

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Master in Equity

Appellate Case No. 2012-213505

Wells Fargo Bank, N.A.,

Respondent,

v.

Lynn D. Simpson; Wells Fargo Bank, NA (Charlotte, NC); The Lofts at Mills Mill
Condominium Owners Association, Inc.,

Defendants,

Of whom Lynn D. Simpson is the

Appellant.

RECEIVED

JUN 21 2013

SC Court of Appeals

RECORD ON APPEAL

LAW OFFICE OF MARCUS W. MEETZE, LLC

Marcus W. Meetze
712 E. Washington St.
Greenville, South Carolina 29601
864-271-3555
Attorney for Lynn D. Simpson

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

S. Sterling Laney, III
550 South Main Street, Suite 400
Greenville, South Carolina 29601
864-255-5400

Jana B. Baker
5 Exchange Street
Charleston, South Carolina 29401
840-722-3400

M. Todd Carroll
1727 Hampton Street
Columbia, South Carolina 29201
803-454-6504

Attorneys for Wells Fargo Bank, N.A.

INDEX

I. ORDERS/ JUDGMENTS

Judgment of Foreclosure and Sale dated November 30, 2013..... 1

Order of the Honorable Charles B. Simmons Jr. dated April 14, 2011 8

Supplemental Order Post Judgment dated September 25, 2012 12

Order Denying Defendant’s Motion for Relief from Order of Foreclosure and Sale dated November 6, 2012 14

II. PLEADINGS

Summons and Complaint..... 18

Affidavit of Default and Non-Military Service 26

Defendant Lynn D. Simpson’s Motion for Relief from Master’s Order and Judgment of Foreclosure and to Vacate Sale dated February 1, 2011 (with attachments) 27

Attorney Certification of Compliance with Supreme Court Administrative Order 2011-05-02-01 37

Defendant’s Motion for Relief from Order of Foreclosure and Sale dated October 26, 2012 (with attachments) 39

Notice of Appeal 81

III. CERTIFICATE OF COUNSEL 82

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Wells Fargo Bank, NA,

Plaintiff,

v.

Lynn D. Simpson; Wells Fargo Bank, NA
(Charlotte, NC); The Lofts at Mills Mill
Condominium Owners Association, Inc.;

Defendant(s).

(011784-16048)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 10-CP-23-8152

JUDGMENT OF FORECLOSURE AND SALE
Deficiency Judgment Demanded
Against Lynn D. Simpson
Subject to Home Affordable Modification
Program, but will not be modified

FILED CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENBACHER
2010 DEC - 3 A 11:51

Samuel C. Waters, Esquire
Attorney for the Plaintiff

A hearing was held November 30, 2010 at 09:15 AM. Evidence was presented, which is reported herewith, and from the evidence, I find and conclude as follows:

FINDINGS OF FACT:

1. The Lis Pendens was filed on September 30, 2010.
2. The Summons and Complaint were filed on September 30, 2010.
3. Service was made upon all Defendant(s) as shown by the proof(s) of service filed herein.
4. The Defendant(s) Lynn D. Simpson, Wells Fargo Bank, NA (Charlotte, NC) and The Lofts at Mills Mill Condominium Owners Association, Inc. are in default as shown by affidavit or order filed herein.
5. The Defendant(s) Lynn D. Simpson, Wells Fargo Bank, NA (Charlotte, NC) and The Lofts at Mills Mill Condominium Owners Association, Inc. are in default and that the Defendant(s) Lynn D. Simpson is not in the Military Service of the United States of America, as contemplated under The Servicemembers Civil Relief Act, 50 U.S.C. § 501 et. seq. as shown by affidavit or order filed herein.
6. No Defendant raised any issues related to Plaintiff's standing to prosecute this action.
7. Pursuant to the South Carolina Supreme Court Administrative Order dated

1 CBS

May 22, 2009, the Plaintiff set forth its belief in its Complaint or by Affidavit, which is already of record in this case, that the mortgage loan which is the subject of this foreclosure action is not eligible for modification pursuant to the terms of the Home Affordable Modification Program (HMP). Pursuant to the South Carolina Supreme Court Administrative Order dated May 22, 2009, Plaintiff's attorney has not received a counter affidavit from any Defendant(s).

8. All Pro Se Defendant(s) and all attorneys of record were notified of the time, date, and place of the hearing by letter and certificate of mailing of record herein.

9. Lynn D. Simpson for value received, made, executed and delivered a Note dated September 21, 2005 promising thereby to pay to Plaintiff or its predecessor the sum of \$247,500.00 with interest at 5.25% per annum. Other terms and conditions are stated in the Note, of record herein.

10. To better secure the payment of the Note described above, Lynn D. Simpson made, executed, and delivered to Mortgage Electronic Registration Systems, Inc., acting solely as nominee for Wachovia Mortgage Corporation its successors and assigns (MIN# 100013700057705145) a certain real estate Mortgage in writing, dated September 21, 2005 covering real property in Greenville County, which is the same as that described in the Complaint. This Mortgage was filed on September 22, 2005, and is of record in the Office of RMC/ROD in Book 4438 at Page 1989. This mortgage was assigned to the Plaintiff herein by assignment dated September 29, 2010 and recorded October 15, 2010 in Book 5096 at Page 1349.

11. This Mortgage constitutes a Purchase Money First priority lien on the subject property, subject only to ad valorem taxes or other liens given priority by statute.

12. Plaintiff has the legal right to enforce the negotiable instrument secured by the Mortgage and is the real party in interest as defined by Rule 17(a) of the South Carolina Rules of Civil Procedure.

13. The titleholder(s) of record in and to the subject property as of the filing of the Lis Pendens in this action is Lynn D. Simpson, who is the original mortgagor(s).

14. Any notice required by the terms of the Mortgage or by state or federal statutes was given to the applicable Defendant(s) prior to the commencement of this action.

15. Payment due on the Note was not made as provided for therein, and Plaintiff, as the holder or nominee for the holder thereof, elected to require immediate payment of the entire amount due thereon and placed the Note and Mortgage in the hands of the attorney herein for remedy by foreclosure.

16. The sum of \$5,500.00 is a reasonable fee to allow Plaintiff's counsel for services performed and anticipated to be performed until final adjudication of this action, under the terms of the Note and Mortgage. This fee is likewise reasonable based on the time necessarily devoted to

2 CBS

representation of Plaintiff during the several months course of these proceedings. The services of counsel performed for Plaintiff, which include the number and types of pleadings and documents prepared, the incumbent liabilities, and the difficulties involved in this particular case also support the fee awarded. The fee is also reasonable given the professional standing of Plaintiff's counsel and their experience in handling foreclosure matters. The fee awarded herein is also reasonable in light of the fees customarily awarded by this court for similar services in this locality. Moreover, the efforts of Plaintiff's counsel have had the beneficial result of a prompt foreclosure of the Mortgage. Services anticipated to be performed until final adjudication contemplates completion of this matter within a reasonable time and does not include exceptional circumstances delaying conclusion beyond the normal time. Plaintiff has advanced \$735.00 to its counsel as partial payment of the attorney fee and this amount appears in Plaintiff's advances.

17. According to Plaintiff's accounting, after all payments received by Plaintiff have been credited to the subject loan, the amount due and owing on the Note, with interest at the rate provided in the Note, advances made by Plaintiff, and other costs and expenses of the action, including a reasonable attorney fee, all secured by the Note and Mortgage, is as follows:

(a)	Principal due May 1, 2010	\$229,822.87
(b)	Interest from April 1, 2010 through November 30, 2010 at 5.25% per annum	\$7,248.77
(c)	Allowable Advances (Escrow advances, corporate charges, paid attorney fees, paid costs and expenses from the foreclosure action, and/or other charges)	\$-1,941.67
(d)	Outstanding Costs of collection prior to hearing (service, filing, etc.)	\$32.50
(e)	Allowable Late Charges	\$341.70
(f)	Attorney Fee (awarded herein, but unpaid)	\$4,765.00
	TOTAL debt secured by Note and Mortgage, including interest to date shown	\$240,269.17

Interest shall accrue to the above stated "Total Debt" after the date of judgment at the rate of 5.25% per annum (pursuant to the terms of the Note and Purchase Money First Mortgage). Accrued interest shall be added to the "Total Debt" and shall comprise the amount of the Plaintiff's debt secured by the Purchase Money First Mortgage through the date to which such interest is computed.

18. Plaintiff is seeking the usual foreclosure of the Purchase Money First mortgage and has expressly demanded the right to a personal or deficiency judgment pursuant to S.C. Code Ann. §29-3-660 demanded against Lynn D. Simpson. The Plaintiff may waive any of its rights,

3 CBS

including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

19. The following Defendant(s) may claim a subordinate lien upon or subordinate legal interest in the subject property and in the event there is a surplus from the sale of the subject property, these Defendant(s) may present through any such lien or legal interest a claim to the surplus at a hearing subsequent to the sale, in accordance with Rule 71(c) South Carolina Rules of Civil Procedure. The said Defendant(s) and such liens or legal interests are as follows:

a. Wells Fargo Bank, NA (Charlotte, NC), by virtue of a mortgage given by Lynn D. Simpson to Wachovia Bank, National Association in the amount of \$30,000.00, dated August 29, 2008, and recorded September 4, 2008 in Book 4992 at Page 1814. Wells Fargo Bank, NA (Charlotte, NC) is successor by merger to Wachovia Bank, National Association

b. The Lofts at Mills Mill Condominium Owners Association, Inc. by virtue of any lien enforceable assessments claimed as provided for in the Declaration of Covenants, Conditions, and Restrictions and any amendments thereto.

IT IS THEREFORE ORDERED:

20. Plaintiff has fully complied with The South Carolina Supreme Court Administrative Order dated May 22, 2009, and the foreclosure action may proceed.

21. There is due on the Note and Purchase Money First Mortgage set forth in the Complaint the sum of \$240,269.17, as set out in the Findings of Fact *supra*, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

22. Plaintiff shall have judgment demanded against Lynn D. Simpson. The Plaintiff may waive any of its rights, including its right to a personal or deficiency judgment, at any time prior to the foreclosure sale.

23. The amount due in the preceding paragraph (the "Final Total Debt" as set out in the Findings of Fact *supra*) shall accrue interest at the rate of the respective note rate(s) per annum and together with such interest shall constitute the total judgment debt due Plaintiff.

24. The amount of the judgment shall be subject to increase to permit Plaintiff to recover additional costs, commissions, and expenses not included in the minimum deposit previously made in compliance with S.C. Code Ann. §14-11-310 (1976). It may also increase to include supplemental compensation for attorneys' services not contemplated by the initial fee award. Jurisdiction over the fee award and total debt is reserved to facilitate the assessment and payment of any such costs or supplemental compensation. Such additional costs, commissions and expenses may be established by affidavit and shall be adjudicated by the court without further hearing.

25. The Defendant(s) liable for the aforesaid judgment debt of the Note and

4 CBS

Mortgage including interest at the rate of 5.25% per annum shall pay on or before the date of sale of the property hereinafter described, to Plaintiff or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, including with the costs and disbursements of this action.

26. On default of payment at or before the time of the sale of the property, the mortgaged property described hereinafter shall be sold at public auction at the Greenville County Courthouse, in the City of Greenville, and State of South Carolina on a sales day determined by the below signed Master in Equity or Special Referee, on the following terms:

a. For cash or its equivalent: An immediate deposit of 5% is required on the amount of the bid. The deposit will be applied to the purchase price when total compliance is made. In the event compliance is not made, the deposit shall be forfeited without further hearing and applied first to costs and expense of the action and then to plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse either to make the required deposit at time of bid or to comply with the other terms of the bid within 20 days, then the property may be re-sold on the same terms and conditions on the same or some subsequent sales day and at the risk of the defaulting bidder.

b. Interest on the balance of the bid after the deposit is applied shall be paid through the day of compliance at the note rate of 5.25%.

c. The sale shall be subject to taxes and assessments, existing easements and restrictions, and any other senior encumbrances.

d. Purchaser shall pay for any statutory commission on sale from the proceeds of the final bid amount.

e. Purchaser to pay for deed preparation, costs of recording the deed and the satisfaction of mortgage, and transfer taxes on the deed.

f. Purchaser shall be entitled to possession of the premises only after Purchaser fully complies with the bid amount and a deed is issued by the Master in Equity or Special Referee.

27. Personal or deficiency judgment having been demanded, the sale will remain open for thirty (30) days pursuant to S.C. Code Ann. Sec. 15-39-720 (1976).

28. Plaintiff may waive any of its rights, including its right to a deficiency judgment in accordance with Rule 71, of the South Carolina Rules of Civil Procedure, prior to sale.

29. The Master in Equity will give notice of the time and place of the sale by advertisement according to law and the terms thereof by advertisement according to law and will execute to the Purchaser a deed to the property sold. Plaintiff or any other party to this action may become a purchaser at such sale. If, upon such sale being made, the Purchaser should fail to comply with the terms

5 CBS

thereof within 20 days after date of sale, then the Master in Equity may advertise the said premises for sale on the next or some other subsequent sales day at the risk of the highest bidder and so from time to time thereafter until a full compliance shall be secured.

30. If Plaintiff is the successful bidder at the said sale for a sum not exceeding the amount of costs and expenses of the sale, plus the indebtedness of Plaintiff in full, Plaintiff may pay to the Master in Equity only the amount of the costs and expenses crediting the balance of the bid on Plaintiff's indebtedness.

31. The Master in Equity will apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the costs and expenses of this sale and to any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court;

NEXT: To the payment to Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest (including a reasonable attorney fee) or so much thereof as the purchase money will pay on the same; After crediting the proceeds of sale, net of any commission on sale, an Order for Deficiency Judgment shall be entered without further notice or hearing.

NEXT: Any surplus should be held pending further Order of this court.

32. In the event the successful purchaser is someone other than the Defendant(s) in possession of the subject property and a Writ of Assistance is presented to the Court after said Deed is properly recorded in the ROD Office for Greenville County, the Sheriff of Greenville County is ordered and directed to eject and remove from the property the occupant(s) of the property sold, together with all personal property located thereon, and put the successful purchaser or his assigns in full, quiet, and peaceable possession of said property within a reasonable time, and to place said successful purchaser or his assigns in such peaceable possession. All valid tenant rights shall be protected pursuant to the Protecting Tenants at Foreclosure Act of 2009.

33. In the event the successful purchaser is other than the Defendant(s) in possession of the subject property and the occupants have voluntarily vacated the property or have been ejected from the property leaving furnishings, fixtures and items not subject to Plaintiff's Mortgage in said property, the Purchaser is authorized to remove from the property all furnishings, fixtures and items not subject to the lien of Plaintiff's Mortgage. The personal property, being deemed abandoned, shall be removed by the Purchaser or its agents from the subject property by placing said personal property on the public street or highway or by any other means.

34. The Defendant(s) named herein, and all persons whatsoever claiming under Defendant(s), is forever barred and foreclosed of all right, title, interest, equity of redemption or lien in the said mortgaged property so sold, or any part thereof.

35. In accordance with Rule 77(d), of the South Carolina Rules of Civil

6 CBS

Procedure, the Clerk of Court shall serve a notice of entry of this Judgment of Foreclosure upon all parties not in default for failure to appear in this action.

36. The deed of conveyance made pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named Defendant(s), and the Defendant(s) who was/were the titleholder(s) of the mortgaged property at the time of the filing of the notice of pendency of the within action, and the name of the grantee. The Register of Deeds/Clerk of Court is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

37. The undersigned will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.

38. The following is a description of the property herein ordered to be sold:

All that certain condominium Unit known and designated as Unit #301 of The Lofts at Mills Mill Horizontal Property Regime (the "Regime"), as set forth, established, described and defined in that certain Declaration (Master Deed) of The Lofts at Mills Mill Horizontal Property Regime dated July 13, 2004, and recorded in the Office of the Register of Deeds for Greenville County in Deed Book 2098 at Page 1 (the "Declaration"), and as depicted on that certain plat entitled "Finished Floor As-Built Plat for Mills Mill Associates, LLC" prepared by Precision Land Surveying, Inc., dated July 7, 2004, and recorded in the Office of the Register of Deeds for Greenville County in Plat Book 48-S at Page 5 (the "Plat"). Reference is craved to the Declaration and the Plat for a more complete description of the above Unit and of the Regime.

Together an undivided right, title and interest in and to the Common Elements, including the Limited Common Elements (if any) appurtenant to the Unit, all as set forth, established, described, and defined in the Declaration.

This being the same property conveyed to Lynn D. Simpson by deed of Mills Mill Associates, LLC, dated September 21, 2005 and recorded September 22, 2005 in Book 2167 at Page 92.

Property Address: 400 Mills Avenue, Unit 301
Greenville, SC 29605

TMS# 0106010300100

s/Charles B. Simmons, Jr.
Charles B. Simmons, Jr.
Master in Equity

11/30, 2010
Greenville, South Carolina

A Certified Copy
Paul B. Winkler
Clerk of Court C.P. & G.S.
Greenville County, SC
Dated 12/03/10

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
2010-CP-23-8152

Wells Fargo Bank, N.A.,)
)
Plaintiff,)

SCANNED

vs.)

ORDER

Lynn D. Simpson, Wells Fargo Bank,)
NA (Charlotte, NC); The Lofts at Mills)
Mill Condominium Owners)
Association, Inc.,)
)
Defendants.)

ENTERED COMPUTER

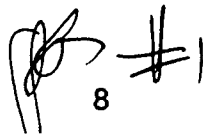
2011 MAR 14 P 1:26

This matter is before the Court pursuant to Defendant Simpson's motion to grant relief from the judgment and vacate the judicial sale of the property involved herein. Her motion was filed February 1, 2011 and alleges that she was never served with the Summons and Complaint.

The matter came to be heard on March 29, 2011. At that time, Plaintiff presented testimony of Mr. Chris Ellenburg, a process server with 12 years of experience. Mr. Ellenburg testified as to the undertakings and efforts to personally serve the Summons and Complaint on Defendant Lynn Simpson. He testified that he personally served her on October 6, 2010 and that she, in fact, signed for the documents at her personal residence, a closed gated condominium project in Greenville. Mr. Ellenburg further testified that he recognized Defendant Simpson in the courtroom as the individual he had served with the Summons and Complaint.

Lynn Simpson testified that she had never been served with the Summons and Complaint, denied that the signature produced by Mr. Ellenburg was her signature, and denied receiving any

Copy made by PTT
Attorney Powell
11


8

type of notice of foreclosure hearing. However, Ms. Simpson did testify that she had received a letter from Plaintiff's law firm on or about December 16, 2010 advising her that the property would be set for sale on January 4, 2011. As a result of this letter, Ms. Simpson testified she attempted to contact Plaintiff's attorneys and kept dealing directly with Plaintiff on a loan modification. The property was sold on January 4, 2011 and Plaintiff was the high bidder at the sale.

As relates to the issue relative to service of the Summons and Complaint, I find that the preponderance of the evidence establishes that the Summons and Complaint were properly served upon Lynn D. Simpson. The process server identified her, stated the efforts he had to undertake to gain access to the gated condominium community in which she resides, and identified her in court as the person he had served.

Notwithstanding the above, this is a court of equity. While I am finding that service was proper, the Court is concerned relative to the behavior and actions of Plaintiff relative to Ms. Simpson while its attorneys were proceeding, as directed by Wells Fargo, to foreclosure. Without question, Plaintiff's law firm has acted reasonable in all efforts and steps in representing their client. At the same time, it is also clear to the Court that, during this time, Ms. Simpson was in active negotiations with Wells Fargo, as evidenced by the multiple copies of letters she presented to the Court. Ms. Simpson also attempted communication with Rogers Townsend & Thomas. Of primary significance to the Court is a letter from Wells Fargo to Defendant Simpson dated 12/16/10 which states, "During this 30-day period a foreclosure sale on your home will not be scheduled if permitted by state law."

In that Wells Fargo was directing its attorneys to take action totally inconsistent with what it was instructing Defendant Simpson to do, the Court simply cannot sanction such

inconsistent behavior. In its letter of 12/16/10, Wells Fargo plainly stated that, upon contact by Ms. Simpson, the property would not be sold for at least 30 days. It is likewise clear to the Court that Ms. Simpson contacted Wells Fargo as directed during this timeframe since Wells Fargo generated another letter dated 01/04/11, which coincidentally was the date the property was actually sold at the foreclosure sale, stating that Wells Fargo had reviewed the requested information provided by Simpson and that Wells Fargo was unable to provide any relief "because your property is condemned." Interestingly, there has never been any hint nor evidence that Ms. Simpson's condominium has ever been condemned. In fact, it is undisputed that such is not the case; Ms. Simpson still resides in this condominium.

In light of the above, and while finding that service was proper, the Court is setting aside the sale of January 4, 2011 and requiring Plaintiff to request an update hearing so as to update debt figures and seek a future foreclosure sales date. The foreclosure deed that was previously executed by the Court to Plaintiff and recorded in the Greenville County ROD Office at Book DE 2383 at page 5270-5272 and the Release of Lien filed in the ROD Office at Book MO5109 at page 5909 are declared void and the same shall be noted by the ROD Office on its records. Further, no costs or fees relative to the January 4, 2011 sale or this present motion shall be assessed against Defendant Simpson.

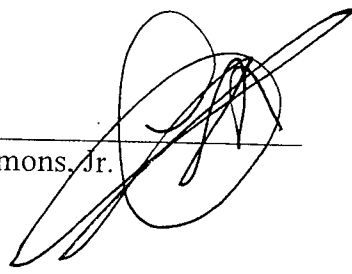
NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

1. Defendant Simpson's motion under Rule 60(b) SCRCP, relative to lack of service is denied;

(B) 1-3
10-

2. That the foreclosure sale of January 4, 2011 is hereby set aside and the resulting deed declared void.

AND IT IS SO ORDERED.



Charles B. Simmons, Jr.
Judge

April 14 2011

Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Wells Fargo Bank, NA,

Plaintiff,

v.

Lynn D. Simpson; Wells Fargo Bank, NA
(Charlotte, NC); The Lofts at Mills Mill
Condominium Owners Association, Inc.;

Defendant(s).

IN THE COURT OF COMMON PLEAS

DOCKET NO. 10-CP-23-8152

SUPPLEMENTAL ORDER POST JUDGMENT
Deficiency Judgment Waived.

FILED OFFICE OF COURT
CLERK
GREENVILLE, SOUTH CAROLINA
MAY 11 2011
12:30 PM

(011784-16048)

Samuel C. Waters
Attorney for the Plaintiff

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, the above-entitled matter was referred to me with finality to enter a final judgment in the case. On December 3, 2010, a Judgment of Foreclosure and Sale was issued. Prior to the scheduled sales date, the case was delayed. The Plaintiff wishes to proceed with the foreclosure and sale and the purpose of this order is to supplement the previous Judgment of Foreclosure and Sale to reflect the current amount due.

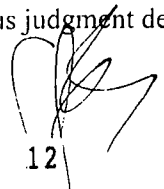
The Plaintiff was previously awarded a reasonable attorney fee of \$5,500.00. This award was based upon the completion of this matter within a reasonable time and did not include exceptional circumstances delaying conclusion beyond the normal time. Plaintiff has advanced \$1,460.00 to its counsel as partial payment of the attorney fee.

Pursuant to the South Carolina Supreme Court Administrative Order dated May 22, 2009, the Plaintiff set forth its belief in its Complaint or by Affidavit, which is already of record in this case, that the mortgage loan which is the subject of this foreclosure action is not eligible for modification pursuant to the terms of the Home Affordable Modification Program (HMP). Pursuant to the South Carolina Supreme Court Administrative Order dated May 22, 2009, Plaintiff's attorney has not received a counter affidavit from any Defendant(s).

Attorney for the Plaintiff has fully complied with the South Carolina Supreme Court Administrative Order 2011-05-02-01 dated May 2, 2011.

THEREFORE, upon motion of the Plaintiff's counsel and for good cause indicated;

IT IS HEREBY ORDERED that the previous judgment debt be amended as follows:



1. The amount due and owing on the note from the previous judgment was as follows:
 - (a) Principal due..... \$229,822.87
 - (b) Interest from April 1, 2010 through
November 30, 2010 at 5% per annum..... \$7,248.77
 - (c) Allowable Advances (Escrow Advances, Corporate Charges, including paid attorney's
fee, costs, and Other Charges)..... \$-1,941.67
 - (d) Late Charges..... \$341.70
 - (e) Costs of collection prior to
hearing (service, filing, etc.)..... \$32.50
 - (g) Attorney's Fees (awarded but unpaid)..... \$4,765.00
- PREVIOUS TOTAL DEBT..... \$240,269.17

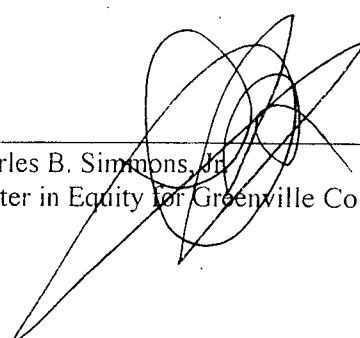
2. Amended judgment debt is as follows:
 - (a) Principal now due..... \$229,098.82
 - (b) Interest from June 1, 2010 through
August 2, 2012 at variable rates \$17,201.24
Interest from August 2, 2012 through
September 25, 2012 at 3% per annum \$1,016.82
 - (c) Allowable Advances (Escrow Advances, Corporate Charges including attorney's
fees, costs, and other charges previously paid)..... \$1,784.64
 - (d) Additional Costs of collection since previous
hearing..... \$92.50
 - (e) Attorney's Fee (awarded but unpaid) \$4,040.00

NEW TOTAL DEBT now secured by Note and Mortgage
including interest to date shown..... \$253,234.02

The new total debt shall accrue interest hereafter at the rate of 3% per annum.

3. The mortgaged property shall be sold under the terms of the original Judgment of
Foreclosure and Sale.

AND IT IS SO ORDERED.



 Charles B. Simmons, Jr.
 Master in Equity for Greenville County

Greenville, South Carolina

 9/25, 2012

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Wells Fargo Bank, NA,

Plaintiff,

v.

Lynn D. Simpson; Wells Fargo Bank, NA
(Charlotte, NC); The Lofts at Mills Mill
Condominium Owners Association, Inc.;

Defendant(s).

(011784-16048)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 10-CP-23-8152

ORDER DENYING DEFENDANT'S MOTION
FOR RELIEF FROM ORDER OF
FORECLOSURE AND SALE

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
2012 NOV -5 PM 1:07

Pursuant to Rule 53 of the *South Carolina Rules of Civil Procedure* ("SCRPC"), this matter was referred to me with finality to enter judgment in the case. On December 3, 2010, a Judgment of Foreclosure and Sale was issued. The subject property was then sold by the court on January 4, 2011. Subsequently, on motion of the Defendant Simpson asserting defects in Plaintiff's service of process, I found in my Order of April 14, 2011, that service was proper and that the Judgment should not be vacated, but that, in an abundance of seeking to allow Ms. Simpson yet another opportunity to resolve the issues with Plaintiff, the judicial sale should be set aside. The Court then instructed Plaintiff to communicate with Defendant Simpson about available loss mitigation options.

On August 1, 2012, some 15 months after the Order of April 14, 2011, Plaintiff's counsel certified Plaintiff's compliance with the South Carolina Supreme Court Administrative Order 2011-05-02-01 dated May 2, 2011, regarding Foreclosure Intervention (the "FI Administrative Order"), and a further hearing was noticed and held on September 25, 2012. At that hearing, despite being given notice, neither Simpson nor her counsel appeared. As a result, the court entered its Supplemental Order Post Judgment on or about September 28, 2012, and scheduled a new foreclosure sale of the subject property for November 5, 2012.

On or about October 26, 2012, the Defendant Simpson, through counsel, filed the present Motion for Relief from Order of Foreclosure and Sale. On October 31, 2012, my office contacted counsel for the parties and requested the parties be available for a conference call. On October 31, 2012, at 4:00 PM, the court conducted a telephone hearing on the motion. Participating in the telephone hearing were: Marcus


14

W. Meetze, attorney for the Defendant Simpson; and Robert P. Davis, one of the attorneys for Plaintiff. No Court Reporter was present.

SCRCP Rule 60(b)(5), provides that relief from a judgment may be had, *inter alia*, when “it is no longer equitable that the judgment should have prospective application.” This is the stated basis of Simpson’s present motion. Rule 60 goes on to require that “[t]he motion shall be made within a reasonable time”

I have reviewed and considered the motion, the exhibits attached thereto, the record in this case, the law, the equities, and the arguments of counsel for both the Defendant Simpson and Plaintiff. Based on my review, I find that the Defendant Simpson failed to bring the instant motion within a reasonable time. In reaching this conclusion, I note the fact that all of the information shown by the exhibits attached to Simpson’s present motion appears to have been in her possession and known to her since at least February of 2011.

In response to the Court’s inquiry into the delay in filing the instant motion, Defendant Simpson offered the following reasons: (a) the Court had previously denied her Motion for Relief from Order and although it set aside the sale, she was never allowed to present the numerous affirmative defenses and counterclaims she alleges, based on the entry of the Order of Default, and (b) for several months Defendant Simpson was in active negotiations with Plaintiff and Plaintiff’s counsel regarding loss mitigation efforts and submitted all requested documents in a timely fashion (c) the FI Administrative Order provides that foreclosure actions concerning Owner-Occupied dwellings are stayed during the Foreclosure Intervention process as those terms are defined in that order, preventing Defendant from raising the issues in the instant motion, but that once the Denial of Foreclosure Intervention was issued, she timely filed the instant motion.

In response to the Court’s inquiry as to why Defendant failed to attend or participate in the September 25, 2012, hearing, Defendant alleged she and her former counsel failed to receive Notice. In addition, Defendant alleged she was unaware of the previous Order setting aside the sale and noted that the records of Greenville County currently reflect that the property that is the subject of the above-captioned matter is currently titled in the name of Plaintiff. I find these arguments without merit. As established by a review of the record, notice of the September 25, 2012 hearing was mailed to counsel for Ms. Simpson, as well as a copy of the Order resulting from that hearing.

Plaintiff argued that the basis for Defendant Simpson’s motion appears to be her allegation that Plaintiff engaged in misconduct and that this alleged misconduct prevented Simpson from presenting her defenses to the foreclosure claim. Plaintiff explained that Simpson’s allegations, the truth of which Plaintiff denies, appear to more appropriately viewed within the definition of “fraud, misrepresentation, or other misconduct of an adverse party” which can form a basis for relief from a judgment under *SCRCP*

Rule 60(b)(3). Rule 60, however, provides that a motion for relief under Rule 60(b)(3) may not be made “more than one year after the judgment . . . was entered” Plaintiff argued that these allegations do not support the granting of relief under Rule 60(b)(5), and that even considered under the meaning of Rule 60(b)(3) relief may not be granted because the one year time limit had expired long before Simpson brought the present motion.

With respect to Simpson’s argument concerning the effect of the stay imposed by the FI Administrative Order, I find that the stay contemplated by that order applies primarily to “proceedings” in pending foreclosure litigation. One definition of “proceedings” is “[t]he regular and orderly progression of a lawsuit, including all acts and events between the time of commencement and the entry of judgment” *Black’s Law Dictionary* 1241 (Bryan A. Garner ed., 8th ed., Thomson West 2004). I find this definition of “proceedings” to be what the Supreme Court intended in its FI Administrative Order. Had the Supreme Court intended that the FI Administrative Order provide additional time or opportunities for a defendant to seek relief from a final judgment, then the Supreme Court would have said so. I find no such language in the FI Administrative Order. In fact, the FI Administrative Order appears to me to provide merely that in the case of an action in which an “order of foreclosure has been entered [on or before May 9, 2011], before any foreclosure sale” that the Mortgagee shall comply with the requirement of the FI Administrative Order. Thus, the stay imposed in a foreclosure case in which judgment had been entered before May 9, 2011, appears to mean simply a postponement of the foreclosure sale to allow the parties one final opportunity to “insure that eligible homeowners and lender-servicers have been afforded the benefits of loan modification or other loss mitigation where possible.” The FI Administrative Order does not appear to contemplate that the finality of judgments entered prior to May 9, 2011, would be affected by its terms. I therefore find that Simpson’s time to make a motion under Rule 60(b)(3) ran from December 3, 2010 through December 5, 2011 (December 3, 2011, being a Saturday), and that relief under Rule 60(b)(3) was therefore unavailable to her after December 5, 2011. This one year time limit having expired, the court is not required to analyze the application of Rule 60(b)(3) to the alleged facts Simpson has asserted, and I therefore make no findings in that regard.

My analysis of the FI Administrative Order with regard to the time to make a motion under Rule 60(b)(3) also informs my analysis of the “reasonable time” standard which applies to Rule 60(b)(5). I find that Simpson’s time to make a 60(b)(5) motion was not tolled by the Foreclosure Intervention process, and that the time during which the matter was stayed for Foreclosure Intervention should also be considered as part of Simpson’s delay in seeking relief under Rule 60(b)(5). One of the ancient maxims of equity reminds us that “Equity aids the vigilant, not those who slumber on their rights.” Simpson’s own conduct, in delaying until this late date to seek relief, as well as her failure to attend the September 25, 2012, update hearing, support the conclusion that it would be inequitable to award her the relief that she

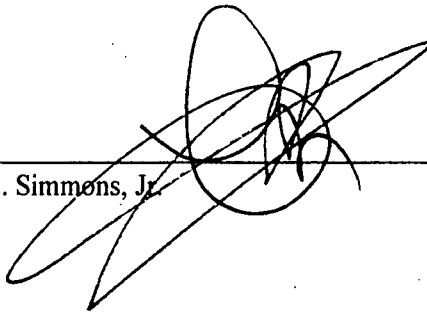
seeks. Taking into consideration all the facts of this case, I conclude that Ms. Simpson's delay amounts to an unreasonable amount of time to wait to seek relief, and I decline to grant her the relief which she now seeks.

Additionally, I am denying Defendant's request, pursuant to Rule 62(b) of the South Carolina Rules of Civil Procedure, to delay the execution of the judgment in the above-captioned matter. Under the unique facts of this case, it is simply too late in the process to yet again delay the sale.

For the above reasons, the Defendant Simpson's Motion for Relief from Order of Foreclosure and Sale is DENIED.

AND IT IS SO ORDERED.

Charles B. Simmons, Jr.



Greenville, South Carolina

11/5, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

DOCKET NO. 2010-CP-23-8152

Wells Fargo Bank, NA,

Plaintiff,

SUMMONS AND NOTICES
(NON-JURY)
FORECLOSURE OF REAL ESTATE
MORTGAGE
Deficiency Judgment Demanded

v.

Lynn D. Simpson; Wells Fargo Bank, NA
(Charlotte, NC); The Lofts at Mills Mill
Condominium Owners Association, Inc.;

Defendant(s).

(011784-16048)

2010 SEP 30 A 10:53

CLERK OF COURT
GREENVILLE CO. S.C.
PAUL H. WICKENSINER

WLF

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend by answering the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer on the subscribers at their offices, 220 Executive Center Drive, Suite 109, Post Office Box 100200, Columbia, South Carolina 29202, within thirty (30) days after the service hereof, exclusive of the day of such service, except that the United States of America, if named, shall have sixty (60) days to answer after the service hereof, exclusive of the day of such service; and if you fail to do so, judgment by default will be rendered against you for the relief demanded in the Complaint.

YOU WILL ALSO TAKE NOTICE that Plaintiff will move for an order of reference or that the Court may issue a general order of reference of this action to a master in equity/special referee, pursuant to Rule 53, of the South Carolina Rules of Civil Procedure.

TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDES, AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:

YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by Wells Fargo Bank, NA.

Rogers Townsend & Thomas, PC
ATTORNEYS FOR PLAINTIFFS

Samuel C. Waters (SC Bar #5956) Cheryl H. Fisher (SC Bar #15213)
Reginald P. Corley (SC Bar #69453) Jennifer W. Rubin (SC Bar #16727)
Ellie C. Floyd (SC Bar # 68635) Michael P. Morris (SC Bar #73560)
Eve Moredock Stacey (SC Bar # 5300) Mary R. Powers (SC Bar #16534)
Robert P. Davis (SC Bar # 74030) William S. Koehler (SC Bar# 74935)
Shawn R. Willis (SC Bar # 71155) Kevin T. Hardy (SC Bar #76015)
Benjamin J. Powell (SC Bar #77205) John P. Fetner (SC Bar # 77460)
Kelsey K. Brockbank (SC Bar # 77519)
220 Executive Center Drive, Suite 109 Post Office Box 100200 (29202)
Columbia, SC 29210 (803) 744-4444

Columbia, South Carolina
September 29, 2010

STATE OF SOUTH CAROLINA)
)
 GREENVILLE COUNTY)
)
 Wells Fargo Bank, NA,)
 Plaintiff)
 vs.)
)
 Lynn D. Simpson; Wells Fargo Bank, NA (Charlotte,)
 NC); The Lofts at Mills Mill Condominium Owners)
 Association, Inc.;)
 Defendant.)

IN THE CIRCUIT COURT FOR THE
 THIRTEENTH
 JUDICIAL CIRCUIT

CERTIFICATE OF EXEMPTION
 FROM ADR

DOCKET NO.
 2010-CP-23-8152

2010 SEP 30 A 10:52
 62c

I certify that this action is exempt from ADR because:

- this is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus or prohibition;
- this action is appellate in nature;
- this is a post-conviction relief matter;
- this is a contempt of court proceeding;
- this is a forfeiture proceeding brought by the State;
- this is a case involving a mortgage foreclosure; or
- the parties submitted the case to voluntary mediation with a certified mediator prior to the filing of this action.

Plaintiff/Attorney(s) for Plaintiff(s)
 Samuel C. Waters (SC Bar #5958), Cheryl H. Fisher (SC Bar #15213), Reginald P. Corley (SC Bar #60453), Jennifer W. Rubin (SC Bar #16727), Ellie J. Floyd (SC Bar # 68635), Michael P. Morris (SC Bar #73560), Eve Moredock Stacey (SC Bar # 5300), Mary R. Powers (SC Bar# 16534), Robert P. Davis (SC Bar # 74030), William S. Koehler (SC Bar# 74935), Shawn R. Willis (SC Bar # 71155), Kevin T. Hardy (SC Bar #76015), Benjamin J. Powell (SC Bar #77205), John P. Fetner (SC Bar # 77460), Kelsey K. Brockbank (SC Bar # 77519)
 Rogers Townsend & Thomas, PC
 220 Executive Center Drive, Suite 109
 Post Office Box 100200
 Columbia, SC 29202
 (803) 744-4444

Defendant/Attorney(s) for Defendant(s)

Date: September 29, 2010

011784-16048

SCCA / 234 (01/2010)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Wells Fargo Bank, NA,

Plaintiff,

IN THE COURT OF COMMON PLEAS

DOCKET NO.

2010-CP-23-8152

COMPLAINT

(NON-JURY)

FORECLOSURE OF REAL ESTATE
MORTGAGE

Deficiency Judgment Demanded

v.

Lynn D. Simpson; Wells Fargo Bank, NA
(Charlotte, NC); The Lofts at Mills Mill
Condominium Owners Association, Inc.;

Defendant(s).

(011784-16048)

2010 SEP 30 A 10:53

RECEIVED
CLERK OF COURT
GREENVILLE COUNTY
SOUTH CAROLINA

466

Plaintiff alleges:

1. This is an action for the foreclosure of a mortgage upon certain real estate in Greenville County, South Carolina.
2. Pursuant to S.C. Code Section 33-15-101, Plaintiff is a corporation or other legal entity doing business in the State of South Carolina.
3. Plaintiff has the legal right to enforce the negotiable instrument secured by the Mortgage and is the real party in interest as defined by Rule 17(a) of the South Carolina Rules of Civil Procedure.
4. The Plaintiff's servicing agent for the mortgage loan described in this foreclosure action is participating in the Home Affordable Modification Program ("HMP"), but the subject loan is not eligible for modification because the debt to income ratio of the mortgagor is below 31%.
5. Some lien on or interest in the real estate, the subject of this action, may be claimed by the Defendant(s) herein.
6. The Defendant(s) herein described as judgment creditors have by filing said judgments designated their attorney entering the judgment as their agent for service of process under the provisions of South Carolina Code Section 15-35-840.
7. Heretofore, on or about September 21, 2005, Lynn D. Simpson made, executed and delivered a certain Note ("Note") in the principal sum of \$247,500.00, payable in monthly installments.

8. In order to secure the payment of the Note according to the terms and conditions thereof, Lynn D. Simpson made, executed and delivered unto Mortgage Electronic Registration Systems, Inc., acting solely as nominee for Wachovia Mortgage Corporation its successors and assigns (MIN# 100013700057705145) a certain real estate mortgage ("Mortgage") covering the following described property and any and all improvements to the property, including but not limited to a mobile/manufactured home:

All that certain condominium Unit known and designated as Unit #301 of The Lofts at Mills Mill Horizontal Property Regime (the "Regime"), as set forth, established, described and defined in that certain Declaration (Master Deed) of The Lofts at Mills Mill Horizontal Property Regime dated July 13, 2004, and recorded in the Office of the Register of Deeds for Greenville County in Deed Book 2098 at Page 1 (the "Declaration"), and as depicted on that certain plat entitled "Finished Floor As-Built Plat for Mills Mill Associates, LLC" prepared by Precision Land Surveying, Inc., dated July 7, 2004, and recorded in the Office of the Register of Deeds for Greenville County in Plat Book 48-S at Page 5 (the "Plat"). Reference is craved to the Declaration and the Plat for a more complete description of the above Unit and of the Regime.

Together an undivided right, title and interest in and to the Common Elements, including the Limited Common Elements (if any) appurtenant to the Unit, all as set forth, established, described, and defined in the Declaration.

This being the same property conveyed to Lynn D. Simpson by deed of Mills Mill Associates, L.L.C, dated September 21, 2005 and recorded September 22, 2005 in Book 2167 at Page 92.

Property Address: 400 Mills Avenue, Unit 301
Greenville, SC 29605

TMS# 0106010300100

9. The Mortgage was signed, witnessed and probated September 21, 2005; thereafter the Mortgage was recorded in the Office of the RMC/ROD for Greenville County on September 22, 2005, in Mortgage Book 4438 at Page 1989.

10. The Mortgage evidences and secures the repayment of money advanced by Plaintiff or its predecessor in interest to, or on behalf of, the mortgagor(s) and constitutes a Purchase Money First lien on the mortgaged premises.

11. Rogers Townsend & Thomas, PC sent a notice pursuant to 15 U.S.C. Section 1692(g) to the Notemaker(s), dated AUGUST 9, 2010, and a copy of the contents of the notice is attached hereto.

12. Any notice required by the terms of the Mortgage or by state or federal law has been given to the applicable Defendant(s) prior to the commencement of this action.

13. After all payments received by the Plaintiff have been credited to the subject loan, the loan is in default and due for May 1, 2010, and the conditions of the Note and Mortgage have been

broken. Plaintiff elects to and does declare the entire balance of said indebtedness due and payable, and that there is due on the Note and Mortgage as of May 1, 2010, the principal sum of \$229,822.87, with interest from April 1, 2010, advances, late charges, and also for the costs and disbursements of this action, including attorney's fees.

14. Plaintiff's right to a personal or deficiency judgment pursuant to South Carolina Code Sections 29-3-650 and 29-3-660 is expressly demanded against Lynn D. Simpson.

15. Pursuant to the terms of the Mortgage, Plaintiff has employed counsel to prosecute this action and a reasonable value of services of counsel in this action is the sum as the Court may find appropriate.

16. Plaintiff may be forced to pay sums for taxes and insurance and costs for securing the property, which sums, according to the terms of the Mortgage, should be added to the amount of the debt.

17. Pursuant to the terms of the Mortgage and applicable state law, Plaintiff requests the mortgage be foreclosed and that the property be sold at public auction in accordance with law, subject to any liens for taxes, special assessments of record against such property, and existing easements or restrictions of record.

18. The hereinafter named Defendant(s) may have some interest in or lien upon the premises covered by the Mortgage set forth above, or some part thereof, but that such interests or liens are junior and subsequent to the lien of Plaintiff's Mortgage or, if specified below, have been paid in full and either should be satisfied of record or the lien released from the subject real estate. Said liens or interests are of record in the Office of the RMC or Clerk of Court of the aforesaid county and are described as follows:

A. Wells Fargo Bank, NA (Charlotte, NC), by virtue of a mortgage given by Lynn D. Simpson to Wachovia Bank, National Association in the amount of \$30,000.00, dated August 29, 2008, and recorded September 4, 2008 in Book 4992 at Page 1814 Wells Fargo Bank, NA (Charlotte, NC) is successor by merger to Wachovia Bank, National Association

B. The Lofts at Mills Mill Condominium Owners Association, Inc. by virtue of any lien enforceable assessments claimed as provided for in the Declaration of Covenants, Conditions, and Restrictions recorded herein, and any amendments thereto.

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

- (1) Under the direction of this Court, ascertain and determine the amount due upon the Note and Mortgage held by Plaintiff together with attorney's fees and costs of this action.
- (2) Declare Plaintiff's Mortgage a Purchase Money First lien and render

judgment of foreclosure for the amount so found to be due and owing thereon, together with any ad valorem taxes, or insurance premiums, and any other expenses which may be due and have been advanced by Plaintiff, with reasonable attorney's fees, and for the costs of this action.

(3) Order the reimbursement of all costs for inspecting and securing the property incurred by the Plaintiff as a result of the delinquency.

(4) Appoint a Receiver to collect the rents, issues, profits or designated sums from the mortgagor(s), and/or the grantee(s) of the mortgagor(s), and/or tenant(s) occupying or exercising control over the mortgaged premises and hold the same subject to the further order of this Court.

(5) Under the direction of this Court, sell the mortgaged premises, bar any equity of redemption, and apply the proceeds of sale 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 attorney's fees as aforesaid; and

Third, to the distribution of any surplus pursuant to Rule 71, of the South Carolina Rules of Civil Procedure;

(6) Issue an order directing the Sheriff of Greenville County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property should the same become necessary;

(7) Order such other and further relief as may be just and proper.

Rogers Townsend & Thomas, PC
ATTORNEYS FOR PLAINTIFF

Samuel C. Waters (SC Bar #5958) Cheryl H. Fisher (SC Bar #15213)
Reginald P. Corley (SC Bar #69453) Jennifer W. Rubin (SC Bar #16727)
Ellie C. Floyd (SC Bar # 68635) Michael P. Morris (SC Bar #73560)
Eve Moredock Stacey (SC Bar # 5300) Mary R. Powers (SC Bar #16534)
Robert P. Davis (SC Bar # 74030) William S. Koehler (SC Bar# 74935)
Shawn R. Willis (SC Bar # 71155) Kevin T. Hardy (SC Bar #76015)
Benjamin J. Powell (SC Bar #77205) John P. Fetner (SC Bar # 77460)
Kelsey K. Brockbank (SC Bar # 77519)
220 Executive Center Drive, Suite 109 Post Office Box 100200 (29202)
Columbia, SC 29210 (803) 744-4444

Columbia, South Carolina
September 29, 2010

NOTICE REQUIRED BY THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. Section 1692, As Amended

1. As of August 5, 2010, you owe \$234,243.19. Because of interest, late charges, attorney fees and other charges that vary from day to day, the amount due on the day you pay may be greater.
2. Wells Fargo Bank, NA is the Creditor to whom the debt is owed. Wells Fargo Bank, N.A. is the servicing agent for the Creditor to whom the debt is owed.
3. The debt described in this notice will be assumed to be valid by the Creditor's law firm unless you, the Consumer, within thirty (30) days after the receipt of this notice, dispute the validity of the debt or some portion thereof.
4. If you, the Consumer, notify the Creditor's law firm in writing within thirty (30) days of the receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will obtain verification of the debt, and a copy of the verification will be mailed to you, the Consumer, by the Creditor's law firm.
5. If the Creditor named in this notice is different from the original Creditor, and if you, the Consumer, make a written request to the Creditor's law firm within the (30) days from the receipt of this notice, the name and address of the original Creditor will be mailed to you by the Creditor's law firm.
6. This notice should not be construed as a thirty (30) day grace period. If, in writing, you request proof of the debt or the name and address of the original creditor within the thirty (30) day period that begins with your receipt of this notice, the law requires the Creditor's law firm to suspend its efforts (through litigation or otherwise) to collect the debt until the Creditor's law firm mails the requested information to you.
7. This notice pertains to your dealings with the Creditor's law firm as a debt collector. It does not affect your dealings with the court, and in particular it does not change the time at which you must answer the complaint. The summons attached to the complaint is a command from the court, not from the Creditor's law firm, and you must follow its instructions even if you dispute the validity or amount of the debt. The advice in this notice also does not affect the Creditor's law firm's relations with the court. The Creditor's law firm may file papers in any such suit according to the court's rules and the judge's instructions.
8. This is an attempt to collect a debt, and any information obtained will be used for that purpose. The information provided in paragraphs 1 and 2 above has been provided to us by the Creditor or Servicer. At this point in time, no attorney with this firm has personally reviewed the particular circumstances of your account. If you have previously received a discharge in bankruptcy, this notice is not and should not be construed as an attempt to collect a debt but only as an attempt to enforce a lien.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

NOV 13 AM 10:00

DOCKET NO. 10-CP-23-8152

Wells Fargo Bank, NA,

FILED - CLERK OF COURT
GREENVILLE, S.C.

Plaintiff,

AFFIDAVIT OF DEFAULT AND NON-
MILITARY SERVICE
Deficiency Judgment Demanded

v.

Lynn D. Simpson; Wells Fargo Bank, NA
(Charlotte, NC); The Lofts at Mills Mill
Condominium Owners Association, Inc.;

Defendant(s).

(011784-16048)

PERSONALLY APPEARED before me, the undersigned, who being duly sworn, deposes and says that she/he is one of the attorneys for Plaintiff in the above-entitled action and that more than thirty (30) days have elapsed since the service of the Summons and Complaint upon the Defendant(s). The following Defendants have not answered, plead, or otherwise defended this action, pursuant to Rule 55(a), SCRCP: Lynn D. Simpson, Wells Fargo Bank, NA (Charlotte, NC) . The Lofts at Mills Mill Condominium Owners Association, Inc. , . Therefore, the Defendant(s) Lynn D. Simpson, Wells Fargo Bank, NA (Charlotte, NC) , The Lofts at Mills Mill Condominium Owners Association, Inc. , are in default.

Further, that she/he has investigated the occupational status of the Defendant(s) Lynn D. Simpson and she is not in the Military Service of the United States as contemplated by the provisions of the Servicemembers Civil Relief Act, 50 U.S.C. § 501 et seq.

Rogers Townsend & Thomas, PC
ATTORNEYS FOR PLAINTIFF

Samuel C. Waters (SC Bar #5958)
Reginald P. Corley (SC Bar #69453)
Ellie C. Floyd (SC Bar #68635)
Fve Moreduck Stacey (SC Bar #5300)
Robert P. Davis (SC Bar #74010)
Shawn R. Willis (SC Bar #71155)
Benjamin J. Powell (SC Bar #77205)
Kelley K. Brueckbank (SC Bar #77519)
220 Executive Center Drive
Columbia, SC 29210
(011784-16048)

Cheryl H. Fisher (SC Bar #15213)
Jennifer W. Rubin (SC Bar #16727)
Michael P. Morris (SC Bar #73560)
Mary R. Powers (SC Bar #16534)
William S. Kochler (SC Bar #74935)
Kevin T. Hardy (SC Bar #76015)
John P. Fetner (SC Bar #77460)
Vance L. Graham, III (SC Bar #71250)
Post Office Box 110200 (29202)
(803) 744-4444

Columbia, South Carolina
November 12, 2010

Sworn to before me this 12th day of November, 2010

(I.S.)

Notary Public for South Carolina

My Commission Expires: 01/1/20

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Civil Action No.: 2010-CP-23-8152

Wells Fargo Bank, N.A.,)
)
Plaintiff,)

vs.)

Lynn D. Simpson, Wells Fargo)
Bank, N.A., The Loft at Mills Mills)
Condominium Owners' Association,)
Inc.,)

Defendants.)

2011 FEB - 1 PM 4: 11
FILED-CLERK OF COURT
GREENVILLE CO S.C.
PAUL R. WICKHAM

**DEFENDANT LYNN D. SIMPSON'S NOTICE OF MOTION AND
MOTION FOR RELIEF FROM MASTER'S ORDER AND JUDGEMENT OF
FORECLOSURE AND SALE AND TO VACATE SALE**

PLEASE TAKE NOTICE that the Defendant Lynn D. Simpson (hereinafter "Simpson"), by and through undersigned counsel, will move before a Presiding Judge for the Court of Common Pleas for the Thirteenth Judicial Circuit at a date and time as to be scheduled by the Clerk of Court for Greenville County for Relief from a Master's Order and Judgment of Foreclosure and Sale entered in the above-captioned action on December 3, 2010, pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure (hereinafter "SCRCP"). In support of said Motion, Defendant state as follows:

1. Upon information and belief, Plaintiff is a federally chartered bank and conducts business in South Carolina.
2. Simpson is a citizen and resident of the County of Greenville, State of South Carolina.

3. On or about September 30, 2010, a Complaint was filed in this matter in the Court of Common Pleas for Greenville County.

4. On or about October 5, 2010, an affidavit of non-service was filed in this matter indicating Plaintiff was unable to serve Defendant Simpson at the address of 620 Halton Road, Apt. 820, Greenville, SC 29607. The affidavit of non-service is attached as Exhibit "A".

5. On or about October 7, 2010 an affidavit of service with regards to Simpson was filed in the matter. According to the affidavit, the Lis Pendens, Civil Action Coversheet, Certificate of Exemptions from ADR; Summons and Notices; Complaint; and Notice required by the Fair Debt Collection Practices Act were served on Defendant Simpson. The affidavit states Defendant Simpson was served personally at 400 Mills Avenue, Unit 301, Greenville, South Carolina, 29605 describes Defendant Simpson as a white female, approximately 55-65 years of age, 5'4" – 5'6" in height weighing 140-160 pounds with gray hair. The affidavit of service is attached as Exhibit "B".

6. Simpson did not receive Lis Pendens, Civil Action Coversheet, Certificate of Exemptions from ADR; Summons and Notices; Complaint; and/or Notice required by the Fair Debt Collection Practices Act. See Exhibit "C", Affidavit of Lynn D. Simpson.

7. Rule 4(d)(1), SCRCF states that an individual is served by "delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of adobe with some person of suitable age and discretion then residing there, or by delivering a copy to an agent authorized by appointment or by law to receive service of process.¹"

8. Pursuant to Rule 4(d)(1), SCRCPP, Simpson was never served with the Summons and Complaint in this matter.

9. Rule 3(a)(1), SCRCPP, states a civil action is commenced when the summons and complaint are filed with the clerk of court if the summons and complaint are served within the statute of limitations in any manner prescribed by law.

10. As the pleadings in the above-captioned matter were never served on Simpson, the above-captioned civil action was never commenced and this Court lacked jurisdiction as to Simpson.

11. Pursuant to Rule 60(b)(4), SCRCPP, this Court may relieve a party or his legal representative from a final judgment, order, or proceeding if the judgment is void.

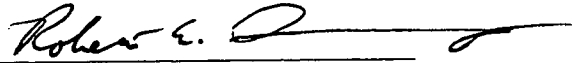
12. Since the above-captioned civil action was never commenced and this Court lacked jurisdiction as to Simpson, the Master's Order and Judgment of Foreclosure and Sale rendered against Simpson is void.

WHEREFORE, Defendant Lynn D. Simpson, pursuant to SCRCPP Rule 60(b)(4), respectfully request that this Honorable Court grant relief from the Judgment in this matter and vacate the Master's Order and Judgment of Foreclosure and Sale and vacate the judicial sale of the property that is the subject of the above-referenced foreclosure action .

[SIGNATURE BLOCK ON FOLLOWING PAGE]

¹S.C. Code Ann. § 15-9-710 provides for service by publication, which has not been alleged in this matter.

ROBERT E. IANUARIO, P.C.



Robert E. Ianuario, M.B.A., J.D.

419 Vardy Street

Greenville, South Carolina 29601

T: 864-255-9988

F: 864-235-9988

robert@ianuariolaw.com

Attorney for Defendant Lynn D. Simpson

○

○

Exhibit A

IN THE
IN THE COURT OF COMMON PLEAS OF THE STATE OF SOUTH CAROLINA FOR GREENVILLE COUNTY

Wells Fargo Bank, N.A.

Plaintiff/Petitioner

vs.
Lynn D. Simpson; et al

Defendant/Respondent

Docket Number:
10-CP-23-8152

AFFIDAVIT OF NON SERVICE OF:
Lis Pendens (Deficiency Judgement Waived); Civil Action
Coversheet; Certificate of Exemption from ADR;
Summons and Notices; Complaint; Notice required by the
Fair Debt Collection Practices Act

The undersigned, being first duly sworn, on oath deposes and says: That s(he) is now and at all times herein mentioned was a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

Affiant states s(he) attempted to serve **Lynn D. Simpson** at the address of: **620 Halton RD Apt. 8201, Greenville, Greenville County, SC 29607** and was unable to effect service for the following reasons:

10/4/2010 7:31 PM: Checked and found occupied by a male occupant who stated that the defendant was unknown at this apartment.

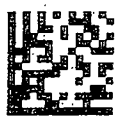
Is the Subject Property a Mobile Home? (x) NO () YES
Is a Mobile Home VIN # visible? () NO () YES VIN #: _____

DATED this **5th** day of **October, 2010**.

James P. Watson
James P. Watson, Greenville, SC

SUBSCRIBED AND SWORN to before me this **5th** day of **October, 2010**

Kaci S. Johnson
NOTARY PUBLIC in and for the State of **South Carolina**
My Commission Expires: 04/11/19

2010 OCT -5 A 10:52


FOR: **Rogers Townsend & Thomas, PC** ORIGINAL PROOF OF
REF: **011784-16048-2** SERVICE

Tracking #: **8689947 CAE FIL**



ENTERED (COMPUTER)

Exhibit B

IN THE
IN THE COURT OF COMMON PLEAS OF THE STATE OF SOUTH CAROLINA FOR GREENVILLE COUNTY

Wells Fargo Bank, N.A.

10/7/2010 11:09

Plaintiff/Petitioner

vs.
Lynn D. Simpson; et al

Defendant/Respondent

Docket Number:
10-CP-23-8152

AFFIDAVIT OF SERVICE OF:
Lis Pendens (Deficiency Judgement Waived); Civil Action
Coversheet; Certificate of Exemption from ADR;
Summons and Notices; Complaint; Notice required by the
Fair Debt Collection Practices Act

The undersigned, being first duly sworn, on oath deposes and says: That s(he) is now and at all times herein mentioned was a citizen of the United States, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, has the authority to serve pleadings in the State named below, and is competent to be a witness therein.

On the **6th day of October, 2010**, at **12:30 PM**, at the address of **400 MILLS Avenue UNIT 301, GREENVILLE, Greenville County, SC 29605**; this affiant served the above described documents upon **Lynn D. Simpson**, by then and there personally delivering **1** true and correct copy(ies) thereof, by then presenting to and leaving the same with **Lynn D. Simpson, NAMED DEFENDANT, A white female approx. 55-65 years of age 5'4"-5'6" in height weighing 140-160 lbs with gray hair.**

No Information was provided or discovered that indicates that the subjects served are members of the U.S. military.

Is the Subject Property a Mobile Home? NO YES

Is a Mobile Home VIN # visible? NO YES VIN #: _____

DATED this **6th** day of **October, 2010**.

Chris Ellenburg, Greenville, SC

SUBSCRIBED AND SWORN to before me this **6th** day of **October, 2010**

NOTARY PUBLIC in and for the State of **South Carolina**

My Commission Expires: 9/11/19



FOR: **Rogers Townsend & Thomas, PC** ORIGINAL PROOF OF SERVICE
REF: **011784-16048-2**

Tracking #: **8689947 CAE FIL**



STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Civil Action No.: 2010-CP-23-8152

Wells Fargo Bank, N.A.,)
Plaintiff,)

vs.)

Lynn D. Simpson, Wells Fargo)
Bank, N.A., The Loft at Mills Mills)
Condominium Owners' Association,)
Inc.,)
Defendants.)

AFFIDAVIT OF LYNN D. SIMPSON

Personally appeared before me Lynn D. Simpson, who, being duly sworn, deposes and says:

1. She is over the age of 18 years.
2. Her residence is, and was at the time of filing of the above-captioned matter, 400 Mills Avenue, Unit 301, Greenville, South Carolina, 29605.
3. No other individuals reside at 400 Mills Avenue, Unit 301, Greenville, South Carolina, 29605.
4. She did not receive a copy of the Lis Pendens, Civil Action Coversheet, Certificate of Exemptions from ADR; Summons and Notices; Complaint; and/or Notice required by the Fair Debt Collection Practices Act in the above-captioned matter.

Lynn D. Simpson
Lynn D. Simpson

SWORN TO before me this 15th
day of February, 2011.

Michelle Cochran
Notary Public for South Carolina
My commission expires: 11/20/13

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Civil Action No.: 2010-CP-23-8152

Wells Fargo Bank, N.A.,)
Plaintiff,)

vs.)

Lynn D. Simpson, Wells Fargo)
Bank, N.A., The Loft at Mills Mills)
Condominium Owners' Association,)
Inc.,)
Defendants.)

FILED-CLERK OF COURT
GREENVILLE CO SC
PAUL B. WICKER
2011 FEB -1 PM 4:11

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of February, 2011, a copy of Defendant Lynn D. Simpson's Notice of Motion and Motion for Relief from Master's Order and Judgment of Foreclosure and Sale and to Vacate Sale were served upon the following individuals via United States Postal Service with sufficient first class postage affixed thereto and addressed as follows:

Samuel C. Waters, Esquire
Rogers Townsend & Thomas, PC
Post Office Box 100200
Columbia South Carolina 29202
Attorney for Plaintiff

ROBERT E. IANUARIO, P.C.


Michelle Cochran

Robert E. Ianuario, P.C.
419 Vardy Street
Greenville, South Carolina 29601
T: 864-255-9988
F: 864-235-9988
Attorney for Defendant Lynn D. Simpson

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Wells Fargo Bank, NA,

Plaintiff,

v.

Lynn D. Simpson; Wells Fargo Bank, NA
(Charlotte, NC); The Lofts at Mills Mill
Condominium Owners Association, Inc.;

Defendant(s).

(011784-16048)

IN THE COURT OF COMMON PLEAS

DOCKET NO. 10-CP-23-8152

ATTORNEY CERTIFICATION
Deficiency Judgment Waived
(Mortgagor Denied)

2012 AUG - 1 A 10:07

CLERK OF COURT
GREENVILLE CO. S.C.
M. B. WICKENSIMMER

Pursuant to Supreme Court Administrative Order 2011-05-02-01 ("the Order"), and upon information and belief, the undersigned attorney hereby certifies the following:

- 1) That the Mortgagor, as defined by the Order, has been served with notice of right to foreclosure intervention;
- 2) That Plaintiff or its designated agents have received and examined all records and documents (if any) submitted by the Mortgagor to evaluate the loan for foreclosure intervention;
- 3) That the Mortgagor has been given a full and fair opportunity to submit any additional information pertaining to the subject loan to Plaintiff or its agents for consideration;
- 4) That after a complete review of all available information, Plaintiff has determined, as of July 25, 2012 that the Mortgagor does not qualify for any foreclosure intervention options as contemplated by the Order;

Scanned

- 5) That on July 31, 2012, a Notice of Foreclosure Intervention Denial was served on the Mortgagor(s) as required by the Order and Plaintiff has not entered into any other settlement agreements with the Mortgagor(s) as of the date stated in Plaintiff's Notice of Foreclosure Intervention Denial.



Rogers Townsend & Thomas, PC
ATTORNEYS FOR PLAINTIFF

Samuel C. Waters (SC Bar #5958)	Cheryl H. Fisher (SC Bar #15213)
Reginald P. Corley (SC Bar #69453)	Jennifer W. Rubin (SC Bar #16727)
Ellie C. Floyd (SC Bar #68635)	Michael P. Morris (SC Bar #73560)
Eve Moredock Stacey (SC Bar #5300)	Mary R. Powers (SC Bar #16534)
Robert P. Davis (SC Bar #74030)	William S. Kochler (SC Bar #74935)
Vance L. Brabham, III (SC Bar #71250)	Jaclynn B. Goings (SC Bar #77501)
Andrew W. Montgomery (SC Bar #79893)	Andrew A. Powell (SC Bar #100210)

220 Executive Center Drive
Columbia, SC 29210

Post Office Box 100200 (29202)
(803) 744-4444

Columbia, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE)	
WELLS FARGO BANK, N.A.,)	CIVIL ACTION NO.: 2010-CP-23-8152
)	
Plaintiff,)	
)	
vs.)	
)	
LYNN D. SIMPSON; WELLS FARGO)	
BANK, NA (Charlotte, NC); THE LOFTS)	
AT MILLS MILL CONDOMINIUM)	
OWNERS ASSOCIATION, INC.,)	
)	
Defendants.)	
)	

2012 OCT 26 PM 4:23
 CLERK OF COURT
 GREENVILLE COUNTY
 SOUTH CAROLINA

**DEFENDANT LYNN D. SIMPSON'S MOTION FOR RELIEF
FROM ORDER OF FORECLOSURE AND SALE**

PLEASE TAKE NOTICE that the Defendant Lynn D. Simpson (hereinafter "Defendant"), by and through undersigned counsel, will move before the Honorable Charles B. Simmons, Jr., Master-in-Equity for Greenville County, at a date and time as to be scheduled by the Clerk of Court for Greenville County for relief from the Master's Order and Judgment of Foreclosure and Sale entered in the above-captioned matter on December 3, 2010, pursuant to Rule 60(b)(5). In support of said motion, Defendant states as follows:

FACTUAL BACKGROUND

1. On or about September 21, 2005, Defendant executed and delivered to Wachovia Mortgage Corporation a Note (the "Note"), in the amount of \$247,500.00 together with interest

at a variable rate with the initial rate being 5.25% and the principal and interest due on October 1, 2035.

2. Pursuant to the terms of the Note, the interest rate would adjust on the first day of October, 2010 and may change every 12th month thereafter.

3. With the knowledge the interest rate of the Note would soon change, Defendant contacted Plaintiff in early 2010 in an effort to refinance the subject property.

4. Defendant engaged in the loan modification process with Plaintiff, submitting the required documentation and awaited Plaintiff's decision.

5. Despite making payments in the amount of \$1,690.63 on February 1, 2010, \$1,637.29 on March 3, 2012, \$1,690.63 on March 29, 2010, and \$1,637.29 on May 27, 2010, Defendant received a statement on May 25, 2010 alleging overdue payments in the amount of \$1,622.29. The bank statements showing the payments to Plaintiff are attached as Exhibit "A" and incorporated herein by reference. The May 25, 2010 mortgage statement is attached as Exhibit "B" and incorporated herein by reference.

6. Pursuant to a telephone conversation with a representative of Plaintiff, and in an effort to cure any alleged default, Defendant submitted payment in the amount of \$2,797.29 on September 1, 2010. The bank statement reflecting the payment of \$2,797.29 is attached as Exhibit "C" and incorporated herein by reference.

7. On September 27, 2010 Plaintiff sent a check in the amount of \$2,797.20 to Defendant. The check stated "FOR MISAPPLICATION REVERSAL". The check is attached as Exhibit "D" and incorporated herein by reference.

8. On September 30, 2010 the Summons and Complaint in the above-referenced matter was filed in the Court of Common Pleas.¹

9. By letter dated October 1, 2010, Plaintiff instructed Defendant to gather all financial information related to monthly income and expenses; and to contact Plaintiff at a number provided. The October 1, 2010 letter is attached as Exhibit "E" and incorporated herein by reference.

10. By letter dated October 5, 2010, Plaintiff informed Defendant that an initial payment of \$4,200.00 must be received by October 15, 2010. The October 5, 2010 letter further stated that "[f]oreclosure activity will not be suspended until you have returned the initial required payment". The October 5, 2010 letter is attached as Exhibit "F" and incorporated herein by reference.

11. On October 15, 2010, Defendant submitted payment to Plaintiff in the amount of \$4,200.00 pursuant to the October 5, 2010 letter. The bank statement reflecting the payment of \$4,200.00 is attached as Exhibit "G" and incorporated herein by reference.

12. After submitting the payment on October 15, 2010, Defendant believed any foreclosure action pending against her was suspended and did not retain an attorney.

13. On or about November 18, 2010, an Affidavit of Default and Non-Military Service was filed as to Defendant in the above-captioned matter.

14. On or about November 30, 2010 a hearing was held in the above-captioned matter. Defendant was not present.

¹ While Defendant denies being served with the Summons and Complaint in the above-captioned matter, by Order dated April 14, 2011 this Honorable Court found service to be proper.

15. By Order dated December 3, 2010, this Honorable Court issued an Order of Judgment and Foreclosure and Sale.

16. On or about December 16, 2010, Defendant received a letter from Plaintiff stating the property would be set for sale on January 4, 2011. On the same date, Defendant received a letter from Plaintiff stating “[d]uring this 30-day period a foreclosure sale on your home will not be scheduled if permitted by law. Defendant attempted to contact Plaintiff’s attorneys and continued working with Plaintiff on a loan modification. *See* Order dated April 15, 2011 in the above-captioned matter.

17. On January 3, 2011, Defendant contacted Plaintiff’s counsel via electronic mail seeking information regarding the December 16, 2010 letter from Plaintiff’s counsel. This began a chain of email exchanges between Plaintiff’s counsel and Defendant. The electronic mail communications are attached as Exhibit “H” and incorporated herein by reference.

17. On January 4, 2011, the subject property was sold and Plaintiff was the highest bidder.

18. On the same date, Plaintiff sent Defendant a letter stating that Plaintiff had reviewed the requested information provided by Defendant and was unable to provide any relief “because your property is condemned”. The January 4, 2011 letter is attached as Exhibit “I” and incorporated herein by reference.

19. By letter dated January 19, 2011, Plaintiff received a Notice to Vacate Property. The Notice is attached as Exhibit “J” and incorporated herein by reference.

20. Shortly after receipt of the January 19, 2011 Notice to Vacate, Defendant obtained the services of Robert E. Ianuario, P.C., who filed a Motion for Relief on behalf of Defendant based upon the affidavit of Defendant stating she had never been served with the pleadings in the above-referenced matter.

21. By letter dated February 18, 2011, Plaintiff stated it had received Defendant's inquiry regarding her loan and that the issues raised in her correspondence were under review and appropriate action would be taken once its research was complete. No response was ever received from Plaintiff. The February 18, 2011 letter is attached as Exhibit "K" and incorporated herein by reference.

22. By Order dated April 14, 2011, this Honorable Court found service on Defendant was proper but set aside the sale of January 4, 2011 and declared the resulting deed void.

23. The Subject Property has been set for public auction again on November 5, 2012.

LEGAL ARGUMENT

24. Rule 60(b)(5) of the South Carolina Rules of Civil Procedure provides that upon motion and such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding if it is no longer equitable that the judgment should have prospective application.

25. Based upon the inequitable conduct of Plaintiff as noted in this Honorable Court's order of April 14, 2011, Defendant was denied the opportunity to submit a proper defense to the above-captioned matter.

26. The representations of Plaintiff were the direct and proximate cause of Defendant failing to answer the Complaint in the above-referenced matter as Defendant believed the \$4,200.00 made to and accepted by Plaintiff would postpone any foreclosure proceedings. Plaintiff should not be allowed to deny Defendant the opportunity to assert affirmative defenses (most notably payment) and the numerous counterclaims Defendant has against Plaintiff by misleading Defendant as to the status of the above-captioned matter.

27. Plaintiff was the cause of any alleged default in the Note that is the subject of the above-captioned matter by rejecting and misapplying payments.

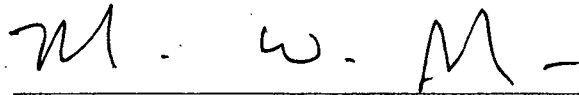
28. Defendant should be allowed the opportunity to appear and defend the allegations of the Complaint and Plaintiff should not be rewarded for its conduct with regards to the loan that is the subject of the Complaint. Not only did Plaintiff actively procure the alleged default in the terms of the Note, Plaintiff's representations that the foreclosure action would be suspended upon the payment of \$4,200. By October 15, 2010 caused Defendant to be declared in default of the above-captioned matter.

WHEREFORE, Defendant respectfully requests this Court inquire into the matters set forth herein and issue an Order pursuant to Rule 60(b)(5) of the South Carolina Rules of Civil procedure:

- a. Granting Defendant relief from the judgment in this matter and ordering a new trial so that Defendant may assert affirmative defenses and counterclaims; and
- b. Cancelling the sale of the Subject Property set for November 5, 2012; and
- c. Awarding Defendant the costs and disbursements associated with this motion; and

- d. For such other and further relief as the Court deems just and proper.

LAW OFFICE OF MARCUS W. MEETZE, LLC



Marcus W. Meetze
wes@meetzelaw.com
712 East Washington Street
Greenville, South Carolina 29601
864-271-3555
864-242-4885 Facsimile

Greenville, SC
October 26, 2012

EXHIBIT A



Consolidated Statement

NACHOVIA

Wells Fargo Home Mortgage Payment

5/13/2010 thru 6/10/2010

Crown Classic Account Interest

Other Withdrawals and Service Fees *continued*

Date	Amount	Description
5/24	[REDACTED]	[REDACTED]
5/25	[REDACTED]	[REDACTED]
5/25	[REDACTED]	[REDACTED]
5/25	[REDACTED]	[REDACTED]
5/26	[REDACTED]	[REDACTED]
5/26	[REDACTED]	[REDACTED]
5/26	[REDACTED]	[REDACTED]
5/27	1,637.29	AUTOMATED DEBIT WF HOME MTG AUTO PAY CO. ID. W952318940 100527 TEL MISC 0005770514
5/28	[REDACTED]	[REDACTED]
5/28	[REDACTED]	[REDACTED]
6/01	[REDACTED]	[REDACTED]
6/01	[REDACTED]	[REDACTED]
6/03	[REDACTED]	[REDACTED]
6/04	[REDACTED]	[REDACTED]
6/07	[REDACTED]	[REDACTED]
6/07	[REDACTED]	[REDACTED]
6/07	[REDACTED]	[REDACTED]

Other Withdrawals and Service Fees continued on next page.



Consolidated Statement

Wells Fargo Home Mortgage Payment

3/12/2010 thru 4/13/2010

Crown Classic Account Interest

Other Withdrawals and Service Fees *continued*

Date	Amount	Description
3/24	[REDACTED]	[REDACTED]
3/25	[REDACTED]	[REDACTED]
3/25	[REDACTED]	[REDACTED] 03/25
3/25	[REDACTED]	[REDACTED]
3/25	[REDACTED]	[REDACTED]
3/26	[REDACTED]	[REDACTED]
3/26	[REDACTED]	[REDACTED]
3/26	[REDACTED]	[REDACTED]
3/26	[REDACTED]	[REDACTED]
3/29	[REDACTED]	[REDACTED]
3/29	[REDACTED]	[REDACTED]
3/29	[REDACTED]	[REDACTED]
3/29	[REDACTED]	[REDACTED]
3/29	1,690.63	AUTOMATED DEBIT WF HOME MTG AUTO PAY CO. ID. W952318940 100329 WEB MISC-0005770514
3/30	[REDACTED]	[REDACTED]
3/30	[REDACTED]	[REDACTED]
3/30	[REDACTED]	[REDACTED]

Other Withdrawals and Service Fees continued on next page.



Consolidated Statement

ACHOVIA

Wells Fargo Home Mortgage Payment

2/11/2010 thru 3/11/2010

Crown Classic Account Interest

Other Withdrawals and Service Fees *continued*

Date	Amount	Description
2/25	[REDACTED]	[REDACTED] WEB
2/26	[REDACTED]	[REDACTED] WEB
2/26	[REDACTED]	[REDACTED] WEB
2/26	[REDACTED]	[REDACTED] WEB
2/26	[REDACTED]	[REDACTED] WEB
3/01	[REDACTED]	[REDACTED] WEB
3/01	[REDACTED]	[REDACTED] WEB
3/01	[REDACTED]	[REDACTED] WEB
3/02	[REDACTED]	[REDACTED] WEB
3/02	[REDACTED]	[REDACTED] WEB
3/02	[REDACTED]	[REDACTED] WEB
3/02	[REDACTED]	[REDACTED] WEB
3/02	[REDACTED]	[REDACTED] WEB
3/03	[REDACTED]	[REDACTED] WEB
3/03	[REDACTED]	[REDACTED] WEB
3/03	[REDACTED]	[REDACTED] WEB
3/03	[REDACTED]	[REDACTED] WEB
3/03	1,690.63	AUTOMATED DEBIT WF HOME MTG AUTO PAY CO. ID. W952318940 100303 WEB MISC 0005770514
3/04	[REDACTED]	[REDACTED] WEB



RISCA071 007400 071043907044 NNNN NNNN NNNN NNNN NNNN 0000003

Other Withdrawals and Service Fees continued on next page.



Consolidated Statement

WACHOVIA

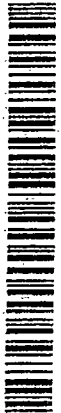
Wells Fargo Home Mortgage payment

1/13/2010 thru 2/10/2010

Crown Classic Account Interest

Other Withdrawals and Service Fees *continued*

Date	Amount	Description
1/27	[REDACTED]	[REDACTED]
1/27	[REDACTED]	[REDACTED]
1/27	[REDACTED]	ONLINE PMT
1/27	[REDACTED]	[REDACTED]
1/28	[REDACTED]	[REDACTED]
1/28	284.00	[REDACTED] AE [REDACTED]
1/28	[REDACTED]	[REDACTED]
1/29	[REDACTED]	[REDACTED]
1/29	[REDACTED]	[REDACTED]
1/29	[REDACTED]	[REDACTED]
2/01	[REDACTED]	[REDACTED]
2/01	104.00	[REDACTED]
2/01	200.40	[REDACTED]
2/01	1,690.63	AUTOMATED DEBIT WE HOME MTG AUTO PAY CO ID: W952318940 100201 WEB MISC:0005770514
2/02	300.00	[REDACTED]
2/03	[REDACTED]	[REDACTED]



RHSCA042 006992 042043956044 NNNN NNNN NNNN NNNN NNNN

Other Withdrawals and Service Fees continued on next page.

EXHIBIT B



Return Mail Operations
PO Box 14411
Des Moines, IA 50311

Monthly Mortgage Statement

Statement Date 05/25/10
Loan Number [REDACTED]

Customer Service

Online
yourwellsfargomortgage.com

Fax
(866) 278-1179

Telephone
(877) 213-7063

Correspondence
PO Box 10335
Des Moines IA 50306

Hours of Operation
Mon - Fri, 6 AM - 10 PM
Sat, 8 AM - 2 PM

Payments
PO Box 660455
Dallas TX 75266

TTY Deaf/Hard of Hearing
(800) 934-9998



1 AT 2994/010994/002994 036 01 ACNHYH 708

LINCOLN E SIMPSON
LYNN D SIMPSON
400 MILLS AVE UNIT 301
GREENVILLE SC 29605-4185

Important Messages

Summary

Payment (Principal and/or Interest, Escrow)	\$1,620.15
Optional Product(s)	\$0.00
Current Monthly Payment 06/01/10	\$1,620.15
Overdue Payments 05/01/10	\$1,622.29
Unpaid Late Charge(s)	\$136.68
Other Charges	\$15.00
TOTAL PAYMENT DUE 06/01/10	\$3,394.12

Property Address
400 MILLS AVENUE 301
GREENVILLE SC 29605

Unpaid Principal Balance \$229,822.87
(Contact Customer Service for your payoff balance)

Interest Rate 5.250%
Interest Paid Year-to-Date \$4,037.58
Taxes Paid Year-to-Date \$0.00
Escrow Balance \$581.71

Activity Since Your Last Statement

Date	Description	Total	Principal	Interest	Escrow	Late Charge	Other
5/25	PAYMENT	\$1,637.29	\$359.66	\$1,007.05	\$255.58	WF EASYPAY	\$15.00
5/19	MTG INS PMT	\$136.13-			\$136.13-	PMI MORTGAGE INS CO	

Wells Fargo Easy Pay payment has been applied.

010994/002994 ACNHYH 2994 ETM1C002 1

Please detach and return with your payment

Loan Number [REDACTED]
Current Monthly Payment Due \$1,620.15
Total Payment Due 06/01/10 \$3,394.12
After 06/16/10 Add Late Fee \$68.34
Total Amount Due After 06/16/10 \$3,462.46

Monthly Payment	A	\$.
x pmt amt			
Additional Principal	B	\$.
Late Charges	C	\$.
Other Charges	D	\$.
Additional Escrow	E	\$.

Check here and see reverse for address correction.

LINCOLN E SIMPSON
LYNN D SIMPSON
2994/010994/002994 036 01 ACNHYH 708

Please specify additional funds. Any additional funds not specified will be applied first to any outstanding charges.



WELLS FARGO HOME MORTGAGE
PO BOX 660455
DALLAS TX 75266-0455

EXHIBIT C



Consolidated Statement

WACHOVIA

██████████ 6 ██████████ ██████████

Wells Fargo Home Mortgage
911 from account

\$ 2,797.29

Check returned from Wells Fargo 9/27/10
pmt made with representative over the phone
8/12/2010 thru 9/13/2010

Crown Classic Account Interest

Other Withdrawals and Service Fees *continued*

Date	Amount	Description
8/26	██████████	AUTOMATED DEBIT MORTGAGE PAYMENT EFT ONLINE BANKING CO. ID. R952318940 100901 TEL MISC 0005770514
8/26	██████████	██████████ 64
8/27	██████████	██████████ 75
8/27	██████████	██████████ T
8/30	██████████	██████████ T
9/01	██████████	██████████ T
9/01	██████████	██████████ T
9/01	2,797.29	AUTOMATED DEBIT MORTGAGE PAYMENT EFT CO. ID. R952318940 100901 TEL MISC 0005770514
9/02	██████████	AUTOMATED DEBIT BANK OF AMERICA PMT CO. ID. R9500000000 100901 TEL MISC 0005770514
9/03	██████████	██████████ Y
9/07	██████████	WELLS FARGO HOME MORTGAGE BANK GREENVILLE, GREENVILLE
9/07	██████████	AUTOMATED DEBIT TRAVELERS INSURANCE CO. ID. R9500000000 100901 TEL MISC 0005770514
9/07	██████████	██████████ 55
9/07	██████████	██████████ 31
9/08	██████████	██████████ 55
9/08	██████████	██████████ 31

✓ Was sent back to borrower

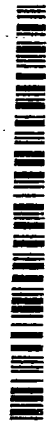


EXHIBIT D

Sent back to borrower

WELLS FARGO HOME MORTGAGE

Home Campus
Moines, IA 50328-0001

WELLS FARGO BANK NA
WELLS FARGO BANK NA
REMITTANCE CLRING/708
S80 0005770514
0005770514
1-888-234-8271

CHECK NO. 7009392648
MO/DAY/YR 09/27/2010

AMOUNT
*****\$2,797.29

MISAPPLICATION REVERSAL

Y TO ORDER

LINCOLN E SIMPSON
LYNN D SIMPSON
400 MILLS AVE UNIT 301
GREENVILLE SC 29605-4185

Thousand Seven Hundred Ninety Seven and 29/100 Dollars

Retorah J...
AUTHORIZED SIGNATURE

[Redacted line]

*1110
as agreed
nt on mty
returned -*

*This pmt had been made
over the phone and accepted by
a mty representative - and then
not accepted as payment on our
mty loan.*

*Mty: 09/27/10
\$ 2797.29
processed 8/28/10
mty acct. #...8756
mty acct. #...
mty acct. #...
mty acct. #...
mty acct. #...
mty acct. #...*

*returned
29*

EXHIBIT E

WELLS FARGO HOME MORTGAGE
RETURN MAIL OPERATIONS
PO BOX 10368
DES MOINES IA 50306-0368



10/01/10



1MB 00972/003957/002330 0014 2 ACNMJOLM189 708

LINCOLN E SIMPSON
LYNN D SIMPSON
400 MILLS AVE UNIT 301
GREENVILLE, SC 29605-4185

Account Information	
Online:	yourwellsfargomortgage.com
Fax:	(866) 278-1179
Telephone:	(800) 416-1472
Correspondence:	PO Box 10335 Des Moines, IA 50306
Hours of Operation:	Mon - Fri, 8 AM -8 PM CT
Loan Number:	[REDACTED]
Property Address:	400 Mills Avenue 301 Greenville SC 29605

RE: Mortgage options available

Dear Lincoln E Simpson & Lynn D Simpson:

Thank you for taking the time to speak with us today. We at Wells Fargo Home Mortgage realize that this may be a difficult time for you, and we appreciate the opportunity to assist you.

We value you as a customer and have several options that may help you keep your home. However, in order for us to get started, we need additional financial information to determine what option is best suited for your situation.

Please gather all financial information related to your monthly income and expenses, and contact our office at the number provided above.

While we offer a complete line of solutions for continuing homeownership, we also recommend you seek guidance on all other debts from a community-based Consumer Credit Counseling Agency. To take advantage of this service, call (866) 857-3092 for additional information.

We're happy to have you as our customer and look forward to helping you with your financial needs. If you have any questions, please contact us at the number listed in the account information section of this letter.

Sincerely,

Wells Fargo Home Mortgage



Important Notice to Occupants

Property Address: 400 Mills Avenue Unit 301 Greenville, SC 29605
Date of Notice: 01/17/2011

This property is now owned by Fannie Mae. If you are living in this property, you have several options. Fannie Mae has engaged a real estate agent to manage this property, and as an occupant of this property, to make you aware of some options that may be available. Please review the information within this notice thoroughly and contact the agent listed below immediately to advise of your intentions. If you have questions regarding your rights, you should seek the advice of an attorney – find attorneys in your area at www.findlegalhelp.org.

Option 1: Rent This Property

If you are renting this property, you might have the right to continue living in the property under your existing lease or tenancy. Many tenancies are protected by the Protecting Tenants at Foreclosure Act of 2009 or other applicable law.

Fannie Mae also offers the following lease options to eligible occupants in eligible properties:

- 12-month term lease with relocation assistance at the end of the lease (no security deposit or credit check required)
Month-to-month (no security deposit or credit check required)

Option 2: Relocate With Assistance

Renters and former borrowers might be eligible for financial relocation assistance to help cover expenses associated with moving. To qualify, you must:

- Sign an agreement with Fannie Mae to move out of the property
Leave the property in broom-swept condition before you can receive payment

Next Steps – Contact Information

Call the agent listed below within 10 days to let us know if you wish to pursue either of the options described above or if you wish to purchase the property. If we do not hear from you within ten (10) days from the date of this notice, we will assume that you are not seeking any of these options, although failure to notify Fannie Mae within ten (10) days will not result in a waiver of any of your rights.

- If you communicate your desire to continue renting, a Property Manager will contact you within a few days to evaluate your lease options.
Rent payments due should no longer be sent to the previous owner and should instead be paid to the Property Manager or the agent listed below.

Fannie Mae-Assigned Real Estate Agent – Contact Information

Agent Name: Amal Yeargin
Company Name: Amal Yeargin Realty, Inc
Company Address: 335 Prado Way, Greenville SC 29607
Office Phone: (864) 467-0660
Cell Phone:
E-mail: ayr@pipeline.com

If no agent contact information is provided here, or if you have any concerns regarding the broker or property manager assigned to manage your property, please call Fannie Mae at 1-800-732-6643.



EXHIBIT F

WELLS FARGO HOME MORTGAGE
RETURN MAIL OPERATIONS
PO BOX 10368
DES MOINES IA 50306-0368



10/05/10



1MB 03899/003899/007178 0011 2 ACNMKRLM117 708

LINCOLN E SIMPSON
LYNN D SIMPSON
400 MILLS AVE UNIT 301
GREENVILLE, SC 29605-4185

Account Information	
Online:	yourwellsfargomortgage.com
Fax:	(866) 278-1179
Telephone:	(800) 416-1472
Correspondence:	PO Box 10335 Des Moines, IA 50306
Hours of Operation:	Mon - Fri, 8 AM - 11 PM Sat, 9 AM - 3 PM ET
Loan Number:	[REDACTED]
Property Address:	400 Mills Avenue 301 Greenville SC 29605

SUBJECT: Loan modification review in progress

Dear Lincoln E Simpson & Lynn D Simpson:

At Wells Fargo Home Mortgage, our goal is to ensure that you have every opportunity to retain your home. Based on our telephone conversation and the financial information you provided, we are considering a program that may assist you in bringing your loan current. This program, known as a loan modification, would provide you with the opportunity for a fresh start by adjusting the current terms of your loan. Please be advised this letter is not a guarantee or approval of the loan modification.

An initial payment of \$4200.00 must be received by 2010-10-15. *With representative on the phone*

~~If these funds are or have been collected during your conversation with one of our representatives, please disregard the above mentioned due date.~~

What's next?

We will complete an analysis of your situation and seek any necessary approvals. Based on your financial ability, the terms of your loan modification may change. We may add any remaining past due interest or escrow payments (taxes and insurance) to your outstanding loan balance and/or may extend the terms of your loan. If the loan modification is approved, you will receive additional information that explains the terms of the agreement.

Please be aware that until you are approved for a loan modification, your loan will remain in default status, including any foreclosure action that may be in process. ~~Foreclosure activity will not be suspended until you have returned the required initial payment.~~ You are responsible to pay any fees associated with this action that continue to accrue until your loan modification is approved

The initial payment amount quoted above must be received in our office no later than the date requested. Once again, if the amount mentioned was collected during your conversation with the Wells Fargo representative please disregard. Please mail to:

Wells Fargo Home Mortgage
1200 W. 7th Street

Together we'll go far



100510LM1170001D

Account Information

Loan Number: 0005770514

Property Address: 400 Mills Avenue 301
Greenville SC 29605Suite 2L-200
Los Angeles, CA 90017

We know your time is valuable. For your convenience, you may access our online Mortgage Payment Workout tool to track the progress of our review. Reduce the number of calls you have to make by simply logging into wellsfargo.com/assist. You will be asked to provide:

- The last four digits of your Social Security Number
- Your loan number (printed at the top of this letter)
- The zip code of your property
- Your home phone number
- Your current monthly mortgage payment amount

1622 29

If during the review process, additional information is needed, we will be contacting you to discuss. If you have questions or need further assistance, please contact us at the number listed in the account information section of this letter. We appreciate your prompt attention to this matter.

Sincerely,

Loss Mitigation**Wells Fargo Home Mortgage**

This communication is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge of this debt in bankruptcy or are currently in a bankruptcy case, this notice is not intended as an attempt to collect a debt, and we have a security interest in the property and will only exercise our rights as against the property.

With respect to those loans secured by property located in the State of California, the state Rosenthal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

EXHIBIT G



Consolidated Statement

VACHOVIA

VIC's Faxed Home Mortgage
4220.00 10/15/10
not applied to mortgage
10/14/2010 thru 11/10/2010

Crown Classic Account Interest

Interest

Number of days this statement period	28
Annual percentage yield earned	0.03%
Interest earned this statement period	\$0.01
Interest paid this statement period	\$0.01
Interest paid this year	\$0.28

Checks

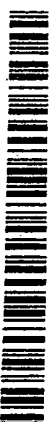
Number	Amount	Date	Number	Amount	Date	Number	Amount	Date
4319	110.00	11/05	4349*	487.50	11/09	4356*	106.00	11/09
4346*	180.00	10/29	4351*	45.00	11/05	Total	\$928.50	

* Indicates a break in check number sequence

Other Withdrawals and Service Fees

Date	Amount	Description
10/14	[REDACTED]	[REDACTED]
10/14	261.00	[REDACTED]
10/15	[REDACTED]	[REDACTED]
10/15	4,220.00	AUTOMATED DEBIT MORTGAGE PAYMENT EFT CO. ID. R952318940 101015 TEL MISC 0005770514
10/18	[REDACTED]	[REDACTED]
10/18	[REDACTED]	[REDACTED]
10/20	[REDACTED]	[REDACTED]
10/20	[REDACTED]	[REDACTED]
10/20	[REDACTED]	[REDACTED]
0/20	3,050.00	[REDACTED]
0/29	[REDACTED]	[REDACTED]
1/03	[REDACTED]	[REDACTED]

pd but not applied to note?



RTS/CAL 005/81 315044135044 NNNN NNNN NNNN NNNN NNNN NNNN

Other Withdrawals and Service Fees continued on next page.

EXHIBIT H

From: chloe2042 <[REDACTED]>
To: payoffreins <[REDACTED]>
Cc: toucalit.benton <[REDACTED]>
Sent: Wed, Jan 26, 2011 4:15 am
Subject: Fwd: Lincoln E. Simpson & Lynn D. Simpson ~ Wells Fargo Mortgage ~ case #10-CP-23-8152

*Rogers, Townsend & Thomas, PC
File No. 011784-16084*

Attn: Samuel C. Waters

Based on this email and attachments, I am asking that you work with your client, Wells Fargo Home Mortgage, to immediately reinstate this mortgage ~ so that there can be a resolution to this matter.

Regards,

Lynn Simpson

-----Original Message-----

From: chloe2042 <[REDACTED]>
To: toucalit.benton <[REDACTED]>
Sent: Wed, Jan 26, 2011 3:05 am
Subject: Lincoln E. Simpson & Lynn D. Simpson ~ Wells Fargo Mortgage ~ PMI Certificate #35739688

re: Wells Fargo Home Mortgage [REDACTED]

Toucalit Benton ~

Wells Fargo has been negligent and less than honest in their practices and communication with me regarding the Home Loan Modification, as you can see by the attachments that I have included with this email. The letter dated December 16, 2010 stating that 'there would be no foreclosure scheduled on the property for 30 days from that date as permitted by state law' ~ this was absolutely permitted by state law, but Wells Fargo was responsible for the decision with their lawyers. No matter how any times I called the lawyers or Wells Fargo questioning this, I was just referred back to the other and never given any answers ~ I was only led to believe with letters from Wells Fargo that they were working with me and I felt confident that I could believe and that they would be held responsible for what was sent to me in writing.

Even though I had a letter from PMI stating to call for assistance should I have a problem with Wells Fargo, I was told that PMI did not have an account listed with them. Therefore, any help that I would have received with PMI was not given to me. I am asking

-----Original Message-----

From: chloe2042 <[REDACTED]>

To: jjeffers <[REDACTED]>

Sent: Fri, Jan 21, 2011 6:08 am

Subject: Fwd: Lynn Simpson ~ foreclosure on property ~ 400 Mills Avenue #301, Greenville, South Carolina 29605

Also in this attachment ~ page 1 of the letter dated December 16, 2010.

Thank you so much ~ Lynn Simpson

phone # 864-616-6120

-----Original Message-----

From: chloe2042 <[REDACTED]>

To: jjeffers <[REDACTED]>

Sent: Thu, Jan 20, 2011 4:27 pm

Subject: Lynn Simpson ~ foreclosure on property ~ 400 Mills Avenue #301, Greenville, South Carolina 29605

Judge Charles B. Simmons Jr.

A copy of the letter sent from Wells Fargo Home Mortgage saying that they were working on other options for mortgage payments. It also says that there would be no foreclose scheduled for 30 days from the date of the letter ' as permitted by state law ' ~ my problem was that neither the attorney's office nor Wells Fargo Home Mortgage could give me that information. The letter also states to call for further options with Wells Fargo within the 30 days. The date of the letter was December 16, 2010. I also received a similar letter dated January 4, 2011 stating that there would be no forecloseure scheduled for 30 days from the date on the letter. I am also forwarding an email that I sent to the lawyers office today explaining the situation with the Wells Fargo Loan modification program. I have yet to get anything regarding a foreclosure from either the attorney or Wells Fargo. Please take into consideration the information that I am sending and respond with any advice that you have for me.

Regards,

Lynn Simpson

From: chloe2042 <[REDACTED]>
To: jjeffers <[REDACTED]>
Sent: Sun, Jan 23, 2011 5:41 am
Subject: Lynn D. Simpson ~ foreclosure 400 Mills Ave. #301 ~ Jan. 4th letter from Wells Fargo ~ stating
unable to do loan modification because property is CONDEMNED

*Judge Charles B. Simmons, Jr.
re: Wells Fargo home mortgage #0005770514
foreclosure ~ 400 Mills Avenue #301, Greenville, South Carolina 29605
Lynn D. Simpson*

phone # 864-616-6120

Judy ~ This is the letter dated January 4th, 2011 received from Wells Fargo stating that the Home Mortgage Modification Loan was not able to be completed because property is ~ CONDEMNED ~ yet this is the date of the foreclosure sale. It also states that they will continue to work on other options. I contacted Wells Fargo and was transferred to many different departments ~ there were no answers and someone was supposed to get back to me ~ I have not received any phone calls or letters from Wells Fargo ~ I also have not received anything regarding the foreclosure from them.

Thank you so much for your help with this ~

*Regards,
Lynn Simpson*

To: Rene Bell

Cc: wells Fargo [REDACTED]

Cc: toucallit.dentor [REDACTED]

Cc: jon.leibowitz [REDACTED]

Subject: Re: Wells Fargo Home Mtg. 0005770514

Sent: Jan 20, 2011 11:39 AM

Since this has been the only form of communication that I have had any real form of communication from your law firm, I am asking you to please respond to me. Wells Fargo has told me that your office would be the source to give me an answer regarding the laws in the state of South Carolina as it pertains to the statement of 'no foreclosure being scheduled for 30 days from the date of the letter, December 16th while they were working on other options'. - I also received another letter from Wells Fargo on January 4th stating they were still looking into other options and no foreclosure would be scheduled for 30 days from that date - yet that was the very day your office proceeded with the foreclosure....this is unbelievable. Also, the very person that was supposed to put in for an extension of the foreclosure date when I talked to her two weeks before the date was scheduled never put in for that extension - I was informed of this when she did not respond to my phone calls and messages....at first I thought this was possibly because of the holidays.....but finally after calling her and having someone else answer, I was told that she no longer worked there. The last conversation that I had with Wells Fargo was that your office could work with me regarding reversing the foreclosure and options for payments on my mortgage. Please respond to me as soon as possible - it would be best to come to some kind of a solution for all parties involved. I have said all along that I intend to stay in the property - it is my primary residence, and I have been asking for payment option from Wells Fargo for months.....they would not accept any payments on my mortgage during the loan modification process, which then became very far behind in monthly payments, even though I was willing to make those monthly payments, and that I had done all that was required of me by Wells Fargo. Even though I received letters from Wells Fargo to call for options available to me as soon as possible - when I called there were no options given, and I was told that I just had to wait for them to contact me. I never received any letter or contact regarding such options. An investigation into the practices of your office, as well as Wells Fargo Home Mortgage will be started, and I intend to do everything I can do to file the complaints with appropriate agencies to prove that the loan modification process and resulting foreclosure on this property were handled inappropriately and with negligence. Everything I have done to make a resolution to my home mortgage possible has been documented - as well as faxes sent and letters received from Wells Fargo Home Mortgage. I am asking that we work together with Wells Fargo to come to some kind of resolution. Please respond to me today - Lynn Simpson

-----Original Message-----

From: Rene Bell

To: [REDACTED]

Subject: Re: Wells Fargo Home Mtg.

Sent: Jan 13, 2011 8:31 AM

I am awaiting their response.

>>>

From: [REDACTED]

To: "Rene Bell" [REDACTED]

Date: 1/12/2011 12:33 PM

Subject: Re: Wells Fargo Home Mtg.

-----Original Message-----

To: Rene Bell
Subject: Re: Wells Fargo Home Mtg.
Sent: Jan 18, 2011 12:17 PM

there seems to have been plenty of time for them to have responded to you - please do all you can to get me an answer - thank you.

-----Original Message-----

From: Rene Bell
To: [REDACTED]
Subject: Re: Wells Fargo Home Mtg.
Sent: Jan 18, 2011 10:54 AM

They have acknowledged receipt, but have not responded as of yet.

>>>

From: [REDACTED]
To: "Rene Bell" <[REDACTED]>
Date: 1/18/2011 10:52 AM
Subject: Re: Wells Fargo Home Mtg.

I would appreciate hearing from you as soon as possible. I received a letter from Wells Fargo dated January 4th stating that they were continuing to work on other options for the loan....yet according to the attorney, this is not the case. I need information please - Lynn Simpson
Sent from my Verizon Wireless BlackBerry

-----Original Message-----

From: "Rene Bell" <[REDACTED]>
Date: Thu, 13 Jan 2011 08:31:15
To: <[REDACTED]>
Subject: Re: Wells Fargo Home Mtg.

I am awaiting their response.

>>>

From: [REDACTED]
To: "Rene Bell" <[REDACTED]>
Date: 1/12/2011 12:33 PM
Subject: Re: Wells Fargo Home Mtg.

I have not heard anything further. As I mentioned Wells Fargo had sent me a letter on December 16th stating that they were not able to do a loan modification, but that would inform me separately of other options. There was to be no foreclosure date set during a 30 day period from the date of the letter if permitted by state law. I was told by the office of Rogers Townsend & Thomas that it was permitted in the state of South Carolina - yet that did not happen. I had Wells

Fargo fax a copy of this letter that was sent to me, and I never heard anything further. The person working with me was not responding to my phone calls, and it was not until January 4th that I was told she no longer worked there. Wells Fargo has told me to contact you regarding options for payment, and that you should be able to work with me on this. I have made phone calls to your office and have also sent these emails and have not had any further response. Please contact me as soon as possible....email is so far the only communication at all that I have received. I feel that I was misled by Wells Fargo in them telling me that they had everything they needed from me and would work with me on options for payments - Lynn Simpson
Sent from my Verizon Wireless BlackBerry

-----Original Message-----

From: "Rene Bell" <[REDACTED]>
Date: Tue, 11 Jan 2011 10:58:02
To: <[REDACTED]>
Subject: Re: Wells Fargo Home Mtg.

I will be glad to have our attorney review your email and get back with our client regarding it.

Our office represents the Plaintiff in this action and cannot offer you any legal advise.

>>>

From: <[REDACTED]>
To: "Rene Bell" <[REDACTED]>
Date: 1/11/2011 10:41 AM
Subject: Re: Wells Fargo Home Mtg.

I don't understand and was told by the attorneys office that the law applied to South Carolina. The letter also stated that I had 30 days from the date of the letter to contact you and that Wells Fargo was still working on options for me and would be in contact with me. The person working with me at the attorneys office is no longer there, and she was supposed to have put in an extension for me at their office. So far, what I have been told or letters I have been sent by Wells Fargo has not happened - what recourse do I have with this.
Sent from my Verizon Wireless BlackBerry

-----Original Message-----

From: "Rene Bell" <[REDACTED]>
Date: Tue, 11 Jan 2011 10:16:30
To: <[REDACTED]>
Subject: Wells Fargo Home Mtg.

Please be advised that WF has advised our office that the sale was not to be canceled.

From: Lynn Simpson <[REDACTED]>
To: <[REDACTED]>
Date: 1/3/2011 10:17 PM
Subject: re: Wells Fargo Home Mtg.

EXHIBIT I

WELLS FARGO HOME MORTGAGE
RETURN MAIL OPERATIONS
PO BOX 10368
DES MOINES IA 50306-0368



01/04/11



1MB 03637/003637/006555 0010 2 ACNQJSLM706 708

LINCOLN E SIMPSON
LYNN D SIMPSON
400 MILLS AVE UNIT 301
GREENVILLE, SC 29605-4185

Account Information	
Online:	yourwellsfargomortgage.com
Fax:	(866) 278-1179
Telephone:	(800) 416-1472
Correspondence:	PO Box 10335 Des Moines, IA 50306
Hours of Operation:	Mon - Fri, 8 AM - 11 PM Sat, 9 AM - 3 PM:CT
Loan Number:	[REDACTED]
Property Address:	400 Mills Avenue 301 Greenville SC 29605

Subject: Home Affordable Modification Program

Dear Lincoln E Simpson & Lynn D Simpson:

We're writing to provide you with the results of our efforts to find a solution that might help with the mortgage payment challenges you're facing.

Decision on the Federal Government's Home Affordable Modification Program

Unfortunately, after carefully reviewing the information you've provided, we are unable to adjust the terms of your mortgage through the Home Affordable Modification Program because your property is condemned.

We will review your loan for alternative loss mitigation options and notify you separately of the results of that review. You may contact us at the number listed in the account information section if you wish to discuss any of these solutions.

Additional assistance is available

If monthly expenses other than your mortgage payment are creating part of your financial strain, we encourage you to contact a HUD-approved, non-profit, community based Credit Counseling agency who can work with you, at no charge, to lower your monthly payments. You can find a local agency by calling (800) 569-4287 or call the HOPE Hotline Number at (888) 995-HOPE. A counselor will work closely with you, take your financial circumstances into consideration, create a budget plan that may work for you and provide assistance in understanding the Borrower Notice by asking for Making Home Affordable HELP.

Be sure you avoid anyone who asks for a fee for counseling or a loan modification, or asks you to sign over the deed to your home, or to make your mortgage payments to anyone other than Wells Fargo Home Mortgage.



010411LM7060001

WFM304P
LM708 708
003637/006555 ACNQJS B1-ET-M1-C001

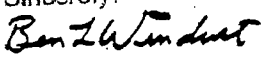


Together we'll go far

Account Information
Loan Number: [REDACTED]
Property Address: 400 Mills Avenue 301
Greenville SC 29605

If you have any questions about the decision we've made on your mortgage request, please call a Wells Fargo Home Mortgage representative today at the number listed in the account information section. We'd also like to hear from you if any of your circumstances have changed, or if you can provide us with additional information for consideration.

Sincerely,



Ben Windust
Senior Vice President
Wells Fargo Home Mortgage

This communication is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge of this debt in bankruptcy or are currently in a bankruptcy case, this notice is not intended as an attempt to collect a debt and, this company has a security interest in the property and will only exercise its rights as against the property.

With respect to those loans in the state of California, the state Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is Office of the Comptroller of the Currency, Customer Assistance Group, 1301 McKinney Street, Suite 3450, Houston, TX 77010-9050.

If you reside in the state of New York and if you believe the loss mitigation request has been wrongly denied, you may file a complaint with the New York State Banking Department at 1-877-BANK-NYS or www.banking.state.ny.us.

Wells Fargo Home Mortgage is a division of Wells Fargo Bank, N A ©2009 Wells Fargo Bank, N A All rights reserved.



LM705 708
003037/008556 ACNQS S1-ET-M1-C001

010411LM7060001

EXHIBIT J

ROGERS TOWNSEND & THOMAS, PC

ATTORNEYS AND COUNSELORS AT LAW

Samuel C. Waters

tel 803-227-7700

mail PO Box 100200

web www.rtt-law.com

Columbia, South Carolina 29202

714580-00698

NOTICE TO VACATE PROPERTY

TO: All occupants residing at: 400 Mills Avenue, Unit 301, Greenville, SC 29605

NOTICE IS HEREBY GIVEN THAT Federal National Mortgage Association,, or its predecessor in interest, purchased the property located at 400 Mills Avenue, Unit 301, Greenville, SC 29605 (the "Premises") at the foreclosure sale held on January 4, 2011 by the Master in Equity for Greenville County.

NOTICE IS FURTHER GIVEN THAT:

within **TEN (10)** of the date of this Notice, if you are any person who is not a bona fide tenant or subtenant, you are required to vacate and surrender possession of the Premises or the portion in which you reside, to Federal National Mortgage Association, through Amal Yeargin, its agent, who can be reached at 864-467-0660 from 9:00 a.m. to 5:00 p.m. on all business days, **unless you provide evidence that you are a bona fide tenant** pursuant to Section 702(a)(2)(A) of the federal "Protecting Tenants at Foreclosure Act of 2009" ("PTFA") or are protected by Section 703 of the PTFA. Please see the Addendum of this Notice for instructions on how to deliver this evidence.

If within the applicable period as set forth above, EITHER if you fail to surrender possession OR if you fail to provide evidence you are a bona fide tenant pursuant to Section 702(a)(2)(A) of the PTFA or are protected by Section 703 of the PTFA, Federal National Mortgage Association, will commence eviction proceedings against you to recover possession of the Premises.

If you can provide evidence that you are a bona fide tenant, your continued use of the property is contingent upon your making timely rental payments to the new owner or its agent until you actually vacate the property. Your former landlord is no longer entitled to collection of the rental payments. You will be contacted shortly with instructions detailing where to forward your payments. Return of your security deposit is not the obligation of Federal National Mortgage Association.

Fannie Mae previously delivered its "Knowing Your Options" Document to you. Fannie Mae has either not received a response from you or has not received information that you are entitled to additional protections under the Protecting Tenants at Foreclosure Act of 2009. If you did not receive Fannie Mae's "Knowing Your Options" Document or your

believe you are entitled to additional protections under state or federal law, please contact this office immediately.

Dated January 19, 2011

Rogers Townsend & Thomas, PC
By: Samuel C. Waters

EXHIBIT K



Return Mail Operations
P.O. Box 103
Des Moines, IA 50306-0368

February 18, 2011

002977 1 MB 0.382 287710028771007766 013 01 AC044K WC116 708

Lincoln E Simpson
Lynn D Simpson
400 Mills Ave Unit 301
Greenville SC 29605-4185



Dear Lincoln E Simpson & Lynn D Simpson :

RE: Loan Number ~~XXXXXXXXXX~~ Client 708.

I have received your inquiry regarding your loan. Addressing the concerns of our homeowners is vital to our success as a mortgage servicing company. Thank you for your feedback.

Currently, the issues raised in your correspondence are under review and appropriate action will be taken once our research has been completed. Your patience is appreciated. You can expect a response as soon as the necessary loan information has been received.

Our goal is to provide you with superior, personalized service in a timely manner. If you have any questions during our time of research, please call me toll-free at (877) 501-0871, extension 44465, Monday through Friday, 8 AM to 5 PM, Central Time.

Sincerely,

Jerilynn Frerichs
Written Customer Contact

*as of August 4, 2011 -
there has been no communication
from Wells Fargo Home Mortgage.*

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Master in Equity

Case No. 2010-CP-23-08152

Wells Fargo Bank, N.A.,

Respondent,

v.

Lynn D. Simpson,

Appellant.

NOTICE OF APPEAL

Lynn D. Simpson, by and through undersigned counsel, appeals the Order Denying Defendant's Motion for Relief from Order of Foreclosure and Sale dated November 5, 2012. Appellant received written notice of the entry of this order on November 7, 2012.

November 19, 2012



Marcus W. Meetze
Law Office of Marcus W. Meetze, LLC
712 E. Washington St.
Greenville, South Carolina 29601
864-271-3555 (p)
864-242-4885 (t)

Other Counsel of Record:
Benjamin James Powell
Rogers Townsend & Thomas, PC.
Post Office Box 100200
Columbia, SC 29201

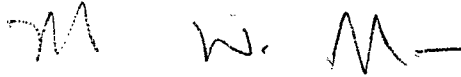
RECEIVED

NOV 26 2012

SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Marcus W. Meetze S.C. Bar No. 77210
Law Office of Marcus W. Meetze, LLC
712 E. Washington St.
Greenville, South Carolina 29601
864-271-3555 (p)
864-242-4885 (t)
Attorney for Appellant

June 4, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Master in Equity

Case No. 2010-CP-23-08152

Wells Fargo Bank, N.A.,

Respondent,

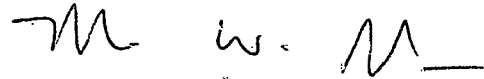
v.

Lynn D. Simpson,

Appellant.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on Respondent Wells Fargo Bank, N.A. by depositing a copy of it in the United States Mail, postage prepaid, on June 5, 2013, addressed to its attorneys of record, S. Sterling Laney, III, 550 South Main Street, Suite 400, Greenville, South Carolina 29601, Jana B. Baker, 5 Exchange Street, Charleston, South Carolina 29401, M. Todd Carroll, 1727 Hampton Street, Columbia, South Carolina 29201.



Marcus W. Meetze
Law Office of Marcus W. Meetze, LLC
712 E. Washington St.
Greenville, South Carolina 29601
864-271-3555 (p)
864-242-4885 (t)

RECORDED

JUN 12 2013

SC Court of Appeals