

05-1992-CD  
Mort. Elec. Reg. Vs Melissa Johns

Netbank et al vs Melissa Johns et al  
2005-1992-CD

Date: 10/21/2010

**Clearfield County Court of Common Pleas**

User: BHUDSON

Time: 08:54 AM

ROA Report

Page 1 of 2

Case: 2005-01992-CD

Current Judge: Fredric Joseph Ammerman

Netbank as Successor in Interest to RBMG, Inc., et al vs. Melissa D. Johns, et al

**Mortgage Foreclosures**

Date	Judge
12/22/2005	New Case Filed. No Judge
	Filing: Civil Complaint in Mortgage Foreclosure property located in Sandy Township. Paid by: Hallinan, Francis S. (attorney for Mortgage Electronic Registration Systems, Inc.) Receipt number: 1911778 Dated: 12/22/2005 Amount: \$85.00 (Check) 2 Cert. to Sheriff No Judge
3/15/2006	Sheriff Return, December 30, 2005 at 11:40 am served the within Complaint in Mortgage Foreclosure on Melissa D Johns. December 30, 2005 at 11:40 am served the within Complaint in Mortgage Foreclosure on David R. Johns. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Phelan \$62.43 No Judge
3/27/2006	Praeclipe for Judgment for failure to Answer and assessment of Damages, No Judge filed by Atty. Schmieg, Paid 20.00 by check #49196, receipt # 1913056 Judgment entered against the Defendants in the amount of \$46,862.86 Cert. to each Defendant with Notice and Cert. to Atty. No Judge
4/10/2006	Filing: Praeclipe For Writ of Execution (Mortgage Foreclosure) Paid by: Hallinan, Francis S. (attorney for Mortgage Electronic Registration Systems, Inc.) Receipt number: 1913275 Dated: 04/10/2006 Amount: \$20.00 (Check) Judgment Amount: \$46,862.86 Filed by s/ Daniel G. Schmieg, Esquire. 1CC & 6 Writs w/prop. descr. to Shff No Judge
6/12/2006	Affidavit of Service filed. Served and made known to Melissa D. Johns and David R. Johns defendants on the 17th day of May 2006 a true and correct copy of the Notice of Sheriff's Sale, filed by s/ Daniel G. Schmieg Esq. NO CC. No Judge
7/3/2006	Affidavit Pursuant to Rule 3129.1 and Return of Service Pursuant to P.A.R.C.P. of Notice of Sale, filed by s/ Daniel G. Schmieg Esq. No CC. No Judge
1/19/2007	Sheriff Return, NOT SOLD So Answers, Chester A. Hawkins, Sheriff by s/Cynthia Bulter-Aughenbaugh. Shff Hawkins costs pd by atty. \$263.89 No Judge
6/10/2010	Filing: Praeclipe to Mark Judgment to Use Plaintiff Paid by: Hallinan, Francis S. (attorney for Netbank as Successor in Interest to RBMG, Inc.) Receipt number: 1935156 Dated: 6/10/2010 Amount: \$7.00 (Check) For: Netbank as Successor in Interest to RBMG, Inc. (pl) Praeclipe For Voluntary Substitution of Party Plaintiff Pursuant to Pa. R.C.P. 2352. Kindly substitute HSBC Bank USA, National Association as Indenture Trustee For Peoples Choice Home Loan Securities Trust Series 2005-1, Mortgage-Backed Notes, Series 2005-1 as successor Plaintiff for the originally named Plaintiff. Kindly amend the information on the docket accordingly. filed by s/ Andrew C. Bramblett, Esquire. No CC No Judge
	Praeclipe to Mark Judgment to Use Plaintiff, HSBC Bank USA, National Association as Indenture Trustee For Peoples Choice Home Loan Securities Trust Series 2005-1, Mortgage-Backed Notes, Series 2005-1. Filed by s/ Andrew C. Bramblett, Esquire. Entry of Appearance, enter appearance of Andrew C. Bramblett, Esq. on behalf of HSBC Bank USA, National Association as Indenture Trustee For Peoples Choice Home Loan Securities Trust Series 2005-1, Mortgage-Backed Notes, Series 2005-1. Filed by s/ Andrew C. Bramblett, Esquire. No CC No Judge

Date: 10/21/2010

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**ROA Report**

Page 2 of 2

**Case: 2005-01992-CD**

Current Judge: Fredric Joseph Ammerman

Netbank as Successor in Interest to RBMG, Inc., et al vs. Melissa D. Johns, et al

**Mortgage Foreclosures**

Date	Judge	
6/23/2010	<input checked="" type="checkbox"/> Filing: Praeclipe for Writ of Execution Paid by: Phelan Hallinan & Schmieg, LLP Receipt number: 1935352 Dated: 6/23/2010 Amount: \$20.00 (Check) For: HSBC Bank USA (plaintiff) Issued 6 writs to sheriff	No Judge
8/2/2010	<input checked="" type="checkbox"/> Plaintiff's Motion to Reassess Damages, filed by s/ Jenine R. Davey, Esq. NO CC	No Judge
8/6/2010	<input checked="" type="checkbox"/> ✓ Scheduling Order, this 6th of Aug., 2010, a hearing on Plaintiff's Petition To Reassess Damages are scheduled for the 7th of Sept., 2010 at 10:30 a.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC to Atty.	Fredric Joseph Ammerman
8/9/2010	<input checked="" type="checkbox"/> ✓ Affidavit of Service pursuant to Rule 3129.1, filed by s/ Andrew C. Bramblett Esq. No CC.	Fredric Joseph Ammerman
8/30/2010	<input checked="" type="checkbox"/> ✓ Affidavit of Service filed. Served and made known to David R. Johns on the 3rd day of August 2010 at 8:00 pm personally handed a true and correct copy of the Notice of Sheriff's Sale, served by s/ Ronald Moll. No CC. <input checked="" type="checkbox"/> ✓ Affidavit of Service filed. Served and made known to Melissa D. Johns on the 2nd day of August 2010 at 8:40 am personally handed a true and correct copy of the Notice of Sheriff's Sale, served by s/ Ronald Moll. No CC.	Fredric Joseph Ammerman
9/3/2010	<input checked="" type="checkbox"/> ✓ Plaintiff's Motion For Continuance, filed by s/ Jeremy J. Kobeski, Esq. No CC <input checked="" type="checkbox"/> ✓ Certificate of Service, filed. That true and correct copies of Plaintiff's Motion for Continuance was serve via overnight mail to Melissa D. Johns and David R. Johns, filed by s/ Jeremy J. Kobeski Esq. No CC.	Fredric Joseph Ammerman
9/8/2010	<input checked="" type="checkbox"/> ✓ Order, this 2nd day of Sept., 2010, the Rule Returnable date for Plaintiff's pending Motion to Reassess Damages is continued to Oct 19, 2010 at 11:30 A.M. in Courtroom 1. By The Court, /s/ Fredric J. Amemrman, Pres. Judge. 3CC Atty. Kobeski <input checked="" type="checkbox"/> ✓ Order, this 7th of Sept., 2010, it is Ordered that the Rule Returnable date for Plaintiff's pending Motion to Reassess Damages is continued to Oct. 19, 2010 at 11:30 a.m. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Kobeski	Fredric Joseph Ammerman
9/10/2010	<input checked="" type="checkbox"/> ✓ Certificate of Service, filed. That a true and correct copy of the Court's Order scheduling argument was sent on 9/9/10 to Melissa D. Johns and David R. Johns, filed by s/ Sheetal R. Shah-Jani Esq. No CC.	Fredric Joseph Ammerman
9/29/2010	<input checked="" type="checkbox"/> ✓ Certification of Service, filed. That a true and correct copy of the Court's September 2, 2010 Rule was served upon Melissa D. Johns and David R. Johns on 9/28/10, filed by s/ Sheetal R. Shah-Jani Esq. No CC.	Fredric Joseph Ammerman
10/19/2010	<input checked="" type="checkbox"/> ✓ Order, this 19th of Oct., 2010, the Prothonotary is Ordered to amend the in rem judgment and the Sheriff is Ordered to amend the writ nunc pro tunc. TOTAL: \$53,037.36, plus interest from Sept. 3, 2010 through the date of sale at six percent per annum. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC to Atty.	Fredric Joseph Ammerman

PHELAN HALLINAN & SCHMIEG, LLP  
LAWRENCE T. PHELAN, ESQ., Id. No. 32227  
FRANCIS S. HALLINAN, ESQ., Id. No. 62695  
ONE PENN CENTER PLAZA, SUITE 1400  
PHILADELPHIA, PA 19103  
(215) 563-7000

ATTORNEY FOR PLAINTIFF

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.  
8201 GREENSBORO DRIVE, SUITE 350  
MCLEAN, VA 22102

Plaintiff

v.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 2005-1992-CV

CLEARFIELD COUNTY

Defendants

**CIVIL ACTION - LAW**  
**COMPLAINT IN MORTGAGE FORECLOSURE**

**NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service:  
Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street  
PO Box 186  
Harrisburg, PA 17108  
800-692-7375

Notice to Defend:  
David S. Meholick, Court Administrator  
Clearfield County Courthouse  
2<sup>nd</sup> and Market Streets  
Clearfield, PA 16830  
814-765-2641 x 5982

File #: 118333

**FILED**  
DEC 22 2005  
m/1:40/05  
William A. Shaw  
Prothonotary/Clerk of Courts  
2 Cents to SHFF.  
RECEIVED  
ATTN:

**IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:**

**PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.**

**THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.**

**IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.**

1. Plaintiff is

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.  
8201 GREENSBORO DRIVE, SUITE 350  
MCLEAN, VA 22102

2. The name(s) and last known address(es) of the Defendant(s) are:

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.

3. On 11/04/2004 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to PLAINTIFF which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No: 200418331.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 03/01/2005 and each month thereafter are due and unpaid, and by the terms of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$40,748.80
Interest	3,336.59
02/01/2005 through 12/20/2005	
(Per Diem \$10.33)	
Attorney's Fees	1,250.00
Cumulative Late Charges	16.78
11/04/2004 to 12/20/2005	
Cost of Suit and Title Search	<u>\$ 550.00</u>
Subtotal	\$ 45,902.17
Escrow	
Credit	0.00
Deficit	0.00
Subtotal	<u>\$ 0.00</u>
<b>TOTAL</b>	<b>\$ 45,902.17</b>

7. The attorney's fees set forth above are in conformity with the mortgage documents and Pennsylvania law, and will be collected in the event of a third party purchaser at Sheriff's Sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.

8. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$ 45,902.17, together with interest from 12/20/2005 at the rate of \$10.33 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP

*Francis A. Hallinan*  
By: /s/Francis S. Hallinan  
LAWRENCE T. PHELAN, ESQUIRE  
FRANCIS S. HALLINAN, ESQUIRE  
Attorneys for Plaintiff

## **LEGAL DESCRIPTION**

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street extension, and the place of beginning.

BEING designated as tax parcel #128.0-B4-651-32 in the Clearfield County Recorder's Office.

BEING the same premises conveyed to Dorothy E. Hoover, by her mother, Minnie Nelson, widow, by deed dated January 19, 1981, and recorded January 23, 1981, in the Clearfield County Recorder of Deeds Office in Deed Book Volume 807, page 462.

PROPERTY BEING: 1099 SOUTH BRADY STREET

**VERIFICATION**

FRANCIS S. HALLINAN, ESQUIRE hereby states that he is attorney for PLAINTIFF in this matter, that Plaintiff is outside the jurisdiction of the court and or the Verification could not be obtained within the time allowed for the filing on the pleading, that he is authorized to make this verification pursuant to Pa. R. C. P. 1024 ( c ) and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of his knowledge, information and belief. Furthermore, it is counsel's intention to substitute a verification from Plaintiff as soon as it is received by counsel .

The undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.



FRANCIS S. HALLINAN, ESQUIRE  
Attorney for Plaintiff

DATE: 12/20/05

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101105  
NO: 05-1992-CD  
SERVICE # 1 OF 2  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC  
VS.  
DEFENDANT: MELISSA D. JOHNS & DAVID R. JOHNS

**SHERIFF RETURN**

---

NOW, December 30, 2005 AT 11:40 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MELISSA D. JOHNS DEFENDANT AT 1099 SOUTH BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MELISSA D. JOHNS, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

FILED  
03/17 LM  
MAR 15 2006

William A. Shaw  
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101105  
NO: 05-1992-CD  
SERVICE # 2 OF 2  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC  
vs.  
DEFENDANT: MELISSA D. JOHNS & DAVID R. JOHNS

**SHERIFF RETURN**

---

NOW, December 30, 2005 AT 11:40 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON DAVID R. JOHNS DEFENDANT AT 1099 SOUTH BRADY ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MELISSA D. JOHNS, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101105  
NO: 05-1992-CD  
SERVICES 2  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC  
vs.  
DEFENDANT: MELISSA D. JOHNS & DAVID R. JOHNS

**SHERIFF RETURN**

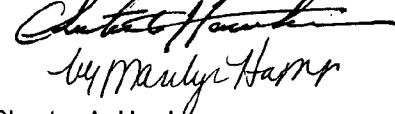
**RETURN COSTS**

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	470920	20.00
SHERIFF HAWKINS	PHELAN	470920	42.43

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2006



Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.  
8201 GREENSBORO DRIVE, SUITE 350  
MCLEAN, VA 22102

No.: 2005-1992-CD

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

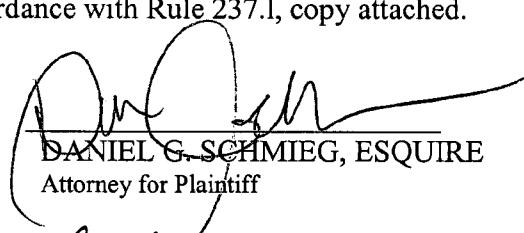
**PRAECIPE FOR JUDGMENT FOR FAILURE TO  
ANSWER AND ASSESSMENT OF DAMAGES**

TO THE PROTHONOTARY:

Kindly enter judgment in favor of the Plaintiff and against MELISSA D. JOHNS and DAVID R. JOHNS, Defendant(s) for failure to file an Answer to Plaintiff's Complaint within 20 days from service thereof and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

As set forth in Complaint	\$45902.17
Interest (12/21/05 to 3/24/06)	<u>960.69</u>
<b>TOTAL</b>	<b>\$46862.86</b>

I hereby certify that (1) the addresses of the Plaintiff and Defendant(s) are as shown above, and (2) that notice has been given in accordance with Rule 237.1, copy attached.

  
DANIEL G. SCHMIEG, ESQUIRE  
Attorney for Plaintiff

  
PRO PROTHY

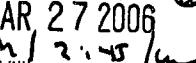
KAM

Damages are hereby assessed as indicated.

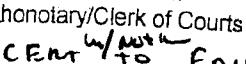
DATE: MARCH 27, 2006

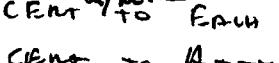
**FILED**

  
MAR 27 2006

  
William A. Shaw

Prothonotary/Clerk of Courts

  
CEN to FAX D/P

  
CEN to ATTY

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**

**CIVIL ACTION - LAW**

## MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

Plaintiff No.: 2005-1992-CD

VS.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendant(s)

Notice is given that a Judgment in the above captioned matter has been entered  
against you on MARCH 27 , 2006 .

By:  DEPUTY

If you have any questions concerning this matter please contact:

DANIEL G. SCHMIEG, ESQUIRE  
Attorney or Party Filing  
One Penn Center at Suburban Station  
1617 John F. Kennedy Blvd., Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

\*\*THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY ENFORCEMENT OF A LIEN AGAINST PROPERTY.\*\*

PHELAN HALLINAN & SCHMIEG, LLP  
By: Lawrence T. Phelan, Esq., Id. No. 32227  
Francis S. Hallinan, Esq., Id. No. 62695  
Daniel G. Schmieg, Esq., Id. No. 62205  
One Penn Center Plaza, Suite 1400  
Philadelphia, PA 19103  
(215) 563-7000

ATTORNEY FOR PLAINTIFF

MORTGAGE ELECTRONIC REGISTRATION : COURT OF COMMON PLEAS  
SYSTEMS, INC.

Plaintiff : CIVIL DIVISION

Vs. : CLEARFIELD COUNTY

MELISSA D. JOHNS : NO. 2005-1992-CD  
DAVID R. JOHNS

Defendants

TO: DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

DATE OF NOTICE: JANUARY 30, 2006

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY AS ENFORCEMENT OF LIEN AGAINST PROPERTY.

#### IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY  
DAVID S. MEHOLICK, COURT  
ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD, PA 16830  
(814) 765-2641 x 5982

PENNSYLVANIA LAWYER REFERRAL  
SERVICE  
PENNSYLVANIA BAR ASSOCIATION  
100 SOUTH STREET  
P.O. BOX 186  
HARRISBURG, PA 17108  
800-692-7375

---

FRANCIS S. HALLINAN, ESQUIRE  
Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP  
By: Lawrence T. Phelan, Esq., Id. No. 32227  
Francis S. Hallinan, Esq., Id. No. 62695  
Daniel G. Schmieg, Esq., Id. No. 62205  
One Penn Center Plaza, Suite 1400  
Philadelphia, PA 19103  
(215) 563-7000

ATTORNEY FOR PLAINTIFF

MORTGAGE ELECTRONIC REGISTRATION : COURT OF COMMON PLEAS  
SYSTEMS, INC.

Plaintiff : CIVIL DIVISION

Vs. : CLEARFIELD COUNTY

MELISSA D. JOHNS : NO. 2005-1992-CD  
DAVID R. JOHNS

Defendants

TO: MELISSA D. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

**DATE OF NOTICE: JANUARY 30, 2006**

THIS FIRM IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT THE INDEBTEDNESS REFERRED TO HEREIN, AND ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE. IF YOU HAVE PREVIOUSLY RECEIVED A DISCHARGE IN BANKRUPTCY, THIS CORRESPONDENCE IS NOT AND SHOULD NOT BE CONSTRUED TO BE AN ATTEMPT TO COLLECT A DEBT, BUT ONLY AS ENFORCEMENT OF LIEN AGAINST PROPERTY.

#### IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

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IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

CLEARFIELD COUNTY  
DAVID S. MEHOLICK, COURT  
ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD, PA 16830  
(814) 765-2641 x 5982

PENNSYLVANIA LAWYER REFERRAL  
SERVICE  
PENNSYLVANIA BAR ASSOCIATION  
100 SOUTH STREET  
P.O. BOX 186  
HARRISBURG, PA 17108  
800-692-7375

FRANCIS S. HALLINAN, ESQUIRE  
Attorneys for Plaintiff

PHELAN HALLINAN & SCHMIEG  
By: DANIEL G. SCHMIEG, ESQUIRE  
IDENTIFICATION NO. 62205  
ONE PENN CENTER AT SUBURBAN STATION  
1617 JOHN F. KENNEDY BLVD., SUITE 1400  
PHILADELPHIA, PA 19103-1814  
(215) 563-7000

ATTORNEY FOR PLAINTIFF  
COURT OF COMMON PLEAS  
CIVIL DIVISION

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 2005-1992-CD

vs.

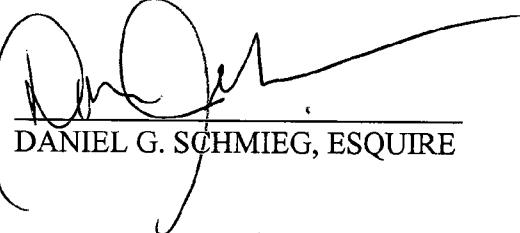
MELISSA D. JOHNS  
DAVID R. JOHNS

**VERIFICATION OF NON-MILITARY SERVICE**

DANIEL G. SCHMIEG, ESQUIRE, hereby verifies that he is attorney for the Plaintiff in the above-captioned matter, and that on information and belief, he has knowledge of the following facts, to wit:

- (a) that the defendant(s) is/are not in the Military or Naval Service of the United States or its Allies, or otherwise within the provisions of the Soldiers' and Sailors' Civil Relief Act of Congress of 1940, as amended.
- (b) that defendant, MELISSA D. JOHNS, is over 18 years of age, and resides at 1099 SOUTH BRADY STREET , DU BOIS, PA 15801 .
- (c) that defendant, DAVID R. JOHNS, is over 18 years of age, and resides at 1099 SOUTH BRADY STREET , DU BOIS, PA 15801.

This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.



DANIEL G. SCHMIEG, ESQUIRE

**PRAECIPE FOR WRIT OF EXECUTION--(MORTGAGE FORECLOSURE)  
Pa.R.C.P. 3180-3183**

---

**MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC.**

---

vs.

---

**MELISSA D. JOHNS  
DAVID R. JOHNS**

---

**IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY,  
PENNSYLVANIA**

**No. 2005-1992-CD**

**PRAECIPE FOR WRIT OF EXECUTION  
(MORTGAGE FORECLOSURE)**

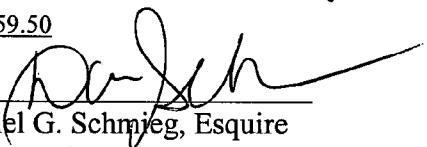
To the Director of the Office of the Prothonotary:

Issue writ of execution in the above matter:

Amount Due	<u>\$46,862.86</u>
Interest from 3/24/06 to Date of Sale (\$7.70 per diem)	<u>125.00</u>
Add'l costs	<u>\$3659.50</u>

and Costs.

125.00 **Prothonotary costs**

  
Daniel G. Schmieg, Esquire  
Attorney for Plaintiff  
One Penn Center at Suburban Station  
1617 John F. Kennedy Blvd., Suite 1400  
Philadelphia, PA 19103-1814

Note: Please attach description of Property.

KAM

**FILED** Atty pd. 20.00  
APR 10 2006 ICC & Locants  
10 prop desc. to  
Shaff

William A. Shaw  
Prothonotary/Clerk of Courts

CR

FILED

No. 2005-1992-CD

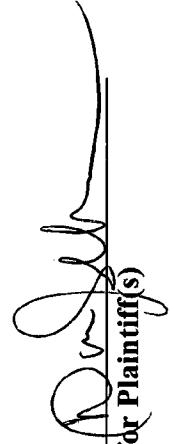
IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC.

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

PRAECEIPE FOR WRIT OF EXECUTION  
(Mortgage Foreclosure)



Attorney for Plaintiff(s)

Address: 1099 SOUTH BRADY STREET, DUBOIS, PA 15801

Where papers may be served.

**DESCRIPTION**

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street Extension, and the place of beginning.

BEING designated as tax parcel #128.0-B4-651-32 in the Clearfield County Recorder's Office.

BEING the same premises conveyed to Dorothy E. Hoover, by her mother, Minnie Nelson, widow, by deed dated January 19, 1981, and recorded January 23, 1981, in the Clearfield County Recorder of Deeds Office in Deed Book Volume 807, page 462.

Being Parcel # B04-651-00032

Premises:      1099 Brady Street, DuBois, PA 15801  
                    Clearfiled County  
                    Pennsylvania

**RECORD OWNER**

TITLE TO SAID PREMISES IS VESTED IN Melissa D. Johns and David R. Johns, wife and husband, by Deed from Dorothy E. Hoover, unmarried, dated 11-4-04, recorded 11-10-04 in Deed Inst#: 200418330.

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 2005-1992-CD

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

**AFFIDAVIT PURSUANT TO RULE 3129**  
**(Affidavit No. 1)**

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., Plaintiff in the above action, by its attorney, Daniel G. Schmieg, Esquire, sets forth as of the date the Praeclipe for the Writ of Execution was filed the following information concerning the real property located at 1099 SOUTH BRADY STREET, DUBOIS, PA 15801:

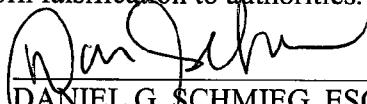
1. Name and address of Owner(s) or reputed Owner(s):

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
MELISSA D. JOHNS	1099 SOUTH BRADY STREET DUBOIS, PA 15801
DAVID R. JOHNS	1099 SOUTH BRADY STREET DUBOIS, PA 15801

2. Name and address of Defendant(s) in the judgment:

SAME AS ABOVE

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
DANIEL G. SCHMIEG, ESQUIRE  
Attorney for Plaintiff

April 6, 2006

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 2005-1992-CD

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

**AFFIDAVIT PURSUANT TO RULE 3129**  
**(Affidavit No. 2)**

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., Plaintiff in the above action, by its attorney, Daniel G. Schmieg, Esquire, sets forth as of the date the Praecept for the Writ of Execution was filed the following information concerning the real property located at 1099 SOUTH BRADY STREET, DUBOIS, PA 15801:

3. Name and last known address of every judgment creditor whose judgment is a record lien on the real property to be sold:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
SANDY TOWNSHIP MUNICIPAL AUTHORITY	P.O. BOX 267 DUBOIS, PA 15801
NATHAN W. KARN, ESQUIRE ATTORNEY FOR DIANE L. TANGEMAN	401 ALLEGHENY STREET HOLLIDAYSBURG, PA 16648

4. Name and address of last recorded holder of every mortgage of record:

Name	Last Known Address (if address cannot be reasonable ascertained, please indicate)
None.	

5. Name and address of every other person who has any record lien on the property:

Name	Last Known Address (if address cannot be reasonable ascertained, please indicate)
------	---

None.

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the sale:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
------	---

Clearfield County Domestic Relations	Clearfield County Courthouse 230 East Market Street Clearfield, PA 16830
--------------------------------------	--

7. Name and address of every other person of whom the plaintiff has knowledge who has any interest in the property which may be affected by the sale:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
------	---

Commonwealth of Pennsylvania Department of Welfare	PO Box 2675 Harrisburg, PA 17105
---	-------------------------------------

Tenant/Occupant	1099 SOUTH BRADY STREET DUBOIS, PA 15801
-----------------	---

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.



DANIEL G. SCHMIEG, ESQUIRE  
Attorney for Plaintiff

April 6, 2006

SALE DATE: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.

No.: 2005-1992-CD

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

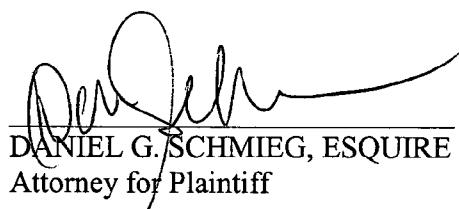
**AFFIDAVIT PURSUANT TO RULE 3129.1  
AND RETURN OF SERVICE PURSUANT TO  
Pa. R.C.P. 405 OF NOTICE OF SALE**

Plaintiff in the above action sets forth as of the date the Praecept for the Writ of Execution was filed the following information concerning the real property located at:

1099 SOUTH BRADY STREET, DUBOIS, PA 15801.

As required by Pa. R.C.P. 3129.2(a) Notice of Sale has been given in the manner required by Pa. R.C.P. 3129.2(c) on each of the persons or parties named, at that address set forth on the attached Affidavit No. 2 (previously filed) and Supplemental Affidavit No. 2 on the date indicated, and a copy of the notice is attached as an Exhibit. A copy of the Certificate of Mailing (Form 3817) and/or Certified Mail Return Receipt stamped by the U.S. Postal Service is attached for each notice.

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.



DANIEL G. SCHMIEG, ESQUIRE  
Attorney for Plaintiff

PHELAN HALLINAN & SCHMIEG  
By: DANIEL G. SCHMIEG, ESQUIRE  
ONE PENN CENTER AT  
SUBURBAN STATION  
1617 JOHN F. KENNEDY BOULEVARD  
SUITE 1400  
PHILADELPHIA, PA 19103-1814  
(215) 563-7000

ATTORNEY FOR PLAINTIFF  
COURT OF COMMON PLEAS  
CIVIL DIVISION

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.

No.: 2005-1992-CD

vs.

CLEARFIELD COUNTY

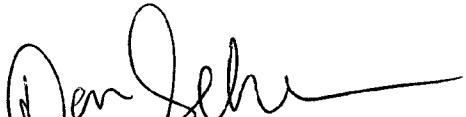
MELISSA D. JOHNS  
DAVID R. JOHNS

CERTIFICATION

DANIEL G. SCHMIEG, ESQUIRE, hereby states that he is the attorney for the Plaintiff in the above captioned matter and that the premises are not subject to the provisions of Act 91 because it is:

- an FHA Mortgage
- non-owner occupied
- vacant
- Act 91 procedures have been fulfilled

This certification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.



DANIEL G. SCHMIEG, ESQUIRE  
Attorney for Plaintiff

WRIT OF EXECUTION -- (MORTGAGE FORECLOSURE)  
Pa.R.C.P. 3180 to 3183 and Rule 3257

 COPY

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MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC.

---

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY,  
PENNSYLVANIA

vs.

NO.: 2005-1992-CD

---

MELISSA D. JOHNS  
DAVID R. JOHNS

---

WRIT OF EXECUTION  
(MORTGAGE FORECLOSURE)

Commonwealth of Pennsylvania:

County of Clearfield:

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property (specifically described property below):

Premises: **1099 SOUTH BRADY STREET , DUBOIS, PA 15801**

(See legal description attached.)

Amount Due	<u>\$46,862.86</u>
Interest from 3/24/06 to Date of Sale (\$7.70 per diem)	\$ <u>125.00</u> Prothonotary costs
Total	\$ _____ Plus costs as endorsed.
Add'l costs	<u>\$3659.50</u> 

Dated 4/10/06  
(SEAL)

Prothonotary, Common Pleas Court of  
Clearfield County, Pennsylvania

By:

 Deputy

KAM

No. 2005-1992-CD

**In the Court of Common Pleas of  
Clearfield County, Pennsylvania**

**MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.**

**VS.**

**MELISSA D. JOHNS  
DAVID R. JOHNS**

---

**WRIT OF EXECUTION  
(MORTGAGE FORECLOSURE)**

---

Real Debt **\$46,862.86**

Int. from 3/24/06  
to Date of Sale (\$7.70 per diem) \_\_\_\_\_

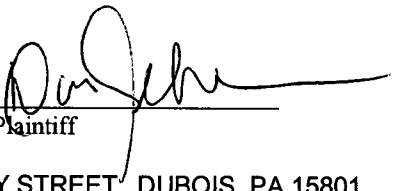
Costs \_\_\_\_\_

Prothy. Pd. **125.00**

Sheriff \_\_\_\_\_

Add'l costs **\$3659.50**

*Att. for Plaintiff*

  
Attorney for Plaintiff

Address: 1099 SOUTH BRADY STREET, DUBOIS, PA 15801

Where papers may be served.

Daniel G. Schmieg, Esquire  
One Penn Center at Suburban Station  
1617 John F. Kennedy Blvd., Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

**DESCRIPTION**

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street Extension, and the place of beginning.

BEING designated as tax parcel #128.0-B4-651-32 in the Clearfield County Recorder's Office.

BEING the same premises conveyed to Dorothy E. Hoover, by her mother, Minnie Nelson, widow, by deed dated January 19, 1981, and recorded January 23, 1981, in the Clearfield County Recorder of Deeds Office in Deed Book Volume 807, page 462.

Being Parcel # B04-651-00032

Premises:      1099 Brady Street, DuBois, PA 15801  
                    Clearfiled County  
                    Pennsylvania

**RECORD OWNER**

TITLE TO SAID PREMISES IS VESTED IN Melissa D. Johns and David R. Johns, wife and husband, by Deed from Dorothy E. Hoover, unmarried, dated 11-4-04, recorded 11-10-04 in Deed Inst#: 200418330.

AFFIDAVIT OF SERVICE  
CLEARFIELD COUNTY

PLAINTIFF  
MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC.

F&P. #118333

DEFENDANT  
MELISSA D. JOHNS  
DAVID R. JOHNS

COURT NO.: 2005-1992-CD

SERVE MELISSA D. JOHNS AT:  
1099 SOUTH BRADY STREET  
DUBOIS, PA 15801

TYPE OF ACTION  
XX Notice of Sheriff's Sale  
SALE DATE: 1/1/04

FILED NO CC  
MTIO:5581  
JUN 12 2006  
William A. Shaw  
Prothonotary/Clerk of Courts

SERVED

Served and made known to Melissa D. Johns, Defendant on the 17 day of May, 2006, at 5:09, o'clock P. M., at 1099 S. Brady St., Dubois, Commonwealth of Pennsylvania, in the manner described below:

Defendant personally served.

Adult family member with whom Defendant(s) reside(s).

Relationship is \_\_\_\_\_.

Adult in charge of Defendant's residence who refused to give name or relationship.

Manager/Clerk of place of lodging in which Defendant(s) reside(s).

Agent or person in charge of Defendant's office or usual place of business.

\_\_\_\_\_ an officer of said Defendant's company.

Other: \_\_\_\_\_

Description: Age 38 Height 5'9" Weight 180 Race W Sex F Other \_\_\_\_\_

I, Thomas Holmberg, a competent adult, being duly sworn according to law, depose and state that I personally handed a true and correct copy of the Notice of Sheriff's Sale in the manner as set forth herein, issued in the captioned case on the date and at the address indicated above.

Sworn to and subscribed  
before me this 18<sup>th</sup> day  
of May, 2006.

Notary:

By: Thomas Holmberg

*Marilyn A. Campbell*  
COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Marilyn A. Campbell, Notary Public  
City of Altoona, Blair County  
My Commission Expires Oct. 28, 2007  
Member, Pennsylvania Association of Notaries

NOT SERVED

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, at \_\_\_\_\_ o'clock \_\_. M., Defendant NOT FOUND because:

Moved     Unknown     No Answer     Vacant

Other:

Sworn to and subscribed  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 200\_\_\_\_.      By:

Notary:

ATTORNEY FOR PLAINTIFF  
DANIEL G. SCHMIEG, ESQUIRE  
I.D.#62205  
One Penn Center at Suburban Station  
1617 John F. Kennedy Blvd., Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

AFFIDAVIT OF SERVICE  
CLEARFIELD COUNTY

**PLAINTIFF**

**MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC.**

**F&P. #118333**

**DEFENDANT**

**MELISSA D. JOHNS  
DAVID R. JOHNS**

**COURT NO.: 2005-1992-CD**

**SERVE DAVID R. JOHNS AT:  
1099 SOUTH BRADY STREET  
DUBOIS, PA 15801**

**TYPE OF ACTION**

**XX Notice of Sheriff's Sale**

**SALE DATE: 7/7/04**

**SERVED**

Served and made known to David R. Johns, Defendant on the 17<sup>th</sup> day of May, 2006, at 5:09, o'clock P. M., at 1099 S. Brady St., Dubois, Commonwealth of Pennsylvania, in the manner described below:

Defendant personally served.  
 Adult family member with whom Defendant(s) reside(s).  
Relationship is wife / Melissa  
 Adult in charge of Defendant's residence who refused to give name or relationship.  
 Manager/Clerk of place of lodging in which Defendant(s) reside(s).  
 Agent or person in charge of Defendant's office or usual place of business.  
 \_\_\_\_\_ an officer of said Defendant's company.  
 Other: \_\_\_\_\_

Description: Age 38 Height 5'9" Weight 180 Race W Sex F Other \_\_\_\_\_

I, Thomas Holmberg, a competent adult, being duly sworn according to law, depose and state that I personally handed a true and correct copy of the Notice of Sheriff's Sale in the manner as set forth herein, issued in the captioned case on the date and at the address indicated above.

Sworn to and subscribed  
before me this 18<sup>th</sup> day  
of May, 2006.

Notary:

By: Thomas Holmberg

**NOT SERVED**

On the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, at \_\_\_\_\_ o'clock \_\_. M., Defendant NOT FOUND because:

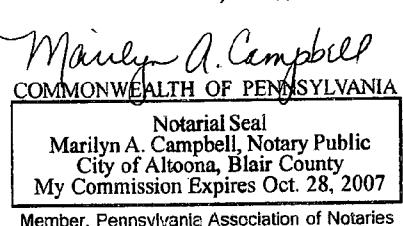
Moved    Unknown    No Answer    Vacant

Other:

Sworn to and subscribed  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 200\_\_\_\_.      By:

Notary:

ATTORNEY FOR PLAINTIFF  
**DANIEL G. SCHMIEG, ESQUIRE**  
ID.#62205  
One Penn Center at Suburban Station  
1617 John F. Kennedy Blvd., Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000



SALE DATE: **JULY 7, 2006**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION – LAW

**MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.** **No.: 2005-1992-CD**

**vs.**

**MELISSA D. JOHNS  
DAVID R. JOHNS**

**AFFIDAVIT PURSUANT TO RULE 3129.1  
AND RETURN OF SERVICE PURSUANT TO  
Pa. R.C.P. 405 OF NOTICE OF SALE**

Plaintiff in the above action sets forth as of the date the Praecipe for the Writ of Execution was filed the following information concerning the real property located at:

**1099 SOUTH BRADY STREET , DUBOIS, PA 15801.**

As required by Pa. R.C.P. 3129.2(a) Notice of Sale has been given in the manner required by Pa. R.C.P. 3129.2(c) on each of the persons or parties named, at that address set forth on the attached Affidavit No. 2 (previously filed) and Amended Affidavit No. 2 on the date indicated, and a copy of the notice is attached as an Exhibit. A copy of the Certificate of Mailing (Form 3817) and/or Certified Mail Return Receipt stamped by the U.S. Postal Service is attached for each notice.

*Daniel G. Schmieg*  
**DANIEL SCHMIEG, ESQUIRE**  
Attorney for Plaintiff

June 30, 2006

**FILED** NO CC  
JUL 03 2006  
M 11:00 AM  
2006

William A. Shaw  
Prothonotary/Clerk of Courts

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 2005-1992-CD

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

**AFFIDAVIT PURSUANT TO RULE 3129**  
**(Affidavit No. 1)**

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., Plaintiff in the above action, by its attorney, Daniel G. Schmieg, Esquire, sets forth as of the date the Praecept for the Writ of Execution was filed the following information concerning the real property located at 1099 SOUTH BRADY STREET, DUBOIS, PA 15801:

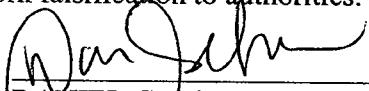
1. Name and address of Owner(s) or reputed Owner(s):

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
MELISSA D. JOHNS	1099 SOUTH BRADY STREET DUBOIS, PA 15801
DAVID R. JOHNS	1099 SOUTH BRADY STREET DUBOIS, PA 15801

2. Name and address of Defendant(s) in the judgment:

SAME AS ABOVE

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
DANIEL G. SCHMIEG, ESQUIRE  
Attorney for Plaintiff

April 6, 2006

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.

CLEARFIELD COUNTY

No.: 2005-1992-CD

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

**AFFIDAVIT PURSUANT TO RULE 3129**  
**(Affidavit No. 2)**

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., Plaintiff in the above action, by its attorney, Daniel G. Schmieg, Esquire, sets forth as of the date the Praeclipe for the Writ of Execution was filed the following information concerning the real property located at 1099 SOUTH BRADY STREET, DUBOIS, PA 15801:

3. Name and last known address of every judgment creditor whose judgment is a record lien on the real property to be sold:

Name	Last Known Address (if address cannot be reasonably ascertained, please indicate)
SANDY TOWNSHIP MUNICIPAL AUTHORITY	P.O. BOX 267 DUBOIS, PA 15801
NATHAN W. KARN, ESQUIRE ATTORNEY FOR DIANE L. TANGEMAN	401 ALLEGHENY STREET HOLLIDAYSBURG, PA 16648

4. Name and address of last recorded holder of every mortgage of record:

Name	Last Known Address (if address cannot be reasonable ascertained, please indicate)
None.	

5. Name and address of every other person who has any record lien on the property:

Name \_\_\_\_\_ Last Known Address (if address cannot be reasonable ascertained, please indicate) \_\_\_\_\_

None.

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the sale.

Name \_\_\_\_\_ Last Known Address (if address cannot be reasonably ascertained, please indicate) \_\_\_\_\_

Clearfield County Domestic Relations      Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

7. Name and address of every other person of whom the plaintiff has knowledge who has any interest in the property which may be affected by the sale:

Name \_\_\_\_\_ Last Known Address (if address cannot be reasonably ascertained, please indicate) \_\_\_\_\_

Commonwealth of Pennsylvania  
Department of Welfare

PO Box 2675  
Harrisburg, PA 17105

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

  
DANIEL G. SCHMIEG, ESQUIRE  
Attorney for Plaintiff

April 6, 2006

April 6, 2006

**MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.**

vs.

**MELISSA D. JOHNS  
DAVID R. JOHNS**

**TO: All parties in Interest and Claimants**

**NOTICE OF SHERIFF'S SALE  
OF REAL PROPERTY**

**OWNER(S): MELISSA D. JOHNS and DAVID R. JOHNS**

**PROPERTY: 1099 SOUTH BRADY STREET , DUBOIS, PA 15801**

Improvements: Residential dwelling

Judgment Amount: \$46,862.86

**CLEARFIELD COUNTY  
No. 2005-1992-CD**

The above captioned property is scheduled to be sold at the Clearfield County Sheriff's Sale on 7/7/10, at the Clearfield County Courthouse, 1 North 2<sup>nd</sup> Street, Suite 116, Clearfield, PA 16830 at 10:00 A.M..

Our records indicate that you may hold a mortgage, judgment, or other interest on the property, which may be extinguished by the sale. You may wish to attend the sale to protect your interests. If you have any questions regarding the type of lien or the effect of the Sheriff's Sale upon your lien, we urge you to **CONTACT YOUR OWN ATTORNEY**, as we are not permitted to give you legal advice.

The Sheriff will file a schedule of Distribution on a date specified by the Sheriff not later than 30 days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within 10 days after the filing of the schedule.

**IMPORTANT NOTICE: This property is sold at the direction of the plaintiff. It may not be sold in the absence of a representative of the plaintiff at the Sheriff's Sale. The sale must be postponed or stayed in the event that a representative of the plaintiff is not present at the sale.**

Name and  
Address  
Of Sender

PHELAN HALLINAN & SCHMIEG  
One Penn Center at Suburban Station  
Philadelphia, PA 19103-1814 LYNETTE BRITTON/KAM

Name of Addressee, Street, and Post Office Address

Postage Fee

Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage Fee
1	MELISSA D. JOHNS	Tenant/Occupant, 1099 SOUTH BRADY STREET, DUBOIS, PA 15801	
2	19741438	Clearfield County Domestic Relations Clearfield County Courthouse 230 East Market Street Clearfield, PA 16830	
3		Commonwealth of Pennsylvania Department of Welfare PO Box 2675 Harrisburg, PA 17105	
4		SANDY TOWNSHIP MUNICIPAL AUTHORITY P.O. BOX 267 DUBOIS, PA 15801	
5		NATHAN W. KARN, ESQUIRE ATTORNEY FOR DIANE L. TANGEMAN 401 ALLEGHENY STREET HOLLIDAYSBURG, PA 16648	
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
Total Number of Pieces Listed By Sender		Total Number of Pieces Received at Post Office	Postmaster, Per (Name Of Receiving Employee)

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$30,000.00 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail sent with optional insurance. See Domestic Mail Manual R900, S913 and S921 for limitations of coverage.



STATES POSTAGE  
021A  
0004309825  
MAILED FROM ZIP CODE 19103  
PITNEY BOWES  
\$ 01.55  
MAY 10 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20321  
NO: 05-1992-CD

PLAINTIFF: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

vs.

DEFENDANT: MELISSA D. JOHNS AND DAVID R. JOHNS

Execution REAL ESTATE

SHERIFF RETURN

DATE RECEIVED WRIT: 04/10/2006

LEVY TAKEN 05/03/2006 @ 12:25 PM

POSTED 05/03/2006 @ 12:25 PM

SALE HELD

SOLD TO

SOLD FOR AMOUNT PLUS COSTS

WRIT RETURNED 01/19/2007

DATE DEED FILED NOT SOLD

FILED  
JAN 19 2007  
03/15/07  
William A. Shaw  
Prothonotary/Clerk of Courts

DETAILS

05/03/2006 @ 12:25 PM SERVED MELISSA D. JOHNS

SERVED MELISSA D. JOHNS, DEFENDANT, AT HER RESIDENCE 1099 SOUTH BRADY STREET, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MELISSA D. JOHNS

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOW TO HIM / HER THE CONTENTS THEREOF.

05/03/2006 @ 12:25 PM SERVED DAVID R. JOHNS

SERVED DAVID R. JOHNS, DEFENDANT, AT HIS RESIDENCE 1099 SOUTH BRADY STREET, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MELISSA D. JOHNS, WIFE/CO DEFENDANT

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOW TO HIM / HER THE CONTENTS THEREOF.

@ SERVED

NOW, JULY 25, 2006 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO POSTPONE THE SHERIFF SALE SCHEDULED FOR JULY 7, 2006 TO OCTOBER 6, 2006.

@ SERVED

NOW, OCTOBER 3, 2006 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO STAY THE OCTOBER 6, 2006 SHERIFF SALE, DUE TO A BANKRUPTCY FILING.

@ SERVED

NOW, JANURAY 19, 2007 RETURN WRIT AS TIME EXPIRED.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 20321  
NO: 05-1992-CD

PLAINTIFF: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

vs.

DEFENDANT: MELISSA D. JOHNS AND DAVID R. JOHNS

Execution REAL ESTATE

**SHERIFF RETURN**

---

SHERIFF HAWKINS \$223.89

SURCHARGE \$40.00 PAID BY ATTORNEY

So Answers,

*Chester A. Hawkins*  
In Compliance  
Chester A. Hawkins  
Sheriff

WRIT OF EXECUTION -- (MORTGAGE FORECLOSURE)  
Pa.R.C.P. 3180 to 3183 and Rule 3257

---

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC.

---

vs.

---

MELISSA D. JOHNS  
DAVID R. JOHNS

---

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY,  
PENNSYLVANIA

NO.: 2005-1992-CD

WRIT OF EXECUTION  
(MORTGAGE FORECLOSURE)

Commonwealth of Pennsylvania:

County of Clearfield:

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

To satisfy the judgment, interest and costs in the above matter you are directed to levy upon and sell the following described property (specifically described property below):

Premises: **1099 SOUTH BRADY STREET , DUBOIS, PA 15801**

(See legal description attached.)

Amount Due	<u>\$46,862.86</u>	
Interest from 3/24/06 to Date of Sale (\$7.70 per diem)	\$	<u>125.00</u> Prothonotary costs
Total	\$	Plus costs as endorsed.
Add'l costs	\$	<u>3659.50</u>

  
Prothonotary, Common Pleas Court of  
Clearfield County, Pennsylvania

Dated 4/10/06  
(SEAL)

By:

 Deputy

KAM

Received April 10, 2006 @ 12:30 PM.  
Chester A. Hawkins  
by Cynthia Butler - Augmentary

No. 2005-1992-CD

**In the Court of Common Pleas of  
Clearfield County, Pennsylvania**

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

**WRIT OF EXECUTION  
(MORTGAGE FORECLOSURE)**

Real Debt	<u>\$46,862.86</u>
Int: from 3/24/06 to Date of Sale (\$7.70 per diem)	
Costs	
Prothy. Pd.	<u>125.00</u>
Sheriff	
Add'l costs	\$3659.50

Attorney for Plaintiff

Address: 1099 SOUTH BRADY STREET, DUBOIS, PA 15801

### Where papers may be served.

Daniel G. Schmieg, Esquire  
One Penn Center at Suburban Station  
1617 John F. Kennedy Blvd., Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

**DESCRIPTION**

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street Extension, and the place of beginning.

BEING designated as tax parcel #128.0-B4-651-32 in the Clearfield County Recorder's Office.

BEING the same premises conveyed to Dorothy E. Hoover, by her mother, Minnie Nelson, widow, by deed dated January 19, 1981, and recorded January 23, 1981, in the Clearfield County Recorder of Deeds Office in Deed Book Volume 807, page 462.

Being Parcell # B04-651-00032

Premises:      1099 Brady Street, DuBois, PA 15801  
                    Clearfield County  
                    Pennsylvania

**RECORD OWNER**

TITLE TO SAID PREMISES IS VESTED IN Melissa D. Johns and David R. Johns, wife and husband, by Deed from Dorothy E. Hoover, unmarried, dated 11-4-04, recorded 11-10-04 in Deed Inst#: 200418330.

STATE SALE  
SCHEDULE OF DISTRIBUTION

NAME MELISSA D. JOHNS

NO. 05-1992-CD

NOW, January 19, 2007, by virtue of the Writ of Execution hereunto attached, after having given due and legal notice of time and place of sale by publication in a newspaper published in this County and by handbills posted on the premises setting for the date, time and place of sale at the Court House in Clearfield on , I exposed the within described real estate of Melissa D. Johns And David R. Johns to public venue or outcry at which time and place I sold the same to he/she being the highest bidder, for the sum of and made the following appropriations, viz:

**SHERIFF COSTS:**

RDR	15.00
SERVICE	15.00
MILEAGE	16.91
LEVY	15.00
MILEAGE	16.91
POSTING	15.00
CSDS	10.00
COMMISSION	0.00
POSTAGE	5.07
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	15.00
DEED	
ADD'L POSTING	
ADD'L MILEAGE	
ADD'L LEVY	
BID/SETTLEMENT AMOUNT	
RETURNS/DEPUTIZE	
COPIES	15.00
	5.00
BILLING/PHONE/FAX	5.00
CONTINUED SALES	20.00
MISCELLANEOUS	
<b>TOTAL SHERIFF COSTS</b>	<b>\$223.89</b>

**DEED COSTS:**

ACKNOWLEDGEMENT	
REGISTER & RECORDER	
TRANSFER TAX 2%	0.00
<b>TOTAL DEED COSTS</b>	<b>\$0.00</b>

**PLAINTIFF COSTS, DEBT AND INTEREST:**

DEBT-AMOUNT DUE	46,862.86
INTEREST @ 7.7000	(5,639,433.8
FROM 03/24/2006 TO	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	40.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	3,659.50
<b>TOTAL DEBT AND INTEREST</b>	<b>(\$5,588,871.44)</b>
<b>COSTS:</b>	
ADVERTISING	1,052.40
TAXES - COLLECTOR	
TAXES - TAX CLAIM	
DUE	
LIEN SEARCH	100.00
ACKNOWLEDGEMENT	
DEED COSTS	0.00
SHERIFF COSTS	223.89
LEGAL JOURNAL COSTS	180.00
PROTHONOTARY	125.00
MORTGAGE SEARCH	40.00
MUNICIPAL LIEN	
<b>TOTAL COSTS</b>	<b>\$1,721.29</b>

DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE WITHIN TEN (10) DAYS FROM THIS DATE.

CHESTER A. HAWKINS, Sheriff

Law Offices  
**PHELAN HALLINAN & SCHMIEG, LLP**  
One Penn Center at Suburban Station  
1617 John F. Kennedy Boulevard  
Suite 1400  
Philadelphia, PA 19103-1814  
Christine.Schoffler@fedphe.com

Christine Schoffler  
Judgment Department, Ext. 1286

Representing Lenders in  
Pennsylvania and New Jersey

July 21, 2006

Office of the Sheriff  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

ATTENTION: CINDY (814) 765-5915

Re: **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. v.**  
**MELISSA D. JOHNS and DAVID R. JOHNS**  
No. 2005-1992-CD  
**1099 SOUTH BRADY STREET, DU BOIS, PA 15801**

Dear Cindy:

Please postpone the Sheriff's Sale of the above referenced property which  
is scheduled for JULY 7, 2006.

The property is to be relisted for the OCTOBER 6, 2006 Sheriff's Sale.

Very truly yours,

CQS

Christine Schoffler

VIA TEL ECOPY (814) 765-5915

CC:

REAL EST

Law Offices  
**PHELAN HALLINAN & SCHMIEG, LLP**  
One Penn Center at Suburban Station  
1617 John F. Kennedy Boulevard  
Suite 1400  
Philadelphia, PA 19103-1814  
Christine.Schoffler@fedphe.com

CHRISTINE SCHOFFLER  
Judgment Department, Ext. 1286

Representing Lenders in  
Pennsylvania and New Jersey

October 3, 2006

Office of the Sheriff  
Clearfield County Courthouse  
230 East Market Street  
Clearfield, PA 16830

ATTENTION: CINDY (814) 765-5915

Re: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. v. MELISSA D.  
JOHNS DAVID R. JOHNS  
No. 2005-1992-CD  
1099 SOUTH BRADY STREET, DUBOIS, PA 15801

Dear Cindy:

Please stay the Sheriff's Sale of the above referenced property, which is scheduled for  
OCTOBER 6, 2006, return the original writ of execution to the Prothonotary's office and refund any  
unused money to our office.

The Defendant (s) filed a Chapter 13 Bankruptcy (No. 06-70460) on 7/6/06.

Very truly yours,

CQS

Christine Schoffler

VIA TELECOPY (814) 765-5915

FILED  
JUN 10 2010  
S 371:09201  
NO CC  
William A. Shaw  
Prothonotary/Clerk of Courts  
(610)

**Phelan Hallinan & Schmieg, LLP**

By: Lawrence T. Phelan, Esq., Id. No. 32227  
Francis S. Hallinan, Esq., Id. No. 62695  
Daniel G. Schmieg, Esq., Id. No. 62205  
Michele M. Bradford, Esq., Id. No. 69849  
Judith T. Romano, Esq., Id. No. 58745  
Sheetal R. Shah-Jani, Esq., Id. No. 81760  
Jenine R. Davey, Esq., Id. No. 87077  
Lauren R. Tabas, Esq., Id. No. 93337  
Vivek Srivastava, Esq., Id. No. 202331  
Jay B. Jones, Esq., Id. No. 86657  
Peter J. Mulcahy, Esq., Id. No. 61791  
Andrew L. Spivack, Esq., Id. No. 84439  
Jaime McGuinness, Esq., Id. No. 90134  
Chrisovalante P. Fliakos, Esq., Id. No. 94620  
Joshua I. Goldman, Esq., Id. No. 205047  
Courtenay R. Dunn, Esq., Id. No. 206779

ATTORNEY FOR PLAINTIFF

1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

**MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.**

: COURT OF COMMON PLEAS  
: CLEARFIELD COUNTY  
: No. 2005-1992-CD

Plaintiff :

:

v. :

:

:

**MELISSA D. JOHNS  
DAVID R. JOHNS**

Defendant(s) :

**PRAECIPE FOR VOLUNTARY SUBSTITUTION OF PARTY PLAINTIFF**  
**PURSUANT TO Pa.R.C.P., 2352**

TO THE PROTHONOTARY:

Kindly substitute HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1 as successor Plaintiff for the originally named Plaintiff.

The material facts on which the right of succession and substitution are based as follows:

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1 is the current holder of the mortgage by virtue of that certain Assignment of Mortgage, which Assignment has been executed and sent for recording in CLEARFIELD County on or about 05/17/2010.

Kindly amend the information on the docket accordingly.

Date: 6/8/10

PHELAN HALLINAN & SCHMIEG, LLP

By: 

Lawrence T. Phelan, Esquire  
Francis S. Hallinan, Esquire  
Daniel G. Schmieg, Esquire  
Michele M. Bradford, Esquire  
Judith T. Romano, Esquire  
Sheetal R. Shah-Jani, Esquire  
Jenine R. Davey, Esquire  
Lauren R. Tabas, Esquire  
Vivek Srivastava, Esquire  
Jay B. Jones, Esquire  
Peter J. Mulcahy, Esquire  
Andrew L. Spivack, Esquire  
Jaime McGuinness, Esquire  
Chrisovalante P. Fliakos, Esquire  
Joshua I. Goldman, Esquire  
Courtenay R. Dunn, Esquire  
Attorneys for Plaintiff

*ANDREW C. BRAMBLETT, Esq.*

PHELAN HALLINAN & SCHMIEG, LLP  
By: DANIEL G. SCHMIEG  
IDENTIFICATION NO. 62205  
ATTORNEY FOR PLAINTIFF  
ONE PENN CENTER AT SUBURBAN STATION  
1617 JOHN F. KENNEDY BOULEVARD, SUITE 1400  
PHILADELPHIA, PA 19103-1814  
(215) 563-7000

**MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.**

v.

**MELISSA D. JOHNS  
DAVID R. JOHNS**

**FILED**

*M/J/12/10*  
**JUN 1 2010**

William A. Shaw  
Prothonotary/Clerk of Courts

*Att'y oc  
7/00*

*64*

**CLEARFIELD COUNTY**

**COURT OF COMMON PLEAS  
CIVIL DIVISION**

**NO.: 2005-1992-CD**

**PRAECIPE TO MARK JUDGMENT TO USE PLAINTIFF**

TO THE PROTHONOTARY:

Please mark the judgment in the above captioned matter to the use of  
**HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE  
FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1,  
MORTGAGE-BACKED NOTES, SERIES 2005-1**

By: 

Lawrence T. Phelan, Esq., Id. No. 32227  
 Francis S. Hallinan, Esq., Id. No. 62695  
 Daniel G. Schmieg, Esq., Id. No. 62205  
 Michele M. Bradford, Esq., Id. No. 69849  
 Judith T. Romano, Esq., Id. No. 58745  
 Sheetal R. Shah-Jani, Esq., Id. No. 81760  
 Jenine R. Davey, Esq., Id. No. 87077  
 Lauren R. Tabas, Esq., Id. No. 93337  
 Vivek Srivastava, Esq., Id. No. 202331  
 Jay B. Jones, Esq., Id. No. 86657  
 Peter J. Mulcahy, Esq., Id. No. 61791  
 Andrew L. Spivack, Esq., Id. No. 84439  
 Jaime McGuinness, Esq., Id. No. 90134  
 Chrisovalante P. Fliakos, Esq., Id. No. 94620  
 Joshua I. Goldman, Esq., Id. No. 205047  
 Courtenay R. Dunn, Esq., Id. No. 206779  
 Andrew C. Bramblett, Esq., Id. No. 208375

Attorneys for Plaintiff

Date: June 8, 2010

**ENTRY OF APPEARANCE**

TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of **HSBC BANK USA,**  
**NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES**  
**CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-**  
**BACKED NOTES, SERIES 2005-1**

By: 

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
- Sheetal R. Shah-Jani, Esq., Id. No. 81760
- Jenine R. Davey, Esq., Id. No. 87077
- Lauren R. Tabas, Esq., Id. No. 93337
- Vivek Srivastava, Esq., Id. No. 202331
- Jay B. Jones, Esq., Id. No. 86657
- Peter J. Mulcahy, Esq., Id. No. 61791
- Andrew L. Spivack, Esq., Id. No. 84439
- Jaime McGuinness, Esq., Id. No. 90134
- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

Attorneys for Plaintiff

Date: June 8, 2010

**FILED**

JUN 10 2010

William A. Shaw  
Prothonotary/Clerk of Courts

PRAECIPE FOR WRIT OF EXECUTION - (MORTGAGE FORECLOSURE)

Pa.R.C.P. 3180-3183

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1

COURT OF COMMON PLEAS  
CIVIL DIVISION  
NO. 2005-1992-CD  
CLEARFIELD COUNTY

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

FILED

To the PROTHONOTARY:

Issue writ of execution in the above matter:

Amount Due

Interest from 03/25/2006 to Sale

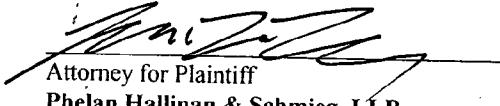
Per diem \$7.71

Add'l Costs

Writ Total

JUN 23 2010  
m 111:36  
William A. Shaw  
Prothonotary/Clerk of Courts  
ISSUAN 6 UNITS  
\$46,873.19  
To Subp.  
\$ \_\_\_\_\_  
\$4,139.50  
\$ \_\_\_\_\_  
No Buv.

Prothonotary costs \$152.50

  
Attorney for Plaintiff

Phelan Hallinan & Schmieg, LLP

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
- Sheetal R. Shah-Jani, Esq., Id. No. 81760
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- Lauren R. Tabas, Esq., Id. No. 93337
- Vivek Srivastava, Esq., Id. No. 202331
- Jay B. Jones, Esq., Id. No. 86657
- Peter J. Mulcahy, Esq., Id. No. 61791
- Andrew L. Spivack, Esq., Id. No. 84439
- Jaime McGuinness, Esq., Id. No. 90134
- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

Note: Please attach description of Property.

PHS # 118333

No. 2005-1992-CD

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1\*

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

PRAECEIPE FOR WRIT OF EXECUTION  
(Mortgage Foreclosure)

Filed:



Attorney for Plaintiff

Phelan Hallinan & Schmieg, LLP

Lawrence T. Phelan, Esq., Id. No. 322227  
 Francis S. Hallinan, Esq., Id. No. 622695  
 Daniel G. Schmieg, Esq., Id. No. 622205  
 Michele M. Bradford, Esq., Id. No. 69849  
 Judith T. Romano, Esq., Id. No. 58745  
 Sheetal R. Shah-Jani, Esq., Id. No. 81760  
 Jenine R. Davey, Esq., Id. No. 87077  
 Lauren R. Tabas, Esq., Id. No. 933337  
 Vivek Srivastava, Esq., Id. No. 202331  
 Jay B. Jones, Esq., Id. No. 86657  
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 Andrew L. Spivack, Esq., Id. No. 84439  
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 Chrisovalante P. Filiakos, Esq., Id. No. 94620  
 Joshua I. Goldman, Esq., Id. No. 205047  
 Courtney R. Dunn, Esq., Id. No. 206779  
 Andrew C. Bramblett, Esq., Id. No. 208375

Address where papers may be served:

MELISSA D. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

  
JUN 23 2010  
PROTHONOTARY/CLERK OF COURT  
William A. Shew

### LEGAL DESCRIPTION

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street Extension, and the place of beginning.

SUBJECT TO AND TOGETHER WITH any and all oil and gas leases, the sale of coal and mining rights and all rights relating thereto, building lines, rights-of-way, zoning regulations, building restrictions, reservations, restrictive covenants, easements, rights and obligations, encroachments, association fees and/or dues, if any, etc., as the same may be contained in prior instruments of record, set forth in the recorded plan and/or as shown on a survey of the property.

TOGETHER WITH and singular the building and improvements thereon, with the appurtenances.

TITLE TO SAID PREMISES IS VESTED IN Melissa D. Johns and David R. Johns, wife and husband, by Deed from Dorothy E. Hoover, unmarried, dated 11-4-04, recorded 11-10-04 in Deed Inst#: 200418330.

Premises being: **1099 SOUTH BRADY STREET  
DU BOIS, PA 15801**

Tax Parcel No. **128.0-B4-651-32**

WRIT OF EXECUTION – (MORTGAGE FORECLOSURE)

Pa.R.C.P. 3180-3183 and Rule 3257

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1

COURT OF COMMON PLEAS  
CIVIL DIVISION  
NO. 2005-1992-CD  
CLEARFIELD COUNTY

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS  
Commonwealth of Pennsylvania:

County of Clearfield

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

PREMISES: 1099 SOUTH BRADY STREET, DU BOIS, PA 15801  
(See Legal Description attached)

Amount Due	\$46,873.19
Interest from 03/25/2006 to Sale	\$ _____
Per diem \$7.71	\$ _____
Add'l Costs	\$4,139.50
Writ Total	\$ _____
Prothonotary costs <i>152.50</i>	<i>Call</i>

OFFICE OF THE PROTHONOTARY OF CLEARFIELD  
COUNTY, PENNSYLVANIA

Dated 6-23-10  
(SEAL)

PHS # 118333

IN THE COURT OF COMMON PLEAS OF  
CLERAFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME  
LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1.

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

WRIT OF EXECUTION  
(Mortgage Foreclosure)

	Costs
Real Debt	\$46,873.19
Int. from	
To Date of Sale (\$7.71 per diem)	
Costs	
Prothy Pd.	
Sheriff	

Filed

Address where papers may be served:

MELISSA D. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

Attorney for Plaintiff  
**Phelan Hallinan & Schmieg, LLP**  
 Lawrence T. Phelan, Esq., Id. No. 32227  
 Francis S. Hallinan, Esq., Id. No. 62695  
 Daniel G. Schmieg, Esq., Id. No. 62205  
 Michele M. Bradford, Esq., Id. No. 69849  
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 Chrisovalante P. Flakos, Esq., Id. No. 94620  
 Joshua I. Goldman, Esq., Id. No. 205047  
 Courtenay R. Dunn, Esq., Id. No. 206779  
 Andrew C. Bramblett, Esq., Id. No. 208375

**LEGAL DESCRIPTION**

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street Extension, and the place of beginning.

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Premises being: **1099 SOUTH BRADY STREET**  
**DU BOIS, PA 15801**

Tax Parcel No. **128.0-B4-651-32**

HSBC BANK USA, NATIONAL ASSOCIATION AS  
INDENTURE TRUSTEE FOR PEOPLES CHOICE  
HOME LOAN SECURITIES TRUST SERIES 2005-1,  
MORTGAGE-BACKED NOTES, SERIES 2005-1  
Plaintiff  
v.  
COURT OF COMMON PLEAS  
CIVIL DIVISION  
NO. 2005-1992-CD  
CLEARFIELD COUNTY

MELISSA D. JOHNS  
DAVID R. JOHNS  
Defendant(s)

**AFFIDAVIT PURSUANT TO RULE 3129.1**

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME  
LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1, Plaintiff in the above action, by  
the undersigned attorney, sets forth as of the date the Praeclipe for the Writ of Execution was filed, the following information concerning the  
real property located at **1099 SOUTH BRADY STREET, DU BOIS, PA 15801**.

1. Name and address of Owner(s) or reputed Owner(s):

Name Address (if address cannot be reasonably  
ascertained, please so indicate)

**MELISSA D. JOHNS**

**1099 SOUTH BRADY STREET  
DU BOIS, PA 15801**

**DAVID R. JOHNS**

**1099 SOUTH BRADY STREET  
DU BOIS, PA 15801**

2. Name and address of Defendant(s) in the judgment:

Name Address (if address cannot be reasonably  
ascertained, please so indicate)

**SAME AS ABOVE**

3. Name and last known address of every judgment creditor whose judgment is a record lien on the real property to be sold:

Name Address (if address cannot be  
reasonably ascertained, please indicate)

**SANDY TOWNSHIP  
MUNICIPAL AUTHORITY**

**P.O. BOX 267  
DUBOIS, PA 15801**

**GREGORY M. KRUK, ESQ.  
ATTORNEY FOR SANDY TOWNSHIP  
MUNICIPAL AUTHORITY**

**FERRARO KRUK & FERRARO LLP  
690 MAIN STREET  
BROCKWAY, PA 15824**

**DIANE L. TANGEMAN**

**204 SOUTH STATE STREET  
DUBOIS, PA 15801**

**NATHAN W. KARN ESQ.  
ATTORNEY FOR DIANE L. TANGEMAN**

**401 ALLEGHENY ST  
PO BOX 415  
HOLLIDAYSBURG, PA 16648**

4. Name and address of last recorded holder of every mortgage of record:

Name Address (if address cannot be  
reasonably ascertained, please indicate)

**None.**

5. Name and address of every other person who has any record lien on the property:

Name Address (if address cannot be  
reasonably ascertained, please indicate)

**None.**

6. Name and address of every other person who has any record interest in the property and whose interest may be affected by the sale.

Name

Address (if address cannot be reasonably ascertained, please indicate)

**Name.**

7 Name and address of every other person of whom the plaintiff has knowledge who has any interest in the property which may be affected by the sale:

Name

Address (if address cannot be reasonably ascertained, please indicate)

**TENANT/OCCUPANT**

**1099 SOUTH BRADY STREET  
DU BOIS, PA 15801**

**DOMESTIC RELATIONS  
CLEARFIELD COUNTY**

**CLEARFIELD COUNTY COURTHOUSE  
230 EAST MARKET STREET  
CLEARFIELD, PA 16830**

**Commonwealth of Pennsylvania  
Department of Welfare**

**P.O. Box 2675  
Harrisburg, PA 17105**

**United States Internal Revenue  
Special Procedures Branch  
Federated Investors Tower**

**13th Floor, Suite 1300  
1001 Liberty Avenue  
Pittsburgh, PA 15222**

**U.S. Department of Justice  
Michael C. Colville, Esquire,  
United States Attorney**

**Western District of PA  
633 U.S. Post Office & Courthouse  
Pittsburgh, PA 15219**

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

May 11, 2010

By: 

Attorney for Plaintiff

**Phelan Hallinan & Schmieg, LLP**

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
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- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

**Phelan Hallinan & Schmieg, LLP**  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

Attorneys for Plaintiff

**HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1**

Plaintiff

v.

**MELISSA D. JOHNS  
DAVID R. JOHNS**  
Defendant(s)

: **COURT OF COMMON PLEAS**  
: **CIVIL DIVISION**  
: **NO. 2005-1992-CD**  
: **CLEARFIELD COUNTY**  
:

**CERTIFICATION**

The undersigned attorney hereby states that he/she is the attorney for the Plaintiff in the above captioned matter and that the premises are not subject to the provisions of Act 91 because:

( ) the mortgage is an FHA Mortgage  
( ) the premises is non-owner occupied  
( ) the premises is vacant  
(X) Act 91 procedures have been fulfilled

This certification is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

By:   
Attorney for Plaintiff

**Phelan Hallinan & Schmieg, LLP**

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 Andrew C. Bramblett, Esq., Id. No. 208375

FILED  
M 110.14/2011 NO CC  
AUG 02 2010  
S William A. Shaw  
Prothonotary/Clerk of Courts  
60

Phelan Hallinan & Schmieg, LLP  
By: Lawrence T. Phelan, Esq., Id. No. 32227  
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Andrew C. Bramblett, Esq., Id. No. 208375  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION	:	Court of Common Pleas
AS INDENTURE TRUSTEE FOR PEOPLES	:	Civil Division
CHOICE HOME LOAN SECURITIES TRUST	:	CLEARFIELD County
SERIES 2005-1, MORTGAGE-BACKED NOTES,	:	
SERIES 2005-1	:	
Plaintiff	:	No. 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

PLAINTIFF'S MOTION TO REASSESS DAMAGES

Plaintiff, by its Attorneys, Phelan Hallinan & Schmieg, LLP, moves the Court to direct the Prothonotary to amend the judgment in this matter, and in support thereof avers the following:

1. Plaintiff commenced this foreclosure action by filing a Complaint on December 22, 2005, a true and correct copy of which is attached hereto, made part hereof, and marked as Exhibit "A".

2. Judgment was entered on March 27, 2006 in the amount of \$46,862.86. A true and correct copy of the praecipe for judgment is attached hereto, made part hereof, and marked as Exhibit "B".

3. Pursuant to Pennsylvania Rule of Civil Procedure 1037(b)(1), a default judgment containing a dollar amount must be entered for the amount claimed in the complaint and any item which can be calculated from the complaint, i.e. bringing the interest current. However, new items cannot be added at the time of entry of the judgment.

4. A Sheriff's Sale of the mortgaged property at 1099 SOUTH BRADY STREET, DUBLIN, PA 15801 (hereinafter the "Property") was postponed or stayed for the following reason:

a.) The Defendants filed a Chapter 13 Bankruptcy at Docket Number 06-70460 on July 6, 2006. The Bankruptcy was dismissed by order of court dated December 4, 2009. A true and correct copy of the Bankruptcy Court Order is attached hereto, made part hereof, and marked as Exhibit "C".

5. The Property is listed for Sheriff's Sale on September 3, 2010.

6. Additional sums have been incurred or expended on Defendants' behalf since the Complaint was filed and Defendants have been given credit for any payments that have been made since the judgment. The amount of damages should now read as follows:

Principal Balance	\$39,705.07
Interest Through September 3, 2010	\$6,792.49

Per Diem \$10.06	
Late Charges	\$16.78
Legal fees	\$1,800.00
Cost of Suit and Title	\$2,216.50
Sheriff's Sale Costs	\$1,568.89
Property Inspections/ Property Preservation	\$182.00
Appraisal/Brokers Price Opinion	\$78.00
Mortgage Insurance Premium /	\$0.00
Private Mortgage Insurance	
Non Sufficient Funds Charge	\$0.00
Suspense/Misc. Credits	(\$324.04)
Escrow Deficit	\$1,001.67
<b>TOTAL</b>	<b>\$53,037.36</b>

7. The judgment formerly entered is insufficient to satisfy the amounts due on the Mortgage.

8. Under the terms of the Mortgage and Pennsylvania law, Plaintiff is entitled to inclusion of the figures set forth above in the amount of judgment against the Defendants.

9. Plaintiff's foreclosure judgment is in rem only and does not include personal liability, as addressed in Plaintiff's attached brief.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court amend the judgment as requested.

DATE: 7/30/10

By:

Phelan Hallinan & Schmieg, LLP

- Lawrence T. Phelan, Esq., Id. No. 32227
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ATTORNEY FOR PLAINTIFF

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ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION	:	Court of Common Pleas
AS INDENTURE TRUSTEE FOR PEOPLES	:	Civil Division
CHOICE HOME LOAN SECURITIES TRUST	:	CLEARFIELD County
SERIES 2005-1, MORTGAGE-BACKED NOTES,	:	
SERIES 2005-1	:	
Plaintiff	:	No. 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**MEMORANDUM OF LAW IN SUPPORT OF**  
**PLAINTIFF'S MOTION TO REASSESS DAMAGES**

I. **BACKGROUND OF CASE**

MELISSA D. JOHNS and DAVID R. JOHNS executed a Promissory Note agreeing to pay principal, interest, late charges, real estate taxes, hazard insurance premiums, and mortgage insurance premiums as these sums became due. Plaintiff's Note was secured by a Mortgage on the Property located at 1099 SOUTH BRADY STREET, DU BOIS, PA 15801. The Mortgage indicates that in the event of a default in the mortgage, Plaintiff may advance any necessary sums, including taxes, insurance, and other items, in order to protect the security of the Mortgage.

In the instant case, Defendants defaulted under the Mortgage by failing to tender numerous, promised monthly mortgage payments. Accordingly, after it was clear that the default would not be cured, Plaintiff commenced the instant mortgage foreclosure action. Judgment was subsequently entered by the Court, and the Property is currently scheduled for Sheriff's Sale.

Because of the period of time between the initiation of the mortgage foreclosure action, the entry of judgment and the Sheriff's Sale date, damages as previously assessed are outdated and need to be adjusted to include current interest, real estate taxes, insurance premiums, costs of collection, and other expenses which Plaintiff has been obligated to pay under the Mortgage in order to protect its interests. It is also appropriate to give Defendants credit for monthly payments tendered through bankruptcy, if any.

II. **LEGAL ARGUMENT TO AMEND PLAINTIFF'S IN REM JUDGMENT**

It is settled law in Pennsylvania that the Court may exercise its equitable powers to control the enforcement of a judgment and to grant any relief until that judgment is satisfied. 20 P.L.E., Judgments § 191. Stephenson v. Butts, 187 Pa.Super. 55, 59, 142 A.2d 319, 321 (1958). Chase

Home Mortgage Corporation of the Southwest v. Good, 537 A.2d 22, 24 (Pa.Super. 1988). The Pennsylvania Superior Court has repeatedly cited the right of a foreclosing creditor to amend its judgment prior to the Sheriff's sale. Nationsbanc Mortgage Corp. v. Grillo, 827 A.2d 489 (Pa.Super. 2003). Morgan Guaranty Trust Co. of N.Y. v. Mowl, 705 A.2d 923 (Pa. Super. 1998). Union National Bank of Pittsburgh v. Ciongoli, 407 Pa.Super. 171, 595 A.2d 179 (1991).

The Supreme Court of Pennsylvania recognized in Landau v. Western Pa. Nat. Bank, 445 Pa. 117, 282 A.2d 335 (1971), that the debt owed on a Mortgage is subject to change and, in fact, can be expected to change from day to day because the bank must advance sums in order to protect its collateral. Because a Mortgage lien is not extinguished until the debt is paid, Plaintiff must protect its collateral up until the date of sale. Beckman v. Altoona Trust Co., 332 Pa. 545, 2 A.2d 826 (1939). Because a judgment in mortgage foreclosure is strictly in rem, it is critical that the judgment reflect those amounts expended by the Plaintiff in protecting the property. Meco Reality Company v. Burns, 414 Pa. 495, 200 A.2d 335 (1971). Plaintiff submits that if it goes to sale without the requested amended judgment, and if there is competitive bidding for the Property, Plaintiff will suffer a significant loss in that it would not be able to recoup monies it advanced to protect its interests. Conversely, amending the in rem judgment will not be detrimental to Defendants as it imputes no personal liability.

In B.C.Y. v. Bukovich, the Pennsylvania Superior Court reiterated its long standing rule that a Court has the inherent power to correct a judgment to conform to the facts of a case. 257 Pa. Super. 157, 390 A.2d 276 (1978). In the within case, the amount of the original judgment does not adequately reflect the additional sums due on the Mortgage due to Defendants' failure to tender payments during the foreclosure proceeding and the advances made by the mortgage company. The Mortgage plainly requires the mortgagors to tender to the mortgagee monthly payments of principal

and interest until the Promissory Note accompanying the Mortgage is paid in full. The mortgagors are also required to remit to the mortgagee sufficient sums to pay monthly mortgage insurance premiums, fire insurance premiums, taxes and other assessments relating to the Property. The mortgagors have breached the terms of the Mortgage, and Plaintiff has been forced to incur significant unjust financial losses on this loan.

### **III. THE FORECLOSURE JUDGMENT IS IN REM ONLY**

The within case is a mortgage foreclosure action, the sole purpose of which is to take the mortgaged property to Sheriff's Sale. Pennsylvania law makes clear that an action in mortgage foreclosure is strictly in rem and does not include any personal liability. Newtown Village Partnership v. Kimmel, 424 Pa. Super 53, 55, 621 A.2d 1036, 1037 (1993). Signal Consumer Discount Company v. Babuscio, 257 Pa. Super 101, 109, 390 A.2d 266, 270 (1978). Pennsylvania Rule of Civil Procedure 1141(a).

However, Pennsylvania law requires that the foreclosure action demand judgment for the amount due. Pa.R.C.P. 1147(6). The purpose of the dollar amount in the in rem judgment is for bidding at the Sheriff's Sale. In the event that a third party real estate speculator were to bid on the mortgaged property at the Sheriff's Sale and become the successful purchaser, Plaintiff would receive the amount of the in rem judgment from the Sheriff.

### **IV. INTEREST**

The Mortgage clearly requires that the Defendants' shall promptly pay when due the principal and interest due on the outstanding debt. In addition, the Note specifies the rate of interest to be charged until the debt is paid in full or otherwise satisfied. Specifically, interest from 30 days prior to the date of default through the date of the impending Sheriff's sale has been requested.

## **V. TAXES AND INSURANCE**

If Plaintiff had not advanced monies for taxes and insurance throughout the foreclosure proceeding, Plaintiff would have risked loss of its collateral. If the Property were sold at a tax sale, Plaintiff's interest very well may be divested, and Plaintiff would sustain a complete loss on the outstanding balance due on the loan. If the Property were damaged in a fire, Plaintiff would not be able to obtain insurance proceeds to restore the Property if it did not pay the insurance premiums.

Most importantly, the Mortgage specifically provides that the mortgagee may advance the monies for taxes and insurance and charge these payments against the escrow account. Plaintiff is simply seeking to have the Court enforce the terms of the Mortgage.

## **VI. ATTORNEY'S FEES**

The amount of attorney's fees requested in the Motion to Reassess Damages is in accordance with the loan documents and Pennsylvania law. Pennsylvania Courts have long and repeatedly concluded that a request of five percent of the outstanding principal balance is reasonable and enforceable as an attorney's fee. Robinson v. Loomis, 51 Pa. 78 (1865); First Federal Savings and Loan Association v. Street Road Shopping Center, 68 D&C 2d 751, 755 (1974).

In Federal Land Bank of Baltimore v. Fetner, the Superior Court held that an attorney's fee of ten percent of the original mortgage amount is not unconscionable. 410 A.2d 344 (Pa. Super. 1979). Recently, the Superior Court cited Fetner in confirming that an attorney's fee of ten percent included in the judgment in mortgage foreclosure action was reasonable. Citicorp v. Morrisville Hampton Realty, 662 A.2d 1120 (Pa. Super. 1995). Importantly, Plaintiff recognizes this Honorable Court's equitable authority to set attorney's fees and costs as it deems reasonable.

## **VII. COST OF SUIT AND TITLE**

Pursuant to the terms of the mortgage, Plaintiff is entitled to recover all expenses incurred in the foreclosure action. The amount claimed for the costs of suit and title are the expenses Plaintiff paid to date as a result of the mortgage default.

The title report is necessary to determine the record owners of the property, as Pa.R.C.P. 1144 requires all record owners to be named as Defendants in the foreclosure action. It is also necessary to determine whether there are any prior liens to be cleared, so that the Sheriff's sale purchaser acquires clear title to the property. It is necessary to determine if there are IRS liens on the property, whether the Defendants are divorced (which could affect service of the complaint), and numerous other legal issues. The title bringdown is necessary to identify any new liens on the property or new owners between the time of filing and complaint and the writ date.

The Freedom of Information Act inquiries and the investigation into Defendants' whereabouts are necessary to effectively attempt personal service of the complaint and notice of sale on the Defendant. The notice of sale and Rule 3129 notice are required by Pa.R.C.P.3129.1 and 3129.2 to notify all lienholders, owners, and interested persons of the Sheriff's sale date, as their interests will be divested by the Sheriff's sale.

Accordingly, the modest sums Plaintiff has incurred for the costs of suit and title were necessary pursuant to Pennsylvania law. The amounts were reasonable and actually incurred. The mortgage and Pennsylvania law permit Plaintiff to recover these sums through its foreclosure action. As the foreclosure action is in rem only, Plaintiff recovers its judgment from the sale of the property, not out of the Defendant's pockets. Plaintiff should recover the costs of suit and title in their entirety, which will not cause harm to the Defendants.

## **VIII. CONCLUSION**

Therefore, Plaintiff respectfully submits that if the enforcement of its rights is delayed by legal proceedings, and such delays require the mortgagee to expend additional sums provided for by the Mortgage, then the expenses necessarily become part of the mortgagee's lien and should be included in the judgment.

Plaintiff respectfully requests that this Honorable Court grant its Motion to Reassess Damages. Plaintiff submits that it has acted in good faith in maintaining the Property in accordance with the Mortgage, and has relied on terms of the Mortgage with the understanding that it would recover the monies it expended to protect its collateral.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court amend the judgment as requested.

DATE: 7/30/10

By:

Phelan Hallinan & Schmieg, LLP

Lawrence T. Phelan, Esq., Id. No. 32227  
 Francis S. Hallinan, Esq., Id. No. 62695  
 Daniel G. Schmieg, Esq., Id. No. 62205  
 Michele M. Bradford, Esq., Id. No. 69849  
 Judith T. Romano, Esq., Id. No. 58745  
 Sheetal R. Shah-Jani, Esq., Id. No. 81760  
 Jenine R. Davey, Esq., Id. No. 87077  
 Lauren R. Tabas, Esq., Id. No. 93337  
 Vivek Srivastava, Esq., Id. No. 202331  
 Jay B. Jones, Esq., Id. No. 86657  
 Peter J. Mulcahy, Esq., Id. No. 61791  
 Andrew L. Spivack, Esq., Id. No. 84439  
 Jaime McGuinness, Esq., Id. No. 90134  
 Chrisovalante P. Fliakos, Esq., Id. No. 94620  
 Joshua I. Goldman, Esq., Id. No. 205047  
 Courtenay R. Dunn, Esq., Id. No. 206779  
 Andrew C. Bramblett, Esq., Id. No. 208375

Attorney for Plaintiff

# **Exhibit “A”**

DEC 22 2005

William A. Shaw  
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP  
LAWRENCE T. PHELAN, ESQ., Id. No. 32227  
FRANCIS S. HALLINAN, ESQ., Id. No. 62695  
ONE PENN CENTER PLAZA, SUITE 1400  
PHILADELPHIA, PA 19103  
(215) 563-7000

ATTORNEY FOR PLAINTIFF

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.  
8201 GREENSBORO DRIVE, SUITE 350  
MCLEAN, VA 22102

Plaintiff

v.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

NO. 2005 - 1992-CV

CLEARFIELD COUNTY

Defendants

CIVIL ACTION - LAW  
COMPLAINT IN MORTGAGE FORECLOSURE

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service:  
Pennsylvania Lawyer Referral Service  
Pennsylvania Bar Association  
100 South Street  
PO Box 186  
Harrisburg, PA 17108  
800-692-7375

Notice to Defend:  
David S. Meholic, Court Administrator  
Clearfield County Courthouse  
2<sup>nd</sup> and Market Streets  
Clearfield, PA 16830  
814-765-2641 x 5982

We hereby certify the  
within to be a true and  
correct copy of the  
original filed of record  
FEDERMAN AND PHELAN

File #: 118353

FEDERMAN AND PHELAN  
ATTORNEY FILE COPY  
PLEASE RETURN

IF THIS IS THE FIRST NOTICE THAT YOU HAVE RECEIVED FROM THIS OFFICE, BE ADVISED THAT:

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977), DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE DEBT OR ANY PORTION THEREOF. IF DEFENDANT(S) DO SO IN WRITING WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL OBTAIN AND PROVIDE DEFENDANT(S) WITH WRITTEN VERIFICATION THEREOF; OTHERWISE, THE DEBT WILL BE ASSUMED TO BE VALID. LIKEWISE, IF REQUESTED WITHIN THIRTY (30) DAYS OF RECEIPT OF THIS PLEADING, COUNSEL FOR PLAINTIFF WILL SEND DEFENDANT(S) THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM ABOVE.

THE LAW DOES NOT REQUIRE US TO WAIT UNTIL THE END OF THE THIRTY (30) DAY PERIOD FOLLOWING FIRST CONTACT WITH YOU BEFORE SUING YOU TO COLLECT THIS DEBT. EVEN THOUGH THE LAW PROVIDES THAT YOUR ANSWER TO THIS COMPLAINT IS TO BE FILED IN THIS ACTION WITHIN TWENTY (20) DAYS, YOU MAY OBTAIN AN EXTENSION OF THAT TIME. FURTHERMORE, NO REQUEST WILL BE MADE TO THE COURT FOR A JUDGMENT UNTIL THE EXPIRATION OF THIRTY (30) DAYS AFTER YOU HAVE RECEIVED THIS COMPLAINT. HOWEVER, IF YOU REQUEST PROOF OF THE DEBT OR THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR WITHIN THE THIRTY (30) DAY PERIOD THAT BEGINS UPON YOUR RECEIPT OF THIS COMPLAINT, THE LAW REQUIRES US TO CEASE OUR EFFORTS (THROUGH LITIGATION OR OTHERWISE) TO COLLECT THE DEBT UNTIL WE MAIL THE REQUESTED INFORMATION TO YOU. YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE CONCERNING YOUR RIGHTS AND OBLIGATIONS IN THIS SUIT.

IF YOU HAVE FILED BANKRUPTCY AND RECEIVED A DISCHARGE, THIS IS NOT AN ATTEMPT TO COLLECT A DEBT. IT IS AN ACTION TO ENFORCE A LIEN ON REAL ESTATE.

1. Plaintiff is

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.  
8201 GREENSBORO DRIVE, SUITE 350  
MCLEAN, VA 22102

2. The name(s) and last known address(es) of the Defendant(s) are:

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

who is/are the mortgagor(s) and real owner(s) of the property hereinafter described.

3. On 11/04/2004 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to PLAINTIFF which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No: 200418331.
4. The premises subject to said mortgage is described as attached.
5. The mortgage is in default because monthly payments of principal and interest upon said mortgage due 03/01/2005 and each month thereafter are due and unpaid, and by the terms of said mortgage, upon failure of mortgagor to make such payments after a date specified by written notice sent to Mortgagor, the entire principal balance and all interest due thereon are collectible forthwith.

6. The following amounts are due on the mortgage:

Principal Balance	\$40,748.80
Interest	3,336.59
02/01/2005 through 12/20/2005	
(Per Diem \$10.33)	
Attorney's Fees	1,250.00
Cumulative Late Charges	16.78
11/04/2004 to 12/20/2005	
Cost of Suit and Title Search	<u>\$ 550.00</u>
Subtotal	\$ 45,902.17
Escrow	
Credit	0.00
Deficit	0.00
Subtotal	<u>\$ 0.00</u>
<b>TOTAL</b>	<b>\$ 45,902.17</b>

7. The attorney's fees set forth above are in conformity with the mortgage documents and Pennsylvania law, and will be collected in the event of a third party purchaser at Sheriff's Sale. If the Mortgage is reinstated prior to the Sale, reasonable attorney's fees will be charged.

8. Notice of Intention to Foreclose as set forth in Act 6 of 1974, Notice of Homeowner's Emergency Assistance Program pursuant to Act 91 of 1983, as amended in 1998, and/or Notice of Default as required by the mortgage document, as applicable, have been sent to the Defendant(s) on the date(s) set forth thereon, and the temporary stay as provided by said notice has terminated because Defendant(s) has/have failed to meet with the Plaintiff or an authorized consumer credit counseling agency, or has/have been denied assistance by the Pennsylvania Housing Finance Agency.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$ 45,902.17, together with interest from 12/20/2005 at the rate of \$10.33 per diem to the date of Judgment, and other costs and charges collectible under the mortgage and for the foreclosure and sale of the mortgaged property.

PHELAN HALLINAN & SCHMIEG, LLP  
*Francis A. Hallinan*  
By: /s/ Francis S. Hallinan  
LAWRENCE T. PHELAN, ESQUIRE  
FRANCIS S. HALLINAN, ESQUIRE  
Attorneys for Plaintiff

## LEGAL DESCRIPTION

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street extension, and the place of beginning.

BEING designated as tax parcel #128.0-B4-651-32 in the Clearfield County Recorder's Office.

BEING the same premises conveyed to Dorothy E. Hoover, by her mother, Minnie Nelson, widow, by deed dated January 19, 1981, and recorded January 23, 1981, in the Clearfield County Recorder of Deeds Office in Deed Book Volume 807, page 462.

PROPERTY BEING: 1099 SOUTH BRADY STREET

**VERIFICATION**

FRANCIS S. HALLINAN, ESQUIRE hereby states that he is attorney for PLAINTIFF in this matter, that Plaintiff is outside the jurisdiction of the court and or the Verification could not be obtained within the time allowed for the filing on the pleading, that he is authorized to make this verification pursuant to Pa. R. C. P. 1024 ( c ) and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are based upon information supplied by Plaintiff and are true and correct to the best of his knowledge, information and belief. Furthermore, it is counsel's intention to substitute a verification from Plaintiff as soon as it is received by counsel .

The undersigned understands that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

31/02

FRANCIS S. HALLINAN, ESQUIRE  
Attorney for Plaintiff

DATE: 12/20/05

# **Exhibit “B”**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.  
8201 GREENSBORO DRIVE, SUITE 350  
MCLEAN, VA 22102

No.: 2005-1992-CD

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

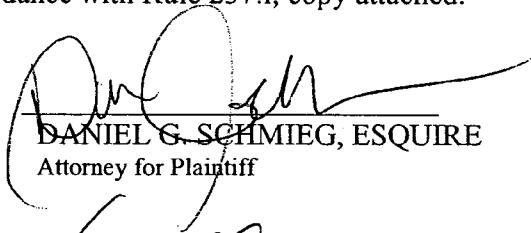
**PRAECIPE FOR JUDGMENT FOR FAILURE TO  
ANSWER AND ASSESSMENT OF DAMAGES**

TO THE PROTHONOTARY:

Kindly enter judgment in favor of the Plaintiff and against MELISSA D. JOHNS and DAVID R. JOHNS, Defendant(s) for failure to file an Answer to Plaintiff's Complaint within 20 days from service thereof and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

As set forth in Complaint	\$45902.17
Interest (12/21/05 to 3/24/06)	<u>960.69</u>
<b>TOTAL</b>	<b>\$46862.86</b>

I hereby certify that (1) the addresses of the Plaintiff and Defendant(s) are as shown above, and (2) that notice has been given in accordance with Rule 237.1, copy attached.

  
\_\_\_\_\_  
DANIEL G. SCHMIEG, ESQUIRE

Attorney for Plaintiff

  
\_\_\_\_\_  
PRO PROTHY

KAM

Damages are hereby assessed as indicated.

DATE: MARCH 27, 2006

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

MAR 27 2006

Attest.

  
\_\_\_\_\_  
William C. Brown  
Prothonotary/  
Clerk of Courts

# **Exhibit "C"**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re:

David Robert Johns  
Melissa Diane Johns  
Debtor(s)

Bankruptcy Case No.: 06-70460-TPA  
Related To Docket No. 34  
Chapter: 13  
Docket No.: 37

**ORDER**

**IT IS HEREBY ORDERED** that the above-captioned case is **DISMISSED WITHOUT PREJUDICE**.

Each *Income Attachment* issued in the case is now **TERMINATED**.

Debtor(s) must immediately serve a copy of this *Order* on each employer/entity subject to an *Attachment Order*, so that each such employer/entity knows to stop the attachment.

Creditor collection remedies are **REINSTATED** pursuant to *11 U.S.C. §349*, and creditors are directed to *11 U.S.C. §108(c)* for time limits on filing a lawsuit to collect; generally, a creditor's lawsuit must be filed by the later of (1) the time deadline prescribed by state law, or (2) thirty days after date of this *Order*.

Debtor(s) remain legally liable for all of their debts as if the bankruptcy petition had not been filed.

Dated: December 4, 2009

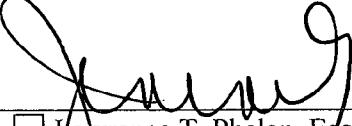
cm: All Creditors and All Parties In Interest

Thomas P. Agresti  
United States Bankruptcy Judge

### VERIFICATION

I hereby state that I am the attorney for Plaintiff in this action, that I am authorized to make this verification, and that the statements made in the foregoing Motion to Reassess Damages are true and correct to the best of my knowledge, information and belief. The undersigned understands that this statement herein is made subject to the sworn penalties of 18 Pa.C.S. §4904 relating to the unsworn falsification of authorities.

DATE: 7/20/10

By: 

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
- Sheetal R. Shah-Jani, Esq., Id. No. 81760
- Jenine R. Davey, Esq., Id. No. 87077
- Lauren R. Tabas, Esq., Id. No. 93337
- Vivek Srivastava, Esq., Id. No. 202331
- Jay B. Jones, Esq., Id. No. 86657
- Peter J. Mulcahy, Esq., Id. No. 61791
- Andrew L. Spivack, Esq., Id. No. 84439
- Jaime McGuinness, Esq., Id. No. 90134
- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

ATTORNEY FOR PLAINTIFF

Phelan Hallinan & Schmieg, LLP  
By: Lawrence T. Phelan, Esq., Id. No. 32227  
Francis S. Hallinan, Esq., Id. No. 62695  
Daniel G. Schmieg, Esq., Id. No. 62205  
Michele M. Bradford, Esq., Id. No. 69849  
Judith T. Romano, Esq., Id. No. 58745  
Sheetal R. Shah-Jani, Esq., Id. No. 81760  
Jenine R. Davey, Esq., Id. No. 87077  
Lauren R. Tabas, Esq., Id. No. 93337  
Vivek Srivastava, Esq., Id. No. 202331  
Jay E. Jones, Esq., Id. No. 86657  
Peter J. Mulcahy, Esq., Id. No. 61791  
Andrew L. Spivack, Esq., Id. No. 84439  
Jaime McGuinness, Esq., Id. No. 90134  
Chrisovalante P. Fliakos, Esq., Id. No. 94620  
Joshua I. Goldman, Esq., Id. No. 205047  
Courtenay R. Dunn, Esq., Id. No. 206779  
Andrew C. Bramblett, Esq., Id. No. 208375  
1617 JFK Boulevard, Suite 1400  
One Fenn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION	:	Court of Common Pleas
AS INDENTURE TRUSTEE FOR PEOPLES	:	
CHOICE HOME LOAN SECURITIES TRUST	:	Civil Division
SERIES 2005-1, MORTGAGE-BACKED NOTES,	:	
SERIES 2005-1	:	CLEARFIELD County
Plaintiff	:	
	:	No. 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**CERTIFICATION OF SERVICE**

I hereby certify that true and correct copies of Plaintiff's Motion to Reassess Damages, and Brief in Support thereof were sent to the following individuals on the date indicated below.

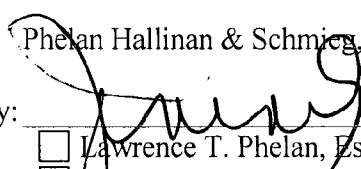
MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

DATE: 7/30/10

By:

Phelan Hallinan & Schmieg, LLP



- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
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- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

ATTORNEY FOR PLAINTIFF

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION

CA  
**FILED**

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

NO. 2005-1992-CD

AUG 06 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

3 cent *fee*

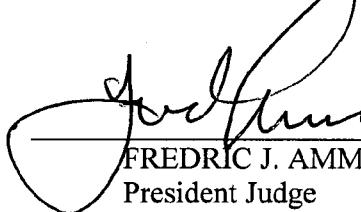
vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

**SCEDULING ORDER**

AND NOW, this 6 day of August 2010, it is the ORDER of the Court  
that a hearing on Plaintiff's Petition To Reassess Damages shall be and is hereby  
scheduled in the above captioned case for the 7<sup>th</sup> day of September, 2010 at 10:30  
o'clock A.M. in Courtroom #1 of the Court of Common Pleas of Clearfield County,  
Pennsylvania. One-half hour has been set aside for this hearing.

BY THE COURT

  
FREDRIC J. AMMERMAN  
President Judge

DATE: 8-6-10

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s) \_\_\_\_\_ Plaintiff(s) Attorney \_\_\_\_\_

Defendant(s) \_\_\_\_\_ Defendant(s) Attorney \_\_\_\_\_ Other \_\_\_\_\_

Special Instructions:

Prothonotary/Clerk of Courts  
William A. Smith

AUG 06 2010

FILED

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

FILED  
M 1103401 NO CC  
AUG 09 2010

HSBC BANK USA, NATIONAL ASSOCIATION AS  
INDENTURE TRUSTEE FOR PEOPLES CHOICE  
HOME LOAN SECURITIES TRUST SERIES 2005-  
1, MORTGAGE-BACKED NOTES, SERIES 2005-1  
Plaintiff,

v.

MELISSA D. JOHNS  
DAVID R. JOHNS  
Defendant(s)

CLEARFIELD COUNTY (William A. Shaw)  
Prothonotary/Clerk of Courts  
COURT OF COMMON PLEAS  
CIVIL DIVISION  
No. 2005-1992-CD

AFFIDAVIT OF SERVICE PURSUANT TO RULE 3129.1

COMMONWEALTH OF PENNSYLVANIA )  
PHILADELPHIA COUNTY ) SS:

As required by Pa. R.C.P. 3129.1(a) Notice of Sale has been given to Lienholders and any known interested party in the manner required by Pa. R.C.P. 3129.2(c) on each of the persons or parties named, at that address, set forth on the Affidavit and as amended if applicable. A copy of the Certificate of Mailing (Form 3817) and/or Certified Mail Return Receipt stamped by the U.S. Postal Service is attached hereto Exhibit "A".

*[Handwritten signature]*

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
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- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

Attorney for Plaintiff

Date: 8/3/10

**IMPORTANT NOTICE:** This property is sold at the direction of the plaintiff. It may not be sold in the absence of a representative of the plaintiff at the Sheriff's Sale. The sale must be postponed or stayed in the event that a representative of the plaintiff is not present at the sale.

Name and  
Address  
Of Sender

Phelan Hallinan & Schmieg, LLP  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103



JOT/JSC -

SALE

Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage	Fee
1	*****	TENANT/OCCUPANT 1099 SOUTH BRADY STREET DU BOIS, PA 15801		
2	*****	DOMESTIC RELATIONS CLEARFIELD COUNTY CLEARFIELD COUNTY COURTHOUSE 230 EAST MARKET STREET CLEARFIELD, PA 16830	11310	
3	*****	Commonwealth of Pennsylvania Department of Welfare P.O. Box 2675 Harrisburg, PA 17105	91310	
4	*****	United States Internal Revenue Special Procedures Branch Federated Investors Tower 13th Floor, Suite 1300 1001 Liberty Avenue Pittsburgh, PA 15222		
5	*****	U.S. Department of Justice Michael C. Colville, Esquire, United States Attorney Western District of PA 633 U.S. Post Office & Courthouse Pittsburgh, PA 15219		
6		SANDY TOWNSHIP MUNICIPAL AUTHORITY P.O. BOX 267 DUBOIS, PA 15801		
7		GREGORY M. KRUK, ESQ. ATTORNEY FOR SANDY TOWNSHIP MUNICIPAL AUTHORITY FERRARO KRUK & FERRARO LLP 690 MAIN STREET BROCKWAY, PA 15824		
8				
9				
10				
11		RE: MELISSA D. JOHNS (CLEARFIELD) TEAM 3 PHS# 118333		

Total Number of  
Pieces Listed by Sender

Total Number of Pieces  
Received at Post Office

Postmaster, Per (Name of  
Receiving Employee)

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$20,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional insurance. See Domestic Mail Manual R900 S913 and S921 for limitations of coverage.



Name and  
Address  
Of Sender

Phelan Hallinan & Schmieg, LLP  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103



JOT/JSC -

SALE

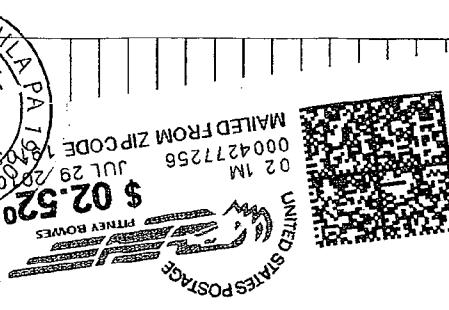
Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage	Fee
1	*****	DIANE L. TANGEMAN 204 SOUTH STATE STREET DUBOIS, PA 15801		
2	*****	NATHAN W. KARN ESQ. ATTORNEY FOR DIANE L. TANGEMAN 401 ALLEGHENY ST PO BOX 415 HOLLIDAYSBURG, PA 16648		
3	*****			
4	*****			
5	*****			
6	*****			
7	*****			
8	*****			
9	*****			
10	*****			
11	*****			
12	*****			
13	*****			
14	*****			
15	*****	RE: MELISSA D. JOHNS (CLEARFIELD) TEAM 3 PHS# 118333		

Total Number of  
Pieces Listed by Sender

Total Number of Pieces  
Received at Post Office

Postmaster, Per (Name of  
Receiving Employee)

The full declaration of value is required on all domestic and international registered mail. Value payable for the reconstruction of non-negotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional insurance. See Domestic Mail Manual R900, S913 and S921 for limitations of coverage.



**FILED**

**AUG 09 2010**

**William A. Shaw**  
**Prothonotary/Clerk of Courts**

FILED No CC  
MI 10:08 AM  
AUG 30 2010  
(LM)

AFFIDAVIT OF SERVICE

PLAINTIFF  
HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1

CLEARFIELD COUNTY  
PHS # 118333

William A. Shaw  
Prothonotary/Clerk of Courts

DEFENDANT  
MELISSA D. JOHNS  
DAVID R. JOHNS

SERVICE TEAM/ kxc  
COURT NO.: 2005-1992-CD

SERVE DAVID R. JOHNS AT:  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801  
\*\*\*ADDRESS MAY BE 1099 1/2 SOUTH BRADY STREET\*\*\*  
\*\*\*PLEASE ATTEMPT ASAP\*\*\*

TYPE OF ACTION  
XX Notice of Sheriff's Sale  
SALE DATE: 09/03/2010

SERVED

Served and made known to DAVID R. JOHNS, Defendant on the 3rd day of AUGUST, 20 10, at  
8:00 o'clock P. M., at JUDGE RD, #96, DUBOIS, PA, in the manner described below:

Defendant personally served.

Adult family member with whom Defendant(s) reside(s).

Relationship is \_\_\_\_\_.

Adult in charge of Defendant's residence who refused to give name or relationship.

Manager/Clerk of place of lodging in which Defendant(s) reside(s).

Agent or person in charge of Defendant's office or usual place of business.

an officer of said Defendant's company.

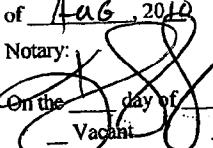
Other: \_\_\_\_\_.

Description: Age 30 Height 6'0" Weight 250 Race W Sex M Other \_\_\_\_\_

I, Ronald Moll, a competent adult, being duly sworn according to law, depose and state that I personally handed a true and correct copy of the Notice of Sheriff's Sale in the manner as set forth herein, issued in the captioned case on the date and at the address indicated above.

\* MELISSA JOHNS STATED THAT DEFENDANT DOES NOT RESIDE THEREIN. INVESTIGATION DISCLOSED THAT DAVID RESIDES @ JUDGE RD, #96 DUBOIS, PA

Sworn to and subscribed  
before me this 3rd day  
of Aug, 2010

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

On the 30 day of Aug, 20 10, at 8:00 o'clock P. M., Defendant NOT FOUND because:

Vacant  Bad Address  Moved  Does Not Reside (Not Vacant)

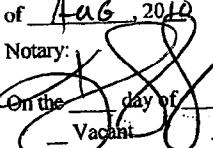
No Answer on \_\_\_\_\_ at \_\_\_\_\_; \_\_\_\_\_ at \_\_\_\_\_

Service Refused

Other:

Sworn to and subscribed  
before me this 30 day  
of Aug, 20 10.

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

Notary: 

KIMBERLY CURTY  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
MY COMMISSION EXPIRES MARCH 7, 2013

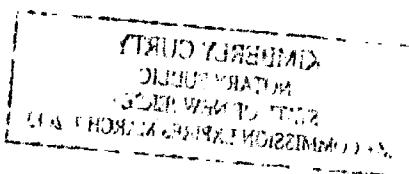
ATTORNEY FOR PLAINTIFF

Lawrence T. Phelan, Esq., Id. No. 32227  
Francis S. Hallinan, Esq., Id. No. 62695  
Daniel G. Schmieg, Esq., Id. No. 61285  
Michele M. Bradford, Esq., Id. No. 63849  
Judith T. Romane, Esq., Id. No. 58745  
Sheetal R. Shah-Jani, Esq., Id. No. 81760  
Jeslim R. Davry, Esq., Id. No. 57077  
Lauren R. Tabos, Esq., Id. No. 53337  
Vivek Srivastava, Esq., Id. No. 282331  
Jay B. Jones, Esq., Id. No. 86457  
Peter J. Mulcahy, Esq., Id. No. 61791  
Andrew L. Spivack, Esq., Id. No. 84439  
Jaime McGuinness, Esq., Id. No. 90134  
Christovalente P. Flakes, Esq., Id. No. 94620  
Joshua I. Goldman, Esq., Id. No. 205047  
Courtney R. Dunn, Esq., Id. No. 206779  
Andrew C. Brancato, Esq., Id. No. 208375  
One Penn Center at Suburban Station  
1617 John F. Kennedy Blvd., Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

FILED

AUG 30 2010

William A. Shaw  
Prothonotary/Clerk of Courts



FILED

10:00 a.m.  
AUG 30 2010

AFFIDAVIT OF SERVICE  
CLEARFIELD COUNTY

PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1

PHS # 118333

William A. Shaw  
Prothonotary/Clerk of Courts

DEFENDANT

MELISSA D. JOHNS  
DAVID R. JOHNS

SERVICE TEAM/loc  
COURT NO.: 2005-1992-CD

SERVE MELISSA D. JOHNS AT:  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801  
\*\*\*ADDRESS MAY BE 1099 1/2 SOUTH BRADY STREET\*\*\*  
\*\*\*PLEASE ATTEMPT ASAP\*\*\*

TYPE OF ACTION  
XX Notice of Sheriff's Sale  
SALE DATE: 09/03/2010

SERVED

Served and made known to MELISSA D. JOHNS, Defendant on the 2nd day of August, 2010, at  
8:40 o'clock A. M., at 1099 S. BRADY ST, DU BOIS, PA in the manner described below:

Defendant personally served.

Adult family member with whom Defendant(s) reside(s).

Relationship is \_\_\_\_\_.

Adult in charge of Defendant's residence who refused to give name or relationship.

Manager/Clerk of place of lodging in which Defendant(s) reside(s).

Agent or person in charge of Defendant's office or usual place of business.  
an officer of said Defendant's company.

Other: \_\_\_\_\_

Description: Age 30 Height 5'2" Weight 200 Race W Sex F Other \_\_\_\_\_

I, RONALD MOLL, a competent adult, being duly sworn according to law, depose and state that I personally handed a true and correct copy of the Notice of Sheriff's Sale in the manner as set forth herein, issued in the captioned case on the date and at the address indicated above.

Sworn to and subscribed  
before me this 2nd day  
of Aug, 2010

Notary: \_\_\_\_\_

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

KIMBERLY CURTY

NOTARY PUBLIC

STATE OF NEW JERSEY

MY COMMISSION EXPIRES MARCH 7, 2013

*Ronald Moll*

NOT SERVED

On the        day of       , 20      , at        o'clock        M., Defendant NOT FOUND because:

Vacant       Bad Address       Moved       Does Not Reside (Not Vacant)

No Answer on        at       ;        at       

Service Refused

Other:

Sworn to and subscribed  
before me this        day  
of       , 20      

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

Notary: \_\_\_\_\_

ATTORNEY FOR PLAINTIFF

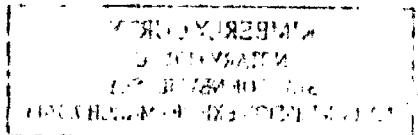
Lawrence T. Phelan, Esq., Id. No. 32227  
Francis S. Hallinan, Esq., Id. No. 62695  
David G. Schmalz, Esq., Id. No. 62295  
Michelle M. Bradford, Esq., Id. No. 65849  
Judith T. Romanu, Esq., Id. No. 58745  
Stephen R. Shah-Jani, Esq., Id. No. 81760  
Jenilee R. Davey, Esq., Id. No. 87077  
Lauren R. Tabas, Esq., Id. No. 93337  
Vivek Srivastava, Esq., Id. No. 282331  
Jay B. Jones, Esq., Id. No. 84657  
Peter J. Mulcahy, Esq., Id. No. 61791  
Andrew L. Spinney, Esq., Id. No. 84439  
Jaime McGuinness, Esq., Id. No. 90134  
Christopher P. Phelan, Esq., Id. No. 94628  
Joshua I. Goldman, Esq., Id. No. 205047  
Courtney R. Dunn, Esq., Id. No. 266779  
Andrew C. Bramblett, Esq., Id. No. 203375  
One Penn Center at Suburban Station  
1617 John F. Kennedy Blvd, Suite 1400  
Philadelphia, PA 19103-1814  
(215) 563-7000

300

**FILED**

**AUG 30 2010**

William A. Shaw  
Prothonotary/Clerk of Courts



FILED No. 6  
M/ 10:06am  
SEP 03 2010

William A. Shaw  
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP

BY: Jeremy J. Kobeski, Esquire

Identification No.: 94503

Attorney for Plaintiff

Omni William Penn Office Tower

555 Grant Street, Suite 360

Pittsburgh, PA 15219

(412) 745-0600

HSBC BANK USA, NATIONAL ASSOCIATION	:	Court of Common Pleas
AS INDENTURE TRUSTEE FOR PEOPLES	:	
CHOICE HOME LOAN SECURITIES TRUST	:	Civil Division
SERIES 2005-1, MORTGAGE-BACKED NOTES,	:	
SERIES 2005-1	:	CLEARFIELD County
Plaintiff	:	No. 2005-1992-CD
v.	:	

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**PLAINTIFF'S MOTION FOR CONTINUANCE**

Now comes Plaintiff, HSBC Bank USA, National Association as Indenture Trustee For Peoples Choice Home Loan Securities Trust Series 2005-1, Mortgage-Backed Notes, Series 2005-1, by Jeremy J. Kobeski, Esquire, and moves to continue the Rule Returnable Date Scheduled for September 7, 2010 at 10:30 AM, and in support thereof states as follows:

1. Plaintiff filed a Motion to Reassess Damages with the Court on or about July 30, 2010.
2. The Court issued an Order setting a Rule Returnable date of September 7, 2010 at 10:30 AM.

3. Plaintiff is currently reviewing the Defendants' loan for alternatives to foreclosure, which if available and approved would result in Plaintiff discontinuing the foreclosure action.

4. Based on the above, Plaintiff has continued the pending Sheriff's Sale to November 5, 2010.

5. Plaintiff is requesting a continuance of the Rule Returnable date to a date prior to November 5, 2010.

6. Plaintiff has not yet served the Court's Order setting the Rule Returnable date of September 7, 2010 on the Defendants and Plaintiff's requested continuance will not harm the Defendants.

WHEREFORE, for the foregoing reasons, the moving party requests that the Court grant the requested continuance of the September 7, 2010 Rule Returnable date.

Respectfully submitted,

Date: 9/2/2010

By:

  
Jeremy J. Kubeski, Esquire  
Attorney for Plaintiff

**VERIFICATION**

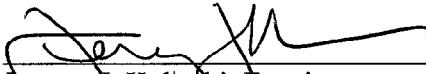
Jeremy J. Kobeski, Esquire, hereby states that he is the attorney for the Plaintiff in this action, that he is authorized to make this verification, and that the statements made in the foregoing Motion for Continuance are true and correct to the best of his knowledge, information and belief.

The undersigned understands that this statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsifications to authorities.

PHELAN HALLINAN & SCHMIEG, LLP

Date: 9/2/2010

BY:

  
\_\_\_\_\_  
Jeremy J. Kobeski, Esquire  
Attorney for Plaintiff  
Omni William Penn Office Tower  
555 Grant Street, Suite 360  
Pittsburgh, PA 15219  
(412) 745-0600

FILED No CC.

16.262m  
SEP 03 2010

William A. Shaw  
Prothonotary/Clerk of Courts  
Attorney for Plaintiff

PHELAN HALLINAN & SCHMIEG, LLP  
BY: Jeremy J. Kobeski, Esquire  
Identification No.: 94503  
Omni William Penn Office Tower  
555 Grant Street, Suite 360  
Pittsburgh, PA 15219  
(412) 745-0600

---

HSBC BANK USA, NATIONAL ASSOCIATION	:	Court of Common Pleas
AS INDENTURE TRUSTEE FOR PEOPLES	:	
CHOICE HOME LOAN SECURITIES TRUST	:	Civil Division
SERIES 2005-1, MORTGAGE-BACKED NOTES,	:	
SERIES 2005-1	:	CLEARFIELD County
Plaintiff	:	
	:	No. 2005-1992-CD
v.	:	

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of Plaintiff's Motion for Continuance was served via overnight mail upon the following individuals at the indicated addresses on the indicated date:

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

Date: 9/2/2010

By:

  
Jeremy J. Kobeski, Esquire  
Attorney for Plaintiff

CA

## IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

FILED

08/30/2010

SEP 08 2010

60

Civil Division

William A. Shaw  
Prothonotary/Clerk of Courts

3CC Atty Kobeski

Plaintiff

No. 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

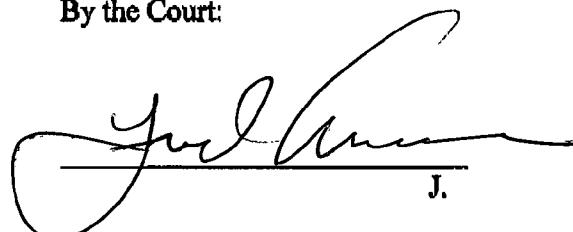
**ORDER**

AND NOW this 2 day of September, 2010, upon consideration of Plaintiff's Motion for Continuance of the September 7, 2010 Rule Returnable date on Plaintiff's Motion to Reassess Damages, and Defendants' Response, if any, it is hereby

ORDERED and DECREED that the Plaintiff's Motion is granted and the Rule Returnable date for Plaintiff's pending Motion to Reassess Damages is hereby continued to

October 19, 2010 at 11:30 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

By the Court:

  
J.

ORIGINAL

**FILED**

**SEP 08 2010**

**William A. Shaw**  
**Prothonotary/Clerk of Courts**

DATE: 9/8/10

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s), Attorney  Other

Defendant(s)  Defendant(s), Attorney

Special Instructions:

13-61  
PHELAN HALLINAN & SCHMIEG, LLP

BY: Jeremy J. Kobeski, Esquire

Identification No.: 94503

Attorney for Plaintiff

Omni William Penn Office Tower  
555 Grant Street, Suite 360  
Pittsburgh, PA 15219  
(412) 745-0600

---

HSBC BANK USA, NATIONAL ASSOCIATION	:	Court of Common Pleas
AS INDENTURE TRUSTEE FOR PEOPLES	:	
CHOICE HOME LOAN SECURITIES TRUST	:	Civil Division
SERIES 2005-1, MORTGAGE-BACKED NOTES,	:	
SERIES 2005-1	:	CLEARFIELD County
Plaintiff	:	No. 2005-1992-CD
v.	:	

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**PLAINTIFF'S MOTION FOR CONTINUANCE**

Now comes Plaintiff, HSBC Bank USA, National Association as Indenture Trustee For Peoples Choice Home Loan Securities Trust Series 2005-1, Mortgage-Backed Notes, Series 2005-1, by Jeremy J. Kobeski, Esquire, and moves to continue the Rule Returnable Date Scheduled for September 7, 2010 at 10:30 AM, and in support thereof states as follows:

1. Plaintiff filed a Motion to Reassess Damages with the Court on or about July 30, 2010.
2. The Court issued an Order setting a Rule Returnable date of September 7, 2010 at 10:30 AM.

3. Plaintiff is currently reviewing the Defendants' loan for alternatives to foreclosure, which if available and approved would result in Plaintiff discontinuing the foreclosure action.

4. Based on the above, Plaintiff has continued the pending Sheriff's Sale to November 5, 2010.

5. Plaintiff is requesting a continuance of the Rule Returnable date to a date prior to November 5, 2010.

6. Plaintiff has not yet served the Court's Order setting the Rule Returnable date of September 7, 2010 on the Defendants and Plaintiff's requested continuance will not harm the Defendants.

WHEREFORE, for the foregoing reasons, the moving party requests that the Court grant the requested continuance of the September 7, 2010 Rule Returnable date.

Respectfully submitted,

Date: 9/2/2010

By:

  
Jeremy J. Kubeski, Esquire  
Attorney for Plaintiff

**VERIFICATION**

Jeremy J. Kobeski, Esquire, hereby states that he is the attorney for the Plaintiff in this action, that he is authorized to make this verification, and that the statements made in the foregoing Motion for Continuance are true and correct to the best of his knowledge, information and belief.

The undersigned understands that this statement is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsifications to authorities.

PHELAN HALLINAN & SCHMIEG, LLP

Date: 9/2/2010

BY:

  
Jeremy J. Kobeski, Esquire  
Attorney for Plaintiff  
Omni William Penn Office Tower  
555 Grant Street, Suite 360  
Pittsburgh, PA 15219  
(412) 745-0600

PHELAN HALLINAN & SCHMIEG, LLP  
BY: Jeremy J. Kobeski, Esquire  
Identification No.: 94503  
Omni William Penn Office Tower  
555 Grant Street, Suite 360  
Pittsburgh, PA 15219  
(412) 745-0600

Attorney for Plaintiff

---

HSBC BANK USA, NATIONAL ASSOCIATION	:	Court of Common Pleas
AS INDENTURE TRUSTEE FOR PEOPLES	:	Civil Division
CHOICE HOME LOAN SECURITIES TRUST	:	CLEARFIELD County
SERIES 2005-1, MORTGAGE-BACKED NOTES,	:	
SERIES 2005-1	:	
Plaintiff	:	No. 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of Plaintiff's Motion for Continuance was served via overnight mail upon the following individuals at the indicated addresses on the indicated date:

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

Date: 9/2/2010

By:

  
Jeremy J. Kobeski, Esquire  
Attorney for Plaintiff

## IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION :  
AS INDENTURE TRUSTEE FOR PEOPLES :  
CHOICE HOME LOAN SECURITIES TRUST :  
SERIES 2005-1, MORTGAGE-BACKED NOTES, :  
SERIES 2005-1 : Civil Division  
Plaintiff : No. 2005-1992-CD  
v.  
MELISSA D. JOHNS  
DAVID R. JOHNS  
Defendants

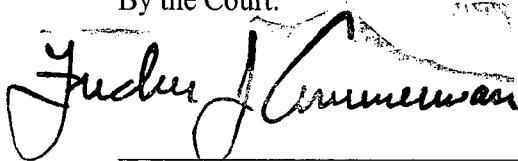
**ORDER**

AND NOW this 7<sup>th</sup> day of September, 2010, upon consideration of Plaintiff's Motion for Continuance of the September 7, 2010 Rule Returnable date on Plaintiff's Motion to Reassess Damages, and Defendants' Response, if any, it is hereby

ORDERED and DECREED that the Plaintiff's Motion is granted and the Rule Returnable date for Plaintiff's pending Motion to Reassess Damages is hereby continued to

Tuesday, October 19, 2010 at 11:30 AM.

By the Court:



J.

S **FILED**  
OCT 13 2010  
SEP 08 2010 *JCC*  
Atty Kobeski  
61  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**SEP 08 2010**

**William A. Shaw  
Prothonotary/Clerk of Courts**

DATE: 08/10

You are responsible for serving all appropriate parties.

The Prothonotary's office has provided service to the following parties:

Plaintiff(s)  Plaintiff(s) Attorney  Other

Defendant(s)  Defendant(s) Attorney

Special Instructions:

FILED  
M 10.5.2010  
SEP 10 2010

William A. Shaw  
Prothonotary/Clerk of Courts



Phelan Hallinan & Schmieg, LLP  
By: Lawrence T. Phelan, Esq., Id. No. 32227  
Francis S. Hallinan, Esq., Id. No. 62695  
Daniel G. Schmieg, Esq., Id. No. 62205  
Michele M. Bradford, Esq., Id. No. 69849  
Judith T. Romano, Esq., Id. No. 58745  
Sheetal R. Shah-Jani, Esq., Id. No. 81760  
Jenine R. Davey, Esq., Id. No. 87077  
Lauren R. Tabas, Esq., Id. No. 93337  
Vivek Srivastava, Esq., Id. No. 202331  
Jay B. Jones, Esq., Id. No. 86657  
Peter J. Mulcahy, Esq., Id. No. 61791  
Andrew L. Spivack, Esq., Id. No. 84439  
Jaime McGuinness, Esq., Id. No. 90134  
Chrisovalante P. Fliakos, Esq., Id. No. 94620  
Joshua I. Goldman, Esq., Id. No. 205047  
Courtenay R. Dunn, Esq., Id. No. 206779  
Andrew C. Bramblett, Esq., Id. No. 208375  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION	:	Court of Common Pleas
AS INDENTURE TRUSTEE FOR PEOPLES	:	Civil Division
CHOICE HOME LOAN SECURITIES TRUST	:	CLEARFIELD County
SERIES 2005-1, MORTGAGE-BACKED NOTES,	:	
SERIES 2005-1	:	
Plaintiff	:	No. 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**CERTIFICATION OF SERVICE**

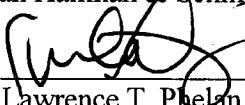
I hereby certify that a true and correct copy of the Court's Order scheduling argument date for October 19, 2010 at 11:30 am was sent to the following individuals on the date indicated below.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

DATE: 9/9/10

Phelan Hallinan & Schmieg, LLP

By: 

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
- Sheetal R. Shah-Jani, Esq., Id. No. 81760
- Jenine R. Davey, Esq., Id. No. 87077
- Lauren R. Tabas, Esq., Id. No. 93337
- Vivek Srivastava, Esq., Id. No. 202331
- Jay B. Jones, Esq., Id. No. 86657
- Peter J. Mulcahy, Esq., Id. No. 61791
- Andrew L. Spivack, Esq., Id. No. 84439
- Jaime McGuinness, Esq., Id. No. 90134
- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

ATTORNEY FOR PLAINTIFF

FILED

SEP 10 2011

William A. Shar  
Prothonotary/Clerk of Courts

11  
C-1, R-1

Phelan Hallinan & Schmieg, LLP  
By: Lawrence T. Phelan, Esq., Id. No. 32227  
Francis S. Hallinan, Esq., Id. No. 62695  
Daniel G. Schmieg, Esq., Id. No. 62205  
Michele M. Bradford, Esq., Id. No. 69849  
Judith T. Romano, Esq., Id. No. 58745  
Sheetal R. Shah-Jani, Esq., Id. No. 81760  
Jenine R. Davey, Esq., Id. No. 87077  
Lauren R. Tabas, Esq., Id. No. 93337  
Vivek Srivastava, Esq., Id. No. 202331  
Jay B. Jones, Esq., Id. No. 86657  
Peter J. Mulcahy, Esq., Id. No. 61791  
Andrew L. Spivack, Esq., Id. No. 84439  
Jaime McGuinness, Esq., Id. No. 90134  
Chrisovalante P. Fliakos, Esq., Id. No. 94620  
Joshua I. Goldman, Esq., Id. No. 205047  
Courtenay R. Dunn, Esq., Id. No. 206779  
Andrew C. Bramblett, Esq., Id. No. 208375  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

ATTORNEY FOR PLAINTIFF

FILED *mtm/09/10* NO CC  
SEP 29 2010

William A. Shaw  
Prothonotary/Clerk of Courts

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

Court of Common Pleas  
Civil Division  
CLEARFIELD County  
No. 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the Court's September 2, 2010 Rule directing the Defendants to show cause as to why Plaintiff's Motion to Reassess Damages should not be granted was served upon the following individuals on the date indicated below.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

DATE: 9/28/10

Phelan Hallinan & Schmieg, LLP

By: 

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
- Sheetal R. Shah-Jani, Esq., Id. No. 81760
- Jenine R. Davey, Esq., Id. No. 87077
- Lauren R. Tabas, Esq., Id. No. 93337
- Vivek Srivastava, Esq., Id. No. 202331
- Jay B. Jones, Esq., Id. No. 86657
- Peter J. Mulcahy, Esq., Id. No. 61791
- Andrew L. Spivack, Esq., Id. No. 84439
- Jaime McGuinness, Esq., Id. No. 90134
- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

ATTORNEY FOR PLAINTIFF

FILED

SEP 29 2010

William A. Stark  
Prothonotary/Clark of Courts

FILED NO  
M. A. Shaw cc  
NOV 09 2010  
60

William A. Shaw  
Prothonotary/Clerk of Courts

Phelan Hallinan & Schmieg, LLP  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

Court of Common Pleas  
Civil Division  
CLEARFIELD County  
No. 2005-1992-CD

**PRAECIPE TO AMEND JUDGMENT**

**TO THE PROTHONOTARY:**

Please amend the judgment amount pursuant to Court Order dated October 19, 2010.

DATE: 11-8-10

Phelan Hallinan & Schmieg, LLP

By: Joe Mahaney

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmieg, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
- Sheetal R. Shah-Jani, Esq., Id. No. 81760
- Jenine R. Davey, Esq., Id. No. 87077
- Lauren R. Tabas, Esq., Id. No. 93337
- Vivek Srivastava, Esq., Id. No. 202331
- Jay B. Jones, Esq., Id. No. 86657
- Peter J. Mulcahy, Esq., Id. No. 61791
- Andrew L. Spivack, Esq., Id. No. 84439
- Jaime McGuinness, Esq., Id. No. 90134
- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

ATTORNEY FOR PLAINTIFF

Phelan Hallinan & Schmieg, LLP  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

: Court of Common Pleas  
: Civil Division  
: CLEARFIELD County  
: No. 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**CERTIFICATION OF SERVICE**

I hereby certify that true and correct copies of the Order and Praecipe to Amend Judgment were sent to the following individuals on the date indicated below.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

DATE: 11-8-10

Phelan Hallinan & Schmiege, LLP

By: John Hallinan

- Lawrence T. Phelan, Esq., Id. No. 32227
- Francis S. Hallinan, Esq., Id. No. 62695
- Daniel G. Schmiege, Esq., Id. No. 62205
- Michele M. Bradford, Esq., Id. No. 69849
- Judith T. Romano, Esq., Id. No. 58745
- Sheetal R. Shah-Jani, Esq., Id. No. 81760
- Jenine R. Davey, Esq., Id. No. 87077
- Lauren R. Tabas, Esq., Id. No. 93337
- Vivek Srivastava, Esq., Id. No. 202331
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- Andrew L. Spivack, Esq., Id. No. 84439
- Jaime McGuinness, Esq., Id. No. 90134
- Chrisovalante P. Fliakos, Esq., Id. No. 94620
- Joshua I. Goldman, Esq., Id. No. 205047
- Courtenay R. Dunn, Esq., Id. No. 206779
- Andrew C. Bramblett, Esq., Id. No. 208375

ATTORNEY FOR PLAINTIFF

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION : Court of Common Pleas  
AS INDENTURE TRUSTEE FOR PEOPLES : Civil Division  
CHOICE HOME LOAN SECURITIES TRUST : CLEARFIELD County  
SERIES 2005-1, MORTGAGE-BACKED NOTES, :  
SERIES 2005-1  
Plaintiff  
v.  
MELISSA D. JOHNS  
DAVID R. JOHNS  
Defendants

ORDER

AND NOW, this 19<sup>th</sup> day of OCTOBER, 2010 the Prothonotary is ORDERED to amend the in rem judgment and the Sheriff is ORDERED to amend the writ nunc pro tunc in this case as follows:

Principal Balance	\$39,705.07
Interest Through September 3, 2010	\$6,792.49
Per Diem \$10.06	
Late Charges	\$16.78
Legal fees	\$1,800.00
Cost of Suit and Title	\$2,216.50
Sheriff's Sale Costs	\$1,568.89
Property Inspections/ Property Preservation	\$182.00
Appraisal/Brokers Price Opinion	\$78.00
Mortgage Insurance Premium /	\$0.00
Private Mortgage Insurance	\$0.00
Non Sufficient Funds Charge	
Suspense/Misc. Credits	(\$324.04)
Escrow Deficit	<u>\$1,001.67</u>
<b>TOTAL</b>	<b>\$53,037.36</b>

Plus interest from September 3, 2010 through the date of sale at six percent per annum.

Note: The above figure is not a payoff quote. Sheriff's commission is not included in the above figure.

BY THE COURT

/S/ Fredric J Ammerman

*I hereby certify that a true and accurate copy of the original statement filed in this case.*

OCT 19 2010

AMM

*Prothonotary  
Court of Common Pleas*

118333

**FILED**

NOV 09 2010

William A. Shaw  
Prothonotary/Clerk of Courts

FILED

OCT 19 2010  
11:50 AM

William A. Shaw  
Prothonotary/Clerk of Courts

60  
2nd flr to Att

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

v.  
MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

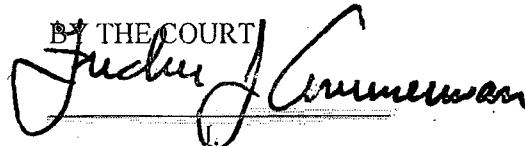
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Suspense/Misc. Credits	(\$324.04)
Escrow Deficit	\$1,001.67
<b>TOTAL</b>	<b>\$53,037.36</b>

Plus interest from September 3, 2010 through the date of sale at six percent per annum.

Note: The above figure is not a payoff quote. Sheriff's commission is not included in the above  
figure.

BY THE COURT  


ORIGINAL

118333

FILED  
CCT 19 2010  
PROTHONOTARY/Clerk of Courts  
William A Shaw

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 21194

NO. 05-1992-CD

PLAINTIFF: HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME  
LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, ERIES 2005-1

vs.

DEFENDANT: MELISSA D. JOHNS AND DAVID R. JOHNS

Execution REAL ESTATE

**SHERIFF RETURN**

DATE RECEIVED WRIT: 6/23/2010

LEVY TAKEN 7/20/2010 @ 10:25 AM

POSTED 7/20/2010 @ 10:25 AM

SALE HELD

SOLD TO

SOLD FOR AMOUNT PLUS COSTS

WRIT RETURNED 2/14/2011

DATE DEED FILED

PROPERTY ADDRESS 1099 SOUTH BRADY STREET DUBOIS , PA 15801

5-1992-CD  
019135/61  
B&B  
2/14/2011

William A. Shaw  
Prothonotary/Clerk of Courts

**SERVICES**

SEE ATTACHED SHEET(S) OF SERVICES

SHERIFF HAWKINS \$281.24

SURCHARGE \$40.00 PAID BY ATTORNEY

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2011

*Chester A. Hawkins*  
Chester A. Hawkins  
Sheriff

VS  
HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME LOAN  
SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, ERIES 2005-1  
vs  
MELISSA D. JOHNS AND DAVID R. JOHNS

---

1 8/5/2010 @ 9:51 AM SERVED MELISSA D. JOHNS

SERVED MELISSA D. JOHNS, DEFENDANT, AT HER RESIDENCE 1099 S. BRADY STREET, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MELISSA D. JOHNS

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING KNOW TO HIM / HER THE CONTENTS THEREOF.

---

2 @ SERVED DAVID R. JOHNS

DEPUTIES UNABLE TO SERVE DAVID R. JOHNS, DEFENDANT, AT 1099 SOUTH BRADY STREET, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, HE NO LONGER LIVES AT THAT ADDRESS.

---

8/13/2010 @ SERVED DAVID R. JOHNS

SERVED DAVID R. JOHNS, DEFENDANT, BY REG & CERT MAIL TO #96 JUDGE ROAD, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA CERT #70083230000335908904. CERT RETD UNCLAIMED 9/28/10

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE AND COPY OF THE LEVY.

---

@ SERVED

NOW, AUGUST 30, 2010 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO POSTPONE THE SHERIFF SALE SCHEDULED FOR SEPTEMBER 3, 2010 TO NOVEMBER 5, 2010 DUE TO LOSS MITIGATION.

---

@ SERVED

NOW, OCTOBER 26, 2010 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO POSTPONE THE SHERIFF SALE SCHEDULED FOR NOVEMBER 5, 2010 TO JANUARY 7, 2011 DUE TO MORATORIUM.

---

@ SERVED

NOW, JANUARY 4, 2011 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO STAY THE SHERIFF SALE SCHEDULED FOR JANUARY 7, 2011 DUE TO MORATORIUM.

WRIT OF EXECUTION - (MORTGAGE FORECLOSURE)

Pa.R.C.P. 3180-3183 and Rule 3257

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1

COURT OF COMMON PLEAS  
CIVIL DIVISION  
NO. 2005-1992-CD  
CLEARFIELD COUNTY

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS  
Commonwealth of Pennsylvania:

County of Clearfield

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

PREMISES: 1099 SOUTH BRADY STREET, DU BOIS, PA 15801

(See Legal Description attached)

Amount Due	\$46,873.19
Interest from 03/25/2006 to Sale	\$ _____
Per diem \$7.71	\$ _____
Add'l Costs	\$4,139.50
Writ Total	\$ _____
Prothonotary costs <i>152.50</i>	<i>152.50</i>

*Cull*  
OFFICE OF THE PROTHONOTARY OF CLEARFIELD  
COUNTY, PENNSYLVANIA

Dated 6-23-10  
(SEAL)

PHS # 118333

Received this writ this 28th day  
of June A.D. 2010  
At 11:30 A.M./P.M.

*Chester A. Hawkins*  
Sheriff by *Cynthia Butler-Depphacer*

IN THE COURT OF COMMON PLEAS OF  
CLERAFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME  
LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

WRIT OF EXECUTION  
(Mortgage Foreclosure)

	Costs
Real Debt	\$46,873.19
Int. from	
To Date of Sale (\$7.71 per diem)	
Costs	
Prothy Pd.	
Sheriff	
M.P.M.A.	
Filed	

Attorney for Plaintiff  
**Phelan Hallinan & Schmieg, LLP**

Lawrence T. Phelan, Esq., Id. No. 32227  
 Francis S. Hallinan, Esq., Id. No. 62695  
 Daniel G. Schmieg, Esq., Id. No. 62205  
 Michele M. Bradford, Esq., Id. No. 69849  
 Judith T. Romano, Esq., Id. No. 58745  
 Sheetal R. Shah-Jani, Esq., Id. No. 81760  
 Jenine R. Davey, Esq., Id. No. 87077  
 Lauren R. Tabas, Esq., Id. No. 93337  
 Vivek Srivastava, Esq., Id. No. 202331  
 Jay B. Jones, Esq., Id. No. 86657  
 Peter J. Mulcahy, Esq., Id. No. 61791  
 Andrew L. Spivack, Esq., Id. No. 84439  
 Jaime McGuinness, Esq., Id. No. 90134  
 Chrisovalante P. Fliakos, Esq., Id. No. 94620  
 Joshua I. Goldman, Esq., Id. No. 205047  
 Courtenay R. Dunn, Esq., Id. No. 206779  
 Andrew C. Bramblett, Esq., Id. No. 208375

Address where papers may be served:

MELISSA D. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801  
  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

**LEGAL DESCRIPTION**

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street Extension, and the place of beginning.

SUBJECT TO AND TOGETHER WITH any and all oil and gas leases, the sale of coal and mining rights and all rights relating thereto, building lines, rights-of-way, zoning regulations, building restrictions, reservations, restrictive covenants, easements, rights and obligations, encroachments, association fees and/or dues, if any, etc., as the same may be contained in prior instruments of record, set forth in the recorded plan and/or as shown on a survey of the property.

TOGETHER WITH and singular the building and improvements thereon, with the appurtenances.

TITLE TO SAID PREMISES IS VESTED IN Melissa D. Johns and David R. Johns, wife and husband, by Deed from Dorothy E. Hoover, unmarried, dated 11-4-04, recorded 11-10-04 in Deed Inst#: 200418330.

Premises being: **1099 SOUTH BRADY STREET**  
**DU BOIS, PA 15801**

Tax Parcel No. **128.0-B4-651-32**

**REAL ESTATE SALE  
SCHEDULE OF DISTRIBUTION**

NAME MELISSA D. JOHNS NO. 05-1992-CD

NOW, March 12, 2011, by virtue of the Writ of Execution hereunto attached, after having given due and legal notice of time and place of sale by publication in a newspaper published in this County and by handbills posted on the premises setting for the date, time and place of sale at the Court House in Clearfield on January 07, 2011, I exposed the within described real estate of Melissa D. Johns And David R. Johns to public venue or outcry at which time and place I sold the same to he/she being the highest bidder, for the sum of and made the following appropriations, viz:

**SHERIFF COSTS:**

RDR	15.00
SERVICE	15.00
MILEAGE	19.00
LEVY	15.00
MILEAGE	19.00
POSTING	15.00
CSDS	10.00
COMMISSION	0.00
POSTAGE	14.24
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	15.00
DEED	
ADD'L POSTING	
ADD'L MILEAGE	19.00
ADD'L LEVY	
BID/SETTLEMENT AMOUNT	
RETURNS/DEPUTIZE	
COPIES	15.00
	5.00
BILLING/PHONE/FAX	10.00
CONTINUED SALES	40.00
MISCELLANEOUS	
<b>TOTAL SHERIFF COSTS</b>	<b>\$281.24</b>

**DEED COSTS:**

ACKNOWLEDGEMENT	
REGISTER & RECORDER	
TRANSFER TAX 2%	0.00
<b>TOTAL DEED COSTS</b>	<b>\$0.00</b>

**PLAINTIFF COSTS, DEBT AND INTEREST:**

DEBT-AMOUNT DUE	46,873.19
INTEREST @ 7.7100	13,484.79
FROM 03/25/2006 TO 01/07/2011	
ATTORNEY FEES	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	40.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	
<b>TOTAL DEBT AND INTEREST</b>	<b>\$60,397.98</b>

**COSTS:**

ADVERTISING	1,335.90
TAXES - COLLECTOR	
TAXES - TAX CLAIM	
ASSESSMENT FEE	
LIEN SEARCH	100.00
ACKNOWLEDGEMENT	
DEED COSTS	0.00
SHERIFF COSTS	281.24
LEGAL JOURNAL COSTS	216.00
PROTHONOTARY	152.50
MORTGAGE SEARCH	40.00
MUNICIPAL LIEN	
<b>TOTAL COSTS</b>	<b>\$2,125.64</b>

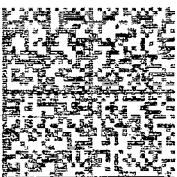
DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE **WITHIN TEN (10) DAYS FROM THIS DATE.**

CHESTER A. HAWKINS, Sheriff

**CHESTER A. HAWKINS**  
**SHERIFF**  
**COURTHOUSE**  
**1 NORTH SECOND STREET - SUITE 116**  
**CLEARFIELD, PENNSYLVANIA 16830**



7008 3230 0003 3590 8904



016H16505405

**\$05.70**

08/31/2010

Mailed From 16830  
US POSTAGE

DAVID R. JOHNS  
JUDGE ROAD #96  
DUBOIS, PA 15801

1st NOTICE 10/1 9-1-10  
2nd NOTICE 9-10-10  
RETURNED 8-10-10

WHITE 205 DG 4 08.09.2010

RETURN TO SENDER  
UNCLAIMED  
UNABLE TO FORWARD

BC: 16950247201 \*0396-05663-23-26

1603082472

<b>U.S. Postal Service™</b> <b>CERTIFIED MAIL RECEIPT</b> <i>(Domestic Mail Only. No Insurance Coverage Provided.)</i>	
<b>For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a></b>	
<b>OFFICIAL USE</b>	
Postage	\$ <u>6.0</u>
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	
<u><b>5.71</b></u>	
Sent To Street, Apt. No., or PO Box No. City, State, Zip+4	
<b>DAVID R. JOHNS</b> <b>JUDGE ROAD #96</b> <b>DUBOIS, PA 15801</b>	
	

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

DAVID R. JOHNS  
JUDGE ROAD #96  
DUBOIS, PA 15801

**COMPLETE THIS SECTION ON DELIVERY****A. Signature****X** Agent  
 Addressee**B. Received by (Printed Name)****C. Date of Delivery**

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

**3. Service Type**

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

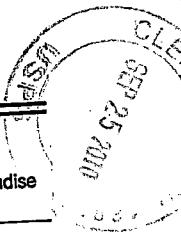
**4. Restricted Delivery? (Extra Fee)**  Yes**2. Article Number***(Transfer from service label)*

7008 3230 0003 3590 8904

Domestic Return Receipt

102595-02-M-1540

PS Form 3811, February 2004



**Phelan Hallinan & Schmieg, L.L.P.**  
**One Penn Center at Suburban Station**  
**1617 John F. Kennedy Boulevard**  
**Suite 1400**  
**Philadelphia, PA 19103-1814**  
**(215) 563-7000**  
**Fax: (215) 563-7009**

Foreclosure Manager

Representing Lenders in  
Pennsylvania and New Jersey

August 30, 2010

Office of the Sheriff  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830

Attn: Real Estate Department

Fax Number: 814-765-5915

Re: HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE  
FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1,  
MORTGAGE-BACKED NOTES, SERIES 2005-1 v.  
MELISSA D. JOHNS and DAVID R. JOHNS  
1099 SOUTH BRADY STREET DU BOIS, PA 15801  
Court No. 2005-1992-CD

Dear Sir/Madam:

Please Postpone the Sheriff Sale of the above referenced property, which is  
scheduled for September 3, 2010 due to the following: Loss Mitigation.

The Property is to be relisted for the November 5, 2010 Sheriff Sale.

Thank you for your cooperation in this matter.

Very Truly Yours,  
Matthew Balitzky for  
Phelan Hallinan & Schmieg, LLP

**Phelan Hallinan & Schmieg, L.L.P.**  
**One Penn Center at Suburban Station**  
**1617 John F. Kennedy Boulevard**  
**Suite 1400**  
**Philadelphia, PA 19103-1814**  
**(215) 563-7000**  
**Fax: (215) 563-7009**

Foreclosure Manager

Representing Lenders in  
Pennsylvania and New Jersey

October 26, 2010

Office of the Sheriff  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830

Attn: Real Estate Department

Fax Number: 814-765-5915

Re: HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE  
FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1,  
MORTGAGE-BACKED NOTES, SERIES 2005-1 v.  
MELISSA D. JOHNS and DAVID R. JOHNS  
1099 SOUTH BRADY STREET DU BOIS, PA 15801  
No.: 2005-1992-CD

Dear Sir/Madam:

Please Postpone the Sheriff Sale of the above referenced property, which is scheduled for November 5, 2010 due to the following: Moratorium - Serviceer (non-holiday).

The Property is to be relisted for the January 7, 2011 Sheriff Sale.

Thank you for your cooperation in this matter.

Very Truly Yours,  
ELIZABETH HALLINAN for  
Phelan Hallinan & Schmieg, LLP

**Phelan Hallinan & Schmieg, L.L.P.**  
**One Penn Center at Suburban Station**  
**1617 John F. Kennedy Boulevard**  
**Suite 1400**  
**Philadelphia, PA 19103-1814**  
**(215) 563-7000**  
**Fax: (215) 563-7009**

Foreclosure Manager

Representing Lenders in  
Pennsylvania and New Jersey

January 4, 2011

Office of the Sheriff  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830

Attn: Real Estate Department

Fax Number: 814-765-5915

Re: HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE  
FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1,  
MORTGAGE-BACKED NOTES, SERIES 2005-1 v.  
MELISSA D. JOHNS and DAVID R. JOHNS  
1099 SOUTH BRADY STREET DU BOIS, PA 15801  
No.: 2005-1992-CD

Dear Sir/Madam:

Please STAY the Sheriff's Sale of the above referenced property, which is  
scheduled for January 7, 2011 due to the following: Moratorium - Servicer (non-holiday).

Please be advised that no funds were reported to be received.

You are hereby directed to immediate discontinue the advertising of the sale and  
processing or posting of the Notice of Sale.

Please return the original Writ of Execution to the Prothonotary as soon as  
possible. In addition, please forward a copy of the cost sheet pertaining to this sale  
to our office via facsimile to 215-567-0072 or regular mail at your earliest  
convenience.

Thank you for your cooperation in this matter.

Very Truly Yours,  
David Tran for  
Phelan Hallinan & Schmieg, LLP

PRAECIPE FOR WRIT OF EXECUTION – (MORTGAGE FORECLOSURE)

Pa.R.C.P. 3180-3183

HSBC BANK USA, NATIONAL ASSOCIATION AS  
INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME  
LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-  
BACKED NOTES, SERIES 2005-1

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

To the PROTHONOTARY:

Issue writ of execution in the above matter:

Amount Due	\$ 53,037.36
------------	--------------

Interest from 09/04/2010 to Sale	\$ _____
----------------------------------	----------

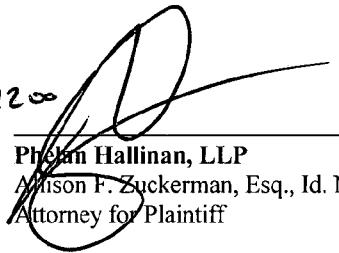
Per diem \$8.72

Writ Total

\$ \_\_\_\_\_

\$ \_\_\_\_\_

Prothonotary costs \$172.00

  
Phean Hallinan, LLP  
Alison F. Zuckerman, Esq., Id. No. 309519  
Attorney for Plaintiff

COURT OF COMMON PLEAS  
CIVIL DIVISION  
NO.: 2005-1992-CD

CLEARFIELD COUNTY

*S* FILED

JAN 17 2013

MLZ: 156

William A. Shaw  
Prothonotary/Clerk of Courts  
Court to Sure  
u/6 am

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Att

ey  
am

Note: Please attach description of Property.

PHS # 118333

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA  
  
HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

---

PRAECIPE FOR WRIT OF EXECUTION  
(Mortgage Foreclosure)

---

Filed:

  
Allison F. Zuckerman, Esq., Id. No. 309519  
Attorney for Plaintiff

Address where papers may be served:

MELISSA D. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

DAVID R. JOHNS  
JUDGE ROAD, #96  
DU BOIS, PA 15801

**WRIT OF EXECUTION - (MORTGAGE FORECLOSURE)**

**Pa.R.C.P. 3180-3183 and Rule 3257**

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1

vs.

**COURT OF COMMON PLEAS**

**CIVIL DIVISION**

**NO.: 2005-1992-CD**

**CLEARFIELD COUNTY**

MELISSA D. JOHNS  
DAVID R. JOHNS  
Commonwealth of Pennsylvania:

County of Clearfield

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

PREMISES: 1099 SOUTH BRADY STREET, DU BOIS, PA 15801

(See Legal Description attached)

Amount Due	\$53,037.36
------------	-------------

Interest from 09/04/2010 to Sale	\$ _____
----------------------------------	----------

Per diem \$8.72

Writ Total

Prothonotary costs 8172.00

\$ \_\_\_\_\_

\$ \_\_\_\_\_

*Willie*  
OFFICE OF THE PROTHONOTARY OF CLEARFIELD  
COUNTY, PENNSYLVANIA

Dated 1-12-13  
(SEAL)

PHS # 118333

IN THE COURT OF COMMON PLEAS OF  
CLERAFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME  
LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1

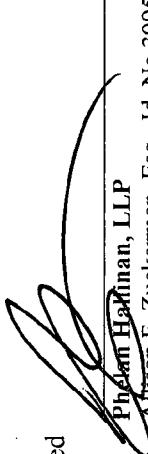
vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

WRIT OF EXECUTION  
(Mortgage Foreclosure)

	Costs
Real Debt	\$53,037.36
Int. from	
To Date of Sale (\$8.72 per diem)	
Costs	
Prothy Pd.	
Sheriff	

Filed



Alison F. Zuckerman, Esq., Id. No. 309519  
Attorney for Plaintiff

Address where papers may be served:

MELISSA D. JOHNS  
109 SOUTH BRADY STREET  
DUBOIS, PA 15801

DAVID R. JOHNS  
JUDGE ROAD, #96  
DUBOIS, PA 15801

### **LEGAL DESCRIPTION**

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street Extension, and the place of beginning.

SUBJECT TO AND TOGETHER WITH any and all oil and gas leases, the sale of coal and mining rights and all rights relating thereto, building lines, rights-of-way, zoning regulations, building restrictions, reservations, restrictive covenants, easements, rights and obligations, encroachments, association fees and/or dues, if any, etc., as the same may be contained in prior instruments of record, set forth in the recorded plan and/or as shown on a survey of the property.

Title of said property is vested in Melissa D. Johns and David R. Johns from Dorothy E. Hoover, by Special Warranty Deed, dated 11/04/2004 and recorded 11/10/2004 in Instrument # 200418330.

Premises being: 1099 SOUTH BRADY STREET, DU BOIS, PA 15801

Tax Parcel No. 128080465100032

PHELAN HALLINAN, LLP  
Allison F. Zuckerman, Esq., Id. No.309519  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

Attorneys for Plaintiff

**HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1**

Plaintiff

v.

**MELISSA D. JOHNS**

**DAVID R. JOHNS**

Defendant(s)

: **COURT OF COMMON PLEAS**  
: **CIVIL DIVISION**  
: **NO.: 2005-1992-CD**  
: **CLEARFIELD COUNTY**

**CERTIFICATION**

The undersigned attorney hereby states that he/she is the attorney for the Plaintiff in the above captioned matter and that the premises are not subject to the provisions of Act 91 because:

- the mortgage is an FHA Mortgage
- the premises is non-owner occupied
- the premises is vacant
- Act 91 procedures have been fulfilled
- Act 91 is Not Applicable pursuant to Pa Bulletin, Doc No 11-1197, 41 Pa.B. 3943

This certification is made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

By:

  
Phelan Hallinan, LLP  
Allison F. Zuckerman, Esq., Id. No.309519  
Attorney for Plaintiff

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1	:	COURT OF COMMON PLEAS
Plaintiff	:	CIVIL DIVISION
v.	:	NO.: <u>2005-1992-CD</u>
MELISSA D. JOHNS	:	
DAVID R. JOHNS	:	CLEARFIELD COUNTY
Defendant(s)	:	PHS # 118333

**AFFIDAVIT PURSUANT TO RULE 3129.1**

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1, Plaintiff in the above action, by the undersigned attorney, sets forth as of the date the Praeclipe for the Writ of Execution was filed, the following information concerning the real property located at **1099 SOUTH BRADY STREET, DU BOIS, PA 15801**.

1. Name and address of Owner(s) or reputed Owner(s):

Name	Address (if address cannot be reasonably ascertained, please so indicate)
------	--

<b>MELISSA D. JOHNS</b>	<b>1099 SOUTH BRADY STREET</b>
	<b>DU BOIS, PA 15801</b>

<b>DAVID R. JOHNS</b>	<b>JUDGE ROAD, #96</b>
	<b>DU BOIS, PA 15801</b>

2. Name and address of Defendant(s) in the judgment:

Name	Address (if address cannot be reasonably ascertained, please so indicate)
------	--

**SAME AS ABOVE.**

3. Name and last known address of every judgment creditor whose judgment is a record lien on the real property to be sold:

Name	Address (if address cannot be reasonably ascertained, please indicate)
------	---

<b>SANDY TOWNSHIP MUNICIPAL AUTHORITY</b>	<b>1094 CHESTNUT AVENUE</b>
	<b>P.O. BOX 267</b>
	<b>DU BOIS, PA 15801</b>

<b>SANDY TOWNSHIP MUNICIPAL AUTHORITY</b>	<b>1094 CHESTNUT AVENUE</b>
<b>C/O BRADY LABORDE</b>	<b>P.O. BOX 267</b>
	<b>DU BOIS, PA 15801</b>

<b>SANDY TOWNSHIP MUNICIPAL AUTHORITY</b>	<b>FERRARO, KRUK &amp; FERRARO, L.L.P.</b>
<b>C/O GREGORY M. KRUK, ESQUIRE</b>	<b>690 MAIN STREET</b>
	<b>BROCKWAY, PA 15824-1610</b>

<b>DIANE L. TANGEMAN</b>	<b>23 TOWER LANE, APARTMENT C</b>
	<b>DU BOIS, PA 15801-1158</b>

<b>DIANE L. TANGEMAN</b>	<b>204 S. STATE STREET</b>
	<b>DU BOIS, PA 15801</b>

DIANE L. TANGEMAN  
C/O NATHAN W. KARN, ESQUIRE

**401 ALLEGHENY STREET  
P.O. BOX 415  
HOLIDAYSBURG, PA 16648-2011**

**TENANT/OCCUPANT**

**1099 SOUTH BRADY STREET  
DU BOIS, PA 15801**

## DOMESTIC RELATIONS CLEARFIELD COUNTY

**CLEARFIELD COUNTY COURTHOUSE  
230 EAST MARKET STREET  
CLEARFIELD, PA 16830**

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF WELFARE**

P.O. BOX 2675  
HARRISBURG, PA 17105

## INTERNAL REVENUE SERVICE ADVISOR

1000 LIBERTY AVENUE

## INTERNAL REVENUE SERVICE

**U.S. DEPARTMENT OF JUSTICE  
U.S. ATTORNEY FOR THE WESTERN  
DISTRICT OF PA  
U.S. POST OFFICE & COURTHOUSE**

**700 GRANT STREET  
SUITE 4000  
PITTSBURGH, PA 15219**

I verify that the statements made in this affidavit are true and correct to the best of my personal knowledge or information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date:

111413

Bv.

**Phelan Hallinan LLP**  
Allison F. Zuckerman, Esq., Id. No.309519  
Attorney for Plaintiff

PHELAN HALLINAN, LLP  
Meredith Wooters, Esq., Id. No.307207  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
215-563-7000

Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION AS  
INDENTURE TRUSTEE FOR PEOPLES CHOICE  
HOME LOAN SECURITIES TRUST SERIES 2005-  
1, MORTGAGE-BACKED NOTES, SERIES 2005-1  
Plaintiff,

CLEARFIELD COUNTY  
COURT OF COMMON PLEAS  
CIVIL DIVISION  
No.: 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS  
Defendant(s)

AFFIDAVIT OF SERVICE PURSUANT TO RULE 3129.2

COMMONWEALTH OF PENNSYLVANIA )  
PHILADELPHIA COUNTY ) SS:

As required by Pa. R.C.P. 3129.2(a) Notice of Sale has been given to Lienholders and any known interested party in the manner required by Pa. R.C.P. 3129.2(c) on each of the persons or parties named, at that address, set forth on the Affidavit and as amended if applicable. A copy of the Certificate of Mailing (Form 3817) and/or Certified Mail Return Receipt stamped by the U.S. Postal Service is attached hereto Exhibit "A".

Date: 3/22/13

Meredith Wooters  
Meredith Wooters, Esq., Id. No.307207

Attorney for Plaintiff

**IMPORTANT NOTICE:** This property is sold at the direction of the plaintiff. It may not be sold in the absence of a representative of the plaintiff at the Sheriff's Sale. The sale must be postponed or stayed in the event that a representative of the plaintiff is not present at the sale.

PHS # 118333

FILED  
M 1:05 P.M. 64  
MAR 25 2013  
S/ William A. Shaw  
Prothonotary/Clerk of Courts  
100 Atty  
JG

Name and  
Address of  
Sender

Phelan Hallinan, LLP  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103

PAS/DDA-4/5/13 SALE



Line	Article Number	Name of Addressee, Street, and Post Office Address	Postage
1	****	TENANT/OCCUPANT 1099 SOUTH BRADY STREET DU BOIS, PA 15801	\$0.44
2	****	DIANE L. TANGEMAN 23 TOWER LANE, APARTMENT C DU BOIS, PA 15801-1159	\$0.44
3	****	DIANE L. TANGEMAN 204 S. STATE STREET DU BOIS, PA 15801	\$0.44
4	****	DIANE L. TANGEMAN C/O NATHAN W. KARN, ESQUIRE 401 ALLEGHENY STREET P.O. BOX 415 HOLIDAYSBURG, PA 16648-2011	\$0.44
5	****	SANDY TOWNSHIP MUNICIPAL AUTHORITY 1094 CHESTNUT AVENUE P.O. BOX 267 DU BOIS, PA 15801	\$0.44
6	****	SANDY TOWNSHIP MUNICIPAL AUTHORITY C/O BRADY LABORDE 1094 CHESTNUT AVENUE P.O. BOX 267 DU BOIS, PA 15801	\$0.44
7	****	SANDY TOWNSHIP MUNICIPAL AUTHORITY C/O GREGORY M. KRUK, ESQUIRE FERRARO, KRUK & FERRARO, LLP. 590 MAIN STREET BROCKWAY, PA 15324-1610	\$0.44
8	****	DOMESTIC RELATIONS CLEARFIELD COUNTY CLEARFIELD COUNTY COURTHOUSE 230 EAST MARKET STREET CLEARFIELD, PA 16830	\$0.44
9	****	COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF WELFARE P.O. BOX 2675 HARRISBURG, PA 17105	\$0.44
10	****	INTERNAL REVENUE SERVICE ADVISORY 1000 LIBERTY AVENUE ROOM 704 PITTSBURGH, PA 15222	\$0.44
11	****	U.S. DEPARTMENT OF JUSTICE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF PA U.S. POST OFFICE & COURTHOUSE 700 GRANT STREET SUITE 4000 PITTSBURGH, PA 15219	\$0.44
RECEIVED U.S. POSTAL SERVICE MISSISSAUGA, ONTARIO, CANADA PHS # 115333/071			\$4.84

Total Number of  
Pieces Listed by Sender

Total Number of Pieces  
Received at Post Office

Postmaster, Per (Name of  
Receiving Employee)

The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece, subject to a limit of \$300,000 per occurrence. The maximum indemnity payable on Express Mail merchandise is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional insurance. See Domestic Mail Manual R900 S913 and S921 for limitations of coverage.

Form 3877 Facsimile

**FILED**  
**MAR 25 2013**

William A. Shaw  
Prothonotary/Clerk of Courts

**AFFIDAVIT OF SERVICE**

**PLAINTIFF**

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1

**CLEARFIELD COUNTY**

PHS # 118333

**DEFENDANT**

MELISSA D. JOHNS  
DAVID R. JOHNS

**SERVICE TEAM/ spl**

COURT NO.: 2005-1992-CD

SERVE MELISSA D. JOHNS AT:  
231 HAMOR ST  
DU BOIS, PA 15801-1838

**TYPE OF ACTION**

XX Notice of Sheriff's Sale  
SALE DATE: April 5, 2013

**SERVED**

Served and made known to MELISSA D. JOHNS, Defendant on the 7 day of MARCH, 20 13, at 215, o'clock P. M., at 231 Hamor St. Dubois, in the manner described below:

Defendant personally served.

Adult family member with whom Defendant(s) reside(s).

Relationship is \_\_\_\_\_.

Adult in charge of Defendant's residence who refused to give name or relationship.

Manager/Clerk of place of lodging in which Defendant(s) reside(s).

Agent or person in charge of Defendant's office or usual place of business.

\_\_\_\_\_ an officer of said Defendant's company.

Other: \_\_\_\_\_

Description: Age 38 Height 5'8" Weight 200 Race W Sex F Other \_\_\_\_\_

I, GENA ZERBY, a competent adult, hereby verify that I personally handed a true and correct copy of the Notice of Sheriff's Sale in the manner as set forth herein, issued in the captioned case on the date and at the address indicated above. I understand that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

DATE: 3-7-13

NAME: Genia Zerby

PRINTED NAME: GENA ZERBY

TITLE: PROCESS SERVER

**NOT SERVED**

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_. M., I, \_\_\_\_\_, a competent adult hereby state that Defendant NOT FOUND because:

Vacant  Does Not Exist  Moved  Does Not Reside (Not Vacant)

No Answer on \_\_\_\_\_ at \_\_\_\_\_; \_\_\_\_\_ at \_\_\_\_\_

Service Refused

Other: \_\_\_\_\_

I understand that this statement is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

BY: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

**ATTORNEY FOR PLAINTIFF**

Phelan Hallinan, LLP  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
(215) 563-7000

**FILED** *No. C*  
*m/10/48pm JJ*  
*APR 01 2013*

William A. Shaw  
Prothonotary/Clerk of Courts

8. 12 AM V 125-0-1000-1226 8 122

5 6 912 7/10 81

V.L. 07-11210-2

File # 1226  
V.L. 07-11210-2  
Suffolk 22210-2

File # 2

**FILED**

APR 01 2013

William A. Shaw  
Prothonotary/Clerk of Courts

Phelan Hallinan, LLP  
Jonathan M. Etkowicz, Esq., Id. No.208786  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
jonathan.etkowicz@phelanhallinan.com  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

Court of Common Pleas  
Civil Division  
CLEARFIELD County  
No.: 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

FILED  
m/10/59  
MAY 28 2013  
William A. Shaw  
Prothonotary/Clerk of Courts  
6K

**PLAINTIFF'S MOTION TO REASSESS DAMAGES**

Plaintiff, by its Attorneys, Phelan Hallinan, LLP, moves the Court to direct the Prothonotary to amend the judgment in this matter, and in support thereof avers the following:

1. Plaintiff commenced this foreclosure action by filing a Complaint on December 22, 2005.
2. Judgment was entered on March 27, 2006 in the amount of \$46,862.86. A true and correct copy of the praecipe for judgment is attached hereto, made part hereof, and marked as Exhibit "A".
3. Plaintiff filed a prior Motion to Reassess Damages, which was granted by Order dated October 19, 2010, amending the judgment amount to \$53,037.36. A true and correct copy of the Order is attached hereto, made part hereof, and marked as Exhibit "B".

4. Pursuant to Pennsylvania Rule of Civil Procedure 1037(b)(1), a default judgment containing a dollar amount must be entered for the amount claimed in the complaint and any item which can be calculated from the complaint, i.e. bringing the interest current. However, new items cannot be added at the time of entry of the judgment.

5. A Sheriff's Sale of the mortgaged property at 1099 SOUTH BRADY STREET, DUBLIN, PA 15801 (hereinafter the "Property") was postponed or stayed for the following reason:

a.) The Defendant, DAVID R. JOHNS and MELISSA D. JOHNS, filed a Chapter 13 Bankruptcy at Docket Number 06-70460 on July 6, 2006. The Bankruptcy was dismissed by order of court dated December 4, 2009. A true and correct copy of the Bankruptcy Court Order is attached hereto, made part hereof, and marked as Exhibit "C".

6. The Property is listed for Sheriff's Sale on June 7, 2013.

7. Additional sums have been incurred or expended on Defendants' behalf since the Complaint was filed and Defendants have been given credit for any payments that have been made since the judgment. The amount of damages should now read as follows:

Principal Balance	\$39,705.07
Interest Through June 7, 2013	\$17,244.65
Late Charges	\$16.78
Legal fees	\$2,050.00
Cost of Suit and Title	\$2,808.03
Sheriff's Sale Costs	\$3,582.03
Property Inspections	\$597.00
Property Preservation	\$1,702.50
Appraisal/Brokers Price Opinion	\$1,840.80
Escrow Deficit	\$3,794.99
Suspense/Misc. Credits	<u>(\$324.04)</u>
<b>TOTAL</b>	<b>\$73,017.81</b>

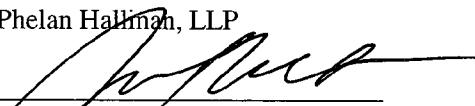
8. The judgment formerly entered is insufficient to satisfy the amounts due on the Mortgage.

9. Under the terms of the Mortgage and Pennsylvania law, Plaintiff is entitled to inclusion of the figures set forth above in the amount of judgment against the Defendants.

10. Plaintiff's foreclosure judgment is in rem only and does not include personal liability, as addressed in Plaintiff's attached brief.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court amend the judgment as requested.

DATE: 5/24/13

Phelan Hallinan, LLP  
By:   
Jonathan M. Etkowicz, Esquire  
ATTORNEY FOR PLAINTIFF

# **Exhibit "A"**

11833

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.  
8201 GREENSBORO DRIVE, SUITE 350  
MCLEAN, VA 22102

No.: 2005-1992-CD

VS.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

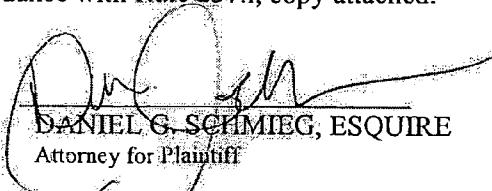
**PRAECIPE FOR JUDGMENT FOR FAILURE TO  
ANSWER AND ASSESSMENT OF DAMAGES**

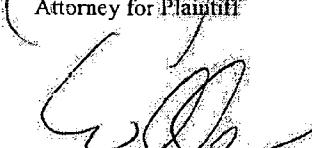
TO THE PROTHONOTARY:

Kindly enter judgment in favor of the Plaintiff and against MELISSA D. JOHNS and DAVID R. JOHNS, Defendant(s) for failure to file an Answer to Plaintiff's Complaint within 20 days from service thereof and for foreclosure and sale of the mortgaged premises, and assess Plaintiff's damages as follows:

As set forth in Complaint	\$45902.17
Interest (12/21/05 to 3/24/06)	<u>960.69</u>
<b>TOTAL</b>	<b>\$46862.86</b>

I hereby certify that (1) the addresses of the Plaintiff and Defendant(s) are as shown above, and (2) that notice has been given in accordance with Rule 237.1, copy attached.

  
DANIEL G. SCHMIEG, ESQUIRE  
Attorney for Plaintiff

  
PRO PROTHY

KAM

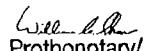
Damages are hereby assessed as indicated.

DATE: March 27, 2006

I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAR 27 2006

Attest.

  
Prothonotary/  
Clerk of Courts

# **Exhibit “B”**

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

v.  
MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

Court of Common Pleas  
Civil Division  
CLEARFIELD County  
No. 2005-1992-CD

ORDER

AND NOW, this 19<sup>th</sup> day of October, 2010 the Prothonotary is ORDERED to  
amend the in rem judgment and the Sheriff is ORDERED to amend the writ nunc pro tunc in this  
case as follows:

Principal Balance	\$39,705.07
Interest Through September 3, 2010	\$6,792.49
Per Diem \$10.06	
Late Charges	\$16.78
Legal fees	\$1,800.00
Cost of Suit and Title	\$2,216.50
Sheriff's Sale Costs	\$1,568.89
Property Inspections/ Property Preservation	\$182.00
Appraisal/Brokers Price Opinion	\$78.00
Mortgage Insurance Premium /	\$0.00
Private Mortgage Insurance	\$0.00
Non Sufficient Funds Charge	
Suspense/Misc. Credits	(\$324.04)
Escrow Deficit	\$1,001.67
 <b>TOTAL</b>	 <b>\$53,037.36</b>

Plus interest from September 3, 2010 through the date of sale at six percent per annum.

Note: The above figure is not a payoff quote. Sheriff's commission is not included in the above  
figure.

BY THE COURT  
/S/ Fredric J Ammerman

J.

*The party having the benefit of  
and attorney copy of the original  
statement filed in this case.*

OCT 10 2010

24531

*Prothonotary  
Court of Common Pleas*

118333

# **Exhibit "C"**

118333

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re:

David Robert Johns  
Melissa Diane Johns  
Debtor(s)

Bankruptcy Case No.: 06-70460-TPA  
Related To Docket No. 34  
Chapter: 13  
Docket No.: 37

**ORDER**

**IT IS HEREBY ORDERED** that the above-captioned case is **DISMISSED WITHOUT PREJUDICE**.

Each *Income Attachment* issued in the case is now **TERMINATED**.

Debtor(s) must immediately serve a copy of this *Order* on each employer/entity subject to an *Attachment Order*, so that each such employer/entity knows to stop the attachment.

Creditor collection remedies are **REINSTATED** pursuant to *11 U.S.C. §349*, and creditors are directed to *11 U.S.C. §108(c)* for time limits on filing a lawsuit to collect; generally, a creditor's lawsuit must be filed by the later of (1) the time deadline prescribed by state law, or (2) thirty days after date of this *Order*.

Debtor(s) remain legally liable for all of their debts as if the bankruptcy petition had not been filed.

Dated: December 4, 2009

Thomas P. Agresti  
United States Bankruptcy Judge

cm: All Creditors and All Parties In Interest

Phelan Hallinan, LLP  
Jonathan M. Etkowicz, Esq., Id. No.208786  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
jonathan.etkowicz@phelanhallinan.com  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION : Court of Common Pleas  
AS INDENTURE TRUSTEE FOR PEOPLES :  
CHOICE HOME LOAN SECURITIES TRUST : Civil Division  
SERIES 2005-1, MORTGAGE-BACKED NOTES, :  
SERIES 2005-1 : CLEARFIELD County  
Plaintiff :  
No.: 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**CERTIFICATION OF SERVICE**

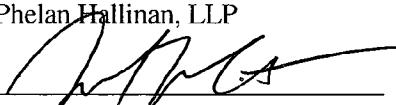
I hereby certify that true and correct copies of Plaintiff's Motion to Reassess Damages, and Brief in Support thereof were sent to the following individuals on the date indicated below.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

MELISSA D. JOHNS  
231 HAMOR ST  
DU BOIS, PA 15801-1838

DATE: 5/24/13

Phelan Hallinan, LLP  
By:   
Jonathan M. Etkowicz, Esquire  
ATTORNEY FOR PLAINTIFF

**FILED**

**MAY 28 2013**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS  
CLEARFIELD COUNTY, PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION : Court of Common Pleas  
AS INDENTURE TRUSTEE FOR PEOPLES :  
CHOICE HOME LOAN SECURITIES TRUST : Civil Division  
SERIES 2005-1, MORTGAGE-BACKED NOTES, :  
SERIES 2005-1 : CLEARFIELD County  
Plaintiff :  
v. : No.: 2005-1992-CD

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2013 the Prothonotary is ORDERED to amend the in rem judgment and the Sheriff is ORDERED to amend the writ nunc pro tunc in this case as follows:

Principal Balance	\$39,705.07
Interest Through June 7, 2013	\$17,244.65
Late Charges	\$16.78
Legal fees	\$2,050.00
Cost of Suit and Title	\$2,808.03
Sheriff's Sale Costs	\$3,582.03
Property Inspections	\$597.00
Property Preservation	\$1,702.50
Appraisal/Brokers Price Opinion	\$1,840.80
Escrow Deficit	\$3,794.99
Suspense/Misc. Credits	(\$324.04)
<b>TOTAL</b>	\$73,017.81

Plus interest at six percent per annum.

Note: The above figure is not a payoff quote. Sheriff's commission is not included in the above figure.

BY THE COURT

—  
J.

Phelan Hallinan, LLP  
Jonathan M. Etkowicz, Esq., Id. No.208786  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
jonathan.etkowicz@phelanhallinan.com  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

Court of Common Pleas  
Civil Division  
CLEARFIELD County  
No.: 2005-1992-CD

v.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

RECEIVED

MAY 28 2013

Court Administrator's  
Office

MEMORANDUM OF LAW IN SUPPORT OF  
PLAINTIFF'S MOTION TO REASSESS DAMAGES

**I. BACKGROUND OF CASE**

MELISSA D. JOHNS executed a Promissory Note agreeing to pay principal, interest, late charges, real estate taxes, hazard insurance premiums, and mortgage insurance premiums as these sums became due. Plaintiff's Note was secured by a Mortgage on the Property located at 1099 SOUTH BRADY STREET, DU BOIS, PA 15801. The Mortgage indicates that in the event of a default in the mortgage, Plaintiff may advance any necessary sums, including taxes, insurance, and other items, in order to protect the security of the Mortgage.

In the instant case, Defendants defaulted under the Mortgage by failing to tender numerous, promised monthly mortgage payments. Accordingly, after it was clear that the default would not be cured, Plaintiff commenced the instant mortgage foreclosure action. Judgment was subsequently entered by the Court, and the Property is currently scheduled for Sheriff's Sale.

Because of the period of time between the initiation of the mortgage foreclosure action, the entry of judgment and the Sheriff's Sale date, damages as previously assessed are outdated and need to be adjusted to include current interest, real estate taxes, insurance premiums, costs of collection, and other expenses which Plaintiff has been obligated to pay under the Mortgage in order to protect its interests. It is also appropriate to give Defendants credit for monthly payments tendered through bankruptcy, if any.

## **II. LEGAL ARGUMENT TO AMEND PLAINTIFF'S IN REM JUDGMENT**

It is settled law in Pennsylvania that the Court may exercise its equitable powers to control the enforcement of a judgment and to grant any relief until that judgment is satisfied. 20 P.L.E., Judgments § 191. Stephenson v. Butts, 187 Pa.Super. 55, 59, 142 A.2d 319, 321 (1958). Chase Home Mortgage Corporation of the Southwest v. Good, 537 A.2d 22, 24 (Pa.Super. 1988). The Pennsylvania Superior Court has repeatedly cited the right of a foreclosing creditor to amend its judgment prior to the Sheriff's sale. Nationsbanc Mortgage Corp. v. Grillo, 827 A.2d 489 (Pa.Super. 2003). Morgan Guaranty Trust Co. of N.Y. v. Mowl, 705 A.2d 923 (Pa. Super. 1998). Union National Bank of Pittsburgh v. Ciongoli, 407 Pa.Super. 171, 595 A.2d 179 (1991).

The Supreme Court of Pennsylvania recognized in Landau v. Western Pa. Nat. Bank, 445 Pa. 117, 282 A.2d 335 (1971), that the debt owed on a Mortgage is subject to change and, in fact, can be expected to change from day to day because the bank must advance sums in order to protect its collateral. Because a Mortgage lien is not extinguished until the debt is paid, Plaintiff must protect its collateral up until the date of sale. Beckman v. Altoona Trust Co., 332 Pa. 545, 2 A.2d 826 (1939). Because a judgment in mortgage foreclosure is strictly in rem, it is critical that the judgment reflect those amounts expended by the Plaintiff in protecting the property. Meco Reality

Company v. Burns, 414 Pa. 495, 200 A.2d 335 (1971). Plaintiff submits that if it goes to sale without the requested amended judgment, and if there is competitive bidding for the Property, Plaintiff will suffer a significant loss in that it would not be able to recoup monies it advanced to protect its interests. Conversely, amending the in rem judgment will not be detrimental to Defendants as it imputes no personal liability.

In B.C.Y. v. Bukovich, the Pennsylvania Superior Court reiterated its long standing rule that a Court has the inherent power to correct a judgment to conform to the facts of a case. 257 Pa. Super. 157, 390 A.2d 276 (1978). In the within case, the amount of the original judgment does not adequately reflect the additional sums due on the Mortgage due to Defendants' failure to tender payments during the foreclosure proceeding and the advances made by the mortgage company. The Mortgage plainly requires the mortgagors to tender to the mortgagee monthly payments of principal and interest until the Promissory Note accompanying the Mortgage is paid in full. The mortgagors are also required to remit to the mortgagee sufficient sums to pay monthly mortgage insurance premiums, fire insurance premiums, taxes and other assessments relating to the Property. The mortgagors have breached the terms of the Mortgage, and Plaintiff has been forced to incur significant unjust financial losses on this loan.

### **III. THE FORECLOSURE JUDGMENT IS IN REM ONLY**

The within case is a mortgage foreclosure action, the sole purpose of which is to take the mortgaged property to Sheriff's Sale. Pennsylvania law makes clear that an action in mortgage foreclosure is strictly in rem and does not include any personal liability. Newtown Village Partnership v. Kimmel, 424 Pa. Super 53, 55, 621 A.2d 1036, 1037 (1993). Signal Consumer

Discount Company v. Babuscio, 257 Pa. Super 101, 109, 390 A.2d 266, 270 (1978). Pennsylvania Rule of Civil Procedure 1141(a).

However, Pennsylvania law requires that the foreclosure action demand judgment for the amount due. Pa.R.C.P. 1147(6). The purpose of the dollar amount in the in rem judgment is for bidding at the Sheriff's Sale. In the event that a third party real estate speculator were to bid on the mortgaged property at the Sheriff's Sale and become the successful purchaser, Plaintiff would receive the amount of the in rem judgment from the Sheriff.

#### **IV. INTEREST**

The Mortgage clearly requires that the Defendants' shall promptly pay when due the principal and interest due on the outstanding debt. In addition, the Note specifies the rate of interest to be charged until the debt is paid in full or otherwise satisfied. Specifically, interest from 30 days prior to the date of default through the date of the impending Sheriff's sale has been requested.

#### **V. TAXES AND INSURANCE**

If Plaintiff had not advanced monies for taxes and insurance throughout the foreclosure proceeding, Plaintiff would have risked loss of its collateral. If the Property were sold at a tax sale, Plaintiff's interest very well may be divested, and Plaintiff would sustain a complete loss on the outstanding balance due on the loan. If the Property were damaged in a fire, Plaintiff would not be able to obtain insurance proceeds to restore the Property if it did not pay the insurance premiums.

Most importantly, the Mortgage specifically provides that the mortgagee may advance the monies for taxes and insurance and charge these payments against the escrow account. Plaintiff is simply seeking to have the Court enforce the terms of the Mortgage.

## **VI. ATTORNEY'S FEES**

The Plaintiff's foreclosure fees are very modest. They cover all of the legal work done throughout the course of the foreclosure action to date, including reviewing the Act 6 or Act 91 letters, loan documents, account records, title reports and supporting documents, preparing and reviewing the mortgage foreclosure complaint, filing and service of the complaint, Rule 237.1 Notice, Department of Defense search, entry of judgment, the writ of execution process, lien holder notices, and all of the other legal work that goes into handling the mortgage foreclosure lawsuit.

The Mortgage specifically provides for Plaintiff's recovery of its attorney fees. The amount of attorney's fees requested in the Motion to Reassess Damages is in accordance with the loan documents and Pennsylvania law. Pennsylvania Courts have long and repeatedly concluded that a request of five percent of the outstanding principal balance is reasonable and enforceable as an attorney's fee. Robinson v. Loomis, 51 Pa. 78 (1865); First Federal Savings and Loan Association v. Street Road Shopping Center, 68 D&C 2d 751, 755 (1974).

In Federal Land Bank of Baltimore v. Fetner, the Superior Court held that an attorney's fee of ten percent of the original mortgage amount is not unconscionable. 410 A.2d 344 (Pa. Super. 1979). The Superior Court cited Fetner in confirming that an attorney's fee of ten percent included in the judgment in mortgage foreclosure action was reasonable. Citicorp v. Morrisville Hampton Realty, 662 A.2d 1120 (Pa. Super. 1995). Plaintiff's legal fees are not a percentage but are significantly less than what is permitted by Pennsylvania law.

## **VII. COST OF SUIT AND TITLE**

Pursuant to the terms of the mortgage, Plaintiff is entitled to recover all expenses incurred in the foreclosure action. The amount claimed for the costs of suit and title are the expenses Plaintiff paid to date as a result of the mortgage default.

The title report is necessary to determine the record owners of the property, as Pa.R.C.P. 1144 requires all record owners to be named as Defendants in the foreclosure action. It is also necessary to determine whether there are any prior liens to be cleared, so that the Sheriff's sale purchaser acquires clear title to the property. It is necessary to determine if there are IRS liens on the property, whether the Defendants are divorced (which could affect service of the complaint), and numerous other legal issues. The title bringdown is necessary to identify any new liens on the property or new owners between the time of filing and complaint and the writ date.

The Freedom of Information Act inquiries and the investigation into Defendants' whereabouts are necessary to effectively attempt personal service of the complaint and notice of sale on the Defendant. The notice of sale and Rule 3129 notice are required by Pa.R.C.P.3129.1 and 3129.2 to notify all lienholders, owners, and interested persons of the Sheriff's sale date, as their interests will be divested by the Sheriff's sale.

Accordingly, the modest sums Plaintiff has incurred for the costs of suit and title were necessary pursuant to Pennsylvania law. The amounts were reasonable and actually incurred. The mortgage and Pennsylvania law permit Plaintiff to recover these sums through its foreclosure action. As the foreclosure action is in rem only, Plaintiff recovers its judgment from the sale of the property, not out of the Defendant's pockets. Plaintiff should recover the costs of suit and title in their entirety, which will not cause harm to the Defendants.

## **VIII. PROPERTY INSPECTIONS AND PRESERVATION**

The terms of the mortgage provide for property inspections and property preservation charges. The lender or its agent may make reasonable inspections of the property pursuant to the terms of the mortgage. When a borrower defaults under the terms of the mortgage, the lender may do, or pay for, whatever is reasonable to protect its interest in the collateral, including property maintenance. Any amounts disbursed by the lender for property inspections and preservation become additional debt of the borrower secured by the mortgage. The lender may charge the borrower for services performed in connection with the default, for the purpose of protecting the lender's interest in the property, including property inspections and valuation costs.

When a loan is in default, the lender's risk increases. Mortgage companies typically have a vendor visit the premises to determine if any windows need to be boarded up, if the property is vacant, if the grass needs to be cut, or the snow shoveled. If the property inspection reveals any problems at the mortgaged premises, then the mortgage company may proceed to take whatever steps are necessary to secure the collateral, such as boarding windows, winterizing, removing hazards or debris, etc. The mortgage company generally pays a vendor to handle these tasks, which are referred to in the industry as "property preservation". These services avoid code violations and avoid the property becoming an eyesore in the neighborhood. Property preservation helps maintain property values in the neighborhood.

Accordingly, line items included in Motions to Reassess Damages for property inspections and property preservation represent amounts which the mortgage company has paid out of its pocket to preserve its collateral, consistent with the terms of the mortgage contract. Since the terms of the mortgage provide that such expenses by the mortgage company become

part of the borrower's debt secured by the mortgage, those expenses are properly included in the Plaintiff's Motion to Reassess Damages.

**IX. CONCLUSION**

Therefore, Plaintiff respectfully submits that if the enforcement of its rights is delayed by legal proceedings, and such delays require the mortgagee to expend additional sums provided for by the Mortgage, then the expenses necessarily become part of the mortgagee's lien and should be included in the judgment.

Plaintiff respectfully requests that this Honorable Court grant its Motion to Reassess Damages. Plaintiff submits that it has acted in good faith in maintaining the Property in accordance with the Mortgage, and has relied on terms of the Mortgage with the understanding that it would recover the monies it expended to protect its collateral.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court amend the judgment as requested.

DATE:

5/24/13

By:

Phelan Hallinan, LLP  
  
Jonathan M. Etkowicz, Esquire  
Attorney for Plaintiff

CA  
2CC Att  
FILED  
01349cm  
MAY 28 2013  
ETKowicz  
6K

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

HSBC BANK USA, NATIONAL ASSOCIATION : Court of Common Pleas  
AS INDENTURE TRUSTEE FOR PEOPLES :  
CHOICE HOME LOAN SECURITIES TRUST : Civil Division  
SERIES 2005-1, MORTGAGE-BACKED NOTES, :  
SERIES 2005-1 : CLEARFIELD County  
Plaintiff : No.: 2005-1992-CD  
v. :  
:

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

RULE

AND NOW, this 28<sup>th</sup> day of May 2013, a Rule is entered upon the  
Defendants to show cause why an Order should not be entered granting Plaintiff's Motion to  
Reassess Damages.

Argument the 18<sup>th</sup> day of July 2013, at 3:00 pm in the Clearfield  
County Courthouse, Clearfield, Pennsylvania, Courtroom #1.

BY THE COURT  
Feder J. Zimmerman  
J.

113333

113333

FILED

MAY 28 2013

William A. Shaw  
Prothonotary/Clerk of Courts

Phelan Hallinan, LLP  
Jonathan M. Etkowicz, Esq., Id. No.208786  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
jonathan.etkowicz@phelanhallinan.com  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the Court's May 28, 2013 Rule directing the Defendants to show cause as to why Plaintiff's Motion to Reassess Damages should not be granted was served upon the following individuals on the date indicated below.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
231 HAMOR ST  
DU BOIS, PA 15801-1838

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

(L6)  
S FILED 1cc Atty  
m 11/10/2013 Etkowicz  
JUN 10 2013

DATE: 6/7/13

By:

Phelan Hallinan, LLP  
Jonathan M. Etkowicz, Esq., Id. No.208786  
Attorney for Plaintiff

William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**JUN 10 2013**

William A. Shaw  
Prothonotary/Clerk of Courts

4431  
2013-06-11

Phelan Hallinan, LLP  
Adam H. Davis, Esq., Id. No.203034  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
Adam.Davis@PhelanHallinan.com  
215-563-7000

ATTORNEY FOR PLAINTIFF

CA

HSBC BANK USA, NATIONAL ASSOCIATION : Court of Common Pleas  
AS INDENTURE TRUSTEE FOR PEOPLES :  
CHOICE HOME LOAN SECURITIES TRUST : Civil Division  
SERIES 2005-1, MORTGAGE-BACKED NOTES, :  
SERIES 2005-1 : CLEARFIELD County  
Plaintiff :  
vs. : No.: 2005-1992-CD

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**PRAECIPE TO WITHDRAW MOTION TO REASSESS DAMAGES**

**TO THE PROTHONOTARY:**

Plaintiff hereby withdraws its Motion to Reassess Damages, filed on May 28, 2013 in the above referenced action.

DATE: 6/12/13 By: Adam H. Davis  
Phelan Hallinan, LLP  
Adam H. Davis, Esq., Id. No.203034  
Attorney for Plaintiff

FILED  
M 10:25 PM, 6/13/2013  
JUN 13 2013  
S  
William A. Shaw  
Prothonotary/Clerk of Courts  
1CC Atty  
6/

**FILED**  
JUN 13 2013

William A. Shaw  
Prothonotary/Clerk of Courts

Phelan Hallinan, LLP  
Adam H. Davis, Esq., Id. No.203034  
1617 JFK Boulevard, Suite 1400  
One Penn Center Plaza  
Philadelphia, PA 19103  
Adam.Davis@PhelanHallinan.com  
215-563-7000

ATTORNEY FOR PLAINTIFF

HSBC BANK USA, NATIONAL ASSOCIATION  
AS INDENTURE TRUSTEE FOR PEOPLES  
CHOICE HOME LOAN SECURITIES TRUST  
SERIES 2005-1, MORTGAGE-BACKED NOTES,  
SERIES 2005-1

Plaintiff

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Plaintiff's Praecipe to Withdraw its Motion to Reassess Damages was served upon the following interested parties on the date indicated below.

MELISSA D. JOHNS  
DAVID R. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

MELISSA D. JOHNS  
DAVID R. JOHNS  
PO BOX 157  
DRIFTING, PA 16834-0157

(LG) **FILED** *S*  
M 12:25 P.M. 6/6  
JUN 13 2013  
111-1447y  
William A. Shaw  
Prothonotary/Clerk of Courts

MELISSA D. JOHNS  
231 HAMOR ST  
DU BOIS, PA 15801-1838

DATE: 6/12/13

Phelan Hallinan, LLP

By: Adam H. Davis  
Adam H. Davis, Esq., Id. No.203034  
Attorney for Plaintiff

SEARCHED

FILED

JUN 13 2013

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 21558  
NO: 05-1992-CD

PLAINTIFF: HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1  
vs.

DEFENDANT: MELISSA D. JOHNS AND DAVID R. JOHNS

Execution REAL ESTATE

**SHERIFF RETURN**

DATE RECEIVED WRIT: 1/18/2013

LEVY TAKEN 2/5/2013 @ 10:57 AM

POSTED 2/5/2013 @ 10:57 AM

SALE HELD 6/7/2013

SOLD TO HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1

SOLD FOR AMOUNT \$1.00 PLUS COSTS

WRIT RETURNED 10/29/2013

DATE DEED FILED 10/29/2013

PROPERTY ADDRESS 1099 SOUTH BRADY STREET DUBOIS , PA 15801

**SERVICES**

@ SERVED MELISSA D. JOHNS

DEPUTIES UNABLE TO SERVE MELISSA D. JOHNS AT 1099 SOUTH BRADY STREET, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA  
THE HOUSE IS VACANT.

16 S  
FILED pd \$5.00  
01 31 2013  
OCT 29 2013

William A. Shaw  
Prothonotary/Clerk of Courts

2/7/2013 @ 1:10 PM SERVED DAVID R. JOHNS

SERVED DAVID R. JOHNS, DEFENDANT, AT SNAPPY'S IN DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO DAVID R. JOHNS

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING  
KNOW TO HIM / HER THE CONTENTS THEREOF.

3/1/2012 @ 12:58 PM SERVED MELISSA D. JOHNS

SERVED MELISSA D. JOHNS, DEFENDANT, AT HER RESIDENCE 231 HAMOR STREET, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA  
BY HANDING TO MELISSA D. JOHNS

A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION, NOTICE OF SALE, AND COPY OF THE LEVY AND BY MAKING  
KNOW TO HIM / HER THE CONTENTS THEREOF.

@ SERVED

NOW, MARCH 4, 2013 RECEIVED A FAX LETTER FROM THE PLAINTIFF'S ATTORNEY TO POSTPONE THE SHERIFF SALE SCHEDULED  
FOR APRIL 5, 2013 TO JUNE 7, 2103 DUE TO SERVICE OF NOTICE OF SALE.

WRIT OF EXECUTION – (MORTGAGE FORECLOSURE)

Pa.R.C.P. 3180-3183 and Rule 3257

HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE  
TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES  
TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES  
2005-1

COURT OF COMMON PLEAS

CIVIL DIVISION

NO.: 2005-1992-CD

CLEARFIELD COUNTY

vs.

MELISSA D. JOHNS  
DAVID R. JOHNS  
Commonwealth of Pennsylvania:

County of Clearfield

TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA:

PREMISES: 1099 SOUTH BRADY STREET, DU BOIS, PA 15801

(See Legal Description attached)

Amount Due	
	\$53,037.36

Interest from 09/04/2010 to Sale	\$ _____
----------------------------------	----------

Per diem \$8.72	\$ _____
-----------------	----------

Writ Total	\$ _____
------------	----------

Prothonotary costs *\$172.00*

*Call*

OFFICE OF THE PROTHONOTARY OF CLEARFIELD  
COUNTY, PENNSYLVANIA

Dated 1-12-12

(SEAL)

PHS # 118333

Received this writ this 18<sup>th</sup> day  
of January A.D. 2013  
At 10:00 A.M./P.M.

*Chesler A. Hawley*  
Sheriff *by Cynthia Bitter-Cayhul*

IN THE COURT OF COMMON PLEAS OF  
CLERAFIELD COUNTY, PENNSYLVANIA

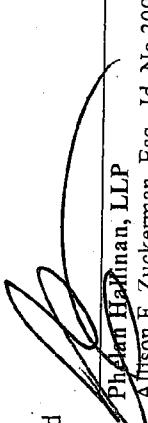
HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME  
LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE BACKED NOTES, SERIES 2005-1  
vs.

MELISSA D. JOHNS  
DAVID R. JOHNS

WRIT OF EXECUTION  
(Mortgage Foreclosure)

	<u>Costs</u>
Real Debt	\$53,037.36
Int. from	_____
To Date of Sale (\$8.72 per diem)	_____
Costs	_____
Prothly Pd.	_____
Sheriff	_____

Filed

  
Phelan Hoffman, LLP  
Allison F. Zuckerman, Esq., Id. No. 309519  
Attorney for Plaintiff

Address where papers may be served:

MELISSA D. JOHNS  
1099 SOUTH BRADY STREET  
DU BOIS, PA 15801

DAVID R. JOHNS  
JUDGE ROAD, #96  
DU BOIS, PA 15801

**LEGAL DESCRIPTION**

ALL that piece or parcel of land situate, lying and being in the Township of Sandy, County of Clearfield, and State of Pennsylvania, bounded and described as follows:

BEGINNING at a point located on Brady Street Extension; thence in a Northern direction along said roadway 95 feet, more or less to a stake; thence in an Easterly direction 275 feet, more or less to a Stake at the B. & O. R. R. right-of-way; thence in a Southern direction along said right-of-way 105 feet, more or less to a stake; thence in a Western direction 200 feet, more or less to a stake at South Brady Street Extension, and the place of beginning.

SUBJECT TO AND TOGETHER WITH any and all oil and gas leases, the sale of coal and mining rights and all rights relating thereto, building lines, rights-of-way, zoning regulations, building restrictions, reservations, restrictive covenants, easements, rights and obligations, encroachments, association fees and/or dues, if any, etc., as the same may be contained in prior instruments of record, set forth in the recorded plan and/or as shown on a survey of the property.

Title of said property is vested in Melissa D. Johns and David R. Johns from Dorothy E. Hoover, by Special Warranty Deed, dated 11/04/2004 and recorded 11/10/2004 in Instrument # 200418330.

Premises being: 1099 SOUTH BRADY STREET, DU BOIS, PA 15801

Tax Parcel No. 128080465100032

**REAL ESTATE SALE  
SCHEDULE OF DISTRIBUTION**

NAME MELISSA D. JOHNS NO. 05-1992-CD

NOW, October 29, 2013, by virtue of the Writ of Execution hereunto attached, after having given due and legal notice of time and place of sale by publication in a newspaper published in this County and by handbills posted on the premises setting for the date, time and place of sale at the Court House in Clearfield on June 07, 2013, I exposed the within described real estate of Melissa D. Johns And David R. Johns to public venue or outcry at which time and place I sold the same to HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1, MORTGAGE-BACKED NOTES, SERIES 2005-1 he/she being the highest bidder, for the sum of \$1.00 plus costs and made the following appropriations, viz:

**SHERIFF COSTS:**

RDR	15.00
SERVICE	15.00
MILEAGE	21.47
LEVY	15.00
MILEAGE	21.47
POSTING	15.00
CSDS	10.00
COMMISSION	0.00
POSTAGE	6.90
HANDBILLS	15.00
DISTRIBUTION	25.00
ADVERTISING	15.00
ADD'L SERVICE	15.00
DEED	30.00
ADD'L POSTING	
ADD'L MILEAGE	42.94
ADD'L LEVY	
BID AMOUNT	1.00
RETURNS/DEPUTIZE	
COPIES	15.00
	5.00
BILLING/PHONE/FAX	5.00
CONTINUED SALES	20.00
MISCELLANEOUS	
<b>TOTAL SHERIFF COSTS</b>	<b>\$308.78</b>

**DEED COSTS:**

ACKNOWLEDGEMENT	5.00
REGISTER & RECORDER	52.50
TRANSFER TAX 2%	0.00
<b>TOTAL DEED COSTS</b>	<b>\$52.50</b>

**PLAINTIFF COSTS, DEBT AND INTEREST:**

DEBT-AMOUNT DUE	53,037.36
INTEREST @ 8.7200 %	8,781.04
FROM 09/04/2010 TO 06/07/2013	
PROTH SATISFACTION	
LATE CHARGES AND FEES	
COST OF SUIT-TO BE ADDED	
FORECLOSURE FEES	
ATTORNEY COMMISSION	
REFUND OF ADVANCE	
REFUND OF SURCHARGE	40.00
SATISFACTION FEE	
ESCROW DEFICIENCY	
PROPERTY INSPECTIONS	
INTEREST	
MISCELLANEOUS	
<b>TOTAL DEBT AND INTEREST</b>	<b>\$61,858.40</b>

**COSTS:**

ADVERTISING	1,197.51
TAXES - COLLECTOR	
TAXES - TAX CLAIM	0.00
ASSESSMENT FEE	10.00
LIEN SEARCH	100.00
ACKNOWLEDGEMENT	5.00
DEED COSTS	52.50
SHERIFF COSTS	308.78
LEGAL JOURNAL COSTS	162.00
PROTHONOTARY	172.00
MORTGAGE SEARCH	40.00
MUNICIPAL LIEN	2,180.70
<b>TOTAL COSTS</b>	<b>\$4,228.49</b>

DISTRIBUTION WILL BE MADE IN ACCORDANCE WITH THE ABOVE SCHEDULE UNLESS EXCEPTIONS ARE FILED WITH THIS OFFICE **WITHIN TEN (10) DAYS FROM THIS DATE.**

CHESTER A. HAWKINS, Sheriff

**Phelan Hallinan, LLP**  
**One Penn Center at Suburban Station**  
**1617 John F. Kennedy Boulevard**  
**Suite 1400**  
**Philadelphia, PA 19103-1814**  
**(215) 563-7000**  
**Fax: (215) 563-7009**

Foreclosure Manager

Representing Lenders in  
Pennsylvania and New Jersey

March 4, 2013

Office of the Sheriff  
Clearfield County Courthouse  
1 North Second Street  
Clearfield, PA 16830

Attn: Real Estate Department

Fax Number: 814-765-5915

Re: HSBC BANK USA, NATIONAL ASSOCIATION AS INDENTURE TRUSTEE  
FOR PEOPLES CHOICE HOME LOAN SECURITIES TRUST SERIES 2005-1,  
MORTGAGE-BACKED NOTES, SERIES 2005-1 v.  
MELISSA D. JOHNS and DAVID R. JOHNS  
1099 SOUTH BRADY STREET DU BOIS, PA 15801  
No.: 2005-1992-CD

Dear Sir/Madam:

Please Postpone the Sheriff Sale of the above referenced property, which is scheduled for April 5, 2013 due to the following: Service of NOS.

The Property is to be relisted for the June 7, 2013 Sheriff Sale.

Thank you for your cooperation in this matter.

Very Truly Yours,  
Kathryn McGurl for  
Phelan Hallinan, LLP



**PHELAN  
HALLINAN  
SCHMIEG**

Omni William Penn Office Tower  
555 Grant Street, Suite 360  
Pittsburgh, PA 15219  
(412) 745-0600  
Fax: (412) 745-0601  
Email: [jeremy.kobeski@fedphe.com](mailto:jeremy.kobeski@fedphe.com)

**Jeremy J. Kobeski, Esquire**  
Litigation Department

Representing Lenders in  
Pennsylvania and New Jersey\*

September 2, 2010

Mr. David R. Johns  
Mrs. Melissa D. Johns  
PO Box 157  
Driftin, PA 16834-0157

1099 South Brady Street  
Du Bois, PA 15801

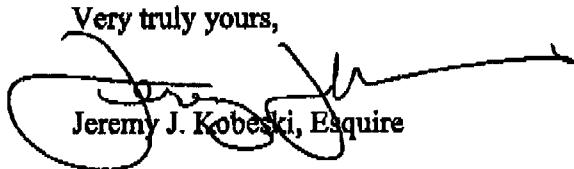
**Re: SBC Bank USA, National Association v. Melissa D. and David R. Johns**  
Clearfield County CCP, No. 2005-1992-CD

Dear Mr. and Mrs. Johns:

This letter follows my previous correspondence, which enclosed Plaintiff's Motion for Continuance. I have been notified by the Court that Judge Ammerman has granted Plaintiff's Motion and will issue an Order setting a new Rule Returnable date for Plaintiff's pending Motion to Reassess Damages. Accordingly, the September 7, 2010 Rule Returnable date has been continued. When the Order setting the new Rule Returnable date is issued, we will send a copy to you by mail.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
Jeremy J. Kobeski, Esquire

cc: The Honorable Fredric Ammerman (*via facsimile only*)

\* Please be advised that this firm is a debt collector attempting to collect a debt. Any information received will be used for that purpose. If you have previously received a discharge in bankruptcy and this debt was not reaffirmed, this correspondence is not and should not be construed to be an attempt to collect a debt, but only enforcement of a lien against property.



Omni William Penn Office Tower  
555 Grant Street, Suite 360  
Pittsburgh, PA 15219  
412-745-0600, Ext. 1574  
Fax: 412-745-0601  
Email: [jeremy@kobeski@fedphe.com](mailto:jeremy@kobeski@fedphe.com)

**Jeremy J. Kobeski, Esquire**  
Litigation Department

Representing Lenders in  
Pennsylvania & New Jersey

**DATE:** September 2, 2010  
**TO:** The Honorable Fredric Ammerman  
**FAX NUMBER:** (814) 765-7649  
**Number of pages:** 2  
**RE:** SBC Bank USA, NA v. Melissa D. and David R. Johns  
No. 2005-1993-CD

**MEMO:**

Dear Judge Ammerman,

Attached please find a copy of Plaintiff's notice to the Defendants of the continuance of the September 7, 2010 Rule Returnable date on Plaintiff's Motion to Reassess Damages. The only telephone number we have for the Defendants has been disconnected.

Respectfully Yours,

A handwritten signature in black ink, appearing to read "Jeremy J. Kobeski", with a stylized line extending from the end of the signature.

Jeremy J. Kobeski  
Attorney for Plaintiff

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