

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

Deutsche Bank National Trust Company, as trustee of IndyMac Residential Mortgage-Backed Trust, Series 2006-L2, Residential Mortgage-Backed Certificates, Series 2006-L2

Plaintiff(s)

vs.

Adriana P. Lesemann, Charles S. Lesemann and Tilly Island Property Owners Association, Inc.

Defendant(s).

IN THE COURT OF COMMON PLEAS

CASE NO.: 12-CP-15-166

**RECEIVED**

JAN 20 2017

**SC Court of Appeals**

COMPLAINT  
NON-JURY MORTGAGE FORECLOSURE  
DEFICIENCY DEMANDED

2017 JAN -6 AM 11:51  
CLERK OF COURT  
COLLETON COUNTY

The Plaintiff above named, complaining of the Defendant(s) herein, alleges:

1. The Plaintiff is a corporation or other legal entity organized and existing under the laws of one of the states of the United States and claims an interest in the real estate which is described hereafter.
2. Upon information and belief no Defendant is serving, or has served, in the military service of the United States of America as contemplated under the Service Members' Civil Relief Act.
3. Concurrently with the filing of this Complaint the Plaintiff has filed with the Office of the Clerk of Court for Colleton County a Lis Pendens giving notice of the pendency of this lawsuit.
4. On or about April 28, 2006, for value received Adriana P. Lesemann ("Mortgagor(s)") made, executed and delivered unto IndyMac Bank, F.S.B. an Adjustable Rate Note ("Note") in the principal sum of \$345,600.00. A copy of the note is attached hereto as "Exhibit "A" incorporated herein by reference.
5. To secure payment of the Note according to the terms and conditions thereof, the Mortgagor(s) made, executed and delivered unto IndyMac Bank, F.S.B. a certain real estate Mortgage ("Mortgage") covering the following described property:

All that certain piece, parcel or tract of land situate, lying and being on Tilly Island in the County of Colleton, State of South Carolina, being shown and designated as Lot 9 containing 301.012 sq. ft. and 6.910 acres, more or less, on a plat entitled "A re-plat of a portion of Tilly Island Subdivision Lots 6-A, 7,8,9 & 10-A Tax maps 309 & 310 surveyed for Tilly Island, L.L.C." prepared by Jerry L. Fowler RLS, dated December 15, 2001, and recorded in the Office of the Clerk of Court for Colleton County in Plat Book 694 at Page 7, said plat being incorporated herein as a part of this description as to sad metes and being bounded as follows: On the North by Old Chehaw river; on the East and Northeast by Lot 8; on the South by common area; and on the West and Southwest by Lot 10.

Being the same property conveyed to the Mortgagors herein by deed of Daniel H. Hankins, II Marshall P. Walker, and Alison Lawton Oswald, III dated April 28, 2006 and recorded May 3, 2006 in the Office of the Clerk of Court for Colleton in Deed Book 1357, at Page 51.

TMS No.: 310-00-00-018.000

Property Address: Lot 9, off Royal Fern Lane Tilly Island Subdivision Green Pond, SC 29446

6. The property secured by the Mortgage is residential property.
7. The Mortgage is owned, securitized or guaranteed by Fannie Mae, Freddie Mac or by a servicer participating in the Home Affordable Modification Program (HMP), but is not subject to modification under the HMP for the following reason(s):
  - a. The property is vacant.
8. The Mortgage was signed, witnessed, probated and thereafter recorded in the office of the Register of Deeds/Clerk of Court for Colleton County on May 3, 2006 in Mortgage Book 1357 at Page 55. A copy of the mortgage is attached hereto as "Exhibit "B" and incorporated herein by reference.
9. Plaintiff is informed and believes that the title holders of record of the subject property as of the filing of the Lis Pendens in this action were Adriana P. Lesemann and Charles S. Lesemann.
10. Thereafter the Note and Mortgage were assigned to the Plaintiff herein by assignment to be recorded in the Office of the Register of Deeds/Clerk of Court for Colleton County.
11. The Mortgage evidences and secures the repayment of money advanced by the Plaintiff to, or on behalf of, the Mortgagor(s) and constitutes a purchase money mortgage or first mortgage lien on the mortgaged premises.

12. The hereinafter named Defendant(s) may have some interest in or lien upon the premises covered by the Mortgage set herein, or some part thereof, but Plaintiff alleges that such interests or liens are junior or subordinate to the lien of the Plaintiff's Mortgage, or do not attach to the property which is the subject of this action, or have been paid in full and not satisfied of record. The liens or interests are of record in the Register of Deeds or Clerk of Court and are described as follows:

a. The Defendant, Tilly Island Property Owners Association, Inc., is made a party hereto because the Defendant may have an interest in the subject real estate by virtue of any Homeowners' Liens or assessments that are due or may become due in the future. Any such liens are not currently recorded in the Colleton County.

13. Pursuant to the terms of the Mortgage, any sums paid by the Plaintiff for inspecting and securing the subject property, for fire and other hazard insurance, taxes and assessments for the mortgaged premises, and any costs of collection, including reasonable attorney's fees, are secured by the Mortgage.

14. According to the terms of the Mortgage, and as additional security, the Mortgagor(s) assigned all rents, issues and profits of the mortgaged premises from and after any default there under, and should legal proceedings be instituted pursuant to the mortgage, the mortgagee, its successors and assigns, was given the right to have a Receiver appointed of the rents, issues, and profits, towards debt secured by the Mortgage.

15. The monthly payments on the Note and Mortgage are in default since June 1, 2011, although demand for payment thereof has been made and the Plaintiff, as the holder of the Note and Mortgage, after providing all required notices, elects to, and does declare the balance of the indebtedness due and payable, and that there is due on the Note and Mortgage as of June 1, 2011, the sum of \$345,159.00, plus a current interest rate of 6.000% pursuant to the terms of the Note, together with the the costs and disbursements of this action, including attorney fees.

16. Pursuant to Section 37-3-105, South Carolina Code of Laws (1976 as amended), the mortgage lien, which is subject to this action, is a first lien on real estate and is not a 'consumer loan' for the purposes of the South Carolina Consumer Protection Code. A copy of the demand letter is attached hereto as "Exhibit "C" and incorporated herein by reference thereto.

17. The Plaintiff demands a deficiency judgment in the event of a sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due unto the Plaintiff, including costs and attorney's fees.

**WHEREFORE**, having fully set forth its Complaint, the Plaintiff prays that this Honorable Court inquire into the matters set forth herein and that:

1. The amount due upon the Note and Mortgage held by Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and the costs of this action.

2. The Plaintiff's Mortgage be declared a first mortgage lien and that the Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for costs of this action.

3. The mortgaged premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

**First**, to the costs and expenses of the within action and sale.

**Second**, to the payment and discharge of the amount due on Plaintiff's Note and Mortgage, together with the attorney's fees aforesaid, and

**Third**, the surplus if any be distributed according to law.

4. An Order be entered directing and empowering the Sheriff of Colleton County, South Carolina, to place the successful purchaser at the foreclosure sale in possession of the property hereinabove described should the same become necessary.

5. An Order be entered for the ejection of the Defendants in possession herein and all persons claiming there under and the removal there from all furnishings, fixtures and items not subject to the lien of the Plaintiff's Mortgage, which personal property if not removed shall be deemed abandoned and shall be removed by the Plaintiff or its agents from the subject property by placing the property on the public street or highway or by any other means.

6. An Order be entered for reimbursements of all costs for inspecting and securing the property incurred by the Plaintiff as a result of the delinquency.

7. An Order be entered awarding Plaintiff a personal judgment against the defendant Mortgagor for any deficiency which remains owing to the Plaintiff after applying the proceeds from the sale of the Mortgage premises.

8. An Order be entered for such other and further relief as may be just and proper.

March 2, 2012

Johnson & Freedman, LLC



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January 17, 2017

**RECEIVED**

JAN 20 2017

**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

RE: Deutsche Bank National Trust Company, as Trustee of IndyMac Residential Mortgage-Backed Trust Series 2006-L2, Residential Mortgage-Backed Securities, Series 2006-L2 v. Adriana P. Lesemann; Charles S. Lesemann; Tilly Island Property Owners Association, Inc.  
Appellate Case No.: 2017-000013  
SLF No.: 151091.00202RTT


Dear Ms. Kitchings:

Enclosed please find a copy of the filed Complaint in the above referenced action. As requested, the Complaint contains the complete caption for the underlying action. If any additional information is needed please let me know.

By copy of this letter I am hereby serving all appearing parties with a copy of the above documents.

With kindest regards, I am

Sincerely,

  
William P. Stork, Esq.

Enclosures

CC: David K. Haller, Esq.



**SCOTT & CORLEY, P.A.**

ATTORNEYS AND COUNSELORS AT LAW

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