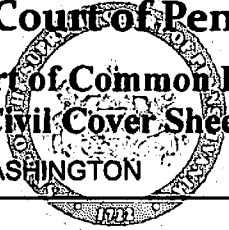


Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet

WASHINGTON

County



For Prothonotary Use Only:

FILED

Docket No:

2011-7095

SEP 28 2011

P.R. MATHENY
PROTHONOTARY

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- Complaint Writ of Summons Petition
 Transfer from Another Jurisdiction Declaration of Taking

Lead Plaintiff's Name:
Washington County

Lead Defendant's Name:
U.S. Bank National Association

Are money damages requested? Yes No Dollar Amount Requested: within arbitration limits
 outside arbitration limits (check one)

Is this a Class Action Suit? Yes No Is this an MDJ Appeal? Yes No

Name of Plaintiff/Appellant's Attorney: D. Aaron Rihn

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/ Defamation
 Other:
 Unjust Enrichment

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other

 Employment Dispute:
 Discrimination
 Employment Dispute: Other

 Other:

CIVIL APPEALS

- Administrative Agencies
 Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other

 Zoning Board
 Other:

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other:

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other:

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations
 Restraining Order
 Quo Warranto
 Replevin
 Other:

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional:

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

Civil Division

**COUNTY OF WASHINGTON,
PENNSYLVANIA**, on behalf of itself and all
other similarly situated Pennsylvania Counties,

Plaintiff,

vs.

U.S. BANK NATIONAL ASSOCIATION,

Defendant.

Civil Action No.:

PLAINTIFFS' CLASS ACTION COMPLAINT

CODE:

Filed on behalf of Plaintiff, County of
Washington, Pennsylvania and all other similarly
situated Pennsylvania Counties

Counsel of Record for this Party:

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ROBERT N. PEIRCE, III, ESQUIRE

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IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

Civil Division

**COUNTY OF WASHINGTON,
PENNSYLVANIA**, on behalf of itself and all
other similarly situated Pennsylvania Counties,

Plaintiff,

vs.

Civil Action No.:

U.S. BANK NATIONAL ASSOCIATION,

Defendant.

NOTICE TO DEFEND

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 were served, by entering a written appearance personally or by an 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 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 OR CANNOT AFFORD ONE, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

LAWYER REFERRAL SERVICE:

**SOUTHWESTERN PENNSYLVANIA LEGAL AID SOCIETY
14 WEST CHERRY STREET
WASHINGTON, PA 15301
(412) 225-6170**

YOU MUST RESPOND TO THIS COMPLAINT WITHIN TWENTY (20) DAYS OR A JUDGMENT FOR THE AMOUNT CLAIMED MAY BE ENTERED AGAINST YOU BEFORE THE HEARING. IF YOU DO NOT APPEAR FOR THE HEARING, THE CASE MAY BE HEARD IMMEDIATELY BEFORE A JUDGE. THERE IS NO RIGHT TO A TRIAL DO NOVO ON APPEAL FROM A DECISION ENTERED BY A JUDGE.

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

Civil Division

COUNTY OF WASHINGTON, Civil Action No.:
PENNSYLVANIA, on behalf of itself and all
other similarly situated Pennsylvania Counties,

Plaintiff,

vs.

U.S. BANK NATIONAL ASSOCIATION,

Defendant.

COMPLAINT

Plaintiff, the County of Washington, Pennsylvania, on behalf of itself and all other similarly situated Pennsylvania Counties (“Plaintiff”), submits this Complaint (the “Complaint”) against Defendant, U.S. Bank National Association. The allegations are asserted on information and belief after due investigation, except as to those matters which relate to Plaintiff and its own acts, which are asserted on personal knowledge.

NATURE OF THE ACTION

This is an action brought by the County of Washington, Pennsylvania, on its own behalf and on behalf of and all other similarly situated Pennsylvania Counties (collectively, the “Counties”) against Defendant U.S. Bank National Association (“Trustee”). The Counties seek to recover the benefit Defendant received by relying on the real property recording systems of the Counties without compensating the Counties for that benefit. In connection with the creation of various residential mortgage backed security (“RMBS”) trusts that purportedly hold mortgage loans on properties located in the Counties, the Defendant represented at the time these trusts were created that they possessed all the rights to certain mortgage loans attached to these

properties, free and clear of any encumbrance. On the basis of these representations, the Trustee claims priority on the mortgages, the right to foreclose on non-performing mortgages, favorable tax treatment, insulation from the bankruptcy of other entities in the mortgage loans' chain of title, and other benefits. The Defendant, however, did not record, or cause to be recorded, certain mortgage assignments at the time the trusts were created, nor did it pay the accompanying fees, which are preconditions for enjoying the enumerated benefits. Rather, Defendant participated in a scheme by which it had notes transferred to the trusts it administered and recorded the change in note ownership only in the records of Mortgage Electronic Registration Systems, Inc. ("MERS"), a private corporation created for the express purpose of circumventing the payment of mortgage assignment fees to county governments. Consequently, Defendant has unjustly received a benefit which it should not be allowed to retain.

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 42 Pa.C.S.A. §931 and this Court may exercise jurisdiction over Defendant pursuant to 42 Pa.C.S.A. §5301 and 42 Pa.C.S.A. §5322.

2. This action may not be removed to federal court under the Class Action Fairness Act, 28 U.S.C. Section 1332(d), because the number of members of plaintiff classes is less than 100.

3. Venue is proper in this action pursuant to Pennsylvania Rule of Civil Procedure 1006 because a substantial part of the events or omissions giving rise to Plaintiff's and the Plaintiff Class(es) claims occurred within Washington County.

PARTIES

4. Plaintiff is the County of Washington, Pennsylvania.

5. Defendant U.S. BANK NATIONAL ASSOCIATION is a national banking association, with its principal place of business at 425 Walnut Street, Cincinnati, Ohio, 45202-3923. U.S. Bank National Association is a wholly owned subsidiary of U.S. Bancorp, which is a multi-state financial services holding company incorporated in the state of Delaware, and has its principal place of business in Minnesota. U.S. NATIONAL BANK ASSOCIATION is the Trustee for numerous trusts containing mortgage loans located in Washington County and other Counties in Pennsylvania, including MORTGAGE ASSET-BACKED PASS THROUGH CERTIFICATES SERIES 2005-EFC3.

6. Defendant has at all times relevant to this litigation conducted business in this state.

7. Plaintiff reserves the right to join in this litigation Defendant's predecessors in interest after sufficient discovery has been undertaken. Moreover, Defendant may acquire other entities or may divest itself of some operation and form new entities. Therefore, Plaintiff also reserves the right to join these new or different entities after sufficient discovery has been undertaken.

COMMON FACTS

A. Local Recording Laws

8. As early as the 17th Century, American colonies passed property recordation statutes, requiring a mortgagee (the party who makes the loan) to record mortgages or assignments or risk losing its ability to enforce the contract against a subsequent purchaser for value.

9. To this day, all fifty states and the District of Columbia retain recording statutes substantially similar to their colonial predecessors. Pennsylvania adopted its first recording act in 1717, and it remains in force today.

10. The purpose of these recording statutes has always been, in the words of one commentator, “to prevent disputes over property rights and to facilitate the use of land as collateral by creating a transparent public record that provides certainty in private bargains.” Christopher Peterson, *Foreclosure, Subprime Lending, and the Mortgage Electronic Registration System*, 78 Univ. of Cincinnati L. Rev. 1359, 1364-65 (Summer 2010), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1469749. Specifically, mortgage lenders, when contemplating offering a loan secured by land, use recording indexes compiled by county recorders to ensure that debtors have not already sold the land or granted a mortgage to someone else or that a lien has not otherwise been placed on the property.

11. Pennsylvania law dictates that mortgages must be recorded within six months after they have been originated and that priority is determined according to the date of recording. P.S. § 621-22.

12. Mortgage assignments must be in writing and filed with a county recorder of deeds. P.S. § 621-22. The fee for recording assignments “shall be governed by the fee bill in effect in the county in which such assignment is recorded.” *Id.* at § 623-4. In Washington County, the base fee is currently \$52.50 per assignment.

13. Unrecorded mortgages and mortgage assignments “shall be adjudged fraudulent and void as to any subsequent bona fide purchaser or mortgagee or holder of any judgment, duly entered in the prothonotary's office of the county in which the lands, tenements, or hereditaments are situate, without actual or constructive notice unless such deed, conveyance, contract, or

instrument of writing shall be recorded, as aforesaid, before the recording of the deed or conveyance or the entry of the judgment under which such subsequent purchaser, mortgagee, or judgment creditor shall claim.” *Id.* at § 351.

14. As early as 1834, the Supreme Court of Pennsylvania has affirmed the primacy of the state’s recording statutes and discouraged secret liens. “Secret liens or trusts are not to be encouraged upon any species of property whatever; but in no case can such a thing prevail as to real estate against an innocent purchaser of it for a full and valuable consideration without notice, unless our recording acts are to be overturned and set aside.” *Brown v. Simpson*, 1834 WL 3218 (Pa. 1834).

B. Securitization

15. Filing mortgages and mortgage assignments with local recorders of deeds are critical preconditions to residential mortgage securitization. Securitization is a financing method in which securities are issued against a dedicated cash flow stream of mortgage payments. Two features of residential mortgage backed securities, in particular, boost their value relative to other investment options: bankruptcy-remoteness and favorable tax treatment as a real estate mortgage investment conduit (“REMIC”) under the Internal Revenue Code. Bankruptcy remoteness means both that the trust that issues the mortgage-backed securities cannot file for bankruptcy and that the trust’s assets cannot be brought into the bankruptcy estate of other entities in the mortgage loans’ chain of title. These features have the effect of isolating the cash flows on the mortgages from claimants other than the RMBS investors and the trustee, which thereby reduces the risks investors assume on the securities. REMIC status ensures that only the investors, who hold certificates issued by the trusts entitling them to payment, and not the trusts, are taxed.

Generally, investors in a Subchapter C corporation (under the Internal Revenue Code) are subject to double taxation because the corporation is taxed directly on its earnings, and then the investors are taxed on any distributions from the corporation. If the trust qualifies as a REMIC, it is treated as a “pass-through” entity for federal tax purposes, so there is only a single layer of taxation.

16. In order for trusts to enjoy the benefits of bankruptcy remoteness and pass-through tax status, they must have been formed in a particular way, and their assets must have been transferred to them in a particular manner. There are two documents in particular that need to be properly transferred to the trust – a promissory note and the mortgage. The promissory note is the loan contract—it is the I.O.U. containing the borrower’s promise to repay the money lent. The mortgage is the document conferring the right to enforce the promise to pay through foreclosure. Possession of a note without a mortgage amounts to possession of unsecured debt. The term “mortgage loan” generally refers to the mortgage and note together, although colloquially the term “mortgage” is also often used to refer to both the mortgage and the note.

17. The residential mortgage securitization process is structured in a complex and detailed way to ensure that bankruptcy-remoteness and REMIC tax status are achieved. First, securitization of mortgage loans begins with origination of a loan by a lender such as a bank, finance company, or mortgage broker. Second, a financial institution (the “sponsor” or “seller”) assembles a pool of mortgage loans that it originated and/or it that it purchased from unaffiliated third-party originating lenders. Third, the pool of loans is sold by the sponsor to a special-purpose subsidiary (the “depositor”) that has no other assets or liabilities. This step is executed to segregate the mortgage loans from the sponsor’s assets and liabilities. Fourth, the depositor sells the loans to the trust, a single-purpose vehicle, which issues pass-through securities

certificates to investors entitling them to payment from performance of the underlying mortgage loans. See Anna Gelpern & Adam J. Levitin, *Rewriting Frankenstein Contracts: Workout Prohibitions in Residential Mortgage-Backed Securities*, 82 Southern California Law Review 1075, 1081-1086 (2009).

18. The trusts are formed pursuant to, and are governed by, contracts called Pooling and Servicing Agreements (“PSAs”), which are crafted to ensure that the benefits of mortgage securitization flow to the trusts. In order for a trust to be bankruptcy-remote, there must be a “true sale” of the mortgage loans, which means that all rights to the mortgage loan are transferred to the trust so that no other entity in the chain of title could claim control of the assets in the event of bankruptcy. True sale status also leads to RMBS trusts attaining higher ratings from rating agencies than they otherwise would, which, in turn, means that the trust can charge a higher issuing price for the securities relative to the interest rate paid on the securities. The heightened value of the trust enables the Trustee to charge premium prices to investors.

19. In order for a trust to have REMIC status, substantially all of its assets must be qualified mortgages. 26 U.S.C. §860D(a)(4). A qualified mortgage is defined as “any obligation (including any participation or certificate of beneficial ownership therein) which is principally secured by an interest in real property.” *Id.* §860G(a)(3). REMIC status is lost when too many non-qualified mortgages are in the trust. Retention of REMIC pass-through tax status is imperative because its loss would add significant costs to securitization, driving investors to more profitable investments.

20. The PSAs contain express language to ensure that all rights to the mortgage loans have been transferred to the trust, so that the transaction is considered a true sale and,

accordingly, bankruptcy-remoteness is achieved and the trust maximizes its ratings. The express language also ensures that the mortgage loan is secured, so that REMIC tax status is achieved.

21. For example, the PSA for MORTGAGE ASSET-BACKED PASS THROUGH CERTIFICATES SERIES 2005-EFC3 contains the standard definition of “mortgage loan”:

Mortgage Loans: Such of the mortgage loans transferred and assigned to the Trustee pursuant to Section 2.01 as from time to time are held or deemed to be held as a part of the Trust Fund, the Mortgage Loans originally so held being identified in the initial Mortgage Loan Schedule, and Qualified Substitute Mortgage Loans held or deemed held as part of the **Trust Fund including, without limitation, each related Mortgage Note, Mortgage and Mortgage File and all rights appertaining thereto.**

See Mortgage Asset-Backed Pass Through Certificates Series 2005-EFC3 (Exhibit A), at p. 36 of 1830 (emphasis added).

22. The PSA for MORTGAGE ASSET-BACKED PASS THROUGH CERTIFICATES SERIES 2005-EFC3 also contains boilerplate warranties made by the Depositor:

(a) The Depositor, concurrently with the execution and delivery hereof, does **hereby assign to the Trustee without recourse all the right, title and interest of the Depositor in and to (i) the Mortgage Loans**

... The Depositor hereby represents and warrants to the Trustee for the benefit of the Certificate holders that as of the Closing Date (or, if otherwise specified below, as of the date so specified): (i) the information set forth in Exhibit G-1 and Exhibit G-2 hereto with respect to each Mortgage Loan or The Mortgage Loans, as the case may be, is true and correct in all material respects at the respective date or dates which such information is furnished; (ii) **immediately prior to the conveyance of the Mortgage Loans to the Trustee, the Depositor had good title to, and was the sole owner of, each Mortgage Loan free and clear of any pledge, lien, encumbrance or security interest (other than rights to servicing and related compensation) and such conveyance validly transfers ownership of the Mortgage Loans to the Trustee free and clear of any pledge, lien, encumbrance or security interest**

Id. at pp. 64, 70 (emphasis added).

23. The PSA for MORTGAGE ASSET-BACKED PASS THROUGH CERTIFICATES SERIES 2005-EFC3 contains a section in which the Trustee acknowledges acceptance of assignment to it of the Mortgage Loans, as represented by the Depositor above. The Trustee also represents that, within 45 days after the closing date, it will review all documentation related to the mortgage loans to ensure that they have been conveyed according to the Depositor's representations.

The Trustee acknowledges receipt (or, with respect to Mortgage Loans subject to a Custodial Agreement, and based solely upon a receipt or certification executed by the Custodian, receipt by the respective Custodian as the duly appointed agent of the Trustee) of the documents referred to in Section 2.01(b)(i) above (except that for purposes of such acknowledgment only, a Mortgage Note may be endorsed in blank and an Assignment of Mortgage may be in blank) **and declares that it, or a Custodian as its agent, holds and will hold such documents and the other documents constituting a part of the Mortgage Files delivered to it, or a Custodian as its agent, in trust for the use and benefit of all present and future Certificateholders. The Trustee or Custodian (such Custodian being so obligated under a Custodial Agreement) agrees, for the benefit of Certificateholders, to review each Mortgage File delivered to it pursuant to Section 2.01(b) within 45 days after the Closing Date to ascertain that all required documents (specifically as set forth in Section 2.01(b)), have been executed and received, and that such documents relate to the Mortgage Loans identified on the Mortgage Loan Schedule, as supplemented, that have been conveyed to it, and to deliver to the Trustee a certificate (the "Interim Certification") to the effect that all documents required to be delivered pursuant to Section 2.01(b) above have been executed and received and that such documents relate to the Mortgage Loans identified on the Mortgage Loan Schedule, except for any exceptions listed on Schedule A attached to such Interim Certification.**

See id. at p. 67-68.

24. In spite of the clear language in the PSAs stating that *all rights* to the mortgage loans have been transferred to the trusts *free and clear of any encumbrance*, the mortgages remain listed in county recorders of deeds offices in the name of the originating lenders of the mortgage loans and have not been assigned to the trusts. In order to satisfy the language in the PSA transferring *all rights* to the mortgage *free and clear of any encumbrance*, and to have

priority and lawfully enjoy the benefits of proper securitization, Defendant would have needed to record, or cause to be recorded, all mortgage assignments from originating lenders to the depositors to the trusts, and to pay the accompanying recording fees.

25. In the absence of a valid assignment, legal title to the mortgage, priority and the right to foreclose remain with the originating lender.

26. Thus, although Defendant crafted the PSA's language for it, and the trust, to reap the benefits of true sales, bankruptcy-remoteness, REMIC status, and other elements of properly formed RMBS trusts, Defendant did not record all mortgage assignments from originating lenders to depositors to trustees, which are preconditions for enjoying these benefits.

27. In relation to RMBS trusts other than MORTGAGE ASSET-BACKED PASS THROUGH CERTIFICATES SERIES 2005-EFC3 in which U.S. Bank is the Trustee, Defendant has failed to record mortgage assignments and pay the accompanying fees to Plaintiff for all notes in the trusts attached to all mortgages filed with the Washington County Recorder of Deeds. Defendant has also failed to record mortgage assignments and pay the accompanying fees for the promissory notes they hold attached to mortgages filed in the county recording offices of similarly situated Pennsylvania Counties.

C. The Mortgage Electronic Registration Systems, Inc.

28. Defendant participated in a scheme by which it believed it could record mortgages, but not record mortgage assignments, when the accompanying notes became securitized and that they would still receive all of the benefits of the Counties' property recording systems. The scheme, however, is defective and incapable of transferring *all rights* to the mortgage loans *free and clear of any encumbrance* to the trust, as required by the PSA and as

is necessary to obtain the benefits of proper mortgage securitization such as priority, the ability to foreclose, high ratings, bankruptcy remoteness, and favorable tax treatment.

29. The scheme has been executed by the recording of false and misleading statements in mortgages about the Mortgage Electronic Registration Systems, Inc. (“MERS”), a practice assented to by all MERS members, including Defendant.

30. MERS was created in the mid-1990s by the mortgage industry to avoid fees traditionally due to county recorders of deeds. In 1997, MERS’ former CEO said that “MERS is owned and operated by and for the mortgage industry” and stressed that its express purpose was to circumvent recording assignments and paying fees to county recorders of deeds. In filings from this year, MERS has affirmed that it exists to “eliminate the need for frequent, recorded assignments of subsequent transfers.”

31. MERS’ avoidance of filing mortgage assignments has resulted in the loss of millions of dollars to county governments and taxpayers from the collection of recording fees. In the Commonwealth of Pennsylvania alone, Plaintiff estimates that over \$100 million has been lost in recording fees. Recording fees are allocated to maintain the county recorders’ records as well as fund other county services such as children and youth services, veterans affairs, health centers, and housing assistance.

32. MERS is a subsidiary of MERSCORP, which is incorporated in Delaware as a privately held stock corporation headquartered in Reston, Va.

33. MERS maintains a computer database designed to track servicing and ownership rights of mortgage loans throughout the United States. Loan originators and secondary market players pay membership dues and per-transaction fees to MERS in exchange for the right to use

and access MERS records. Members contractually agree to appoint MERS as their common agent on all mortgages they register in the MERS system.

34. MERS has no employees but has 5,000 member institutions and 20,302 certifying officers. Approximately 65 million mortgage loans name MERS as original mortgagee and nominee of a lender. There are currently over 31 million active loans registered on the MERS system. MERS' corporate parent has roughly 50 employees and only 10-15 of them have portfolios that include oversight of transactions.

35. Through MERS, RMBS trusts, including those for which Defendant U.S. National Bank Association acts as Trustee, purportedly circumvent county recording land fees through the following method. At the loan's origination, the originating lender takes possession of the note, becoming holder of the note, and the borrower and lender designate MERS (as the lender's "nominee") to also serve as the "mortgagee" in the mortgage, which is publicly recorded. The secured interest of the lender (and lender's successors and assigns) is, thus, allegedly held by MERS. If the borrower were to default on the loan, MERS, as the beneficiary or mortgagee, is allegedly authorized to foreclose on the home. The loan information from the mortgage is allegedly registered by the MERS member lender on the MERS system. When the note is sold, usually for repackaging through securitization, the note is transferred from the original lender by an endorsement and delivery and MERS members are allegedly required to update the MERS system to reflect the change in ownership. According to MERS, so long as the note has been transferred to a MERS member, the transaction allegedly does not need to be recorded because, under the terms of the mortgage, MERS remains the original mortgagee, as the nominee for the new beneficial owner of the note (the original lender's successor and/or assign).

36. MERS initially used a different method by which an originating lender would make a traditional mortgage loan by listing itself as the payee on the note and as the mortgagee on the mortgage. The originator then paid MERS a fee to record one assignment to MERS in the county records. No subsequent assignments would be recorded. After operating this way for several years, mortgage finance companies opted for the method described above by which they believed they could avoid even more fees. Today, the latter method, designating MERS as mortgagee and nominee within the original mortgage, represents over 95 percent of all loans in MERS' name.

37. MERS lacks the capability of ensuring that its members update its system when note transfers occur and that its records are, in fact, accurate. Changes in ownership of the note are to be recorded in the MERS system by MERS' certifying officers vis-à-vis an "electronic handshake." Certifying officers are simply officials from MERS member institutions that are conferred the title to enter transactions in MERS system. The electronic handshake occurs after a certifying officer of one party enters the transaction on MERS' system and a certifying officer of the other party to the transaction confirms on the system. MERS members are not required to update the database. In deposition testimony, MERS' former CEO said that the system "is capable of being used to track [beneficial ownership interests] if the members utilize it for that reason." When pressed on whether MERS even expects financial institutions to update the MERS database regarding changes in loan ownership, the former CEO replied, "not so much...."

38. One observer accurately summarized the suspect process by which individuals become MERS certifying officers as follows.

MERS invites financial companies to enter names of their own employees into a MERS webpage that then automatically regurgitates boilerplate corporate resolutions that purport to name the employees of other companies as certifying officers of MERS. These certifying officers also take job titles from MERS and

stylize themselves as either assistant secretaries or vice presidents of MERS, rather than taking titles from the company that actually employs them. These employees of the servicers, debt collectors, and law firms sign documents pretending to be vice presidents or assistant secretaries of MERS, Inc. even though neither MERSCORP, Inc. nor MERS, Inc. pays any compensation or provides benefits to them. Astonishingly, MERS “vice presidents” are simply paralegals, customer service representatives, and foreclosure attorneys employed by other companies. MERS even sells its corporate seal to nonemployees on its internet web page for \$25.00 each. Ironically, MERS, Inc. – a company that nominally owns 60% of the nation’s residential mortgages – does not have any of its own employees but still purports to have over twenty thousand assistant secretaries and vice presidents.

Christopher Peterson, *Two Faces: Demystifying the Mortgage Electronic Registration System's Land Title Theory* (Sept. 19, 2010), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1684729.

39. Illustrative of the lack of oversight, robo-signers, such as Jeffrey Stephan, have been MERS’ certifying officers. In deposition testimony, Mr. Stephan revealed that he: executed roughly 10,000 affidavits a month as a MERS Vice-President or Assistant Secretary; held two MERS job titles because some affidavits and assignments required a second signature; was unaware as to why he held the specific titles of MERS Vice President and Assistant Secretary; received no training from MERS; received no compensation from MERS; did not attend board meetings of MERS; and reported to no one at MERS.

40. In relation to MERS’ poor practices, several federal agencies recently entered a consent decree with MERSCORP, Inc., which stated that MERS and MERSCORP:

(a) have failed to exercise appropriate oversight, management supervision and corporate governance, and have failed to devote adequate financial, staffing, training, and legal resources to ensure proper administration and delivery of services to Examined Members; and

(b) have failed to establish and maintain adequate internal controls, policies, and procedures, compliance risk management, and internal audit and reporting requirements with respect to the administration and delivery of services to Examined Members.

Because of this conduct, the consent order states, “MERS and MERSCORP engaged in unsafe or unsound practices that expose them and Examined Members to unacceptable operational, compliance, legal, and reputational risks.” *In re MERSCORP. Inc.*, OCC No. AA-EC-11-20, April 12, 2011 at 5, *available at* <http://www.occ.treas.gov/news-issuances/news-releases/2011/nr-occ-2011-47h.pdf>.

41. MERS’ system is defectively designed and incapable of accomplishing its stated purpose of eliminating the need to record mortgage assignments while still enabling its members to reap the benefits of proper mortgage securitization such as possessing priority on the underlying mortgages, the ability to foreclose, high ratings, bankruptcy remoteness, and favorable tax treatment.

42. First, when notes have been transferred to a trust, but the trustee has not recorded, or caused to be recorded, mortgage assignments, the conveyance is “fraudulent and void as to any subsequent bona fide purchaser or mortgagee or holder of any judgment.” P.S. § 621-22. Put simply, the trust lacks priority.

43. Second, because the mortgages lists MERS merely as “nominee” of the originating lender, it must take directions from the originating lender, and not the trusts which possess the mortgage notes, concerning matters pertaining to legal title of such mortgages, thereby depriving the trust of the critical right to enforce the note through foreclosure proceedings.

44. Consider a typical mortgage filed in the County Record of Deeds for Washington County, PA that is attached to a note purportedly deposited in an RMBS trust administered by Defendant U.S. National Bank, as Trustee, and that lacks recorded mortgage assignments from the originating lender to the depositor to the trust. *See* Exhibit B, at p. 2; Exhibit A, at p. 266 of

1830 (listing a mortgaged property in Washington, PA with a Note date of June 8, 2005 and an original balance of \$114,000.00, matching the characteristics of the Exhibit B mortgage). The mortgage states that MERS is “acting solely as a nominee for Lender and Lender’s successors and assigns.” Exhibit B, at p. 1. The mortgage lists the “lender” as “EquiFirst Corporation.” Yet, the mortgage also proclaims that “MERS is the mortgagee under this Security Instrument.” *Id.*

45. In order for MERS to have authority to assign mortgages according to the noteholder’s instructions, the original lenders must grant MERS the authority to assign since MERS is the limited agent of the originating lenders. Because the transactions are assignments of real estate interests, this agency relationship must be committed to writing to satisfy Pennsylvania’s Statute of Frauds. No such writings exist.

46. The recording of MERS as “mortgagee” in mortgages is a false and misleading statement that confers no power on MERS to assign mortgages pursuant to the note-holder’s instructions and that cannot be reconciled with MERS’ status as mere “nominee” in the same document.

47. Without the mortgages in its name, or even the power to direct the use of the mortgages, Defendant U.S. National Bank Association, as Trustee, does not hold *all rights* to the mortgage loans *free and clear of any encumbrance* as represented in the PSAs and as required to obtain the benefits of priority, the right to foreclose, true sales, bankruptcy-remoteness, REMIC status, and other elements of properly formed RMBS trusts.

48. In order to satisfy the language in the PSA, and to lawfully enjoy the benefits of proper securitization such as priority, the right to foreclose, true sales, bankruptcy-remoteness, and REMIC status, Defendant would have needed to record, or cause to be recorded, all

mortgage assignments from originating lenders to depositors to the trusts, and to pay the accompanying recording fees.

49. The trust lacks the power to foreclose for all notes it holds in which the associated mortgages list an originating lender and MERS as nominee because the notes and mortgages have been severed. Severance of the note from the mortgage renders the note unsecured debt. As courts have recognized, “the person holding only the note lacks the power to foreclose in the event of default. The person holding only the deed of trust will never experience default because only the holder of the note is entitled to payment of the underlying obligation. The mortgage loan becomes ineffectual when the note holder did not also hold the deed of trust.” *Landmark Nat. Bank v. Kesler*, 289 Kan. 528, 540, 216 P.3d 158, 167 (2009) (quoting *Bellistri v. Ocwen Loan Servicing, LLC*, 284 S.W. 3d 619, 623 (Mo. App. 2009).

50. Plaintiff believes that Defendant, nevertheless, relied on the real property recording systems of the Counties to execute foreclosures on non-performing mortgages without fully compensating the Counties for that benefit.

51. Until recently, Defendant, on behalf of the trusts, routinely initiated foreclosure proceedings on non-performing mortgages in the name of MERS. Defendant did so because MERS was named as nominee and mortgagee in the mortgage and initiating foreclosure proceedings in the name of the RMBS trust would have required Defendant to record all mortgage assignments from the originating lender to the depositor to the trust, and to pay the accompanying fees.

52. Mortgage foreclosure actions are governed by the Pennsylvania Rules of Civil Procedure. The Rules require civil actions, such as foreclosure proceedings, to be prosecuted by the real party in interest. Pa.R.C.P. 2002(a). Pennsylvania state courts have defined the real

party in interest as the party who will be entitled to benefits of action if successful and who has the legal right to enforce the claim.

53. MERS has never been entitled to the benefits of a foreclosure action if successful because it does not own any legal right or interest in the note associated with the attendant mortgage, and therefore is not a note-holder. Specifically, MERS has never collected or distributed payments, paid escrow items, held client funds on deposit, paid insurance for clients or borrowers, or paid taxes in connection with a note. MERS has never had a right to collect money on the note or to receive any proceeds from any foreclosure. The name "MERS" does not appear on any promissory note secured by real estate in the Commonwealth.

54. MERS has never had the legal right to enforce mortgages on behalf of RMBS trusts because MERS is listed as nominee of the originating lender in the mortgage rather than the nominee of the RMBS trusts. No written agency agreement between originating lenders and trusts exists that would authorize MERS to enforce mortgages through foreclosure proceedings.

55. In spite of the fact that MERS could not be the real party in interest for purposes of prosecuting a foreclosure, Defendant initiated foreclosure proceedings in the name of MERS for several years. Effective July 22, 2011, MERS changed its practices and now forbids its members from prosecuting foreclosures in its name.

56. MERS' new recommended practice, however, is equally faulty. MERS now recommends that, in preparation for foreclosure, a mortgage assignment be recorded from MERS to the trust that allegedly holds the accompanying note and that seeks to commence foreclosure proceedings. No written agency agreement exists, however, between originating lenders and trusts that would authorize MERS, in its capacity as nominee of originating lenders, to assign mortgages to trusts at the direction of the trusts. Therefore, such assignments are fraudulent and

void, rendering the trusts improper parties to prosecute foreclosures. In order for trusts to have standing to foreclose, all mortgage assignments from originating lenders to depositors to the trusts would have needed to be recorded, and all accompanying fees paid to the county recorder.

57. The recordation of mortgage assignments from MERS to U.S. Bank-administered trusts long after the trusts were formed are also an admission that U.S. Bank misrepresented that *all rights* to mortgages, free and clear of any encumbrance, had been transferred to its RMBS trusts when the trusts were formed.

58. Consider a typical mortgage assignment from MERS to U.S. Bank recorded in the County Record of Deeds for Washington County, PA in which the note attached to the mortgage had already purportedly been deposited in an RMBS trust administered by Defendant U.S. National Bank, as Trustee, years before. *See* Exhibit C; Exhibit A, at p. 989 of 1830 (listing a mortgaged property in Donora, PA with a Note date of June 21, 2005 and an original balance of \$58,000.00, matching the characteristics of the mortgage described in Exhibit C mortgage assignment). MORTGAGE ASSET-BACKED PASS THROUGH CERTIFICATES SERIES 2005-EFC3, administered by U.S. Bank as trustee, had a closing date of August 30, 2005. *See* Exhibit A, p. 26. The mortgage assignment from MERS to U.S. Bank, in which the mortgage is attached to a note already purportedly deposited in the trust, is dated March 18, 2008. *See* Exhibit C. Defendant represented that, by 45 days after the closing date, it would review all documentation related to the mortgage loans to ensure that the Mortgage Files are complete and that they have been conveyed according to the Depositor's representations. *See* Exhibit A, pp. 67-68. Had *all rights* to the mortgage loans, free and clear of any encumbrance, truly been transferred by the trust's closing date of August 30, 2005, as Defendant represented, then this mortgage assignment would be unnecessary.

59. Plaintiff believes this assignment was made at the direction of U.S. Bank in preparation for U.S. Bank to initiate foreclosure. This assignment is fraudulent and void, however, because MERS, rather than the originating lender Equifirst Corporation, is the assignor. As the assignment references, MERS is merely the nominee of Equifirst. *See* Exhibit C. No written agency agreement exists between Equifirst that would authorize MERS, in its capacity as nominee of Equifirst, to assign mortgages to U.S. Bank without authorization from Equifirst. Foreclosure on this mortgage by U.S. Bank in reliance on this fraudulent assignment would be wrongful.

60. The prosecution of foreclosures in MERS' name, or after receiving an assignment to the trust from MERS, by Defendant when MERS lacked standing to prosecute foreclosures, or lacked the authority to assign mortgages to the trust for the trust to prosecute foreclosures, has drastic consequences for the Counties. Among other things, properties that have been foreclosed on by MERS, or by trusts following a fraudulent assignment from MERS, may lack clear title, thereby impacting both value and salability. This in turn has spillover impacts on neighboring properties' values. If properties sell for reduced prices because of clouded title, it will depress neighboring home values and ultimately county real estate tax assessments. As a result of Defendant's conduct, the Counties have dedicated, and will continue to dedicate, substantial services, time, and expense in determining the ownership rights of parties laying claim to these properties.

PLAINTIFF CLASS ALLEGATIONS

61. Plaintiff requests that the Court certify this case as a Class Action pursuant to Pennsylvania Rules of Civil Procedure 23 (b)(2) and (b)(3). Plaintiff seeks to certify a Class of all Pennsylvania counties with mortgages filed in their County Recorder of Deeds that are

attached to notes deposited in RMBS trusts administered by Defendant U.S. National Bank, as Trustee, and that lack all recorded mortgage assignments from the originating lender to the depositor to the trust.

62. Plaintiff brings this action pursuant to Pennsylvania Rule of Civil Procedure 1702.

The Plaintiff Class meets the prerequisites for the maintenance of a Class Action in that:

- a) The Plaintiff Class is so numerous that joinder of all Class Members is impracticable. The practices complained of herein caused damage to most if not all of Pennsylvania's 67 counties;
- b) There are questions of law and fact common to the Plaintiff Class, including whether MERS can be used by Defendant to transfer all rights to mortgages, free and clear of any encumbrance, to RMBS trusts or whether recorded mortgage assignments from the originating lender to the depositor to the trust are required to transfer all rights to mortgages, free and clear of any encumbrance, to RMBS trusts.
- c) The claims of the representative Plaintiff are typical of the claims of each member of the Plaintiff Class. Like all other members of the Plaintiff Class, the representative Plaintiff has sustained damages arising from Defendant's business practices described herein. The representative Plaintiff and the Members of the Plaintiff Class were and are similarly or identically harmed by the same unlawful, unfair, systematic and pervasive pattern of misconduct;
- d) The representative Plaintiff will fairly and adequately represent and protect the interests of the Plaintiff Class. There are no material conflicts between the claims of the representative Plaintiff and the Members of the Plaintiff Class that would make class certification inappropriate; and,
- e) A class action is superior to other available methods for the fair and efficient adjudication of this controversy since individual joinder of all members of the Class is impracticable. Individual litigation of each class member would be unduly burdensome to the individual courts. Individual litigation magnifies the delay and expense to all

parties. By contrast, the class action device presents far fewer management difficulties and provides the benefits of unitary adjudication, economies of scale, and comprehensive supervision by a single court. Concentrating this litigation in a single forum would promote judicial economy and efficiency and promote parity among the claims of individual Class members as well as judicial consistency. The conduct of this action as a state wide class action conserves the resources of the parties and the court system, and protects the rights of each Class member and meets all due process requirements as to fairness of the Defendant. A state wide case will be more efficient, save judicial resources and reduce litigation costs. Notice of the pendency of any resolution of this action can be provided to the Class members by print, broadcast, internet, and multimedia publication.

63. This action is properly maintained as a Class Action in that common questions of law and fact exist as to the members of the Plaintiff and Plaintiff Class and predominate over any questions affecting only individual Members, and a Class Action is superior to other available methods of the fair and efficient adjudication of the controversy, including consideration of:

- a) The interests of the members of the Plaintiff Class in individually controlling the prosecution or defense of separate actions;
- b) The extent and nature of any other proceedings concerning the controversy already commenced by or against members of the Plaintiff Class;
- c) The desirability or undesirability of concentrating the litigation of the claims in a single forum; and,
- d) The difficulties likely to be encountered in the management of a Class Action.

64. The Plaintiff and the members of the Plaintiff Class contemplate the eventual issuance to the proposed Class Members a notice setting forth the subject and nature of the instant action.

65. The critical question of law and fact common to the Plaintiff Class that will materially advance the litigation is whether MERS can be used by Defendant to transfer all rights to mortgages, free and clear of any encumbrance, to RMBS trusts or whether recorded mortgage assignments from the originating lender to the depositor to the trust are required to transfer all rights to mortgages, free and clear of any encumbrance, to RMBS trusts.

66. No statute of limitation is applicable to the Plaintiff Class. Pursuant to the doctrine under Pennsylvania law of *nullum tempus occurrit regi* (time does not run against the King), there is no statute of limitations applicable to the counties causes of action set forth herein.

CAUSES OF ACTION

COUNT I - UNJUST ENRICHMENT

67. The Plaintiff hereby realleges and incorporates the allegations contained in paragraphs 1 through 66 as if fully set forth herein.

68. Based upon Defendant's wrongful conduct, Plaintiff seeks to recover in equity monies held by Defendant that belongs to Plaintiff and Plaintiff Class in equity and good conscience.

69. Plaintiff conferred a benefit on the Defendant that was appreciated by the Defendant. Defendant received the benefits of recording its mortgages such as the ability to represent that it has priority on the mortgages and that the trusts' notes are secured. Defendant also represented that all rights to mortgage loans had been deposited in the trust, free and clear of any encumbrance, thereby receiving the benefits of true sales, bankruptcy-remoteness, REMIC

status, and other elements of properly formed RMBS trusts even though Defendant did not record, or cause to be recorded, the necessary mortgage assignments, nor pay the counties for the services they provide, which is a precondition for enjoying these benefits. Defendant participated in a scheme that included recording false and misleading statements about MERS in the mortgage, such as labeling MERS as “mortgagee,” to circumvent recording mortgage assignments and paying the accompanying fees. Pursuant to the scheme, Defendant also initiated foreclosure in MERS’ name, or caused assignments to be recorded from MERS to the trust to initiate foreclosure, even though MERS lacked standing to prosecute such an action or lacked authority to assign the mortgage to the trust. These actions also avoided the recording of all mortgage assignments from the originating lender to the depositor to the trust and avoided the fees accompanying mortgage assignments.

70. Acceptance and retention by the Defendant of the benefits, under the circumstances, would make it inequitable for the Defendant to retain the benefits without paying for the benefits. Defendant availed itself of the benefits offered by recording mortgages with the Washington County Recorder of Deeds and the recorder of deeds of other Pennsylvania counties. Defendant, however, participated in a defective scheme in which false and misleading statements about MERS were recorded, such as the labeling of MERS as “mortgagee,” to create the impression that only one recording in MERS’ name was required when mortgage assignments, and accompanying fees, were actually due for the benefits the Trustee claimed.

71. Defendant’s inequitable actions have, among other things, allowed it to artificially inflate the value of the trusts and charge premium prices for their services.

72. In addition to revenue directly lost from the failure to record mortgage assignments, and pay accompanying fees, Defendant’s scheme has caused affirmative harm to

the counties. Prior to Defendant's use of MERS, the recording indexes of the counties provided a transparent public record that promoted open and vibrant commercial activity by enabling potential mortgage purchasers to know with certainty whether they could obtain clear title to land. With Defendant's widespread use of MERS, including to prosecute foreclosure actions, uncertainty pervades the residential real estate market as prospective mortgage purchasers, as well as the public at large, do not grasp the meaning and significance of mortgages listing an originating lender (with MERS as nominee) and the mortgages' interaction with the securitization process, particularly when notes have been deposited into RMBS trusts, but mortgages have not been assigned. This uncertainty hinders productive lending and other positive economic activity in the Counties.

73. Based on the representations Defendant makes to the public in its PSAs, the Defendant had and has a duty to record all mortgage assignments from the original lender to the depositor to the trusts and pay the accompanying fees to the Plaintiff Class. Recording the assignments will also assist in clearing title to the relevant properties, particularly those in which MERS prosecuted an action in which it was not the real party in interest or those in which the trust prosecuted foreclosure following a fraudulent assignment from MERS. The Plaintiff Class is entitled to all such monies based on the general principles of equity and good conscience.

74. Plaintiff seeks equitable remedies to prevent the unjust enrichment of Defendant by causing payment to Plaintiff and Plaintiff Class(es) of all mortgage assignment fees wrongfully avoided by the Defendant in addition to interest, attorneys' costs and fees, and exemplary damages as allowed by law and equity.

**COUNT II - DECLARATORY JUDGMENT – NOTES IN RMBS TRUSTS ARE
UNSECURED DEBT**

75. The Plaintiff hereby realleges and incorporates the allegations contained in paragraphs 1 through 74 as if fully set forth herein.

76. This is an action against Defendant for a declaratory judgment pursuant to Pa.R.C.P. 1602, *et seq.*

77. As a result of Defendant's actions, the Plaintiff, putative Class members and the public are uncertain and are in doubt regarding the rights conferred by mortgages filed in their recording offices listing an originating lender, with MERS as nominee, that accompany notes that are deposited in RMBS trusts without recorded mortgage assignments from the originating lender to the depositor to the trust.

78. In particular, the Plaintiff and putative Class members seek clarification regarding whether notes deposited in RMBS trusts are unsecured when the notes' associated mortgages in the Counties' offices of recorder of deeds list an originating lender, with MERS as nominee, and do not have all mortgage assignments from the originating lender to the depositor to the trust.

79. The Plaintiff and the Class have a bona fide, actual, present and practical need for a declaration establishing that such notes are unsecured debt, and that, if Defendant wants to claim the benefits of recorded mortgage assignments in the securitization process, it should record, or cause to be recorded, all mortgage assignments from originating lenders to the depositors to trusts for all notes in RMBS trusts associated with mortgages in the Counties' offices of recorder of deeds that list an originating lender with MERS as nominee.

80. Defendant has acted inequitably toward the Plaintiffs and the members of the Class, as described in this Complaint by representing that all rights to mortgage loans had been deposited in RMBS trusts, thereby receiving the benefits of true sales, bankruptcy-remoteness, REMIC status, and other elements of properly formed RMBS trusts even though Defendant did

not record the necessary mortgage assignments, nor pay the counties for the services they provide, which is a precondition for enjoying these benefits.

81. Defendant's inequitable actions have, among other things, allowed it to artificially inflate the value of the trusts and charge premium prices for their services.

82. Defendant's actions have also dampened positive economic activity within the counties. Prospective mortgage purchasers, as well as the public at large, do not grasp the meaning of mortgages listing an originating lender (with MERS as nominee) and the mortgages' interaction with the securitization process, particularly when notes have been deposited into RMBS trusts, but mortgages have not been assigned. This uncertainty hinders productive lending and other positive economic activity in the Counties.

83. The Plaintiffs seek to obtain a non-pecuniary benefit for the Plaintiffs and the Class in the form of the requested declaratory judgment. Counsel for the Plaintiffs are entitled to recover their reasonable attorneys' fees and expenses as a result of the conferral of a non-pecuniary benefit on behalf of the Class, and will seek an award of such fees and expenses at the appropriate time.

84. All conditions precedent to this cause of action have occurred, have been satisfied, or have been waived.

**COUNT IV - DECLARATORY JUDGMENT AND MANDATORY INJUNCTION
- MERS' FORECLOSURES**

85. The Plaintiff hereby realleges and incorporates the allegations contained in paragraphs 1 through 84 as if fully set forth herein.

86. This is an action against Defendant for a declaratory judgment pursuant to Pa.R.C.P. 1602, *et seq.*

87. As a result of Defendant's widespread use of MERS to prosecute foreclosure actions when MERS or U.S. Bank-administered trusts lacked standing to do so, many homes have clouded title, decreasing their value as well as that of neighboring properties and necessitating significant services, time and expense from the Counties to determine ownership to properties.

88. The Plaintiff and the Class have a bona fide, actual, present and practical need for a declaration establishing that MERS, and U.S. Bank-administered trusts receiving assignments from MERS, were not the parties in interest to prosecute foreclosures for notes in RMBS trusts administered by U.S. Bank as Trustee. Further, Plaintiff and the Class have a similar need for a mandatory injunction requiring that Defendant record all prior assignments from the originating lender to the depositor to the trust, and pay the associated recording fees, in order to clear title to properties in the Counties.

89. Defendant has acted inequitably toward the Plaintiffs and the members of the Class, as described in this Complaint, by relying on the real property recording systems of the Counties without fully compensating the Counties for that benefit. Specifically, Defendant participated in a scheme by which false statements were recorded in the mortgage to enable MERS to create the appearance of being the real party in interest to initiate foreclosure proceedings or of having authority to assign the mortgage. For foreclosures to have been properly prosecuted, the RMBS trusts would have needed to be the initiating party and all mortgage assignments from the originating lender to the depositor to the trust would have needed to have been recorded, and accompanying fees would have needed to have been paid.

90. The Plaintiffs seek to obtain a non-pecuniary benefit for the Plaintiffs and the Class in the form of the requested declaratory judgment. Counsel for the Plaintiffs are entitled to

recover their reasonable attorneys' fees and expenses as a result of the conferral of a non-pecuniary benefit on behalf of the Class, and will seek an award of such fees and expenses at the appropriate time.

91. All conditions precedent to this cause of action have occurred, have been satisfied, or have been waived.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for the following on behalf of itself and the Plaintiff Class:

- a) For certification of the Class;
- b) For judgment against Defendant and in favor of Plaintiff and the Plaintiff Class on all causes of action asserted in this Complaint;
- c) Compensatory damages;
- d) Restitution and disgorgement of all monies due and owing to the Plaintiff and Plaintiff Class;
- e) A declaration and determination by the Court of the rights, duties and remedies for the failure to record mortgage assignments and pay the accompanying fees;
- f) A mandatory injunction requiring Defendant to record prior assignments on all properties foreclosed by the Trustee;
- e) For costs of suit incurred herein;
- f) For pre-judgment interest to the extent allowed by law;
- g) For penalties as alleged in this Complaint;
- h) For reasonable and necessary attorneys' fees; and,
- i) For such other and further relief as this Court may deem just and proper.

JURY DEMAND

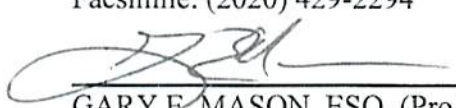
Plaintiff hereby requests, on behalf of itself and the Plaintiff Class, that a jury decide all factual issues in this case.

Respectfully submitted,

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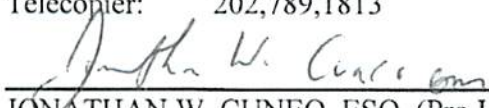

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VERIFICATION

I verify that the averments of fact made in this foregoing Complaint are true and correct and based on my personal knowledge, information or belief. I understand that averments of fact in said document are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsifications to authorities.

Alberic J. Bardella

Dated 9-28-11