

07-1989-CD
Wells Fargo vs Iris Rodriguez al

PHELAN HALLINAN & SCHMIEG, LLP
FRANCIS S. HALLINAN, ESQ., Id. No. 62695
DANIEL G. SCHMIEG, ESQ., Id. No. 62205
MICHELE M. BRADFORD, ESQ., Id. No. 69849
SHEETAL SHAH-JANI, ESQ., Id. No. 81760
JUDITH T. ROMANO, ESQ., Id. No. 58745
JENINE R. DAVEY, ESQ., Id. No. 87077
MICHAEL E. CARLETON, ESQ., Id. No. 203009
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000 166379

ATTORNEY FOR PLAINTIFF

WELLS FARGO BANK, N.A
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

COURT OF COMMON PLEAS

Plaintiff

CIVIL DIVISION

v.

TERM

NO. 07-1989. CD

CLEARFIELD COUNTY

IRIS RODRIGUEZ
JOSE RIOS
68 BRANDON DRIVE
DU BOIS, PA 15801

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

pd \$85.00
FILED Atty
m/11/55 cm No CC Atty
DEC 06 2007 acc shff


William A. Shaw
Prothonotary/Clerk of Courts

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.

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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
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PRACTICES ACT, 15 U.S.C. § 1692 et seq. (1977),
DEFENDANT(S) MAY DISPUTE THE VALIDITY OF THE
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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

WELLS FARGO BANK, N.A
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

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

IRIS RODRIGUEZ
JOSE RIOS
68 BRANDON DRIVE
DU BOIS, PA 15801

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

3. On 06/23/2006 mortgagor(s) made, executed, and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS A NOMINEE FOR SECURITY ATLANTIC MORTGAGE COMPANY, INC. which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Instrument No: 200610424. 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 06/01/2007 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	\$80,672.32
Interest	\$3,356.99
05/01/2007 through 12/03/2007 (Per Diem \$15.47)	
Attorney's Fees	\$1,250.00
Cumulative Late Charges 06/23/2006 to 12/03/2007	\$0.00
Cost of Suit and Title Search	<u>\$550.00</u>
Subtotal	\$85,829.31
Escrow	
Credit	\$0.00
Deficit	\$801.57
Subtotal	<u>\$801.57</u>
TOTAL	\$86,630.88

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.

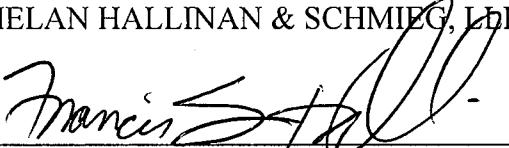
8. Plaintiff is not seeking a judgment of personal liability (or an in personam judgment) against the Defendant(s) in the Action; however, Plaintiff reserves its right to bring a separate Action to establish that right, if such right exists. If Defendant(s) has/have received a discharge of personal liability 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. This action does not come under Act 6 of 1974 because the original mortgage amount exceeds \$50,000.

10. This action does not come under Act 91 of 1983 because the mortgage is FHA-insured.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$86,630.88, together with interest from 12/03/2007 at the rate of \$15.47 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, ESQUIRE
DANIEL G. SCHMIEG, ESQUIRE
MICHELE M. BRADFORD, ESQUIRE
SHEETAL SHAH-JANI, ESQUIRE
JUDITH T. ROMANO, ESQUIRE
JENINE R. DAVEY, ESQUIRE
MICHAEL E. CARLETON, ESQUIRE

Attorneys for Plaintiff

LEGAL DESCRIPTION

ALL that certain lot or parcel of ground situate in the Township of Sandy, County of Clearfield and State of Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at a point in the center of Route 255; thence by residue of Larry R. Reed land and going through a 3/4 inch pin located 45 feet from the center of Route 255, North 67 degrees 20 minutes West 380.7 feet to a 3/4 inch pin; thence still by said residue North 26 degrees 25 minutes East 162 feet, more or less, to Harold Duttry land; thence along Harold Duttry land 389 feet, more or less, to the center of Route 255; thence along center of Route 255, 121 feet, more or less, to the place of beginning. CONTAINING at least 1.2 acres. MAP #128-E04-000-00108

BEING the same premises conveyed by Richard R. Duttry and Fawn M. Duttry, husband and wife, to Iris Rodriguez and Jose Rios, wife and husband, by deed dated June 22, 2006 and recorded June 23, 2006, in the Clearfield County Recorder's Office at Instrument No. 200610423.

PROPERTY BEING: 68 BRANDON DRIVE

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.


Francis S. Hallinan, Esquire
Attorney for Plaintiff

DATE: 2/4/07

FILED
M123681 NO
FEB 04 2008
(60)

William A. Shaw
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP

BY: Francis S. Hallinan, Esquire

Identification No. 62695

One Penn Center at Suburban Station
Suite 1400

Philadelphia, PA 19103
(215) 563-7000

Attorney For Plaintiff

WELLS FARGO BANK, N.A

COURT OF COMMON PLEAS
CIVIL DIVISION

v.

CLEARFIELD COUNTY

IRIS RODRIGUEZ

JOSE RIOS

NO. 07-1989-CD

PRAECLPICE TO SUBSTITUTE VERIFICATION
TO CIVIL ACTION COMPLAINT
IN MORTGAGE FORECLOSURE

TO THE PROTHONOTARY:

Kindly substitute the attached verification for the verification originally filed with the
complaint in the instant matter.

Phelan Hallinan and Schmieg, LLP

By: Francis S. Hallinan
Francis S. Hallinan, Esquire
Lawrence T. Phelan, Esquire
Daniel G. Schmieg, Esquire

Dated: 1/31/08
File #: 166379

VERIFICATION

Jamie Padmore hereby states that he/she is Vice President of Loan Documentation _____ of WELLS FARGO BANK N.A., servicing agent for Plaintiff in this matter, that he/she is authorized to take this Verification, and that the statements made in the foregoing Civil Action in Mortgage Foreclosure are true and correct to the best of his/her knowledge, information and belief. 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.

Jamie Padmore
Name: Jamie Padmore

DATE: December 6, 2007 Title: Vice President of Loan Documentation

Company: WELLS FARGO BANK N.A.

Loan: 0202059598

PHELAN HALLINAN & SCHMIEG, LLP
BY: Francis S. Hallinan, Esquire
Identification No. 62695
One Penn Center at Suburban Station
Suite 1400
Philadelphia, PA 19103
(215) 563-7000

WELLS FARGO BANK, N.A

Attorney For Plaintiff

COURT OF COMMON PLEAS
CIVIL DIVISION

v.

CLEARFIELD COUNTY

IRIS RODRIGUEZ
JOSE RIOS

NO. 07-1989-CD

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiff's Praecipe to Substitute
Verification was sent via first class mail to the following on the date listed below:

IRIS RODRIGUEZ
JOSE RIOS
68 BRANDON DRIVE
DU BOIS, PA 15801

Francis S. Hallinan
FRANCIS S. HALLINAN, ESQUIRE
LAWRENCE T. PHELAN, ESQUIRE
DANIEL S. SCHMIEG, ESQUIRE
Attorney for Plaintiff

Dated: 1/31/08
File: 166379

FILED NO cc

2/10/07
MAR 06 2007

William A. Shaw
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
BY: Michele M. Bradford, Esquire, ID No. 69849
Jenine R. Davey, Esquire, ID No. 87077
One Penn Center at Suburban Station
1617 JFK Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEYS FOR PLAINTIFF

Wells Fargo Bank, NA	:	Court of Common Pleas
3476 Stateview Boulevard	:	
Fort Mill, SC 29715	:	
Plaintiff	:	Civil Division
vs.	:	
Iris Rodriguez	:	Clearfield County
Jose Rios	:	
68 Brandon Drive	:	No. 07-1989-CD
DuBois, PA 15801	:	
Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of Plaintiff's Motion to Direct Sheriff to File
Affidavit of Service and Brief in Support thereof were served upon the following interested
parties via first class mail on the date indicated below:

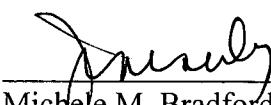
Chester A. Hawkins
Sheriff of Clearfield County
230 East Market Street
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South 2nd Street
PO Box 130
Clearfield, PA 16830-2347
(Sheriff's Solicitor)

Iris Rodriguez
Jose Rios
68 Brandon Drive
DuBois, PA 15801

PHELAN HALLINAN & SCHMIEG, LLP

3/5/08
Date



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

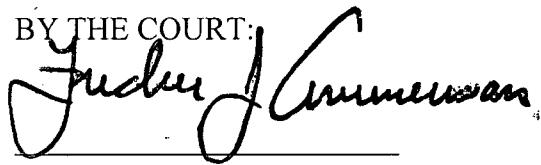
Wells Fargo Bank, NA	:	Court of Common Pleas
3476 Stateview Boulevard	:	
Fort Mill, SC 29715	:	
Plaintiff	:	Civil Division
vs.	:	
Iris Rodriguez	:	Clearfield County
Jose Rios	:	
68 Brandon Drive	:	
DuBois, PA 15801	:	No. 07-1989-CD
Defendants	:	

ORDER

AND NOW, this 7th day of March, 2008, upon consideration of Plaintiff's Motion to Direct Sheriff to File Affidavit of Service, and any response thereto, it is hereby:

ORDERED and DECREED that the Sheriff of Clearfield County is hereby directed to complete and file an Affidavit of Service of the foreclosure Complaint within seven days of the date of this Order.

BY THE COURT:



J.

FILED ^{ICC}
 013:23/07 MAR 07 2008 Atty Davey

William A. Shaw ^{ICC Sheriff}
 Prothonotary/Clerk of Courts (without memo)

(6)

FILED
M 10:43 AM
MAR 06 2008
6W

William A. Shaw
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
BY: Michele M. Bradford, Esquire, ID No. 69849
Jenine R. Davey, Esquire, ID No. 87077
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vs.	:	
Iris Rodriguez	:	Clearfield County
Jose Rios	:	
68 Brandon Drive	:	No. 07-1989-CD
DuBois, PA 15801	:	
Defendants	:	

MOTION TO DIRECT THE SHERIFF TO FILE AFFIDAVIT OF SERVICE

1. Plaintiff commenced the instant mortgage foreclosure action by filing a Complaint on December 6, 2007. A true and correct copy of the Complaint is attached hereto, made part hereof, and marked as Exhibit "A".

2. The Sheriff of Clearfield County was requested to serve the Complaint upon the Defendants.

3. On January 25, 2008, the Sheriff's office verbally advised counsel for Plaintiff that Iris Rodriguez accepted service on behalf of both Defendants on December 20, 2007.

4. On February 19, 2008, Plaintiff sent the Defendants a ten day letter notifying them of its intention to file a default judgment.

5. To date, the Clearfield County Sheriff's office has not filed the Affidavit of Service, which was made on December 20, 2007.

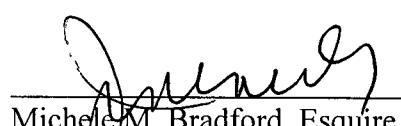
6. Plaintiff is unable to enter judgment and praecipe for a writ of execution until the Sheriff's office files the Affidavit of Service of the Complaint with the Prothonotary. Interest accrues at the rate of \$15.47 per day on this mortgage account. Additionally, the Plaintiff continues to advance funds for real estate taxes and hazard insurance at its own expense.

7. The Plaintiff is greatly prejudiced by the delay in the filing of the Sheriff's Affidavit of Service.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order directing the Sheriff of Clearfield County to file the Affidavit of Service of the Complaint with the Prothonotary within seven days.

Respectfully submitted,
PHELAN HALLINAN & SCHMIEG, LLP

3/5/08
Date



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

EXHIBIT A

PHELAN HALLINAN & SCHMIEG, LLP
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166379

WELLS FARGO BANK, N.A
3476 STATEVIEW BOULEVARD
FORT MILL, SC 29715

Plaintiff

v.

IRIS RODRIGUEZ
JOSE RIOS
68 BRANDON DRIVE
DU BOIS, PA 15801

Defendants

CIVIL ACTION - LAW
COMPLAINT IN MORTGAGE FORECLOSURE

Attest.

William J. H.
Prothonotary/
Clerk of Courts

ATTORNEY FILE COPY
PLEASE RETURN

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

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FORT MILL, SC 29715

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WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$86,630.88, together with interest from 12/03/2007 at the rate of \$15.47 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.

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Attorneys for Plaintiff

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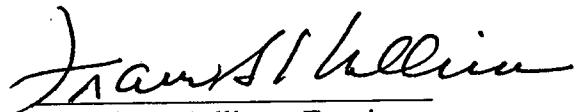
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PROPERTY BEING: 68 BRANDON DRIVE

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.


Francis S. Hallinan
Francis S. Hallinan, Esquire
Attorney for Plaintiff

DATE: 2/4/07

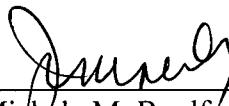
VERIFICATION

The undersigned hereby state that they are the attorneys for the Plaintiff in this action, that they are authorized to make this Verification, and that the statements made in the foregoing Motion to Direct Sheriff to file Affidavit of Service and Brief in support thereof are true and correct to the best of their knowledge, information and belief. The undersigned understands that this statement herein is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

PHELAN HALLINAN & SCHMIEG, LLP

3/5/08

Date



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

FILED
M 7/11/18 2008
MAR 13 2008
NO CC
JM
William A. Shaw
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
BY: Michele M. Bradford, Esquire, ID No. 69849
Jenine R. Davey, Esquire, ID No. 87077
One Penn Center at Suburban Station
1617 JFK Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

ATTORNEYS FOR PLAINTIFF

Wells Fargo Bank, NA	:	Court of Common Pleas
3476 Stateview Boulevard	:	
Fort Mill, SC 29715	:	
Plaintiff	:	Civil Division
vs.	:	
	:	Clearfield County
Iris Rodriguez :		
Jose Rios :		
68 Brandon Drive	:	No. 07-1989-CD
DuBois, PA 15801	:	
Defendant(s)	:	

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the March 7, 2008 Order granting Plaintiff's Motion to Direct Sheriff to File Affidavit of Service were served upon the following interested parties via first class mail on the date indicated below:

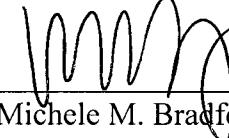
Chester A. Hawkins
Sheriff of Clearfield County
230 East Market Street
Clearfield, PA 16830

Peter F. Smith, Esquire
30 South 2nd Street
PO Box 130
Clearfield, PA 16830-2347
(Sheriff's Solicitor)

Iris Rodriguez
Jose Rios
68 Brandon Drive
DuBois, PA 15801

3/12/08
Date

PHELAN HALLINAN & SCHMIEG, LLP



Michele M. Bradford, Esquire
Jenine R. Davey, Esquire
Attorneys for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103516
NO: 07-1989-CD
SERVICE # 1 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.

vs.

DEFENDANT: IRIS RODRIGUEZ and JOSE RIOS

SHERIFF RETURN

NOW, December 20, 2007 AT 9:42 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON IRIS RODRIGUEZ DEFENDANT AT 68 BRANDON DRIVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO IRIS RODRIGUEZ, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT IN MORTGAGE FORECLOSURE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING / COUDRIET

FILED

9:31:20cm

MAR 17 2008

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103516
NO: 07-1989-CD
SERVICE # 2 OF 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.

vs.

DEFENDANT: IRIS RODRIGUEZ and JOSE RIOS

SHERIFF RETURN

NOW, December 20, 2007 AT 9:42 AM SERVED THE WITHIN COMPLAINT IN MORTGAGE FORECLOSURE ON JOSE RIOS DEFENDANT AT 68 BRANDON DRIVE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO IRIS RODRIGUEZ, WIFE 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 # 103516
NO: 07-1989-CD
SERVICES 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: WELLS FARGO BANK, N.A.
vs.
DEFENDANT: IRIS RODRIGUEZ and JOSE RIOS

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	PHELAN	648116	20.00
SHERIFF HAWKINS	PHELAN	648116	42.43

Sworn to Before Me This

____ Day of _____ 2008
2007

So Answers,

✓ Chester A. Hawkins
Sheriff

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

Wells Fargo Bank, N.A.
Plaintiff

vs.
Iris Rodriguez
Jose Rios,
Defendant

*
*
* NO.: 07-1989-CD
*
* Type of Case: Civil
*
* Type of Pleading: Answer and
* New Matter
*
* Filed on Behalf of: Defendants
*
* Counsel of Record for this Party:
* Robin Jean Foor, Esquire
*
* Supreme Court No.: 41520
*
* MidPenn Legal Services
* 211 East Locust Street
* Clearfield, PA 16839
* (814)765-9646

FILED 3CG
01/11/2008 Atty Foor
APR 02 2008
CR
William A. Shaw
Notary/Clerk of Courts

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

WELLS FARGO BANK, NA :
Plaintiff :
:
vs. : 07-1989-CD
:
IRIS RODRIGUEZ :
JOSE RIOS, :
Defendants :
:

TO WELLS FARGO:

You are hereby notified to file a written response to the enclosed Answer and New Matter within twenty (20) days from service hereof or a judgment may be entered against you.



Robin Jean Foor
Attorney for Jose Rios and
Iris Rios aka Rodriguez

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

WELLS FARGO BANK, NA :
Plaintiff :

vs. : 07-1989-CD

IRIS RODRIGUEZ :
JOSE RIOS, :
Defendants :

DEFENDANTS' ANSWER WITH NEW MATTER

Defendants, Iris Rios, aka Rodriguez and Jose Rios, by and through their attorneys, Robin Jean Foor, Esquire and MidPenn Legal Services, answer and allege new matter as follows:

1. Admitted.
2. Admitted.
3. Admitted as to the original information concerning the mortgage. The information concerning the assignment and acquisition of the mortgage by the plaintiff are denied for lack of any knowledge, information or belief.
4. Admitted.
5. Denied. It is specifically denied that the mortgage was properly accelerated. Plaintiff did not comply with servicing regulations as required in 24 CFR 203.101 et seq.
6. Denied. That the mortgage was properly accelerated as the plaintiff did not comply with servicing regulations before accelerating. As to other alleged amounts, in addition to not being due because the acceleration was improper, defendant also denies that a) the title search charge was reasonable and actually incurred, b) that the escrow deficit was

reasonably incurred and that the amount is accurate and c) that the alleged attorneys' fee is reasonable and actually incurred.

7. Statement of law no answer is required.
8. Statement of law, no answer is required.
9. Statement of law, no answer required.
10. Statement of law, no answer is required.

NEW MATTER

11. The mortgage on the property is an FHA insured mortgage.
12. Plaintiff must administer and service the mortgage in accordance with the relevant federal regulations including but not limited to 24 CFR 203.100 et seq.
13. Plaintiff has failed to comply with all duties to service the mortgage including but not limited to:
 - a. its failure to meet with the mortgagor or inquire into the reason for the mortgagor's failure to make all monthly payments;
 - b. its failure to notify Defendants of all relief available in lieu of foreclosure and making such relief available to defendants such as the right to enter onto a forbearance agreement or to have the mortgage modified.
14. Compliance with federal law, as set forth in 24 CFR 203. 100 et seq, is required before a foreclosure action may be instituted on a mortgage which is federally insured.

15. Plaintiffs through its employees and agents have failed to comply with said federal requirements.

Dated: 4-1-08



Robin Jean Foor, PA ID # 41520
Attorney for Defendants
MidPenn Legal Services
211 East Locust Street
Clearfield, PA 16830
(814)765-9646

VERIFICATION

We, Jose and Iris Rios, verify that the statements in the foregoing Document are true and correct. We understand that false statements that are made herein are made subject to penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

4/1/08
Date

Iris Rios Rodriguez
Iris Rios aka Rodriguez

4/1/08
Date

Jose I Rios
Jose Rios

PHELAN HALLINAN & SCHMIEG, LLP
BY: VIVEK SRIVASTAVA, ESQUIRE
Identification No. 202331
One Penn Center at Suburban Station
1617 John F. Kennedy Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

FILED
on 1/15/09 Lm to AAG
JAN 08 2009
Srivastava
William A. Shaw
Prothonotary/Clerk of Courts

Attorney for Plaintiff

Wells Fargo Bank, N.A.
3476 Stateview Boulevard
Fort Mill, SC 29715

Court of Common Pleas

v.
Iris Rodriguez

Civil Division

Jose Rios
68 Brandon Drive
Du Bois, PA 15801

No. 07-1989-CD

Clearfield County

PRAECIPE

TO THE PROTHONOTARY:

- Please mark the above referenced case Discontinued and Ended without prejudice.
- Please mark the above referenced case Settled, Discontinued and Ended.
- Please mark Judgments satisfied and the Action settled, discontinued and ended.
- Please Vacate the judgment entered.
- Please withdraw the complaint and mark the action discontinued and ended without prejudice.

Date: 01/07/09

By:


Vivek Srivastava, Esquire

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Copy

Wells Fargo Bank, N.A.

Vs.

No. 2007-01989-CD

Iris Rodriguez
Jose Rios

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on January 8, 2009, marked:

Discontinued and Ended without prejudice

Record costs in the sum of \$85.00 have been paid in full by Francis S. Hallinan Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 8th day of January A.D. 2009.



LM

William A. Shaw, Prothonotary

S
FILED ICC ATTY
m/1.50zm Srivastava
JAN 08 2009
LS

William A. Shaw
Prothonotary/Clerk of Courts

PHELAN HALLINAN & SCHMIEG, LLP
BY: VIVEK SRIVASTAVA, ESQUIRE
Identification No. 202331
One Penn Center at Suburban Station
1617 John F. Kennedy Boulevard, Suite 1400
Philadelphia, PA 19103-1814
(215) 563-7000

Attorney for Plaintiff

Wells Fargo Bank, N.A.
3476 Stateview Boulevard
Fort Mill, SC 29715

: Court of Common Pleas
: Civil Division
: No. 07-1989-CD
: Clearfield County

v.

Iris Rodriguez
Jose Rios
68 Brandon Drive
Du Bois, PA 15801

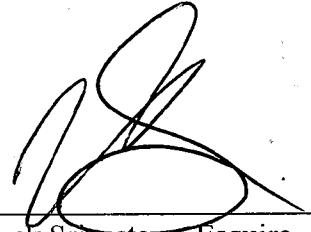
CERTIFICATION OF SERVICE

I hereby certify true and correct copies of the foregoing Plaintiff's Praeclipe to Discontinue and End was served by first class mail on Counsel for the Defendants on the date listed below:

Robin Jean Foor, Esquire
211 East Locust Street
Clearfield, PA 16830

Date: 01/07/09

By:


Vivek Srivastava, Esquire
Attorney for Plaintiff

FILED

JAN 08 2009

William A. Shaw
Prothonotary/Clerk of Courts