

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

WELLS FARGO, N.A.,

Plaintiff

v.

SANDRA I. THOMPSON,

Defendant

NO. 2013-SU- 1058-06

CIVIL ACTION – LAW

JURY TRIAL DEMANDED

For Plaintiff

Ashley Levy Marin, Esq.
Zucker, Goldberg, Ackerman, LLC
200 Sheffield Street, suite 101
Mountainside, NJ 07092
908-233-8500
Fax: 908-233-1390
Office@zuckergoldberg.com
File No.: XFP-176627/mme

For Defendant

Sandra Thompson
P.O. Box 1901, York, PA 17405
Telephone: 717-577-4436
Fax: 717-854-2223
Email: info@sandrathompsonlawllc.com

OFFICE OF PROTHONOTARY
2013 OCT 11 PM 2:45
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YORK, PA

Defendant's Answer with New Matter

Submitted By: Sandra Thompson

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

WELLS FARGO, N.A.,

Plaintiff

NO. 2013-SU- 1058-06

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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 Answer with New Matter 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 judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim of 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, GO TO OR TELEPHONE THE OFFICES SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

MID PENN LEGAL SERVICES
256 EAST MARKET STREET
YORK, PENNSYLVANIA 17403
717-848-3605

LAWYER REFERRAL SERVICE OF
THE YORK COUNTY BAR ASSOCIATION
YORK COUNTY BAR CENTER
137 E. MARKET STREET
YORK, PENNSYLVANIA 17401
(717) 854-8755

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IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

WELLS FARGO, N.A.,

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SANDRA I. THOMPSON,

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DEFENDANT'S ANSWER TO COMPLAINT WITH NEW MATTER

AND NOW, TO WIT, this 11th day of October, 2013, here comes Defendant, Sandra I. Thompson, to file this Answer with New Matter and to state in support thereof as follows:

1. Admitted in part. Denied in part. Denied that listed Plaintiff as it lists its address in paragraph 1 is known by Defendant to be a real party in interest or that there was a valid assignment. Strict proof thereof demanded.
2. Admitted; stating further the post office box number changed to 1901.
3. Denied that the Exhibit A as attached by Plaintiff is a true and correct copy of the Promissory Note as presented to Defendant on or around December 19, 2008. Notations that appear after Defendant's signature were not present at the time of presentation to Defendant. Strict proof thereof demanded.
4. Admitted in Part. Denied in Part. It is denied that a mortgage and/or note was executed and delivered by Defendant to Mortgage Electronic Registration Systems, Inc, as a nominee for American Home Bank, NA. It is admitted that American Home Bank, NA, its successors and assigns was the noted lender. It is denied that American Home Bank, NA, assigned said mortgage to Plaintiff. Strict proof thereof demanded.

5. Admitted in Part. Denied in Part. It is admitted there is an assignment recorded that states that the assignment was made by Defendant and Mortgage Electronic Registration Systems, Inc. It is denied that Defendant made such an assignment and that Mortgage Electronic Registration Systems, Inc. had the authority to make such assignment. Strict proof thereof demanded.

6. Admitted in Part. Denied in Part. It is admitted there is an assignment recorded that states that the assignment was made by Defendant and Mortgage Electronic Registration Systems, Inc. It is denied that Defendant made such an assignment and that Mortgage Electronic Registration Systems, Inc. had the authority to make such assignment. Strict proof thereof demanded.

7. Admitted in part. Denied in part. It is denied that Exhibit C is a true and correct copy as parts appear redacted. Strict proof thereof demanded.

8. Admitted.

9. Admitted in part. Denied in part. It is admitted that the October 2012 monthly installment was not paid on October 1, 2012. It is further denied that Defendant failed to offer to Plaintiff and attempted to pay said delinquent amounts with late fees, which Plaintiff refused, prior to initiation of this action. It is further denied that Plaintiff's refusal to accept the October 2012 payment and subsequent payments becoming due was justified or authorized. Strict proof demanded.

10. Denied that the unpaid principal balance, interest, escrow, late charges, and inspection fees were due and owing as of March 15, 2013, in that Defendant made payments on the contracts that are not being credited, Defendant tried to make payment which was

refused, there was no inspection of the real property to yield a fee, and Plaintiff failed to satisfy conditions precedent to accelerate the loan. Strict proof demanded.

11. Denied that Plaintiff sent notices required under Act 91 or under other state laws, or under other federal laws, as a prerequisite to filing suit. Strict proof thereof demanded.

12. Admitted in part. Denied in part. Admitted Act 91 notices are not required for FHA insured loans. Denied that Plaintiff was not required as a prerequisite to filing its complaint to provide to Defendant notices default and of her rights and options under other state and federal laws. Strict proof thereof demanded.

13. Admitted in part. Denied in part. Admitted Plaintiff has no right to seek personal liability against Defendant. Denied that Plaintiff will have a right to file such a separate action. Strict proof thereof demanded.

WHEREFORE, Defendant respectfully requests that this court would dismiss Plaintiff's claim for foreclosure with prejudice.

NEW MATTER

AFFIRMATIVE DEFENSES

FIRST- JURISDICTION IS LACKING AS CONDITIONS PRECEDENT TO FILING SUIT WERE NOT SATISFIED, PERFORMED OR WAIVED

14. Answers to paragraphs 1 through 13 are incorporated herein as if stated in full.
15. Plaintiff is not a valid party in interest and lacks standing to sue.
16. Plaintiff failed to satisfy state and federal laws that established conditions and notice requirements precedent to filing a foreclosure action, to the grant of attorney's fees, to the acceleration of the loan; they were not performed, met or waived.
17. According to Plaintiff's Exhibit A paragraph 6(B) Default, Plaintiff's claims for immediate payment of the principal balance remaining due and all accrued interest is limited by regulations of the Secretary of Housing and Urban Development.
18. The Secretary regulations that are a prerequisite to Plaintiff's complaint are found in 24 CFR §§ 203.500 to 203.508 and 24 CFR §§ 203.600 to 203.618.
19. At no time relevant to this action did Plaintiff perform or meet, or try to perform or meet, the requirements established by the aforementioned Secretary's regulations before filing suit and these requirements were not waived.
20. Defendant gave notice of Defendant's mailing address of PO. Box 2361, York, PA 17405 to lender. Lender and/or Plaintiff failed to issue any notices to Defendant at that provided address as required under paragraph 7 of Plaintiff's Exhibit A.

21. Therefore, neither the mortgage nor the note can be accelerated and the complaint for foreclosure is barred.

WHEREFORE, Defendant respectfully requests that this court would release and mark satisfied the loan modification, would dismiss Plaintiff's complaint for foreclosure in its entirety with prejudice, and would grant to Defendant whatever other relief is justified.

SECOND- PLAINTIFF VIOLATED FEDERAL LAWS/REGULATIONS

22. Answers to paragraphs 1 through 21 are incorporated herein as if stated in full.

23. Plaintiff violated the Home Ownership and Equity Protection Act (HOEPA), 15 U.S.C. §1639 and/or the Truth in Lending Act, 15 U.S.C. §1601, et seq., 12 C.F.R. Part 226, by failing to disclose to Defendant that actual monthly payments of over nineteen hundred dollars (\$1900.00) would be required of Defendant and would be charged by Plaintiff before Defendant executed the loan modification agreement.

24. Plaintiff knew that increasing Defendant's payments to amounts that exceeded the agreed upon payment of \$1340.71 by \$600.00 per month would cause Defendant to be unable to afford to make said monthly payments and would lead to Defendant's default.

WHEREFORE, Defendant respectfully requests that this court would release and mark satisfied the loan modification, would dismiss Plaintiff's complaint for foreclosure in its entirety with prejudice and would grant to Defendant whatever other relief is justified.

THIRD- BREACH OF FIDUCIARY DUTY

25. Answers to paragraphs 1 through 24 are incorporated herein as if stated in full.

26. Plaintiff had a duty to Defendant to act in Defendant's best interests, disclose required information to Defendant and to inform Defendant of options to avoid default and/or foreclosure.

27. Defendant offered to Plaintiff and attempted to tender full payment of the monthly installments owed with late fees prior to Plaintiff's complaint.
28. Plaintiff refused to accept payment and/or made it difficult for Defendant to tender payment by referring Defendant to various agents for Plaintiff who were nonresponsive.
29. Plaintiff had a duty to act in good faith toward Defendant in servicing the loan and in administering transactions.
30. Plaintiff violated that duty which is a direct and/or proximate cause of any default by Defendant.

WHEREFORE, Defendant respectfully requests that this court would release and mark satisfied the loan modification, would dismiss Plaintiff's complaint for foreclosure in its entirety with prejudice and would grant to Defendant whatever other relief is justified.

FOURTH- BREACH COVENANT OF GOOD FAITH

31. Answers to paragraphs 1 through 30 are incorporated herein as if stated in full.
32. Plaintiff violated the implied covenant of good faith. See Rest 2nd of Contracts §205(1981).
33. Plaintiff acted with unclean hands to frustrate the purpose, the implementation, and the satisfaction of the loan modification agreement.
34. Plaintiff further misrepresented that loan modification was the best option available for Defendant's financial circumstances.

WHEREFORE, Defendant respectfully requests that this court would release and mark satisfied the loan modification, would dismiss Plaintiff's complaint for foreclosure in its entirety with prejudice and would grant to Defendant whatever other relief is justified.

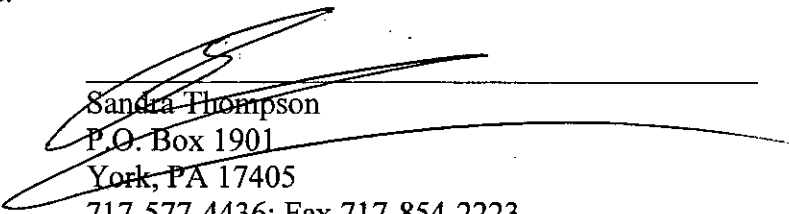
FIFTH- UNCONSCIONABLE ACTS

35. Answers to paragraphs 1 through 34 are incorporated herein as if stated in full.
36. Plaintiff's acts or omissions were unjust and an improper use of its greater bargaining power.

WHEREFORE, Defendant respectfully requests that this court would dismiss Plaintiff's complaint for foreclosure in its entirety with prejudice and would grant to Defendant whatever other relief is justified.

37. Defendant reserves the right to amend her Affirmative Defenses until after the conduct of Discovery or after other disclosures may be made by Plaintiff.

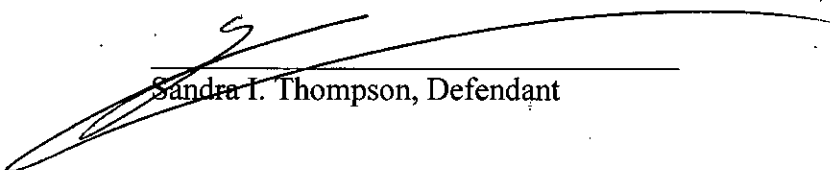
Respectfully Submitted:



Sandra Thompson
P.O. Box 1901
York, PA 17405
717-577-4436; Fax 717-854-2223

VERIFICATION

I, Sandra I. Thompson, Defendant, do hereby verify that the statements made in this complaint are true and correct to the best of my information, belief, and knowledge. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.



Sandra I. Thompson, Defendant

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CERTIFICATE OF SERVICE

On this 11th day of October, 2013, I do hereby certify that on this date I have served a true and correct copy of Defendant's Answer with New Matter by postage prepaid first class United States mail addressed as follows:

Ashley Levy Marin, Esq.
Zucker, Goldberg, Ackerman, LLC
200 Sheffield Street, suite 101
Mountainside, NJ 07092

Respectfully Submitted:


Sandra Thompson, Defendant

P.O. Box 1901

York, Pennsylvania 17405

Telephone: 717-848-3033

Fax: 717-854-2223

Email: info@sandrathompsonlawllc.com

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