

08-1788-CD

Bank of NY vs Benjamin S. Blakley et al

FILED *Atty paid 95,00*
m 11:41a, m GK No CC
SEP 22 2008 *comple. SHFF*
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
DANIEL G. SCHMIEG, ESQ., Id. No. 62205
MICHELE M. BRADFORD, ESQ., Id. No. 69849
JUDITH T. ROMANO, ESQ., Id. No. 58745
SHEETAL 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 MULCAHY, ESQ., Id. No. 61791
ANDREW SPIVACK, ESQ., Id. No. 84439
JAIME MCGUINNESS, ESQ., Id. No. 90134
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000 182917

ATTORNEY FOR PLAINTIFF

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWABS ASSET-BACKED
CERTIFICATES TRUST 2005-BC4
7105 CORPORATE DRIVE
PLANO, TX 75024

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

Plaintiff

NO. 2008-1788-CD

v.

CLEARFIELD COUNTY

BENJAMIN S. BLAKLEY, IV
KRISTY LYNNE BLAKLEY
421 NORTH FORTH STREET
DUBOIS, PA 15801-3125

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:
Daniel J. Nelson, 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 CWABS
ASSET-BACKED CERTIFICATES TRUST 2005-BC4
7105 CORPORATE DRIVE
PLANO, TX 75024

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

BENJAMIN S. BLAKLEY, IV
KRISTY LYNNE BLAKLEY
421 NORTH FORTH STREET
DUBOIS, PA 15801-3125

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

3. On 01/31/2005 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS A NOMINEE FOR LIMITED LIABILITY COMPANY which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No. 200501462. The 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 03/09/2008 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:

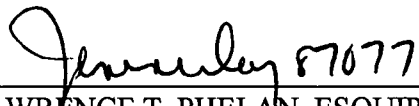
| | |
|-------------------------------|--------------------|
| Principal Balance | \$48,423.36 |
| Interest | \$1,940.28 |
| 02/09/2008 through 09/18/2008 | |
| Attorney's Fees | \$1,250.00 |
| Cumulative Late Charges | \$63.48 |
| 01/31/2005 to 09/18/2008 | |
| Cost of Suit and Title Search | <u>\$550.00</u> |
| Subtotal | \$52,227.12 |
| Escrow | |
| Credit | \$0.00 |
| Deficit | \$0.00 |
| Subtotal | <u>\$0.00</u> |
| TOTAL | \$52,227.12 |

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. The action does not come under Act 6 of 1974 because the original mortgage amount exceeds the dollar amount provided in the statute.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$52,227.12, together with interest from 09/18/2008 at the rate of \$8.74 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:  87077
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 MULCAHY, ESQUIRE
ANDREW SPIVACK, ESQUIRE
JAIME MCGUINNESS, ESQUIRE
Attorneys for Plaintiff

LEGAL DESCRIPTION

ALL that certain piece or parcel of land, situate, lying and being in the City of Du Bois, County of Clearfield, and State of Pennsylvania, known and numbered in the John B. Du Bois Plan of Lots as Lot No. 688, bounded and described as follows, to wit:

North by Sheridan Avenue, East by Fourth Street, South by Lot No. 687 and West by an alley sixteen feet wide and being fifty-three and one third ($53\frac{1}{3}$) feet wide on Fourth Street and the alley, and one hundred forty-two (142) feet deep on Sheridan Avenue and Lot No. 687.

Conveyed subject to the right of heirs or assigns of former owners, John E. Du Bois and Willie G. Du Bois, his wife, to enter and repossess the said premises the said premises or by ejectment to dispossess any occupant thereof should the grantees, their heirs or assigns, at any time let, sell assign or use the premises or any part thereof, for the purpose of selling intoxicating liquors thereon, as conveyed to the grantor by Deed of March 22, 1901, by John E. Du Bois and William G. Du Bois, his wife and recorded at Clearfield in Deed Book Vol. 117 page 82.

BRING the same premises which became vested in the Mortgagee herein by deed of Scott J. Moore and Linda L. Moore, dated January 18, 2005 and not yet recorded but intended to be prior to the recording of this mortgage.

EXCEPTING AND RESERVING ALL EXCEPTIONS AND RESERVATIONS AS MAY APPEAR IN PRIOR DEEDS OF RECORD

PARCEL NO: 024-000-08086

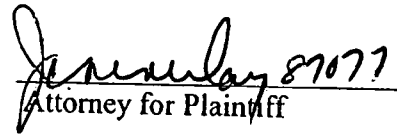
PROPERTY ADDRESS: 421 NORTH FORTH STREET

VERIFICATION

I hereby state that I am the 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 I am 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 my 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.


Attorney for Plaintiff

DATE: 9/19/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1788-CD

BANK OF NEW YORK as Trustee

VS

BEJAMIN S. BLAKLEY IV & KRISTY LYNNE BLAKLEY

SERVICE # 2 OF 2

COMPLAINT IN MORTGAGE FORECLOSURE

SERVE BY: 10/22/2008

HEARING:

PAGE: 104694

DEFENDANT: KRISTY LYNNE BLAKLEY

ADDRESS: 421 NORTH FORTH ST.
DUBOIS, PA 15801

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

FILED
013:346H
NOV 06 2008

William A. Shaw
Prothonotary/Clerk of Courts

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

10-01-08 w/h

Away until Oct 6th

10-03-08 w/h

10-17-08-12:14

SPOKE w/ Dep on

Phone - will be settled
this afternoon.

10/21/08 - SPOKE WITH ATTY BEN BLAKLEY

SHERIFF'S RETURN

He will have this taken care
of by noon

NOW, _____ AT _____ AM / PM **SERVED** THE WITHIN

COMPLAINT IN MORTGAGE FORECLOSURE ON KRISTY LYNNE BLAKLEY, DEFENDANT

BY HANDING TO _____ /

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED _____

NOW _____ AT _____ AM / PM **POSTED** THE WITHIN

COMPLAINT IN MORTGAGE FORECLOSURE FOR KRISTY LYNNE BLAKLEY

AT (ADDRESS) _____

NOW 11/6/08 AT 3:28 AM (PM) AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO KRISTY LYNNE BLAKLEY

REASON UNABLE TO LOCATE Defendants NOT HOME when we STOPPED

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

Jerome M. Neulow
Deputy Signature

Jerome M. Neulow
Print Deputy Name

SHERIFF'S OFFICE
CLEARFIELD COUNTY
CASE # **104694**

DEAR KRISTY LYNNE BLAKLEY

Would you please contact the Sheriff's Office EXTENSION **1360** concerning legal papers we have for you

When you call, please give your name and the case # noted above (**104694**) and someone in the Office will be able to help you.

Thank you for your consideration in this matter.

SHERIFF CHESTER A. HAWKINS

OFFICE HOURS: 8:30 A.M. to 4:00 P.M.
PHONE (814) 765-2641

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

SEP 22 2003

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

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 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. 86557
PETER MULCAHY, ESQ., Id. No. 61791
ANDREW SPIVACK, ESQ., Id. No. 84439
JAIME MCGUINNESS, ESQ., Id. No. 90134
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000 182917

ATTORNEY FOR PLAINTIFF

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWABS ASSET-BACKED
CERTIFICATES TRUST 2005-BC4
7105 CORPORATE DRIVE
PLANO, TX 75024

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

Plaintiff

NO. 2008-1788-CD

v.

CLEARFIELD COUNTY

BENJAMIN S. BLAKLEY, IV
KRISTY LYNNE BLAKLEY
421 NORTH FORTH STREET
DUBOIS, PA 15801-3125

Defendants

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

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:
Daniel J. Nelson, 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 CWABS
ASSET-BACKED CERTIFICATES TRUST 2005-BC4
7105 CORPORATE DRIVE
PLANO, TX 75024

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

BENJAMIN S. BLAKLEY, IV
KRISTY LYNNE BLAKLEY
421 NORTH FORTH STREET
DUBOIS, PA 15801-3125

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

3. On 01/31/2005 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS A NOMINEE FOR LIMITED LIABILITY COMPANY which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No. 200501462. The 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 03/09/2008 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 | \$48,423.36 |
| Interest | \$1,940.28 |
| 02/09/2008 through 09/18/2008 | |
| Attorney's Fees | \$1,250.00 |
| Cumulative Late Charges | \$63.48 |
| 01/31/2005 to 09/18/2008 | |
| Cost of Suit and Title Search | <u>\$550.00</u> |
| Subtotal | \$52,227.12 |
| Escrow | |
| Credit | \$0.00 |
| Deficit | \$0.00 |
| Subtotal | <u>\$0.00</u> |
| TOTAL | \$52,227.12 |

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.

LEGAL DESCRIPTION

ALL that certain piece or parcel of land, situate, lying and being in the City of Du Bois, County of Clearfield, and State of Pennsylvania, known and numbered in the John E. Du Bois Plan of Lots as Lot No. 688, bounded and described as follows, to wit:

North by Sheridan Avenue, East by Fourth Street, South by Lot No. 687 and West by an alley sixteen feet wide and being fifty-three and one third ($53\frac{1}{3}$) feet wide on Fourth Street and the alley, and one hundred forty-two (142) feet deep on Sheridan Avenue and Lot No. 687.

Conveyed subject to the right of heirs or assigns of former owners, John E. Du Bois and Willie G. Du Bois, his wife, to enter and repossess the said premises the said premises or by ejectment to dispossess any occupant thereof should the grantees, their heirs or assigns, at any time let, sell assign or use the premises or any part thereof, for the purpose of selling intoxicating liquors thereon, as conveyed to the grantor by Deed of March 22, 1901, by John E. Du Bois and William G. Du Bois, his wife and recorded at Clearfield in Deed Book Vol. 117 page 82.

BRING the same premises which became vested in the Mortgagors herein by deed of Scott J. Moore and Linda L. Moore, dated January 18, 2005 and not yet recorded but intended to be prior to the recording of this mortgage.

EXCEPTING AND RESERVING ALL EXCEPTIONS AND RESERVATIONS AS MAY APPEAR IN PRIOR DEEDS OF RECORD

PARCEL NO: 024-000-08086

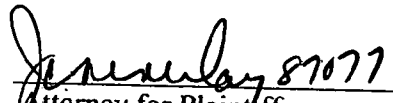
PROPERTY ADDRESS: 421 NORTH FORTH STREET

VERIFICATION

I hereby state that I am the 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 I am 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 my 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.


Attorney for Plaintiff

DATE: 9/19/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1788-CD

BANK OF NEW YORK as Trustee

vs

SERVICE # 1 OF 2

BEJAMIN S. BLAKLEY IV & KRISTY LYNNE BLAKLEY

COMPLAINT IN MORTGAGE FORECLOSURE

SERVE BY: 10/22/2008

HEARING:

PAGE: 104694

DEFENDANT:

BENJAMIN S. BLAKLEY IV

ADDRESS:

421 NORTH FORTHIST

DUBOIS, PA 15801

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS

VACANT

OCCUPIED

ATTEMPTS

10-01-08 N/A Any until Oct 6th 10-03-08 N/A

10/21/08 - Ben B (Attorney) will settle this.

SHERIFF'S RETURN

NOW, _____ AT _____ AM / PM **SERVED** THE WITHIN

COMPLAINT IN MORTGAGE FORECLOSURE ON BENJAMIN S. BLAKLEY IV, DEFENDANT

BY HANDING TO _____ /

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED _____

NOW _____ AT _____ AM / PM **POSTED** THE WITHIN

COMPLAINT IN MORTGAGE FORECLOSURE FOR BENJAMIN S. BLAKLEY IV

AT (ADDRESS) _____

NOW 11/6/08 AT 3:28 AM (PM) AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO BENJAMIN S. BLAKLEY IV

REASON UNABLE TO LOCATE Defendants not home during business hours

SWORN TO BEFORE ME THIS

_____ DAY OF _____ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

Jerome M. Nerling
Deputy Signature

Jerome M. Nerling
Print Deputy Name

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

SEP 22 2008

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

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 SHAH-JANI, ESQ., Id. No. 81760
JENINE R. DAVEY, ESQ., Id. No. 37077
LAUREN R. TABAS, ESQ., Id. No. 93337
VIVEK SRIVASTAVA, ESQ., Id. No. 202331
JAY B. JONES, ESQ., Id. No. 86657
PETER MULCAHY, ESQ., Id. No. 61791
ANDREW SPIVACK, ESQ., Id. No. 84439
JAIME MCGUINNESS, ESQ., Id. No. 90134
ONE PENN CENTER PLAZA, SUITE 1400
PHILADELPHIA, PA 19103
(215) 563-7000 182917

ATTORNEY FOR PLAINTIFF

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWABS ASSET-BACKED
CERTIFICATES TRUST 2005-BC4
7105 CORPORATE DRIVE
PLANO, TX 75024

COURT OF COMMON PLEAS

CIVIL DIVISION

TERM

Plaintiff

NO. 2008 - 1783 - CD

v.

CLEARFIELD COUNTY

BENJAMIN S. BLAKLEY, IV
KRISTY LYNNE BLAKLEY
421 NORTH FORTH STREET
DUBOIS, PA 15801-3125

Defendants

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

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:
Daniel J. Nelson, 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 CWABS
ASSET-BACKED CERTIFICATES TRUST 2005-BC4
7105 CORPORATE DRIVE
PLANO, TX 75024

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

BENJAMIN S. BLAKLEY, IV
KRISTY LYNNE BLAKLEY
421 NORTH FORTH STREET
DUBOIS, PA 15801-3125

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

3. On 01/31/2005 mortgagor(s) made, executed and delivered a mortgage upon the premises hereinafter described to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS A NOMINEE FOR LIMITED LIABILITY COMPANY which mortgage is recorded in the Office of the Recorder of CLEARFIELD County, in Mortgage Instrument No. 200501462. The 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 03/09/2008 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:

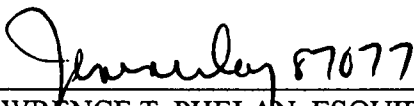
| | |
|-------------------------------|--------------------|
| Principal Balance | \$48,423.35 |
| Interest | \$1,940.23 |
| 02/09/2008 through 09/18/2008 | |
| Attorney's Fees | \$1,250.00 |
| Cumulative Late Charges | \$63.48 |
| 01/31/2005 to 09/18/2008 | |
| Cost of Suit and Title Search | <u>\$550.00</u> |
| Subtotal | \$52,227.12 |
| Escrow | |
| Credit | \$0.00 |
| Deficit | \$0.00 |
| Subtotal | <u>\$0.00</u> |
| TOTAL | \$52,227.12 |

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. The action does not come under Act 6 of 1974 because the original mortgage amount exceeds the dollar amount provided in the statute.

WHEREFORE, PLAINTIFF demands an in rem Judgment against the Defendant(s) in the sum of \$52,227.12, together with interest from 09/18/2008 at the rate of \$8.74 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:  87077
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 MULCAHY, ESQUIRE
ANDREW SPIVACK, ESQUIRE
JAIME MCGUINNESS, ESQUIRE
Attorneys for Plaintiff

LEGAL DESCRIPTION

ALL that certain piece or parcel of land, situate, lying and being in the City of Du Bois, County of Clearfield, and State of Pennsylvania, known and numbered in the John E. Du Bois Plan of Lots as Lot No. 688, bounded and described as follows, to wit:

North by Sheridan Avenue, East by Fourth Street, South by Lot No. 687 and West by an alley sixteen feet wide and being fifty-three and one third ($53\frac{1}{3}$) feet wide on Fourth Street and the alley, and one hundred forty-two (142) feet deep on Sheridan Avenue and Lot No. 687.

Conveyed subject to the right of heirs or assigns of former owners, John E. Du Bois and Willie G. Du Bois, his wife, to enter and repossess the said premises the said premises or by ejectment to dispossess any occupant thereof should the grantees, their heirs or assigns, at any time let, sell assign or use the premises or any part thereof, for the purpose of selling intoxicating liquors thereon, as conveyed to the grantor by Deed of March 22, 1901, by John E. Du Bois and William G. Du Bois, his wife and recorded at Clearfield in Deed Book Vol. 117 page 82.

BRING the same premises which became vested in the Mortgagors herein by deed of Scott J. Moore and Linda L. Moore, dated January 18, 2005 and not yet recorded but intended to be prior to the recording of this mortgage.

EXCEPTING AND RESERVING ALL EXCEPTIONS AND RESERVATIONS AS MAY APPEAR IN PRIOR DEEDS OF RECORD

PARCEL NO: 024-000-08086

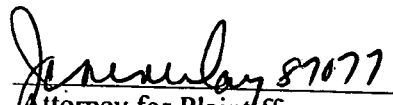
PROPERTY ADDRESS: 421 NORTH FORTH STREET

VERIFICATION

I hereby state that I am the 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 I am 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 my 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.


Attorney for Plaintiff

DATE: 9/19/08

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104694
NO: 08-1788-CD
SERVICES 2
COMPLAINT IN MORTGAGE FORECLOSURE

PLAINTIFF: BANK OF NEW YORK as Trustee
vs.
DEFENDANT: BEJAMIN S. BLAKLEY IV & KRISTY LYNNE BLAKLEY

SHERIFF RETURN

RETURN COSTS

| Description | Paid By | CHECK # | AMOUNT |
|-----------------|---------|---------|--------|
| SURCHARGE | PHELAN | 733378 | 20.00 |
| SHERIFF HAWKINS | PHELAN | 733378 | 80.00 |

FILED

01/13/30cm
JAN 15 2009

§ William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

_____ Day of _____ 2008

So Answers,



Chester A. Hawkins
Sheriff

Notice of Proposed Termination of Court Case

March 2, 2012

RE: 2008-01788-CD

Bank of New York

Vs.

Benjamin S. Blakley IV
Kristy Lynne Blakley

FILED
MAR 02 2012
William A. Shaw
Prothonotary, Clerk of Courts

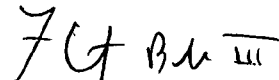
To All Parties and Counsel:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the **Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830**. The Statement of Intention to Proceed must be filed on or before **May 2, 2012**.

If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.

By the Court,


F. Cortez Bell, III, Esq.
Court Administrator

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 CWABS ASSET-BACKED CERTIFICATES TRUST 2005-BC4 Plaintiff | : | Court of Common Pleas |
| | : | |
| | : | Civil Division |
| | : | |
| | : | CLEARFIELD County |
| | : | |
| vs | : | No. 2008-1788-CD |
| | : | |
| BENJAMIN S. BLAKLEY, IV KRISTY LYNNE BLAKLEY Defendant | : | |

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.

Date: 3/00/12


PHELAN HALLINAN & SCHMIEG, LLP

By: 

Melissa J. Cantwell, Esq., Id. No.308912

Attorney for Plaintiff

PHS # 182917

5 **FILED** 1cc A-Hy
m/ 3:33 am Cantwell
MAR 21 2012
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

BANK OF NEW YORK AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWABS ASSET-
BACKED CERTIFICATES TRUST 2005-BC4

Plaintiff

Court of Common Pleas

Civil Division

vs

CLEARFIELD County

BENJAMIN S. BLAKLEY, IV
KRISTY LYNNE BLAKLEY
Defendant

No. 2008-1788-CD

CERTIFICATION OF SERVICE

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

BENJAMIN S. BLAKLEY, IV
KRISTY LYNNE BLAKLEY
421 NORTH FORTH STREET
DUBOIS, PA 15801-3125

Date: 3/20/10

PHS # 182917

By: 

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