, Sidney T. Lewis and Yvonne D. Lewis, pro se, certify that on **AUGUST 7, 2012** the JUDICIAL NOTICE ***[SIC.]***, was served on the United States Attorney, S.D., Ohio, and other Appellee parties, by e-mail, personal delivery, or ordinary U.S. Mail.

Dated: **AUGUST 7, 2012.**


Sidney T. Lewis, pro se

Dated: **AUGUST 7, 2012.**


Yvonne D. Lewis, pro se

E X H I B I T C

**IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO**

.....
GMAC Mortgage Corporation

Plaintiff,

vs.

**Yvonne D. Lewis aka Yvonne D. Webb-Lewis,
et al.**

Defendants.

Case No. 05CVE-04-4555

Judge Julie M. Lynch

**CONFIRMATION ENTRY OF
SALE AND DISTRIBUTION OF
PROCEEDS**

This action was heard on the return of the Sheriff of Franklin County of the sale of property commonly known as 1875 Alvason Avenue, Columbus, OH 43219, parcel no. 010-136633-00 (the "Property"). The legal description of the Property is attached to this order as Exhibit A, which is incorporated herein by reference.

1. The Property was sold by the Sheriff on April 20, 2012 to GMAC Mortgage Corporation for the following amount: **\$81,480.00**. Plaintiff subsequently assigned its bid to Federal National Mortgage Association ("Plaintiff's Assignee").
2. Having carefully examined the proceedings of the officer, the Court finds that the sale of the Property conformed in all respects to the law and the prior orders of this Court and hereby confirms and approves the sale of the Property and these proceedings.
3. The Sheriff shall convey the Property to Federal National Mortgage Association by deed

- according to law free and clear of all liens and encumbrances and shall issue the deed in the following name: Federal National Mortgage Association.
4. The tax mailing address of the purchaser of the Property is as follows: P.O. Box 650043, Dallas, TX 75265-0043.
 5. The prior deed reference with respect to the Property is as follows: Deed filed May 5, 1997, recorded in Official Records Volume 35026, Page G14, Recorder's Office, Franklin County, Ohio. filed May 23, 1990, recorded in Official Records Volume 15237, Page D07, Recorder's Office, Franklin County, Ohio.
 6. The purchaser of the Property is hereby subrogated to the rights of the mortgagees and lien holders in the Property to the extent necessary to protect the purchaser's title to the Property.
 7. The Court hereby grants the purchaser of the Property a writ of possession to put the purchaser in possession of the Property.
 8. The Court hereby orders the release of all mortgages and liens held by all parties to this action. As a result, the Clerk of Courts shall cause certificates of satisfaction and release to be presented for recording by the County Recorder with respect to each of the mortgages and liens listed on Exhibit B, which is attached to this order for the convenience of the Clerk of Courts and incorporated herein by reference. Such mortgages and liens shall be released only to the extent that they encumber the property foreclosed upon in this action and not to the extent that they encumber any other property.
 9. Because Federal National Mortgage Association is the assignee of the successful bid of GMAC Mortgage Corporation, which holds a valid and subsisting mortgage on the Property, Federal National Mortgage Association need not pay the full amount of the

purchase price to the Sheriff. Instead, Federal National Mortgage Association need only pay an amount necessary to pay court costs, real estate taxes and assessments, and Sheriff's costs. The deposit amount of **\$350.00** tendered at the Sheriff's sale shall be distributed as follows:

- a. The Clerk of Courts shall be paid **\$399.00** for court costs.
 - b. The County Treasurer shall be paid **\$1,046.69** for taxes and assessments currently due on the Property and payable through full year 2011 as well as an estimated portion of the 2012 taxes pro-rated through MAY 28, 2012. Grantee takes title subject to all taxes, interest, penalties, assessments, and tax lien certificates if any.
 - c. The Sheriff shall be paid **\$125.00** for Sheriff's costs.
 - d. The Auditor shall be paid **\$163.50** for conveyance fees and transfer tax.
 - e. The Recorder shall be paid **\$36.00** for recording the deed.
 - f. Since the deposit is not sufficient to satisfy these items, the Plaintiff's Assignee shall pay the Sheriff the deficit of **\$1,420.19** to cover all requisite disbursements.
10. The following amount shall be applied as a credit toward the amount of the judgment previously entered in favor of the Plaintiff: **\$79,709.81**.

IT IS SO ORDERED.

Judge Julie M. Lynch
Common Pleas Judge

Approved:

/s/ Matthew J Richardson
Matthew J. Richardson (0077157)
Holly N. Wolf (0068847)
Manley Deas Kochalski LLC
P. O. Box 165028
Columbus, OH 43216-5028
Telephone: 614-222-4921
Fax: 614-220-5613
Email: mjr2@mdk-llc.com
Attorney for Plaintiff

Via fax 5/25/12
Mary Johnson
Assistant Prosecutor
373 South High Street
17th Floor
Columbus, OH 43215
Via Email
Attorney for Franklin County Treasurer

EXHIBIT A

Legal Description of the Property

Situated in the County of Franklin, in the State of Ohio, and in the City of Columbus:

Being Lot Number Seventeen (17) of ARGYLE PARK SUBDIVISION, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 36, Page 6, Recorder's Office, Franklin County, Ohio.

Parcel No. 010-136633-00

Address: 1875 Alvason Avenue, Columbus, OH 43219

Property Address: 1875 Alvason Avenue, Columbus, OH 43219

Parcel No. 010-136633-00

EXHIBIT B

Mortgages and Liens to be Released

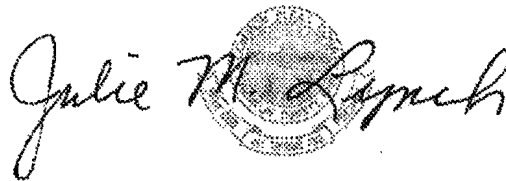
Mortgage in favor of The Huntington Mortgage Company, 7575 Huntington Park Drive, Columbus, OH 43235, from Yvonne D. Lewis aka Yvonne D. Webb-Lewis and Sidney T. Lewis, Husband and Wife, in the amount of \$63,400.00, dated March 9, 2001, filed March 20, 2001, recorded as Official Instrument No. 200103200055720, Recorder's Office, Franklin County, Ohio,

as assigned by The Huntington Mortgage Company to GMAC Mortgage Corporation, 3451 Hammond Avenue, Waterloo, IA 50702, by Assignment dated October 4, 2001, filed November 14, 2001, recorded in Official Instrument No. 200111140262914, Recorder's Office, Franklin County, Ohio.

Franklin County Court of Common Pleas

Date: 06-04-2012
Case Title: GMAC MORTGAGE CORPORATION -VS- YVONNE D LEWIS
Case Number: 05CV004555
Type: CONFIRMATION OF SALE

It Is So Ordered.

The image shows a handwritten signature in cursive script that reads "Julie M. Lynch". The signature is written over a circular, embossed or stamped seal. The seal appears to be the official seal of the Franklin County Court of Common Pleas, though the details are somewhat faded. The signature is in dark ink.

/s/ Judge Julie M. Lynch

EXHIBIT D

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 321

[Department of the Treasury Circular, Public Debt Series No. 750]

Regulations Governing Payments by Banks and Other Financial Institutions of United States Savings Bonds and United States Savings Notes (Freedom Shares)

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury hereby publishes this final rule amending the regulations to update procedures used by the Bureau of the Public Debt for collecting debts owed by paying agents of United States Savings Bonds and Savings Notes (collectively referred to herein as savings bonds or bonds). These collection procedures are used when a paying agent cannot be relieved of liability for a savings bond transaction and the paying agent fails to reimburse Public Debt in a timely manner.

Accounts designated or utilized by paying agents at Federal Reserve Banks for receiving settlements for savings bond redemptions are immediately credited upon the receipt of paid bonds with cash letters by Federal Reserve Banks or Branches through the EZ CLEAR system. These immediate settlements occur with the understanding that adjustments to correct errors may later be necessary. This system has expedited the process of crediting the accounts paying agents have designated or utilized for receiving savings bond transaction settlements. However, the system has also made it more cumbersome for Public Debt to collect monies from paying agents, not relieved of liability, that fail to reimburse Public Debt in a timely manner.

This amendment corrects this problem by providing that paying agents are deemed to have authorized the debit of any overdue amount, interest, administrative cost, and penalty assessed, directly from the agents' Reserve, correspondent, or clearing accounts designated or utilized at Federal Reserve Banks or Branches for settlement of redeemed savings bonds.

EFFECTIVE DATE: July 16, 1996.

FOR FURTHER INFORMATION CONTACT: Wallace L. Earnest, Division Director, Division of Staff Services (304) 480-6319, or Edward Gronseth, Deputy Chief

Counsel, Office of the Chief Counsel (304) 480-5192.

SUPPLEMENTARY INFORMATION:

I. Background

The final rule will update the debt collection process used by the Bureau of the Public Debt. This update is necessitated by the automated processing of redeemed savings bonds through EZ CLEAR.

Paying agents receive settlements for the value of savings bonds redeemed via credits to Reserve, correspondent, and clearing accounts with Federal Reserve Banks, or their Branches.

When a depository financial institution qualifies as a savings bond paying agent, it agrees in writing to be bound by all of the provisions set out in 31 CFR part 321 and the Appendix thereto, as revised and amended, including any instructions promulgated by Treasury and its fiscal agents.

Relief of a paying agent from liability for a loss related to the redemption of a savings bond is a determination made under authority of 31 U.S.C. 3126(a).

The collection procedures will apply when a paying agent cannot be relieved of liability under 31 U.S.C. 3126(a) for a loss resulting from a payment of a savings bond pursuant to 31 CFR part 321. No change is being made in the procedure for assessing liability under 31 U.S.C. 3126(a), or in the regulations with respect to such liability determinations.

II. Summary of Amendments

Section 321.21 refers to collection procedures outlined in Paragraph 21 of the appendix to this part.

Paragraph 21 of the appendix to this part provides a detailed explanation of the consequences of a paying agent's failure to make reimbursement within 30 days of Public Debt's mailing the first demand letter, provided the paying agent cannot be relieved of liability under 31 U.S.C. 3126(a) for an erroneous payment.

A paying agent receiving settlement for the redemption value of redeemed savings bonds via credits to a Reserve, correspondent, or clearing account is deemed to have authorized the Federal Reserve Bank or Branch to debit the amount due from that account. Such debits shall be made if the paying agent fails to make timely reimbursement or submit new evidence sufficient for Public Debt to change a determination of liability within 120 days of the mailing of the first demand letter. The amount due from the redemption of a security for which the paying agent is not relieved of liability, under 31 U.S.C.

3126(a), shall include the amount of the final loss resulting from the erroneous payment, interest, administrative costs, and penalty charges.

A financial institution designated by a paying agent to receive settlement for redeemed savings bonds on behalf of that paying agent via a credit to a Reserve, correspondent, or clearing account with a Federal Reserve Bank or Branch is deemed to have authorized a debit from such account to collect an amount due from the paying agent. The consequences of a paying agent's failure to make timely reimbursement include the paying agent's being required to pay:

(a) Interest charges accruing from the date the first demand letter is mailed to the date of reimbursement, at the current value of funds rate published by the Secretary of the Treasury annually or quarterly in the Federal Register;

(b) Administrative costs (currently processing costs of \$6.00) will be assessed, if reimbursement is not made within 30 days of the date the first demand letter is mailed;

(c) Penalty charges in accordance with 31 U.S.C. 3717(e), if reimbursement is not made within 120 days of the date the first demand letter is mailed. When assessed, the penalty charge will accrue and be calculated from 30 days after the date the first demand letter is mailed to the date of reimbursement.

Procedural Requirements

It has been determined that this final rule is not a "significant regulatory action" pursuant to Executive Order 12866.

Although this rule was published in the Federal Register as a proposed rule on April 1, 1996, to secure the benefit of public comment, the rule relates to matters of public contract, as well as the borrowing power and fiscal authority of the United States. The notice and public procedures requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

There are no collections of information required by this final rule, therefore, the Paperwork Reduction Act does not apply.

Comments

No comments were received on the proposed rule published April 1, 1996, with a 30 day comment period.

List of Subjects in 31 CFR Part 321

Banks, Banking, Bonds, Government securities.

Dated: July 3, 1996.
John Kilcoyne,
Deputy Fiscal Assistant Secretary.

For the reasons set forth in the preamble, part 321 of title 31 of the Code of Federal Regulations is amended to read as follows:

**PART 321—PAYMENTS BY BANKS
AND OTHER FINANCIAL
INSTITUTIONS OF UNITED STATES
SAVINGS BONDS AND UNITED
STATES SAVINGS NOTES (FREEDOM
SHARES)**

1. The authority citation for part 321 is revised as follows:

Authority: 2 U.S.C. 901, 5 U.S.C. 301, 12 U.S.C. 391, 31 U.S.C. 3105, 31 U.S.C. 3126.

2. Section 321.21 is revised to read as follows:

§ 321.21 Replacement and recovery of losses.

(a) If a final loss results from the redemption of a security, and the paying agent redeeming the security is not relieved of liability for such loss under 31 U.S.C. 3126(a), the Bureau of the Public Debt will demand that the paying agent promptly reimburse the United States in the amount of the final loss and will take such other action as may be necessary to collect such amount as

set out in the procedure described in Paragraph 21 of the appendix to this part.

(b) If a final loss has resulted from the redemption of a security, and no reimbursement has been or will be made, the loss shall be subject to replacement out of the fund established by the Government Losses in Shipment Act, as amended.

3. Subpart E, paragraph 21 of the appendix to this part is revised as follows:

21. *Determination of liability.* (Sec. 321.18 and Sec. 321.21)

(a) Upon completing the investigation, the Bureau of the Public Debt will examine the available information and determine whether a paying agent may be relieved of liability for any loss that may have resulted. If the paying agent cannot be relieved of liability, demand will be made upon the paying agent to reimburse the Treasury promptly. Any amount not paid within 30 days following the mailing of the first demand letter is subject to the following charges.

(1) Interest shall accrue from the date the first demand letter is mailed to the date reimbursement is made. The rate of interest to be used will be the current value of funds rate published annually or quarterly in the Federal Register and in effect during the entire period in which the remittance is late.

(2) Administrative costs shall be assessed as set out in the first demand letter, if reimbursement is not made within 30 days of the date the first demand letter is mailed.

(3) Penalty charges shall be assessed, in accordance with 31 U.S.C. 3717(e), if reimbursement is not made within 120 days of the date the first demand letter is mailed. The penalty charge will accrue and be calculated from 30 days after the date the first demand letter is mailed to the date of reimbursement.

(b) When a paying agent fails, within 120 days of the date the first demand letter is mailed, to make such reimbursement or to submit new evidence sufficient for Public Debt to change the determination of liability, by virtue of the paying agent's acceptance of settlement via credits to a Reserve, correspondent, or clearing account with a Federal Reserve Bank or Branch, the agent is deemed to have authorized the Federal Reserve Bank to debit the amount due from that account designated or utilized by the agent at the Federal Reserve Bank or Branch. An institution, designated by a paying agent to receive settlement on its behalf, in authorizing such paying agent to utilize its Reserve, correspondent, or clearing account on the books at the Federal Reserve Bank shall similarly be deemed to authorize such debits from that account.

(c) Reconsideration of a determination of liability will be made in any case when a paying agent so requests and presents additional evidence and information regarding the transaction.

* * * * *

[FR Doc. 96-17988 Filed 7-15-96; 8:45 am]
BILLING CODE 4810-39-M

IN THE COURT OF APPEALS, FRANKLIN COUNTY; OHIO
TENTH DISTRICT COURT OF APPEALS

UNITED STATES OF AMERICA, EX REL.

GMAC, Mortgage Co., et al.,

Plaintiffs/Creditor

Vs.

Yvonne D. Lewis, et al.,

Defendants/Discharged Debtors

: Case No. 12-AP-506, COA10th Dist., Ohio
(Related Case Nos. 02-MS-20; 05-JG-6455;
05-CV-7346 (03-CV-7478); 03-CV-10836;
05-CV-4555; 03-CV-6954)(04-AP-469; 04-
AP-1135; 11-AP-875; 12-AP-506)

**Declaration of Yvonne D. Lewis in Support of Appellants' Motion for Temporary Restraining
Order (42 USC §7573)**

STATE OF OHIO)
) SS.
COUNTY OF FRANKLIN)

I, Yvonne D. Lewis (married) f/k/a Yvonne DeCarol Webb (unmarried), 1875 Alvason Avenue,
Columbus, Ohio 43219, and I am the Appellant-Defendant in the above-entitled case filed by Appellee,
GMAC; Appellant being of lawful age and of sound mind being duly sworn, states:

1. On April 20, 1992, Yvonne DeCarol Webb, as "Grantor" did "convey" a "permanent avigation easement" to "Grantee" under the Federal Aviation Administration's (FAA) FAR, Part 150, "Federal Program" codified as 49 U.S.C. § 47502 (a single system), and 49 U.S.C. §47504(a)(2)(E) (**EASEMENT** and ('Partial') **ACQUISITION**).

(Compare: TRO at Exhibit A-1, pg. 4, P4, "Grantor *** power to **CONVEY**"; With: TRO, Id., at pg. 2, P5, "Grantor ... grant a permanent avigation **EASEMENT** ***")

2. On Sept. 8, 2012, Appellee GMAC filed an incomplete Judicial Report, Schedule A, Endorsement which lacked an "aviation noise/easement **DISCLOSURE STATEMENT**" pursuant to the FAA's 14 CFR Part §§ 150 et seq., as set forth by FAA's Notice, 63 FR 16413.

(See and Compare attached: EXHIBIT A, at 63 FR 16413, at "Issue: **DISCLOSURE REQUIREMENTS**: and FAA Response:" sections; Compared To: TRO, at Exhibit A-2, Judicial Report, Schedule A Endorsement, at fiche no. E1299 – L83, " *** all parties necessary for the adjudication of this dispute have been named.")

3. On Sept. 12, 2012, The Franklin County Common Pleas Court "revived" the case without all parties in the **DISCLOSURE STATEMENT**, being necessary for the "just adjudication" of this (FAA) FAR, Part 150, "Federal Program" dispute, as not having been named, nor served with summons and complaint to aver federal preemptions, 49 U.S.C. § 47502 (a single system), 42 U.S.C. § 7573 (U.S. Constitution, Art. VI, Cl. 2 and Amends. V. and XIV).

"I certify under penalty of perjury that the foregoing is true and correct."

Yvonne D. Lewis

Executed on: August 3, 2012 _____ ("Yvonne D. Lewis, Affiant") (See: 28 U.S.C. §1746)
Yvonne D. Lewis, pro se
1875 Alvason Avenue,
Columbus, Ohio 43219
(614) 940-3306



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 150

[Docket No. 28149]

Final Policy on Part 150 Approval of Noise Mitigation Measures: Effect on the Use of Federal Grants for Noise Mitigation Projects

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of final policy.

SUMMARY: This final policy establishes a distinction between remedial and preventive noise mitigation measures proposed by airport operators and submitted for approval by the Federal Aviation Administration (FAA) under applicable noise compatibility planning regulations. Implementation of this policy also results in certain new limitations on the use of Airport Improvement Program (AIP) funds for remedial noise mitigation projects. The proposed policy was published in the **Federal Register** on March 20, 1995 (60 FR 14701), and public comments were received and considered. On May 28, 1997, the revised policy as proposed for issuance was published in the **Federal Register**. However, prior to the issuance of the policy the FAA requested supplemental comment on the impact of its limitations on PFC eligibility. The FAA considered the comments on PFC eligibility thus received and has revised the final policy. All other issues were considered to have been adequately covered during the original comment period.

Accordingly, as of October 1, 1998, the FAA will approve under 14 CFR part 150 (part 150) only remedial noise mitigation measures for existing noncompatible development and only preventive noise mitigation measures in areas of potential new noncompatible development. The FAA will not approve remedial noise mitigation measures for new noncompatible development that occurs in the vicinity of airports after the effective date of this final policy.

As of the same effective date, the use of AIP funds will be affected to the extent that such use depends on approval under part 150. Since this policy only affects part 150 approvals, it does not apply to projects that can be financed with AIP funds without a part 150 program. The bulk of noise projects receive AIP funding pursuant to their approval under part 150.

After review and consideration of comments received, FAA has determined that this policy need not

affect financing noise projects with passenger facility charge (PFC) revenue because part 150 approval is not required for such projects.

DATES: Effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. William W. Albee, Policy and Regulatory Division (AEE-300), Office of Environment and Energy, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3553, facsimile (202) 267-5594; Internet: William.Albee@FAA.DOT.GOV or william.albee@mail.hq.faa.gov; or Mr. Ellis Ohnstad, Manager, Airports Financial Assistance Division (APP-500), Office of Airport Planning and Programming, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3831, facsimile (202) 267-5302; Internet: Ellis.Ohnstad@FAA.DOT.GOV or ellis.ohnstad@mail.hq.faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Airport Noise Compatibility Planning Program (14 CFR part 150, hereinafter referred to as part 150 or the part 150 program) was established under the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. 47501 through 47509, hereinafter referred to as ASNA). The part 150 program allows airport operators to submit noise exposure maps and noise compatibility programs to the FAA voluntarily. According to the ASNA, a noise compatibility program sets forth the measures that an airport operator has taken or has proposed for the reduction of existing noncompatible land uses and the prevention of additional noncompatible land uses within the area covered by noise exposure maps.

The ASNA embodies strong concepts of local initiative and flexibility. The submission of noise exposure maps and noise compatibility programs is left to the discretion of local airport operators. Airport operators also may choose to submit noise exposure maps without preparing and submitting a noise compatibility program. The types of measures that airport operators may include in a noise compatibility program are not limited by the ASNA, allowing airport operators substantial latitude to submit a broad array of measures—including innovative measures—that respond to local needs and circumstances.

The criteria for approval or disapproval of measures submitted in a part 150 program are set forth in the ASNA. The ASNA directs the Federal approval of a noise compatibility

program, except for measures relating to flight procedures: (1) If the program measures do not create an undue burden on interstate or foreign commerce; (2) if the program measures are reasonably consistent with the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses; and (3) if the program provides for its revision if necessitated by the submission of a revised noise exposure map. Failure to approve or disapprove a noise compatibility program within 180 days, except for measures relating to flight procedures, is deemed to be an approval under the ASNA. Finally, the ASNA sets forth criteria under which grants may be made to carry out noise compatibility projects, consistent with the ASNA's overall deference to local initiative and flexibility.

The FAA is authorized, but not obligated, to fund projects via the Airport Improvement Program (AIP) to carry out measures in a noise compatibility program that are not disapproved by the FAA. Such projects also may be funded with local PFC revenue upon the FAA's approval of an application filed by a public agency that owns or operates a commercial service airport, although the use of PFC revenue for such projects does not require an approved noise compatibility program under part 150.

In establishing the airport noise compatibility planning program, which became embodied in FAR part 150, the ASNA did not change the legal authority of state and local governments to control the uses of land within their jurisdictions. Public controls on the use of land are commonly exercised by zoning. Zoning is a power reserved to the states under the U. S. Constitution. It is an exercise of the police powers of the states that designates the uses permitted on each parcel of land. This power is usually delegated in state enabling legislation to local levels of government.

Many local land use control authorities (cities, counties, etc.) have not adopted zoning ordinances or other controls to prevent noncompatible development (primarily residential) within the noise impact areas of airports. An airport's noise impact area, identified within noise contours on a noise exposure map, may extend over a number of different local jurisdictions that individually control land uses. For example, at five airports recently studied, noise contours overlaid portions of 2 to 25 different jurisdictions.

While airport operators have included measures in noise compatibility

EX.A

sought comment on how long the transition period should be.

In view of the extended time period since publication of the original notice, plus the opportunity for supplemental comment on the impacts of the policy on PFC eligibility, and the changes made in the policy to accommodate the concerns raised, the effective date of October 1, 1998, which provides a 180-day transition period, is regarded as more than adequate.

Since part 150 is a voluntary program, each airport operator has the discretion to make its own determinations regarding the impact of this final policy on existing noise compatibility programs. The FAA will not initiate withdrawals of any previous part 150 program approvals based on this policy. New part 150 approvals after the effective date of this final policy will conform to this policy. Any remedial noise mitigation measures for noncompatible development that occurs within the area of an airport's noise exposure maps after the effective date of this final policy may have to be funded locally, since the measures will not be approvable under part 150.

Discussion of Comments to the May 28, 1997, Notice

Please note that FAA responded in full in the **Federal Register** on May 28, 1997 (62 FR 28816) to the comments received to the Notice of Proposed Policy, as published in the **Federal Register** on March 20, 1995 (60 FR 14701).

On May 28, 1997, the FAA issued a notice of a revised proposed policy (62 FR 28816), and solicited additional comments from the public on the proposed policy's impacts on Passenger Facility Charges. Four organizations and one Federal agency submitted comments on the proposal. The organizations included two airport operators, an airport association, and an organization representing noise impacted communities. The issues raised in the comments are summarized and addressed below:

Issue: Linkage of PFC funding to AIP funding. The airport association, one airport operator, and the Federal agency objected to linking limitations on PFC funding to limitations on AIP funding, generally indicating that the two funding procedures are fundamentally different. They further indicated that PFC funding is basically locally generated and expended under local priorities within general FAA guidelines, whereas AIP funding is nationally generated and disbursed under national funding priorities, and therefore lacks the flexibility required to

address local problems in a timely manner. They also indicated that such a limitation on PFC funding would seriously impair airport operators' ability to respond to specific local problems.

FAA Response: FAA has addressed this issue by establishing a distinction between remedial and preventive noise mitigation measures under part 150, and by announcing that on and after the effective date of this policy the FAA will not approve remedial measures for new noncompatible land uses. This indirectly affects the use of AIP funds for measures which, henceforth, will not be approved by the FAA an airport operator's part 150 program, but does not affect funding from any source that does not rely on the FAA's approval of a part 150 program.

Issue: Retroactive nature of the funding limitations. The organization representing noise impacted communities objected to the "retroactive" nature of the proposed limitations on PFC funding (as well as the proposed limitations on AIP funding), indicating that in many airport noise impacted communities, it was impossible for local zoning authorities to cope with expanding operations and noise at nearby airports, and that the proposed funding limitations would seriously compound the airport operators' ability to work with local communities to mitigate such problems.

FAA Response: This final policy will not affect the use of PFC funds for noise mitigation projects. Additionally, the final policy has clarified that there is no retroactive AIP funding limitation.

Issue: Court ordered noise remediation measures. One airport operator, while finding no general objection to the proposed limitations on PFC funding, pointed out an important exception that FAA had previously overlooked in its proposed policy: "the ability of the airport operator to utilize either AIP or PFC funding for noise remediation measures ordered or approved by a court or administrative agency."

FAA Response: FAA recognizes that an airport operator ordered by a court of competent jurisdiction, or under a court supervised approval procedure would have no choice but to proceed regardless of funding limitations. With the continued ability to use PFC funds, the operator will still have funding flexibility. The airport operator also may request an exemption to the policy for part 150 approval and thereby obtain approval to use AIP funds.

Issue: Published guidelines needed for FAA decisions on the "gray" areas. The Federal agency recommended that FAA

develop and publish policy guidelines for approving mitigation measures for the so called "gray areas." Approval in this area is presently addressed on a case-by-case basis subject to regional FAA interpretation. A single national policy is needed in order to treat similar situations consistently and eliminate subjective decisions.

FAA Response: FAA recognizes the necessity for national consistency in the treatment of similar situations, while maintaining the ability to respond adequately to unique local compatibility problems. FAA intends to develop supplemental guidelines to accomplish these ends.

Issue: Disclosure requirements. The Federal agency recommended that FAA examine means of placing information relative to the use of Federal funding for noise mitigation (soundproofing, et al.) in the deeds to such properties.

FAA Response: FAA recognizes disclosure of aviation noise as a very important tool for state and local governments in informing and forewarning prospective buyers or tenants about the expected impacts of aviation noise on properties within noise impact areas. An aviation noise disclosure statement, somewhat similar to a flood plain disclosure statement, attached to property deeds is highly desirable. Aviation easements granting the right of overflight and the generation of associated noise are also encouraged, especially in conjunction with use of AIP funds for noise mitigation. FAA will continue its current policy of strongly encouraging all levels of government possessing such authority to require both formal aviation noise disclosure statements attached to deeds and aviation/noise easements also attached to property deeds.

Notice of Final FAA Policy

Accordingly, by this publication the FAA is formally notifying airport operators and sponsors, airport users, the officials of all public agencies and planning agencies whose area, or any portion of whose area, of jurisdiction is within an airport's Day-Night Average Sound Level 65 dB noise contours, as developed in accordance with FAA approved methodologies, and all persons owning property within, considering acquisition of property within, considering moving into such areas, or having other interests in such areas, of the following final FAA policy concerning future approval under part 150 and the use of AIP funds for certain noise mitigation measures.

Ex. A