

STATE OF MAINE  
CUMBERLAND, ss.

SUPERIOR COURT  
CIVIL ACTION  
Docket No.

STEVEN ARCHIBALD, NICOLLE )  
 BRADBURY, THOMAS TRUE, SHAWN )  
 MORRISSETTE and JOSEPH PHILLIPS )  
 )  
 Plaintiffs, on behalf of themselves and )  
 others similarly situated )  
 )  
 v. )  
 )  
 GMAC MORTGAGE, LLC, )  
 )  
 Defendant )

**CLASS ACTION COMPLAINT**

**JURY DEMANDED**

STATE OF MAINE  
 Cumberland, ss. Clerk's Office  
 OCT 01 2010  
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**INTRODUCTION**

1. Plaintiffs Steven Archibald, Nicolle Bradbury, Thomas True, Shawn Morrissette, and Joseph Phillips bring this action on behalf of themselves and all similarly situated Maine homeowners and former homeowners ("Plaintiffs") to challenge the practices of Defendant GMAC Mortgage, LLC ("GMACM") in submitting false representations to the Federal and State courts in the State of Maine ("Maine courts") in foreclosure actions and related proceedings. These false representations are made in summary judgment affidavits ("Affidavits") and certifications of ownership of mortgage and mortgage note required by 14 M.R.S.A. §6321 ("Certifications") signed and subscribed to by employees of GMACM in support of foreclosure actions and related proceedings against Maine homeowners.
2. Plaintiffs' complaint centers on the filing of Certifications and Affidavits signed by employees of GMACM in support of foreclosure of the Plaintiffs' homes. Specifically, these employees of GMACM: (a) failed to fully read these Certifications and Affidavits signed by

them, (b) failed to review or verify the accuracy of the information certified or verified by them in these Certifications and Affidavits, (c) falsely claimed to have under their custody and control records relating to the mortgage transactions referred to in the Certifications and Affidavits, (d) failed to review or otherwise have knowledge of all of the exhibits stated by them to be true copies referred to in and/or attached to these Certifications and Affidavits, and (e) falsely claimed to sign the Affidavits in the presence of a witnessing notary public.

3. GMACM submitted the false Affidavits and Certifications to the Maine courts knowing that these courts would rely upon them in determining whether or not to grant judgments of foreclosure on the homes of Maine families.
4. GMACM has been engaged in such wrongful practices in connection with Affidavits since at least 2004.
5. GMACM has been engaged in such wrongful practices in connection with Certifications since 2009 when the certification requirements of 14 M.R.S.A. §6321 became effective.
6. In 2006, GMACM was sanctioned by the Circuit Court of the Fourth Judicial Circuit, in and for Duval County, Florida, in the matter of *TCIF REO2, LLC v. Liebowitz*, Case No. 16-2004-CA-4835, for its practice of submitting false affidavits of indebtedness in connection with summary judgment motions filed in foreclosure proceedings in that state. The Affidavit in that case was submitted to the Court in August 2004. A copy of the Order in *TCIF REO2, LLC v. Liebowitz* is attached as Exhibit 1.
7. GMACM provided a Notice of Compliance with the Court's Order on June 14, 2006 with a Policy Directive regarding document signing procedures distributed throughout GMACM. A copy of GMACM's Notice of Compliance with the Court's Order is attached hereto as Exhibit 2.

8. Nevertheless, GMACM continued to engage in these sanctioned practices.
9. On December 10, 2009 GMACM reaffirmed its continuing policy, procedure and practice of filing false Affidavits in deposition testimony in a foreclosure action, *GMAC Mortgage, LLC v. Neu*, Case no. 50-2008-CA-040805XXXX MB, then pending in the Circuit Court of the Fifteenth Circuit in and for Palm Beach County, Florida. GMACM provided this reaffirmation that such wrongful practices were continuing through the testimony of its employee, Jeffrey Stephan, as head of its Document Signing Department. A copy of the deposition transcript of the December 10, 2009 deposition of Jeffrey Stephan is attached hereto as Exhibit 3. (“Neu Deposition Transcript”).
10. On June 7, 2010 GMACM again reaffirmed its continuing policy, procedure and practice of filing false Affidavits in foreclosure proceedings in the matter of *FNMA v. Bradbury*, RE-09-65 (Me. Dist. Ct. 9, Bridgton). This reaffirmation was made through the testimony of its employee Jeffrey Stephan who continued as head of the GMACM Document Signing Department. He testified that such policies, practices and procedures that resulted in the filing of false Affidavits were continuing and were fully in accordance with GMACM corporate policies. A copy of the deposition transcript of the June 7, 2010 deposition of Jeffrey Stephan is attached hereto as Exhibit 4. (“Bradbury Deposition Transcript”).
11. The practices of GMACM in submitting false Affidavits to support its efforts to foreclose upon the homes of Maine families are in direct violation of Maine law and Maine and Federal rules of court.
12. The practices of GMACM in submitting false Certifications to support its efforts to foreclose upon the homes of Maine families are in direct violation of Maine law and Maine and Federal rules of court.

13. GMACM carries out these wrongful practices: (a) in servicing Maine mortgage loans that it owns; and (b) in connection with Maine mortgage loans that it services for taxpayer-supported and government-sponsored entities Federal National Mortgage Association and Federal Home Loan Mortgage Corporation, and for institutions serving as trustees for securitized mortgage loan trusts, including U.S. Bank National Association and Deutsche Bank National Trust Company. Foreclosure actions and related proceedings filed in connection with Maine mortgage loans that GMACM services as described in (a) and (b) are hereinafter referred to as “GMACM Serviced Cases” or “GMACM Serviced Foreclosure Actions.”
14. As a result of the wrongful practices and actions of GMACM described in this Complaint, hundreds, if not thousands, of Maine homeowners, who are represented in this action by the Plaintiffs, are in imminent danger of losing their homes, or have already lost their homes based on false information and representations presented to the Court by GMACM in foreclosure actions and related proceedings.
15. In addition, and as a result of the wrongful actions of GMACM described herein these Maine homeowners have been required to defend against improperly asserted claims filed in GMACM Serviced Cases where GMACM provided Certifications and Affidavits to support the foreclosure actions.
16. Additionally, GMACM has caused and continues to cause Maine homeowners to be wrongfully charged for attorney fees and costs in GMACM Serviced foreclosure actions supported by its false Certifications and/or Affidavits. These costs and fees were and are continuing to be imposed on homeowners in GMACM Serviced Cases. GMACM has added these fees and costs to the amounts claimed to be due from Maine homeowners and to the

amounts deducted and/or to be deducted from the proceeds from the foreclosure sales of the homes of the affected Maine homeowners.

### **JURISDICTION AND VENUE**

17. This Court has subject matter jurisdiction over this matter pursuant to 4 M.R.S.A. § 105(1).

18. Venue is appropriate inasmuch as the Plaintiffs are or were at all relevant times residents of Maine who have had foreclosure actions filed against them in the State of Maine and the properties that are the subjects of the foreclosure actions are located in Maine. Venue is also proper in this Court because the Defendant systematically and continuously transacts business in the State of Maine and the causes of action set forth in this Complaint, arose at least in part, in the State of Maine.

19. Plaintiff and the Proposed Class limit their total class wide claims to less than four million-nine hundred and ninety-nine thousand nine hundred and ninety-nine dollars (\$4,999,999.00).

### **THE PARTIES**

20. Plaintiff Steven Archibald is an individual who resides in Windham, Maine.

21. Plaintiff Nicolle Bradbury is an individual who resides in Denmark, Maine.

22. Plaintiff Thomas True is an individual who resides in North Berwick, Maine

23. Plaintiff Shawn Morrissette is an individual who resides in Saco, Maine.

24. Plaintiff Joseph Phillips is an individual who is a Maine homeowner temporarily residing in Homosassa, Florida. His Maine home is in Mechanic Falls, Maine.

25. Defendant GMACM is a Delaware limited liability company with a principal place of business in Fort Washington, Pennsylvania.

### **CLASS ALLEGATIONS**

26. This class action is brought on behalf of the Plaintiffs and Class Members (defined below) to recover for the harm caused by the practices of GMACM in submitting false representations to the Court in the form of Affidavits and Certifications and also to bring these practices to an end. These Affidavits and Certifications have been signed and verified by employees of GMACM since at least 2004 for Affidavits and since 2009 for Certifications and were filed in support of actions for foreclosure and related proceedings and/or in support of subsequent motions for summary judgment in such actions brought against the Plaintiffs and Class Members.
27. Plaintiffs sue on their own behalf and on behalf of two classes of persons under Rules 23(a) and 23(b)(2) and (3) of the Maine Rules of Civil Procedure. The classes are not mutually exclusive; some individuals are members of both classes.
28. Throughout the Class Period (defined below) GMACM injured Class members through the filing of false Certifications in support of foreclosure actions and related proceedings and/or Affidavits in support of subsequent motions for summary judgment. As a result of these false filings, Class members were wrongfully charged for the costs and fees incurred in bringing and pursuing such GMACM Serviced foreclosure actions based on false representations. In addition, these wrongful actions by GMACM harmed Class members by putting Class members in imminent danger of losing their homes or because they resulted in judgments and foreclosure sales of Class members' homes. GMACM affirmatively and deliberately engaged in such wrongful conduct to the detriment of Plaintiffs and the other members of the Class.

29. The injunctive relief class is defined as all Maine homeowners with a GMACM Serviced case where the home secured by the mortgage has not yet been foreclosed upon by completion of sale.
30. The damages class is defined as all Maine homeowners:
- (a) who have had a GMACM Serviced foreclosure action initiated against them in Maine courts in the six years prior to the filing of this action (“class period”); and
  - (b) whose GMACM Serviced foreclosure action contains:
    - i) a false Certification signed by an employee, officer, or agent of GMACM that was filed in support of the action; or
    - ii) a motion for summary judgment of the foreclosure that is supported by a false Affidavit signed by an employee of GMACM.
31. The Classes, as defined above are identifiable and unambiguous based on objective information and criteria. The following persons shall be excluded from the Classes: (a) Defendant and its owners, subsidiaries and affiliates; (b) all persons who make a timely election to be excluded from the proposed Class; (c) governmental entities; and (d) the judge(s) to whom this case is assigned and any immediate family members thereof.
32. Mr. Archibald, Mrs. Bradbury, Mr. True, Mr. Morrisette, and Mr. Phillips are members of the Class.
33. The Class is so numerous that joinder is impractical. Upon information and belief, the Class comprises many hundreds, if not thousands of individuals.
34. There are questions of law and fact common to the members of the Class, which questions predominate over any individual issues.

35. The claims and defenses of the Plaintiffs are typical of the claims of all members of the Class. By proving their case, the Plaintiffs will simultaneously prove the case of the members of the Class.
36. The Plaintiffs will fairly and adequately represent the Class. Plaintiffs are willing and able to serve as representatives of the Class, and they have no knowledge of any possible divergent interest between or among Plaintiffs and any member of the Class. Plaintiffs have retained highly competent counsel experienced in class actions and complex litigation to provide representation on behalf of the Plaintiffs and the Class.
37. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendant GMACM.
38. Questions of law and fact common to members of the Class predominate over any questions affecting individual members. The determinative facts and legal principles apply universally among Plaintiffs and the members of the Class. The predominant legal issues in this case, which cut across the entire Class, are whether GMACM's conduct in filing false Certifications and Affidavits in GMACM Serviced foreclosure actions against Maine homeowners were unfair and/or deceptive and/or an abuse of process and/or fraud on the court.
39. A class action is superior to other available methods for the fair and efficient adjudication of the controversy for reasons including that, due to the expense of pursuing individual litigation regarding GMACM's common course of conduct alleged herein, members of the Class would, as a practical matter, be effectively precluded from protecting and enforcing their legal rights.

40. The claims of the individual named Plaintiffs are typical of the claims of the class and do not conflict with the interests of any other members of the class in that both the Plaintiffs and the other members of the class have been subject to and affected by the same conduct: the filing of foreclosure proceedings on their homes that rely on false Certifications and/or false Affidavits and the imminent threat or actual entering of summary judgment based on these fraudulent Certifications and Affidavits filed in support of motions for summary judgment.
41. This putative class action meets both the requirements of Me. R. Civ. P. 23(b)(2) and Me. R. Civ. P. 23(b)(3).
42. The Defendant GMACM has acted or refused to act on grounds that apply generally to the class so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

#### **FACTUAL ALLEGATIONS**

43. Maine is directly involved in the national foreclosure crisis, with foreclosure cases in Maine projected to be running at the rate of 6,000 or more filings per year. *Report of the Judicial Branch, Commission on Foreclosure Diversion* (June 8, 2009).
44. In response to the State's rate of mortgages in foreclosure rising to unprecedented levels, the Maine Legislature enacted *P.L. 2009 ch. 402, An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures*, effective June 15, 2009
45. Recognizing that some foreclosures were being filed by entities that did not actually own the note at the time the foreclosure was filed, the Legislature amended 14 M.R.S.A. §6321 to require that foreclosure plaintiffs certify their ownership of the note and mortgage being sued upon.

46. From the effective date of this statute, GMACM has filed false Certifications executed by Stephan when he had no custody or control of the loan files and no knowledge of the facts stated in such Certifications.
47. The Certifications signed by Stephan and filed by GMACM included false statements as to the true identity of the parties actually owning the note and mortgage being sued upon.
48. GMACM has stated in a sworn statement in the United States District Court for the District of Maine that it is servicing over 20,400 mortgage loans in the State of Maine for its own account and for other institutional holders of residential mortgage loans. See *U.S. Bank National Association as Trustee for BAFC2006-1 v. James et al.*, Docket No. 2:09-cv-00084-JHR, #92. A copy of the Affidavit of Scott Lathrop, a Manager with Loan Administration with GMACM is attached hereto at Exhibit 5. See Exhibit 5, Affidavit of Scott Lathrop, paragraph 10.
49. The continued misrepresentations made by GMACM to the courts in foreclosure actions violate the evidentiary requirements established by the judiciary to ensure that judgments are based on accurate and verified information and threaten the integrity of the judicial system.
50. By hiring a grossly insufficient number of employees to address the influx of foreclosures, GMACM is able to maximize profits, all the while assuming no one would be checking for accuracy.
51. As of June 7, 2010 GMACM had assigned to a single employee, Jeffrey Stephan, the duty to sign all documents required for use in foreclosure actions in judicial foreclosure states, including Maine. See Exhibit 4, Deposition of Jeffrey Stephan.
52. In his role as a "Limited Signing Officer" for GMACM and as the head of its document signing department in Fort Washington Pennsylvania, Stephan testified that in December

2009 he was signing foreclosure related documents for GMACM, including summary judgment affidavits, at the rate of 10,000 per month, or about one per minute, and he testified that such activity was continuing in June of 2010 at the rate of 8,000 per month. See Exhibits 3 and 4.

53. Stephan's sole job functions were to act as head of the GMACM document signing department in Fort Washington, Pennsylvania and to sign documents. See Exhibits 3 and 4.
54. Stephan had no custody or control of GMACM loan files. See Exhibits 3 and 4.
55. Stephan had no responsibilities for the administration of loans. See Exhibits 3 and 4.
56. Stephan had no role in determining and/or declaring default. See Exhibits 3 and 4.
57. Stephan had no role in determining balances due on loans administered by GMACM. See Exhibits 3 and 4.
58. Stephan was not, at any time relevant to this case, a person who was competent to sign summary judgment Affidavits or mortgagee Certifications for loans serviced by GMACM.
59. Stephan did not, at any time relevant to this case, have the personal knowledge of the facts necessary to support any motion for summary judgment filed in any foreclosure action in Maine courts as required by M.R.Civ.P. 56 and/or F.R.Civ.P. 56 .
60. Stephan did not, at any time relevant to this case, have the personal knowledge of the facts necessary to support any mortgagee Certification signed by him and filed in any foreclosure action in Maine courts.
61. Fewer than thirty percent of Maine homeowners who are sued for foreclosure respond to or appear in such legal actions. *Report of Judicial Branch, id* at 18. Homeowners who cannot afford to pay on their mortgages can hardly afford to pay for an attorney.

62. Maine legal services agencies are able to represent no more than six percent of Maine foreclosure defendants. Nan Heald, *Miles to justice, Many traveled, many to go*, 24 Me. Bar.J. 216 (2009).
63. In cases where Maine homeowners are represented by lawyers in GMACM Serviced foreclosure actions, the economic and legal resources of such already economically distressed homeowners are being depleted by having to defend against the wrongful actions of GMACM described in this Complaint.
64. Both in GMACM Serviced foreclosure actions where Maine homeowners are represented by counsel and where Maine homeowners have no representation, foreclosure judgments have been and are being entered where motions for summary judgment have been supported by false Affidavits and/or false Certifications.
65. As a result of the wrongful actions of GMACM described in this Complaint, Maine homeowners are losing, or are at risk of losing, their homes on the basis of unsworn and false summary judgment Affidavits and false Certifications presented by GMACM.
66. As described in detail below, GMACM is continuing to evade the rules of civil procedure by attempting to “supplement” the already filed summary judgment affidavits of Jeffrey Stephan, with affidavits of another GMACM employee in cases where a Stephan affidavit was used in support of Summary Judgment, many of which have already gone to judgment. See Exhibits 18, 23.

***Steven Archibald***

67. Mr. Archibald executed a Mortgage and Note through Residential Mortgage Services, Inc. on his home located at 18 Birchwood Avenue, Windham, Maine on March 25, 2005.

68. Subsequently, the Note was allegedly endorsed to GMAC Bank and then to GMACM and the Mortgage was allegedly assigned to GMACM. GMACM became the servicer of the loan.
69. On or about December 18, 2007, GMACM filed a Complaint for Foreclosure by Civil Action for breach of the Mortgage and Note with the Maine District Court, Division of Southern Cumberland, No. POR-RE-2008-476.
70. GMACM filed a Motion for Summary Judgment pursuant to Rule 56 of the Maine Rules of Civil Procedure dated November 19, 2008, asserting that there was no genuine issue of material fact in the lawsuit and GMACM is, therefore, entitled to judgment as a matter of law. A true and accurate copy of the Motion for Summary Judgment and Statement of Material Facts are attached hereto as Exhibit 6.
71. In support of the Motion for Summary Judgment and, in particular, in support of every Statement of Material Fact, GMACM filed an affidavit signed by Jeffrey Stephan, "Limited Signing Officer" for GMACM and dated November 14, 2008. ("Archibald Stephan Affidavit"). A true and accurate copy of the Archibald Stephan Affidavit is attached hereto as Exhibit 7.
72. In his affidavit, Stephan falsely asserted: (a) that he had under his custody and control the records relating to the subject mortgage transaction, (b) that his knowledge as to the facts set forth in the Affidavit were derived from his personal knowledge of these records, and (c) these records were made at or near the time of the event, transaction, or from information transmitted by, a person with personal knowledge of the events recorded therein. See Exhibit 7, Archibald Stephan Affidavit ¶1.

73. Stephan also asserts that a “true and correct copy” of the Note, the Mortgage, and the Mortgage Assignment are attached to his Affidavit but he had no personal knowledge of whether these documents were in fact true and correct. See Exhibit 7, Archibald Stephan Affidavit ¶¶ 3, 4.
74. Stephan also asserts that “there is presently due and owing on said Note and Mortgage... attorney's fees and costs related to the collection of sums due under the Note” but he had no personal knowledge of this. See Exhibit 7, Archibald Stephan Affidavit ¶ 9.
75. Stephan’s signature is followed by the signature of a notary public attesting that Stephan personally appeared and swore under oath that the Affidavit signed by him was true, but Stephan did not do so. See Exhibit 7, Archibald Stephan Affidavit.
76. GMACM submitted an Affidavit in Support of Plaintiff’s Motion for Summary Judgment Requesting Attorneys’ Fees and Disbursements, a true copy of which is attached hereto as Exhibit 8. (“Archibald Fee Affidavit”).
77. In the Archibald Fee Affidavit GMACM asserts that GMACM has incurred reasonable and necessary legal expenses in the foreclosure action through October 16, 2008 in the amount of \$1,857.00, consisting of \$1,125.00 in legal fees and \$732.00 in disbursements. The Affiant, counsel for GMACM, asserts that Drummond & Drummond, LLP is on a flat fee basis with GMACM for foreclosure work and that the flat fee for all work on this file up to and including filing the Motion for Summary Judgment was \$1,125.00. GMACM’s counsel asserts that GMACM has incurred expenses totaling \$732.00 for disbursements made to Drummond & Drummond, LLP for the following: title costs of \$287.00, court costs of \$365.00, sheriff fees of \$62.00 and recording fees of \$18.00. See Exhibit 8, Archibald Fee Affidavit ¶3.

78. The fee for filing a Complaint in the Maine District Court is \$150 and the fee for filing a Motion for Summary Judgment is \$200.
79. The fees and costs associated with GMACM's filing of the Motion for Summary Judgment were charged to Mr. Archibald's loan account.
80. Summary Judgment is still pending in Mr. Archibald's case.

*Nicolle Bradbury*

81. Mrs. Bradbury executed a Mortgage and Note through GMACM on her home located at 6 Bull Ring Rd., Denmark Maine on July 25, 2003.
82. Subsequently, the Note was allegedly endorsed and the Mortgage was allegedly assigned to Federal National Mortgage Association (FNMA). GMACM became the servicer of the loan.
83. On November 25, 2008. Mrs. Bradbury entered into a Loan Modification Agreement with GMACM.
84. On or about March 9, 2009 FNMA filed against Mrs. Bradbury a Complaint for Foreclosure by Civil Action for alleged breach of the Mortgage and Note with the Maine District Court, Division of Northern Cumberland, No. BRI-RE-09-65 ("Bradbury action").
85. A Motion for Summary Judgment was filed pursuant to Rule 56 of the Maine Rules of Civil Procedure dated August 12, 2009, asserting that there was no genuine issue of material fact in the lawsuit and, therefore, the Plaintiff was entitled to judgment as a matter of law. A true and accurate copy of the Motion for Summary Judgment and Statement of Material Facts are attached hereto as Exhibit 9.
86. In support of the Motion for Summary Judgment and, in particular, in support of every Statement of Material Fact (except for matters relating to attorney fees), FNMA filed an

affidavit signed by Jeffrey Stephan, “Limited Signing Officer” for GMACM and dated August 5, 2009. (“Bradbury Stephan Affidavit”). A true and accurate copy of the Bradbury Stephan Affidavit is attached hereto as Exhibit 10.

87. In his affidavit, Stephan asserted falsely: (a) that he had under his custody and control the records relating to the subject mortgage transaction, (b) that his knowledge as to the facts set forth in the Affidavit were derived from his personal knowledge of these records, and (c) these records were made at or near the time of the event, transaction, or from information transmitted by, a person with personal knowledge of the events recorded therein. See Exhibit 10, Bradbury Stephan Affidavit ¶1.
88. Stephan also asserts that a “true and correct copy” of the Note, the Mortgage, and the Mortgage Assignment are attached to his Affidavit but he had no personal knowledge of whether these documents were in fact true and correct copies. See Exhibit 10, Bradbury Stephan Affidavit ¶¶ 3, 4.
89. Stephan also asserts that “there is presently due and owing on said Note and Mortgage... attorney's fees and costs related to the collection of sums due under the Note” but he had no personal knowledge of this. See Exhibit 10, Bradbury Stephan Affidavit ¶ 9.
90. Stephan’s signature is followed by the signature of a notary public attesting that Stephan personally appeared and swore under oath that the Affidavit signed by him was true, but Stephan did not do so. See Exhibit 10, Bradbury Stephan Affidavit.
91. An Affidavit in Support of Plaintiff’s Motion for Summary Judgment Requesting Attorneys’ Fees and Disbursements was filed, a true and accurate copy of which is attached hereto as Exhibit 11. (“Bradbury Fee Affidavit”)

92. In the Bradbury Fee Affidavit, the Plaintiff asserts that it has incurred reasonable and necessary legal expenses in the foreclosure action through July 20, 2009 in the amount of \$2128.46, consisting of \$1431.00 in legal fees and \$ 697.46 in disbursements. The Affiant, counsel for FNMA and GMACM, asserted that Drummond & Drummond, LLP is on a flat fee basis for foreclosure work and the flat fee for all work on this file up to and including filing the Motion for Summary Judgment was \$1,125.00. Drummond and Drummond asserts that the Plaintiff has incurred expenses totaling \$697.46 for disbursements made to Drummond & Drummond, LLP for the following: title costs of \$245.00, court costs of \$360.00, sheriff fees of \$55.46 and recording fees of \$37.00. See Exhibit 11.
93. The fees and costs associated with the filing of the Motion for Summary Judgment were charged to Mrs. Bradbury's loan account.
94. Summary Judgment was partially granted and partially denied in Mrs. Bradbury's action on January 27, 2010.
95. FNMA filed a "Renewed Motion for Summary Judgment" on July 16, 2010.
96. In support of the Renewed Motion for Summary Judgment, FNMA filed an affidavit of Davida Harriott, who asserts that she is a "Senior Foreclosure Specialist" with GMACM. A copy of the Affidavit is attached hereto as Exhibit 12. ("Bradbury Harriott Affidavit")
97. The Harriott affidavit continues the wrongful summary judgment affidavit practices of GMACM in that:
- a) Harriott makes no claim that she has custody and/or control of the Bradbury loan file, and she offers no evidence that she is an "other qualified witness" within the meaning of M.R.Ev. 803(6) who is competent to authenticate business records of GMACM;

- b) Harriott's affidavit offers no evidence that her position at GMACM is such that she has personal knowledge of the contents of her affidavit as required by M.R.Civ.P. 56(e);
  - c) Harriott asserts that she has attached a loan payment history to her affidavit but the record attached by her only covers the period from October 25, 2007 to October 28, 2008 omitting more than four years of payment history from the loan's origination on July 25, 2003 to October 25, 2007.
  - d) Harriott asserts that the business records of GMACM showed that a default/cure notice was sent to Bradbury "on or about November 7, 2008" but Harriott failed to attach any business records to support such assertion as required by M.R.Civ.P. 56(e).
98. By Court order entered September 24, 2010, the Partial Summary Judgment entered on January 27, 2010 was vacated, the Renewed Motion for Summary Judgment was denied and the case was referred for trial.

***Shawn Morrissette***

99. Mr. Morrissette executed a Mortgage and Note through SIDIS Financial, LLC on his home located at 13 Imperial Way, Waterboro, Maine on September 12, 2008.
100. Subsequently, the Note was allegedly endorsed to GMAC Bank and then to GMACM and the Mortgage was allegedly assigned to GMACM. GMACM became the servicer of the loan.
101. On October 2, 2009, GMACM filed a Complaint for Foreclosure by Civil Action for breach of the Mortgage and Note with the Maine District Court, Division of Southern Cumberland, No. RE-09-328.

102. In support of the Complaint, GMACM submitted a Certification of Mortgagee signed by Jeffrey Stephan and dated September 28, 2009 asserting falsely that he had custody and control of the records relating to the mortgage transaction and a true copy of the Note and Mortgage are attached to the Complaint. A copy of the Certification is attached hereto as Exhibit 13.
103. GMACM subsequently filed a Motion for Summary Judgment pursuant to Rule 56 of the Maine Rules of Civil Procedure, asserting that there was no genuine issue of material fact in the lawsuit and GMACM is, therefore, entitled to judgment as a matter of law. A true and accurate copy of the Motion for Summary Judgment is attached hereto as Exhibit 14.
104. In support of the Motion for Summary Judgment, GMACM filed an affidavit signed by Jeffrey Stephan, “Limited Signing Officer” for GMACM and dated March 10, 2010. (“Morrissette Stephan Affidavit”). A true and accurate copy of the Morrissette Stephan Affidavit is attached hereto as Exhibit 15.
105. In his affidavit, Stephan asserted falsely: (a) that he had under his custody and control the records relating to the subject mortgage transaction, (b) that his knowledge as to the facts set forth in the Affidavit were derived from his personal knowledge of these records, and (c) these records were made at or near the time of the event, transaction, or from information transmitted by, a person with personal knowledge of the events recorded therein. See Exhibit 15, Morrissette Stephan Affidavit ¶1.
106. Stephan also asserts that a “true and correct copy” of the Note, the Mortgage, and the Mortgage Assignment are attached to his Affidavit but he had no personal knowledge of whether these documents were in fact true and correct. See Exhibit 15, Morrissette Stephan Affidavit ¶¶ 3, 4.

107. Stephan also asserts that “there is presently due and owing on said Note and Mortgage... attorney's fees and costs related to the collection of sums due under the Note” but he had no personal knowledge of this. See Exhibit 15, Morrissette Stephan Affidavit ¶ 11.
108. Stephan’s signature is followed by the signature of a notary public attesting that Stephan personally appeared and swore under oath that the Affidavit signed by him was true, but Stephan did not do so. See Exhibit 15, Morrissette Stephan Affidavit.
109. GMACM submitted an Affidavit in Support of Plaintiff’s Motion for Summary Judgment Requesting Attorneys’ Fees and Disbursements, a true copy of which is attached hereto as Exhibit 16. (“Morrissette Fee Affidavit”).
110. The fees and costs associated with GMACM’s filing of the Motion for Summary Judgment were charged to Mr. Morrissette’s loan account. See Exhibit 16, Morrissette Fee Affidavit ¶3.
111. A default judgment was entered in Mr. Morrissette’s foreclosure action on May 18, 2010. The Court awarded attorneys’ fees and costs of \$2,836.50. A copy of the Judgment is attached hereto as Exhibit 17.
112. On August 3, 2010, counsel for GMACM sent a letter to the Court asking the Court to supplement the Stephan Affidavit with an affidavit by Davida Harriott because of “certain defects in the process by which affidavits in support of summary judgment were reviewed and executed by Mr. Stephan.” An Affidavit of GMACM’s counsel, Alexander Saksen was submitted with the letter.
113. The Affidavits were not submitted by way of a Motion or other judicial procedure. A copy of the letter and Affidavits delivered to the Court is attached hereto as Exhibit 18.

114. In addition, for the reasons listed in paragraphs 97, *supra*, the Harriott affidavit does not follow proper summary judgment practice.

115. Upon information and belief, Mr. Morrissette's home went to auction on September 24, 2010.

***Joseph Phillips***

116. Mr. Phillips executed a Mortgage and Note through Homecomings Financial Network on his home located at 42 Pleasant Street, Mechanic Falls, Maine on December 8, 2005.

117. Subsequently, the Note was allegedly endorsed and the Mortgage allegedly assigned to FNMA with GMACM as the servicer of the loan.

118. On or around November 16, 2009, FNMA filed a Complaint for Foreclosure by Civil Action for breach of the Mortgage and Note with the Maine District Court, Division of Southern Cumberland, No. RE-09-92.

119. In support of the Complaint, the Plaintiff filed a Certification of Mortgagee signed by Jeffrey Stephan asserting falsely that he had custody and control of the records relating to the mortgage transaction and a true copy of the Note and Mortgage are attached to the Complaint. A copy of the Certification is attached hereto as Exhibit 19.

120. A Motion for Summary Judgment pursuant to Rule 56 of the Maine Rules of Civil Procedure was filed, asserting that there was no genuine issue of material fact in the lawsuit and the Plaintiff is, therefore, entitled to judgment as a matter of law. A true and accurate copy of the Motion for Summary Judgment and Statement of Material Facts are attached hereto as Exhibit 20.

121. In support of the Motion for Summary Judgment and, in particular, in support of every Statement of Material Fact, the Plaintiff filed an affidavit signed by Jeffrey Stephan, “Limited Signing Officer” for GMACM and dated March 8, 2010. (“Phillips Stephan Affidavit”). A true copy of the Phillips Stephan Affidavit is attached hereto as Exhibit 21.
122. In his affidavit, Stephan asserted falsely: (a) that he had under his custody and control the records relating to the subject mortgage transaction, (b) that his knowledge as to the facts set forth in the Affidavit were derived from his personal knowledge of these records, and (c) these records were made at or near the time of the event, transaction, or from information transmitted by, a person with personal knowledge of the events recorded therein. See Exhibit 21, Phillips Stephan Affidavit ¶1.
123. Stephan also asserts that a “true and correct copy” of the Note, the Mortgage, and the Mortgage Assignment are attached to his Affidavit but he had no personal knowledge of whether these documents were in fact true and correct. See Exhibit 21, Phillips Stephan Affidavit ¶¶ 3,4.
124. Stephan also asserts that “there is presently due and owing on said Note and Mortgage... attorney's fees and costs related to the collection of sums due under the Note” but he had no personal knowledge of this. See Exhibit 21, Phillips Stephan Affidavit ¶ 11.
125. Stephan’s signature is followed by the signature of a notary public attesting that Stephan personally appeared and swore under oath that the Affidavit signed by him was true, but Stephan did not do so. See Exhibit 21, Phillips Stephan Affidavit.
126. GMACM submitted an Affidavit in Support of Plaintiff’s Motion for Summary Judgment Requesting Attorneys’ Fees and Disbursements, a true copy of which is attached hereto as Exhibit 22. (“Phillips Fee Affidavit”).

127. The fees and costs associated with GMACM's filing of the Motion for Summary Judgment were charged to Mr. Phillips' loan account. See Exhibit 22, Phillips Fee Affidavit ¶3.
128. Judgment entered in Mr. Phillips' foreclosure action on April 30, 2010 and the Court awarded attorneys' fees and costs to the Plaintiff in the amount of \$2107.92.
129. On or around August 4, 2010, counsel for GMACM sent a letter to the Court asking the Court to supplement the Stephan Affidavit with an affidavit by Davida Harriott because of "certain defects in the process by which affidavits in support of summary judgment were reviewed and executed by Mr. Stephan." An Affidavit of GMACM's counsel, Alexander Saksen was submitted with the letter.
130. The Affidavits were not submitted by way of a Motion or other judicial procedure. A copy of the letter and Affidavits delivered to the Court is attached hereto as Exhibit 23.
131. In addition, for the reasons listed in paragraphs 97, *supra*, the Harriott affidavit does not follow proper summary judgment practice.
132. Upon information and belief, Mr. Phillips' home has not yet been auctioned.

***Thomas True***

133. Mr. True executed a Mortgage and Note through Sidus Financial on his home located at 259 Valley Road, North Berwick, Maine on March 24, 2009.
134. Subsequently, the Note was allegedly endorsed and the Mortgage allegedly assigned to GMACM.

135. On or around May 3, 2009, GMACM filed a Complaint for Foreclosure by Civil Action for breach of the Mortgage and Note with the Maine District Court, Division of Southern Cumberland, No. RE-09-92.
136. In support of the Complaint, the Plaintiff filed a Certification of Mortgagee signed by Jeffrey Stephan asserting falsely that he had custody and control of the records relating to the mortgage transaction and that a true copy of the Note and Mortgage are attached to the Complaint. A copy of the Certification is attached hereto as Exhibit 24.
137. The complaint and Certification asserted that GMACM owned the loan when, in fact, they did not and do not. As a consequence, Mr. True took a day off from work to attend court mediation without knowing the true owner of the loan and what guidelines governed any modification of the loan.

***GMACM Began the Challenged Practices at Least as Early as 2004***

**May 1, 2006**

138. On May 1, 2006, the Circuit Court for the Fourth Circuit in Duval County, Florida, in *TCIF REO2, LLC v. Leibowitz et al.*, Docket No. 16-2004-CA-4835-XXXX-MA, found that GMAC Mortgage Corporation (“GMAC”) submitted false testimony to the Court by way of a 2004 Affidavit signed by a “limited signing officer” of GMAC who neither reviewed the referenced records nor signed before a Notary. See Exhibit 1.
139. Per order of the Court, in 2006 GMAC represented to the Florida court that it had established a policy for document signature practices whereby all signatories must read and fully understand the instrument being signed, review and check the facts, and sign only in the presence of a notary. GMACM represented to the Florida court that the policy was

distributed to all signatories within the enterprise. See Exhibit 2.

**December 10, 2009**

140. Jeffrey Stephan's deposition testimony was taken on December 10, 2009 in the matter of *GMAC Mortgage, LLC v. Ann M. Neu et al.*, Circuit Court of the Fifteenth Judicial Circuit, Palm Beach County Florida, Docket No. 50 2008 CA 040805XXXX MB. See Exhibit 3.
141. In his deposition, Stephan testified that he executed about 10,000 documents a month which consisted of assignments of mortgage, affidavits of any type, deed, and "[a]ny type of document that would need a signature of an officer of GMAC." See Exhibit 3, Neu Deposition Transcript 6:14-17, 7: 18-19.
142. Stephan testified that he "takes for face value" that the documents presented to him for signature have been checked by his team and that he does not execute them based on his own personal knowledge. See Exhibit 3, Neu Deposition Transcript 10: 6-15.
143. Stephan testified that he does not verify the information in the documents before signing and that he does not sign the documents in the presence of a notary. See Exhibit 3, Neu Deposition Transcript 12: 21-1, 13:10-17.

**June 7, 2010**

144. Jeffrey Stephan's deposition was taken in Mrs. Bradbury's foreclosure action on June 7, 2010. ("Bradbury Stephan Transcript"). See Exhibit 4.
145. Stephan testified that he does not read fully, or know the contents of the affidavits signed by him. See Exhibit 4, Bradbury Stephan Transcript 54:4-25; 57:20-25; 58:1-19; 61, 62:22-10.
146. Stephan testified that, while scanned copies of loan documents are available on GMACM's computer system, he does not look at the scanned copies on the GMACM

computer system or any paper loan documents when he signs a summary judgment affidavit. See Exhibit 4; Bradbury Stephan Transcript 26:9-16, 54:12-25; 58:13-19; 61, 62: 22-10; 62, 63: 21-6.

147. Stephan testified that he has no role in the entry of any data into GMACM's computer system. See Exhibit 4, Bradbury Stephan Transcript 26: 17-21; 27, 28: 22-6. He does not prepare any information in the summary judgment affidavits nor does he go into the system to verify the information is accurate. See Exhibit 4, Bradbury Stephan Transcript 39:4-6, Tr. 45: 16-21; 54:16-25; 58:13-19.

148. Stephan testified that he does not look at or verify that the exhibits referred to in his summary judgment affidavits are a part of them when he signs the affidavits. See Exhibit 4, Bradbury Stephan Transcript 54: 12-25. He does not review the contents of his affidavits other than to identify who the borrower is, that he has signing authority, and the amounts alleged to be owed in the affidavit. See Exhibit 4, Bradbury Stephan Transcript 62-63:22- 6.

149. Stephan admitted that he does not sign his Affidavits before a notary or appear personally to be sworn. See Exhibit 4, Bradbury Stephan Transcript 56:7-18.

150. Stephan testified that his practices are fully in accordance with GMAC Mortgage, LLC operating policies and procedures. Bradbury Stephan Transcript p. 64: 8-14. Stephan took on his duties as Team Lead in the GMAC Mortgage, LLC Document Execution Team in 2008 and was trained by his predecessor in that position. See Exhibit 4, Bradbury Stephan Transcript 13: 5-14; 16-17:17-4. GMACM has never performed any sort of quality review of Stephan's work since he assumed his position in 2008. See Exhibit 4, Bradbury Stephan Transcript 64: 15-21.

**August 3, 2010**

151. On or about August 3, 2010, GMACM began sending letters to Maine courts in foreclosure actions in which Stephan had previously submitted an affidavit in support of a motion for summary judgment. See Exhibits 18, 23. These letters asked the courts to supplement the Stephan affidavit with an affidavit of another GMACM employee, Davida Harriott. GMACM asserted that these requests were being made due to GMACM's discovery of "certain defects in the process by which affidavits in support of summary judgment were reviewed and executed by Mr. Stephan.... Undersigned counsel believes that the material averments of fact in the Affidavit supporting the Motion for Summary Judgment are accurate. However, out of an abundance of caution, and in order to maintain candor towards the tribunal pursuant to Rule 3.3 of the Maine Rules of Professional Conduct we are hereby filing a supplemental affidavit which confirms the substance of the previously filed Affidavit (indeed, its contents are identical)."
152. GMACM has requested that each of the Maine courts accept the Harriott affidavit pursuant to Me. R. Civ. P. 56(e) but does not use a motion or other legal procedure to either withdraw the false Stephan affidavit from consideration by the District Court and/or to cause any District Court Judge considering the case to be otherwise aware that GMACM has submitted a false affidavit to the District Court; GMACM has not sought to correct its Statement of Material Facts that cited to the false statements of the Stephan affidavit.
153. Only when confronted with a motion filed by Archibald under M.R.Civ.56(g) seeking sanctions for its bad faith filing of the Stephan affidavit did GMACM finally withdraw its motion for summary judgment based upon the false Stephan affidavit in that action.
154. In some cases, the GMACM letters that submitted a Harriott affidavit were sent to the court *after* judgment had already entered and a sale date was pending; and with no motion to

the court to set aside the judgment based upon the false Stephan affidavit. This occurred in the cases of Plaintiffs Morrissette and Phillips.

**COUNT I  
VIOLATION OF MAINE UNFAIR TRADE PRACTICES ACT**

155. Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 154 of this Complaint as if fully set forth in this Count of the Complaint.
156. Plaintiffs bring this claim on their own behalf and on behalf of each member of the Class described above.
157. Defendant is engaged in "trade" or "commerce" within the meaning of the Maine Unfair Trade and Practices Act, 5 M.R.S.A. §§206, 207.
158. GMACM's conduct was deceptive under the Maine Unfair Trade Practices Act because GMACM provided material representations regarding consumers' loans supported by fraudulent Certifications and Affidavits that were likely to mislead consumers acting reasonably under the circumstances.
159. The Defendant's conduct in providing false representations to the Court in support of foreclosure actions and motions for summary judgment of foreclosure was and is unfair under Maine Unfair Trade Practices Act because it was or is likely to cause and/or has caused substantial unjustified injury to consumers including but not limited to: (a) the loss of their homes to foreclosure, (b) unfairly charging the accounts of Maine homeowners for the attorney fees and costs of the Plaintiff in those GMACM Serviced foreclosure actions, and (c) unfairly imposing costs on Maine homeowners for the defense of the GMACM Serviced foreclosure actions.
160. GMACM's conduct was not reasonably avoidable by consumers.

161. GMACM's conduct is not outweighed by any countervailing benefits to consumers or competition.
162. GMACM's conduct is part of a general business practice that is unfair and deceptive in violation of 5 M.R.S.A. § 207.
163. GMACM's practices, as outlined above were willful and knowing.
164. As a result of GMACM's practices, the Plaintiffs have suffered a loss of money and/or property.
165. Pursuant to 5 M.R.S.A. §213(1-A), on July 15, 2010, Plaintiffs delivered to GMACM a demand for relief pursuant to the Maine Unfair Trade Practices Act on their own behalf and on behalf of a group of similarly situated individuals. A true and accurate copy of this letter and proof of delivery is attached as Exhibit 25. GMACM has not responded.
166. By reason of the aforesaid violations of the Maine Unfair Trade Practices Act, GMACM is liable to the Plaintiffs in the amount of actual damages to be established at trial, restitution, and other equitable relief as the Court deems necessary and proper in accordance with 5 M.R.S.A. § 213(1).
167. Furthermore, in accordance 5 M.R.S.A. § 213(2), GMACM is liable to the Plaintiffs for reasonable attorneys' fees and costs incurred in connection with this action.

**COUNT II**  
**ABUSE OF PROCESS**

168. Plaintiffs hereby incorporate by reference the allegations set forth in Paragraphs 1 through 167 of this Complaint as if fully set forth in this Count II of the Complaint.

169. Plaintiffs bring this claim on their own behalf and on behalf of each member of the Class described above.
170. Defendants engaged in repeated abuses of process when they misused individual legal procedures in actions for foreclosure.
171. Such improper conduct included but is not limited to:
- a) Abuse by GMACM of the Maine Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures, Public Law, Chapter 402, effective June 15, 2009 which specifically amended 14 M.R.S.A. §6321 to require the mortgagee commencing the foreclosure to “certify proof of ownership of the mortgage note and produce evidence of the mortgage note, mortgage and all assignments and endorsements of the mortgage note and mortgage.”
  - b) Abuse by GMACM of the summary judgment procedures under Me.R.Civ.P. 56 including Me. R. Civ.P. 56(g) and F. R. Civ. P. 56 and 56(g), by its bad faith filing of supporting Affidavits that contained untrue statements and that purported to be but were not sworn to before a notary.
172. GMACM engaged in this wrongful and improper conduct out of a motive to avoid the internal expense and external legal fees that would be required for the presentation of proper Affidavits and proper Certifications and out of a motive to obtain foreclosure judgments more quickly than would have otherwise been possible with the preparation of proper Affidavits and proper Certifications.
173. GMACM’s conduct was intentional and was carried out with willful disregard of the legal rights of Maine homeowners to have their homes taken from them in foreclosure only

after the presentation of proper pleadings and evidence and the consideration by the Maine courts of honest Affidavits.

174. As a result of the abuse by GMACM of the Certification process required in foreclosure cases by 14 M.R.S.A. §6321, as amended, GMACM has placed class members in GMACM Serviced foreclosure actions in the position of having to participate in foreclosure mediation proceedings without having accurate and reliable knowledge of the owners of their loans, the guidelines that apply to loan modification, what entity has the legal capacity to enter into loan modification agreements or other resolutions of the foreclosure claims, and amounts actually due.

175. As a result of the abuse by GMACM of the summary judgment process set forth in M.R.Civ.P. 56 and F.R.Civ.P. 56 in the presentation of false Affidavits, class member in GMACM Serviced cases have lost their homes, have been placed in imminent danger of losing their homes, have had legal fees and costs added to their loan accounts by GMACM for improper preparation and filing of false Affidavits, and have been required to expend their own legal fees in defending such wrongful summary judgment motions.

176. The conduct of GMACM was intentional, longstanding in nature, and widespread and was carried out by GMACM with the full knowledge that such conduct would have the effects of misleading the Maine courts into granting improperly supported motions for summary judgment and causing Maine homeowners and their families to lose their homes.

177. The conduct of GMACM was so extreme and outrageous as to imply malice toward the members of the classes on whose behalf this action is brought.

178. The conduct of GMACM justifies an award of punitive damages.

**COUNT III  
FRAUD ON THE COURT**

179. Plaintiffs hereby incorporate by reference the allegations set forth in Paragraphs 1 through 178 of this Complaint as if fully set forth in this Count III of the Complaint.
180. Residential foreclosure actions in the State of Maine are currently being filed in large numbers: the foreclosure filing rate is currently running at about 6,000 filings per year, and GMACM services over 20,400 residential mortgage loans in the State of Maine.
181. Almost all residential foreclosure actions currently being filed in the State of Maine are being decided on the basis of summary judgment motions filed by the foreclosing parties, and
- a) Such summary judgment motions are generally disposed of in a very short period of time;
  - b) Such summary judgment motions are often being decided before pretrial discovery has occurred;
  - c) The vast majority of such summary judgment motions are granted to foreclosure plaintiffs, including GMACM and the entities for whom it services loans, without any legal representation for the homeowners involved; and
  - d) Due to the high volume of foreclosure cases being filed in Maine courts and very limited judicial resources, the Maine courts are entirely dependent upon the honesty and integrity of parties seeking foreclosures and their attorneys, including GMACM and its attorneys, in filing truthful summary judgment affidavits that comply with all of the substantive requirements of Maine law and the evidentiary requirements of M.R.Civ.P. 56 and F.R.Civ.P.56.
182. There is a huge economic disparity between GMACM and the homeowners upon whom it is foreclosing, in that;

- a) GMACM is the fourth or fifth largest servicer of residential mortgage loans in the United States;
  - b) GMACM has significant financial resources to allow it to hire lawyers to represent it in thousands of foreclosure actions throughout the entire country;
  - c) The economic resources of the homeowners upon whom GMACM is foreclosing are often limited to the value of their homes and other nominal assets, their incomes are generally low and they far more often than not lack the resources to hire lawyers to protect their interests in GMACM Serviced foreclosure actions.
183. The subject matters of the GMACM Serviced foreclosure actions are the homes of the GMACM foreclosure defendants and their families, which are critical to their survival.
184. Because so few homeowners are able to afford legal counsel in Maine residential foreclosure actions brought by GMACM and because legal services organizations in Maine are able to represent less than six percent of foreclosure defendants, the issues presented by the false summary judgment affidavits have not been and are almost never litigated to a final hearing where the court resolving the matter has the benefit of evidence or arguments presented on behalf of the homeowners. Further, in cases where homeowners' counsel do raise issues, GMACM has begun a practice of withdrawing its summary judgment motion or seeking to dismiss its foreclosure action in order to avoid scrutiny of its defensive summary judgment motions by the courts in which they are filed. See *U.S. Bank National Association as Trustee for BAFC2006-1 v. James et al.*, Docket No. 2:09-cv-00084-JHR, #s 123, 124, 125, 163, 177, 189.
185. GMACM's widespread practice of filing false summary judgment Affidavits has injured the Maine judicial system and impaired it from performing in the usual manner its impartial

task of adjudging the foreclosure cases that are being presented to it by GMACM. Because of such practices, the Court cannot trust and rely upon the honesty and integrity of the summary judgment Affidavits being presented to it by GMACM. Homeowners' lawyers are present in only a very small minority of cases to bring to the courts' attention the significant defects found in such affidavits.

186. By its practice of filing false Certifications under 14 M.R.S.A. §6321, GMACM is forcing defendants who request mediation to attend mediation without knowing the true identity of the owner of their loans. The conduct of GMACM was intentional, longstanding in nature, and widespread and was carried out by GMACM with the full knowledge that such conduct would have the effects of misleading the Maine courts into granting improperly supported motions for summary judgment and causing Maine homeowners and their families to lose their homes.

187. The conduct of GMACM was and continues to be so extreme and outrageous as to imply malice toward the members of the classes on whose behalf this action is brought.

188. The conduct of GMACM justifies an award of punitive damages.

### **PRAYERS FOR RELIEF**

WHEREFORE, Plaintiffs demand judgment against the Defendant as follows:

1. As to all Counts of the Complaint, certify this case as a class action and appoint the named Plaintiffs to be class representatives and their counsel to be class counsel;
2. As to Count I of the Complaint provide a Preliminary and Final Injunction ordering:
  - a. That GMACM halt the filing of and further prosecution of GMACM Serviced foreclosure actions in Maine, and

- b. That GMACM halt all sales of homes scheduled to be conducted as a result of a judgment of foreclosure obtained in Maine courts in GMACM Serviced foreclosure actions during the class period and
- c. That GMACM halt all evictions from homes resulting from a judgment of foreclosure obtained in Maine courts in GMACM Serviced foreclosure actions during the class period and
- d. That GMACM adopt, enforce, and provide proof of enforcement of a policy that requires appropriate training and conduct of their employees and agents regarding their duties under Maine law and
- e. That GMACM file no further Certifications in any pending or future foreclosure actions in the State or Federal courts in the State of Maine unless they are executed by an employee who has directly verified the facts set forth therein and has personal knowledge thereof and
- f. That GMACM file no further Affidavits in any pending or future foreclosure actions in the State or Federal courts in the State of Maine unless they fully comport with the requirements of M.R.Civ.P. 56 for Maine court actions and with F.R.Civ.P 56 for U.S. District Court actions and
- g. That GMACM compensate members of the class for legal fees or costs paid as a result of the submission of any Certification in any GMACM Serviced case during the class period and

- h. That GMACM compensate members of the class for legal fees or costs paid as a result of any motion for summary judgment supported by the type of Affidavit that is the subject of this action in any GMACM Serviced cases during the class period.
3. As to Counts I through III of the Complaint, award compensatory damages to Plaintiffs and all members of the class, such compensatory damages to include legal fees and costs incurred by such class members in defending GMACM Serviced foreclosure actions during the class period.
4. As to Counts I through III of the Complaint, award Plaintiffs and all members of the class their costs of this action, including the fees and costs of experts, together with reasonable attorneys' fees pursuant to the Maine Unfair Trade Practices Act 5 M.R.S.A. §213(2) and Me.R.Civ.P. 56(g).
5. As to Counts II and III of the Complaint, award punitive damages to Plaintiffs and all members of the class.
6. As to all Counts of the Complaint grant Plaintiffs and the Class such other and further relief as this Court finds necessary and proper.

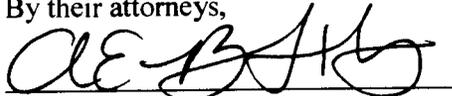
**DEMAND FOR JURY TRIAL**

Please take notice that Plaintiffs demand trial by jury on all issues so triable.

Respectfully Submitted,

On behalf of the Plaintiffs

By their attorneys,



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Dated: October 1, 2010