

**HEARING DATE: April 11, 2013 at 10:00 A.M. (ET)**

**UNITED STATES BANKRUPTCY COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

In Re:

RESIDENTIAL CAPITAL, LLC, *et al.*,  
Debtors.

Case No. 12-12020  
Chapter 11

Jointly Administered

KEVIN J. MATTHEWS

Plaintiff

Adv. Proc. No. 12-01933 (MG)

v.

GMAC Mortgage Co., LLC  
Defendant

***NOTICE OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT AS TO  
LIABILITY ONLY AGAINST DEFENDANT GMAC MORTGAGE CO., LLC***

**PLEASE TAKE NOTICE**, that Plaintiff Kevin J. Matthews, ("Mr. Matthews"), by his attorneys Phillip Robinson and Legg Law Firm LLC, will make a motion to this Court before the Honorable Martin Glenn, Judge of the United States Bankruptcy Court, Alexander Hamilton Custom House, One Bowling Green, Room 501, New York, NY 10004-1408, at the hearing scheduled on April 11, 2013 at 10:00 a.m. of that day or as soon thereafter as counsel can be heard for entry of an Order granting partial summary judgment pursuant to Bankruptcy Rule 7056 and FRCP 56: (1) for partial summary judgment as to liability only since certain the well pled facts of Mr. Matthews' complaint are already judicially determined or admitted and there



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can be no dispute of material fact by Defendant GMAC Mortgage LLC's liability under the claims asserted by Mr. Matthews; (2) based upon principles of collateral estoppel; and (3) for such other and further relief as the Court deems just and proper.

Dated: Frederick, MD  
January 17, 2013

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Phillip Robinson  
Legg Law Firm, LLC  
5500 Buckeystown Pike  
Frederick MD 21703  
(301) 620-1016  
*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing and attachments was served upon counsel for Defendant when was served by electronic service through the Court's ECF system.

\_\_\_\_\_/s/\_\_\_\_\_  
Phillip Robinson

**UNITED STATES BANKRUPTCY COURT FOR THE  
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Defendant

**MEMORANDUM IN SUPPORT OF  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff Kevin J. Matthews by and through his undersigned counsel, hereby moves for partial summary judgment as to liability only against Defendant GMAC Mortgage Co., LLC and in support provides the Court with this Memorandum of Law and states:

**INTRODUCTION**

Mr. Matthews' claims against GMAC Mortgage Co., LLC ("GMAC") involve the material violations of various state debt collection statutes in a prior foreclosure action against Matthews by GMAC ("Debt Collection Foreclosure Action") as well as a pending state court action. Certain of specific acts related to GMAC subject to Mr. Matthews' claims in his

Complaint have previously been found in a final order by the Circuit Court for Howard County, Maryland against GMAC's authorized agent to be improper for a Maryland debt collection foreclosure action. Additional, undisputed facts related to the prior illegal Debt Collection Foreclosure Action are established by sworn deposition testimony of GMAC's employee and officer, Jeffrey Stephan. The undisputed, material facts demonstrate that Mr. Matthews is entitled to partial summary judgment as to liability against GMAC for its violations of Maryland law.

**STATEMENT OF THE MATERIAL UNDISPUTED FACTS TO  
WHICH THERE IS NO GENUINE DISPUTE**

There are many interesting well pled and undisputed facts to the underlying action. However, for the purposes of Mr. Matthews' Motion for Partial Summary Judgment, only the following facts<sup>1</sup> are relevant and material:

1. **Material Fact 1:** Carrie Ward and Jeffrey Stephan are authorized agents of GMAC Mortgage Co., LLC ("GMAC"), the servicer of Mr. Matthews' home mortgage loan.<sup>2</sup> Acting as authorized agents, Carrie Ward (as a former Substitute Trustee on Mr. Mathews' loan) and Jeffrey Stephan (as an Officer for GMAC), attempted to carry out the Debt Collection Foreclosure Action against Mr. Matthews and his home and property.<sup>3</sup>

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<sup>1</sup> Pursuant to Fed. R. Bankr. P. 9017 and Fed. R. Evid. 201(b)(2) Mr. Matthews requests the Court to take judicial notice of each of these facts related to GMAC's authorized agent, Carrie Ward, which are not subject to reasonable dispute as they have been judicially determined in Maryland State Court.

<sup>2</sup> As to Ward's and Stephan's relationship see Exhibit 1, Deed of Appointment of Substitute Trustee identifying Ward's appointment as an authorized Substitute Trustee by GMAC and Stephan as GMAC's authorized Officer.

<sup>3</sup> Exhibit 2, Order to Docket from *Geesing v. Matthews* (identifying Howard Bierman, Jacob Geesing and Carrie Ward as the plaintiffs in the state foreclosure action against Mr. Matthews); See Exhibit 3, *Geesing v. Matthews* Docket Report.



2. **Material Fact 2:** Specifically, in commencing the improper Debt Collection Foreclosure Action against Mr. Matthews and his home, GMAC (through Ward and Stephan) proffered to the Circuit Court for Baltimore City, Maryland, multiple improper and irregular sworn affidavits, declarations, and other papers to form the alleged basis of the Debt Collection Foreclosure Action against Mr. Matthews.<sup>4</sup> The improper and irregular sworn affidavits, declarations, or other papers included many which identified one of three persons as the declarant but only contained one indecipherable squiggle as a signature.<sup>5</sup>
3. **Material Fact 3:** A Maryland state court has determined as a matter of law that an affidavit identifying one of three possible affiants is not legally proper for commencing a Maryland debt collection foreclosure action. In a final order of the Circuit Court for Howard County in the matter of *Geesing v. Willson*, the Honorable Diane O. Leasure judicially determined that such form affidavits are improper and cannot properly maintain a foreclosure action in a Maryland court. Exhibit 11, Trans. from *Geesing v. Willson Motions Hearing*. Judge Leasure specifically found and determined as follows:

I have a problem with the fact, and I think it is, you know, something that you also need to address, these affidavits have three names and one signature. It is indicated that the undersigned substitute trustee – I have no idea which of the three names and one signature. It is indicated that the

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<sup>4</sup> One such improper papers include: Exhibit 4, the Notice of Intention to Foreclosure from *Geesing v. Matthews* which failed to identify all the secured parties related to Mr. Matthews' loan. *Shepherd v. Burson*, 427 Md. 541, 544, 50 A.3d 567, 569 (2012)( that a foreclosing party should ordinarily identify, in the Notice of Intent to Foreclose, **each** entity that is a "secured party" with respect to the deed of trust in question) (emphasis added).

<sup>5</sup> These improper affidavits include: Exhibit 5, Affidavit, Pursuant to Md. Rule 14-207(b)(1) Regarding Copy of Lien Instrument; Exhibit 6, Affidavit, Pursuant to Md. Rule 14-207(b)(4) Regarding Copy of Deed of Appointment of Substitute Trustee; Exhibit 7, Affidavit of Deed of Trust Debt and Right to Foreclose; Exhibit 8, Affidavit Pursuant to Servicemembers Civil Relief Act; Exhibit 9, Affidavit of Mailing of Notice to Occupants; and Exhibit 10, Statement Designating Secured Property "Residential Real Property".

undersigned substitute trustee – I have no idea which of the three that is...I am not aware of the propriety of any affidavit with three names indicated and one signature.

*Id. at Page 7, Lines 19-24.*

I mean. [the use of three names below the signature is] just improper.

*Id. at Page 8, Line 1.*

I think the affidavit needs to be properly prepared and the three names underneath and one squiggle and the reference above the affidavit indicating that the substitute trustee, singular, appeared and you've got three names, I just don't think it's proper form. So I'm going to, on that basis, grant the motion to dismiss.

*Id. at Page 8, Lines 19-25.*

4. **Material Fact 4:** Judge Leasure's findings and order in *Geesing v. Willson* is final and has never been appealed by Carrie Ward or any other party. Exhibit 12.
5. **Material Fact 5:** Stephan, as GMAC's authorized Officer, worked together with GMAC's other authorized agents, including Ward, in the Debt Collection Foreclosure Action against Mr. Matthews and his home and property.<sup>6</sup>
6. **Material Fact 6:** Specifically, in supporting the Debt Collection Foreclosure Action against Mr. Matthews and his home, GMAC proffered to the Circuit Court for Baltimore City in multiple improper and irregular sworn affidavits, declarations, or other papers executed by Stephan to form the alleged basis of the Debt Collection Foreclosure Action against Mr. Matthews.<sup>7</sup>

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<sup>6</sup> Exhibit 2, Order to Docket from *Geesing v. Matthews*; Exhibit 13, Affidavit Certifying Ownership of Debt Instrument and Truth and Accuracy of Copy Filed; Exhibit 14, Affidavit of Default and Mailing of Notice of Intent to Foreclose; Exhibit 15, Assignment of Note and Deed of Trust.

<sup>7</sup> Incorporate FN 6 refereed exhibits.

7. **Material Fact 7:** The affidavits and other papers signed by Stephan in Mr. Mathews' Debt Collection Foreclosure Action are a few of hundreds of such files Stephan signs every day as an Officer for GMAC. Stephan has admitted in prior sworn deposition testimony that he does not in fact have personal knowledge of the content of the affidavits he signs.<sup>8</sup>

### STANDARD OF REVIEW

"Summary judgment will be granted where 'there is no genuine issue as to the material fact and the ... moving party is entitled to judgment as a matter of law.'" *In re National Energy & Gas Transmission, Inc.*, 351 B.R. 323, 330 (Bankr. D. Md. Sept. 28, 2006) (internal citations omitted).

"If the movant makes a properly supported motion, the burden shifts to the opposing party to demonstrate specific facts showing that there is a genuine issue for trial" *Id.* (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986)). Fed. R. Civ. P. 56(a) provides that "[a] party may move for summary judgment, identifying each claim or defense--*or the part of each claim or defense*--on which summary judgment is sought." (Emphasis added). Here, Mr. Matthews seeks summary judgment from this Court as to liability only, with the determination of damages to come after trial. The undisputed facts as related to GMAC's liability pursuant to Mr. Matthews claims against it are ripe for summary judgment by this Court.

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<sup>8</sup> Fed. R. Civ. P. 32(a)(3). See *Exhibit 16*, Deposition of Jeffrey D Stephan, June 7, 2010. *Federal National Mortgage Association v. Nicole M. Bradbury and GMAC Mortgage, LLC*, Maine District Court, North Cumberland Division, Case No. BRI-RE-09-65, pp. 54:12-25; 56:10-18; 62:23-25; 63:2-6, 18-20; 67:21-25; 68: 2-10; 69:2-11; 70:2-4.

## ARGUMENT

### A. THE FACTS AND FINDINGS OF THE CIRCUIT COURT OF HOWARD COUNTY, MARYLAND SUPPORT APPLICATION OF THE DOCTRINE OF NONMUTUAL OFFENSIVE COLLATERAL ESTOPPEL

Offensive use of collateral estoppel occurs when a plaintiff seeks to foreclose a defendant from relitigating an issue the defendant has previously litigated unsuccessfully in another action against the same or a different party. Defensive use of collateral estoppel occurs when a defendant seeks to prevent a plaintiff from relitigating an issue the plaintiff has previously litigated unsuccessfully in another action against the same or a different party.

*U.S. v. Mendoza*, 464 U.S. 154, 159, n. 4 (1984) (citing *Parklane Hosiery Co., Inc. v. Shore*, 439 U.S. 322 (1979)). In *Parklane* the Supreme Court resolved a conflict among the circuits and held that federal, “trial courts [have the] broad discretion to determine when [offensive use of collateral estoppel] should be applied.” *Parklane Hosiery Co., Inc. v. Shore*, 439 U.S. 322, 331, (1979) (footnote omitted).

Under Maryland law, a party must meet a four-prong test before a court may permit the use of offensive collateral estoppel:

1. Was the issue decided in the prior adjudication identical with the one presented in the action in question?
2. Was there a final judgment on the merits?
3. Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication? [and]
4. Was the party against whom the plea is asserted given a fair opportunity to be heard on the issue?

*Rourke v. Amchem Products, Inc.*, 835 A.2d 193, 205 (Md. Ct. Spec. App. 2003) *aff’d*, 863 A.2d 926 (2004). *See also Culver v. Maryland Ins. Com'r*, 931 A.2d 537, 542 (quoting *Leeds Fed. Sav. & Loan Ass’n v. Metcalf*, 630 A.2d 245,250 (Md. 1993)). *See also Rourke v. Amchem Prods., Inc.*, 863 A.2d 926, 938 (Md. 2004) (“Each State supreme court should resolve these policy questions for itself....”).<sup>9</sup>

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<sup>9</sup> The Fourth Circuit Court of Appeals has applied collateral estoppel in explained in this way

In this case all four factors are present. GMAC is collaterally estopped from relitigating several of the material facts and legal findings identified above. *See* Material Facts 1-4. Entering judgment as to those facts as soon as practicable at this stage in the litigation will allow the parties to focus to those issues which are genuinely in dispute.

First, the Circuit Court of Howard County, Maryland has already determined the issue of whether a debt collection foreclosure action filed based upon affidavits/declarations identifying one of three affiants but only one signature was proper. The Circuit Court held that the identical debt collection foreclosure action by GMAC's agent Ward was improper because such affidavits are not in proper form. *See* Material Fact 3. Second, the judgment of the Circuit Court is a final judgment. It was never appealed by any party. *See* Material Fact 4. Third, there is no question or dispute that as her principal, GMAC is in privity with Ward, against whom the Howard County judgment was entered. *See* Material Fact 3. Fourth, Ward (and thus GMAC) was given a fair opportunity to be heard on the core issue and was represented by counsel in the state court action before Judge Leasure in the Circuit Court for Howard County, Maryland. *See* Exhibit 17, Trans. of *Willson* Motions Hearing.

For the reasons stated herein, GMAC is collaterally estopped from disputing Material

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[c]ollateral estoppel forecloses 'the relitigation of issues of fact or law that are identical to issues which have been actually determined and necessarily decided in prior litigation in which the party against whom [issue preclusion] is asserted had a full and fair opportunity to litigate.' *Ramsay v. INS*, 14 F.3d 206, 210 (4th Cir.1994) (quotation omitted). For collateral estoppel to apply, the proponent must establish that: (1) the issue sought to be precluded is identical to one previously litigated; (2) the issue must have been actually determined in the prior proceeding; (3) determination of the issue must have been a critical and necessary part of the decision in the prior proceeding; (4) the prior judgment must be final and valid; and (5) the party against whom estoppel is asserted must have had a full and fair opportunity to litigate the issue in the previous forum.

*Sedlack v. Braswell Services Group, Inc.*, 134 F.3d 219, 224 (4<sup>th</sup> Cir. 1998).

Facts 1-4. These issues of fact and law are identical to those in the previous, improper Debt Collection Foreclosure Action against Mr. Matthews by GMAC's authorized agent Ward and have been determined in a final judgment to be improper. *Parklane*, 439 U.S. 322; *U.S. v. Mendoza*, 464 U.S. 154; and *Sedlack v. Braswell Services Group, Inc.*, 134 F.3d 219.

**B. ALTERNATIVELY AND ADDITIONALLY, THE DEPOSITION TESTIMONY OF GMAC'S AGENT JEFFREY STEPHAN PROVIDES SUFFICIENT UNDISPUTED FACTS TO SUPPORT SUMMARY JUDGMENT**

1. *Maryland's Foreclosure Law*

If the Court desires to look beyond principles of collateral estoppel to the context of GMAC's debt collections practices and procedures at issue in this matter, it is important first to review the changes to Maryland foreclosure law since 2008.

The Maryland Court of Appeal's recent decision in *Maddox v. Cohn*, 36 A.3d 426 (2012), illustrates the Maryland legislature's intention to move foreclosure policy in a direction that emphasizes protecting homeowners against unfair or deceptive practices and requiring strict compliance. In *Maddox*, the Court of Appeals not only required stricter adherence, it effectively held that any benefit of a doubt be resolved in favor of homeowners ("tipping the playing field to protect debtors" *Id.* at 434). The sum of the Court of Appeals holding on the intent of the change in Maryland policy and procedure was as follows:

It is clear that the legislative process relating to mortgage foreclosures of the last several years has been designed to slow down the mortgage foreclosure practices **to limit the abuses of past years and to provide additional protections to homeowners**. In our view the Legislature has effectively changed Maryland's slanted in favor of secured parties foreclosure practices **to one requiring compliance with much stricter standards, tipping the playing field to protect debtors...**

The Legislature's public policy statements as exemplified by its recent enactments persuade us a stricter adherence to the rules of procedure in mortgage foreclosure sales of residential property is required.

*Maddox* at 434. (emphasis added)

In *Maddox*, the Court of Appeals had to determine whether a foreclosure sale was proper where substitute trustees introduced conditions of sale not authorized by Maryland law and how strictly or loosely compliance with foreclosure procedures ought to be considered by Maryland courts. The *Maddox* court acknowledged that the specific act at issue was relatively minor. *Maddox* at 437 (“While the fee attempted to be imposed in the present case is relatively minor ...”). Additionally, the fees improperly imposed in *Maddox* were neither hidden nor misrepresented; they were simply not authorized. *Id.* at 427.

The *Maddox* court held the statutory purpose of the new reforms is not simply to better inform borrowers but also “to further protect the interests of mortgagors relating to foreclosures, especially foreclosures of residential properties”. *Id.* at 430. As such, the Maryland legislature “created exhaustive and extensive processes, such as mediation, waiting periods and the like relating to additional duties that lenders have before or during the foreclosure process.” *Id.* at 431.

In addition, the Court of Appeals held “that the legislative process relating to mortgage foreclosures of the last several years has been **designed to slow down the mortgage foreclosure practices** to limit the abuses of past years and **to provide additional protections to homeowners.**” *Id.* at 434 (emphasis added).

In *Maddox*, the noted protective sentiment led the Court of Appeals to find strict adherence to foreclosure procedure appropriate. *Id.* at 434 (“The Legislature’s public policy statements as exemplified by its recent enactments persuade us a **stricter adherence** to the rules of procedure in mortgage foreclosure sales of residential property is required”)(emphasis added). In the court’s view, the Legislature had “effectively changed Maryland’s slant in favor of secured parties’ foreclosure practices to one requiring compliance with much **stricter standards**,

tipping the playing field to protect debtors.” *Id.* (emphasis added).

Thus, the Maryland Court of Appeals has already acknowledged that the legislative intent behind the foreclosure amendments in Maryland was to protect homeowners, like Mr. Matthews, by insisting upon strict compliance with procedure. This statement of policy cannot be harmonized with GMAC’s debt collection practices against Mr. Matthews where it improperly acquired the Circuit Court for Howard County’s jurisdiction by filing purported affidavits and other papers through its authorized agents in the Debt Collection Foreclosure Action that sped up the foreclosure process, which under *Maddox* is a material violation of Maryland law in the debt collection process.

In most Maryland foreclosure actions there is no pleading;<sup>10</sup> however, every document filed is a “paper”. Md. Rule 1-311. The state court obtains jurisdiction by the filing of specific papers, *i.e.*, by the filing of an order to docket with all mandated attachments. Md. Code Ann., Real Prop. § 7-105.1(e) (“an order to docket ... shall ... include”); Md. Rule 14-203(b) and 14-207(a). Every paper filed in a Maryland court must be signed by an attorney or a *pro se* party.

Every pleading and paper of a party represented by an attorney shall be signed by at least one attorney who has been admitted to practice law in this State and who complies with Md. Rule 1-312. Every pleading and paper of a party who is not represented by an attorney shall be signed by the party. (emphasis added)]

Maryland Md. Rule 1-311(a). *See also, AGC v. Goldberg*, 292 Md. 650, 441 A.2d 338 (1982).

The only individual who may commence a consent decree foreclosure in Maryland is “any individual authorized to exercise a power of sale” through the filing of an Order to Docket. MD Code, Real Property, § 7-105.1(d); Md. Rule 14-204(a)(1). Under Maryland statutes and Maryland Rules, every Order to Docket must be accompanied by certain documents including a

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<sup>10</sup> Md. Rule 1-202(t): “Pleading” means a complaint, a counterclaim, a cross-claim, a third-party complaint, an answer, an answer to a counterclaim, cross-claim, or third-party complaint, a reply to an answer, or a charging document as used in Title 4.



number of affidavits. REAL PROP., § 7-105.1 and Md. Rule 14-207(b).

At the time GMAC commenced its Debt Collection Foreclosure Action against Matthews certain affidavits and papers were required. MD Rules, Rule 14-204(b)(2009 version).<sup>11</sup> There is no provision under Maryland law or rules to support the filing of a required affidavit without the affiant actually having personal knowledge of its contents.

Abiding by the strict requirements applied to foreclosure proceedings by Maryland's legislature, governor and the judicial branches is of the greatest benefit to Maryland state homeowners caught in the foreclosure crisis, and preserves the integrity of the judiciary.

2. *GMAC's Prior Debt Collection Foreclosure Action Against Mr. Matthews*

GMAC supported the Debt Collection Foreclosure Action against Matthews with several purported affidavits and papers filed by Stephan and Ward. *See* Material Facts Not In Dispute 1 to 4. These included: Exhibit 13, Affidavit Certifying Ownership of Debt Instrument and Truth and Accuracy of Copy Filed Herein, Exhibit 15, the Assignment of Note and Deed of Trust and Exhibit 14, Affidavit of Default and Mailing of Notice of Intent to Foreclose.

These purported affidavits, declarations, and papers (collectively the "Matthews Defective Foreclosure Papers and Affidavits") were mandatory requirements under Maryland foreclosure law; without such an affidavits and papers, the filing of a consent decree foreclosure is illegal in Maryland. MD Rules, Rule 14-204(b)(2009 version) (An "order to docket **shall** include or be accompanied by..."(emphasis added). However, the Matthews Defective

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<sup>11</sup> The Maryland Rules Committee and the Court of Appeals have subsequently amended the various foreclosure rules in the last three years and now list the required affidavits and papers in a foreclosure action in Md., Rule 14-207(b). The version of the original rule copied above was in effect at the time the Matthews' First Foreclosure case was filed in the state court. The subsequent amendments did not change these requirements and largely added additional requirements consistent with Maryland's new foreclosure mediation program and other rights afforded under state and federal law.

Foreclosure Papers and Affidavits used by GMAC to commence the Debt Collection Foreclosure Action through Ward and Stephan against Mr. Matthews and his property were not lawful and true affidavits and papers as required by Maryland law to initiate the foreclosure.

There should be no significant debate as who is permitted to execute an affidavit. The obvious answer — the only answer — is the alleged affiant/declarant. The dictionary and procedural rules could not be clearer:

**Affiant.** 1. One who makes an affidavit. ...

**Affidavit.** A voluntary declaration of facts written down and sworn to **by the declarant** before an officer authorized to administer oaths, such as a notary public. ... [emphasis added]

**Declarant.** 1. One who has made a statement ...

Black's Law Dictionary, 8<sup>th</sup> Ed. (2004).

“Affidavit” means a written statement the contents of which are affirmed under the penalties of perjury to be true. Unless the applicable Md. Rule expressly requires the affidavit to be made on personal knowledge, the statement may be made to the best of the affiant's knowledge, information, and belief.

Md. Rule 1-202(b).

The statement **of the affiant** may be made before an officer authorized to administer an oath or affirmation, who shall certify in writing to having administered the oath or taken the affirmation, or may be made by signing the statement in one of the following forms:

Generally. “I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.”

Personal Knowledge. “I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.” [emphasis added]

Md. Rule 1-304. *See also* Alexander Gordon, IV, Gordon on Md. Foreclosures (4<sup>th</sup> Edition) at Page 254 (“Rule 1-304 provides for the forms for an affidavit”).

There is no basis in law to support the notion that an affiant can swear to the contents of an affidavit or other paper without having verified the truth of those contents under Maryland law. Each of the Defective Matthews Foreclosure Papers and Affidavits violated Maryland's requirements for commencing a consent decree foreclosure in the State of Maryland. Given that Stephan has admitted that his typical policy and procedure before signing affidavits and papers like those at issue in the present case is to sign them without verifying their contents other than to quickly check the borrower's name, the amount due and the due date, those practices and procedures cannot be accepted—otherwise the integrity of the judicial system is compromised by relying on unknown information sworn to as fact.

**C. APPLYING THE UNDISPUTED MATERIAL FACTS, MATTHEWS HAS PROPERLY STATED A CLAIM AND IS ENTITLED TO JUDGMENT AS TO LIABILITY AGAINST GMAC UNDER THE MARYLAND CONSUMER PROTECTION ACT (MCPA), COUNT ONE OF HIS COMPLAINT**

In *Hoffman v. Stamper*, 867 A.2d 276 (Md. 2005), the Maryland Court of Appeals held:

An 'unfair or deceptive trade practice' includes any false or misleading statement or representation which has the capacity, tendency, or effect of deceiving or misleading consumers and encompasses a representation that consumer reality has a characteristic that it does not have or is of a particular standard or quality that is not the case. Commercial Law Art. § 13-301. Section 13-408 of that article provides for a private cause of action to recover for loss or injury sustained as the result of a practice forbidden by the CPA.

*Id.* at 294.

The MCPA also holds that material omissions constitute unfair and deceptive practices if a significant number of unsophisticated consumers would find that information important in determining a course of action in the consumer transaction involved. MD. CODE ANN., COM. LAW, §§ 13-301, 13-303. In *Hoffman v. Stamper* the court upheld the MCPA claims against a residential appraiser, who had no contact with the borrower, for the unfair and deceptive practices related to overstated values for flipped houses that "directly 'infected' the sales at

issue . . . [where the consumers] would not have proceeded to closing absent those appraisals. [The appraiser] was an integral part of the entire scheme of deceptive trade practices committed in the sale of consumer realty.” *Hoffman*, 867 A.2d at 295.

There is no material dispute that the Defective Matthews Foreclosure Papers and Affidavits failed as matter of law to comply with the mandatory requirements for commencing a foreclosure against Mr. Matthews signed by the purported signer Stephan. See Material Facts Not in Dispute 1 to 4. The accuracy of the foreclosure papers is material since the form and manner is specifically required by Maryland law and procedure. See *Maddox, supra*. This false material representation proves that GMAC acted improperly and was unfair and deceptive in connection with the attempted effort to conduct the Debt Collection Foreclosure Action on Mr. Matthews’ home and property. GMAC’s acts and omissions constitute violations of the MCPA as a matter of law.

The MCPA provides that GMAC “may not engage in any unfair or deceptive trade practice...in ...(4) The collection of consumer debts.” MD. CODE ANN., COM. LAW, § 13-303. In addition the MCPA describes unfair or deceptive trade practices as “(1) False, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers...[and] (3) Failure to state a material fact if the failure deceives or tends to deceive.” MD. CODE ANN., COM. LAW, § 13-301.

GMAC had the duty to Mr. Matthews independently verify all information sworn to by its agents in any paper submitted to the Circuit Court for Baltimore City and to have its agents appear in person before a notary before allowing the affidavit or document to be notarized, to comply with the law and foreclosure procedures. MD. ANN. CODE, REAL PROP., § 7-105.1.

Instead, it knowingly allowed agents, like Stephan and Ward, to submit improper and irregularly sworn affidavits and papers without performing any meaningful review of their contents and allowed the Debt Collection Foreclosure Action against Mr. Matthews to proceed based on those improper documents. Each of these well pled and undisputed, material acts constitute as a matter of law violations of the MD Code, Commercial Law, § 13-301(1)&(3) & 13-304(4) and establish that GMAC is liable to Mr. Matthews as a matter of law on Mr. Matthews' claiming Count One of this Complaint under the MCPA.<sup>12</sup>

Finally, this result is entirely consistent with the express purpose of the MCPA:

to set certain minimum statewide standards for the protection of consumers across the State . . . [and to] take strong protective and preventive steps to investigate unlawful consumer practices, to assist the public in obtaining relief from these practices, and to prevent these practices from occurring in Maryland.

MD. CODE ANN., COM. LAW, § 13-102.

If corporate persons such as GMAC are permitted to maintain foreclosure proceedings on the basis of faulty or fraudulent affidavits, consumers like Mr. Matthews will continue to be harmed. There is no just reason to excuse GMAC from compliance with the law during the commencement of a foreclosure proceeding in Maryland. To hold otherwise would be to promote further unfair and deceptive foreclosure actions in violation of the simplest of notice requirements determined by the General Assembly to be necessary and required for all homeowners.

**D. APPLYING THE UNDISPUTED MATERIAL FACTS, MATTHEWS HAS PROPERLY STATED A CLAIM AND IS ENTITLED TO JUDGMENT AS TO LIABILITY AGAINST GMAC UNDER THE MARYLAND MORTGAGE FRAUD PREVENTION ACT (MMFPA), COUNT TWO OF THE COMPLAINT**

The MMFPA

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<sup>12</sup> Mr. Matthews' damages will be determined at a later stage of these proceedings.

[i]n its broadest sense, the statute simply states “[a] person may not commit mortgage fraud.” *Id.* § 7–402. Relevant to the present action, the statute defines mortgage fraud as:

- (1) Knowingly making any deliberate **misstatement, misrepresentation, or omission** during the mortgage lending process with the intent that the misstatement, misrepresentation, or omission be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
- (2) Knowingly creating or producing a document for use during the mortgage lending process that contains a **deliberate misstatement, misrepresentation, or omission** with the intent that the document containing the misstatement, misrepresentation, or omission be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
- (3) Knowingly using or facilitating the use of any **deliberate misstatement, misrepresentation, or omission** during the mortgage lending process with the intent that the misstatement, misrepresentation, or omission be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
- ...; or
- (6) Filing or causing to be filed in the land records in the county where a residential real property is located, any document relating to a mortgage loan that the person knows to contain a deliberate misstatement, misrepresentation, or omission.

Md.Code Ann., Real Prop. § 7–401(d)(1)-(6). The statutory definition of the “mortgage lending process” includes “(i) [t]he solicitation, application, origination, **negotiation, servicing**, underwriting, signing, closing, and funding of a mortgage loan; and (ii) the notarizing of any document in connection with a mortgage loan.” *Id.* § 7–401(e)(2).

*Stovall v. SunTrust Mortg., Inc.*, CIV.A. RDB-10-2836, 2011 WL 4402680. \*9-10 (D. Md. Sept. 20, 2011)(emphasis added).

The *Stovall* court held that the lender’s alleged and similar misstatements and omissions in the foreclosure process, such as those subject to this action, “are sufficient to plead a violation of the MMFPA.” *Id.* \*10. Further, Judge Bennett specifically rejected the lender’s argument which seeks to “curtail the breadth of the statute” and found that “the plain language of the statute clearly countenances post-closing servicing activities.” *Id.* In addition, Judge Bennett specifically found “the fraud complained of by [the consumer homeowner] allegedly occurred after the closing in connection with the foreclosure proceedings instituted against him [through

robo-signing practices], and this Court finds that post-closing activities are clearly contemplated by the Maryland Mortgage Fraud Protection Act.” *Id.* at FN 2.

Based upon the clear and unambiguous reading of the MMFPA and the well pled and undisputed, material facts, Mr. Matthews has stated a claim under the MMFPA against GMAC and it’s liability to Mr. Matthews has been established for commencing the improper Debt Collection Foreclosure Action against Mr. Matthews related to his mortgage by filing the Defective Matthews Foreclosure Papers and Affidavits in the Circuit Court for Howard County. GMAC’s actions occurred as part of the “servicing” of Mr. Matthews’ mortgage loan (i.e. “mortgage lending process” pursuant to MD. CODE ANN., REAL PROP., § 7-401(e)). GMAC caused the Defective Matthews Foreclosure Papers and Affidavits (i.e. “documents” pursuant to MD. CODE ANN., REAL PROP., § 7-401(b)) to be sent to Mr. Matthews and the Circuit Court for Baltimore City which commenced an improper, debt collection foreclosure proceeding against Mr. Matthews and his home.

These actions constitute “mortgage fraud” under the MMFPA, as there can be no dispute that GMAC’s misrepresentation, omission, and/or misstatement was knowing and deliberate since ignorance of the law is not an excuse. *See* Material Facts Not in Dispute 1 to 4.

First, as the Court of Appeals explained more than 50 years ago in *Griffith v. Scheungrab*, 146 A.2d 864, 867-68 (1959):

It is familiar principle often applied in the cases that “ \* \* \* the laws which subsist at the time and place of making a contract enter into and form a part of it, as if they were expressly referred to or incorporated in its terms; and this rule embraces alike those which affect its validity, construction, discharge, and enforcement.”

*Id.* (internal citations and quotations omitted). Thus GMAC cannot claim ignorance of Maryland’s foreclosure process. Second, since GMAC executed the purported affidavits and

papers through its authorized agents Stephan and Ward that were submitted to the Circuit Court for Baltimore City, i.e. the Defective Matthews Foreclosure Papers and Affidavits, GMAC cannot claim ignorance of this fact in law.

Since there is no genuine dispute of material fact concerning the elements necessary to establish liability of GMAC under the MMFPA to Mr. Matthews, this Court should enter specific findings as a matter of law as well as judgment against GMAC pursuant to Mr. Matthews' claim under Count Two of his Complaint.

**D. APPLYING THE UNDISPUTED MATERIAL FACTS, MATTHEWS HAS PROPERLY STATED A CLAIM AND IS ENTITLED TO JUDGMENT AS TO LIABILITY AGAINST GMAC UNDER THE MARYLAND CONSUMER DEBT COLLECTION ACT (MCDCA), COUNT THREE OF THE COMPLAINT**

The MCDCA specifically provides, “[i]n **collecting or attempting to collect an alleged** debt a collector may not...(8) Claim, attempt, or threaten to enforce a right with knowledge that the right does not exist.” Md. Code Ann., Com. Law § 14-202 (emphasis added). Further, “[t]he MCDCA protects consumers against certain threatening and underhanded methods used by debt collectors in attempting to recover on delinquent accounts.” *Spencer v. Hendersen-Webb, Inc.*, 81 F. Supp. 2d 582, 594 (D. Md. 1999). There is no basis in the specific language of the MCDCA that the act only applies to collection methods related to “invalid debts.” *See* MCDCA *generally*. However, looking at the specific language of the MCDCA it is clear the act was intended to apply broadly in debt collection practices concerning all forms of consumer debts (including valid and invalid debts):

(b) “Collector” means a person collecting or attempting to collect **an alleged debt** arising out of a consumer transaction.

(c) “Consumer transaction” means **any transaction** involving a person seeking or acquiring real or personal property, services, money, or credit for personal, family, or household purposes.



Md. Code Ann., Com. Law § 14-201 (emphasis added). *See also Spencer v. Hendersen-Webb, Inc.*, 81 F. Supp. 2d 582, 594 (it would be improper to dilute the MCDCA from its express statutory language considering its “remedial aim”); *Pak v. Hoang*, 378 Md. 315, 326, 835 A.2d 1185, 1191 (2003) (“‘In short, we have before us remedial legislation. When the legislature enacts a statute designed, as the Act is, to provide remedies not available at common law, it is not desirable that construction should be mindlessly guided by a slogan, such as ‘statutes in derogation of the common law must be narrowly construed.’ Statutes of this nature ‘are remedial and designed to close a gap in the preexisting law....’ A court should not permit ‘a narrow or grudging process of construction to exemplify and perpetuate the very evils to be remedied....’ ” *Neal*, 312 Md. at 693-94, 541 A.2d at 1318” (citations omitted).

Based upon the clear and unambiguous reading of the MCDCA and undisputed, material facts, Mr. Matthews has stated a claim under Mr. Matthews’ third claim against GMAC pursuant to the MCDCA as to GMAC’s liability to Mr. Matthews for its commencement of an improper, debt collection foreclosure action against Mr. Matthews by knowingly filing the Defective Matthews Foreclosure Papers and Affidavits in the Circuit Court for Baltimore City.

Since there is no genuine dispute of material fact concerning the elements necessary to establish liability of GMAC under the MCDCA to Mr. Matthews, this Court should enter specific findings as a matter of law as well as judgment against GMAC pursuant to Mr. Matthews’ claim under Count Three of his Complaint.

**E. THERE IS NO QUESTION UNDER MARYLAND LAW THAT WARD AND STEPHAN ARE AGENTS OF GMAC AND GMAC IS LIABLE FOR THE ACTS OF ITS AGENTS**

At all times relevant to the present action, Stephan and Ward acted as GMAC’s

authorized agents when performing actions related to Mr. Matthew's loan. "Agency is the fiduciary relation which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act." *Green v. H&R Block, Inc.*, 355 Md. 488, 503 (1999). (Quoting Restatement (Second) Of Agency § 1 (1958). "The relation of principal and agent does not necessarily depend upon an express appointment and acceptance thereof, but it may be implied from the words and conduct of the parties and the circumstances." *Id.*

### CONCLUSION

WHEREFORE, based upon the forgoing argument and the undisputed, material facts and law, Mr. Matthews requests summary judgment against GMAC as to liability for each of his claims asserted.

Respectfully Submitted,



Phillip R. Robinson  
Legg Law Firm LLC  
5500 Buckeystown Pike  
Frederick, MD 21703  
(301) 620-1016

**CERTIFICATE OF SERVICE**

I hereby certify and give notice that a copy of the foregoing was sent by electronic means to opposing counsel for GMAC and also regular U.S. mail, postage pre-paid, will be sent on this day the 18th day of January, 2013 to the following parties (as well as two courtesy copies to the Court) in this action:

Gary Lee  
Norman Rosenbaum  
Erica Richards  
Morrison & Forestor, LLP  
1290 Avenue of the Americas  
New York, NY 10104

*Counsel for the Debtors/Defendant*



Phillip R. Robinson  
Legg Law Firm LLC  
5500 Buckeystown Pike  
Frederick, MD 21703  
(301) 620-1016

# Exhibit 1

PREPARED BY:

BGW#: 96789

AFTER RECORDING, PLEASE RETURN TO:

Bierman, Geesing, Ward & Wood, LLC  
4520 East West Highway, Suite 200  
Bethesda, MD 20814

### DEED OF APPOINTMENT OF SUBSTITUTE TRUSTEE

THIS DEED OF APPOINTMENT OF SUBSTITUTE TRUSTEE, is made this 4 day of February 2010, by and among GMAC MORTGAGE, LLC, AUTHORIZED BY GOVERNMENT NATIONAL MORTGAGE ASSOCIATION TO BE THE HOLDER OF THE NOTE AND MORTGAGE FOR THE PURPOSES OF ALL ACTIONS NECESSARY TO CONDUCT FORECLOSURE party of the first part, and HOWARD N. BIERMAN, JACOB GEESING AND CARRIE M. WARD, any of whom may act independently of the other (collectively, 'Substitute Trustees'), party of the second part.

WHEREAS, Kevin Jerron Matthews by Deed of Trust dated February 14, 2008, and recorded among the Land Records of Baltimore City, Maryland in Liber 10445, Folio 309, did grant and convey certain real estate known as:

SEE ATTACHED LEGAL DESCRIPTION.

Known as: 3216 East Northern Parkway, Baltimore, MD 21214-1422

in trust, to secure to USAA Federal Savings Bank, payment of a note ("Note") of even date therewith in the original principal amount of \$150,000.00; and

WHEREAS, said Deed of Trust provides that the holder of the Note shall have the power and authority to appoint, by an instrument duly executed, acknowledged and recorded among the Land Records aforesaid, substitute trustee(s) in the place and stead of the trustee(s) named therein; and

WHEREAS, the party of the first part is the owner and holder of the note secured by said Deed of Trust.

NOW, THEREFORE WITNESSETH, in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, the party of the first part by the execution and delivery of these presents, hereby appoints Howard N. Bierman, Jacob Geesing and Carrie M. Ward, as substitute trustees under the said Deed of Trust in the place and stead of the trustee or trustees originally named therein, or in place of any other trustee or trustees who have heretofore been substituted for the originally named trustee or trustees, the said Substitute Trustees being vested with all of the right, title and interest and clothed with all the rights, powers and privileges of the trustee or trustees originally named in said Deed of Trust.



**EXHIBIT "A" - PROPERTY DESCRIPTION**

BEGINNING on the northeast side of Northern Parkway, 100 feet wide, at a point situate, north 65 degrees 05 minutes 30 seconds west 373.90 feet along said side from the corner formed by the intersection of the northeast side of Northern Parkway with the northwest side of Moyer Avenue, 50 feet wide, as shown on the Plat of Northern Heights duly recorded among the land records of Baltimore City; said place of beginning being also in line with the center of a partition wall there situate; thence leaving said place of beginning and binding along the northeast side of Northern Parkway, north 65 degrees 05 minutes 30 seconds west 26.34 feet; thence leaving the northeast side of Northern Parkway and running for a line of division, north 24 degrees 54 minutes 30 seconds east 107.5 feet to the southwest side of a 15 foot alley there situate; thence binding along the southwest side of said alley with the use thereof in common, south 65 degrees 05 minutes 30 seconds east 26.34 feet to a point in line with the center of the above mentioned partition wall; thence leaving the southwest side of said alley and running to and through the center of said partition wall and continuing the same course in all south 24 degrees 54 minutes 30 seconds west 107.5 feet to the place of beginning. The improvements whereon are known as No. 3216 Northern Parkway, Baltimore, Maryland 21214 (For informational purposes only).

BEING THE SAME LOT OF GROUND WHICH BY DEED OF EVEN DATE HERewith AND RECORDED OR INTENDED TO BE RECORDED AMONG THE LAND RECORDS OF BALTIMORE CITY PRIOR HERETO WAS GRANTED AND CONVEYED BY STEPHANIE CANNIZZARO AS PERSONAL REPRESENTATIVE OF THE STEPHEN A. CANNIZZARO ESTATE UNTO THE BORROWER(s) HEREIN.

IN WITNESS WHEREOF, GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure has caused this Deed of Appointment of Substitute Trustee to be executed by its duly authorized agent on 4 day of Feb, 2010.

GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure

Name: Jeffrey Stephan  
Title: Limited Signing Officer

STATE OF PA )  
COUNTY OF Montgomery ) ss.

I, Mary Lynch, a Notary Public in and for the State and County aforesaid, do hereby certify that Jeffrey Stephan, authorized agent of GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure, personally appeared before me in the jurisdiction aforesaid and executed the foregoing Deed of Appointment of Substitute Trustee.

Given under my hand and seal this 4 day of Feb, 2010.

Mary Lynch  
Notary Public

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal  
Mary Lynch, Notary Public  
Upper Dublin Twp., Montgomery County  
My Commission Expires Nov. 3, 2010  
Member, Pennsylvania Association of Notaries

My Commission Expires:

I hereby certify that the within instrument was prepared under the supervision of either Howard N. Bierman, Jacob Geesing and Carrie M. Ward, attorneys-at-law duly admitted to practice before the Court of Appeals of the State of Maryland.

Howard N. Bierman  
Howard N. Bierman  
Jacob Geesing  
Carrie M. Ward

BGW#: 96789



Party of the first part:

GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the  
holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure  
c/o GMAC Mortgage LLC  
1100 Virginia Drive  
Fort Washington, Pennsylvania 19034

Party of the second part:

Howard N. Bierman, Substitute Trustee  
Jacob Geesing, Substitute Trustee  
Carrie M. Ward, Substitute Trustee  
4520 East West Highway, Suite 200  
Bethesda, MD 20814



# Exhibit 2

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing  
Carrie M. Ward  
Howard N. Bierman

4520 East West Highway, Suite 200  
Bethesda, MD 20814  
Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS

3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

\* \* \* \* \*

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Case No.

**COPY**

ORDER TO DOCKET

To the Clerk:

Please docket the above entitled foreclosure, and accept for filing the following:

- (1) Copy of the Original DOA, with Affidavit of Truth and Accuracy of same;
- (2) Copy of the Lien Instrument, with Affidavit of Truth and Accuracy of same;
- (3) Affidavit Certifying Ownership of the Debt Instrument, and of Truth and Accuracy of Copy filed herein;
- (4) Copy of the Debt Instrument;
- (5) Affidavit of Deed of Trust Debt, and Right to Foreclose;
- (6) Affidavit of Non-Military Service;
- (7) Affidavit of Default and Mailing of Notice of Intent to Foreclose
- (8) Notice Pursuant to Maryland Real Property Article 7-105.1(D)(VII).
- (9) Maryland Notice of Intent to Foreclose
- (10) MD Rule 14-209(d) Affidavit of Mailing of Notice to Occupant(s)
- (11) Statement Designating Property "Residential Real Property"

License No. Lender: N/A

License No. Originator: N/A

Date: MAR 25 2010

Respectfully submitted,  
Bierman, Geesing, Ward & Wood, LLC

By: \_\_\_\_\_

Jacob Geesing  
Carrie M. Ward  
Howard N. Bierman  
4520 East West Highway, Suite 200  
Bethesda, MD 20814  
(301) 961-6555

# Exhibit 3

Circuit Court of Maryland

[Go Back](#)**Case Information**

Court System: **Circuit Court for Baltimore City - Civil System**  
Case Number: **24010001394**  
Title: **JACOB GEESING vs KEVIN JERRON MATTHEWS**  
Case Type: **Foreclosure** Filing Date: **03/29/2010**  
Case Status: **Closed/Inactive**  
Case Disposition: **Decree Or Order** Disposition Date: **01/14/2011**

---

**Plaintiff/Petitioner Information**

*(Each Plaintiff/Petitioner is displayed below)*

Party Type: **Plaintiff** Party No.: **1**

Name: **GEESING, JACOB**

Address: **4520 EAST WEST HIGHWAY**

City: **Bethesda** State: **MD** Zip Code: **20814**

**Attorney(s) for the Plaintiff/Petitioner**

Name: **Murphy, Esq, William J**

Appearance Date: **11/12/2010**

Practice Name: **Zuckerman Spaeder LLP**

Address: **100 East Pratt Street**  
**Suite 2440**

City: **Baltimore** State: **MD** Zip Code: **21201**

Name: **Geesing, Esq, Jacob**

Appearance Date: **03/29/2010**

Practice Name: **BWW Law Group, LLC**

Address: **4520 East West Hwy #200**

City: **Bethesda** State: **MD** Zip Code: **20814**

---

**Defendant/Respondent Information**

*(Each Defendant/Respondent is displayed below)*

Party Type: **Defendant** Party No.: **1**

Name: **MATTHEWS, KEVIN JERRON**

Address: **3216 E NORTHERN PARKWAY**

City: **Baltimore** State: **MD** Zip Code: **21214**

**Attorney(s) for the Defendant/Respondent**

Name: **Robinson, Phillip**

Appearance Date: **07/21/2010**

Practice Name: **Civil Justice Inc.**

Address: **520 W Fayette St**  
**Suite 410**

City: **Baltimore** State: **MD** Zip Code: **21201**

---

**Court Scheduling Information**

Event Type: **Motion Hearing (Civil)** Notice Date: **01/04/2011**

Event Date: **01/14/2011** Event Time: **09:30 AM**

Result: **Held/Concluded** Result Date: **01/18/2011**

## Related Persons Information

*(Each Related person is displayed below)*

Party Type: **Bond Remitter/Bondsman** Party No.: **1**

Business or  
Organization Name: **Lexington National Insurance Corporation**

Party Type: **Bond Remitter/Bondsman** Party No.: **2**

Business or  
Organization Name: **Lexington National Insurance Corporation**

Party Type: **Substitute Purchaser** Party No.: **1**

Business or  
Organization Name: **Secretary Of Veterans Affairs**

Party Type: **Property Address** Party No.: **1**

Business or  
Organization Name: **3216 E NORTHERN PARKWAY 21214 \$153,507.55**

Party Type: **Trustee** Party No.: **1**

Name: **GEESING, JACOB**

Address: **4520 EAST WEST HIGHWAY**

City: **Bethesda** State: **MD** Zip Code: **20814**

### Attorney(s) for the Related Persons

Name: **Geesing, Esq, Jacob**

Practice Name: **BWW Law Group, LLC**

Address: **4520 East West Hwy #200**

City: **Bethesda** State: **MD** Zip Code: **20814**

Party Type: **Trustee** Party No.: **2**

Name: **WARD, CARRIE M**

Address: **4520 EAST WEST HIGHWAY**

City: **Bethesda** State: **MD** Zip Code: **20814**

### Attorney(s) for the Related Persons

Name: **Geesing, Esq, Jacob**

Practice Name: **BWW Law Group, LLC**

Address: **4520 East West Hwy #200**

City: **Bethesda** State: **MD** Zip Code: **20814**

Party Type: **Trustee** Party No.: **3**

Name: **BIERMAN, HOWARD N**

Address: **4520 EAST WEST HIGHWAY**

City: **Bethesda** State: **MD** Zip Code: **20814**

### Attorney(s) for the Related Persons

Name: **Geesing, Esq, Jacob**

Practice Name: **BWW Law Group, LLC**

Address: **4520 East West Hwy #200**

City: **Bethesda** State: **MD** Zip Code: **20814**

---

Party Type: **Interested Party** Party No.: **1**  
Business or  
Organization Name: **GMAC Mortgage LLC**  
Address: **C/O Howard N Bierman, Esq**  
City: **Bethesda** State: **MD** Zip Code: **20814**

***Attorney(s) for the Related Persons***

Name: **Bierman, Esq, Howard N**  
Practice Name: **BWW Law Group LLC**  
Address: **4520 East West Hwy #200**  
City: **Bethesda** State: **MD** Zip Code: **20814**

---

Party Type: **Interested Party** Party No.: **2**

Name: **DePastina, Anthony**

---

Party Type: **Purchaser** Party No.: **1**

Business or  
Organization Name: **GMAC Mortgage LLC**

---

**Document Tracking**

*(Each Document listed. Documents are listed in Document No./Sequence No. order)*

Doc No./Seq No.: **1/0**

File Date: **03/29/2010** Close Date: **01/14/2011** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Order to Docket Suit  
DEED OF TRUST & NOTE**

---

Doc No./Seq No.: **2/0**

File Date: **03/29/2010** Close Date: **04/16/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Statement of Mortgage Debt \$153,507.55**

---

Doc No./Seq No.: **3/0**

File Date: **03/29/2010** Close Date: **04/16/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit - Non-Military**

---

Doc No./Seq No.: **4/0**

File Date: **03/29/2010** Close Date: **01/14/2011** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Deed of Appointment OF SUBSTITUTE TRUSTEE**

---

Doc No./Seq No.: **5/0**

File Date: **03/29/2010** Close Date: **01/14/2011** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Notice OF INTENT TO FORECLOSE**

---

Doc No./Seq No.: **6/0**

File Date: **05/14/2010** Close Date: **01/14/2011** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Trustee's Approved Bond (\$25,000.00)**

---

Doc No./Seq No.: **7/0**  
File Date: **06/01/2010** Close Date: **06/08/2010** Decision: **Granted**  
Party Type: **Interested Party** Party No.: **1**  
Document Name: **Motion to Substitute Purchaser**

---

Doc No./Seq No.: **7/1**  
File Date: **06/08/2010** Close Date: **01/14/2011** Decision:  
Document Name: **Order of Court**  
**ORDERED, THAT THE SECRETARY OF VETERANS AFFAIRS SHALL BE, AND**  
**HEREBY SUBSTITUTED AS PURCHASER**

---

Doc No./Seq No.: **7/2**  
File Date: **06/18/2010** Close Date: **01/14/2011** Decision:  
Document Name: **Copies Mailed**  
**Filed by Attorney: Jacob Geesing Esq**

---

Doc No./Seq No.: **8/0**  
File Date: **05/28/2010** Close Date: **01/14/2011** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Trustee's Approved Bond (Rider \$110,000.00)**

---

Doc No./Seq No.: **9/0**  
File Date: **04/12/2010** Close Date: **01/14/2011** Decision:  
Document Name: **Affidavit of Service was posted on the front door of 3216 East**  
**Northern Parkway, Baltimore, Md. 21214 on 4/02/10 at 1 pm after no contact.**

---

Doc No./Seq No.: **10/0**  
File Date: **05/28/2010** Close Date: **01/14/2011** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Report of Sale \$110,162.50**

---

Doc No./Seq No.: **11/0**  
File Date: **06/17/2010** Close Date: **06/17/2010** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Notice of Report of Sale**

---

Doc No./Seq No.: **12/0**  
File Date: **05/28/2010** Close Date: **01/14/2011** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Affidavit of Purchaser**

---

Doc No./Seq No.: **13/0**  
File Date: **05/28/2010** Close Date: **01/14/2011** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Affidavit of Auctioneer**

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---

Doc No./Seq No.: **14/0**

File Date: **05/28/2010** Close Date: **06/17/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Holder's Designation of Person to Take Title Pursuant to Rule 14-213**

---

Doc No./Seq No.: **15/0**

File Date: **05/28/2010** Close Date: **01/14/2011** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit of Notice by Mail Prior to Sale**

---

Doc No./Seq No.: **16/0**

File Date: **07/07/2010** Close Date: **01/14/2011** Decision:

Document Name: **Certificate of Publication**

---

Doc No./Seq No.: **17/0**

File Date: **07/19/2010** Close Date: **07/21/2010** Decision:

Document Name: **Enter The Undersigned Counsel As Attorneys For The Defendant In This Matter**

---

Doc No./Seq No.: **18/0**

File Date: **07/19/2010** Close Date: **07/21/2010** Decision:

Party Type: **Defendant** Party No.: **1**

Document Name: **Exceptions Of Homeowner To Foreclosure Of 3216 E Northern Parkway 21214  
REQUEST FOR HEARING**

---

Doc No./Seq No.: **18/1**

File Date: **08/16/2010** Close Date: **01/14/2011** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Substitute Trustees' Opposition To Exceptions To Sale**

---

Doc No./Seq No.: **19/0**

File Date: **10/28/2010** Close Date: **01/14/2011** Decision:

Party Type: **Defendant** Party No.: **1**

Document Name: **Defendant's Motion to Certify a Defendants' Class Against The Plaintiffs,  
Appoint Defendant As Class Representative And Appoint Class Counsel And  
Special Masters Pursuant to Maryland Rules 2-213 & 14-207.1.**

---

Doc No./Seq No.: **20/0**

File Date: **10/28/2010** Close Date: **01/14/2011** Decision:

Party Type: **Defendant** Party No.: **1**

Document Name: **Motion To Dismiss The Pending Foreclosure Cases of the Named Defendant and  
Class  
Members.**

---

Doc No./Seq No.: **20/1**

File Date: **12/10/2010** Close Date: **01/14/2011** Decision:

Party Type: **Defendant** Party No.: **1**

Document Name: **Response/Opposition to Motion  
Filed by Attorney: Phillip Robinson**

---



---

Doc No./Seq No.: **21/0**

File Date: **11/12/2010** Close Date: **01/14/2011** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Attorney Appearance Filed**

---

Doc No./Seq No.: **22/0**

File Date: **11/15/2010** Close Date: **01/14/2011** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Consent Motion To Extend Time For Substitute Trustees/Plaintiffs To Respond To Defendant's Motions to Dismiss And to Certify A Defendants' Class And For Other Ancillary Relief. (Pull By 12/03/10)**

---

Doc No./Seq No.: **23/0**

File Date: **11/22/2010** Close Date: **01/14/2011** Decision: **Granted**

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Motion to Dismiss**

---

Doc No./Seq No.: **23/1**

File Date: **12/10/2010** Close Date: **01/14/2011** Decision:

Document Name: **Line to enter the appearance of the undersigned counsel (Anothy DePastina) on be Defendant Kevin Jerron Matthews.**

---

Doc No./Seq No.: **23/2**

File Date: **12/22/2010** Close Date: **01/14/2011** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Response/Opposition to Motion Filed by Attorney: William J Murphy Esq**

---

Doc No./Seq No.: **23/3**

File Date: **01/14/2011** Close Date: Decision:

Document Name: **Order of Court ORDER DATED 01/14/11. DID NOT RECIEVE TO DOCKET UNTIL 02/14/11.**

---

Doc No./Seq No.: **23/4**

File Date: **12/22/2010** Close Date: Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **CONSOLIDATED MEMORANDUM ON SUPPORT OF MOTION TO DISMISS WITHOUT PREJUDICE, AND IN OPPOSITION TO ADDITIONAL RELIEF SOUGHT BY DEFENDANT'S COUNSEL Filed by Attorney: William J Murphy Esq**

---

Doc No./Seq No.: **24/0**

File Date: **12/27/2010** Close Date: **12/27/2010** Decision:

Document Name: **Notice Motion Hearing Sent**

Event: **MOTN Block Date: 01/14/11 Facility: 329**

**PARTIES :**

**Robinson, Phillip 520 W Fayette St Suite 410, Baltimore, MD, 21201**

**Bierman, Howard 4520 East West Highway Suite 200, Bethesda, MD, 20814**

**DePastina, Anthony , , ,**

**Geesing, Jacob 4520 East West Highway Suite 200, Bethesda, MD, 20814**

**Murphy, William 36 S Charles St Suite 1400, Baltimore, MD, 21201**

**3216 E NORTHERN PARKWAY 21214 \$153,507.55, , , ,**

**GMAC Mortgage LLC, , , ,**

**Secretary Of Veterans Affairs, , , ,****Doc No./Seq No.: 25/0****File Date: 01/04/2011 Close Date: 01/04/2011 Decision:****Document Name: Notice Motion Hearing Sent****Event: MOTN Block Date: 01/14/11 Facility: 329****PARTIES :****Robinson, Phillip 520 W Fayette St Suite 410, Baltimore, MD, 21201****Bierman, Howard 4520 East West Highway Suite 200, Bethesda, MD, 20814****DePastina, Anthony , , ,****Geesing, Jacob 4520 East West Highway Suite 200, Bethesda, MD, 20814****Murphy, William 36 S Charles St Suite 1400, Baltimore, MD, 21201****3216 E NORTHERN PARKWAY 21214 \$153,507.55, , , ,****GMAC Mortgage LLC, , , ,****Secretary Of Veterans Affairs, , , ,****Doc No./Seq No.: 26/0****File Date: 01/10/2011 Close Date: 01/13/2011 Decision:****Party Type: Defendant Party No.: 1****Document Name: Supplemental Exceptions Of Homeowner To Foreclosure Of 3216 E Northern Parkway****BALTIMORE MD 21214****Doc No./Seq No.: 27/0****File Date: 01/14/2011 Close Date: 01/14/2011 Decision:****Document Name: Open Court Proceeding****01/14/11 Case heard in before the Honorable Judge Pierson.****Pierson, Judge****01/14/11 Plaintiffs Motion to dismiss without Prejudice is heard and hereby "Granted". Order filed.****Pierson, Judge****01/14/11 Judgement in favor of defendant for costs. Order filed.****Pierson, Judge**

*This is an electronic case record. Full case information cannot be made available either because of legal restrictions on access to case records found in Maryland rules 16-1001 through 16-1011, or because of the practical difficulties inherent in reducing a case record into an electronic format.*

# Exhibit 4

BGW#: 96789

**Notice of Intent to Foreclose**

Pursuant to Real Property Article, §7-105.1, Annotated Code of Maryland

**YOU ARE RECEIVING THIS NOTICE BECAUSE YOU ARE CURRENTLY IN DEFAULT ON YOUR MORTGAGE LOAN. IF YOU DO NOT PAY WHAT IS OWED OR OTHERWISE CURE THIS DEFAULT, WE MAY SELL YOUR PROPERTY AT A FORECLOSURE SALE. PLEASE READ THIS NOTICE CAREFULLY.**

|  |  |
|--|--|
| Date of Notice:  | 2/3/2010   |
| Address of Property Subject to This Notice:                            | 3216 East Northern Parkway<br>Baltimore, MD 21214-1422 |
| Name of Borrowers(s)   | Kevin Jerron Matthews                                  |
| Mailing Address of Borrower(s):  | P O Box 3660<br>Baltimore MD 21214                     |
| Name of Record Owner (if different from Borrower(s)):                  | N/A  |
| Mailing Address of Record Owner(s):<br>(if different from Borrower(s)) | N/A  |
| Mortgage Loan Number:  | 0702166456   |
| Lien Position:   | 1st  |
| Date of Most Recent Loan Payment Received:                             | 3/27/2009  |
| Period recent mortgage payment was applied:                            | 8/1/2009   |
| Date of Default:   | 9/2/2009   |
| Total Amount Required to Cure Default:                                 | \$7,462.52   |
| Name of Secured Party:   | Government National<br>Mortgage Association            |
| Telephone Secured Party:   | (800) 850-4622c/o GMAC<br>Mortgage LLC                 |



Name of Loan Servicer  
(if different from Secured Party):

GMAC Mortgage LLC

Telephone Number of Servicer (if applicable): (800) 850-4622

Your mortgage loan payment is currently 154 days past due and is in default.

Please contact Mark Folweiler or another member of the loss mitigation department at 215-734-5359 to speak to an agent or employee of the lender authorized to modify the terms of the mortgage loan immediately upon your receipt of this notice.

**You may avoid foreclosure by doing the following: Make payment in the amount of \$7,462.52 by 02/03/10. If you are unable to pay the total amount required to cure the default, which includes the amount in arrears plus any fees, penalties or costs, or are otherwise unable to cure the default, please contact us immediately to discuss loan repayment options, or other possible options to cure the default. See box below.**

To obtain the exact amount needed to bring the mortgage current and cure this default or to discuss a work out, please call us at (800) 850-4622. Send your full payment to us at the following address:

GMAC Mortgage LLC, 3451 Hammond Avenue, Waterloo, IA 50702

**IMPORTANT NOTE: If you do not bring your loan current and cure your default or negotiate a resolution with us, we may file a foreclosure action 45 days after this Notice is sent and 90 days from the default date. Once a foreclosure action is filed, you could lose your home.**

**You may be eligible for certain workouts through our loss mitigation department, including repayment options. Act now and call us immediately at (800) 850-4622 to see if you qualify!**

cc: As required by law, a copy of this Notice of Intent to Foreclose has been sent to the Commissioner of Financial Regulation, Foreclosure Unit, 500 N. Calvert Street, 4th Floor, Baltimore, MD 21202.

Name of Original Lender:

USAA Federal Savings Bank

Maryland Mortgage Lender License Number:

N/A

Name of Mortgage Originator (if applicable):

N/A

Maryland Mortgage Originator License  
Number:

N/A

# Exhibit 5

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing, et al.  
4520 East West Highway, Suite 200  
Bethesda, MD 20814

Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS  
3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

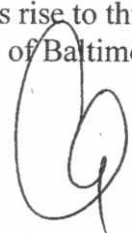
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Case No.

**AFFIDAVIT, PURSUANT TO MD RULE 14-207(b)(1) REGARDING COPY OF  
LIEN INSTRUMENT**

The undersigned Substitute Trustee, pursuant to Maryland Rule 14-207(b)(1), does hereby affirm, under the penalties of perjury, that filed herein is a true and accurate copy of the lien instrument, the default under the terms of which gives rise to this foreclosure action, i.e., a recorded Deed of Trust found among the Land Records of Baltimore City in Liber 10445, Folio 309.



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Jacob Geesing  
Howard N. Bierman  
Carrie M. Ward



# Exhibit 6



BGW#96789

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing, et al.  
4520 East West Highway, Suite 200  
Bethesda, MD 20814  
Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS  
3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

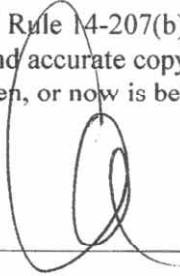
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Case No.

**AFFIDAVIT, PURSUANT TO MD RULE 14-207(b)(4) REGARDING COPY OF DEED OF APPOINTMENT OF SUBSTITUTE TRUSTEE**

The undersigned Substitute Trustee, pursuant to Maryland Rule 14-207(b)(4), does hereby affirm, under the penalties of perjury, that filed herein is a true and accurate copy of the Deed of Appointment of Substitute Trustees, the original of which has been, or now is being, submitted for recording among the Land Records of Baltimore City, Maryland.

  
\_\_\_\_\_  
Jacob Geesing  
Howard N. Bierman  
Carrie M. Ward

# Exhibit 7

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing, et al.  
4520 East West Highway, Suite 200  
Bethesda, MD 20814

Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS  
3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

\* \* \* \* \*

Case No.

**AFFIDAVIT OF DEED OF TRUST DEBT AND RIGHT TO FORECLOSE**

The undersigned Substitute Trustee, pursuant to Maryland Rule 14-207(b)(2), does hereby affirm, under the penalties of perjury, that, to the best of his or her knowledge, information and belief, based upon the business records of the Noteholder/Servicer, the obligors under the promissory note secured by the deed of trust granted by Kevin Jerron Matthews dated February 14, 2008, and recorded among the Land Records of Baltimore City, Maryland in Liber 10445, Folio 309, have defaulted under the terms thereof, and that the holder of the beneficial interest in said Deed of Trust has given proper notice of said default, that said default was not timely cured, that said holder has invoked the power of sale contained in said Deed of Trust, and that following is a statement of debt remaining due and payable thereunder.

|   |              |
|---|--------------|
| Original principal balance:                   | \$150,000.00 |
| Paid On Principal:                            | \$2,542.59   |
| Principal Balance Due:                        | \$147,457.41 |
| Interest at 5.875% from 8/1/2009 to 1/25/2010 | \$4,888.71   |
| Late Charges                                  | \$212.94     |
| Advanced Escrow                               | \$948.49     |
| Balance due as of 1/25/2010                   | \$153,507.55 |

Date: MAR 25 2010

Jacob Geesing  
Howard N. Bierman  
Carrie M. Ward



# Exhibit 8

BGW#96789

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing, et al.  
4520 East West Highway, Suite 200  
Bethesda, MD 20814  
Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS  
3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

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Case No.

**AFFIDAVIT PURSUANT TO SERVICEMEMBERS CIVIL RELIEF ACT**

The undersigned Substitute Trustee, pursuant to Maryland Rule 14-207(b)(5), hereby affirms, under penalties of perjury, that based upon his or her knowledge, information and belief, and upon a review of a response from the Department of Defense Manpower Data Center to a military status request, Kevin Jerron Matthews is not in the military service of the United States as defined by the Servicemembers Civil Relief Act, or that if Kevin Jerron Matthews is in the military service of the United States as defined in that Act, that Kevin Jerron Matthews is not entitled to the protections of that Act, and that this foreclosure action is not prohibited by that Act.

Date: MAR 25 2010

\_\_\_\_\_  
Jacob Geesing  
Howard N. Bierman  
Carrie M. Ward

# Exhibit 9

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing, et al.  
4520 East West Highway, Suite 200  
Bethesda, MD 20814  
Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS  
3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

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Case No.

**AFFIDAVIT OF MAILING OF NOTICE TO OCCUPANT(S)**

Pursuant to Maryland Rule 14-209(d), the undersigned does hereby affirm, under penalties of perjury, that he or she caused to be mailed to 3216 East Northern Parkway, Baltimore, MD 21214-1422, via first class mail, on the date this matter was filed, a notice substantially in the form set out in Maryland Rule 14-209(c), addressed to "All Occupants."

Date: MAR 25 2010

  
\_\_\_\_\_  
Jacob Geesing  
Howard N. Bierman  
Carrie M. Ward



# Exhibit 10



BGW#96789

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing, et al.  
4520 East West Highway, Suite 200  
Bethesda, MD 20814  
Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS  
3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

\* \* \* \* \*

Case No.

**STATEMENT DESIGNATING SECURED PROPERTY "RESIDENTIAL REAL  
PROPERTY"**

Pursuant to Maryland Rule 14-207(b)(6), the undersigned Substitute Trustee hereby certifies that the property that is the subject of this foreclosure action is "residential property" as that term is defined by Maryland Code, Real Property, Section 7-105.

Date: MAR 25 2010

\_\_\_\_\_  
Jacob Geesing  
Howard N. Bierman  
Carrie M. Ward

# Exhibit 11

1 IN THE CIRCUIT COURT FOR HOWARD COUNTY, MARYLAND  
2 JACOB GEESING, et al. )

3 Plaintiffs,

4 vs.

Civil Case No.

5 13-C-10-82594

6 KATHERINE WILLSON, et al. )

7 Defendants. )

8 - - - - - /  
9 OFFICIAL TRANSCRIPT OF PROCEEDINGS

10 (Request for Reconsideration)

11  
12 Ellicott City, Maryland

13 Tuesday, November 30, 2010

14 BEFORE

15 THE HONORABLE DIANE O. LEASURE

16 APPEARANCES:

17 For the Plaintiffs:

18 MATTHEW P. COHEN, ESQUIRE

19 For the Defendants:

20 SCOTT C. BORISON, ESQUIRE

21  
22 Transcribed from electronic recording by:

23 Susan R. Smith

24 Official Court Reporter and Transcriber

25 8550 Cent Avenue

26 Ellicott City, Maryland 21043



PROCEEDINGS

THE CLERK: All rise. Hear ye, hear ye, hear ye,  
anyone having business with the Circuit Court for Howard County,  
please step forward. Her Honor's Court is now in session. The  
Honorable Diana Leasure presiding.

THE COURT: Good morning. Please be seated.

THE CLERK: Your Honor, calling Case No. 13-C-10-  
082594, Gearing, et al. versus Willson, et al.

THE COURT: If you could identify yourselves for the  
record, please.

MR. COHEN: Good morning, Your Honor, Matt Cohen, I  
represent the trustees.

THE COURT: Okay.

MR. BORISON: Good morning, Your Honor, Scott Borison  
on behalf of Ms. Katherine Willson who is present.

THE COURT: Okay, and we are here, I believe, on your  
motion to dismiss, correct?

MR. BORISON: Yes, Your Honor.

THE COURT: Okay. I would be happy to hear from you.

MR. BORISON: Your Honor, there is really three  
different primary grounds that we are asking the Court to  
dismiss on. The first ground is that we raised the issue that  
the note that was submitted with the order to docket did not —  
was made out to Ameriquest Mortgage Company and that the note  
that was provided to the Court was part of the order to docket

1 and had no endorsements and, therefore, the proper party was not  
2 before the Court.

3 Because these notes, I mean, it's a simple process. I  
4 mean, if I give a check to you, made out to you, and you hand it  
5 to your Clerk, it doesn't mean anything. Your Clerk can't go in  
6 and use that check. The notes are no different. And so for  
7 that reason we think that the order to docket that was submitted  
8 by the Plaintiffs was improper because it failed to show that  
9 the people who they — or who they pretended to represent  
10 actually held the note at the time of the order to docket.

11 Now, I will say that they have come back in response  
12 to our motion that they submitted and said, oh, well, here is  
13 the note with the endorsement. But the issue is did they have  
14 it proper at the time that they filed and whether or not they  
15 can come back and just create, you know, redo the records, so to  
16 speak, after the fact.

17 We submit that what is necessary for the order to  
18 docket to be proper is for the correct document to be presented  
19 at the time of filing for this Court to have jurisdiction over  
20 the matter.

21 The second basis for our motion to dismiss is that we  
22 believe that there are issues relating to the origination of  
23 this loan. This was an Ameriquest loan that was taken out in  
24 2005. There was, and we referenced — there was subsequent  
25 litigation in regards to Ameriquest on a class action basis and

1 in that class action one of the things that was reserved was  
2 that the defenses to foreclosure actions would remain with the  
3 class members and, therefore, we should be allowed to raise  
4 those.

5 Now, in response they have said, well, it is time-  
6 barred. But that is not necessarily true because the class  
7 action itself would toll the statute of limitations as well as  
8 the statute of repose.

9 So, their argument (indiscernible) you should just  
10 ignore the class action and just apply three years and we  
11 disagree with that. We think we have submitted evidence in the  
12 form of verified motion, signed by my client under oath, stating  
13 that these various issues that arose in connection with the  
14 origination of this note — sort of part and parcel of that, we  
15 have also raised the issue as to the note itself because during  
16 previous settlement negotiations, the position was taken by the  
17 Plaintiffs, by Ameriquent, that they had lost the note and  
18 suddenly now we are told that the note has reappeared.

19 We haven't seen the original note and, again, the one  
20 that was presented to the Court contained no endorsements.

21 And then the last issue, Your Honor, and this is a  
22 relatively new issue which relates to whether or not these  
23 signatures were accurate or not, and, in all candor to the  
24 Court, I can't tell. There are various signatures. What I can  
25 tell the Court is what we have now is we have various affidavits

1 and documents that are submitted to the Court with three  
2 different names on them.

3 THE COURT: Okay.

4 MR. BORISON: The first name being Jacob Geasing and  
5 now we received a response saying that these were actually the  
6 signatures of Howard Blerman and the signature submitted in the  
7 motion for the verification -- and I would note, the  
8 verification is unusual, Your Honor, in the sense it is not made  
9 valid by personal knowledge which is the general verification.  
10 So I don't know, for the Court to look at this and make a  
11 determination that, yes, that is Howard Blerman's signature,  
12 when you have first the name immediately under the signature  
13 line was Jacob Geasing; second, the only verification, if the  
14 Court is going to entertain it, is not made upon personal  
15 knowledge, which, you know, the usual -- given the content of  
16 the verification of the issues being raised, so, for that  
17 reason, we think that it is not properly before the Court as an  
18 order to docket because we have these signatures that are in  
19 question and haven't really been adequately explained.

20 For that, we would either ask for a dismissal, or,  
21 alternatively, under the new rule, the Court can go ahead and  
22 appoint a special master for the purposes of making a  
23 determination of what exactly happened and whose signature it  
24 is, those types of things.

25 THE COURT: Okay, all right.

1 MR. BORISON: Thank you.

2 THE COURT: Okay.

3 MR. COHEN: Your Honor, I confess that I was under the  
4 impression that we were proceeding only on the new issue, the  
5 third issue that we addressed that was raised in the new motion  
6 since the old motion had been denied almost 90 days prior. To  
7 the date that this was filed to the extent that he seeks to  
8 reconsider the denial of his original motion to dismiss, we  
9 would raise the first two arguments.

10 THE COURT: I think the first ruling was, as I recall  
11 Judge Gelfman made a note, denied at this time. I'm not sure  
12 what --

13 MR. COHEN: I think he denied it probably because  
14 there was no sale scheduled, likewise, now there is no sale  
15 scheduled.

16 THE COURT: Yes. It's unclear if the foreclosure has  
17 occurred.

18 MR. COHEN: Right, and there was actually a bankruptcy  
19 that has been filed.

20 THE COURT: I still think we can proceed with the  
21 motion to dismiss.

22 MR. COHEN: Okay, so like I said, with regard to the  
23 first two items arguments, I would have to stick mainly on what I  
24 wrote in my opposition. I would note that the promissory note  
25 is stamped, endorsed in blank on the back of the -- which, for



1 all intents and purposes, I don't see how that -- I haven't seen  
2 anything that says that that is improper. That creates bearer  
3 paper. We have possession of the original note. I believe -- I  
4 know we had possession of the original note the entire time, so  
5 I believe in my opposition I would have invited him to come and  
6 inspect it. If I had known that we were going to be proceeding  
7 on it today, I would have brought it to court.

8 THE COURT: Just address the signature issue. I think  
9 that is the concern.

10 MR. COHEN: Sure, right. I mean, Your Honor, if the  
11 Court -- I think it is really up to the Court and not to Mr.  
12 Borison to determine whether or not there is a reason to set a  
13 show cause hearing. I believe that Your Honor is, from what I  
14 hear, is probably very familiar with Howard Bierman's and the  
15 other signatures in my office.

16 THE COURT: I have no idea.

17 MR. COHEN: No?

18 THE COURT: It's a squiggle or a scrawl. I have a --  
19 personally, I have a problem with the fact, and I think it is,  
20 you know, something that you also need to address, these  
21 affidavits have three names and one signature. It is indicated  
22 that the undersigned substitute trustee -- I have no idea which  
23 of the three that is. I mean, I am not aware of the propriety  
24 of any affidavit with three names indicated and one signature.

25 MR. COHEN: Right, right.

1 THE COURT: I mean, ~~it's just improper.~~

2 MR. COHEN: I was explaining --

3 THE COURT: And the knowledge issue is another aspect  
4 of the affidavit which I think is also a problem.

5 MR. COHEN: Okay, well, as I was explaining to Mr.  
6 Borison, that there was a certain time, and those happened to be  
7 the cases that are filed during this time where we have that --  
8 I guess would turn out to be a problem that there were the three  
9 names and none of the forms were identified and now our practice  
10 is to stamp next to the -- next to the signature so that you  
11 know --

12 THE COURT: Well, that's good going forward, but  
13 still, I mean, it's -- there are problems generally now with  
14 these, quite honestly.

15 MR. COHEN: I think that if you can compare his  
16 signature to -- or Mr. Borison can present a comparison of  
17 Edward Blerman's signature --

18 THE COURT: Well, I don't think that is my job, quite  
19 frankly. ~~I think that the affidavit needs to be properly~~  
20 ~~prepared and the three names underneath and one signature and the~~  
21 ~~reference above the affidavit indicating that the substitute~~  
22 ~~trustee, singularly, appeared and you've got three names; I just~~  
23 ~~don't think it's in proper form.~~

24 So I'm going to, on that basis, grant the motion to  
25 ~~dismiss.~~

1 MR. COHEN: Your Honor, I think that under the rules I  
2 think that you need to set it -- refer it to a master --

3 ~~THE COURT: No, I don't. The Court -- they refer to the~~  
4 ~~master and I have been intimately involved with the progression~~  
5 ~~of the rules and the idea of having an examiner -- you can't~~  
6 ~~correct this. No matter whose signature this is, even if it is~~  
7 ~~the same person, you can't correct this because it is still not~~  
8 ~~in proper form with three signatures. You have one affiant, not~~  
9 ~~three, so it can't -- you know, even if it is shown that that is~~  
10 ~~Mr. Sierman's signature, it is still a problem with the~~  
11 ~~affidavit itself.~~

12 The purpose of the rule with giving the Court the  
13 option of having an examiner is for court resource issue  
14 because, obviously, we are looking at a number of different  
15 cases and it requires tremendous court resources.

16 So there is no requirement under the rule to have an  
17 examiner so I am going to grant this motion to dismiss.

18 MR. COHEN: Your Honor, will it be without prejudice?

19 THE COURT: Yes.

20 MR. COHEN: Thank you. If I could just -- I  
21 understand it has been granted, can I just ask a question?

22 THE COURT: Yes.

23 MR. COHEN: Do you -- do you think it is improper  
24 because one of them -- all three of them should have had to  
25 sign?

1 THE COURT: I think you have one affidavit, one  
2 affiant, one signature. And, you know, there are just -- these  
3 affidavits are not in appropriate form. I mean, that is -- this  
4 was raised -- I mean, this isn't unique to this particular case.  
5 I mean, there was a lot of discussion about this at the Rules  
6 Committee and at the hearing before the Court of Appeals.

7 It is just not proper affidavit form.

8 MR. COHEN: Is it proper --

9 THE COURT: I can't give you legal advice. You will  
10 have to figure it out going forward, but this case, these  
11 affidavits, it's a problem so not going beyond any other -- any  
12 case -- I'm not addressing any case other than the one that is  
13 before me and I'm going to grant the motion to dismiss without  
14 prejudice.

15 MR. COHEN: Thank you.

16 THE COURT: Okay.

17 MR. BORISON: Thank you, Your Honor.

18 THE CLERK: All rise.

19 (The hearing was concluded at 9:20  
20 a.m.)  
21  
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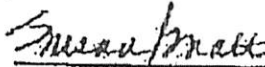
CERTIFICATE OF TRANSCRIBER

I hereby certify that the proceedings in the matter of Jacob Geesing, et al. versus Katherine Willson, et al, Case No. 13-C-10-082594, heard in the Circuit Court for Howard County, Maryland, on November 30, 2010, were recorded by means of digital audio recording.

I further certify that, to the best of my knowledge and belief, page numbers 2 through 10 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein and that I have no interest in the outcome of this case.

In witness whereof, I have affixed my signature this 12th day of January, 2011.



Susan R. Gantt

Official Court Reporter

# Exhibit 12

Circuit Court of Maryland

[Go Back](#)**Case Information**

Court System: **Circuit Court for Howard County - Civil System**  
Case Number: **13C10082594**  
Title: **Geesing, et al vs Willson, et al**  
Case Type: **Foreclosure** Filing Date: **05/17/2010**  
Case Status: **Closed/Inactive**  
Case Disposition: **Dismissal** Disposition Date: **11/30/2010**

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**Plaintiff/Petitioner Information**

*(Each Plaintiff/Petitioner is displayed below)*

Party Type: **Plaintiff** Party No.: **1**

Name: **Geesing, Jacob**

Address: **4520 East West Highway**

City: **Bethesda** State: **MD** Zip Code: **20814**

**Attorney(s) for the Plaintiff/Petitioner**

Name: **Bierman, Esq, Howard N**

Appearance Date: **05/17/2010**

Practice Name: **BWW Law Group LLC**

Address: **4520 East West Hwy #200**

City: **Bethesda** State: **MD** Zip Code: **20814**

Name: **Cohen, Esq, Matthew P**

Appearance Date: **07/14/2010**

Practice Name: **Beiramee & Cohen PC**

Address: **7508 Wisconsin Avenue**

**2nd Floor**

City: **Bethesda** State: **MD** Zip Code: **20814**

---

Party Type: **Plaintiff** Party No.: **2**

Name: **Ward, Carrie M**

Address: **4520 East West Highway**

City: **Bethesda** State: **MD** Zip Code: **20814**

**Attorney(s) for the Plaintiff/Petitioner**

Name: **Bierman, Esq, Howard N**

Appearance Date: **05/17/2010**

Practice Name: **BWW Law Group LLC**

Address: **4520 East West Hwy #200**

City: **Bethesda** State: **MD** Zip Code: **20814**

Name: **Cohen, Esq, Matthew P**

Appearance Date: **07/14/2010**

Practice Name: **Beiramee & Cohen PC**

Address: **7508 Wisconsin Avenue**

**2nd Floor**

City: **Bethesda** State: **MD** Zip Code: **20814**

---

Party Type: **Plaintiff** Party No.: **3**

Name: **Bierman, Howard N**

Address: **4520 East West Highway**  
City: **Bethesda** State: **MD** Zip Code: **20814**

**Attorney(s) for the Plaintiff/Petitioner**

Name: **Bierman, Esq, Howard N**  
Appearance Date: **05/17/2010**  
Practice Name: **BWW Law Group LLC**  
Address: **4520 East West Hwy #200**  
City: **Bethesda** State: **MD** Zip Code: **20814**  
Name: **Cohen, Esq, Matthew P**  
Appearance Date: **07/14/2010**  
Practice Name: **Beiramee & Cohen PC**  
Address: **7508 Wisconsin Avenue**  
**2nd Floor**  
City: **Bethesda** State: **MD** Zip Code: **20814**

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**Defendant/Respondent Information**

*(Each Defendant/Respondent is displayed below)*

Party Type: **Defendant** Party No.: **1**  
Name: **Willson, Katherine**  
Address: **3676 Jennings Chapel Rd**  
City: **Woodbine** State: **MD** Zip Code: **21797**

**Attorney(s) for the Defendant/Respondent**

Name: **Borison, Esq, Scott C**  
Appearance Date: **05/26/2010**  
Practice Name: **Legg Law Firm, LLC**  
Address: **5500 Buckeystown Pike**  
City: **Frederick** State: **MD** Zip Code: **21703**  
Name: **Morin, Esq, Michael Gregg**  
Appearance Date: **11/30/2010**  
Practice Name:  
Address: **PO Box 778**  
City: **Severn** State: **MD** Zip Code: **21144**

---

Party Type: **Defendant** Party No.: **2**  
Name: **Willson, II, George A**  
Address: **3676 Jennings Chapel Rd**  
City: **Woodbine** State: **MD** Zip Code: **21797**

**Attorney(s) for the Defendant/Respondent**

Name: **Morin, Esq, Michael Gregg**  
Appearance Date: **11/30/2010**  
Practice Name:  
Address: **PO Box 778**  
City: **Severn** State: **MD** Zip Code: **21144**

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**Court Scheduling Information**

Event Type: **Motion Hearing (Civil)** Notice Date: **07/02/2010**  
Event Date: **07/08/2010** Event Time: **09:00 AM**  
Result: **Cancelled/Vacated** Result Date: **07/06/2010**

---



Event Type: **Hearing** Notice Date: **11/01/2010**  
Event Date: **11/30/2010** Event Time: **09:00 AM**  
Result: **Held/Concluded** Result Date: **11/30/2010**

---

## Document Tracking

*(Each Document listed. Documents are listed in Document No./Sequence No. order)*

Doc No./Seq No.: **1/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Order to Docket**

---

Doc No./Seq No.: **2/0**

File Date: **05/17/2010** Close Date: **05/21/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Deed of Appointment of Substitute Trustee**

---

Doc No./Seq No.: **3/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit Pursuant to MD Rule 14-207(b)(4) re Copy of Deed of Appointment of Substitute Trustee**

---

Doc No./Seq No.: **4/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Deed of Trust (Liber 9209 Folio 267)**

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Doc No./Seq No.: **5/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit Pursuant to MD Rule 14-207(b)(1) re Copy of Lien Instrument**

---

Doc No./Seq No.: **6/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit Certifying Ownership of Debt Instrument and Truth and Accuracy of Copy Filed Herein**

---

Doc No./Seq No.: **7/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Adjustable Rate Note**

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Doc No./Seq No.: **8/0**

File Date: **05/17/2010** Close Date: **05/21/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit of Deed of Trust Debt and Right to Foreclose (\$780,143.05)**

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Doc No./Seq No.: **9/0**

File Date: **05/17/2010** Close Date: **05/21/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit Pursuant to Servicemembers Civil Relief Act**

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Doc No./Seq No.: **10/0**

File Date: **05/17/2010** Close Date: **05/21/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit Pursuant to Servicemembers Civil Relief Act**

---

Doc No./Seq No.: **11/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit of Default and Mailing of Notice of Intent to Foreclose**

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Doc No./Seq No.: **12/0**

File Date: **05/17/2010** Close Date: **05/21/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Notice**

---

Doc No./Seq No.: **13/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Copy of Notice of Intent to Foreclose**

---

Doc No./Seq No.: **14/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Affidavit of Mailing of Notice to Occupant(s)**

---

Doc No./Seq No.: **15/0**

File Date: **05/17/2010** Close Date: **11/30/2010** Decision:

Party Type: **Plaintiff** Party No.: **1**

Document Name: **Statement Designating Secured Property "Residential Real Property"**

---

Doc No./Seq No.: **16/0**

File Date: **05/26/2010** Close Date: **08/02/2010** Decision: **Denied**

Party Type: **Defendant** Party No.: **1**

Document Name: **Motion to Dismiss, Memorandum and Exhibits**

**5/27/10 Corrected Memorandum of Points and Authorities in Support of Motion to Dismiss**

**08/02/10 Per Judge Gelfman - Court unclear if foreclosure has occurred, denied at this time. copies mailed**

---

Doc No./Seq No.: **16/1**

File Date: **07/14/2010** Close Date: **11/30/2010** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Opposition to Verified Motion to Dismiss Pltffs' Foreclosure**

---

Doc No./Seq No.: **17/0**  
File Date: **06/01/2010** Close Date: **11/30/2010** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Affidavit of Mailing (re: MRP 7-105 and MD 14-209)**

---

Doc No./Seq No.: **18/0**  
File Date: **07/02/2010** Close Date: **11/30/2010** Decision:  
Party Type: **Defendant** Party No.: **1**  
Document Name: **Emergency Motion for Order on Defendant's Motion to Dismiss**  
**Filed by DEF001-Willson, DEF002-Willson**  
**7/6/10 Per Judge Becker - Set in for Emergency Hearing before July 9,2010**

---

Doc No./Seq No.: **19/0**  
File Date: **07/02/2010** Close Date: **07/02/2010** Decision:  
Document Name: **Calendar Management Hearing Notice Issued**

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Doc No./Seq No.: **20/0**  
File Date: **07/02/2010** Close Date: **07/02/2010** Decision:  
Document Name: **Calendar Management Hearing Notice Issued**

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Doc No./Seq No.: **21/0**  
File Date: **07/02/2010** Close Date: **07/02/2010** Decision:  
Document Name: **Calendar Management Hearing Notice Issued**

---

Doc No./Seq No.: **22/0**  
File Date: **10/20/2010** Close Date: **11/03/2010** Decision: **Ruled**  
Party Type: **Defendant** Party No.: **1**  
Document Name: **Emergency Request for Consideration of Def's Renewal of Verified Motion to**  
**Dismiss Pltffs' Foreclosure Action or**  
**Alternatively for Stay Pending Further**  
**Proceedings Under New Rule 14-207.1**  
**11/03/10 Ordered that the foreclosure proceeding is stayed until further order of**  
**court. To be set in for a hearing regarding defendant's request for consideration**  
**of defendant's renewal of verified motion to dismiss plaintiff's forclosure action:**  
**copies mailed**

---

Doc No./Seq No.: **22/1**  
File Date: **10/26/2010** Close Date: **11/30/2010** Decision:  
Party Type: **Plaintiff** Party No.: **1**  
Document Name: **Verified Response in Opposition to Emergency Request for Consideration**

---

Doc No./Seq No.: **23/0**  
File Date: **11/01/2010** Close Date: **11/01/2010** Decision:  
Document Name: **Calendar Management Hearing Notice Issued**

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Doc No./Seq No.: **24/0**

File Date: **11/30/2010** Close Date: **11/30/2010** Decision:

Party Type: **Defendant** Party No.: **1**

Document Name: **Attorney Appearance Filed**

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Doc No./Seq No.: **25/0**

File Date: **11/30/2010** Close Date: **11/30/2010** Decision:

Document Name: **Open Court Proceeding**

**Hearing on Motion to Dismiss**

**Def's motion to dismiss pltf's foreclosure action- Granted**

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*This is an electronic case record. Full case information cannot be made available either because of legal restrictions on access to case records found in Maryland rules 16-1001 through 16-1011, or because of the practical difficulties inherent in reducing a case record into an electronic format.*

# Exhibit 13

BGW#: 96789

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing  
Carrie M. Ward  
Howard N. Bierman

4520 East West Highway, Suite 200  
Bethesda, MD 20814  
Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS

3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

\* \* \* \* \*

Case No.

**AFFIDAVIT CERTIFYING OWNERSHIP OF DEBT INSTRUMENT AND TRUTH AND  
ACCURACY OF COPY FILED HEREIN**

Pursuant to Maryland Rule 14-207 (b)(3), the undersigned solemnly affirms under the penalties of perjury that the enclosed herein is a true and correct copy of the debt instrument ("Note") which the undersigned hereby certifies is owned by GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure.

IN WITNESS WHEREOF, GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure, servicing agent for GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure, has caused these presents to be executed on this 4 day of February, 2010 by Jeffrey Stephan, which individual has been duly appointed as the party with proper authority so to act for the purposes stated herein.

GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure

Name: Jeffrey Stephan  
Title: Limited Signing Officer

# Exhibit 14

BGW#: 96789

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

Jacob Geesing  
Carrie M. Ward  
Howard N. Bierman

4520 East West Highway, Suite 200  
Bethesda, MD 20814  
Substitute Trustees  
Plaintiffs

vs.

KEVIN JERRON MATTHEWS

3216 East Northern Parkway  
Baltimore, MD 21214-1422

Defendant(s)

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Case No.

**AFFIDAVIT OF DEFAULT AND MAILING OF NOTICE OF INTENT TO FORECLOSE**

Pursuant to Maryland Code, Real Property, 7-105.1(D)(1)(II), the undersigned Authorized Representative of GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure, the servicer or holder of the promissory note secured by the deed of trust filed herein, hereby appears and affirms under penalty of perjury that, based upon the business records of said loan servicer or note holder, that:

1. The default under said deed of trust occurred on September 02, 2009 when the defendant did not tender the installment payment due on September 01, 2009; and
2. That a Notice of Intent to Foreclose was sent on February 03, 2010 to the mortgagor or grantor, and to the record owner of the secured property, if different than the mortgagor or grantor, in the manner prescribed by Section 7-105.1(c)(2)(I) and (II), i.e., by first class mail, and by certified mail, postage prepaid, return receipt requested, bearing a postmark from the United States Postal Service, and that a copy of said Notice of Intent to Foreclose was mailed, on that date, by First Class mail, postage prepaid, to the Commissioner of Financial Regulation, in accordance with Section 7-105.1(c)(3).

GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure

Name: Jeffrey Stephan  
Title: Limited Signing Officer





# Exhibit 15

After recording, please return to:

BGW#: 96789

Bierman, Geesing, Ward & Wood, LLC  
4520 East West Highway, Suite 200  
Bethesda, MD 20814

Tax ID: 27-04-5555-055

### ASSIGNMENT OF NOTE AND DEED OF TRUST

THIS ASSIGNMENT is made this 4 day of Feb, 2010, but made effective this 23rd day of January, 2010, by and between Mortgage Electronic Registration Systems, Inc. acting solely as nominee for USAA Federal Savings Bank ("Assignor") and GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure ("Assignee"), c/o GMAC Mortgage LLC, 1100 Virginia Drive, Fort Washington, Pennsylvania 19034.

WHEREAS, Assignor was the owner and holder of that one Promissory note ("Note") dated February 14, 2008 and executed by Kevin Jerron Matthews ("Borrower(s)") to the order of USAA Federal Savings Bank in the principal sum of \$150,000.00, which Note is secured by that certain Deed of Trust of even date therewith, by and among the borrower securing the lender and recorded among the land records of Baltimore City in Liber 10445, Folio 309 ("Deed of Trust"), affecting the real property known as 3216 East Northern Parkway, Baltimore, MD 21214-1422, and more particularly described in said Deed of Trust.

SEE ATTACHED LEGAL DESCRIPTION.

WHEREAS, Assignor has assigned and endorsed the Note to Assignee and the parties now wish to show of record who is the current beneficiary under the Deed of Trust;

NOW THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, that for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby stipulate and agree as follows:

Assignor has transferred, assigned, granted and conveyed to Assignee, and by these presents hereby confirms such transfer, assignment, grant and conveyance, of all beneficial interest of Assignor in, to and under the Deed of Trust, as the beneficiary thereof and thereunder, together with the immediate and continuing right to collect and receive all of the principal, interest and other sums and payments now due or which hereafter may become due under the Deed of Trust and/or Note and all of its right, title, and interest in and to any and all security agreements, financing statements, assignments of leases and rents, guaranties and other documents or instruments executed in connection with the Note and/or Deed of Trust, together with all modifications, extensions and renewals of said documents.

This assignment is intended to be executed prior to or concurrent with that certain Deed of Appointment of Substitute Trustee by and between GMAC Mortgage, LLC, authorized by Government National Mortgage Association to be the holder of the Note and Mortgage for the purposes of all actions necessary to conduct foreclosure, as party of the first part and Howard N. Bierman, Jacob Geesing and Carrie M. Ward, Substitute Trustees, party of the second part. It is the intent of all parties hereto, that the aforesaid Deed of Appointment of Substitute Trustee should be given full force and effect even if the within Assignment is mistakenly dated subsequent to that certain Deed of Appointment.



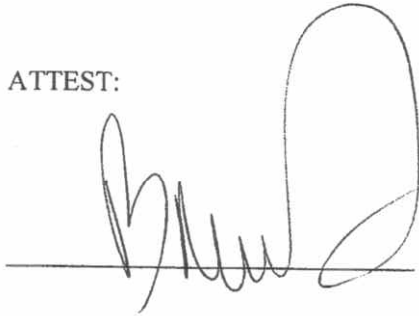
**EXHIBIT "A" - PROPERTY DESCRIPTION**

BEGINNING on the northeast side of Northern Parkway, 100 feet wide, at a point situate, north 65 degrees 05 minutes 30 seconds west 373.90 feet along said side from the corner formed by the intersection of the northeast side of Northern Parkway with the northwest side of Moyer Avenue, 50 feet wide, as shown on the Plat of Northern Heights duly recorded among the land records of Baltimore City; said place of beginning being also in line with the center of a partition wall there situate; thence leaving said place of beginning and binding along the northeast side of Northern Parkway, north 65 degrees 05 minutes 30 seconds west 26.34 feet; thence leaving the northeast side of Northern Parkway and running for a line of division, north 24 degrees 54 minutes 30 seconds east 107.5 feet to the southwest side of a 15 foot alley there situate; thence binding along the southwest side of said alley with the use thereof in common, south 65 degrees 05 minutes 30 seconds east 26.34 feet to a point in line with the center of the above mentioned partition wall; thence leaving the southwest side of said alley and running to and through the center of said partition wall and continuing the same course in all south 24 degrees 54 minutes 30 seconds west 107.5 feet to the place of beginning. The improvements whereon are known as No. 3216 Northern Parkway, Baltimore, Maryland 21214 (For informational purposes only).

BEING THE SAME LOT OF GROUND WHICH BY DEED OF TEVEN DATE HERewith AND RECORDED OR INTENDED TO BE RECORDED AMONG THE LAND RECORDS OF BALTIMORE CITY PRIOR HERETO WAS GRANTED AND CONVEYED BY STERHANIE CANNIZZARO AS PERSONAL REPRESENTATIVE OF THE STEPHEN A. CANNIZZARO ESTATE UNTO THE BORROWER(S) HEREIN.

BGW#: 96789

ATTEST:



Mortgage Electronic Registration Systems, Inc. acting  
solely as nominee for USAA Federal Savings Bank

Name Jeffrey Stephan  
Title Vice President

(SEAL)

STATE OF PA )  
COUNTY OF Montgomery ) ss.

I, Heather Reinhart, a Notary Public in and for the State and County  
aforesaid, do hereby certify that Jeffrey Stephan of Mortgage Electronic Registration Systems,  
Inc. acting solely as nominee for USAA Federal Savings Bank, personally appeared before me in the  
jurisdiction aforesaid and executed the foregoing Assignment of Note and Deed of Trust hereto  
annexed bearing the date of Feb 4, 2010, and being duly sworn, he/she stated that  
he/she has lawful authority to execute said instrument, and he/she acknowledged the same to be  
his/her willful act and deed.

Given under my hand and seal this 4 day of Feb, 2010.

Heather Reinhart  
Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Heather Reinhart, Notary Public  
Upper Dublin Twp., Montgomery County  
My Commission Expires Sept. 9, 2013

Member, Pennsylvania Association of Notaries



# Exhibit 16

MAINE DISTRICT COURT, DISTRICT NINE  
DIVISION OF NORTHERN CUMBERLAND

- - -  
FEDERAL NATIONAL :  
MORTGAGE ASSOCIATION : DOCKET NO.  
Plaintiff : BRI-RE-09-65  
:  
V. :  
:  
NICOLE M. BRADBURY :  
Defendant :  
and :  
GMAC MORTGAGE, LLC :  
d/b/a DITECH, LLC.COM :  
and BANK OF AMERICA, NA :  
Parties in Interest :  
- - -

June 7, 2010

- - -

Oral deposition of JEFFREY D.  
STEPHAN, taken pursuant to notice, was  
held at the law offices of LUNDY FLITTER  
BELDECOS & BERGER, P.C., 450 N. Narberth  
Avenue, Narberth, Pennsylvania 19072,  
commencing at 10:10 a.m., on the above  
date, before Susan B. Berkowitz, a  
Registered Professional Reporter and  
Notary Public in the Commonwealth of  
Pennsylvania.

- - -

|   |   |
|---|---|
| <p>2</p> <p>1<br/>2 APPEARANCES:<br/>3<br/>4 BRIAN M. FLEISCHER, ESQUIRE<br/>FLEISCHER, FLEISCHER &amp; SUGLIA, P.C.<br/>5 Plaza 1000 at Main Street<br/>Suite 208<br/>6 Voorhees, New Jersey 08043<br/>(856) 489-8977<br/>bfleischer@fleischerlaw.com<br/>7 Counsel for GMAC<br/>8<br/>9<br/>10 THOMAS A. COX, ESQUIRE<br/>LAW OFFICES OF THOMAS A. COX<br/>P.O. Box 1315<br/>11 Portland, Maine 04104<br/>(207) 749-6671<br/>12 tac@gwi.net<br/>Counsel for Defendant,<br/>13 Nicole M. Bradbury<br/>14<br/>15<br/>16 VIA TELEPHONE:<br/>JULIA G. PITNEY, ESQUIRE<br/>17 DRUMMOND &amp; DRUMMOND<br/>One Monument Way<br/>Portland, Maine 04101<br/>18 (207) 774-0317<br/>JPitney@ddlalaw.com<br/>19 Counsel for GMAC and Fannie Mae<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>  | <p>4</p> <p>1 STEPHAN<br/>2 MR. COX: Mr. Fleischer, we<br/>3 understand that Julia Pitney<br/>4 represents the plaintiff in this<br/>5 case. Who do you represent today?<br/>6 MR. FLEISCHER: I believe<br/>7 Ms. Pitney both represents Fannie<br/>8 Mae and GMAC, and I am here on<br/>9 GMAC's behalf.<br/>10 MR. COX: GMAC is neither a<br/>11 plaintiff nor defendant in this<br/>12 case, so we may have some issues<br/>13 around that, but we'll cross that<br/>14 bridge when we get to it.<br/>15 - - -<br/>16 EXAMINATION<br/>17 - - -<br/>18 BY MR. COX:<br/>19 Q. Mr. Stephan, for the record,<br/>20 would you state your full name, please?<br/>21 A. Jeffrey Stephan.<br/>22 Q. How old are you?<br/>23 A. I am 41, in June.<br/>24 Q. You live in Sellersville,<br/>25 Pennsylvania?</p> |
| <p>3</p> <p>1<br/>2 (Document marked Exhibit-1<br/>3 for identification.)<br/>4 - - -<br/>5 (It is hereby stipulated and<br/>6 agreed by and between counsel that<br/>7 sealing, filing and certification<br/>8 are waived; and that all<br/>9 objections, except as to the form<br/>10 of questions, be reserved until<br/>11 the time of trial.)<br/>12 - - -<br/>13 JEFFREY D. STEPHAN, after<br/>14 having been duly sworn, was<br/>15 examined and testified as follows:<br/>16 - - -<br/>17 MS. PITNEY: I would like to<br/>18 put on the record that we<br/>19 requested a stipulation, and<br/>20 Attorney Cox has denied our<br/>21 request for that stipulation. And<br/>22 that would be a stipulation that<br/>23 this deposition transcript be used<br/>24 for this case, FNMA versus<br/>25 Bradbury, only.</p> | <p>5</p> <p>1 STEPHAN<br/>2 A. That is correct.<br/>3 Q. Have you had your deposition<br/>4 taken previously?<br/>5 A. In other cases, yes.<br/>6 Q. How many other cases?<br/>7 A. This will be my third time.<br/>8 Q. What other cases were you<br/>9 deposed in, to your recollection?<br/>10 A. In what kind of cases?<br/>11 Q. Well, can you remember the<br/>12 names of the cases?<br/>13 A. No, I don't.<br/>14 Q. When is the last time that<br/>15 you've had your deposition taken?<br/>16 A. I would approximate two,<br/>17 three months ago.<br/>18 Q. Was that in Florida?<br/>19 A. No. That was in New Jersey.<br/>20 Q. That would have been in<br/>21 2010?<br/>22 A. Yes.<br/>23 Q. Then you were deposed in<br/>24 Florida in December of 2009?<br/>25 A. That is correct.</p>     |

|  |   |
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| <p style="text-align: right;">6</p> <p>1 STEPHAN</p> <p>2 Q. When was the other</p> <p>3 deposition, the third deposition?</p> <p>4 A. This one today is the third.</p> <p>5 Q. Have you testified in court</p> <p>6 as a witness before?</p> <p>7 A. No.</p> <p>8 Q. Did you review any documents</p> <p>9 to prepare for this deposition?</p> <p>10 A. Yes.</p> <p>11 Q. What documents did you</p> <p>12 review?</p> <p>13 A. I looked at the deposition</p> <p>14 that was sent to me. And I went over the</p> <p>15 Complaint with Brian.</p> <p>16 THE WITNESS: When was that,</p> <p>17 Thursday, Wednesday?</p> <p>18 MR. FLEISCHER: You're</p> <p>19 directed not to say anything with</p> <p>20 regard to what we spoke about,</p> <p>21 but, yes, you can answer to what</p> <p>22 you looked at.</p> <p>23 THE WITNESS: Yes.</p> <p>24 MS. PITNEY: I'm sorry to</p> <p>25 interrupt. I'm just having a</p> | <p style="text-align: right;">8</p> <p>1 STEPHAN</p> <p>2 to?</p> <p>3 A. No.</p> <p>4 MR. FLEISCHER: Let him</p> <p>5 finish the question, and then</p> <p>6 respond, because it makes it</p> <p>7 cleaner for the transcript.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 BY MR. COX:</p> <p>10 Q. What is your educational</p> <p>11 background?</p> <p>12 A. I have a four-year degree at</p> <p>13 Penn State University in liberal arts.</p> <p>14 Q. When did you go to work for</p> <p>15 GMAC?</p> <p>16 A. I began work at GMAC</p> <p>17 September 30th of '04.</p> <p>18 Q. What was your work history,</p> <p>19 in a summary form, before you went to</p> <p>20 work for GMAC?</p> <p>21 A. I have done collections and</p> <p>22 mortgage foreclosures for other</p> <p>23 companies.</p> <p>24 Q. Who have you done mortgage</p> <p>25 foreclosure work for?</p>  |
| <p style="text-align: right;">7</p> <p>1 STEPHAN</p> <p>2 little difficulty hearing you. Is</p> <p>3 there any way to push the phone a</p> <p>4 little closer to Mr. Stephan?</p> <p>5 MR. FLEISCHER: Okay. And,</p> <p>6 Julia, let me know during the</p> <p>7 course if there's still a problem.</p> <p>8 MS. PITNEY: You were doing</p> <p>9 fine, and then it got a little</p> <p>10 fuzzy.</p> <p>11 THE WITNESS: I'll talk</p> <p>12 louder.</p> <p>13 MS. PITNEY: Thank you.</p> <p>14 BY MR. COX:</p> <p>15 Q. What deposition did you look</p> <p>16 at?</p> <p>17 A. The deposition for this</p> <p>18 case.</p> <p>19 Q. The Deposition Notice?</p> <p>20 A. Right, the Deposition</p> <p>21 Notice.</p> <p>22 Q. It was not another</p> <p>23 deposition transcript --</p> <p>24 A. No.</p> <p>25 Q. -- that you were referring</p>   | <p style="text-align: right;">9</p> <p>1 STEPHAN</p> <p>2 A. ContiMortgage, Fairbanks</p> <p>3 Capital, GMAC.</p> <p>4 Q. The first one, I'm not sure</p> <p>5 about. Is that Conti, C-O-N-T-E (sic)?</p> <p>6 A. C-O-N-T-I.</p> <p>7 Q. What period of time did you</p> <p>8 work for ContiMortgage?</p> <p>9 A. I began there in '92. I</p> <p>10 believe I left there in '98.</p> <p>11 Q. What years, approximately,</p> <p>12 did you work for Fairbanks Capital?</p> <p>13 A. '98 to '04.</p> <p>14 Q. You work in the GMAC</p> <p>15 Mortgage office in Fort Washington,</p> <p>16 Pennsylvania; is that correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Approximately, how many</p> <p>19 people work in that office?</p> <p>20 A. I can't estimate the number</p> <p>21 of people. I can say my department,</p> <p>22 approximately 50 to 60 people.</p> <p>23 Q. What's the name of your</p> <p>24 department?</p> <p>25 A. Foreclosures.</p> |



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| <p style="text-align: right;">10</p> <p>1 STEPHAN</p> <p>2 Q. When you began working for</p> <p>3 GMAC Mortgage in 2004, what position did</p> <p>4 you begin working in?</p> <p>5 A. I was a foreclosure</p> <p>6 specialist.</p> <p>7 Q. What kinds of duties did</p> <p>8 that involve?</p> <p>9 A. That involved the day-to-day</p> <p>10 handling and servicing of a portfolio of</p> <p>11 loans that fell into a foreclosure</p> <p>12 category.</p> <p>13 Q. What kinds of duties did you</p> <p>14 carry out with respect to those matters?</p> <p>15 MS. PITNEY: Object to form.</p> <p>16 MR. COX: You have to</p> <p>17 answer.</p> <p>18 MS. PITNEY: You can answer</p> <p>19 the question.</p> <p>20 THE WITNESS: The everyday</p> <p>21 servicing of the file, from</p> <p>22 contacting the attorney, supplying</p> <p>23 an attorney who's handling a case</p> <p>24 within my portfolio with any</p> <p>25 information they may need, a copy</p>  | <p style="text-align: right;">12</p> <p>1 STEPHAN</p> <p>2 team lead for our bidding team, which</p> <p>3 would be a team of individuals who</p> <p>4 calculate the bids for sales.</p> <p>5 Q. Calculate the bids for sales</p> <p>6 of mortgage --</p> <p>7 A. Foreclosure sales.</p> <p>8 MR. FLEISCHER: Again, let</p> <p>9 him finish the question.</p> <p>10 BY MR. COX:</p> <p>11 Q. Just so I can understand it,</p> <p>12 your role in that position was to help</p> <p>13 GMAC calculate what it was going to bid</p> <p>14 at any given foreclosure sale?</p> <p>15 A. That would be correct.</p> <p>16 Q. The foreclosure</p> <p>17 department -- is that what it's called?</p> <p>18 A. Yes.</p> <p>19 Q. That has units within it?</p> <p>20 A. Yes.</p> <p>21 Q. And when you were doing the</p> <p>22 bidding work, what unit were you a part</p> <p>23 of at that time?</p> <p>24 A. The bid team.</p> <p>25 Q. How long did you serve on</p> |
| <p style="text-align: right;">11</p> <p>1 STEPHAN</p> <p>2 of documents that may be needed</p> <p>3 through a fax form or e-mail form,</p> <p>4 the calculation of figures for</p> <p>5 judgments, reporting sale results</p> <p>6 at that time, and properly</p> <p>7 conveying properties to the proper</p> <p>8 departments for post sale action.</p> <p>9 BY MR. COX:</p> <p>10 Q. How long did you hold the</p> <p>11 position of foreclosure specialist?</p> <p>12 A. With GMAC, three years.</p> <p>13 Q. So you would have assumed a</p> <p>14 new position sometime in 2007?</p> <p>15 A. Yes.</p> <p>16 Q. What position did you assume</p> <p>17 in 2007?</p> <p>18 A. I became a team lead within</p> <p>19 the foreclosure department.</p> <p>20 Q. What duties did you assume</p> <p>21 as the team lead in the foreclosure</p> <p>22 department?</p> <p>23 A. At that time, GMAC</p> <p>24 segregated our department into teams, and</p> <p>25 I was put into place as the supervisor or</p> | <p style="text-align: right;">13</p> <p>1 STEPHAN</p> <p>2 the bid team?</p> <p>3 A. I'm going to estimate six</p> <p>4 months to a year, at the most.</p> <p>5 Q. Does it sound roughly</p> <p>6 correct that sometime in 2008, you</p> <p>7 assumed a new position?</p> <p>8 A. Yes.</p> <p>9 Q. What was the next position</p> <p>10 that you held after working on the bid</p> <p>11 team?</p> <p>12 A. My present position, which</p> <p>13 is the team lead of the document</p> <p>14 execution team.</p> <p>15 Q. Is there also a service</p> <p>16 transfer unit?</p> <p>17 A. Yes, there is.</p> <p>18 Q. Are you the team lead of</p> <p>19 that as well?</p> <p>20 A. Yes, I am. That falls into</p> <p>21 the document execution team.</p> <p>22 Q. So I talk your language,</p> <p>23 there's a foreclosure department?</p> <p>24 A. Yes.</p> <p>25 Q. And the subdivisions within</p>  |

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| <p style="text-align: right;">14</p> <p>1 STEPHAN</p> <p>2 that, do you call them teams or units?</p> <p>3 A. Teams.</p> <p>4 Q. So there's a foreclosure</p> <p>5 department, and then within it are a</p> <p>6 group of teams that do different</p> <p>7 functions; is that correct?</p> <p>8 A. That is correct.</p> <p>9 Q. What does the document</p> <p>10 execution team do?</p> <p>11 MR. FLEISCHER: Objection as</p> <p>12 to form.</p> <p>13 THE WITNESS: Can you</p> <p>14 rephrase that?</p> <p>15 BY MR. COX:</p> <p>16 Q. What are the functions of</p> <p>17 the document execution team?</p> <p>18 A. The functions of my document</p> <p>19 execution team is, I have staff that</p> <p>20 prints documents, from our computer</p> <p>21 system, that are submitted from our</p> <p>22 attorney network. I have staff, also, on</p> <p>23 that team who prepares the documents</p> <p>24 which have already received figures from</p> <p>25 our attorneys. So there are completed</p>   | <p style="text-align: right;">16</p> <p>1 STEPHAN</p> <p>2 A. 14.</p> <p>3 Q. Including yourself?</p> <p>4 A. No; including me, 15.</p> <p>5 Q. What training have you</p> <p>6 received from GMAC to function in your</p> <p>7 capacity as the team lead for the</p> <p>8 document execution team?</p> <p>9 MS. PITNEY: Object to form.</p> <p>10 BY MR. COX:</p> <p>11 Q. Let me restate the question.</p> <p>12 Have you received any training from GMAC</p> <p>13 to use in conjunction with your</p> <p>14 performance as the team lead for the</p> <p>15 document execution team?</p> <p>16 A. Yes.</p> <p>17 Q. What training have you</p> <p>18 received?</p> <p>19 A. I received side-by-side</p> <p>20 training from another team lead to</p> <p>21 instruct me on how to review the</p> <p>22 documents when they are received from my</p> <p>23 staff.</p> <p>24 Q. Who was that person?</p> <p>25 A. That person, at the time, I</p>  |
| <p style="text-align: right;">15</p> <p>1 STEPHAN</p> <p>2 documents. They fill in the blanks, they</p> <p>3 stamp names. They ensure that all of the</p> <p>4 notary lines are completed properly once</p> <p>5 it's returned from the notary. And that</p> <p>6 staff also is in charge of making sure</p> <p>7 they Federal Express the document back to</p> <p>8 the designated attorney within our</p> <p>9 network.</p> <p>10 Q. What does the service</p> <p>11 transfer team do?</p> <p>12 A. The service transfer team</p> <p>13 receives a list of loans from our</p> <p>14 transfer management team, which is</p> <p>15 located in Iowa. The service transfer</p> <p>16 team within foreclosure only handles</p> <p>17 loans that fall into a bankruptcy or</p> <p>18 foreclosure category. They prepare files</p> <p>19 or CDs, and transfer them to the new</p> <p>20 servicer. So they're loans that are</p> <p>21 either acquired, or they're loans that</p> <p>22 are being transferred to a new servicer</p> <p>23 for service.</p> <p>24 Q. How many employees are on</p> <p>25 the document execution team?</p> | <p style="text-align: right;">17</p> <p>1 STEPHAN</p> <p>2 believe was a gentleman by the name of</p> <p>3 Kenneth Ugwuadu, U-G-W-U-A-D-U. He is no</p> <p>4 longer with GMAC.</p> <p>5 Q. How long did that training</p> <p>6 last?</p> <p>7 A. Three days.</p> <p>8 Q. Were there any written or</p> <p>9 printed training materials or manuals</p> <p>10 used as a part of that training?</p> <p>11 A. No.</p> <p>12 Q. Again, just so I understand</p> <p>13 what your testimony was, that training</p> <p>14 involved your learning how to review the</p> <p>15 documents that were being processed</p> <p>16 through your hands; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. What were you trained to do</p> <p>19 with respect to those documents by that</p> <p>20 gentleman?</p> <p>21 A. Basically, how to review the</p> <p>22 system, which I already basically knew</p> <p>23 from preparing documents in my prior</p> <p>24 position before becoming a team lead. So</p> <p>25 it was more or less a rehash, let's say,</p> |

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| <p style="text-align: right;">18</p> <p>1 STEPHAN</p> <p>2 or retraining, to confirm that I was</p> <p>3 looking at things correctly in the</p> <p>4 system.</p> <p>5 Q. When you refer to a system,</p> <p>6 you're referring to a computer system?</p> <p>7 A. Yes.</p> <p>8 Q. Other than what you might</p> <p>9 call it when you're not happy, does that</p> <p>10 system have a name?</p> <p>11 A. Yes. That system is called</p> <p>12 Fiserv, F-I-S-E-R-V.</p> <p>13 Q. Have you received any</p> <p>14 training on how to use that system?</p> <p>15 A. Yes, when I was hired.</p> <p>16 Q. Are there any manuals or</p> <p>17 training materials associated with your</p> <p>18 training on that system?</p> <p>19 A. Yes, there is.</p> <p>20 Q. Do you have those manuals in</p> <p>21 your possession?</p> <p>22 A. Presently, no.</p> <p>23 Q. Do they exist in your office</p> <p>24 at GMAC?</p> <p>25 A. I honestly don't know.</p> | <p style="text-align: right;">20</p> <p>1 STEPHAN</p> <p>2 A. No.</p> <p>3 Q. In your capacity as team</p> <p>4 lead for the document execution team, do</p> <p>5 you have any responsibility for data</p> <p>6 entry into the computer system regarding</p> <p>7 payments received by GMAC?</p> <p>8 A. No.</p> <p>9 Q. In your capacity as the team</p> <p>10 lead for the document execution team, do</p> <p>11 you have any role in the foreclosure</p> <p>12 process at GMAC, other than the signing</p> <p>13 of documents?</p> <p>14 MR. FLEISCHER: Objection as</p> <p>15 to the form of the question.</p> <p>16 THE WITNESS: Can you</p> <p>17 rephrase?</p> <p>18 BY MR. COX:</p> <p>19 Q. In your capacity as the team</p> <p>20 lead for the document execution team, do</p> <p>21 you have any role in the foreclosure</p> <p>22 process, other than the signing of</p> <p>23 documents?</p> <p>24 A. No.</p> <p>25 Q. I'm going to hand you what</p>                                   |
| <p style="text-align: right;">19</p> <p>1 STEPHAN</p> <p>2 Q. In your role as team lead</p> <p>3 for the document execution team, do you</p> <p>4 have any duties with respect to the</p> <p>5 receipt, application, or counting for</p> <p>6 loan payments?</p> <p>7 A. No.</p> <p>8 MS. PITNEY: Object to the</p> <p>9 form of the question.</p> <p>10 BY MR. COX:</p> <p>11 Q. What department has that</p> <p>12 responsibility?</p> <p>13 A. To my understanding, that</p> <p>14 would be customer service. And within</p> <p>15 customer service, I believe there is a</p> <p>16 cash unit.</p> <p>17 Q. Have you ever worked in that</p> <p>18 cash unit?</p> <p>19 A. No.</p> <p>20 Q. Have you ever worked in that</p> <p>21 customer service department?</p> <p>22 A. No.</p> <p>23 Q. Have you ever had any</p> <p>24 training in how that department and unit</p> <p>25 work?</p>  | <p style="text-align: right;">21</p> <p>1 STEPHAN</p> <p>2 we have marked as Deposition Exhibit</p> <p>3 Number 1, which is your affidavit in this</p> <p>4 case, dated August 5, 2009.</p> <p>5 MS. PITNEY: Excuse me, Tom.</p> <p>6 This is Julia. Am I to presume</p> <p>7 that this is the only exhibit</p> <p>8 you're going to be introducing?</p> <p>9 Because I haven't received any</p> <p>10 exhibits that you plan to produce</p> <p>11 at this deposition today.</p> <p>12 MR. COX: I had no idea you</p> <p>13 were going to be participating</p> <p>14 today, Julia.</p> <p>15 MS. PITNEY: Well, I</p> <p>16 represent the plaintiff. It</p> <p>17 shouldn't come as any surprise.</p> <p>18 MR. COX: We're not going to</p> <p>19 have a debate on the record. The</p> <p>20 exhibits are here. You're welcome</p> <p>21 to come see them. I had no idea</p> <p>22 that you were going to participate</p> <p>23 in this fashion.</p> <p>24 MS. PITNEY: You had no</p> <p>25 idea?</p> |

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| <p style="text-align: right;">22</p> <p>1 STEPHAN</p> <p>2 MR. COX: I'm not going to</p> <p>3 have this exchange on the record</p> <p>4 with you. If you want to go off</p> <p>5 the record for a minute, I'll be</p> <p>6 happy to do it.</p> <p>7 MS. PITNEY: No, we're going</p> <p>8 to stay right on the record, Tom.</p> <p>9 MR. COX: That's fine.</p> <p>10 MS. PITNEY: Is it your</p> <p>11 intent to introduce these exhibits</p> <p>12 that have not been produced to the</p> <p>13 opposing party?</p> <p>14 MR. COX: I'm not going to</p> <p>15 respond to that. I will entertain</p> <p>16 objections that you are going to</p> <p>17 make. But I'm not going to</p> <p>18 respond to your questions on the</p> <p>19 record.</p> <p>20 MS. PITNEY: I'm going to</p> <p>21 object to each and every exhibit.</p> <p>22 MR. COX: That's your right</p> <p>23 to do that.</p> <p>24 BY MR. COX:</p> <p>25 Q. I've handed you Deposition</p>           | <p style="text-align: right;">24</p> <p>1 STEPHAN</p> <p>2 I understand there's not a large</p> <p>3 number of documents. I propose</p> <p>4 that we have Attorney Fleischer</p> <p>5 fax them to me, or e-mail, in</p> <p>6 bulk, or we're going to have to</p> <p>7 stop. I would object. And each</p> <p>8 time I'm going to stop and have</p> <p>9 each document sent to me.</p> <p>10 MR. COX: Your objection is</p> <p>11 noted.</p> <p>12 MR. FLEISCHER: Why don't we</p> <p>13 at least just deal with the one</p> <p>14 document that's in front of us at</p> <p>15 this point, which is the</p> <p>16 affidavit, and then we'll address</p> <p>17 each one as they come up.</p> <p>18 MS. PITNEY: Fair enough.</p> <p>19 BY MR. COX:</p> <p>20 Q. Mr. Stephan, you've</p> <p>21 testified that in addition to yourself,</p> <p>22 there are 14 other employees in your</p> <p>23 document execution team.</p> <p>24 A. That is correct.</p> <p>25 Q. You have a title of limited</p> |
| <p style="text-align: right;">23</p> <p>1 STEPHAN</p> <p>2 Exhibit Number 1, Mr. Stephan. Is that a</p> <p>3 document signed by you?</p> <p>4 A. Yes, that is my signature.</p> <p>5 Q. And that's dated August 5,</p> <p>6 2009?</p> <p>7 A. That is correct.</p> <p>8 Q. Do you have any memory of</p> <p>9 signing that document?</p> <p>10 A. No, I do not.</p> <p>11 MS. PITNEY: I'd like to</p> <p>12 take a brief break and speak with</p> <p>13 Attorney Fleischer separately.</p> <p>14 There's no question pending.</p> <p>15 (Whereupon, a short recess</p> <p>16 was taken.)</p> <p>17 MR. COX: I gather you have</p> <p>18 something you want to say on the</p> <p>19 record, Julia?</p> <p>20 MS. PITNEY: Yes. I object</p> <p>21 to not being provided copies of</p> <p>22 the documents that you intend to</p> <p>23 introduce in this deposition. And</p> <p>24 in an effort to make things more</p> <p>25 efficient, my proposal is that --</p> | <p style="text-align: right;">25</p> <p>1 STEPHAN</p> <p>2 signing officer; is that correct?</p> <p>3 A. That is correct.</p> <p>4 Q. How long have you been a</p> <p>5 limited signing officer for GMAC</p> <p>6 Mortgage?</p> <p>7 A. I'm going to estimate, two</p> <p>8 years.</p> <p>9 Q. Are there any other limited</p> <p>10 signing officers among the 14 people on</p> <p>11 your team?</p> <p>12 A. No, not amongst my 14</p> <p>13 people.</p> <p>14 Q. Exhibit-1, on the bottom of</p> <p>15 the first page, says: I have under my</p> <p>16 custody and control the records relating</p> <p>17 to the mortgage transaction referenced</p> <p>18 below.</p> <p>19 What records does GMAC</p> <p>20 maintain with respect to mortgage</p> <p>21 transactions?</p> <p>22 MS. PITNEY: Object to the</p> <p>23 form.</p> <p>24 THE WITNESS: Please</p> <p>25 rephrase.</p>  |

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| <p style="text-align: right;">26</p> <p>1 STEPHAN</p> <p>2 BY MR. COX:</p> <p>3 Q. What records does GMAC</p> <p>4 maintain with respect to mortgage loans?</p> <p>5 A. We keep our records for the</p> <p>6 foreclosure department and the rest of</p> <p>7 the company on our Fiserv system for</p> <p>8 availability throughout our company.</p> <p>9 Q. Do paper records exist</p> <p>10 anywhere within GMAC Mortgage?</p> <p>11 A. Yes, they do.</p> <p>12 Q. Where do they exist?</p> <p>13 A. I believe they are housed</p> <p>14 either in our Iowa office or in</p> <p>15 Minnesota, or with any of our custodians</p> <p>16 involved within the company.</p> <p>17 Q. Do you have any</p> <p>18 responsibilities for making entries in</p> <p>19 the Fiserv system?</p> <p>20 A. Other than just usual notes,</p> <p>21 no.</p> <p>22 Q. What kind of usual notes do</p> <p>23 you enter?</p> <p>24 MS. PITNEY: Object. I'm</p> <p>25 objecting to the form of the</p>   | <p style="text-align: right;">28</p> <p>1 STEPHAN</p> <p>2 A. That would be correct.</p> <p>3 Q. And you have no role in the</p> <p>4 entry of any other data into that system;</p> <p>5 isn't that correct?</p> <p>6 A. That is correct.</p> <p>7 Q. What department maintains</p> <p>8 that system?</p> <p>9 MR. FLEISCHER: Objection as</p> <p>10 to form.</p> <p>11 BY MR. COX:</p> <p>12 Q. Do you know what department</p> <p>13 maintains that system?</p> <p>14 A. The system is used by the</p> <p>15 entire company.</p> <p>16 Q. Do you know what department</p> <p>17 maintains the security for that system?</p> <p>18 A. The IT department.</p> <p>19 Q. Where is that located?</p> <p>20 A. Throughout the entire</p> <p>21 country.</p> <p>22 Q. Do you know what department</p> <p>23 makes entries into that system?</p> <p>24 A. Numerous departments.</p> <p>25 Q. Do you know what departments</p>  |
| <p style="text-align: right;">27</p> <p>1 STEPHAN</p> <p>2 question. And, furthermore, I'm</p> <p>3 objecting to the extent that</p> <p>4 you're basically asking him an</p> <p>5 incredibly broad-based question</p> <p>6 here, Tom. If you want to ask him</p> <p>7 about this case and any entries he</p> <p>8 made with respect to this case,</p> <p>9 then that's fine. But your</p> <p>10 question is pretty sweeping there.</p> <p>11 BY MR. COX:</p> <p>12 Q. What is your usual business</p> <p>13 practice and routine with respect to</p> <p>14 making usual notes in the Fiserv system?</p> <p>15 A. If a customer were to call</p> <p>16 in, I would make a note in our computer</p> <p>17 system.</p> <p>18 Q. Do customers call you in</p> <p>19 your capacity as team lead for the</p> <p>20 document execution team?</p> <p>21 A. No, they do not.</p> <p>22 Q. So if that's the only kind</p> <p>23 of notes that you would make in the</p> <p>24 system, is it fair to say that you don't</p> <p>25 make notes in that system?</p> | <p style="text-align: right;">29</p> <p>1 STEPHAN</p> <p>2 have the ability to change entries in</p> <p>3 that system?</p> <p>4 A. Nobody has the ability to</p> <p>5 change an entry in the system, as far as</p> <p>6 a note would go.</p> <p>7 Q. What do you mean by that?</p> <p>8 A. Such as if a customer calls</p> <p>9 in, you type in the system. Once you</p> <p>10 type it, it's entered.</p> <p>11 Q. Does GMAC keep a paper</p> <p>12 record of loan payments made by mortgage</p> <p>13 customers?</p> <p>14 A. I do not know.</p> <p>15 Q. I think you said that the</p> <p>16 cash department receives payments --</p> <p>17 customer payments; is that correct?</p> <p>18 A. To my knowledge, yes.</p> <p>19 Q. That's the department that</p> <p>20 you've said you have not worked in; is</p> <p>21 that correct?</p> <p>22 A. That is correct.</p> <p>23 Q. So you don't have firsthand</p> <p>24 knowledge about how it operates; is that</p> <p>25 correct?</p> |

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| <p style="text-align: right;">30</p> <p>1 STEPHAN</p> <p>2 A. That is correct.</p> <p>3 MS. PITNEY: Object.</p> <p>4 BY MR. COX:</p> <p>5 Q. Do you have any knowledge</p> <p>6 about how the data relating to those</p> <p>7 payments are entered into the system?</p> <p>8 A. I do not have that</p> <p>9 knowledge.</p> <p>10 Q. Do you have any knowledge</p> <p>11 about how GMAC ensures the accuracy of</p> <p>12 the data entered into the system?</p> <p>13 A. No, I do not.</p> <p>14 Q. Do you have any knowledge as</p> <p>15 to what measures GMAC takes to preserve</p> <p>16 the integrity and security of the system?</p> <p>17 A. No, I do not.</p> <p>18 MS. PITNEY: Object to the</p> <p>19 form of that question.</p> <p>20 BY MR. COX:</p> <p>21 Q. In your capacity as team</p> <p>22 lead for the document execution team,</p> <p>23 what kinds of documents do you sign?</p> <p>24 A. The types of documents I</p> <p>25 sign are assignments of mortgage,</p>   | <p style="text-align: right;">32</p> <p>1 STEPHAN</p> <p>2 Q. That's the only other</p> <p>3 document execution team that you're aware</p> <p>4 of?</p> <p>5 A. To my knowledge, yes.</p> <p>6 Q. When you referred in one of</p> <p>7 your answers a few moments ago to</p> <p>8 judgment affidavits, are you referring to</p> <p>9 the type of affidavit in front of you, as</p> <p>10 Deposition Exhibit-1?</p> <p>11 A. That is a similar type of</p> <p>12 affidavit, yes. This states Affidavit in</p> <p>13 Support of the Plaintiff's Motion for</p> <p>14 Summary Judgment.</p> <p>15 Q. Have you received any</p> <p>16 training regarding the summary judgment</p> <p>17 process in judicial foreclosure states?</p> <p>18 A. No.</p> <p>19 Q. Do you have any knowledge as</p> <p>20 to what a summary judgment affidavit is</p> <p>21 used for in the State of Maine?</p> <p>22 MR. FLEISCHER: Objection as</p> <p>23 to form.</p> <p>24 BY MR. COX:</p> <p>25 Q. Would you please answer the</p>                                |
| <p style="text-align: right;">31</p> <p>1 STEPHAN</p> <p>2 numerous types of affidavits, deeds that</p> <p>3 need to be done post sale, a substitution</p> <p>4 of trustees. And that covers it in a</p> <p>5 general span.</p> <p>6 Q. You said you sign a variety</p> <p>7 of affidavits. What kinds of affidavits</p> <p>8 do you sign?</p> <p>9 A. I sign judgment affidavits</p> <p>10 for judicial foreclosure actions. I will</p> <p>11 sign an affidavit verifying military</p> <p>12 duty. I sign affidavits in reference to</p> <p>13 -- if GMAC has exhausted all options</p> <p>14 through lost mitigation upon reviewing</p> <p>15 notes in our Fiserv system. That's a</p> <p>16 general description of different types</p> <p>17 of affidavits.</p> <p>18 Q. Your document execution team</p> <p>19 provides documents for foreclosures in</p> <p>20 what states?</p> <p>21 A. Throughout the country.</p> <p>22 Q. Are there other document</p> <p>23 execution teams within the GMAC system?</p> <p>24 A. I believe our bankruptcy</p> <p>25 unit also has a document execution team.</p> | <p style="text-align: right;">33</p> <p>1 STEPHAN</p> <p>2 question?</p> <p>3 A. To my knowledge, a borrower</p> <p>4 would have filed a contested answer. And</p> <p>5 this would be our next step within the</p> <p>6 process, to confirm the amount that is</p> <p>7 due to support the summary judgment.</p> <p>8 Q. Do you understand how the</p> <p>9 affidavit is used, that is, Deposition</p> <p>10 Exhibit Number 1?</p> <p>11 MS. PITNEY: Objection.</p> <p>12 Tom, you're getting dangerously</p> <p>13 close here to the privileged area.</p> <p>14 I mean, this affidavit, in itself,</p> <p>15 was prepared in preparation for</p> <p>16 litigation -- in litigation; not</p> <p>17 even preparation for it, but</p> <p>18 during litigation.</p> <p>19 MR. COX: I have not the</p> <p>20 slightest interest in getting into</p> <p>21 attorney/client privilege. I'll</p> <p>22 rephrase the question.</p> <p>23 BY MR. COX:</p> <p>24 Q. Do you have any knowledge of</p> <p>25 how summary judgment affidavits are used</p> |

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| <p>34</p> <p>1 STEPHAN</p> <p>2 in judicial foreclosure states?</p> <p>3 A. No.</p> <p>4 Q. Are you aware that they are</p> <p>5 given to a judge?</p> <p>6 A. Yes.</p> <p>7 Q. And do you understand that</p> <p>8 the judge relies upon them?</p> <p>9 A. Yes.</p> <p>10 Q. At the time that you</p> <p>11 executed Deposition Exhibit-1 on August</p> <p>12 5, 2009, you were, at that time, in your</p> <p>13 position as team lead for the document</p> <p>14 execution department?</p> <p>15 A. Yes.</p> <p>16 Q. Has the manner in which you</p> <p>17 perform your duties as the team lead for</p> <p>18 the document execution department changed</p> <p>19 in any way over the period from August 5,</p> <p>20 2009 to the present date?</p> <p>21 A. No.</p> <p>22 Q. Has your job description</p> <p>23 changed in any manner during that time?</p> <p>24 A. I assumed the responsibility</p> <p>25 at that time of also handling the service</p>                       | <p>36</p> <p>1 STEPHAN</p> <p>2 tool, between our attorneys. They load</p> <p>3 it into a process called signature</p> <p>4 required.</p> <p>5 MS. PITNEY: Jeff, I'm going</p> <p>6 to interrupt you right there. To</p> <p>7 the extent that this answer or</p> <p>8 anything else that you say has to</p> <p>9 do with your communication between</p> <p>10 you and your attorney -- GMAC and</p> <p>11 its attorney, it's attorney/client</p> <p>12 privilege.</p> <p>13 THE WITNESS: So I won't</p> <p>14 answer.</p> <p>15 MR. COX: Well, let's go</p> <p>16 back and ask the question again.</p> <p>17 MS. PITNEY: He's answered</p> <p>18 the question. He gets the</p> <p>19 affidavit from the attorney.</p> <p>20 BY MR. COX:</p> <p>21 Q. What is the LPS system?</p> <p>22 A. That is a communication tool</p> <p>23 with our attorney network.</p> <p>24 Q. Is LPS a separate company?</p> <p>25 A. Yes.</p> |
| <p>35</p> <p>1 STEPHAN</p> <p>2 transfer team as an additional</p> <p>3 responsibility; other than document</p> <p>4 execution, no.</p> <p>5 Q. In your usual business</p> <p>6 practice as a team lead for the document</p> <p>7 execution team, how does a summary</p> <p>8 judgment affidavit come to you, such as</p> <p>9 the one that is Deposition Exhibit Number</p> <p>10 1?</p> <p>11 MS. PITNEY: Objection.</p> <p>12 Tom, if you'd like to ask him</p> <p>13 about how this specific affidavit</p> <p>14 came to him, that's fine. But,</p> <p>15 again, you're asking way too</p> <p>16 broad.</p> <p>17 BY MR. COX:</p> <p>18 Q. Do you know how this</p> <p>19 specific affidavit got to you, Mr.</p> <p>20 Stephan?</p> <p>21 A. We have a process in place</p> <p>22 that if our attorney network needs an</p> <p>23 affidavit, they will upload it into our</p> <p>24 system, which is called LPS. We have</p> <p>25 another system, which is a communication</p> | <p>37</p> <p>1 STEPHAN</p> <p>2 MS. PITNEY: Objection. The</p> <p>3 means by which he communicates any</p> <p>4 details about -- the means by</p> <p>5 which he communicates with his</p> <p>6 attorneys is privileged.</p> <p>7 BY MR. COX:</p> <p>8 Q. What does LPS do?</p> <p>9 MS. PITNEY: I'm going to</p> <p>10 object again on privilege grounds.</p> <p>11 Same objection. Do not answer</p> <p>12 that question.</p> <p>13 THE WITNESS: Okay.</p> <p>14 BY MR. COX:</p> <p>15 Q. Is the source of what you</p> <p>16 know about what LPS does based upon any</p> <p>17 communication that you've had with</p> <p>18 lawyers?</p> <p>19 A. Sorry. Please rephrase</p> <p>20 that. I don't understand your question.</p> <p>21 Q. Do you know what LPS does</p> <p>22 with respect to documents processed by</p> <p>23 your unit?</p> <p>24 MS. PITNEY: Objection.</p> <p>25 Same objection.</p>                  |

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| <p style="text-align: right;">38</p> <p>1 STEPHAN</p> <p>2 MR. COX: He can answer that</p> <p>3 yes or no.</p> <p>4 THE WITNESS: I still don't</p> <p>5 understand what you're asking.</p> <p>6 BY MR. COX:</p> <p>7 Q. You've mentioned LPS.</p> <p>8 A. Right.</p> <p>9 Q. That's a separate company;</p> <p>10 is that correct?</p> <p>11 A. It's a system that we have</p> <p>12 acquired from a company by the name of</p> <p>13 Fidelity, in order to have communication</p> <p>14 between our attorneys.</p> <p>15 Q. Do you have any memory of</p> <p>16 specifically receiving Deposition</p> <p>17 Exhibit-1?</p> <p>18 A. No.</p> <p>19 Q. Again, I'm asking you, based</p> <p>20 upon that, to describe what the usual</p> <p>21 business practice is within your unit, as</p> <p>22 far as how affidavits, such as Deposition</p> <p>23 Exhibit-1, come to you.</p> <p>24 A. Our attorney will load it to</p> <p>25 the LPS system. Members of my team will</p>  | <p style="text-align: right;">40</p> <p>1 STEPHAN</p> <p>2 MR. COX: He can answer the</p> <p>3 question of whether or not he</p> <p>4 keeps a log, before I ask him what</p> <p>5 goes into the log.</p> <p>6 MS. PITNEY: Fine.</p> <p>7 THE WITNESS: No, I don't</p> <p>8 have a log.</p> <p>9 BY MR. COX:</p> <p>10 Q. Does anybody keep a log of</p> <p>11 what documents you sign?</p> <p>12 MS. PITNEY: Object to the</p> <p>13 form of that question.</p> <p>14 THE WITNESS: Please</p> <p>15 rephrase.</p> <p>16 BY MR. COX:</p> <p>17 Q. Do you know if anybody keeps</p> <p>18 a log of what documents you execute?</p> <p>19 A. We have notaries in our</p> <p>20 department, approximately six, who keep a</p> <p>21 log for what they notarize.</p> <p>22 Q. These are notaries within</p> <p>23 your department?</p> <p>24 A. That is correct.</p> <p>25 Q. As I understand it, the</p>   |
| <p style="text-align: right;">39</p> <p>1 STEPHAN</p> <p>2 print it. Other members will prepare it.</p> <p>3 The figures have already been loaded from</p> <p>4 our network of attorneys. So my team</p> <p>5 does not have any input on the affidavit,</p> <p>6 other than filling in my name. They</p> <p>7 bring it to me. I review it against our</p> <p>8 Fiserv system, execute it, hand it back.</p> <p>9 They get it notarized. It's Federal</p> <p>10 Expressed back to the individual attorney</p> <p>11 asking.</p> <p>12 Q. Do you keep a log of any</p> <p>13 sort of what documents you execute?</p> <p>14 MS. PITNEY: I'm sorry. Can</p> <p>15 you repeat the question, Tom? I</p> <p>16 could not hear that.</p> <p>17 BY MR. COX:</p> <p>18 Q. Do you keep a log of any</p> <p>19 sort of what documents you execute?</p> <p>20 MS. PITNEY: Objection.</p> <p>21 Work product. Any type of log</p> <p>22 that he keeps relative to these</p> <p>23 affidavits is prepared in</p> <p>24 preparation for litigation; to the</p> <p>25 extent that one even exists.</p> | <p style="text-align: right;">41</p> <p>1 STEPHAN</p> <p>2 first step is, in your department, a</p> <p>3 document comes in on the LPS system from</p> <p>4 the outside lawyer; is that correct?</p> <p>5 A. That is correct.</p> <p>6 Q. And then an employee in your</p> <p>7 department prints it out; is that</p> <p>8 correct?</p> <p>9 A. That is correct.</p> <p>10 Q. And then you said that the</p> <p>11 employee prepares the document. What</p> <p>12 does that mean?</p> <p>13 MS. PITNEY: Objection. The</p> <p>14 document is prepared for</p> <p>15 litigation. It is privileged.</p> <p>16 How it is prepared is privileged.</p> <p>17 Do not answer that question.</p> <p>18 BY MR. COX:</p> <p>19 Q. Do your employees have any</p> <p>20 direct communication with outside</p> <p>21 counsel?</p> <p>22 A. Yes, through the LPS system.</p> <p>23 MS. PITNEY: Objection. How</p> <p>24 and what he communicates with his</p> <p>25 attorney is privileged, Tom.</p> |



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| <p style="text-align: right;">42</p> <p>1 STEPHAN</p> <p>2 MR. COX: I haven't asked</p> <p>3 for the content. I asked if it</p> <p>4 happens.</p> <p>5 BY MR. COX:</p> <p>6 Q. Would you answer the</p> <p>7 question, please?</p> <p>8 A. Yes, through the LPS system.</p> <p>9 Q. Is anything done to a</p> <p>10 document submitted to the LPS system by</p> <p>11 an outside lawyer before it reaches your</p> <p>12 hands?</p> <p>13 MS. PITNEY: Objection.</p> <p>14 Preparation of the document is</p> <p>15 privileged. It's for litigation.</p> <p>16 Do not answer the question.</p> <p>17 BY MR. COX:</p> <p>18 Q. Is the document that is</p> <p>19 received in the LPS system from outside</p> <p>20 counsel presented to you in exactly the</p> <p>21 form that it is received in from outside</p> <p>22 counsel?</p> <p>23 MS. PITNEY: Objection.</p> <p>24 Same objection.</p> <p>25 MR. COX: Is it an</p>                              | <p style="text-align: right;">44</p> <p>1 STEPHAN</p> <p>2 twice on the first page, and once on the</p> <p>3 signature page for you; is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. And then it's stamped again</p> <p>6 on the notary page; is that correct?</p> <p>7 A. That is correct.</p> <p>8 Q. So as I understand it, an</p> <p>9 affidavit, such as Deposition Exhibit-1,</p> <p>10 is initially prepared by outside counsel?</p> <p>11 MS. PITNEY: Objection.</p> <p>12 BY MR. COX:</p> <p>13 Q. Is that correct?</p> <p>14 A. Yes, that is correct.</p> <p>15 Q. Does anybody on your team</p> <p>16 verify the accuracy of any of the</p> <p>17 contents of the affidavit before it</p> <p>18 reaches your hands?</p> <p>19 MS. PITNEY: Objection</p> <p>20 again. How the document is</p> <p>21 prepared -- you can ask him</p> <p>22 questions about the document and</p> <p>23 what's stated in the document.</p> <p>24 The preparation of the document,</p> <p>25 which is prepared for litigation,</p> |
| <p style="text-align: right;">43</p> <p>1 STEPHAN</p> <p>2 objection, or are you instructing</p> <p>3 him not to answer?</p> <p>4 MS. PITNEY: I'm instructing</p> <p>5 him not to answer, to the extent</p> <p>6 you're asking him questions about</p> <p>7 a document that was prepared</p> <p>8 specifically during the course of</p> <p>9 litigation. It's protected by</p> <p>10 privilege, and you can't ask him</p> <p>11 questions about it.</p> <p>12 BY MR. COX:</p> <p>13 Q. Deposition Exhibit-1 has</p> <p>14 your name stamped on it with a stamp; is</p> <p>15 that correct?</p> <p>16 A. That is correct.</p> <p>17 Q. And below your name, the</p> <p>18 words "limited signing officer" appear;</p> <p>19 is that correct?</p> <p>20 A. That is correct.</p> <p>21 Q. Who puts that stamp on these</p> <p>22 affidavits?</p> <p>23 A. My team.</p> <p>24 Q. On this particular</p> <p>25 affidavit, your name and title is stamped</p> | <p style="text-align: right;">45</p> <p>1 STEPHAN</p> <p>2 is privileged. Do not answer the</p> <p>3 question, Jeff.</p> <p>4 BY MR. COX:</p> <p>5 Q. Mr. Stephan, do you recall</p> <p>6 testifying in your Florida deposition in</p> <p>7 December, with regard to your employees,</p> <p>8 and you said, quote, they do not go into</p> <p>9 the system and verify the information as</p> <p>10 accurate?</p> <p>11 A. That is correct.</p> <p>12 MS. PITNEY: I'm sorry.</p> <p>13 Tom, could you please repeat what</p> <p>14 you just said? I just couldn't</p> <p>15 hear.</p> <p>16 MR. COX: Quote: They do</p> <p>17 not go into the system and verify</p> <p>18 the information as accurate.</p> <p>19 BY MR. COX:</p> <p>20 Q. Is that correct?</p> <p>21 A. That is correct.</p> <p>22 MR. FLEISCHER: Tom, can you</p> <p>23 reference what litigation that was</p> <p>24 in, do you know?</p> <p>25 MR. COX: The Florida case</p>  |

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| <p style="text-align: right;">46</p> <p>1 STEPHAN</p> <p>2 that he testified in.</p> <p>3 MR. FLEISCHER: I just</p> <p>4 thought you might have a reference</p> <p>5 there.</p> <p>6 MR. COX: I'll get it</p> <p>7 shortly.</p> <p>8 BY MR. COX:</p> <p>9 Q. Do you and your 14-person</p> <p>10 team all work in the same physical space?</p> <p>11 A. Yes. We're all in the same</p> <p>12 department.</p> <p>13 Q. Do you have an office or a</p> <p>14 cubicle, or what?</p> <p>15 A. Cubicle.</p> <p>16 Q. Do the employees bring</p> <p>17 documents to you to sign?</p> <p>18 A. That is correct.</p> <p>19 Q. How many do they bring to</p> <p>20 you at a time, on average?</p> <p>21 A. For a month, anywhere from</p> <p>22 six to 8,000 documents.</p> <p>23 Q. Do you recall testifying in</p> <p>24 your Florida deposition in December that</p> <p>25 you estimated it was 10,000 documents a</p>                        | <p style="text-align: right;">48</p> <p>1 STEPHAN</p> <p>2 A. That would be correct.</p> <p>3 Q. Roughly, how many are</p> <p>4 brought to you in a group, on average?</p> <p>5 A. Throughout a day, I believe</p> <p>6 we are averaging approximately 400 new</p> <p>7 requests coming in from our attorney</p> <p>8 network. So I would say approximately</p> <p>9 400 per day.</p> <p>10 Q. This sounds very basic.</p> <p>11 But, physically, are you handed a pile of</p> <p>12 100 documents, 300 documents? How does</p> <p>13 that work?</p> <p>14 A. They bring them to me in</p> <p>15 individual folders from each one of the</p> <p>16 members of my team. I do not count how</p> <p>17 many are in the files.</p> <p>18 Q. So each team employee has a</p> <p>19 folder of document; is that correct?</p> <p>20 A. That is correct.</p> <p>21 Q. When you receive a summary</p> <p>22 judgment affidavit to be signed by you,</p> <p>23 is it accompanied by any other documents</p> <p>24 relating to the loan?</p> <p>25 MS. PITNEY: Objection. The</p> |
| <p style="text-align: right;">47</p> <p>1 STEPHAN</p> <p>2 month?</p> <p>3 A. I do not recall. I'm going</p> <p>4 off of numbers within the past month or</p> <p>5 so.</p> <p>6 Q. Have those numbers gone down</p> <p>7 in the past month or so?</p> <p>8 A. There has been a decrease.</p> <p>9 Q. Back in December, were you</p> <p>10 signing in the range of 10,000 documents</p> <p>11 a month?</p> <p>12 A. I may have been.</p> <p>13 Q. Back in August of 2009,</p> <p>14 roughly, how many documents a month were</p> <p>15 you signing?</p> <p>16 A. I cannot estimate. I don't</p> <p>17 know.</p> <p>18 Q. Do you believe that it was</p> <p>19 more or less than the number you were</p> <p>20 signing in December?</p> <p>21 A. I'm going to assume, more.</p> <p>22 Q. And on a given day, I</p> <p>23 understand an employee brings you a group</p> <p>24 of documents for you to sign; is that</p> <p>25 correct?</p> | <p style="text-align: right;">49</p> <p>1 STEPHAN</p> <p>2 document is prepared for</p> <p>3 litigation. And anything he does</p> <p>4 when he's preparing it is</p> <p>5 privileged.</p> <p>6 MR. COX: Are you telling</p> <p>7 him not to answer?</p> <p>8 MS. PITNEY: I am. Tom, if</p> <p>9 you want to ask him about general</p> <p>10 procedures, which you have been,</p> <p>11 then I'm not going to object as</p> <p>12 much. But if you want to ask him</p> <p>13 about what goes into preparing a</p> <p>14 document that was used for summary</p> <p>15 judgment, that's clearly prepared</p> <p>16 for litigation, and it's</p> <p>17 privileged and protected.</p> <p>18 MR. COX: I think you</p> <p>19 haven't heard my question, Julia.</p> <p>20 I'll state it again.</p> <p>21 BY MR. COX:</p> <p>22 Q. When you receive a summary</p> <p>23 judgment document for your execution, is</p> <p>24 it accompanied by any other documents?</p> <p>25 MS. PITNEY: My objection is</p>   |

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| <p>50</p> <p>1 STEPHAN</p> <p>2 -- you can answer that question,</p> <p>3 Jeff.</p> <p>4 THE WITNESS: There are</p> <p>5 times when it has the Complaint</p> <p>6 connected. There are times when</p> <p>7 it is brought to me just as the</p> <p>8 affidavit.</p> <p>9 BY MR. COX:</p> <p>10 Q. When you say that there are</p> <p>11 times when it comes to you with a</p> <p>12 Complaint connected, you mean attached as</p> <p>13 an exhibit?</p> <p>14 A. Such as this one, yes.</p> <p>15 Q. When you say "this one,"</p> <p>16 you're referring to Deposition Exhibit-1?</p> <p>17 A. Yes, that is correct.</p> <p>18 Q. Deposition Exhibit-1 has</p> <p>19 several exhibits attached to it; is that</p> <p>20 correct?</p> <p>21 MS. PITNEY: Could you</p> <p>22 please tell me what the exhibits</p> <p>23 that are attached are, because I</p> <p>24 don't have the benefit of having</p> <p>25 them in front of me?</p> | <p>52</p> <p>1 STEPHAN</p> <p>2 those exhibits attached to the affidavit</p> <p>3 at the time that you sign them?</p> <p>4 MS. PITNEY: Objection.</p> <p>5 You're asking about a document</p> <p>6 that was prepared by an attorney.</p> <p>7 Anything that comes with it that</p> <p>8 he's asked to review is</p> <p>9 privileged -- the communication</p> <p>10 between a client and an attorney.</p> <p>11 Do not answer the question.</p> <p>12 BY MR. COX:</p> <p>13 Q. Mr. Stephan, would you</p> <p>14 please look at Paragraph 3 of Exhibit-1.</p> <p>15 Do you see there the statement: That a</p> <p>16 true and correct copy of which is</p> <p>17 attached hereto is Exhibit-A?</p> <p>18 A. Where are you looking?</p> <p>19 Q. Paragraph 3. Do you see</p> <p>20 that statement?</p> <p>21 A. Yes, I do.</p> <p>22 Q. When you sign an affidavit</p> <p>23 such as Exhibit-1, are the exhibits</p> <p>24 attached to it?</p> <p>25 MS. PITNEY: Objection. A</p>  |
| <p>51</p> <p>1 STEPHAN</p> <p>2 THE WITNESS: Exhibit-A is a</p> <p>3 copy of the note and the --</p> <p>4 MR. COX: Julia, this is</p> <p>5 your summary judgment affidavit.</p> <p>6 MS. PITNEY: I'm not</p> <p>7 doubting that it is. I just don't</p> <p>8 know what these other exhibits</p> <p>9 attached are.</p> <p>10 MR. COX: Don't you have</p> <p>11 your copy?</p> <p>12 MS. PITNEY: You're the one</p> <p>13 verifying if they're the same as</p> <p>14 the one I'm looking at, Tom.</p> <p>15 THE WITNESS: Exhibit-B is</p> <p>16 the mortgage. Exhibit-C is the</p> <p>17 assignment of note and mortgage.</p> <p>18 Exhibit-D -- I believe we're</p> <p>19 looking at the demand, or the</p> <p>20 breach letter. And those are the</p> <p>21 four documents that are connected</p> <p>22 to this affidavit of summary</p> <p>23 judgment.</p> <p>24 BY MR. COX:</p> <p>25 Q. In your usual practice, are</p>        | <p>53</p> <p>1 STEPHAN</p> <p>2 document that's provided to him by</p> <p>3 an attorney is privileged.</p> <p>4 MR. COX: Are you telling</p> <p>5 him not to answer that question?</p> <p>6 MS. PITNEY: Yes. I'll say</p> <p>7 again, Tom, if you would like to</p> <p>8 ask him about the facts that are</p> <p>9 in the affidavit, the details</p> <p>10 about this loan -- which I might</p> <p>11 remind you involves a woman by the</p> <p>12 name of Nicole Bradbury -- then</p> <p>13 I'm sure Jeff will answer your</p> <p>14 question?</p> <p>15 MR. COX: Well, he has the</p> <p>16 affidavit in front of him in this</p> <p>17 case. And the affidavit which he</p> <p>18 swore to says a true and correct</p> <p>19 copy of the note is attached to</p> <p>20 it. And I'm asking him if that</p> <p>21 document was attached to it at the</p> <p>22 time that he signed it.</p> <p>23 BY MR. COX:</p> <p>24 Q. Would you please answer that</p> <p>25 question?</p> |

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| <p style="text-align: right;">54</p> <p>1 STEPHAN</p> <p>2 A. To my knowledge, I do not</p> <p>3 recall.</p> <p>4 Q. Is it your usual business</p> <p>5 practice to have exhibits attached to</p> <p>6 affidavits that you sign?</p> <p>7 A. Yes.</p> <p>8 Q. All exhibits?</p> <p>9 MS. PITNEY: Object to form.</p> <p>10 THE WITNESS: I do not know.</p> <p>11 BY MR. COX:</p> <p>12 Q. When you sign a summary</p> <p>13 judgment affidavit, do you check to see</p> <p>14 if all the exhibits are attached to it?</p> <p>15 A. No.</p> <p>16 Q. Does anybody in your</p> <p>17 department check to see if all the</p> <p>18 exhibits are attached to it at the time</p> <p>19 that it is presented to you for your</p> <p>20 signature?</p> <p>21 A. No.</p> <p>22 Q. When you sign a summary</p> <p>23 judgment affidavit, do you inspect any</p> <p>24 exhibits attached to it?</p> <p>25 A. No.</p> | <p style="text-align: right;">56</p> <p>1 STEPHAN</p> <p>2 necessarily know that.</p> <p>3 MR. COX: The physical</p> <p>4 movement of a document is not a</p> <p>5 communication. It's a fact.</p> <p>6 BY MR. COX:</p> <p>7 Q. My question to you is, where</p> <p>8 does a summary judgment go after you sign</p> <p>9 it?</p> <p>10 A. After I sign it, it is</p> <p>11 handed back to my staff. My staff hands</p> <p>12 it to a notary for notarization. It is</p> <p>13 then handed back to my staff. They send</p> <p>14 it back to the network attorney</p> <p>15 requesting any type of affidavit.</p> <p>16 Q. So you do not appear before</p> <p>17 the notary; is that correct?</p> <p>18 A. I do not.</p> <p>19 Q. What does your staff do with</p> <p>20 a summary judgment affidavit, such as</p> <p>21 Deposition Exhibit-1, after it receives</p> <p>22 it back from the notary?</p> <p>23 A. They go into our LPS system,</p> <p>24 close out process, stating it's being</p> <p>25 sent back to --</p>     |
| <p style="text-align: right;">55</p> <p>1 STEPHAN</p> <p>2 MS. PITNEY: Could you</p> <p>3 repeat the question, Tom? Did you</p> <p>4 say -- or can you have it read</p> <p>5 back, please?</p> <p>6 (Whereupon, the pertinent</p> <p>7 portion of the record was read.)</p> <p>8 MS. PITNEY: Object to the</p> <p>9 form.</p> <p>10 BY MR. COX:</p> <p>11 Q. What happens to an affidavit</p> <p>12 in your department after you sign it?</p> <p>13 MS. PITNEY: Objection.</p> <p>14 What happens to the document</p> <p>15 afterwards is -- it's in the</p> <p>16 course of litigation. The same</p> <p>17 objection as I said before. Where</p> <p>18 it goes is privileged.</p> <p>19 MR. COX: Where it goes is</p> <p>20 not a communication. It is not</p> <p>21 privileged.</p> <p>22 MS. PITNEY: You don't know</p> <p>23 that.</p> <p>24 MR. COX: Pardon me?</p> <p>25 MS. PITNEY: You don't</p>   | <p style="text-align: right;">57</p> <p>1 STEPHAN</p> <p>2 MS. PITNEY: Objection.</p> <p>3 Sorry. I don't mean to interrupt</p> <p>4 you, Jeff. I'm going to instruct</p> <p>5 you not to answer anything else,</p> <p>6 because you've already testified</p> <p>7 that the LPS system is the means</p> <p>8 by which you communicate with your</p> <p>9 attorney. The attorney/client</p> <p>10 communication is privileged. So</p> <p>11 don't continue to answer the</p> <p>12 question.</p> <p>13 Actually, if there is no</p> <p>14 question, pending, I'd like to</p> <p>15 take a brief break to discuss</p> <p>16 something with Brian Fleischer.</p> <p>17 (Whereupon, a short recess</p> <p>18 was taken.)</p> <p>19 BY MR. COX:</p> <p>20 Q. Mr. Stephan, do you recall</p> <p>21 testifying in your Florida deposition in</p> <p>22 December that you rely on your attorney</p> <p>23 network to ensure that the documents that</p> <p>24 you receive are correct and accurate?</p> <p>25 A. That is correct.</p> |

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| <p>58</p> <p>1 STEPHAN</p> <p>2 Q. And is that, in fact, the</p> <p>3 case?</p> <p>4 A. Yes.</p> <p>5 Q. And your department does not</p> <p>6 do any independent accuracy check of</p> <p>7 those records; isn't that correct?</p> <p>8 MR. FLEISCHER: Objection as</p> <p>9 form.</p> <p>10 THE WITNESS: Can you</p> <p>11 rephrase?</p> <p>12 BY MR. COX:</p> <p>13 Q. Your department does not do</p> <p>14 any independent check of the accuracy of</p> <p>15 the information on the summary judgments</p> <p>16 coming to you; isn't that correct?</p> <p>17 A. I review, quickly, the</p> <p>18 figures. Other than that, that's about</p> <p>19 it.</p> <p>20 Q. Do you recall testifying in</p> <p>21 your Florida deposition in December, that</p> <p>22 the affidavits that you sign are not</p> <p>23 based upon your own personal knowledge?</p> <p>24 A. I do not recall.</p> <p>25 MS. PITNEY: Objection to</p>  | <p>60</p> <p>1 STEPHAN</p> <p>2 I'm saying, yes, it looks correct</p> <p>3 in my computer system.</p> <p>4 BY MR. COX:</p> <p>5 Q. Is there anything else that</p> <p>6 you look at in your computer system when</p> <p>7 you're signing a summary judgment</p> <p>8 affidavit?</p> <p>9 MS. PITNEY: I'm sorry. I</p> <p>10 couldn't hear the last part of</p> <p>11 that.</p> <p>12 BY MR. COX:</p> <p>13 Q. Is there anything else that</p> <p>14 you look at in your computer system at</p> <p>15 the time that you sign a summary judgment</p> <p>16 affidavit?</p> <p>17 A. The only other thing I</p> <p>18 can --</p> <p>19 MS. PITNEY: One second.</p> <p>20 Are we talking about the computer</p> <p>21 system, the communication system?</p> <p>22 I just was asking for</p> <p>23 clarification of --</p> <p>24 MR. COX: Let me clarify it.</p> <p>25 MS. PITNEY: What computer</p>  |
| <p>59</p> <p>1 STEPHAN</p> <p>2 the form.</p> <p>3 BY MR. COX:</p> <p>4 Q. You do not recall that?</p> <p>5 A. I do not recall.</p> <p>6 Q. When you receive a summary</p> <p>7 judgment affidavit from one of your staff</p> <p>8 members, what do you do with it?</p> <p>9 A. I will first review it</p> <p>10 against our computer system, which is</p> <p>11 Fiserv, in general terms, to verify that</p> <p>12 the figures are correct. And then I will</p> <p>13 execute it and hand it back to my staff</p> <p>14 to have it notarized.</p> <p>15 Q. You say "in general terms"</p> <p>16 you review it. What do you mean?</p> <p>17 MS. PITNEY: Objection.</p> <p>18 THE WITNESS: I compare the</p> <p>19 principal balance. I review the</p> <p>20 interests. I take a look at the</p> <p>21 late charges. I look at the</p> <p>22 outstanding escrow amounts. When</p> <p>23 I say "general terms," I mean I'm</p> <p>24 not looking at the escrow and</p> <p>25 breaking it down to the penny.</p> | <p>61</p> <p>1 STEPHAN</p> <p>2 communication system Tom was</p> <p>3 asking him about.</p> <p>4 BY MR. COX:</p> <p>5 Q. You testify that you go into</p> <p>6 the First Serve (sic) system; is that</p> <p>7 correct?</p> <p>8 A. Yes, Fiserv.</p> <p>9 Q. Fiserv. Do you go into any</p> <p>10 other computer system at the time that</p> <p>11 you're signing a summary judgment</p> <p>12 affidavit?</p> <p>13 A. No.</p> <p>14 Q. And you just testified that</p> <p>15 you look at principal, interest, late</p> <p>16 charges and escrow; is that correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Is there anything else that</p> <p>19 you look at in your computer system when</p> <p>20 you're signing a summary judgment</p> <p>21 affidavit?</p> <p>22 A. The only thing I review,</p> <p>23 other than that, is who the borrower is.</p> <p>24 Q. When you receive a summary</p> <p>25 judgment affidavit to sign, do you read</p> |

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| <p style="text-align: right;">62</p> <p>1 STEPHAN</p> <p>2 every paragraph of it?</p> <p>3 A. No.</p> <p>4 Q. What do you read?</p> <p>5 A. I look for the figures.</p> <p>6 Q. That's all that you look at</p> <p>7 when you sign a summary judgment</p> <p>8 affidavit?</p> <p>9 A. Yes, to ensure that the</p> <p>10 figures are correct.</p> <p>11 Q. Is it fair to say then that</p> <p>12 when you sign a summary judgment</p> <p>13 affidavit, you do not know what it says,</p> <p>14 other than what the figures are that are</p> <p>15 contained within it?</p> <p>16 MR. FLEISCHER: Objection as</p> <p>17 to form.</p> <p>18 MS. PITNEY: Objection to</p> <p>19 the form of the question.</p> <p>20 THE WITNESS: Please</p> <p>21 rephrase.</p> <p>22 BY MR. COX:</p> <p>23 Q. It fair to say that when you</p> <p>24 sign a summary judgment affidavit, you</p> <p>25 don't know what information it contains,</p>  | <p style="text-align: right;">64</p> <p>1 STEPHAN</p> <p>2 volume of documents that you sign?</p> <p>3 A. No.</p> <p>4 Q. Is any part of your</p> <p>5 compensation tied to the volume of</p> <p>6 documents that your department processes?</p> <p>7 A. No.</p> <p>8 Q. Is it your understanding</p> <p>9 that the process that you follow in</p> <p>10 signing summary judgment affidavits is</p> <p>11 in accordance with the policies and</p> <p>12 procedures required of you by GMAC</p> <p>13 Mortgage?</p> <p>14 A. Yes.</p> <p>15 Q. Does GMAC do any quality</p> <p>16 assurance training for your department?</p> <p>17 A. Presently, no.</p> <p>18 Q. Has it in the past?</p> <p>19 A. I do not know.</p> <p>20 Q. You don't recall any?</p> <p>21 A. I never received any.</p> <p>22 Q. Do you have any memory of</p> <p>23 checking the numbers on the Bradbury</p> <p>24 affidavit that's in front of you as</p> <p>25 Deposition Exhibit-1?</p> |
| <p style="text-align: right;">63</p> <p>1 STEPHAN</p> <p>2 other than the figures that are set forth</p> <p>3 within it?</p> <p>4 A. Other than the borrower's</p> <p>5 name, and if I have signing authority for</p> <p>6 that entity. That is correct.</p> <p>7 Q. The practice that you've</p> <p>8 just described for signing summary</p> <p>9 judgment affidavits is the practice that</p> <p>10 you use signing all summary judgment</p> <p>11 affidavits that you handle; is that</p> <p>12 correct?</p> <p>13 MR. FLEISCHER: Again, I'm</p> <p>14 going to object to the form of the</p> <p>15 question.</p> <p>16 BY MR. COX:</p> <p>17 Q. Is that correct?</p> <p>18 A. The practice that I use for</p> <p>19 summary judgment affidavits is the same</p> <p>20 practice that I use for all affidavits.</p> <p>21 Q. And that's the one that</p> <p>22 you've just described?</p> <p>23 A. Yes.</p> <p>24 Q. Is any part of your</p> <p>25 compensation at GMAC Mortgage tied to the</p> | <p style="text-align: right;">65</p> <p>1 STEPHAN</p> <p>2 A. I do not recall.</p> <p>3 Q. If a loan has been modified,</p> <p>4 does that show up in the Fiserv system</p> <p>5 that you look at?</p> <p>6 A. When you say "modified," are</p> <p>7 you stating a loan modification?</p> <p>8 Q. Yes.</p> <p>9 A. Yes.</p> <p>10 Q. Does that show up?</p> <p>11 A. Yes.</p> <p>12 Q. If a loan has been modified,</p> <p>13 is any information put in the summary</p> <p>14 judgment affidavits that you sign about</p> <p>15 that?</p> <p>16 MR. FLEISCHER: Objection.</p> <p>17 Are you talking about modified, or</p> <p>18 his term was loan modification. I</p> <p>19 just want to make sure we're</p> <p>20 clear.</p> <p>21 MR. COX: That's fine.</p> <p>22 BY MR. COX:</p> <p>23 Q. If there's a loan</p> <p>24 modification, does information about a</p> <p>25 loan modification appear in the summary</p>  |

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| <p style="text-align: right;">66</p> <p>1 STEPHAN</p> <p>2 judgment affidavits that you sign?</p> <p>3 A. I do not know.</p> <p>4 MS. PITNEY: In all of them,</p> <p>5 or in this one?</p> <p>6 MR. COX: In any of them.</p> <p>7 THE WITNESS: I don't know.</p> <p>8 BY MR. COX:</p> <p>9 Q. Based upon your testimony,</p> <p>10 Mr. Stephan, is it correct that when you</p> <p>11 sign a summary judgment affidavit, such</p> <p>12 as Deposition Exhibit-1 that is in front</p> <p>13 of you, you don't know whether any</p> <p>14 portion of it is true, other than the</p> <p>15 paragraph containing the numbers that</p> <p>16 you just described; is that correct?</p> <p>17 MS. PITNEY: Object to the</p> <p>18 form. Tom, are you asking him</p> <p>19 about this affidavit?</p> <p>20 MR. COX: Well, he's</p> <p>21 testified that doesn't recall</p> <p>22 signing this particular affidavit,</p> <p>23 so that was not my question. Let</p> <p>24 me restate it.</p> <p>25 BY MR. COX:</p>   | <p style="text-align: right;">68</p> <p>1 STEPHAN</p> <p>2 Q. Is it correct?</p> <p>3 A. That is correct.</p> <p>4 Q. And isn't it also correct</p> <p>5 that you do not check the numbers on</p> <p>6 every single summary judgment affidavit</p> <p>7 that you sign?</p> <p>8 A. That is not correct.</p> <p>9 Q. You check every single one?</p> <p>10 A. Yes.</p> <p>11 Q. How long does it take you,</p> <p>12 on average, to process the execution of a</p> <p>13 summary judgment affidavit?</p> <p>14 MS. PITNEY: Object to the</p> <p>15 form.</p> <p>16 MR. COX: Please answer.</p> <p>17 THE WITNESS: Anywhere from</p> <p>18 five to 10 minutes, off the top of</p> <p>19 my head.</p> <p>20 MR. COX: If we can take a</p> <p>21 break. I may be done, but we can</p> <p>22 take a break for five minutes.</p> <p>23 (Whereupon, a short recess</p> <p>24 was taken.)</p> <p>25 BY MR. COX:</p>                     |
| <p style="text-align: right;">67</p> <p>1 STEPHAN</p> <p>2 Q. In your practice of signing</p> <p>3 summary judgment affidavits, Mr. Stephan,</p> <p>4 is it correct that they always have a</p> <p>5 paragraph containing the numbers of the</p> <p>6 amounts claiming to be due?</p> <p>7 A. That would be correct.</p> <p>8 Q. And is it correct that when</p> <p>9 you sign those affidavits, you don't know</p> <p>10 whether any other part of the affidavit</p> <p>11 is true or correct?</p> <p>12 A. Please advise me. What do</p> <p>13 you mean by "any other part"?</p> <p>14 Q. Any other paragraph, other</p> <p>15 than the one containing the numbers.</p> <p>16 A. I review it for the due</p> <p>17 date, if that's included in there.</p> <p>18 Q. So all of them --</p> <p>19 A. So that would be the</p> <p>20 numbers.</p> <p>21 Q. So other than the due date</p> <p>22 and the balances due, is it correct that</p> <p>23 you do not know whether any other part of</p> <p>24 the affidavit that you sign is true?</p> <p>25 A. That could be correct.</p> | <p style="text-align: right;">69</p> <p>1 STEPHAN</p> <p>2 Q. Mr. Stephan, referring you</p> <p>3 again to the bottom line on Page 1 of</p> <p>4 Exhibit-1, it states: I have under my</p> <p>5 custody and control, the records relating</p> <p>6 to the mortgage transaction referenced</p> <p>7 below.</p> <p>8 It's correct, is it not,</p> <p>9 that you did not have in your custody any</p> <p>10 records of GMAC at the time that you</p> <p>11 signed a summary judgment affidavit?</p> <p>12 MS. PITNEY: Objection to</p> <p>13 the form.</p> <p>14 THE WITNESS: I have the</p> <p>15 electronic record. I do not have</p> <p>16 papers.</p> <p>17 BY MR. COX:</p> <p>18 Q. You have access to a</p> <p>19 computer. Is that what you mean?</p> <p>20 A. Yes.</p> <p>21 Q. You have no control over</p> <p>22 that system, do you?</p> <p>23 MR. FLEISCHER: Objection as</p> <p>24 to form.</p> <p>25 BY MR. COX:</p> |

|    |  |    |  |
|----|--|----|--|
| 70 |  | 72 |  |
| 1  | STEPHAN                                  | 1  |  |
| 2  | Q. You have no control over              | 2  | I have read the foregoing transcript           |
| 3  | that Fiserv computer system, do you?     | 3  | of my deposition given on June 7, 2010,        |
| 4  | A. No, I do not.                         | 4  | and it is true, correct and complete, to the   |
| 5  | Q. And someone else within GMAC          | 5  | best of my knowledge, recollection and belief, |
| 6  | is responsible for ensuring the accuracy | 6  | except for the corrections noted hereon and/or |
| 7  | of that system; isn't that correct?      | 7  | list of corrections, if any, attached on a     |
| 8  | A. That would be correct.                | 8  | separate sheet herewith.                       |
| 9  | MR. COX: I have no further               | 9  |  |
| 10 | questions.                               | 10 |  |
| 11 | MR. FLEISCHER: We're done,               | 11 |  |
| 12 | Julia, unless you have something         | 12 | JEFFREY STEPHAN                                |
| 13 | to add.                                  | 13 |  |
| 14 | MS. PITNEY: No.                          | 14 |  |
| 15 | (Witness excused.)                       | 15 |  |
| 16 | - - -                                    | 16 |  |
| 17 | (Whereupon, the deposition               | 17 | Subscribed and sworn to                        |
| 18 | concluded at 11:45 a.m.)                 | 18 | before me this ____ day                        |
| 19 |  | 19 | of _____, 2010.                                |
| 20 |  | 20 |  |
| 21 |  | 21 |  |
| 22 |  | 22 |  |
| 23 |  | 23 | Notary Public                                  |
| 24 |  | 24 |  |
| 25 |  | 25 |  |
| 71 |  | 73 |  |
| 1  |  | 1  |  |
| 2  | INDEX                                    | 2  | CERTIFICATE                                    |
| 3  | Testimony of: Jeffrey Stephan            | 3  | I HEREBY CERTIFY that the witness              |
| 4  | By Mr. Cox . . . . . 4                   | 4  | was duly sworn by me and that the              |
| 5  |  | 5  | deposition is a true record of the             |
| 6  |  | 6  | testimony given by the witness.                |
| 7  | - - -                                    | 7  |  |
| 8  | EXHIBITS                                 | 8  |  |
| 9  | - - -                                    | 9  |  |
| 10 |  | 10 |  |
| 11 | NO. DESCRIPTION PAGE                     | 11 | Susan B. Berkowitz, a                          |
| 12 |  |    | Registered Professional Reporter               |
| 13 | 1 Affidavit 3                            | 12 | and Notary Public                              |
| 14 | August 5, 2009                           | 13 | Dated: June 9, 2010                            |
| 15 |  | 14 |  |
| 16 |  | 15 |  |
| 17 |  | 16 |  |
| 18 |  | 17 |  |
| 19 |  | 18 | (The foregoing certification                   |
| 20 |  | 19 | of this transcript does not apply to any       |
| 21 |  | 20 | reproduction of the same by any means,         |
| 22 |  | 21 | unless under the direct control and/or         |
| 23 |  | 22 | supervision of the certifying                  |
| 24 |  | 23 | reporter.)                                     |
| 25 |  | 24 |  |
|    |  | 25 |  |



|    |                |
|----|----------------|
| 1  |                |
| 2  | LAWYER'S NOTES |
| 3  | _____          |
| 4  | _____          |
| 5  | _____          |
| 6  | _____          |
| 7  | _____          |
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| 24 | _____          |
| 25 | _____          |

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|---|---|--|--|---|
| <p><b>A</b></p> <p><b>ability</b> 29:2,4<br/> <b>access</b> 69:18<br/> <b>accompanied</b> 48:23<br/> 49:24<br/> <b>accuracy</b> 30:11<br/> 44:16 58:6,14<br/> 70:6<br/> <b>accurate</b> 45:10,18<br/> 57:24<br/> <b>acquired</b> 15:21<br/> 38:12<br/> <b>action</b> 11:8<br/> <b>actions</b> 31:10<br/> <b>add</b> 70:13<br/> <b>addition</b> 24:21<br/> <b>additional</b> 35:2<br/> <b>address</b> 24:16<br/> <b>advise</b> 67:12<br/> <b>affidavit</b> 21:3 24:16<br/> 31:11 32:9,12,12<br/> 32:20 33:9,14<br/> 35:8,13,19,23<br/> 36:19 39:5 43:25<br/> 44:9,17 48:22<br/> 50:8 51:5,22 52:2<br/> 52:22 53:9,16,17<br/> 54:13,23 55:11<br/> 56:15,20 59:7<br/> 60:8,16 61:12,21<br/> 61:25 62:8,13,24<br/> 64:24 66:11,19,22<br/> 67:10,24 68:6,13<br/> 69:11 71:13<br/> <b>affidavits</b> 31:2,7,9<br/> 31:12,17 32:8<br/> 33:25 38:22 39:23<br/> 43:22 54:6 58:22<br/> 63:9,11,19,20<br/> 64:10 65:14 66:2<br/> 67:3,9<br/> <b>ago</b> 5:17 32:7<br/> <b>agreed</b> 3:6<br/> <b>AMERICA</b> 1:9<br/> <b>amount</b> 33:6<br/> <b>amounts</b> 59:22 67:6<br/> <b>and/or</b> 72:6 73:21<br/> <b>answer</b> 6:21 10:17<br/> 10:18 32:25 33:4<br/> 36:7,14 37:11<br/> 38:2 40:2 41:17<br/> 42:6,16 43:3,5<br/> 45:2 49:7 50:2<br/> 52:11 53:5,13,24<br/> 57:5,11 68:16<br/> <b>answered</b> 36:17<br/> <b>answers</b> 32:7</p> | <p><b>anybody</b> 40:10,17<br/> 44:15 54:16<br/> <b>appear</b> 43:18 56:16<br/> 65:25<br/> <b>APPEARANCES</b><br/> 2:2<br/> <b>application</b> 19:5<br/> <b>apply</b> 73:19<br/> <b>approximate</b> 5:16<br/> <b>approximately</b> 9:11<br/> 9:18,22 40:20<br/> 48:6,8<br/> <b>area</b> 33:13<br/> <b>arts</b> 8:13<br/> <b>asked</b> 42:2,3 52:8<br/> <b>asking</b> 27:4 35:15<br/> 38:5,19 39:11<br/> 43:6 52:5 53:20<br/> 60:22 61:3 66:18<br/> <b>assignment</b> 51:17<br/> <b>assignments</b> 30:25<br/> <b>associated</b> 18:17<br/> <b>ASSOCIATION</b><br/> 1:4<br/> <b>assume</b> 11:16,20<br/> 47:21<br/> <b>assumed</b> 11:13 13:7<br/> 34:24<br/> <b>assurance</b> 64:16<br/> <b>attached</b> 50:12,19<br/> 50:23 51:9 52:2<br/> 52:17,24 53:19,21<br/> 54:5,14,18,24<br/> 72:7<br/> <b>attorney</b> 3:20 10:22<br/> 10:23 14:22 15:8<br/> 23:13 24:4 35:22<br/> 36:10,11,19,23<br/> 38:24 39:10 41:25<br/> 48:7 52:6,10 53:3<br/> 56:14 57:9,22<br/> <b>attorneys</b> 14:25<br/> 36:2 37:6 38:14<br/> 39:4<br/> <b>attorney/client</b><br/> 33:21 36:11 57:9<br/> <b>August</b> 21:4 23:5<br/> 34:11,19 47:13<br/> 71:14<br/> <b>authority</b> 63:5<br/> <b>availability</b> 26:8<br/> <b>Avenue</b> 1:17<br/> <b>average</b> 46:20 48:4<br/> 68:12<br/> <b>averaging</b> 48:6<br/> <b>aware</b> 32:3 34:4<br/> <b>a.m</b> 1:18 70:18</p> | <p><b>B</b></p> <p><b>B</b> 1:19 71:8 73:10<br/> <b>back</b> 15:7 36:16<br/> 39:8,10 47:9,13<br/> 55:5 56:11,13,14<br/> 56:22,25 59:13<br/> <b>background</b> 8:11<br/> <b>balance</b> 59:19<br/> <b>balances</b> 67:22<br/> <b>BANK</b> 1:9<br/> <b>bankruptcy</b> 15:17<br/> 31:24<br/> <b>based</b> 37:16 38:19<br/> 58:23 66:9<br/> <b>basic</b> 48:10<br/> <b>basically</b> 17:21,22<br/> 27:4<br/> <b>becoming</b> 17:24<br/> <b>began</b> 8:16 9:9 10:2<br/> <b>behalf</b> 4:9<br/> <b>BELDECOS</b> 1:16<br/> <b>belief</b> 72:5<br/> <b>believe</b> 4:6 9:10<br/> 17:2 19:15 26:13<br/> 31:24 47:18 48:5<br/> 51:18<br/> <b>benefit</b> 50:24<br/> <b>BERGER</b> 1:16<br/> <b>Berkowitz</b> 1:19<br/> 73:10<br/> <b>best</b> 72:5<br/> <b>bfleischer@fleisch...</b><br/> 2:6<br/> <b>bid</b> 12:13,24 13:2,10<br/> <b>bidding</b> 12:2,22<br/> <b>bids</b> 12:4,5<br/> <b>blanks</b> 15:2<br/> <b>borrower</b> 33:3<br/> 61:23<br/> <b>borrower's</b> 63:4<br/> <b>bottom</b> 25:14 69:3<br/> <b>Box</b> 2:10<br/> <b>Bradbury</b> 1:6 2:13<br/> 3:25 53:12 64:23<br/> <b>breach</b> 51:20<br/> <b>break</b> 23:12 57:15<br/> 68:21,22<br/> <b>breaking</b> 59:25<br/> <b>Brian</b> 2:3 6:15<br/> 57:16<br/> <b>bridge</b> 4:14<br/> <b>brief</b> 23:12 57:15<br/> <b>bring</b> 39:7 46:16,19<br/> 48:14<br/> <b>brings</b> 47:23<br/> <b>BRI-RE-09-65</b> 1:4<br/> <b>broad</b> 35:16</p> | <p><b>broad-based</b> 27:5<br/> <b>brought</b> 48:4 50:7<br/> <b>bulk</b> 24:6<br/> <b>business</b> 27:12 35:5<br/> 38:21 54:4</p> <p><b>C</b></p> <p><b>calculate</b> 12:4,5,13<br/> <b>calculation</b> 11:4<br/> <b>call</b> 14:2 18:9 27:15<br/> 27:18<br/> <b>called</b> 12:17 18:11<br/> 35:24 36:3<br/> <b>calls</b> 29:8<br/> <b>capacity</b> 16:7 20:3,9<br/> 20:19 27:19 30:21<br/> <b>Capital</b> 9:3,12<br/> <b>carry</b> 10:14<br/> <b>case</b> 3:24 4:5,12<br/> 7:18 10:23 21:4<br/> 27:7,8 45:25<br/> 53:17 58:3<br/> <b>cases</b> 5:5,6,8,10,12<br/> <b>cash</b> 19:16,18 29:16<br/> <b>category</b> 10:12<br/> 15:18<br/> <b>CDs</b> 15:19<br/> <b>CERTIFICATE</b><br/> 73:2<br/> <b>certification</b> 3:7<br/> 73:18<br/> <b>CERTIFY</b> 73:3<br/> <b>certifying</b> 73:22<br/> <b>change</b> 29:2,5<br/> <b>changed</b> 34:18,23<br/> <b>charge</b> 15:6<br/> <b>charges</b> 59:21 61:16<br/> <b>check</b> 54:13,17 58:6<br/> 58:14 68:5,9<br/> <b>checking</b> 64:23<br/> <b>claiming</b> 67:6<br/> <b>clarification</b> 60:23<br/> <b>clarify</b> 60:24<br/> <b>cleaner</b> 8:7<br/> <b>clear</b> 65:20<br/> <b>clearly</b> 49:15<br/> <b>client</b> 52:10<br/> <b>close</b> 33:13 56:24<br/> <b>closer</b> 7:4<br/> <b>collections</b> 8:21<br/> <b>come</b> 21:17,21<br/> 24:17 35:8 38:23<br/> <b>comes</b> 41:3 50:11<br/> 52:7<br/> <b>coming</b> 48:7 58:16<br/> <b>commencing</b> 1:18<br/> <b>Commonwealth</b></p> | <p>1:21<br/> <b>communicate</b> 57:8<br/> <b>communicates</b> 37:3<br/> 37:5 41:24<br/> <b>communication</b><br/> 35:25 36:9,22<br/> 37:17 38:13 41:20<br/> 52:9 55:20 56:5<br/> 57:10 60:21 61:2<br/> <b>companies</b> 8:23<br/> <b>company</b> 26:7,8,16<br/> 28:15 36:24 38:9<br/> 38:12<br/> <b>compare</b> 59:18<br/> <b>compensation</b> 63:25<br/> 64:5<br/> <b>Complaint</b> 6:15<br/> 50:5,12<br/> <b>complete</b> 72:4<br/> <b>completed</b> 14:25<br/> 15:4<br/> <b>computer</b> 14:20<br/> 18:6 20:6 27:16<br/> 59:10 60:3,6,14<br/> 60:20,25 61:10,19<br/> 69:19 70:3<br/> <b>concluded</b> 70:18<br/> <b>confirm</b> 18:2 33:6<br/> <b>conjunction</b> 16:13<br/> <b>connected</b> 50:6,12<br/> 51:21<br/> <b>contacting</b> 10:22<br/> <b>contained</b> 62:15<br/> <b>containing</b> 66:15<br/> 67:5,15<br/> <b>contains</b> 62:25<br/> <b>content</b> 42:3<br/> <b>contents</b> 44:17<br/> <b>contested</b> 33:4<br/> <b>Conti</b> 9:5<br/> <b>ContiMortgage</b> 9:2<br/> 9:8<br/> <b>continue</b> 57:11<br/> <b>control</b> 25:16 69:5<br/> 69:21 70:2 73:21<br/> <b>conveying</b> 11:7<br/> <b>copies</b> 23:21<br/> <b>copy</b> 10:25 51:3,11<br/> 52:16 53:19<br/> <b>correct</b> 5:2,25 9:16<br/> 9:17 12:15 13:6<br/> 14:7,8 17:16,17<br/> 23:7 24:24 25:2,3<br/> 28:2,5,6 29:17,21<br/> 29:22,25 30:2<br/> 38:10 40:24 41:4<br/> 41:5,8,9 43:15,16</p> |
|---|---|--|--|---|

|  |  |   |   |  |
|--|--|---|---|--|
| 43:19,20 44:3,4,6<br>44:7,13,14 45:11<br>45:20,21 46:18<br>47:25 48:2,19,20<br>50:17,20 52:16<br>53:18 56:17 57:24<br>57:25 58:7,16<br>59:12 60:2 61:7<br>61:16,17 62:10<br>63:6,12,17 66:10<br>66:16 67:4,7,8,11<br>67:22,25 68:2,3,4<br>68:8 69:8 70:7,8<br>72:4<br><b>corrections</b> 72:6,7<br><b>correctly</b> 18:3<br><b>counsel</b> 2:7,12,19<br>3:6 41:21 42:20<br>42:22 44:10<br><b>count</b> 48:16<br><b>counting</b> 19:5<br><b>country</b> 28:21 31:21<br><b>course</b> 7:7 43:8<br>55:16<br><b>court</b> 1:2 6:5<br><b>covers</b> 31:4<br><b>Cox</b> 2:9,10 3:20 4:2<br>4:10,18 7:14 8:9<br>10:16 11:9 12:10<br>14:15 16:10 19:10<br>20:18 21:12,18<br>22:2,9,14,22,24<br>23:17 24:10,19<br>26:2 27:11 28:11<br>30:4,20 32:24<br>33:19,23 35:17<br>36:15,20 37:7,14<br>38:2,6 39:17 40:2<br>40:9,16 41:18<br>42:2,5,17,25<br>43:12 44:12 45:4<br>45:16,19,25 46:6<br>46:8 49:6,18,21<br>50:9 51:4,10,24<br>52:12 53:4,15,23<br>54:11 55:10,19,24<br>56:3,6 57:19<br>58:12 59:3 60:4<br>60:12,24 61:4<br>62:22 63:16 65:21<br>65:22 66:6,8,20<br>66:25 68:16,20,25<br>69:17,25 70:9<br>71:4<br><b>cross</b> 4:13<br><b>cubicle</b> 46:14,15<br><b>CUMBERLAND</b> | 1:2<br><b>custodians</b> 26:15<br><b>custody</b> 25:16 69:5<br>69:9<br><b>customer</b> 19:14,15<br>19:21 27:15 29:8<br>29:17<br><b>customers</b> 27:18<br>29:13<br><b>C-O-N-T-E</b> 9:5<br><b>C-O-N-T-I</b> 9:6<br><br><hr/> <b>D</b><br><b>D</b> 1:13 3:13 71:2<br><b>dangerously</b> 33:12<br><b>data</b> 20:5 28:4 30:6<br>30:12<br><b>date</b> 1:19 34:20<br>67:17,21<br><b>dated</b> 21:4 23:5<br>73:12<br><b>day</b> 47:22 48:5,9<br>72:18<br><b>days</b> 17:7<br><b>day-to-day</b> 10:9<br><b>deal</b> 24:13<br><b>debate</b> 21:19<br><b>December</b> 5:24 45:7<br>46:24 47:9,20<br>57:22 58:21<br><b>decrease</b> 47:8<br><b>deeds</b> 31:2<br><b>defendant</b> 1:7 2:12<br>4:11<br><b>degree</b> 8:12<br><b>demand</b> 51:19<br><b>denied</b> 3:20<br><b>department</b> 9:21,24<br>11:19,22,24 12:17<br>13:23 14:5 19:11<br>19:21,24 26:6<br>28:7,12,16,18,22<br>29:16,19 34:14,18<br>40:20,23 41:2,7<br>46:12 54:17 55:12<br>58:5,13 64:6,16<br><b>departments</b> 11:8<br>28:24,25<br><b>deposed</b> 5:9,23<br><b>deposition</b> 1:13 3:23<br>5:3,15 6:3,3,9,13<br>7:15,17,19,20,23<br>21:2,11 22:25<br>23:23 32:10 33:9<br>34:11 35:9 38:16<br>38:22 43:13 44:9<br>45:6 46:24 50:16 | 50:18 56:21 57:21<br>58:21 64:25 66:12<br>70:17 72:3 73:5<br><b>describe</b> 38:20<br><b>described</b> 63:8,22<br>66:16<br><b>description</b> 31:16<br>34:22 71:11<br><b>designated</b> 15:8<br><b>details</b> 37:4 53:9<br><b>different</b> 14:6 31:16<br><b>difficulty</b> 7:2<br><b>direct</b> 41:20 73:21<br><b>directed</b> 6:19<br><b>discuss</b> 57:15<br><b>DISTRICT</b> 1:2,2<br><b>DITECH</b> 1:8<br><b>DIVISION</b> 1:2<br><b>DOCKET</b> 1:4<br><b>document</b> 3:2 13:13<br>13:21 14:9,17,18<br>15:7,25 16:8,15<br>19:3 20:4,10,20<br>23:3,9 24:9,14,23<br>27:20 30:22 31:18<br>31:22,25 32:3<br>34:13,18 35:3,6<br>41:3,11,14 42:10<br>42:14,18 43:7<br>44:20,22,23,24<br>48:19 49:2,14,23<br>52:5 53:2,21<br>55:14 56:4<br><b>documents</b> 6:8,11<br>11:2 14:20,23<br>15:2 16:22 17:15<br>17:19,23 20:13,23<br>23:22 24:3 30:23<br>30:24 31:19 37:22<br>39:13,19 40:11,18<br>46:17,22,25 47:10<br>47:14,24 48:12,12<br>48:23 49:24 51:21<br>57:23 64:2,6<br><b>doing</b> 7:8 12:21<br><b>doubting</b> 51:7<br><b>DRUMMOND</b> 2:16<br>2:16<br><b>due</b> 33:7 67:6,16,21<br>67:22<br><b>duly</b> 3:14 73:4<br><b>duties</b> 10:7,13 11:20<br>19:4 34:17<br><b>duty</b> 31:12<br><b>d/b/a</b> 1:8<br><br><hr/> <b>E</b> | <b>E</b> 71:2,8<br><b>educational</b> 8:10<br><b>efficient</b> 23:25<br><b>effort</b> 23:24<br><b>either</b> 15:21 26:14<br><b>electronic</b> 69:15<br><b>employee</b> 41:6,11<br>47:23 48:18<br><b>employees</b> 15:24<br>24:22 41:19 45:7<br>46:16<br><b>ensure</b> 15:3 57:23<br>62:9<br><b>ensures</b> 30:11<br><b>ensuring</b> 70:6<br><b>enter</b> 26:23<br><b>entered</b> 29:10 30:7<br>30:12<br><b>entertain</b> 22:15<br><b>entire</b> 28:15,20<br><b>entity</b> 63:6<br><b>entries</b> 26:18 27:7<br>28:23 29:2<br><b>entry</b> 20:6 28:4 29:5<br><b>escrow</b> 59:22,24<br>61:16<br><b>ESQUIRE</b> 2:3,9,16<br><b>estimate</b> 9:20 13:3<br>25:7 47:16<br><b>estimated</b> 46:25<br><b>everyday</b> 10:20<br><b>exactly</b> 42:20<br><b>EXAMINATION</b><br>4:16<br><b>examined</b> 3:15<br><b>exchange</b> 22:3<br><b>Excuse</b> 21:5<br><b>excused</b> 70:15<br><b>execute</b> 39:8,13,19<br>40:18 59:13<br><b>executed</b> 34:11<br><b>execution</b> 13:14,21<br>14:10,17,19 15:25<br>16:8,15 19:3 20:4<br>20:10,20 24:23<br>27:20 30:22 31:18<br>31:23,25 32:3<br>34:14,18 35:4,7<br>49:23 68:12<br><b>exhausted</b> 31:13<br><b>exhibit</b> 21:2,7 22:21<br>23:2 33:10 35:9<br>50:13<br><b>exhibits</b> 21:10,20<br>22:11 50:19,22<br>51:8 52:2,23 54:5<br>54:8,14,18,24 | <b>Exhibit-A</b> 51:2<br>52:17<br><b>Exhibit-B</b> 51:15<br><b>Exhibit-C</b> 51:16<br><b>Exhibit-D</b> 51:18<br><b>Exhibit-1</b> 3:2 25:14<br>32:10 34:11 38:17<br>38:23 43:13 44:9<br>50:16,18 52:14,23<br>56:21 64:25 66:12<br>69:4<br><b>exist</b> 18:23 26:9,12<br><b>exists</b> 39:25<br><b>Express</b> 15:7<br><b>Expressed</b> 39:10<br><b>extent</b> 27:3 36:7<br>39:25 43:5<br><b>e-mail</b> 11:3 24:5<br><br><hr/> <b>F</b><br><b>fact</b> 56:5 58:2<br><b>facts</b> 53:8<br><b>fair</b> 24:18 27:24<br>62:11,23<br><b>Fairbanks</b> 9:2,12<br><b>fall</b> 15:17<br><b>falls</b> 13:20<br><b>Fannie</b> 2:19 4:7<br><b>far</b> 29:5 38:22<br><b>fashion</b> 21:23<br><b>fax</b> 11:3 24:5<br><b>Federal</b> 1:3 15:7<br>39:9<br><b>fell</b> 10:11<br><b>Fidelity</b> 38:13<br><b>figures</b> 11:4 14:24<br>39:3 58:18 59:12<br>62:5,10,14 63:2<br><b>file</b> 10:21<br><b>filed</b> 33:4<br><b>files</b> 15:18 48:17<br><b>filing</b> 3:7<br><b>fill</b> 15:2<br><b>filling</b> 39:6<br><b>fine</b> 7:9 22:9 27:9<br>35:14 40:6 65:21<br><b>finish</b> 8:5 12:9<br><b>first</b> 9:4 25:15 41:2<br>44:2 59:9 61:6<br><b>firsthand</b> 29:23<br><b>Fiserv</b> 18:12 26:7,19<br>27:14 31:15 39:8<br>59:11 61:8,9 65:4<br>70:3<br><b>five</b> 68:18,22<br><b>Fleischer</b> 2:3,4,4 4:2<br>4:6 6:18 7:5 8:4 |
|--|--|---|---|--|

|  |   |  |   |  |
|--|---|--|---|--|
| 12:8 14:11 20:14<br>23:13 24:4,12<br>28:9 32:22 45:22<br>46:3 57:16 58:8<br>62:16 63:13 65:16<br>69:23 70:11<br><b>FLITTER</b> 1:15<br><b>Florida</b> 5:18,24 45:6<br>45:25 46:24 57:21<br>58:21<br><b>FNMA</b> 3:24<br><b>folder</b> 48:19<br><b>folders</b> 48:15<br><b>follow</b> 64:9<br><b>follows</b> 3:15<br><b>foreclosure</b> 8:25<br>10:5,11 11:11,19<br>11:21 12:7,14,16<br>13:23 14:4 15:16<br>15:18 20:11,21<br>26:6 31:10 32:17<br>34:2<br><b>foreclosures</b> 8:22<br>9:25 31:19<br><b>foregoing</b> 72:2<br>73:18<br><b>form</b> 3:9 8:19 10:15<br>11:3,3 14:12 16:9<br>19:9 20:15 25:23<br>26:25 28:10 30:19<br>32:23 40:13 42:21<br>54:9 55:9 58:9<br>59:2 62:17,19<br>63:14 66:18 68:15<br>69:13,24<br><b>Fort</b> 9:15<br><b>forth</b> 63:2<br><b>four</b> 51:21<br><b>four-year</b> 8:12<br><b>front</b> 24:14 32:9<br>50:25 53:16 64:24<br>66:12<br><b>full</b> 4:20<br><b>function</b> 16:6<br><b>functions</b> 14:7,16,18<br><b>further</b> 70:9<br><b>furthermore</b> 27:2<br><b>fuzzy</b> 7:10<br><b>F-I-S-E-R-V</b> 18:12 | <b>given</b> 12:14 34:5<br>47:22 72:3 73:6<br><b>GMAC</b> 1:8 2:7,19<br>4:8,10 8:15,16,20<br>9:3,14 10:3 11:12<br>11:23 12:13 16:6<br>16:12 17:4 18:24<br>20:7,12 25:5,19<br>26:3,10 29:11<br>30:11,15 31:13,23<br>36:10 63:25 64:12<br>64:15 69:10 70:5<br><b>GMAC's</b> 4:9<br><b>go</b> 8:14 22:4 29:6<br>36:15 45:8,17<br>56:8,23 61:5,9<br><b>goes</b> 40:5 49:13<br>55:18,19<br><b>going</b> 12:13 13:3<br>20:25 21:8,13,18<br>21:22 22:2,7,14<br>22:16,17,20 24:6<br>24:8 25:7 36:5<br>37:9 47:3,21<br>49:11 57:4 63:14<br><b>grounds</b> 37:10<br><b>group</b> 14:6 47:23<br>48:4 | <b>honestly</b> 18:25<br><b>housed</b> 26:13<br><hr/> <b>I</b><br><b>idea</b> 21:12,21,25<br><b>identification</b> 3:3<br><b>included</b> 67:17<br><b>including</b> 16:3,4<br><b>incredibly</b> 27:5<br><b>independent</b> 58:6<br>58:14<br><b>individual</b> 39:10<br>48:15<br><b>individuals</b> 12:3<br><b>information</b> 10:25<br>45:9,18 58:15<br>62:25 65:13,24<br><b>initially</b> 44:10<br><b>input</b> 39:5<br><b>inspect</b> 54:23<br><b>instruct</b> 16:21 57:4<br><b>instructing</b> 43:2,4<br><b>integrity</b> 30:16<br><b>intend</b> 23:22<br><b>intent</b> 22:11<br><b>interest</b> 1:9 33:20<br>61:15<br><b>interests</b> 59:20<br><b>interrupt</b> 6:25 36:6<br>57:3<br><b>introduce</b> 22:11<br>23:23<br><b>introducing</b> 21:8<br><b>involve</b> 10:8<br><b>involved</b> 10:9 17:14<br>26:16<br><b>involves</b> 53:11<br><b>Iowa</b> 15:15 26:14<br><b>issues</b> 4:12<br><hr/> <b>J</b><br><b>Jeff</b> 36:5 45:3 50:3<br>53:13 57:4<br><b>Jeffrey</b> 1:13 3:13<br>4:21 71:3 72:12<br><b>Jersey</b> 2:5 5:19<br><b>job</b> 34:22<br><b>JPitney@ddlaw.c...</b><br>2:18<br><b>judge</b> 34:5,8<br><b>judgment</b> 31:9 32:8<br>32:14,16,20 33:7<br>33:25 35:8 48:22<br>49:15,23 51:5,23<br>54:13,23 56:8,20<br>59:7 60:7,15<br>61:11,20,25 62:7 | 62:12,24 63:9,10<br>63:19 64:10 65:14<br>66:2,11 67:3 68:6<br>68:13 69:11<br><b>judgments</b> 11:5<br>58:15<br><b>judicial</b> 31:10 32:17<br>34:2<br><b>Julia</b> 2:16 4:3 7:6<br>21:6,14 23:19<br>49:19 51:4 70:12<br><b>June</b> 1:11 4:23 72:3<br>73:12<br><hr/> <b>K</b><br><b>keep</b> 26:5 29:11<br>39:12,18 40:10,20<br><b>keeps</b> 39:22 40:4,17<br><b>Kenneth</b> 17:3<br><b>kind</b> 5:10 26:22<br>27:22<br><b>kinds</b> 10:7,13 30:23<br>31:7<br><b>knew</b> 17:22<br><b>know</b> 7:6 18:25<br>28:12,16,22,25<br>29:14 35:18 37:16<br>37:21 40:17 45:24<br>47:17 51:8 54:10<br>55:22 56:2 62:13<br>62:25 64:19 66:3<br>66:7,13 67:9,23<br><b>knowledge</b> 29:18,24<br>30:5,9,10,14 32:5<br>32:19 33:3,24<br>54:2 58:23 72:5<br><hr/> <b>L</b><br><b>language</b> 13:22<br><b>large</b> 24:2<br><b>late</b> 59:21 61:15<br><b>law</b> 1:15 2:10<br><b>lawyer</b> 41:4 42:11<br><b>lawyers</b> 37:18<br><b>LAWYER'S</b> 74:2<br><b>lead</b> 11:18,21 12:2<br>13:13,18 16:7,14<br>16:20 17:24 19:2<br>20:4,10,20 27:19<br>30:22 34:13,17<br>35:6<br><b>learning</b> 17:14<br><b>left</b> 9:10<br><b>letter</b> 51:20<br><b>let's</b> 17:25 36:15<br><b>liberal</b> 8:13<br><b>limited</b> 24:25 25:5,9 | 43:18<br><b>line</b> 69:3<br><b>lines</b> 15:4<br><b>list</b> 15:13 72:7<br><b>litigation</b> 33:16,16<br>33:18 39:24 41:15<br>42:15 43:9 44:25<br>45:23 49:3,16<br>55:16<br><b>little</b> 7:2,4,9<br><b>live</b> 4:24<br><b>LLC</b> 1:8<br><b>LLC.COM</b> 1:8<br><b>load</b> 36:2 38:24<br><b>loaded</b> 39:3<br><b>loan</b> 19:6 29:12<br>48:24 53:10 65:3<br>65:7,12,18,23,25<br><b>loans</b> 10:11 15:13<br>15:17,20,21 26:4<br><b>located</b> 15:15 28:19<br><b>log</b> 39:12,18,21 40:4<br>40:5,8,10,18,21<br><b>long</b> 11:10 12:25<br>17:5 25:4 68:11<br><b>longer</b> 17:4<br><b>look</b> 7:15 52:14<br>59:20,21 60:6,14<br>61:15,19 62:5,6<br>65:5<br><b>looked</b> 6:13,22<br><b>looking</b> 18:3 51:14<br>51:19 52:18 59:24<br><b>looks</b> 60:2<br><b>lost</b> 31:14<br><b>louder</b> 7:12<br><b>LPS</b> 35:24 36:21,24<br>37:8,16,21 38:7<br>38:25 41:3,22<br>42:8,10,19 56:23<br>57:7<br><b>LUNDY</b> 1:15<br><hr/> <b>M</b><br><b>M</b> 1:6 2:3,13<br><b>Mae</b> 2:19 4:8<br><b>Main</b> 2:4<br><b>Maine</b> 1:2 2:11,17<br>32:21<br><b>maintain</b> 25:20 26:4<br><b>maintains</b> 28:7,13<br>28:17<br><b>making</b> 15:6 26:18<br>27:14<br><b>management</b> 15:14<br><b>manner</b> 34:16,23<br><b>manuals</b> 17:9 18:16 |
|--|---|--|---|--|

|   |   |  |  |   |
|---|---|--|--|---|
| 18:20<br><b>marked</b> 3:2 21:2<br><b>materials</b> 17:9<br>18:17<br><b>matters</b> 10:14<br><b>mean</b> 29:7 33:14<br>41:12 50:12 57:3<br>59:16,23 67:13<br>69:19<br><b>means</b> 37:3,4 57:7<br>73:20<br><b>measures</b> 30:15<br><b>members</b> 38:25 39:2<br>48:16 59:8<br><b>memory</b> 23:8 38:15<br>64:22<br><b>mentioned</b> 38:7<br><b>military</b> 31:11<br><b>Minnesota</b> 26:15<br><b>minute</b> 22:5<br><b>minutes</b> 68:18,22<br><b>mitigation</b> 31:14<br><b>modification</b> 65:7<br>65:18,24,25<br><b>modified</b> 65:3,6,12<br>65:17<br><b>moments</b> 32:7<br><b>month</b> 46:21 47:2,4<br>47:7,11,14<br><b>months</b> 5:17 13:4<br><b>Monument</b> 2:17<br><b>mortgage</b> 1:4,8 8:22<br>8:24 9:15 10:3<br>12:6 25:6,17,20<br>26:4,10 29:12<br>30:25 51:16,17<br>63:25 64:13 69:6<br><b>Motion</b> 32:13<br><b>movement</b> 56:4 | <b>never</b> 64:21<br><b>new</b> 2:5 5:19 11:14<br>13:7 15:19,22<br>48:6<br><b>Nicole</b> 1:6 2:13<br>53:12<br><b>NINE</b> 1:2<br><b>NORTHERN</b> 1:2<br><b>notaries</b> 40:19,22<br><b>notarization</b> 56:12<br><b>notarize</b> 40:21<br><b>notarized</b> 39:9<br>59:14<br><b>notary</b> 1:21 15:4,5<br>44:6 56:12,17,22<br>72:23 73:11<br><b>note</b> 27:16 29:6 51:3<br>51:17 53:19<br><b>noted</b> 24:11 72:6<br><b>notes</b> 26:20,22<br>27:14,23,25 31:15<br>74:2<br><b>notice</b> 1:14 7:19,21<br><b>number</b> 9:20 21:3<br>23:2 24:3 33:10<br>35:9 47:19<br><b>numbers</b> 47:4,6<br>64:23 66:15 67:5<br>67:15,20 68:5<br><b>numerous</b> 28:24<br>31:2 | <b>officer</b> 25:2,5 43:18<br><b>officers</b> 25:10<br><b>offices</b> 1:15 2:10<br><b>Okay</b> 7:5 37:13<br><b>old</b> 4:22<br><b>once</b> 15:4 29:9 44:2<br><b>operates</b> 29:24<br><b>opposing</b> 22:13<br><b>options</b> 31:13<br><b>Oral</b> 1:13<br><b>order</b> 38:13<br><b>outside</b> 41:4,20<br>42:11,19,21 44:10<br><b>outstanding</b> 59:22  | 22:7,10,20 23:11<br>23:20 24:18 25:22<br>26:24 30:3,18<br>33:11 35:11 36:5<br>36:17 37:2,9,24<br>39:14,20 40:6,12<br>41:13,23 42:13,23<br>43:4 44:11,19<br>45:12 48:25 49:8<br>49:25 50:21 51:6<br>51:12 52:4,25<br>53:6 54:9 55:2,8<br>55:13,22,25 57:2<br>58:25 59:17 60:9<br>60:19,25 62:18<br>66:4,17 68:14<br>69:12 70:14<br><b>place</b> 11:25 35:21<br><b>plaintiff</b> 1:4 4:4,11<br>21:16<br><b>Plaintiff's</b> 32:13<br><b>plan</b> 21:10<br><b>Plaza</b> 2:4<br><b>please</b> 4:20 25:24<br>32:25 37:19 40:14<br>42:7 45:13 50:22<br>52:14 53:24 55:5<br>62:20 67:12 68:16<br><b>point</b> 24:15<br><b>policies</b> 64:11<br><b>portfolio</b> 10:10,24<br><b>portion</b> 55:7 66:14<br><b>Portland</b> 2:11,17<br><b>position</b> 10:3 11:11<br>11:14,16 12:12<br>13:7,9,12 17:24<br>34:13<br><b>possession</b> 18:21<br><b>post</b> 11:8 31:3<br><b>practice</b> 27:13 35:6<br>38:21 51:25 54:5<br>63:7,9,18,20 67:2<br><b>preparation</b> 33:15<br>33:17 39:24 42:14<br>44:24<br><b>prepare</b> 6:9 15:18<br>39:2<br><b>prepared</b> 33:15<br>39:23 41:14,16<br>43:7 44:10,21,25<br>49:2,15 52:6<br><b>prepares</b> 14:23<br>41:11<br><b>preparing</b> 17:23<br>49:4,13<br><b>present</b> 13:12 34:20<br><b>presented</b> 42:20 | 54:19<br><b>Presently</b> 18:22<br>64:17<br><b>preserve</b> 30:15<br><b>presume</b> 21:6<br><b>pretty</b> 27:10<br><b>previously</b> 5:4<br><b>principal</b> 59:19<br>61:15<br><b>print</b> 39:2<br><b>printed</b> 17:9<br><b>prints</b> 14:20 41:7<br><b>prior</b> 17:23<br><b>privilege</b> 33:21<br>36:12 37:10 43:10<br><b>privileged</b> 33:13<br>37:6 41:15,16,25<br>42:15 45:2 49:5<br>49:17 52:9 53:3<br>55:18,21 57:10<br><b>problem</b> 7:7<br><b>procedures</b> 49:10<br>64:12<br><b>process</b> 20:12,22<br>32:17 33:6 35:21<br>36:3 56:24 64:9<br>68:12<br><b>processed</b> 17:15<br>37:22<br><b>processes</b> 64:6<br><b>produce</b> 21:10<br><b>produced</b> 22:12<br><b>product</b> 39:21<br><b>Professional</b> 1:20<br>73:11<br><b>proper</b> 11:7<br><b>properly</b> 11:6 15:4<br><b>properties</b> 11:7<br><b>proposal</b> 23:25<br><b>propose</b> 24:3<br><b>protected</b> 43:9<br>49:17<br><b>provided</b> 23:21 53:2<br><b>provides</b> 31:19<br><b>Public</b> 1:21 72:23<br>73:11<br><b>pursuant</b> 1:14<br><b>push</b> 7:3<br><b>put</b> 3:18 11:25<br>65:13<br><b>puts</b> 43:21<br><b>P.C</b> 1:16 2:4<br><b>P.O</b> 2:10 |
| <hr/> <b>N</b> <hr/> N 1:16 71:2<br><b>name</b> 4:20 9:23 17:2<br>18:10 38:12 39:6<br>43:14,17,25 53:12<br>63:5<br><b>names</b> 5:12 15:3<br><b>Narberth</b> 1:16,17<br><b>NATIONAL</b> 1:3<br><b>necessarily</b> 56:2<br><b>need</b> 10:25 31:3<br><b>needed</b> 11:2<br><b>needs</b> 35:22<br><b>neither</b> 4:10<br><b>network</b> 14:22 15:9<br>35:22 36:23 39:4<br>48:8 56:14 57:23  | <hr/> <b>O</b> <hr/> <b>object</b> 10:15 16:9<br>19:8 22:21 23:20<br>24:7 25:22 26:24<br>30:3,18 37:10<br>40:12 49:11 54:9<br>55:8 63:14 66:17<br>68:14<br><b>objecting</b> 26:25<br>27:3<br><b>objection</b> 14:11<br>20:14 24:10 28:9<br>32:22 33:11 35:11<br>37:2,11,24,25<br>39:20 41:13,23<br>42:13,23,24 43:2<br>44:11,19 48:25<br>49:25 52:4,25<br>55:13,17 57:2<br>58:8,25 59:17<br>62:16,18 65:16<br>69:12,23<br><b>objections</b> 3:9 22:16<br><b>office</b> 9:15,19 18:23<br>26:14 46:13   | <hr/> <b>P</b> <hr/> <b>page</b> 25:15 44:2,3,6<br>69:3 71:11<br><b>paper</b> 26:9 29:11<br><b>papers</b> 69:16<br><b>paragraph</b> 52:14,19<br>62:2 66:15 67:5<br>67:14<br><b>Pardon</b> 55:24<br><b>part</b> 12:22 17:10<br>60:10 63:24 64:4<br>67:10,13,23<br><b>participate</b> 21:22<br><b>participating</b> 21:13<br><b>particular</b> 43:24<br>66:22<br><b>Parties</b> 1:9<br><b>party</b> 22:13<br><b>payments</b> 19:6 20:7<br>29:12,16,17 30:7<br><b>pending</b> 23:14<br>57:14<br><b>Penn</b> 8:13<br><b>Pennsylvania</b> 1:17<br>1:22 4:25 9:16<br><b>penny</b> 59:25<br><b>people</b> 9:19,21,22<br>25:10,13<br><b>perform</b> 34:17<br><b>performance</b> 16:14<br><b>period</b> 9:7 34:19<br><b>person</b> 16:24,25<br><b>personal</b> 58:23<br><b>pertinent</b> 55:6<br><b>phone</b> 7:3<br><b>physical</b> 46:10 56:3<br><b>physically</b> 48:11<br><b>pile</b> 48:11<br><b>Pitney</b> 2:16 3:17 4:3<br>4:7 6:24 7:8,13<br>10:15,18 16:9<br>19:8 21:5,15,24 | <b>point</b> 24:15<br><b>policies</b> 64:11<br><b>portfolio</b> 10:10,24<br><b>portion</b> 55:7 66:14<br><b>Portland</b> 2:11,17<br><b>position</b> 10:3 11:11<br>11:14,16 12:12<br>13:7,9,12 17:24<br>34:13<br><b>possession</b> 18:21<br><b>post</b> 11:8 31:3<br><b>practice</b> 27:13 35:6<br>38:21 51:25 54:5<br>63:7,9,18,20 67:2<br><b>preparation</b> 33:15<br>33:17 39:24 42:14<br>44:24<br><b>prepare</b> 6:9 15:18<br>39:2<br><b>prepared</b> 33:15<br>39:23 41:14,16<br>43:7 44:10,21,25<br>49:2,15 52:6<br><b>prepares</b> 14:23<br>41:11<br><b>preparing</b> 17:23<br>49:4,13<br><b>present</b> 13:12 34:20<br><b>presented</b> 42:20  | <hr/> <b>Q</b> <hr/> <b>quality</b> 64:15<br><b>question</b> 8:5 10:19  |

|   |  |   |   |   |
|---|--|---|---|---|
| 12:9 16:11 19:9<br>20:15 23:14 27:2<br>27:5,10 30:19<br>33:2,22 36:16,18<br>37:12,20 39:15<br>40:3,13 41:17<br>42:7,16 45:3<br>49:19 50:2 52:11<br>53:5,14,25 55:3<br>56:7 57:12,14<br>62:19 63:15 66:23<br><b>questions</b> 3:10<br>22:18 43:6,11<br>44:22 70:10<br><b>quickly</b> 58:17<br><b>quote</b> 45:8,16   | 32:16<br><b>Registered</b> 1:20<br>73:11<br><b>rehash</b> 17:25<br><b>relating</b> 25:16 30:6<br>48:24 69:5<br><b>relative</b> 39:22<br><b>relies</b> 34:8<br><b>rely</b> 57:22<br><b>remember</b> 5:11<br><b>remind</b> 53:11<br><b>repeat</b> 39:15 45:13<br>55:3<br><b>rephrase</b> 14:14<br>20:17 25:25 33:22<br>37:19 40:15 58:11<br>62:21<br><b>reporter</b> 1:20 73:11<br>73:23<br><b>reporting</b> 11:5<br><b>represent</b> 4:5 21:16<br><b>represents</b> 4:4,7<br><b>reproduction</b> 73:20<br><b>request</b> 3:21<br><b>requested</b> 3:19<br><b>requesting</b> 56:15<br><b>requests</b> 48:7<br><b>required</b> 36:4 64:12<br><b>reserved</b> 3:10<br><b>respect</b> 10:14 17:19<br>19:4 25:20 26:4<br>27:8,13 37:22<br><b>respond</b> 8:6 22:15<br>22:18<br><b>responsibilities</b><br>26:18<br><b>responsibility</b> 19:12<br>20:5 34:24 35:3<br><b>responsible</b> 70:6<br><b>rest</b> 26:6<br><b>restate</b> 16:11 66:24<br><b>results</b> 11:5<br><b>retraining</b> 18:2<br><b>returned</b> 15:5<br><b>review</b> 6:8,12 16:21<br>17:14,21 39:7<br>52:8 58:17 59:9<br>59:16,19 61:22<br>67:16<br><b>reviewing</b> 31:14<br><b>right</b> 7:20 22:8,22<br>36:6 38:8<br><b>role</b> 12:12 19:2<br>20:11,21 28:3<br><b>roughly</b> 13:5 47:14<br>48:3<br><b>routine</b> 27:13 | <b>S</b><br><b>S</b> 71:8<br><b>sale</b> 11:5,8 12:14<br>31:3<br><b>sales</b> 12:4,5,7<br><b>saying</b> 60:2<br><b>says</b> 25:15 53:18<br>62:13<br><b>sealing</b> 3:7<br><b>second</b> 60:19<br><b>security</b> 28:17 30:16<br><b>see</b> 21:21 52:15,19<br>54:13,17<br><b>segregated</b> 11:24<br><b>Sellersville</b> 4:24<br><b>send</b> 56:13<br><b>sent</b> 6:14 24:9 56:25<br><b>separate</b> 36:24 38:9<br>72:8<br><b>separately</b> 23:13<br><b>September</b> 8:17<br><b>serve</b> 12:25 61:6<br><b>service</b> 13:15 15:10<br>15:12,15,23 19:14<br>19:15,21 34:25<br><b>servicer</b> 15:20,22<br><b>servicing</b> 10:10,21<br><b>set</b> 63:2<br><b>sheet</b> 72:8<br><b>short</b> 23:15 57:17<br>68:23<br><b>shortly</b> 46:7<br><b>show</b> 65:4,10<br><b>sic</b> 9:5 61:6<br><b>side-by-side</b> 16:19<br><b>sign</b> 30:23,25 31:6,8<br>31:9,11,12 40:11<br>46:17 47:24 52:3<br>52:22 54:6,12,22<br>55:12 56:8,10<br>58:22 60:15 61:25<br>62:7,12,24 64:2<br>65:14 66:2,11<br>67:9,24 68:7<br><b>signature</b> 23:4 36:3<br>44:3 54:20<br><b>signed</b> 23:3 48:22<br>53:22 69:11<br><b>signing</b> 20:12,22<br>23:9 25:2,5,10<br>43:18 47:10,15,20<br>60:7 61:11,20<br>63:5,8,10 64:10<br>66:22 67:2<br><b>similar</b> 32:11<br><b>single</b> 68:6,9<br><b>six</b> 13:3 40:20 46:22 | <b>slightest</b> 33:20<br><b>sorry</b> 6:24 37:19<br>39:14 45:12 57:3<br>60:9<br><b>sort</b> 39:13,19<br><b>sound</b> 13:5<br><b>sounds</b> 48:10<br><b>source</b> 37:15<br><b>space</b> 46:10<br><b>span</b> 31:5<br><b>speak</b> 23:12<br><b>specialist</b> 10:6 11:11<br><b>specific</b> 35:13,19<br><b>specifically</b> 38:16<br>43:8<br><b>spoke</b> 6:20<br><b>staff</b> 14:19,22 15:6<br>16:23 56:11,11,13<br>56:19 59:7,13<br><b>stamp</b> 15:3 43:14,21<br><b>stamped</b> 43:14,25<br>44:5<br><b>state</b> 4:20 8:13<br>32:21 49:20<br><b>stated</b> 44:23<br><b>statement</b> 52:15,20<br><b>states</b> 31:20 32:12<br>32:17 34:2 69:4<br><b>stating</b> 56:24 65:7<br><b>stay</b> 22:8<br><b>step</b> 33:5 41:2<br><b>Stephan</b> 1:14 3:13<br>4:1,19,21 5:1 6:1<br>7:1,4 8:1 9:1 10:1<br>11:1 12:1 13:1<br>14:1 15:1 16:1<br>17:1 18:1 19:1<br>20:1 21:1 22:1<br>23:1,2 24:1,20<br>25:1 26:1 27:1<br>28:1 29:1 30:1<br>31:1 32:1 33:1<br>34:1 35:1,20 36:1<br>37:1 38:1 39:1<br>40:1 41:1 42:1<br>43:1 44:1 45:1,5<br>46:1 47:1 48:1<br>49:1 50:1 51:1<br>52:1,13 53:1 54:1<br>55:1 56:1 57:1,20<br>58:1 59:1 60:1<br>61:1 62:1 63:1<br>64:1 65:1 66:1,10<br>67:1,3 68:1 69:1,2<br>70:1 71:3 72:12<br><b>stipulated</b> 3:5<br><b>stipulation</b> 3:19,21 | 3:22<br><b>stop</b> 24:7,8<br><b>Street</b> 2:4<br><b>subdivisions</b> 13:25<br><b>submitted</b> 14:21<br>42:10<br><b>Subscribed</b> 72:17<br><b>substitution</b> 31:3<br><b>SUGLIA</b> 2:4<br><b>Suite</b> 2:5<br><b>summary</b> 8:19<br>32:14,16,20 33:7<br>33:25 35:7 48:21<br>49:14,22 51:5,22<br>54:12,22 56:8,20<br>58:15 59:6 60:7<br>60:15 61:11,20,24<br>62:7,12,24 63:8<br>63:10,19 64:10<br>65:13,25 66:11<br>67:3 68:6,13<br>69:11<br><b>supervision</b> 73:22<br><b>supervisor</b> 11:25<br><b>supplying</b> 10:22<br><b>support</b> 32:13 33:7<br><b>sure</b> 9:4 15:6 53:13<br>65:19<br><b>surprise</b> 21:17<br><b>Susan</b> 1:19 73:10<br><b>sweeping</b> 27:10<br><b>swore</b> 53:18<br><b>sworn</b> 3:14 72:17<br>73:4<br><b>system</b> 14:21 17:22<br>18:4,5,6,10,11,14<br>18:18 20:6 26:7<br>26:19 27:14,17,24<br>27:25 28:4,8,13<br>28:14,17,23 29:3<br>29:5,9 30:7,12,16<br>31:15,23 35:24,25<br>36:21 38:11,25<br>39:8 41:3,22 42:8<br>42:10,19 45:9,17<br>56:23 57:7 59:10<br>60:3,6,14,21,21<br>61:2,6,10,19 65:4<br>69:22 70:3,7 |
| <b>range</b> 47:10<br><b>reaches</b> 42:11 44:18<br><b>read</b> 55:4,7 61:25<br>62:4 72:2<br><b>recall</b> 45:5 46:23<br>47:3 54:3 57:20<br>58:20,24 59:4,5<br>64:20 65:2 66:21<br><b>receipt</b> 19:5<br><b>receive</b> 48:21 49:22<br>57:24 59:6 61:24<br><b>received</b> 14:24 16:6<br>16:12,18,19,22<br>18:13 20:7 21:9<br>32:15 42:19,21<br>64:21<br><b>receives</b> 15:13 29:16<br>56:21<br><b>receiving</b> 38:16<br><b>recess</b> 23:15 57:17<br>68:23<br><b>recollection</b> 5:9 72:5<br><b>record</b> 3:18 4:19<br>21:19 22:3,5,8,19<br>23:19 29:12 55:7<br>69:15 73:5<br><b>records</b> 25:16,19<br>26:3,5,9 58:7 69:5<br>69:10<br><b>refer</b> 18:5<br><b>reference</b> 31:12<br>45:23 46:4<br><b>referenced</b> 25:17<br>69:6<br><b>referred</b> 32:6<br><b>referring</b> 7:25 18:6<br>32:8 50:16 69:2<br><b>regard</b> 6:20 45:7<br><b>regarding</b> 20:6 | <b>R</b><br><b>range</b> 47:10<br><b>reaches</b> 42:11 44:18<br><b>read</b> 55:4,7 61:25<br>62:4 72:2<br><b>recall</b> 45:5 46:23<br>47:3 54:3 57:20<br>58:20,24 59:4,5<br>64:20 65:2 66:21<br><b>receipt</b> 19:5<br><b>receive</b> 48:21 49:22<br>57:24 59:6 61:24<br><b>received</b> 14:24 16:6<br>16:12,18,19,22<br>18:13 20:7 21:9<br>32:15 42:19,21<br>64:21<br><b>receives</b> 15:13 29:16<br>56:21<br><b>receiving</b> 38:16<br><b>recess</b> 23:15 57:17<br>68:23<br><b>recollection</b> 5:9 72:5<br><b>record</b> 3:18 4:19<br>21:19 22:3,5,8,19<br>23:19 29:12 55:7<br>69:15 73:5<br><b>records</b> 25:16,19<br>26:3,5,9 58:7 69:5<br>69:10<br><b>refer</b> 18:5<br><b>reference</b> 31:12<br>45:23 46:4<br><b>referenced</b> 25:17<br>69:6<br><b>referred</b> 32:6<br><b>referring</b> 7:25 18:6<br>32:8 50:16 69:2<br><b>regard</b> 6:20 45:7<br><b>regarding</b> 20:6  | <b>S</b><br><b>S</b> 71:8<br><b>sale</b> 11:5,8 12:14<br>31:3<br><b>sales</b> 12:4,5,7<br><b>saying</b> 60:2<br><b>says</b> 25:15 53:18<br>62:13<br><b>sealing</b> 3:7<br><b>second</b> 60:19<br><b>security</b> 28:17 30:16<br><b>see</b> 21:21 52:15,19<br>54:13,17<br><b>segregated</b> 11:24<br><b>Sellersville</b> 4:24<br><b>send</b> 56:13<br><b>sent</b> 6:14 24:9 56:25<br><b>separate</b> 36:24 38:9<br>72:8<br><b>separately</b> 23:13<br><b>September</b> 8:17<br><b>serve</b> 12:25 61:6<br><b>service</b> 13:15 15:10<br>15:12,15,23 19:14<br>19:15,21 34:25<br><b>servicer</b> 15:20,22<br><b>servicing</b> 10:10,21<br><b>set</b> 63:2<br><b>sheet</b> 72:8<br><b>short</b> 23:15 57:17<br>68:23<br><b>shortly</b> 46:7<br><b>show</b> 65:4,10<br><b>sic</b> 9:5 61:6<br><b>side-by-side</b> 16:19<br><b>sign</b> 30:23,25 31:6,8<br>31:9,11,12 40:11<br>46:17 47:24 52:3<br>52:22 54:6,12,22<br>55:12 56:8,10<br>58:22 60:15 61:25<br>62:7,12,24 64:2<br>65:14 66:2,11<br>67:9,24 68:7<br><b>signature</b> 23:4 36:3<br>44:3 54:20<br><b>signed</b> 23:3 48:22<br>53:22 69:11<br><b>signing</b> 20:12,22<br>23:9 25:2,5,10<br>43:18 47:10,15,20<br>60:7 61:11,20<br>63:5,8,10 64:10<br>66:22 67:2<br><b>similar</b> 32:11<br><b>single</b> 68:6,9<br><b>six</b> 13:3 40:20 46:22 | <b>slightest</b> 33:20<br><b>sorry</b> 6:24 37:19<br>39:14 45:12 57:3<br>60:9<br><b>sort</b> 39:13,19<br><b>sound</b> 13:5<br><b>sounds</b> 48:10<br><b>source</b> 37:15<br><b>space</b> 46:10<br><b>span</b> 31:5<br><b>speak</b> 23:12<br><b>specialist</b> 10:6 11:11<br><b>specific</b> 35:13,19<br><b>specifically</b> 38:16<br>43:8<br><b>spoke</b> 6:20<br><b>staff</b> 14:19,22 15:6<br>16:23 56:11,11,13<br>56:19 59:7,13<br><b>stamp</b> 15:3 43:14,21<br><b>stamped</b> 43:14,25<br>44:5<br><b>state</b> 4:20 8:13<br>32:21 49:20<br><b>stated</b> 44:23<br><b>statement</b> 52:15,20<br><b>states</b> 31:20 32:12<br>32:17 34:2 69:4<br><b>stating</b> 56:24 65:7<br><b>stay</b> 22:8<br><b>step</b> 33:5 41:2<br><b>Stephan</b> 1:14 3:13<br>4:1,19,21 5:1 6:1<br>7:1,4 8:1 9:1 10:1<br>11:1 12:1 13:1<br>14:1 15:1 16:1<br>17:1 18:1 19:1<br>20:1 21:1 22:1<br>23:1,2 24:1,20<br>25:1 26:1 27:1<br>28:1 29:1 30:1<br>31:1 32:1 33:1<br>34:1 35:1,20 36:1<br>37:1 38:1 39:1<br>40:1 41:1 42:1<br>43:1 44:1 45:1,5<br>46:1 47:1 48:1<br>49:1 50:1 51:1<br>52:1,13 53:1 54:1<br>55:1 56:1 57:1,20<br>58:1 59:1 60:1<br>61:1 62:1 63:1<br>64:1 65:1 66:1,10<br>67:1,3 68:1 69:1,2<br>70:1 71:3 72:12<br><b>stipulated</b> 3:5<br><b>stipulation</b> 3:19,21 | 3:22<br><b>stop</b> 24:7,8<br><b>Street</b> 2:4<br><b>subdivisions</b> 13:25<br><b>submitted</b> 14:21<br>42:10<br><b>Subscribed</b> 72:17<br><b>substitution</b> 31:3<br><b>SUGLIA</b> 2:4<br><b>Suite</b> 2:5<br><b>summary</b> 8:19<br>32:14,16,20 33:7<br>33:25 35:7 48:21<br>49:14,22 51:5,22<br>54:12,22 56:8,20<br>58:15 59:6 60:7<br>60:15 61:11,20,24<br>62:7,12,24 63:8<br>63:10,19 64:10<br>65:13,25 66:11<br>67:3 68:6,13<br>69:11<br><b>supervision</b> 73:22<br><b>supervisor</b> 11:25<br><b>supplying</b> 10:22<br><b>support</b> 32:13 33:7<br><b>sure</b> 9:4 15:6 53:13<br>65:19<br><b>surprise</b> 21:17<br><b>Susan</b> 1:19 73:10<br><b>sweeping</b> 27:10<br><b>swore</b> 53:18<br><b>sworn</b> 3:14 72:17<br>73:4<br><b>system</b> 14:21 17:22<br>18:4,5,6,10,11,14<br>18:18 20:6 26:7<br>26:19 27:14,17,24<br>27:25 28:4,8,13<br>28:14,17,23 29:3<br>29:5,9 30:7,12,16<br>31:15,23 35:24,25<br>36:21 38:11,25<br>39:8 41:3,22 42:8<br>42:10,19 45:9,17<br>56:23 57:7 59:10<br>60:3,6,14,21,21<br>61:2,6,10,19 65:4<br>69:22 70:3,7 |
|   |  |   |   | <b>T</b><br><b>T</b> 71:8<br><b>tac@gwi.net</b> 2:12<br><b>take</b> 23:12 57:15<br>59:20 68:11,20,22<br><b>taken</b> 1:14 5:4,15<br>23:16 57:18 68:24   |

|                             |                             |                           |                             |                   |
|-----------------------------|-----------------------------|---------------------------|-----------------------------|-------------------|
| <b>takes</b> 30:15          | 49:8 51:14 53:7             | <b>verifying</b> 31:11    | 1 21:3 23:2 33:10           | 9 73:12           |
| <b>talk</b> 7:11 13:22      | 55:3 61:2 66:18             | 51:13                     | 35:10 69:3 71:13            | <b>92</b> 9:9     |
| <b>talking</b> 60:20 65:17  | <b>tool</b> 36:2,22         | <b>versus</b> 3:24        | <b>10</b> 68:18             | <b>98</b> 9:10,13 |
| <b>team</b> 11:18,21 12:2   | <b>top</b> 68:18            | <b>volume</b> 64:2,5      | <b>10,000</b> 46:25 47:10   |                   |
| 12:2,3,24 13:2,11           | <b>trained</b> 17:18        | <b>Voorhees</b> 2:5       | <b>10:10</b> 1:18           |                   |
| 13:13,14,18,21              | <b>training</b> 16:5,12,17  |                           | <b>100</b> 48:12            |                   |
| 14:10,17,19,23              | 16:20 17:5,9,10             | <b>W</b>                  | <b>1000</b> 2:4             |                   |
| 15:11,12,14,16,25           | 17:13 18:14,17,18           | <b>waived</b> 3:8         | <b>11:45</b> 70:18          |                   |
| 16:7,8,14,15,20             | 19:24 32:16 64:16           | <b>want</b> 22:4 23:18    | <b>1315</b> 2:10            |                   |
| 17:24 19:2,3 20:3           | <b>transaction</b> 25:17    | 27:6 49:9,12              | <b>14</b> 16:2 24:22 25:10  |                   |
| 20:4,9,10,19,20             | 69:6                        | 65:19                     | 25:12                       |                   |
| 24:23 25:11 27:19           | <b>transactions</b> 25:21   | <b>Washington</b> 9:15    | <b>14-person</b> 46:9       |                   |
| 27:20 30:21,22              | <b>transcript</b> 3:23 7:23 | <b>way</b> 2:17 7:3 34:19 | <b>15</b> 16:4              |                   |
| 31:18,25 32:3               | 8:7 72:2 73:19              | 35:15                     | <b>19072</b> 1:17           |                   |
| 34:13,17 35:2,6,7           | <b>transfer</b> 13:16       | <b>Wednesday</b> 6:17     |                             |                   |
| 38:25 39:4 43:23            | 15:11,12,14,15,19           | <b>welcome</b> 21:20      | <b>2</b>                    |                   |
| 44:15 46:10 48:16           | 35:2                        | <b>went</b> 6:14 8:19     | <b>2004</b> 10:3            |                   |
| 48:18                       | <b>transferred</b> 15:22    | <b>we'll</b> 4:13 24:16   | <b>2007</b> 11:14,17        |                   |
| <b>teams</b> 11:24 14:2,3   | <b>trial</b> 3:11           | <b>we're</b> 21:18 22:7   | <b>2008</b> 13:6            |                   |
| 14:6 31:23                  | <b>true</b> 52:16 53:18     | 24:6 46:11 51:18          | <b>2009</b> 5:24 21:4 23:6  |                   |
| <b>TELEPHONE</b> 2:15       | 66:14 67:11,24              | 65:19 70:11               | 34:12,20 47:13              |                   |
| <b>tell</b> 50:22           | 72:4 73:5                   | <b>witness</b> 6:6,16,23  | 71:14                       |                   |
| <b>telling</b> 49:6 53:4    | <b>trustees</b> 31:4        | 7:11 8:8 10:20            | <b>2010</b> 1:11 5:21 72:3  |                   |
| <b>term</b> 65:18           | <b>twice</b> 44:2           | 14:13 20:16 25:24         | 72:19 73:12                 |                   |
| <b>terms</b> 59:11,15,23    | <b>two</b> 5:16 25:7        | 36:13 37:13 38:4          | <b>207</b> 2:11,18          |                   |
| <b>testified</b> 3:15 6:5   | <b>type</b> 29:9,10 32:9,11 | 40:7,14 50:4 51:2         | <b>208</b> 2:5              |                   |
| 24:21 46:2 57:6             | 39:21 56:15                 | 51:15 54:10 58:10         |                             |                   |
| 61:14 66:21                 | <b>types</b> 30:24 31:2,16  | 59:18 62:20 66:7          | <b>3</b>                    |                   |
| <b>testify</b> 61:5         |                             | 68:17 69:14 70:15         | <b>3</b> 52:14,19 71:13     |                   |
| <b>testifying</b> 45:6      | <b>U</b>                    | 73:3,6                    | <b>30th</b> 8:17            |                   |
| 46:23 57:21 58:20           | <b>Ugwuadu</b> 17:3         | <b>woman</b> 53:11        | <b>300</b> 48:12            |                   |
| <b>testimony</b> 17:13      | <b>understand</b> 4:3       | <b>words</b> 43:18        |                             |                   |
| 66:9 71:3 73:6              | 12:11 17:12 24:2            | <b>work</b> 8:14,16,18,20 | <b>4</b>                    |                   |
| <b>Thank</b> 7:13 8:8       | 33:8 34:7 37:20             | 8:25 9:8,12,14,19         | <b>4</b> 71:4               |                   |
| <b>thing</b> 60:17 61:22    | 38:5 40:25 44:8             | 12:22 19:25 39:21         | <b>400</b> 48:6,9           |                   |
| <b>things</b> 18:3 23:24    | 47:23                       | 46:10 48:13               | <b>41</b> 4:23              |                   |
| <b>think</b> 29:15 49:18    | <b>understanding</b>        | <b>worked</b> 19:17,20    | <b>450</b> 1:16             |                   |
| <b>third</b> 5:7 6:3,4      | 19:13 64:8                  | 29:20                     | <b>489-8977</b> 2:6         |                   |
| <b>THOMAS</b> 2:9,10        | <b>unit</b> 12:22 13:16     | <b>working</b> 10:2,4     |                             |                   |
| <b>thought</b> 46:4         | 19:16,18,24 31:25           | 13:10                     | <b>5</b>                    |                   |
| <b>three</b> 5:17 11:12     | 37:23 38:21                 | <b>written</b> 17:8       | <b>5</b> 21:4 23:5 34:12,19 |                   |
| 17:7                        | <b>units</b> 12:19 14:2     |                           | 71:14                       |                   |
| <b>Thursday</b> 6:17        | <b>University</b> 8:13      | <b>X</b>                  | <b>50</b> 9:22              |                   |
| <b>tied</b> 63:25 64:5      | <b>upload</b> 35:23         | <b>X</b> 71:2,8           |                             |                   |
| <b>time</b> 3:11 5:7,14 9:7 | <b>use</b> 16:13 18:14      |                           | <b>6</b>                    |                   |
| 11:6,23 12:23               | 63:10,18,20                 | <b>Y</b>                  | <b>60</b> 9:22              |                   |
| 16:25 24:8 34:10            | <b>usual</b> 26:20,22       | <b>year</b> 13:4          |                             |                   |
| 34:12,23,25 46:20           | 27:12,14 35:5               | <b>years</b> 9:11 11:12   | <b>7</b>                    |                   |
| 52:3 53:22 54:18            | 38:20 51:25 54:4            | 25:8                      | <b>7</b> 1:11 72:3          |                   |
| 60:15 61:10 69:10           | <b>U-G-W-U-A-D-U</b>        |                           | <b>749-6671</b> 2:11        |                   |
| <b>times</b> 50:5,6,11      | 17:3                        | <b>0</b>                  | <b>774-0317</b> 2:18        |                   |
| <b>title</b> 24:25 43:25    |                             | <b>04</b> 8:17 9:13       |                             |                   |
| <b>today</b> 4:5 6:4 21:11  | <b>V</b>                    | <b>04101</b> 2:17         | <b>8</b>                    |                   |
| 21:14                       | <b>V</b> 1:5                | <b>04104</b> 2:11         | <b>8,000</b> 46:22          |                   |
| <b>Tom</b> 21:5 22:8 27:6   | <b>variety</b> 31:6         | <b>08043</b> 2:5          | <b>856</b> 2:6              |                   |
| 33:12 35:12 39:15           | <b>verify</b> 44:16 45:9,17 |                           |                             |                   |
| 41:25 45:13,22              | 59:11                       | <b>1</b>                  | <b>9</b>                    |                   |

# Exhibit 17



**UNITED STATES BANKRUPTCY COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

In Re:

RESIDENTIAL CAPITAL, LLC, *et*  
*al.*,

Debtors.

Case No. 12-12020  
Chapter 11

Jointly Administered

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KEVIN J. MATTHEWS

Plaintiff

v.

GMAC MORTGAGE CO., LLC

Defendant

Adv. Proc. No. 12-01933 (MG)

**DECLARATION OF KEVIN J. MATTHEWS**

Kevin J. Matthews, being of lawful age, declares:

1. I have personal knowledge of the facts set forth herein and am older than 18 years of age.
2. Attached to my Memorandum of Law in Support of my Motion for Partial Summary Judgment as Exhibits 1-2 and 4-10, 13-15 are true and authentic copies of papers and purported affidavits filed in the Circuit Court for Baltimore City, Maryland in the matter known as *Geesing v. Matthews*, Case No. 24O10001394 which are subject to this action and the relief requested by me in my motion.
3. Attached to my Memorandum of Law in Support of my Memorandum of Law in

Support of my Motion for Partial Summary Judgment as Exhibits 3 and 12 respectfully are true and authentic copies of the docket reports for the *Geesing v. Matthews* and *Geesing v. Willson* matters. These copies are available online at the Maryland Court's website located at:  
<http://casesearch.courts.state.md.us/inquiry/inquiry-index.jsp>

I swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed in Baltimore, Maryland on January 11, 2013.

Kevin J. Matthews  
Kevin J. Matthews