

07-372-CD  
Flagstar Bank vs William Kearney et al

FILED  
*(Signature)*

MAR 12 2007

W/11/07  
William A. Shaw  
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP  
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(215) 563-7000 148144

ATTORNEY FOR PLAINTIFF

FLAGSTAR BANK, FSB  
5151 CORPORATE DRIVE  
SUITE 200  
TROY, MI 48098

COURT OF COMMON PLEAS

Plaintiff

CIVIL DIVISION

v.

TERM

WILLIAM L. KEARNEY  
LARAINE M. KEARNEY  
209 JEFFERSON AVENUE  
FALLS CREEK, PA 15840

NO. 2007-372-C0

Defendants

CLEARFIELD COUNTY

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

**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

FLAGSTAR BANK, FSB  
5151 CORPORATE DRIVE  
SUITE 200  
TROY, MI 48098

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

WILLIAM L. KEARNEY  
LARAIN M. KEARNEY  
209 JEFFERSON AVENUE  
FALLS CREEK, PA 15840

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

3. On 07/31/2006 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200612938. PLAINTIFF is now the legal owner of the mortgage and is in the process of formalizing an assignment of same. The mortgage and assignment(s), if any, are matters of public record and are incorporated herein by reference in accordance with Pa.R.C.P. 1019(g); which Rule relieves the Plaintiff from its obligations to attach documents to pleadings if those documents are of public record.
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 10/01/2006 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	\$117,910.21
Interest	\$4,501.98
09/01/2006 through 03/08/2007	
(Per Diem \$23.82)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges	\$156.69
07/31/2006 to 03/08/2007	
Cost of Suit and Title Search	<u>\$550.00</u>
Subtotal	\$124,368.88
Escrow	
Credit	\$0.00
Deficit	\$300.37
Subtotal	<u>\$300.37</u>
<b>TOTAL</b>	<b>\$124,669.25</b>

7. If the mortgage is reinstated prior to a Sheriff's Sale, the attorney's fee set forth above may be less than the amount demanded based on work actually performed. The attorney's fees requested are in conformity with the mortgage and Pennsylvania law. Plaintiff reserves its right to collect attorney's fees up to 5% of the remaining principal balance in the event the property is sold to a third party purchaser at Sheriff's Sale, or if the complexity of the action requires additional fees in excess of the amount demanded in the Action.

8. Plaintiff is not seeking a judgment of personal liability (or an in personam judgment) against the Defendant(s) in the Action; however, Plaintiff reserves its right to bring a separate Action to establish that right, if such right exists. If Defendant(s) has/have received a discharge of personal liability in a bankruptcy proceeding, this Action of Mortgage Foreclosure is in no way an attempt to reestablish such personal liability discharged in bankruptcy, but only to foreclose the mortgage and sell the mortgaged premises pursuant to Pennsylvania Law.

9. 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.
10. 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 \$124,669.25, together with interest from 03/08/2007 at the rate of \$23.82 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: Francis S. Hallinan

/s/Francis S. Hallinan

LAWRENCE T. PHELAN, ESQUIRE

DANIEL G. SCHMIEG, ESQUIRE

FRANCIS S. HALLINAN, ESQUIRE

Attorneys for Plaintiff

## **LEGAL DESCRIPTION**

ALL OF THOSE CERTAIN LOTS OR PIECES OF LAND SITUATE IN THE TOWNSHIP OF SANDY, CLEARFIELD COUNTY, PENNSYLVANIA, NUMBER 73, 74, 75, AND 76 ON THE HOPKINS LAND COMPANY'S FIRST PLAN OF FALLS CREEK, SAID LOTS BEING BOUNDED AND DESCRIBED AS FOLLOWS:

BOUNDED ON THE NORTH BY AN ALLEY; ON THE EAST BY THIRD STREET; ON THE SOUTH BY JEFFERSON AVENUE; AND ON THE WEST BY LOTS, AND HAVING A TOTAL FRONTAGE OR WIDTH OF 100 FEET ALONG THE NORTHERN BOUNDARY LINE OF JEFFERSON AVENUE, AND EXTENDING THENCE IN A NORTHERLY DIRECTION BETWEEN TWO PARALLEL LINES AT RIGHT ANGLES WITH SAID JEFFERSON AVENUE, 150 FEET TO AN ALLEY; WHICH SAID PLAN OF LOTS IS RECORDED IN THE OFFICE FOR THE RECORDING OF DEEDS IN CLEARFIELD COUNTY, IN DEED BOOK NO. 85, PAGE 309.

SUBJECT TO ALL EXCEPTIONS, RESERVATIONS, CONDITIONS, RESTRICTIONS, CASEMENTS AND RIGHTS-OF-WAY AS FULLY AS THE SAME ARE CONTAINED IN ALL PRIOR DEEDS, INSTRUMENTS OR WRITINGS OR IN ANY OTHER MANNER TOUCHING OR AFFECTING THE PREMISES HEREBY CONVEYED BEING KNOWN AS: 209 JEFFERSON 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 of 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 its knowledge, information and belief. Furthermore, counsel intends to substitute a verification from Plaintiff upon receipt.

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



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Francis S. Hallinan, Esquire  
Attorney for Plaintiff

DATE: 3/8/67

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102546  
NO: 07-372-CD  
SERVICE # 1 OF 2  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: FLAGSTAR BANK, FSB  
vs.  
DEFENDANT: WILLIAM L. KEARNEY and LARAIN M. KEARNEY

**SHERIFF RETURN**

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NOW, March 23, 2007 AT 10:00 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON WILLIAM L. KEARNEY DEFENDANT AT 209 JEFFERSON AVE., FALLS CREEK, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO WILLIAM KEARNEY, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

FILED  
03:20 cm  
JUL 06 2007  
W.M.

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102546  
NO: 07-372-CD  
SERVICE # 2 OF 2  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: FLAGSTAR BANK, FSB

vs.

DEFENDANT: WILLIAM L. KEARNEY and LARAIN M. KEARNEY

**SHERIFF RETURN**

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NOW, March 23, 2007 AT 10:00 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON LARAIN M. KEARNEY DEFENDANT AT 209 JEFFERSON AVE., FALLS CREEK, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO WILLIAM KEARNEY, HUSBAND A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102546  
NO: 07-372-CD  
SERVICES 2  
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: FLAGSTAR BANK, FSB

vs.

DEFENDANT: WILLIAM L. KEARNEY and LARAIN M. KEARNEY

**SHERIFF RETURN**

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**RETURN COSTS**

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	580335	20.00
SHERIFF HAWKINS	PHELAN	580335	66.68

Sworn to Before Me This

So Answers,

\_\_\_\_ Day of \_\_\_\_\_ 2007

  
Chester A. Hawkins  
Sheriff

S  
FILED ICC Atty  
M 18 03cm  
MAR 07 2014 Dessoyle  
Z

BRIAN K. SPENCER  
PROTHONOTARY & CLERK OF COURTS

6K

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

Attorney For Plaintiff

FLAGSTAR BANK, FSB Plaintiff	:	Court of Common Pleas
v.	:	Civil Division
WILLIAM L. KEARNEY LARAINA M. KEARNEY Defendant(s)	:	CLEARFIELD County
	:	No. 2007-372-CD
	:	

PRAECIPE

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.
- Please Vacate the Judgment entered.

Date: 2/21/14

PHELAN HALLINAN, LLP

By:

Joseph A. Dessoyle, Esq., Id. No. 200479  
Attorney for Plaintiff

PH # 642185

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

Attorney For Plaintiff

FLAGSTAR BANK, FSB Plaintiff	:	Court of Common Pleas
	:	Civil Division
v.	:	CLEARFIELD County
WILLIAM L. KEARNEY LARAINA M. KEARNEY Defendant(s)	:	No. 2007-372-CD

CERTIFICATION OF SERVICE

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

WILLIAM L. KEARNEY  
LARAINA M. KEARNEY  
209 JEFFERSON AVENUE  
FALLS CREEK, PA 15840

Date: 2/14/14

PHELAN HALLINAN, LLP

By:

Joseph A. Dessoye, Esq., Id. No. 200479  
Attorney for Plaintiff