

06-415-CD
Bank of New York vs Robert
Marchionni

2006-415-CD
Bank of New York vs Robert Marchionni et al

PHELAN HALLINAN & SCHMIEG, LLP
LAWRENCE T. PHELAN, ESQ., Id. No. 32227
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ATTORNEY FOR PLAINTIFF

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWABS 2004-02
7105 CORPORATE DRIVE
PLANO, TX 75024

Plaintiff

v.

ROBERT A. MARCHIONI
MARCIA MARCHIONI
520 PATTERSON AVENUE
DU BOIS, PA 15801

COURT OF COMMON PLEAS
CIVIL DIVISION
TERM
NO. 06-415-CD
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
2nd and Market Streets
Clearfield, PA 16830
814-765-2641 x 5982

**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

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWABS 2004-02
7105 CORPORATE DRIVE
PLANO, TX 75024

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

ROBERT A. MARCHIONI
MARCIA MARCHIONI
520 PATTERSON AVENUE
DU BOIS, PA 15801

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

3. On 12/18/2003 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR FULL SPECTRUM LENDING, INC. which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No: 200400271. PLAINTIFF is now the legal owner of the mortgage and is in the process of formalizing an assignment of same.
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 11/01/2005 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:

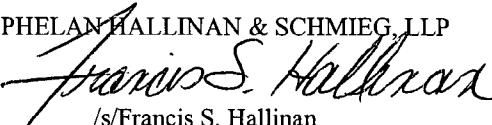
Principal Balance	\$91,334.94
Interest	3,390.10
10/01/2005 through 03/16/2006	
(Per Diem \$20.30)	
Attorney's Fees	1,250.00
Cumulative Late Charges	136.08
12/18/2003 to 03/16/2006	
Cost of Suit and Title Search	<u>\$ 550.00</u>
Subtotal	\$ 96,661.12
Escrow	
Credit	- 782.23
Deficit	0.00
Subtotal	<u>\$- 782.23</u>
TOTAL	\$ 95,878.89

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.

9. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$ 95,878.89, together with interest from 03/16/2006 at the rate of \$20.30 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

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

LEGAL DESCRIPTION

ALL of that certain piece, parcel or plot of land situate in the CITY OF DuBOIS Clearfield County, Pennsylvania, and being bounded and described as follows, to wit:

BEGINNING at an iron pin in the right-of-way line of Patterson Avenue being also the northwest corner of Lot No. 7; thence by the right-of-way line of Patterson Avenue North 22 degrees 40 minutes West 97.0 feet to an iron pin, the southwest corner of Lot No. 9; thence by the southerly line of Lot No. 9 North 67 degrees 20 minutes East 140.0 feet to an iron pin in the line of lands of the City of DuBois; thence by other lands of the City of DuBois South 22 degrees 40 minutes East 97.0 feet to an iron pipe, the northeast corner of Lot No. 7; thence by the northerly line of Lot No. 7 South 67 degrees 20 minutes West 140.0 feet to an iron pin and place of beginning.

UNDER AND SUBJECT to all reservations and exceptions as contained in prior deeds.

Said conveyance is further made under and subject to the following exceptions, reservations, covenants and conditions;

1. Required to construct a residential dwelling within two (2) years from the date of sale.
2. The premises above described are under and subject to all outstanding leases of oil and gas and there is hereby excepted therefrom all oil and gas, with rights of ingress or egress for removal of the same.
3. Excepting and reserving all of the coal as the same has been reserved and/or conveyed in prior deeds.
4. The conveyances shall be subject to all City zoning and land subdivision ordinances now in effect or that may be in effect at any time in the future.

BEING the same premises which were conveyed to Ronald C. Torrell and Richard J. Bernardo, partners, t/a Torrell and Bernardo Remodeling and Custom Homes, by deed of the City of DuBois dated November 14, 1988, and recorded in Clearfield County Deeds and Records Book Vol. 1262, Page 293, on January 5, 1989.

PARCEL NO. 021-000-06805

PROPERTY BEING: 520 PATTERSON AVENUE

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.

31hll

FRANCIS S. HALLINAN, ESQUIRE
Attorney for Plaintiff

DATE: 3/16/06

In The Court of Common Pleas of Clearfield County, Pennsylvania

Service # 1 of 2 Services

Sheriff Docket # 101361

BANK OF NEW YORK

Case # 06-415-CD

VS.

ROBERT A. MARCHIONI AND MARCIA MARCHIONI

TYPE OF SERVICE COMPLAINT IN MORTGAGE FORECLOSURE

SHERIFF RETURNS

NOW May 04, 2006 RETURNED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE "NOT SERVED, TIME EXPIRED" AS TO ROBERT A. MARCHIONI, DEFENDANT. COMPLAINT "MISPLACED BY DEPUTY"

SERVED BY: /

FILED
05/22/06
MAY 04 2006
LSM

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101361
NO: 06-415-CD
SERVICE # 2 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK

VS.

DEFENDANT: ROBERT A. MARCHIONI AND MARCIA MARCHIONI

SHERIFF RETURN

NOW, April 05, 2006 AT 2:00 PM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON MARCIA MARCHIONI DEFENDANT AT SHERIFF'S OFFICE, 1 N. 2ND ST., SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MARCIA MARCHIONI, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HAWKINS /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101361
NO: 06-415-CD
SERVICES 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK

vs.

DEFENDANT: ROBERT A. MARCHIONI AND MARCIA MARCHIONI

SHERIFF RETURN

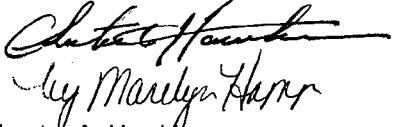
RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	490379	20.00
SHERIFF HAWKINS	PHELAN	490379	34.91

Sworn to Before Me This

So Answers,

____ Day of _____ 2006



Chester A. Hawkins
Sheriff

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

Attorney For Plaintiff

BANK OF NEW YORK AS TRUSTEE FOR THE	:	Court of Common Pleas
CERTIFICATEHOLDERS OF CWABS 2004-02	:	
Plaintiff	:	Civil Division
vs	:	CLEARFIELD County
ROBERT A. MARCHIONI	:	No. 06-415-CD
MARCI A MARCHIONI	:	
Defendant	:	

PRAECLYPE

TO THE PROTHONOTARY:

- Please withdraw the complaint and mark the action Discontinued and Ended without prejudice.
- Please mark the above referenced case Settled, Discontinued and Ended.
- Please Vacate the judgment entered and mark the action Discontinued and Ended without prejudice.
- Please mark the in rem judgment Satisfied and the action Discontinued and Ended.

Date: 4/19/12

PHELAN HALLINAN & SCHMIEG, LLP
By: 
Melissa J. Cantwell, Esq., Id. No.308912
Attorney for Plaintiff

PHS # 132441

FILED *No*
4/10/2012 CC
APR 23 2012
S
William A. Shaw
Prothonotary/Clerk of Courts
OK

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

Attorney For Plaintiff

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF CWABS 2004-02
Plaintiff

Court of Common Pleas

vs
ROBERT A. MARCHIONI
MARCI A MARCHIONI
Defendant

Civil Division

CLEARFIELD County

No. 06-415-CD

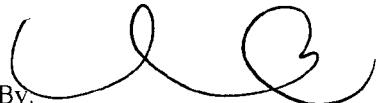
CERTIFICATION OF SERVICE

I hereby certify true and correct copies of the foregoing Plaintiff's Praeceppe was served by regular mail to the person(s) on the date listed below:

ROBERT A. MARCHIONI
MARCIA MARCHIONI
520 PATTERSON AVENUE
DU BOIS, PA 15801

Date: 4/19/12

PHS # 132441

By: 
Melissa J. Cantwell, Esq., Id. No.308912
Attorney for Plaintiff