

IN THE CIRCUIT COURT OF THE FOURTH
JUDICIAL CIRCUIT, IN AND FOR DUVAL
COUNTY, FLORIDA

CASE NUMBER: 16-2004-CA-4835-XXXX-MA

DIVISION: CV-E

TCIF REO2, LLC,

Plaintiff,

v.

MARTIN L. LEIBOWITZ, AS TRUSTEE,
etc., et al.,

Defendants.



FILED 05/02/06 PM 01:00 JTH FILER

ORDER GRANTING DEFENDANTS' MOTION FOR SANCTIONS

This cause came before the Court on April 5, 2006 on Defendants Robert Jackson and Lillian Jackson's Motion for Sanctions for Fraud Upon the Court. The Court has reviewed the pleadings, considered arguments of counsel, and is otherwise fully advised in the premises.

The Court finds Plaintiff, through its servicing entity, GMAC Mortgage Corporation, submitted false testimony to the Court in the form of Affidavits of Indebtedness signed and subscribed by Margie Kwiatanowski, a "Limited Signing Officer" with GMAC Mortgage Corporation. The submission of the false Affidavits was pursuant to protocols and procedures wherein Ms. Kwiatanowski, as Limited Signing Officer, would attest to review of the relevant loan documents, the Complaint, and the loan payment records, when in fact (as sworn to by Ms. Kwiatanowski in her deposition) she neither reviewed the referenced records nor was familiar with the manner in which the records were created by GMAC on behalf of Plaintiff. In her deposition, Ms. Kwiatanowski admitted none of the Affidavits were signed before a Notary, and that Affidavits of the sort filed by Plaintiff would be signed and then left in a folder, to be notarized at a different

EXHIBIT

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time. The admissions by Ms. Kwiatanowski in her deposition directly contradict the sworn testimony to the Court in the form of the referenced Affidavits, both as to the substance of the Affidavits and with regard to whether the Affidavits were sworn to before a notary.

The Court recognizes the statements made by Plaintiff's counsel at the hearing to the effect that the procedures in place at GMAC with regard to servicing of this Plaintiff's loans were being corrected. The Court finds the submission of false testimony to the Court in the manner described does not rise to the level required in order for this Court to dismiss the action. Cox v. Burke, 706 So.2d 43 (Fla. 5th DCA 1998.) The Court will not condone Plaintiff's actions in filing false testimony, however, and the Court has both the inherent authority to sanction Plaintiff's actions, based upon the findings set forth above, and finds sanctions to be appropriate. It is therefore:

ORDERED AND ADJUDGED:

1. Defendants' Motion for Sanctions for Fraud Upon the Court is GRANTED.
2. The subject Affidavits as completed by Ms. Kwiatanowski are and same be stricken.
3. The Court orders Plaintiff to pay Defendants' attorneys' fees and costs for the efforts related to the taking of Ms. Kwiatanowski's deposition. Based upon a review of the record and the Affidavit filed by Defendants' counsel, the Court finds a reasonable sanction to be 30 hours of attorney's time and further finds a reasonable, local hourly rate to be \$250.00, and further awards costs in the amount of \$634.55. Therefore, the Plaintiff, TCIF REO2, LLC, Inc. shall forward to defense counsel payment of \$ 8,134.55 in sanctions for the reasons set forth above within 30 days from the date of this Order.
4. Counsel for Plaintiff shall file with the Court GMAC's written explanation and confirmation, on behalf of Plaintiff, that GMAC's policies and procedures with regard to the servicing of all of this Plaintiff's loans within the State of Florida have been modified, in accord with

representations made by counsel to the Court that such modifications were being made, to confirm the affidavits filed in future foreclosure actions in Florida accurately memorialize the actions and conduct of the affiants. The written confirmation of policy changes, and an explanation for the policies now in place, shall be filed with the Court within 30 days of the date of this Order.

DONE AND ORDERED, in Chambers, at Jacksonville, Duval County, Florida, this 15
day of May, 2006.



Circuit Court Judge

Copies to: James A. Kowalski, Jr., Esquire
Roy A. Diaz, Esquire

IN THE CIRCUIT COURT FOR DUVAL
COUNTY, FLORIDA. CIVIL DIVISION

CASE NO. 162004CA004835XXXXMA

TCIF REO2, LLC,

Plaintiff,

vs.

MARTIN L. LEIBOWITZ, AS TRUSTEE UNDER THE
JACKSON FAMILY LAND TRUST DATED NOVEMBER
18, 2002; ROBERT L. JACKSON; LILLIAN M. JACKSON;
WILLIAM W. MASSEY, III; STATE OF FLORIDA
DEPARTMENT OF REVENUE; UNKNOWN TENANT
NO. 1; UNKNOWN TENANT NO. 2, et. al.,

Defendants.



CV-5

THIS INSTRUMENT
IN COMPUTER
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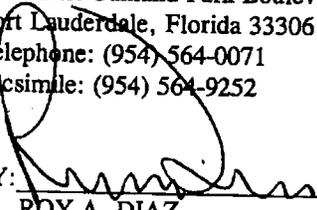
**PLAINTIFF'S NOTICE OF COMPLIANCE WITH THIS COURT'S
ORDER DATED MAY 1, 2006**

COMES NOW, the Plaintiff, TCIF REO2, LLC., by and through its undersigned counsel, and files this Notice of Compliance with this Court's Order dated May 1, 2006, and states that the Plaintiff has forwarded a check to opposing counsel as required pursuant to paragraph 3 of said Order, and has simultaneously herewith submitted the Directive to the Court, as required pursuant to paragraph 4 .

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Compliance has been sent via U.S. Mail this 12th day of June, 2006 to all parties on the attached Service List.

SMITH, HIATT & DIAZ, P.A.
Attorneys for Plaintiff
2691 East Oakland Park Boulevard, Suite 303
Fort Lauderdale, Florida 33306
Telephone: (954) 564-0071
Facsimile: (954) 564-9252

BY: 
ROY A. DIAZ
Florida Bar No. 767700

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SERVICE LIST

Case No. 162004CA004835XXXXMA

Martin L. Leibowitz, as Trustee under
the Jackson Family Land Trust
2120 Oak Street
Jacksonville, FL 32204

Fred Tromberg, Esq.
4925 Beach Blvd.
Jacksonville, FL 32207
Attorney For Robert L. Jackson
And Lillian M. Jackson

William W. Massey, III
2254 Riverside Ave
Jacksonville, FL 32204

State of Florida Department of Revenue
c/o Dr. Dr. James A. Zingale, Executive Director
501 South Calhoun Street, Carlton Building, Room 104
Tallahassee, FL 32399

**Smith,
Hiatt &
Diaz, P.A.**
ATTORNEYS



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June 12, 2006

RECEIVED
JUN 13 2006

Via Overnight UPS

BERNARD NACHMAN

The Honorable Bernard Nachman
Duval County Courthouse
330 E. Bay Street, Room 202
Jacksonville, FL 32202-

RE: TCIF REO2, LLC v. MARTIN LEIBOWITZ, as Trustee, et al.
Case No. 162004CA004835XXXXMA

CV-E

File in

Dear Judge Nachman:

Enclosed with this correspondence is a courtesy copy of the Plaintiff's Notice of Compliance with this Court's Order dated May 1, 2006, and the original signed Directive from GMAC regarding its policies on Affidavits being filed with the court in connection with mortgage foreclosure cases.

Thank you for your consideration.

Respectfully submitted,
SMITH, HIATT & DIAZ, P.A.

Roy A. Diaz
For the Firm

Enclosures

cc: James A. Kowalski, Jr., Esq

FILED 0514 06 PM 0246 JIM FULLER

A POLICY DIRECTIVE FROM THE LEGAL STAFF
DOCUMENT SIGNATURE PRACTICES

The Legal Staff and its retained outside counsel present evidence to the courts in probably all jurisdictions. This evidence takes the form of written documentation signed by authorized corporate representatives. Some of these documents are notarized either as a simple notarial certificate and others notarized as sworn instruments before the notary. The following directives make not only good business sense but are commanded by statute. Thus, besides financial impact in the cases we handle, the signing process may invoke sanctions by a court. It is the integrity of our cases that is at stake and we cannot afford anything less than full accuracy.

1. Any signatory in behalf of the corporation must read and fully understand the instrument that is being signed. Do not sign unless you have that comfort level.
2. Any signatory in behalf of the corporation must be properly authorized by the corporation. When in doubt, consult with your manager or the Legal Staff for guidance.
3. Do not sign verifications on court pleading documents unless you have independently reviewed and checked the facts.
4. Sign instruments **only in the presence of** the witnessing notary public.
5. If the text of the notarial certificate contains an oath (e.g. "Subscribed and sworn to before me. . ." or similar words) the notary must affirmatively say to the signer, "Do you so swear?".
6. Pre-signing notarial certificates before the signer are prohibited by law everywhere.

CERTIFICATION

The undersigned certifies that as of June 1, 2006, the attached Policy Directive on Document Signature Procedure has been distributed to the associate general counsel and associate counsel of the respective business units of GMAC Mortgage Corporation for distribution to authorized signatories within the enterprise. This Policy Directive is a reaffirmation of existing procedures incorporating the statutory mandates to notaries public of the respective residence states of such notaries public.

June 6, 2006

A handwritten signature in cursive script, appearing to read "James J. Barden", written over a horizontal line.

James J. Barden
Associate Counsel – Legal Staff

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO. 50 2008 CA 040805XXXX MB

GMAC MORTGAGE, LLC,

Plaintiff,

-vs-

ANN M NEU A/K/A ANN MICHELLE
PEREZ; DOUGLAS WILLIAM NEU;
UNKNOWN TENANT (S) IN
POSSESSION OF THE SUBJECT
PROPERTY,
Defendants.

DEPOSITION OF JEFFREY STEPHAN

Thursday, December 10, 2009
1:00 p.m. - 2:30 p.m.

Conсор & Associates
1655 Palm Beach Lakes Blvd., Ste. 500
West Palm Beach, Florida 33401

Reported By:
Jamie Reynolds Bentley, Court Reporter
Notary Public, State of Florida
Conсор & Associates
1655 Palm Beach Lakes Blvd., Suite 500
West Palm Beach, Florida 33401
(561)682-0905

Ph. 561.682.0905 - Fax. 561.682.1771
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1 APPEARANCES:

2 On behalf of the Plaintiff:

3 ALEJANDRA ARROYAVE, ESQ.

Lapin & Leichtling

4 225 Alahamra Circle

Suite 800

5 Coral Gables, Florida 33134

(305) 569-4100

6

7

8 On behalf of the Defendant:

9 CHRISTOPHER IMMEL, ESQ.

Ice Legal, P.A.

10 1975 Sansbury's Way

Suite 104

11 West Palm Beach, Florida 33411

(561) 798-5658

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WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
JEFFREY STEPHAN				
BY MR. IMMEL	4			54
JEFFREY STEPHAN				
BY MS. ARROYAVE		51		

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1 PROCEEDINGS

2 - - -

3 Deposition taken before Jamie Reynolds Bentley, Court
4 Reporter and Notary Public in and for the State of Florida
5 at Large, in the above cause.

6 - - -

7 THE COURT REPORTER: Do you swear or affirm that
8 the testimony you are about to give will be the truth,
9 the whole truth and nothing but the truth?

10 THE WITNESS: I do.

11 Thereupon,

12 (JEFFREY STEPHAN)

13 having been first duly sworn or affirmed, was examined
14 and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. IMMEL:

17 Q. All right. We are here on GMAC Mortgage, LLC
18 versus Neu. This is the deposition of Jeffrey Stephan.
19 I'm sure your attorney has gone over things with you a
20 little bit. But if you could just keep one thing in
21 mind, to answer, not to simply nod your head or anything
22 like that. We need for your answers to be clear for the
23 court reporter that way.

24 A. Yes.

25 Q. Could you please state your name for the

1 record.

2 A. My name is Jeffrey Stephan.

3 Q. Okay. And who do you work for?

4 A. GMAC, LLC.

5 Q. And is there a difference between GMAC, LLC
6 and GMAC Mortgage, LLC?

7 A. GMAC, LLC -- I'm trying to think of the word
8 to use -- the most recent name.

9 Q. Okay.

10 A. It's GMCA Mortgage Corporation.

11 Q. Okay.

12 A. I'm not sure how you would word that.

13 Q. Okay. So are they -- does GMAC, LLC -- now
14 has that basically taken over these other entities --

15 A. Yes.

16 Q. -- that formerly existed?

17 A. Yes.

18 Q. So these entities no longer currently exist?

19 A. Right.

20 Q. Okay. And how long then have you been
21 employed by GMAC, LLC?

22 A. Five years.

23 Q. Okay. And prior to that, it was GMAC Mortgage
24 and GMAC Corporation?

25 A. That was as the whole five years.

1 Q. Oh, okay.

2 A. Yes.

3 Q. As the whole five years. And what is your
4 title?

5 A. I'm a team leader in the foreclosure
6 department.

7 Q. Okay. And what are your responsibilities?

8 A. I am the team lead of the document execution
9 unit.

10 Q. Okay.

11 A. And also the service transfer unit.

12 Q. And so what type of documents do you
13 ordinarily execute?

14 A. I execute on a daily basis assignments of
15 mortgage, affidavits of any type that might be needed,
16 deeds. Any type of the document that would need a
17 signature of an officer of GMAC.

18 Q. Okay. And who do you report to?

19 A. I report to Margie Kwiatanowski.

20 Q. Could you spell that?

21 A. Yes. It's K-W-I-A-T-A-N-O-W-S-K-I.

22 Q. Okay. And approximately how many employees
23 does GMAC Mortgage, LLC have?

24 A. I couldn't guess. I don't know.

25 Q. Sure. Okay. And as part of your

1 responsibilities, you execute assignments as a vice
2 president of MERS?

3 A. Yes, that's correct.

4 Q. And in executing affidavits as a vice
5 president, do you receive any compensation from MERS?

6 A. No.

7 Q. Have you had any training from MERS?

8 A. No.

9 Q. Okay. How many documents would you say you
10 sign on an average week as far as executing affidavits
11 and things of that nature?

12 A. It's very tough to estimate that to be honest
13 with you.

14 Q. In a given month, would that be easier to say
15 --

16 A. I would say --

17 Q. -- one hundred, 500?

18 A. -- in a month, my team brings to me
19 approximately, I'd say a round number of 10,000. That's
20 just an estimate, of course.

21 Q. Okay. And so, 10,000 your team brings to you.
22 How many people do you oversee?

23 A. A team of 13 people.

24 Q. Okay. Now, would these people be given the
25 duties of actually preparing the documents that you

1 ultimately sign and execute?

2 A. They would review the document that is given
3 to them through our computer systems.

4 Q. Okay.

5 A. So they don't actually prepare it per se.
6 They review it for the accuracy of what type of entity
7 I'm signing as.

8 Q. Okay. How many different entities do you sign
9 as?

10 MS. ARROYAVE: Objection: Form.

11 BY MR. IMMEL:

12 Q. Can you name what entities you sign --

13 A. I sign presently as MERS.

14 Q. Okay.

15 A. And under MERS as vice president or an
16 assistant secretary. Also, I sign for GMAC Mortgage.
17 And to be honest with you, it's too many entities for me
18 to actually quote under GMAC. But it is as a limited
19 signing officer.

20 Q. Okay. And earlier you stated that right now
21 it's GMAC, LLC.

22 A. Uh-huh.

23 Q. You do still currently sign documents as GMAC
24 Mortgage, LLC?

25 A. Yes, I do.

1 Q. Okay. And also as a corporation --

2 A. Yes.

3 Q. -- and some of the others that we've seen your
4 signature on?

5 A. Yes, I do.

6 Q. Okay. Where then does the information that
7 goes into the system that your team reviews --

8 A. Yes.

9 Q. -- where does that information come from?

10 A. The process that we use is -- and this is to
11 my knowledge -- a file is referred to a foreclosure
12 attorney stating exactly what entity would be needed
13 through the referral unit. And at that point, the
14 attorney receives the file to proceed with the
15 foreclosure. That foreclosure name is generated upon
16 GMAC supplying it on the referral. I'm not 100 percent
17 sure of what that process is.

18 Q. Okay.

19 A. The documentation, as you stated, that you're
20 asking about, is given to us after the attorney has been
21 instructed on what name to foreclose in.

22 Q. And who instructs the attorney as to what name
23 to foreclose it in?

24 A. It comes to our referral unit. Which is
25 another process to my knowledge.

1 Q. Okay. Approximately, if 10,000 are signed in
2 a given month, you know, on an average, how long would
3 you say you spend executing each one and actually
4 signing?

5 A. It's tough to say.

6 Q. Okay. Would it be accurate to say that when
7 these documents have been presented to you by your team
8 --

9 A. Uh-huh.

10 Q. -- you take the face value that they are --
11 they have been checked by your team?

12 A. That would be a correct statement, yes.

13 Q. So these documents wouldn't be actually
14 executed on your own personal knowledge?

15 A. Right.

16 Q. It would be based on knowledge that came
17 through --

18 A. Right.

19 Q. -- the chain --

20 A. I'm sorry.

21 MS. ARROYAVE: Can I interrupt just for a
22 second? I just want to make sure that he finishes
23 his question before you answer.

24 THE WITNESS: Sure. Sorry.

25

1 BY MR. IMMEL:

2 Q. Yes, yes, that's true, too.

3 So the information that your team obtains
4 isn't based on their personal knowledge either, it's
5 located within the computer networks?

6 MS. ARROYAVE: Objection: Form.

7 BY MR. IMMEL:

8 Q. The information on the documents that you
9 execute is stored within your data base?

10 A. No, somewhere else.

11 Q. No. Okay. The information then is that --
12 your team, they get that from a computer network that
13 you have, correct?

14 A. No.

15 Q. Where does your team get that information?

16 A. That information is first given to the
17 attorney to foreclose under which name as needed. If we
18 are stating some type of assignment, for example, the
19 attorney, to my knowledge, and I'm not 100 percent sure
20 of their process because I don't work for the attorney,
21 they would do a title check to verify what name the lien
22 is presently in.

23 Q. Okay.

24 A. At that point is when it would initial if an
25 assignment would be needed or not.

1 Q. So at the direction of the attorney, your team
2 creates these documents and then you execute them?

3 MS. ARROYAVE: Objection: Form.

4 BY MR. IMMEL:

5 Q. So your team executes documents at the request
6 of attorneys?

7 MS. ARROYAVE: Objecting: Form. You can
8 still answer it if you understand the question.

9 BY MR. IMMEL:

10 Q. Do you understand what I'm asking?

11 A. Yes, I understand what you're asking. My team
12 does not create any documents.

13 Q. These documents are then sent from the
14 attorney?

15 A. Yes.

16 Q. Okay. And you're -- so then the team that you
17 oversee --

18 A. Uh-huh.

19 Q. -- simply reviews them for accuracy?

20 A. That's correct.

21 Q. Okay. And how do they verify the information
22 is accurate?

23 A. They do not go into the system and verify the
24 information as accurate. We are relying on our attorney
25 network to ensure that they are asking for the correct

1 information.

2 Q. So the attorney creates these documents and
3 you are relying that the attorney is correct?

4 A. Yes.

5 MS. ARROYAVE: Objection: Form.

6 BY MR. IMMEL:

7 Q. Okay. And then they are required to be
8 notarized. Are they notarized in your office?

9 A. Yes.

10 Q. Is the notary present with you or is it down
11 the hall?

12 A. The notary is in the same department.

13 Q. Same department. Okay. Are they physically
14 present when you (sic) notarize this -- or when they
15 notarize and then you execute it?

16 A. No, they are not physically present. But I
17 will -- I do deliver them to the notary.

18 Q. All right.

19 A. And I wait for them to notarize it to hand
20 them back to my team.

21 Q. Okay. All right. What department then? You
22 said your department?

23 A. Right.

24 Q. And as part of their job responsibilities,
25 would notarizing be their sole responsibility, or do

1 they have other responsibilities?

2 A. They have other responsibilities.

3 Q. Are any of the members of your team, people
4 that also notarize documents that you execute?

5 A. Yes.

6 Q. Yes. Okay. Is there a job requirement that
7 certain employees become notaries?

8 A. I don't know.

9 Q. Okay. And what type of -- what level of a
10 type of employee would it typically be that is a notary?

11 A. I don't know that either.

12 Q. All right. Does the company pay for the
13 process of becoming a notary or the renewal fees?

14 A. Yes.

15 Q. Okay. If a notary feels that they are being
16 asked to notarize something that's done improperly, is
17 there a process which they can, you know, raise that to
18 anybody's attention?

19 A. I honestly don't know.

20 Q. You are not sure. Do you notarize any
21 assignments of mortgage or other documents yourself?

22 A. No.

23 Q. Are you a notary?

24 A. No.

25 Q. How are witnesses ordinarily chosen?

1 MS. ARROYAVE: Object: Form.

2 Chosen for what?

3 BY MR. IMMEL:

4 Q. The witnesses to, say, the assignments of the
5 mortgage, and the witnesses of things that you execute.

6 A. They are just chosen randomly.

7 Q. Chosen randomly. Okay. Approximately how
8 many days a week do you spend executing assignments,
9 affidavits, and the various documents that you execute?

10 A. Five.

11 Q. Five. Okay. Are there any specific days
12 where it's one day these types of documents, this type
13 of documents, or can it be just a mix?

14 A. It's a mix.

15 Q. Okay. Approximately how many documents would
16 you say are presented to you by your team at a given
17 time? Is it one at a time, or ten at a time?

18 A. It is done in bulk.

19 Q. Done in bulk.

20 A. I could not quote you the exact number.

21 Q. Okay. Going back to the signing officer as
22 Mortgage Electronic Registration Systems, you said that
23 you are -- you sign as both vice president and as an
24 assistant secretary?

25 A. That is correct.

1 Q. Is there any basis for one -- you sign as one
2 versus the other?

3 A. The majority of the time I sign as a vice
4 president. Most times we do not need an assistant
5 secretary, unless they are asking for a second signature
6 on any type of an affidavit or assignment.

7 Q. Okay. And, again, you are not paid by MERS.
8 Do you hold any other responsibilities with MERS that
9 would be consistent with having the title of a vice
10 president?

11 A. No.

12 Q. No. Okay. So you don't attend any board
13 meetings for MERS?

14 A. No.

15 Q. You don't report to the secretary of MERS or
16 any other people at MERS?

17 A. No.

18 Q. How did you become a MERS representative? Did
19 you request to be a vice president of MERS?

20 A. I received the responsibility as being the
21 team lead for document executing. It was assigned to me
22 by our legal area.

23 Q. Okay. All right. So your responsibilities as
24 a vice president of MERS to execute the assignments is
25 really your job perspective, or an aspect of your job at

1 GMAC Mortgage, LLC or GMAC, LLC?

2 A. That is correct.

3 Q. Okay. And you've never been to any MERS
4 offices or their headquarters?

5 A. No.

6 Q. Are you aware of why you were given the title
7 of vice president versus assistant secretary or...

8 A. No, I'm not aware of that.

9 Q. Okay. All right. I have here the assignment
10 of mortgage which you executed in this case.

11 A. Okay.

12 MR. IMMEL: I'll enter that as Exhibit A.

13 (Defendant's Exhibit Letter A was marked for
14 identification.)

15 MR. IMMEL: I have a copy for you, as well.

16 THE WITNESS: Thank you.

17 BY MR. IMMEL:

18 Q. In the top left-hand corner it says, Record
19 and return to offices of Marshall C. Watson.

20 Based on your earlier statements, it's
21 accurate to say that attorneys at Marshall C. Watson
22 created the information on this document?

23 MS. ARROYAVE: Objection: Form.

24 THE WITNESS: That would be correct.

25

1 BY MR. IMMEL:

2 Q. Okay. And who -- so an attorney chose the
3 date of the 4th day of March, 2009.

4 Can you tell me the date actually. Whether
5 that's the 3rd or the 5th of March.

6 A. To me it seems to be the 5th.

7 Q. Okay.

8 A. Actually, excuse me, let me change that. It
9 would have to be the 3rd, because the notary did it on
10 the 4th.

11 Q. Okay. And that is your signature on this
12 document?

13 A. That is correct.

14 Q. Okay. Is it commonplace then for the notary
15 to notarize a document the day after you've apparently
16 executed it?

17 MS. ARROYAVE: Objection: Form.

18 THE WITNESS: I would say, yes, it would be
19 common.

20 BY MR. IMMEL:

21 Q. Okay. So typically when you hand these off to
22 the notary, and then they kind of catch up?

23 A. Uh-huh. Yes.

24 Q. Okay. The witnesses, Heather Reinhart, do you
25 know her personally?

1 A. Yes, she is one of my employees.

2 Q. Is she on your team?

3 A. Yes.

4 Q. Is it possible that she would have been one of
5 the people who reviewed this for accuracy?

6 A. That is possible.

7 Q. And the other person appears to be Tyra
8 Wilks --

9 A. Wilson.

10 Q. Tyra Wilson. Okay. Is she also a member of
11 your team?

12 A. Yes.

13 Q. And you know her personally, as well?

14 A. Yes.

15 Q. The notary, Susan Turner, is she a member of
16 your team?

17 A. No, she is not.

18 Q. Do you know her personally?

19 A. Yes.

20 Q. It says here that you personally appeared
21 before her on the 4th day of March. Is it possible that
22 you executed then on the 3rd, and handed it to her and
23 then you weren't personally in front of her at the time
24 she notarized this?

25 A. I don't know. I can't recollect.

1 Q. All right. And how did you determine on this
2 to execute it to GMAC Mortgage, LLC?

3 MS. ARROYAVE: Objection: Form.

4 THE WITNESS: I'm not sure if I understand the
5 question.

6 BY MR. IMMEL:

7 Q. Okay. Did you have any say in the creation of
8 who MERS would assign this to?

9 A. No.

10 Q. No. Your attorney, the Law Office of Marshall
11 C. Watson, determined that?

12 A. No.

13 Q. No.

14 A. That is, as I stated earlier, when the
15 foreclosure referral goes out, the referral unit
16 determines what entity they should be foreclosing on.

17 Q. Okay. And the foreclosure referral unit that
18 you speak of, is that part of your department?

19 A. Yes.

20 Q. Okay. So would they have records that they
21 are able to refer to to determine who the new mortgagee
22 should be according to these assignments?

23 A. Yes.

24 Q. And who -- do you have a name of any person
25 that keeps those documents?

1 A. The team lead for that would be Brenda.

2 Q. Brenda?

3 A. Her last name is Staehle, S-T-A-E-H-L-E.

4 Q. Okay.

5 A. I think that's the way it's spelled.

6 Q. Can you tell me -- you really don't have any
7 knowledge or information as to who should be the
8 mortgagee? According to this document, you take it for
9 face value; is that correct?

10 MS. ARROYAVE: Objection: Form.

11 THE WITNESS: Can you explain that further?

12 BY MR. IMMEL:

13 Q. You take it for face value that GMAC Mortgage,
14 LLC is expected to be the mortgagee?

15 MS. ARROYAVE: Objection: Form.

16 BY MR. IMMEL:

17 Q. Who would have information who -- who MERS
18 should assign this to? Would it be you or Brenda
19 Staehle?

20 A. Brenda Staehle would be the individual or her
21 team to refer the files, and they determine what name
22 should be foreclosing in.

23 Q. Okay. So everything from that point on is
24 based on the presumption that her team has ascertained
25 those things to be correct?

1 A. That is correct.

2 MS. ARROYAVE: Objection: Form.

3 BY MR. IMMEL:

4 Q. All right. Okay. So on March 5th, 2009,
5 you're not aware --

6 A. I believe it's the 3rd.

7 Q. March 3rd. I'm sorry. March 3rd, 2009,
8 you're not aware of any physical transfer of the
9 mortgage?

10 A. Can you rephrase that? I'm not following.

11 Q. Are you aware of any reason why the assignment
12 of mortgage had to be executed on March 5th, 2009 -- or
13 the 3rd, 2009? I'm sorry.

14 A. We have a process that's set up with our
15 attorney network. And Marshall Watson is in that
16 attorney network. The file is referred to them with a
17 certain name to proceed with the foreclosure in. They
18 will pull title. And whatever they see title is in, in
19 order to proceed in the proper name, they need to get an
20 assignment. In this instance it's MERS to GMAC.

21 Q. Okay. Are the assignments supposed to be
22 completed prior to the filing of the foreclosure
23 lawsuit?

24 MS. ARROYAVE: Objection: Form.

25

1 BY MR. IMMEL:

2 Q. Are you aware if it's a company policy at
3 least?

4 A. I don't know.

5 Q. Okay. So as this assignment of mortgage, on
6 the face of it, transfers from Mortgage Electronic
7 Registration Systems as nominee for Mortgage Investors
8 Corporation to GMAC Mortgage, LLC on March 3rd, 2009,
9 would it be accurate to say that prior to that, this
10 assignment, Mortgage Electronic Registration Systems was
11 the mortgagee?

12 A. No.

13 Q. No. Okay. Why would that not be accurate to
14 say?

15 A. Mortgage Electronic Registration, to my
16 knowledge, is an origination entity to allow the passing
17 of assignments through performing loans to make it more
18 easier, I guess you would say, to transfer amongst
19 different companies. MERS does not own loans.

20 Q. They wouldn't own the loan. But they would
21 own the mortgage; is that correct?

22 MS. ARROYAVE: Objection: Form.

23 THE WITNESS: It's not correct, no.

24 BY MR. IMMEL:

25 Q. No. So they are the named mortgagee, so that

1 when the note is passed from entity to entity it doesn't
2 have to be rerecorded?

3 A. That is to my knowledge, yes.

4 Q. All right. On this it also says that MERS is
5 assigning the mortgage together with the note. I don't
6 know if you see that line there. It's right there
7 (indicating).

8 As you just stated, MERS has no interest in
9 the note ever; is that correct?

10 A. I honestly don't know.

11 Q. Oh, okay. As far as you're aware --

12 A. Yes.

13 Q. -- MERS doesn't --

14 A. As far as I'm aware. (Witness nods head.)

15 Q. Okay. Are you aware of whether that's common
16 language to exist in the assignments that you execute?

17 A. I honestly don't know.

18 Q. You're not sure. Okay. All right.

19 MR. IMMEL: And I have a copy of the first
20 page of the mortgage here. Which I'll enter as
21 ExhibitB.

22 (Defendant's Exhibit Letter B was marked for
23 identification.)

24 BY MR. IMMEL:

25 Q. If you will notice it says that the mortgagee

1 according to the mortgage is Mortgage Electronic
2 Registration Systems.

3 I believe it's right down there (indicating).

4 A. I disagree with that interpretation.

5 MS. ARROYAVE: Was there a question?

6 MR. IMMEL: Yes.

7 MS. ARROYAVE: What was the question?

8 BY MR. IMMEL:

9 Q. According to the mortgage, it says that MERS
10 is the mortgagee?

11 A. My interpretation, it says right in the same
12 paragraph, it says they are a nominee for the lender or
13 the lender successors.

14 Q. Right. Okay. They are the mortgagee as
15 nominee --

16 A. Uh-huh.

17 Q. -- for the lenders?

18 A. Yes.

19 Q. Okay. But they are a different entity from
20 the lender and lender successors and things?

21 A. Yes.

22 Q. Okay. What does nominee in that regards mean?

23 A. I don't know.

24 Q. Okay. We can move on from there.

25 I have here -- which I'll enter as Exhibit

1 C -- some discovery that we received from MERS.

2 (Defendant's Exhibit Letter C was marked for
3 identification.)

4 BY MR. IMMEL:

5 Q. And if you will turn to the second page. It
6 is the document entitled, Min Summary.

7 And have you ever seen these records before?

8 A. No, I have not.

9 Q. So in executing the assignments of mortgage on
10 behalf of MERS, do you consult any of MERS' records?

11 A. No.

12 Q. And you are not able to tell me what any of
13 these entries would then mean? This is the first time
14 you have seen this type of information?

15 A. In this format, yes.

16 Q. Okay. Have you seen this type of information
17 in other formats?

18 A. Some of it. I understand what they mean as
19 far as the acronyms in there.

20 Q. Okay. Based on your understanding, the
21 investor says -- the investor is identified as
22 Government National Mortgage Association - Ginnie Mae.
23 What does the word "investor" mean in MERS' acronym?
24 Are you aware?

25 A. I'm not sure how I can explain it. GMAC would

1 be the holder and the owner of the mortgage. GMAC would
2 be the investor who is in the organization that
3 contributed the fund. That's really the only way I can
4 explain the relationship of an investor and servicer.

5 Q. Okay.

6 A. But that's only to my knowledge. I mean, I
7 don't work in that fashion.

8 Q. Okay. So the servicer is supposed to take on
9 the day-to-day activities of administering the mortgage
10 of loan and collecting payments and so forth?

11 A. That would be correct.

12 Q. And they do that on behalf of the investor who
13 loaned the monies?

14 A. Yes.

15 Q. Okay. And any monies that are received from
16 the servicers, would they really be for the investor
17 then to pay him back the loan?

18 A. I don't know.

19 Q. Okay. And as custodian, also, that would mean
20 that they are in possession of the mortgage file,
21 essentially, the note and any other applicable
22 documents?

23 A. That's correct.

24 Q. Okay. All right. Where it has the pool
25 number and it is blacked out. Do you know what the pool

1 number refers to?

2 A. No, I don't.

3 Q. No. Okay. And what about the investor loan
4 number?

5 A. Yes, I understand what that is.

6 Q. And what would that relate to?

7 A. Every investor would have their own loan
8 number. The same as GMAC would have their own loan
9 number to classify the different files.

10 Q. Okay. And are you aware of how a mortgage
11 that has been securitized, a mortgage note that's been
12 securitized, would be reflected on something like this,
13 on this summary?

14 A. I am not familiar.

15 Q. You are not familiar. Okay. Are you aware of
16 anyone at GMAC Mortgage, LLC that has access to these
17 MERS documents and records?

18 A. No, I'm not.

19 Q. You are not aware. Okay. Are you aware of
20 anybody at GMAC that would have a responsibility to
21 update the MERS documentation?

22 A. No.

23 Q. Okay. So the various individuals at GMAC that
24 execute assignments on behalf of MERS have no
25 responsibility to update the MERS' system that they had

1 actually done those assignments or anything like that?

2 A. That would be correct.

3 Q. Okay. Are you aware then of how the MERS'
4 system is updated?

5 A. No.

6 Q. Okay. As a vice president, do you owe a
7 fiduciary duty to the original lender to ensure that the
8 mortgage is assigned to the proper entity?

9 MS. ARROYAVE: Objection: Form.

10 THE WITNESS: I actually don't understand your
11 question.

12 BY MR. IMMEL:

13 Q. Do you own any duty to the -- when you assign
14 these mortgages, you execute them as -- for MERS as
15 nominee for a particular entity, correct?

16 A. That would be correct.

17 Q. Do you owe any responsibility then to that
18 particular entity that MERS is nominee for to ensure
19 that the mortgage is transferred to the new correct
20 entity?

21 A. I don't know.

22 Q. Okay. All right.

23 MR. IMMEL: I have the corporate resolution
24 here. Which I'll enter it as Exhibit D.

25

1 (Defendant's Exhibit Letter D was marked for
2 identification.)

3 BY MR. IMMEL:

4 Q. Have you seen this document before?

5 A. Yes, I have.

6 Q. When was the first time you saw it?

7 A. I'm sorry, I can't say. I don't recollect.

8 Q. You're not sure. Is it fair to say it was
9 quite a while ago?

10 A. Yes.

11 Q. Did you have any role in creating it or
12 negotiating it?

13 A. No, I did not.

14 Q. No. Okay. The first paragraph says that you
15 are authorized to assign a lien of any mortgage loan
16 registered on the MERS register to the member.

17 Who would be the member according to this?
18 Would that be GMAC Mortgage, LLC?

19 A. I don't know.

20 Q. Okay. Assign the lien, in paragraph 2, of any
21 mortgage loan naming MERS as the mortgagee when the
22 member is also the current promissory note-holder, or if
23 the mortgage loan is registered on the MERS system, is
24 shown to be registered to the member.

25 When you are assigning liens, you already

1 stated that you don't consult with any of the MERS
2 records to determine whether or not it's registered to
3 who -- whoever?

4 MS. ARROYAVE: Objection: Form. Asked and
5 answered. Mischaracterization of prior testimony.
6 BY MR. IMMEL:

7 Q. Okay. You don't consult MERS system when
8 assigned these liens?

9 A. Yes.

10 MS. ARROYAVE: Asked and answered.

11 BY MR. IMMEL:

12 Q. All right. Okay. But is it fair to say that
13 you don't ascertain whether the member is the current
14 promissory note-holder when you assign the lien?

15 A. That would be correct.

16 Q. And you also don't know if the mortgage loan
17 is registered on the MERS system?

18 A. We are relying on our attorney network when
19 they check the title --

20 Q. Okay.

21 A. -- to verify what title it is presently in.
22 If it is MERS, we would sign for MERS.

23 Q. Okay.

24 MR. IMMEL: Exhibit E.

25

1 (Defendant's Exhibit Letter E was marked for
2 identification.)

3 BY MR. IMMEL:

4 Q. Here is the GMAC Mortgage, LLC certificate of
5 assistant secretary. Here you go.

6 And you are considered a limited signing
7 officer giving you basically the same responsibility as
8 a junior officer?

9 MS. ARROYAVE: Objection: Form.

10 THE WITNESS: I don't know if that's a correct
11 statement.

12 BY MR. IMMEL:

13 Q. Okay. Are you familiar with this document?

14 A. I have a copy of this document. Which to my
15 recollection means that next to my name it gives me the
16 authority to sign for GMAC and its entities as a limited
17 signing officer.

18 Q. Okay. In this case, you also filed an
19 affidavit of lost original document?

20 MS. ARROYAVE: Objection: Form.

21 BY MR. IMMEL:

22 Q. Okay. And you executed this document. Is
23 this your signature? Here is a copy of it.

24 MR. IMMEL: I'll enter this as Exhibit F, I
25 believe.

1 (Defendant's Exhibit Letter F was marked for
2 identification.)

3 THE WITNESS: Yes, that is my signature.

4 BY MR. IMMEL:

5 Q. Okay. And you signed this affidavit claiming
6 that at the time plaintiff was not presently in custody
7 or control of plaintiff or any of plaintiff's agents,
8 and that would be the note that was not in your -- their
9 custody or control?

10 A. Yes. Once again, we have a process in place
11 where if our attorney needs an original document, they
12 open up a request in our system. At that time, we have
13 another unit -- which is not located in Pennsylvania
14 where I am located -- contact custodians, contact their
15 own records, go to different investors. They do not do
16 an affidavit of this fashion unless they've exhausted
17 all efforts.

18 Q. Okay. Would it be fair to say that you're not
19 involved in any of those efforts?

20 A. That is fair to say.

21 Q. Okay. Why then do they ask you to execute the
22 affidavit of lost document -- lost original document?

23 A. They asked me to execute this for the
24 foreclosure department. Because after conversations
25 between the attorney and this other department, they

1 determine that it is not available. I am the
2 foreclosure team lead that handles document execution.

3 Q. Okay. So would it be accurate to say that the
4 department that actually searches for the lost note
5 would have a better understanding of why it's lost and
6 where the search occurred?

7 A. That is a fair statement.

8 Q. Okay. It says that the copy of said note
9 attached to the complaint is a true and correct and
10 substantial copy of the lost or destroyed note.

11 Do you review any documents before executing
12 the affidavits of lost original documents?

13 A. No, I do not. I review this. Let me change
14 this. Excuse me. I do review this. However, I do not
15 review any documents. I rely, once again, on my
16 attorney network who is requesting the document, and
17 communications between the departments to determine if
18 it's -- if a lost affidavit is needed.

19 Q. Okay. So the portion that sets claims in
20 paragraph 1: Affiant has custody and personal knowledge
21 of the account pertaining the original mortgage loan
22 instruments. Affiant has actual and personal knowledge
23 of the facts stated herein and is authorized to make
24 this affidavit. Would that be accurate?

25 A. Yes, that is accurate.

1 Q. You being the affiant have custody and
2 personal knowledge of the account pertaining to the
3 original mortgage loan instruments?

4 MS. ARROYAVE: Object to the form. Go ahead.

5 THE WITNESS: I do not have the specific
6 knowledge to this one account. But I understand
7 what the other department does in general to try to
8 locate these documents.

9 BY MR. IMMEL:

10 Q. Okay. All right. And so in this particular
11 case, the -- there was no note attached to the
12 complaint. You would have no way of ascertaining that
13 because you don't actually review?

14 A. That, once again, is determined by our
15 attorneys' office.

16 Q. Okay. I'm going to just -- I have a
17 substantial copy of the complaint. And just to show
18 that there is no note attached to it, that was the
19 original filing of the complaint.

20 You have never reviewed that, nor do you
21 review any other note to determine whether it is, in
22 fact, a true, correct and substantial copy of the lost
23 or destroyed note?

24 MS. ARROYAVE: Objection: Form.

25 THE WITNESS: Can you rephrase that for me? I

1 don't completely follow what you are saying.

2 BY MR. IMMEL:

3 Q. When you execute the affidavit of lost
4 original document, and make the claim that you've seen a
5 copy of the note that is attached and that's a
6 substantial copy, you really have no basis for making
7 that claim.

8 THE WITNESS: I'm still not following.

9 MS. ARROYAVE: Objection: Form.

10 BY MR. IMMEL:

11 Q. When the complaint in this case was filed,
12 there was no note attached to the complaint, correct?

13 A. From what you have just handed to me, there is
14 no note.

15 Q. Okay. Based on what I've provided you.

16 A. Yes.

17 Q. Do you normally review notes to make sure that
18 they are a true copy of the lost note?

19 MS. ARROYAVE: Objection: Form.

20 THE WITNESS: That is -- no, I do not. It is
21 not in my position.

22 BY MR. IMMEL:

23 Q. It's not in your position.

24 MR. IMMEL: All right. I guess I can enter
25 this a Exhibit G.

1 (Defendant's Exhibit Letter G was marked for
2 identification.)

3 BY MR. IMMEL:

4 Q. And going back, just for a second, to the lost
5 note affidavit. That is your signature?

6 A. Yes, that's correct.

7 Q. And your understanding is that the attorney
8 representing -- from your network drafts this?

9 A. That is correct.

10 Q. Okay.

11 MR. IMMEL: This is going to be Exhibit H.

12 (Defendant's Exhibit Letter H was marked for
13 identification.)

14 BY MR. IMMEL:

15 Q. This is a copy of the note filed after the
16 complaint in this case. I don't have the notice of
17 filing page.

18 Have you ever seen this document before?

19 A. I have seen these documents. I have not seen
20 this document.

21 Q. Okay. And this wouldn't have been the
22 document that you reviewed in executing the lost note
23 affidavit?

24 A. No. We do not -- once again, we do not review
25 the note. Our attorney determines that the note is not

1 available through our processes.

2 Q. Okay.

3 MR. IMMEL: This would be Exhibit I.

4 (Defendant's Exhibit Letter I was marked for
5 identification.)

6 BY MR. IMMEL:

7 Q. This is the newly found note. Here. And as
8 you can see, if you could compare the two notes, one has
9 a couple of additional endorsements. Whereas, the
10 previous one did not. Is that correct?

11 A. That is what I observe here, yes.

12 Q. Okay. In the review of the two notes and the
13 endorsements that are on them, have you seen this type
14 of situation before where one note that's been filed in
15 the case is partially endorsed and the other is a more
16 complete record of endorsements?

17 A. No, I have not.

18 Q. In following along the endorsements, can you
19 determine who was the last owner of the note prior to
20 your companies?

21 A. I'm sorry. Can you rephrase that for me?

22 Q. Can you determine who GMAC Mortgage, LLC has
23 acquired the mortgage note from?

24 A. The first endorsement I see here has a date.
25 It says, Mortgage Investor Corporation. It's signed on

1 February 27th, I believe, that's 2002.

2 Q. All right. And they were the original lender.
3 And then, as you can see, there is another endorsement
4 there to, I believe, GMAC Mortgage Corporation. And
5 there is also one GMAC Bank. Correct?

6 A. That is correct according to the observation
7 that I see on this document.

8 Q. So would you need an assignment from -- why do
9 you assign the MERS -- as a vice president of MERS, why
10 do you assign the MERS -- I'm sorry. Let me start over
11 there.

12 Why do you execute the assignment of mortgage
13 on behalf of MERS as nominee for the original lender and
14 not the last lender?

15 MS. ARROYAVE: Objection: Form.

16 THE WITNESS: Because as you stated, it's an
17 assignment of mortgage. It's not an assignment of
18 note.

19 BY MR. IMMEL:

20 Q. Right.

21 A. That's the only way I can answer that. The
22 mortgage itself, which we've both reviewed, states that
23 it's MERS as a nominee for Mortgage Investor
24 Corporation.

25 Q. Okay. So would you agree then that as the

1 note was transferred through these endorsements to new
2 note-holders and owners that MERS remained the
3 mortgagee?

4 MS. ARROYAVE: Objection: Form.

5 THE WITNESS: I wouldn't have that knowledge.

6 BY MR. IMMEL:

7 Q. Okay. It's your understanding that MERS does
8 not assign the mortgage every time the note is
9 transferred; is that correct?

10 MS. ARROYAVE: Objection: Form.

11 THE WITNESS: I wouldn't have that knowledge
12 either.

13 BY MR. IMMEL:

14 Q. Okay. All right. Do you know who would have
15 that knowledge?

16 A. No, I do not.

17 Q. Okay. All right.

18 MR. IMMEL: And we have here defendant's
19 request for production regarding the Jeffrey
20 Stephan documents. That will be Exhibit J.

21 (Defendant's Exhibit Letter J was marked for
22 identification.)

23 BY MR. IMMEL:

24 Q. Have you seen that document before?

25 A. I have not seen this document until recently

1 when I found out that I was coming here.

2 Q. Okay. And also we have the response to the
3 request for production regarding the Jeffrey Stephan
4 document.

5 MR. IMMEL: That will be marked as Exhibit K.
6 (Defendant's Exhibit Letter K was marked for
7 identification.)

8 BY MR. IMMEL:

9 Q. I'm going to direct you to paragraph 5 where
10 there has been an objection based on our request for all
11 MERS system documents, records, computer data, or other
12 MERS information reviewed by Jeffrey Stephan prior to
13 executing the assignment of mortgage filed in this case
14 to determine the proper SNE.

15 It's been objected to as vague and ambiguous
16 and improperly presumes that plaintiff has custody or
17 control over any MERS system documents.

18 As a MERS vice president, you don't have
19 access to any MERS system documents?

20 A. No, I do not.

21 Q. Okay.

22 A. I do not work for MERS.

23 Q. Okay. And so you don't actually review any
24 documents prior to executing the assignment of mortgage?

25 MS. ARROYAVE: Asked and answered.

1 BY MR. IMMEL:

2 Q. Okay. And are there any -- do you receive any
3 letters, e-mails, or other correspondence from other
4 departments that have given you any instruction on any
5 of the documents which you execute?

6 A. No.

7 Q. No. And in paragraphs -- request No. 7, as
8 far as the search for the lost note, you didn't actually
9 partake in that search. So you are not aware of any of
10 the locations searched, other than by other people?

11 A. That's correct.

12 Q. Do you know who those people would be that
13 searched for the note?

14 A. There is a team that's in our Minnesota
15 office. I am not familiar with who would actually
16 search for the said document.

17 Q. What is the name of that team? Do you know
18 the name of that team?

19 A. I don't have a formal name for them. I call
20 them document control. But that's my own name for them.

21 Q. Okay. All right. You said that the attorneys
22 representing you prior in this case only ask you to
23 execute the lost note affidavit after a substantial
24 effort has occurred?

25 MS. ARROYAVE: Objection. That goes into the

1 attorney-client privilege.

2 BY MR. IMMEL:

3 Q. As far as you understand, a substantial search
4 for the lost note has already occurred by various people
5 within your team, other teams within GMAC at the request
6 of the attorneys?

7 A. Within GMAC the lost note affidavit or lost
8 instrument affidavit would not be executed until
9 everything has been exhausted.

10 Q. Okay. Is it common for a lost note affidavit
11 to be executed and then later the note to be found?

12 A. I don't know.

13 Q. You're not sure. Okay. Earlier you were
14 mentioning that now you work for GMAC, LLC; is that
15 correct?

16 A. That is correct.

17 Q. And you still execute documents as GMAC
18 Mortgage, LLC limited signing officers, as well?

19 A. That's the same thing you just stated.

20 Q. Right. One they dropped the name -- the
21 mortgage from the name, and one they haven't; is that
22 correct?

23 A. No.

24 Q. No.

25 A. One they dropped corporation and changed it to

1 LLC.

2 Q. Oh, okay.

3 A. They became a limited liability company.

4 That's what LLC stands for.

5 Q. Okay. You said that there was an -- initially
6 there was a referral from the referral department to the
7 attorneys?

8 A. That would be correct.

9 Q. Do you ever review any of those documents in
10 your duties as executing these other documents?

11 A. No.

12 Q. So I'm going to turn to the -- this is the
13 note of authenticity ownership interrogatories limited
14 answers. Here you are.

15 MR. IMMEL: That will be Exhibit L.

16 (Defendant's Exhibit Letter L was marked for
17 identification.)

18 BY MR. IMMEL:

19 Q. Do you know, I think, it is Juan A. Aquirre?

20 A. I do not know him. But I am familiar with his
21 name.

22 Q. Okay. Are you familiar with his duties? He's
23 a senior litigation analyst.

24 A. Yes.

25 Q. Do you know if he's a senior litigation

1 analyst for GMAC Mortgage, LLC, or are there other
2 entities that he works for?

3 A. I honestly do not know.

4 Q. Okay. Would he be part of the document team
5 in Minnesota that may find a note?

6 A. No.

7 Q. No. Okay. Would he be somebody, do you know,
8 if in his duties he's somebody that searches for lost
9 documents?

10 A. No.

11 Q. Okay.

12 MS. ARROYAVE: Is that, no, you don't know?

13 THE WITNESS: No. He does not do that.

14 BY MR. IMMEL:

15 Q. He doesn't do that. Do you know what his
16 duties are?

17 A. As it states here, he is a senior litigation
18 analyst. I'm not sure of what his exact
19 responsibilities would be.

20 Q. Okay. But searching for lost documents
21 wouldn't be one of his responsibilities, more than
22 likely?

23 A. No, it would not be.

24 Q. Okay. And here are plaintiff's amended
25 answers. Okay.

1 MR. IMMEL: I'll mark it as Exhibit M.

2 (Defendant's Exhibit Letter M was marked for
3 identification.)

4 BY MR. IMMEL:

5 Q. It asks to identify all persons and/or
6 entities who are the current beneficial owners of, or
7 who have a beneficial or equitable interest in the
8 promissory note. And Federal National Mortgage
9 Association has been identified, Fannie Mae.

10 Are you aware -- and then if you look at No.
11 3, it says, Please identify all person and/or entities
12 who are current legal owners of, or who have legal
13 interest in the promissory note.

14 A. I don't have the same affidavit you have.

15 Q. Okay. Defendant's note. Do you have the
16 mortgage loan?

17 A. That's the mortgage loan.

18 Q. Okay.

19 MS. ARROYAVE: What has been introduced? Has
20 this set of interrogatory been --

21 MR. IMMEL: Yes.

22 MS. ARROYAVE: But not the other?

23 MR. IMMEL: No. This was also entered,
24 correct?

25 THE COURT REPORTER: I think it was the last

1 one.

2 BY MR. IMMEL:

3 Q. So if you look at paragraphs 2 and 3, can you
4 explain to me why Fannie Mae would have the beneficial
5 or equitable interest in the promissory note, based on
6 your understanding?

7 MS. ARROYAVE: Objection. It calls for a
8 legal conclusion.

9 THE WITNESS: No, I can't.

10 BY MR. IMMEL:

11 Q. And earlier when we discussed the MERS
12 documentation where Ginnie Mae was identified as the
13 investor, would it be fair to say that the beneficial or
14 equitable interest would actually lie with the person
15 who made the loan?

16 MS. ARROYAVE: Objection. It calls for a
17 legal conclusion.

18 THE WITNESS: I don't have that knowledge.

19 BY MR. IMMEL:

20 Q. Okay. And based on the MERS documentation
21 that I presented to you earlier, where the investor was
22 identified as Ginnie Mae. In paragraph 5 here, they are
23 identifying Fannie Mae as the investor.

24 Do you have any understanding of -- as to why
25 those two things would --

1 A. No, I don't.

2 Q. -- there would be a discrepancy there? Okay.

3 All right.

4 And going back to the mortgage loan ownership
5 and the interrogatories one more time. Can you explain
6 why one entity would have the beneficial interest and
7 another entity would have a legal interest --

8 MS. ARROYAVE: Objection. It calls for a
9 legal conclusion.

10 BY MR. IMMEL:

11 Q. -- based on your company's protocols?

12 A. I don't have that knowledge.

13 Q. Okay. GMAC Mortgage owns some loans and
14 services other; is that correct?

15 A. To my knowledge that would be a correct
16 statement.

17 Q. Okay. Do they -- and then in other instances,
18 they both own loan and service the loan?

19 A. That would be a fair statement.

20 Q. Okay. Is it possible that GMAC Mortgage is
21 the servicer for this loan and another entity -- whether
22 it be Fannie Mae, Ginnie Mae, or any other entity --
23 perhaps is the owner and GMAC is just the servicer?

24 A. That's possible. But I'm not familiar enough
25 to say yes or no.

1 Q. Okay. All right. I'm just going to go over
2 the notice of taking the deposition duces tecum.

3 (Defendant's Exhibit Letter N was marked for
4 identification.)

5 BY MR. IMMEL:

6 Q. All right. This is -- and just for the
7 record, Exhibit A, if you would turn to that. This is a
8 list of the documents that we requested that you bring.
9 A request for production. And you provided some of them
10 earlier.

11 I just wanted to go over it and see if you
12 brought any of these documents today, or if you were
13 just relying on what was produced in the request for
14 production. Okay?

15 The deponent's most recent curriculum vitae?

16 A. I didn't feel I needed to bring that. That's
17 personal.

18 Q. Okay. You actually provided the corporate
19 resolution for MERS and for GMAC. You presented the
20 list of certifying officers. And the MERS system
21 documents records, you already stated that you don't
22 have any access.

23 Your team brings you the documents. And you
24 don't receive any direct communication from the
25 attorneys that draft them?

1 A. The only type of communication I would receive
2 from an attorney is if a document is late in being
3 returned.

4 Q. Okay. All right. And it would be fair to say
5 that your primary responsibility is to create and
6 execute these documents, not to actually do any of the
7 underlying duties of ascertaining specific knowledge or
8 information about them, correct?

9 MS. ARROYAVE: Objection: Form. Asked and
10 answered.

11 THE WITNESS: And the answer to that would be,
12 no.

13 MR. IMMEL: All right. I think that's most of
14 it. Just let me have on second to review, but I
15 think that's most of it. All right. I think that
16 should do it for today.

17 Thank you very much for traveling here.

18 MS. ARROYAVE: I have a few questions.

19 MR. IMMEL: Yeah. I'm sorry about that.

20 MS. ARROYAVE: You can't have all of the fun.

21 Can I look at the exhibits?

22 CROSS (JEFFREY STEPHAN)

23 BY MS. ARROYAVE:

24 Q. I'm going to show you what has been previously
25 marked as Defendant's Exhibit C to your deposition.

1 Do you have any knowledge of how this document
2 is created?

3 A. No.

4 Q. Do you have any knowledge as to whether the
5 information in this document is accurate?

6 A. No.

7 Q. Do you know how this is prepared?

8 A. No.

9 Q. Okay. Let me show you what has been
10 previously marked as Defendant's Exhibit A to your
11 deposition. It is the assignment of mortgage.

12 The information that is used to prepare this
13 mortgage is kept in GMAC Mortgages' business records; is
14 that correct?

15 A. Yes.

16 Q. And these business records from where this
17 information came from were created by persons in GMAC
18 Mortgage, employees of GMAC Mortgage, right?

19 A. Yes.

20 Q. And the information was entered into the
21 computer system by these GMAC Mortgage employees at the
22 time that they became aware of the information?

23 A. Yes.

24 Q. And they had a business duty to enter the
25 information into the computer system; is that correct?

1 A. Yes.

2 Q. And this information, these business records
3 are kept within the course and scope of GMAC's regularly
4 conducted business activities; is that correct?

5 A. I'm going to say yes.

6 Q. Okay. I'm going to show you what has been
7 previously marked as Defendant's Exhibit F to your
8 deposition. And it's the affidavit of lost original
9 document.

10 Is the information you used to prepare this
11 lost original document kept in GMAC Mortgages' business
12 records?

13 A. I don't understand the question.

14 Q. Okay. The information in the lost original
15 document, is that -- GMAC Mortgage is the owner and
16 holder of the note, correct?

17 A. Yes.

18 Q. Is that information kept within the course and
19 scope of GMAC's business records?

20 A. Yes.

21 Q. And the information in GMAC's business records
22 are entered by persons with knowledge of the information
23 that GMAC is the owner of the note?

24 MR. IMMEL: Objection: Leading.

25 THE WITNESS: Can you rephrase it? I'm not

1 sure if I follow what you are saying.

2 BY MS. ARROYAVE:

3 Q. The business records that GMAC has regarding
4 whether it is the original -- whether it is the owner of
5 the note, was entered by persons that have personal
6 knowledge of whether GMAC is the owner of the note; is
7 that correct?

8 A. I honestly don't know. I do not work in those
9 departments.

10 Q. Okay.

11 MS. ARROYAVE: I have nothing further.

12 REDIRECT (JEFFREY STEPHAN)

13 BY MR. IMMEL:

14 Q. I would just ask: The assignment of the
15 mortgage and the information on it, this is not created
16 by anyone at -- this specific document isn't actually
17 created by a member or a worker for GMAC Mortgage, it is
18 actually created by the attorney?

19 A. Yes.

20 Q. Okay. So the attorney would have to be
21 relying on business records of GMAC Mortgage in forming
22 this?

23 A. That would be correct.

24 Q. Okay. And as to the lost note, this too is
25 created by the attorney, correct?

1 A. That is correct.

2 Q. Okay.

3 MR. IMMEL: All right. That does it.

4 MS. ARROYAVE: That's it.

5 MR. IMMEL: All right. Thank you.

6 MS. ARROYAVE: We will read.

7 THE COURT REPORTER: Okay.

8 (Witness excused.)

9 (Deposition was concluded.)

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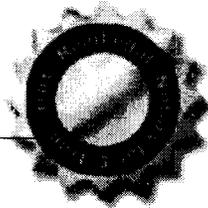
CERTIFICATE OF OATH

THE STATE OF FLORIDA
COUNTY OF PALM BEACH

I, the undersigned authority, certify that Jeffrey
Stephan personally appeared before me and was duly
sworn. Dated the 10th day of December, 2009.

Dated this 22nd day of December, 2009.

Jamie Reynolds Bentley



Jamie Reynolds Bentley, Court Reporter
Notary Public - State of Florida
My Commission Expires: 7/20/2013
My Commission No.: DD 453053

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C E R T I F I C A T E

THE STATE OF FLORIDA
COUNTY OF PALM BEACH

I, Jamie Reynolds Bentley, Court Reporter and Notary Public in and for the State of Florida at large, do hereby certify that I was authorized to and did report said deposition in stenotype; and that the foregoing pages are a true and correct transcription of my shorthand notes of said deposition.

I further certify that said deposition was taken at the time and place hereinabove set forth and that the taking of said deposition was commenced and completed as hereinabove set out.

I further certify that I am not attorney or counsel of any of the parties, nor am I a relative or employee of any attorney or counsel of party connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

Dated this 22nd day of December, 2009.



Jamie Reynolds Bentley, Court Reporter

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C E R T I F I C A T E

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THE STATE OF FLORIDA
COUNTY OF PALM BEACH

I hereby certify that I have read the foregoing deposition by me given, and that the statements contained herein are true and correct to the best of my knowledge and belief, with the exception of any corrections or notations made on the errata sheet, if one was executed.

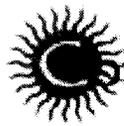
Dated this ____ day of _____,
2009.

JEFFREY STEPHAN

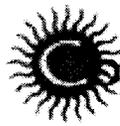


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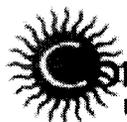
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MAINE DISTRICT COURT, DISTRICT NINE
DIVISION OF NORTHERN CUMBERLAND

FEDERAL NATIONAL :
MORTGAGE ASSOCIATION : DOCKET NO.
Plaintiff : BRI-RE-09-65

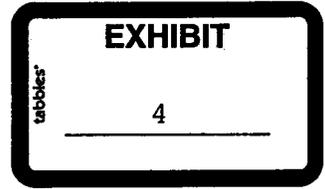
v. :

NICOLE M. BRADBURY :
Defendant :

and :
GMAC MORTGAGE, LLC :
d/b/a DITECH, LLC.COM :
and BANK OF AMERICA, NA :
Parties in Interest :

June 7, 2010

Oral deposition of JEFFREY D.
STEPHAN, taken pursuant to notice, was
held at the law offices of LUNDY FLITTER
BELDECOS & BERGER, P.C., 450 N. Narberth
Avenue, Narberth, Pennsylvania 19072,
commencing at 10:10 a.m., on the above
date, before Susan B. Berkowitz, a
Registered Professional Reporter and
Notary Public in the Commonwealth of
Pennsylvania.



2	<p>1 APPEARANCES:</p> <p>2 BRIAN M. FLEISCHER, ESQUIRE</p> <p>3 FLEISCHER, FLEISCHER & SUGLIA, P.C.</p> <p>4 Plaza 1000 at Main Street</p> <p>5 Suite 208</p> <p>6 Voorhees, New Jersey 08043</p> <p>7 (856) 489-8977</p> <p>8 bfleischer@fleischerlaw.com</p> <p>9 Counsel for GMAC</p> <p>10 THOMAS A. COX, ESQUIRE</p> <p>11 LAW OFFICES OF THOMAS A. COX</p> <p>12 P.O. Box 1315</p> <p>13 Portland, Maine 04104</p> <p>14 (207) 749-6671</p> <p>15 tac@gwi.net</p> <p>16 Counsel for Defendant,</p> <p>17 Nicole M. Bradbury</p> <p>18 VIA TELEPHONE:</p> <p>19 JULIA G. PITNEY, ESQUIRE</p> <p>20 DRUMMOND & DRUMMOND</p> <p>21 One Monument Way</p> <p>22 Portland, Maine 04101</p> <p>23 (207) 774-0317</p> <p>24 JPitney@ddlaw.com</p> <p>25 Counsel for GMAC and Fannie Mae</p>	4
3	<p>1 (Document marked Exhibit-1</p> <p>2 for identification.)</p> <p>3 - - -</p> <p>4 (It is hereby stipulated and</p> <p>5 agreed by and between counsel that</p> <p>6 sealing, filing and certification</p> <p>7 are waived; and that all</p> <p>8 objections, except as to the form</p> <p>9 of questions, be reserved until</p> <p>10 the time of trial.)</p> <p>11 - - -</p> <p>12 JEFFREY D. STEPHAN, after</p> <p>13 having been duly sworn, was</p> <p>14 examined and testified as follows:</p> <p>15 - - -</p> <p>16 MS. PITNEY: I would like to</p> <p>17 put on the record that we</p> <p>18 requested a stipulation, and</p> <p>19 Attorney Cox has denied our</p> <p>20 request for that stipulation. And</p> <p>21 that would be a stipulation that</p> <p>22 this deposition transcript be used</p> <p>23 for this case, FNMA versus</p> <p>24 Bradbury, only.</p> <p>25</p>	5
2	<p>1 STEPHAN</p> <p>2 MR. COX: Mr. Fleischer, we</p> <p>3 understand that Julia Pitney</p> <p>4 represents the plaintiff in this</p> <p>5 case. Who do you represent today?</p> <p>6 MR. FLEISCHER: I believe</p> <p>7 Ms. Pitney both represents Fannie</p> <p>8 Mae and GMAC, and I am here on</p> <p>9 GMAC's behalf.</p> <p>10 MR. COX: GMAC is neither a</p> <p>11 plaintiff nor defendant in this</p> <p>12 case, so we may have some issues</p> <p>13 around that, but we'll cross that</p> <p>14 bridge when we get to it.</p> <p>15 - - -</p> <p>16 EXAMINATION</p> <p>17 - - -</p> <p>18 BY MR. COX:</p> <p>19 Q. Mr. Stephan, for the record,</p> <p>20 would you state your full name, please?</p> <p>21 A. Jeffrey Stephan.</p> <p>22 Q. How old are you?</p> <p>23 A. I am 41, in June.</p> <p>24 Q. You live in Sellersville,</p> <p>25 Pennsylvania?</p>	4
3	<p>1 STEPHAN</p> <p>2 A. That is correct.</p> <p>3 Q. Have you had your deposition</p> <p>4 taken previously?</p> <p>5 A. In other cases, yes.</p> <p>6 Q. How many other cases?</p> <p>7 A. This will be my third time.</p> <p>8 Q. What other cases were you</p> <p>9 deposed in, to your recollection?</p> <p>10 A. In what kind of cases?</p> <p>11 Q. Well, can you remember the</p> <p>12 names of the cases?</p> <p>13 A. No, I don't.</p> <p>14 Q. When is the last time that</p> <p>15 you've had your deposition taken?</p> <p>16 A. I would approximate two,</p> <p>17 three months ago.</p> <p>18 Q. Was that in Florida?</p> <p>19 A. No. That was in New Jersey.</p> <p>20 Q. That would have been in</p> <p>21 2010?</p> <p>22 A. Yes.</p> <p>23 Q. Then you were deposed in</p> <p>24 Florida in December of 2009?</p> <p>25 A. That is correct.</p>	5

6	<p>1 STEPHAN</p> <p>2 Q. When was the other</p> <p>3 deposition, the third deposition?</p> <p>4 A. This one today is the third.</p> <p>5 Q. Have you testified in court</p> <p>6 as a witness before?</p> <p>7 A. No.</p> <p>8 Q. Did you review any documents</p> <p>9 to prepare for this deposition?</p> <p>10 A. Yes.</p> <p>11 Q. What documents did you</p> <p>12 review?</p> <p>13 A. I looked at the deposition</p> <p>14 that was sent to me. And I went over the</p> <p>15 Complaint with Brian.</p> <p>16 THE WITNESS: When was that,</p> <p>17 Thursday, Wednesday?</p> <p>18 MR. FLEISCHER: You're</p> <p>19 directed not to say anything with</p> <p>20 regard to what we spoke about,</p> <p>21 but, yes, you can answer to what</p> <p>22 you looked at.</p> <p>23 THE WITNESS: Yes.</p> <p>24 MS. PITNEY: I'm sorry to</p> <p>25 interrupt. I'm just having a</p>	8	<p>1 STEPHAN</p> <p>2 to?</p> <p>3 A. No.</p> <p>4 MR. FLEISCHER: Let him</p> <p>5 finish the question, and then</p> <p>6 respond, because it makes it</p> <p>7 cleaner for the transcript.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 BY MR. COX:</p> <p>10 Q. What is your educational</p> <p>11 background?</p> <p>12 A. I have a four-year degree at</p> <p>13 Penn State University in liberal arts.</p> <p>14 Q. When did you go to work for</p> <p>15 GMAC?</p> <p>16 A. I began work at GMAC</p> <p>17 September 30th of '04.</p> <p>18 Q. What was your work history,</p> <p>19 in a summary form, before you went to</p> <p>20 work for GMAC?</p> <p>21 A. I have done collections and</p> <p>22 mortgage foreclosures for other</p> <p>23 companies.</p> <p>24 Q. Who have you done mortgage</p> <p>25 foreclosure work for?</p>
7	<p>1 STEPHAN</p> <p>2 little difficulty hearing you. Is</p> <p>3 there any way to push the phone a</p> <p>4 little closer to Mr. Stephan?</p> <p>5 MR. FLEISCHER: Okay. And,</p> <p>6 Julia, let me know during the</p> <p>7 course if there's still a problem.</p> <p>8 MS. PITNEY: You were doing</p> <p>9 fine, and then it got a little</p> <p>10 fuzzy.</p> <p>11 THE WITNESS: I'll talk</p> <p>12 louder.</p> <p>13 MS. PITNEY: Thank you.</p> <p>14 BY MR. COX:</p> <p>15 Q. What deposition did you look</p> <p>16 at?</p> <p>17 A. The deposition for this</p> <p>18 case.</p> <p>19 Q. The Deposition Notice?</p> <p>20 A. Right, the Deposition</p> <p>21 Notice.</p> <p>22 Q. It was not another</p> <p>23 deposition transcript --</p> <p>24 A. No.</p> <p>25 Q. -- that you were referring</p>	9	<p>1 STEPHAN</p> <p>2 A. ContiMortgage, Fairbanks</p> <p>3 Capital, GMAC.</p> <p>4 Q. The first one, I'm not sure</p> <p>5 about. Is that Conti, C-O-N-T-E (sic)?</p> <p>6 A. C-O-N-T-I.</p> <p>7 Q. What period of time did you</p> <p>8 work for ContiMortgage?</p> <p>9 A. I began there in '92. I</p> <p>10 believe I left there in '98.</p> <p>11 Q. What years, approximately,</p> <p>12 did you work for Fairbanks Capital?</p> <p>13 A. '98 to '04.</p> <p>14 Q. You work in the GMAC</p> <p>15 Mortgage office in Fort Washington,</p> <p>16 Pennsylvania; is that correct?</p> <p>17 A. That is correct.</p> <p>18 Q. Approximately, how many</p> <p>19 people work in that office?</p> <p>20 A. I can't estimate the number</p> <p>21 of people. I can say my department,</p> <p>22 approximately 50 to 60 people.</p> <p>23 Q. What's the name of your</p> <p>24 department?</p> <p>25 A. Foreclosures.</p>

10	<p>1 STEPHAN</p> <p>2 Q. When you began working for</p> <p>3 GMAC Mortgage in 2004, what position did</p> <p>4 you begin working in?</p> <p>5 A. I was a foreclosure</p> <p>6 specialist.</p> <p>7 Q. What kinds of duties did</p> <p>8 that involve?</p> <p>9 A. That involved the day-to-day</p> <p>10 handling and servicing of a portfolio of</p> <p>11 loans that fell into a foreclosure</p> <p>12 category.</p> <p>13 Q. What kinds of duties did you</p> <p>14 carry out with respect to those matters?</p> <p>15 MS. PITNEY: Object to form.</p> <p>16 MR. COX: You have to</p> <p>17 answer.</p> <p>18 MS. PITNEY: You can answer</p> <p>19 the question.</p> <p>20 THE WITNESS: The everyday</p> <p>21 servicing of the file, from</p> <p>22 contacting the attorney, supplying</p> <p>23 an attorney who's handling a case</p> <p>24 within my portfolio with any</p> <p>25 information they may need, a copy</p>	12
11	<p>1 STEPHAN</p> <p>2 of documents that may be needed</p> <p>3 through a fax form or e-mail form,</p> <p>4 the calculation of figures for</p> <p>5 judgments, reporting sale results</p> <p>6 at that time, and properly</p> <p>7 conveying properties to the proper</p> <p>8 departments for post sale action.</p> <p>9 BY MR. COX:</p> <p>10 Q. How long did you hold the</p> <p>11 position of foreclosure specialist?</p> <p>12 A. With GMAC, three years.</p> <p>13 Q. So you would have assumed a</p> <p>14 new position sometime in 2007?</p> <p>15 A. Yes.</p> <p>16 Q. What position did you assume</p> <p>17 in 2007?</p> <p>18 A. I became a team lead within</p> <p>19 the foreclosure department.</p> <p>20 Q. What duties did you assume</p> <p>21 as the team lead in the foreclosure</p> <p>22 department?</p> <p>23 A. At that time, GMAC</p> <p>24 segregated our department into teams, and</p> <p>25 I was put into place as the supervisor or</p>	13
10	<p>1 STEPHAN</p> <p>2 team lead for our bidding team, which</p> <p>3 would be a team of individuals who</p> <p>4 calculate the bids for sales.</p> <p>5 Q. Calculate the bids for sales</p> <p>6 of mortgage --</p> <p>7 A. Foreclosure sales.</p> <p>8 MR. FLEISCHER: Again, let</p> <p>9 him finish the question.</p> <p>10 BY MR. COX:</p> <p>11 Q. Just so I can understand it,</p> <p>12 your role in that position was to help</p> <p>13 GMAC calculate what it was going to bid</p> <p>14 at any given foreclosure sale?</p> <p>15 A. That would be correct.</p> <p>16 Q. The foreclosure</p> <p>17 department -- is that what it's called?</p> <p>18 A. Yes.</p> <p>19 Q. That has units within it?</p> <p>20 A. Yes.</p> <p>21 Q. And when you were doing the</p> <p>22 bidding work, what unit were you a part</p> <p>23 of at that time?</p> <p>24 A. The bid team.</p> <p>25 Q. How long did you serve on</p>	13

<p style="text-align: right;">14</p> <p>1 STEPHAN</p> <p>2 that, do you call them teams or units?</p> <p>3 A. Teams.</p> <p>4 Q. So there's a foreclosure</p> <p>5 department, and then within it are a</p> <p>6 group of teams that do different</p> <p>7 functions; is that correct?</p> <p>8 A. That is correct.</p> <p>9 Q. What does the document</p> <p>10 execution team do?</p> <p>11 MR. FLEISCHER: Objection as</p> <p>12 to form.</p> <p>13 THE WITNESS: Can you</p> <p>14 rephrase that?</p> <p>15 BY MR. COX:</p> <p>16 Q. What are the functions of</p> <p>17 the document execution team?</p> <p>18 A. The functions of my document</p> <p>19 execution team is, I have staff that</p> <p>20 prints documents, from our computer</p> <p>21 system, that are submitted from our</p> <p>22 attorney network. I have staff, also, on</p> <p>23 that team who prepares the documents</p> <p>24 which have already received figures from</p> <p>25 our attorneys. So there are completed</p>	<p style="text-align: right;">16</p> <p>1 STEPHAN</p> <p>2 A. 14.</p> <p>3 Q. Including yourself?</p> <p>4 A. No; including me, 15.</p> <p>5 Q. What training have you</p> <p>6 received from GMAC to function in your</p> <p>7 capacity as the team lead for the</p> <p>8 document execution team?</p> <p>9 MS. PITNEY: Object to form.</p> <p>10 BY MR. COX:</p> <p>11 Q. Let me restate the question.</p> <p>12 Have you received any training from GMAC</p> <p>13 to use in conjunction with your</p> <p>14 performance as the team lead for the</p> <p>15 document execution team?</p> <p>16 A. Yes.</p> <p>17 Q. What training have you</p> <p>18 received?</p> <p>19 A. I received side-by-side</p> <p>20 training from another team lead to</p> <p>21 instruct me on how to review the</p> <p>22 documents when they are received from my</p> <p>23 staff.</p> <p>24 Q. Who was that person?</p> <p>25 A. That person, at the time, I</p>
<p style="text-align: right;">15</p> <p>1 STEPHAN</p> <p>2 documents. They fill in the blanks, they</p> <p>3 stamp names. They ensure that all of the</p> <p>4 notary lines are completed properly once</p> <p>5 it's returned from the notary. And that</p> <p>6 staff also is in charge of making sure</p> <p>7 they Federal Express the document back to</p> <p>8 the designated attorney within our</p> <p>9 network.</p> <p>10 Q. What does the service</p> <p>11 transfer team do?</p> <p>12 A. The service transfer team</p> <p>13 receives a list of loans from our</p> <p>14 transfer management team, which is</p> <p>15 located in Iowa. The service transfer</p> <p>16 team within foreclosure only handles</p> <p>17 loans that fall into a bankruptcy or</p> <p>18 foreclosure category. They prepare files</p> <p>19 or CDs, and transfer them to the new</p> <p>20 servicer. So they're loans that are</p> <p>21 either acquired, or they're loans that</p> <p>22 are being transferred to a new servicer</p> <p>23 for service.</p> <p>24 Q. How many employees are on</p> <p>25 the document execution team?</p>	<p style="text-align: right;">17</p> <p>1 STEPHAN</p> <p>2 believe was a gentleman by the name of</p> <p>3 Kenneth Ugwuadu, U-G-W-U-A-D-U. He is no</p> <p>4 longer with GMAC.</p> <p>5 Q. How long did that training</p> <p>6 last?</p> <p>7 A. Three days.</p> <p>8 Q. Were there any written or</p> <p>9 printed training materials or manuals</p> <p>10 used as a part of that training?</p> <p>11 A. No.</p> <p>12 Q. Again, just so I understand</p> <p>13 what your testimony was, that training</p> <p>14 involved your learning how to review the</p> <p>15 documents that were being processed</p> <p>16 through your hands; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. What were you trained to do</p> <p>19 with respect to those documents by that</p> <p>20 gentleman?</p> <p>21 A. Basically, how to review the</p> <p>22 system, which I already basically knew</p> <p>23 from preparing documents in my prior</p> <p>24 position before becoming a team lead. So</p> <p>25 it was more or less a rehash, let's say,</p>

18

1 STEPHAN
2 or retraining, to confirm that I was
3 looking at things correctly in the
4 system.
5 Q. When you refer to a system,
6 you're referring to a computer system?
7 A. Yes.
8 Q. Other than what you might
9 call it when you're not happy, does that
10 system have a name?
11 A. Yes. That system is called
12 Fiserv, F-I-S-E-R-V.
13 Q. Have you received any
14 training on how to use that system?
15 A. Yes, when I was hired.
16 Q. Are there any manuals or
17 training materials associated with your
18 training on that system?
19 A. Yes, there is.
20 Q. Do you have those manuals in
21 your possession?
22 A. Presently, no.
23 Q. Do they exist in your office
24 at GMAC?
25 A. I honestly don't know.

19

1 STEPHAN
2 Q. In your role as team lead
3 for the document execution team, do you
4 have any duties with respect to the
5 receipt, application, or counting for
6 loan payments?
7 A. No.
8 MS. PITNEY: Object to the
9 form of the question.
10 BY MR. COX:
11 Q. What department has that
12 responsibility?
13 A. To my understanding, that
14 would be customer service. And within
15 customer service, I believe there is a
16 cash unit.
17 Q. Have you ever worked in that
18 cash unit?
19 A. No.
20 Q. Have you ever worked in that
21 customer service department?
22 A. No.
23 Q. Have you ever had any
24 training in how that department and unit
25 work?

20

1 STEPHAN
2 A. No.
3 Q. In your capacity as team
4 lead for the document execution team, do
5 you have any responsibility for data
6 entry into the computer system regarding
7 payments received by GMAC?
8 A. No.
9 Q. In your capacity as the team
10 lead for the document execution team, do
11 you have any role in the foreclosure
12 process at GMAC, other than the signing
13 of documents?
14 MR. FLEISCHER: Objection as
15 to the form of the question.
16 THE WITNESS: Can you
17 rephrase?
18 BY MR. COX:
19 Q. In your capacity as the team
20 lead for the document execution team, do
21 you have any role in the foreclosure
22 process, other than the signing of
23 documents?
24 A. No.
25 Q. I'm going to hand you what

21

1 STEPHAN
2 we have marked as Deposition Exhibit
3 Number 1, which is your affidavit in this
4 case, dated August 5, 2009.
5 MS. PITNEY: Excuse me, Tom.
6 This is Julia. Am I to presume
7 that this is the only exhibit
8 you're going to be introducing?
9 Because I haven't received any
10 exhibits that you plan to produce
11 at this deposition today.
12 MR. COX: I had no idea you
13 were going to be participating
14 today, Julia.
15 MS. PITNEY: Well, I
16 represent the plaintiff. It
17 shouldn't come as any surprise.
18 MR. COX: We're not going to
19 have a debate on the record. The
20 exhibits are here. You're welcome
21 to come see them. I had no idea
22 that you were going to participate
23 in this fashion.
24 MS. PITNEY: You had no
25 idea?

22

1 STEPHAN
2 MR. COX: I'm not going to
3 have this exchange on the record
4 with you. If you want to go off
5 the record for a minute, I'll be
6 happy to do it.
7 MS. PITNEY: No, we're going
8 to stay right on the record, Tom.
9 MR. COX: That's fine.
10 MS. PITNEY: Is it your
11 intent to introduce these exhibits
12 that have not been produced to the
13 opposing party?
14 MR. COX: I'm not going to
15 respond to that. I will entertain
16 objections that you are going to
17 make. But I'm not going to
18 respond to your questions on the
19 record.
20 MS. PITNEY: I'm going to
21 object to each and every exhibit.
22 MR. COX: That's your right
23 to do that.
24 BY MR. COX:
25 Q. I've handed you Deposition

23

1 STEPHAN
2 Exhibit Number 1, Mr. Stephan. Is that a
3 document signed by you?
4 A. Yes, that is my signature.
5 Q. And that's dated August 5,
6 2009?
7 A. That is correct.
8 Q. Do you have any memory of
9 signing that document?
10 A. No, I do not.
11 MS. PITNEY: I'd like to
12 take a brief break and speak with
13 Attorney Fleischer separately.
14 There's no question pending.
15 (Whereupon, a short recess
16 was taken.)
17 MR. COX: I gather you have
18 something you want to say on the
19 record, Julia?
20 MS. PITNEY: Yes. I object
21 to not being provided copies of
22 the documents that you intend to
23 introduce in this deposition. And
24 in an effort to make things more
25 efficient, my proposal is that --

24

1 STEPHAN
2 I understand there's not a large
3 number of documents. I propose
4 that we have Attorney Fleischer
5 fax them to me, or e-mail, in
6 bulk, or we're going to have to
7 stop. I would object. And each
8 time I'm going to stop and have
9 each document sent to me.
10 MR. COX: Your objection is
11 noted.
12 MR. FLEISCHER: Why don't we
13 at least just deal with the one
14 document that's in front of us at
15 this point, which is the
16 affidavit, and then we'll address
17 each one as they come up.
18 MS. PITNEY: Fair enough.
19 BY MR. COX:
20 Q. Mr. Stephan, you've
21 testified that in addition to yourself,
22 there are 14 other employees in your
23 document execution team.
24 A. That is correct.
25 Q. You have a title of limited

25

1 STEPHAN
2 signing officer; is that correct?
3 A. That is correct.
4 Q. How long have you been a
5 limited signing officer for GMAC
6 Mortgage?
7 A. I'm going to estimate, two
8 years.
9 Q. Are there any other limited
10 signing officers among the 14 people on
11 your team?
12 A. No, not amongst my 14
13 people.
14 Q. Exhibit-1, on the bottom of
15 the first page, says: I have under my
16 custody and control the records relating
17 to the mortgage transaction referenced
18 below.
19 What records does GMAC
20 maintain with respect to mortgage
21 transactions?
22 MS. PITNEY: Object to the
23 form.
24 THE WITNESS: Please
25 rephrase.

26

1 STEPHAN
2 BY MR. COX:
3 Q. What records does GMAC
4 maintain with respect to mortgage loans?
5 A. We keep our records for the
6 foreclosure department and the rest of
7 the company on our Fiserv system for
8 availability throughout our company.
9 Q. Do paper records exist
10 anywhere within GMAC Mortgage?
11 A. Yes, they do.
12 Q. Where do they exist?
13 A. I believe they are housed
14 either in our Iowa office or in
15 Minnesota, or with any of our custodians
16 involved within the company.
17 Q. Do you have any
18 responsibilities for making entries in
19 the Fiserv system?
20 A. Other than just usual notes,
21 no.
22 Q. What kind of usual notes do
23 you enter?
24 MS. PITNEY: Object. I'm
25 objecting to the form of the

27

1 STEPHAN
2 question. And, furthermore, I'm
3 objecting to the extent that
4 you're basically asking him an
5 incredibly broad-based question
6 here, Tom. If you want to ask him
7 about this case and any entries he
8 made with respect to this case,
9 then that's fine. But your
10 question is pretty sweeping there.
11 BY MR. COX:
12 Q. What is your usual business
13 practice and routine with respect to
14 making usual notes in the Fiserv system?
15 A. If a customer were to call
16 in, I would make a note in our computer
17 system.
18 Q. Do customers call you in
19 your capacity as team lead for the
20 document execution team?
21 A. No, they do not.
22 Q. So if that's the only kind
23 of notes that you would make in the
24 system, is it fair to say that you don't
25 make notes in that system?

28

1 STEPHAN
2 A. That would be correct.
3 Q. And you have no role in the
4 entry of any other data into that system;
5 isn't that correct?
6 A. That is correct.
7 Q. What department maintains
8 that system?
9 MR. FLEISCHER: Objection as
10 to form.
11 BY MR. COX:
12 Q. Do you know what department
13 maintains that system?
14 A. The system is used by the
15 entire company.
16 Q. Do you know what department
17 maintains the security for that system?
18 A. The IT department.
19 Q. Where is that located?
20 A. Throughout the entire
21 country.
22 Q. Do you know what department
23 makes entries into that system?
24 A. Numerous departments.
25 Q. Do you know what departments

29

1 STEPHAN
2 have the ability to change entries in
3 that system?
4 A. Nobody has the ability to
5 change an entry in the system, as far as
6 a note would go.
7 Q. What do you mean by that?
8 A. Such as if a customer calls
9 in, you type in the system. Once you
10 type it, it's entered.
11 Q. Does GMAC keep a paper
12 record of loan payments made by mortgage
13 customers?
14 A. I do not know.
15 Q. I think you said that the
16 cash department receives payments --
17 customer payments; is that correct?
18 A. To my knowledge, yes.
19 Q. That's the department that
20 you've said you have not worked in; is
21 that correct?
22 A. That is correct.
23 Q. So you don't have firsthand
24 knowledge about how it operates; is that
25 correct?

30

1 STEPHAN
2 A. That is correct.
3 MS. PITNEY: Object.
4 BY MR. COX:
5 Q. Do you have any knowledge
6 about how the data relating to those
7 payments are entered into the system?
8 A. I do not have that
9 knowledge.
10 Q. Do you have any knowledge
11 about how GMAC ensures the accuracy of
12 the data entered into the system?
13 A. No, I do not.
14 Q. Do you have any knowledge as
15 to what measures GMAC takes to preserve
16 the integrity and security of the system?
17 A. No, I do not.
18 MS. PITNEY: Object to the
19 form of that question.
20 BY MR. COX:
21 Q. In your capacity as team
22 lead for the document execution team,
23 what kinds of documents do you sign?
24 A. The types of documents I
25 sign are assignments of mortgage,

31

1 STEPHAN
2 numerous types of affidavits, deeds that
3 need to be done post sale, a substitution
4 of trustees. And that covers it in a
5 general span.
6 Q. You said you sign a variety
7 of affidavits. What kinds of affidavits
8 do you sign?
9 A. I sign judgment affidavits
10 for judicial foreclosure actions. I will
11 sign an affidavit verifying military
12 duty. I sign affidavits in reference to
13 -- if GMAC has exhausted all options
14 through lost mitigation upon reviewing
15 notes in our Fiserv system. That's a
16 general description of different types
17 of affidavits.
18 Q. Your document execution team
19 provides documents for foreclosures in
20 what states?
21 A. Throughout the country.
22 Q. Are there other document
23 execution teams within the GMAC system?
24 A. I believe our bankruptcy
25 unit also has a document execution team.

32

1 STEPHAN
2 Q. That's the only other
3 document execution team that you're aware
4 of?
5 A. To my knowledge, yes.
6 Q. When you referred in one of
7 your answers a few moments ago to
8 judgment affidavits, are you referring to
9 the type of affidavit in front of you, as
10 Deposition Exhibit-1?
11 A. That is a similar type of
12 affidavit, yes. This states Affidavit in
13 Support of the Plaintiff's Motion for
14 Summary Judgment.
15 Q. Have you received any
16 training regarding the summary judgment
17 process in judicial foreclosure states?
18 A. No.
19 Q. Do you have any knowledge as
20 to what a summary judgment affidavit is
21 used for in the State of Maine?
22 MR. FLEISCHER: Objection as
23 to form.
24 BY MR. COX:
25 Q. Would you please answer the

33

1 STEPHAN
2 question?
3 A. To my knowledge, a borrower
4 would have filed a contested answer. And
5 this would be our next step within the
6 process, to confirm the amount that is
7 due to support the summary judgment.
8 Q. Do you understand how the
9 affidavit is used, that is, Deposition
10 Exhibit Number 1?
11 MS. PITNEY: Objection.
12 Tom, you're getting dangerously
13 close here to the privileged area.
14 I mean, this affidavit, in itself,
15 was prepared in preparation for
16 litigation -- in litigation; not
17 even preparation for it, but
18 during litigation.
19 MR. COX: I have not the
20 slightest interest in getting into
21 attorney/client privilege. I'll
22 rephrase the question.
23 BY MR. COX:
24 Q. Do you have any knowledge of
25 how summary judgment affidavits are used

34

1 STEPHAN
2 in judicial foreclosure states?
3 A. No.
4 Q. Are you aware that they are
5 given to a judge?
6 A. Yes.
7 Q. And do you understand that
8 the judge relies upon them?
9 A. Yes.
10 Q. At the time that you
11 executed Deposition Exhibit-1 on August
12 5, 2009, you were, at that time, in your
13 position as team lead for the document
14 execution department?
15 A. Yes.
16 Q. Has the manner in which you
17 perform your duties as the team lead for
18 the document execution department changed
19 in any way over the period from August 5,
20 2009 to the present date?
21 A. No.
22 Q. Has your job description
23 changed in any manner during that time?
24 A. I assumed the responsibility
25 at that time of also handling the service

35

1 STEPHAN
2 transfer team as an additional
3 responsibility; other than document
4 execution, no.
5 Q. In your usual business
6 practice as a team lead for the document
7 execution team, how does a summary
8 judgment affidavit come to you, such as
9 the one that is Deposition Exhibit Number
10 1?
11 MS. PITNEY: Objection.
12 Tom, if you'd like to ask him
13 about how this specific affidavit
14 came to him, that's fine. But,
15 again, you're asking way too
16 broad.
17 BY MR. COX:
18 Q. Do you know how this
19 specific affidavit got to you, Mr.
20 Stephan?
21 A. We have a process in place
22 that if our attorney network needs an
23 affidavit, they will upload it into our
24 system, which is called LPS. We have
25 another system, which is a communication

36

1 STEPHAN
2 tool, between our attorneys. They load
3 it into a process called signature
4 required.
5 MS. PITNEY: Jeff, I'm going
6 to interrupt you right there. To
7 the extent that this answer or
8 anything else that you say has to
9 do with your communication between
10 you and your attorney -- GMAC and
11 its attorney, it's attorney/client
12 privilege.
13 THE WITNESS: So I won't
14 answer.
15 MR. COX: Well, let's go
16 back and ask the question again.
17 MS. PITNEY: He's answered
18 the question. He gets the
19 affidavit from the attorney.
20 BY MR. COX:
21 Q. What is the LPS system?
22 A. That is a communication tool
23 with our attorney network.
24 Q. Is LPS a separate company?
25 A. Yes.

37

1 STEPHAN
2 MS. PITNEY: Objection. The
3 means by which he communicates any
4 details about -- the means by
5 which he communicates with his
6 attorneys is privileged.
7 BY MR. COX:
8 Q. What does LPS do?
9 MS. PITNEY: I'm going to
10 object again on privilege grounds.
11 Same objection. Do not answer
12 that question.
13 THE WITNESS: Okay.
14 BY MR. COX:
15 Q. Is the source of what you
16 know about what LPS does based upon any
17 communication that you've had with
18 lawyers?
19 A. Sorry. Please rephrase
20 that. I don't understand your question.
21 Q. Do you know what LPS does
22 with respect to documents processed by
23 your unit?
24 MS. PITNEY: Objection.
25 Same objection.

38

1 STEPHAN
2 MR. COX: He can answer that
3 yes or no.
4 THE WITNESS: I still don't
5 understand what you're asking.
6 BY MR. COX:
7 Q. You've mentioned LPS.
8 A. Right.
9 Q. That's a separate company;
10 is that correct?
11 A. It's a system that we have
12 acquired from a company by the name of
13 Fidelity, in order to have communication
14 between our attorneys.
15 Q. Do you have any memory of
16 specifically receiving Deposition
17 Exhibit-1?
18 A. No.
19 Q. Again, I'm asking you, based
20 upon that, to describe what the usual
21 business practice is within your unit, as
22 far as how affidavits, such as Deposition
23 Exhibit-1, come to you.
24 A. Our attorney will load it to
25 the LPS system. Members of my team will

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1 STEPHAN
2 print it. Other members will prepare it.
3 The figures have already been loaded from
4 our network of attorneys. So my team
5 does not have any input on the affidavit,
6 other than filling in my name. They
7 bring it to me. I review it against our
8 Fiserv system, execute it, hand it back.
9 They get it notarized. It's Federal
10 Expressed back to the individual attorney
11 asking.
12 Q. Do you keep a log of any
13 sort of what documents you execute?
14 MS. PITNEY: I'm sorry. Can
15 you repeat the question, Tom? I
16 could not hear that.
17 BY MR. COX:
18 Q. Do you keep a log of any
19 sort of what documents you execute?
20 MS. PITNEY: Objection.
21 Work product. Any type of log
22 that he keeps relative to these
23 affidavits is prepared in
24 preparation for litigation; to the
25 extent that one even exists.

40

1 STEPHAN
2 MR. COX: He can answer the
3 question of whether or not he
4 keeps a log, before I ask him what
5 goes into the log.
6 MS. PITNEY: Fine.
7 THE WITNESS: No, I don't
8 have a log.
9 BY MR. COX:
10 Q. Does anybody keep a log of
11 what documents you sign?
12 MS. PITNEY: Object to the
13 form of that question.
14 THE WITNESS: Please
15 rephrase.
16 BY MR. COX:
17 Q. Do you know if anybody keeps
18 a log of what documents you execute?
19 A. We have notaries in our
20 department, approximately six, who keep a
21 log for what they notarize.
22 Q. These are notaries within
23 your department?
24 A. That is correct.
25 Q. As I understand it, the

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1 STEPHAN
2 first step is, in your department, a
3 document comes in on the LPS system from
4 the outside lawyer; is that correct?
5 A. That is correct.
6 Q. And then an employee in your
7 department prints it out; is that
8 correct?
9 A. That is correct.
10 Q. And then you said that the
11 employee prepares the document. What
12 does that mean?
13 MS. PITNEY: Objection. The
14 document is prepared for
15 litigation. It is privileged.
16 How it is prepared is privileged.
17 Do not answer that question.
18 BY MR. COX:
19 Q. Do your employees have any
20 direct communication with outside
21 counsel?
22 A. Yes, through the LPS system.
23 MS. PITNEY: Objection. How
24 and what he communicates with his
25 attorney is privileged, Tom.

<p style="text-align: right;">42</p> <p>1 STEPHAN</p> <p>2 MR. COX: I haven't asked</p> <p>3 for the content. I asked if it</p> <p>4 happens.</p> <p>5 BY MR. COX:</p> <p>6 Q. Would you answer the</p> <p>7 question, please?</p> <p>8 A. Yes, through the LPS system.</p> <p>9 Q. Is anything done to a</p> <p>10 document submitted to the LPS system by</p> <p>11 an outside lawyer before it reaches your</p> <p>12 hands?</p> <p>13 MS. PITNEY: Objection.</p> <p>14 Preparation of the document is</p> <p>15 privileged. It's for litigation.</p> <p>16 Do not answer the question.</p> <p>17 BY MR. COX:</p> <p>18 Q. Is the document that is</p> <p>19 received in the LPS system from outside</p> <p>20 counsel presented to you in exactly the</p> <p>21 form that it is received in from outside</p> <p>22 counsel?</p> <p>23 MS. PITNEY: Objection.</p> <p>24 Same objection.</p> <p>25 MR. COX: Is it an</p>	<p style="text-align: right;">44</p> <p>1 STEPHAN</p> <p>2 twice on the first page, and once on the</p> <p>3 signature page for you; is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. And then it's stamped again</p> <p>6 on the notary page; is that correct?</p> <p>7 A. That is correct.</p> <p>8 Q. So as I understand it, an</p> <p>9 affidavit, such as Deposition Exhibit-1,</p> <p>10 is initially prepared by outside counsel?</p> <p>11 MS. PITNEY: Objection.</p> <p>12 BY MR. COX:</p> <p>13 Q. Is that correct?</p> <p>14 A. Yes, that is correct.</p> <p>15 Q. Does anybody on your team</p> <p>16 verify the accuracy of any of the</p> <p>17 contents of the affidavit before it</p> <p>18 reaches your hands?</p> <p>19 MS. PITNEY: Objection</p> <p>20 again. How the document is</p> <p>21 prepared -- you can ask him</p> <p>22 questions about the document and</p> <p>23 what's stated in the document.</p> <p>24 The preparation of the document,</p> <p>25 which is prepared for litigation,</p>
<p style="text-align: right;">43</p> <p>1 STEPHAN</p> <p>2 objection, or are you instructing</p> <p>3 him not to answer?</p> <p>4 MS. PITNEY: I'm instructing</p> <p>5 him not to answer, to the extent</p> <p>6 you're asking him questions about</p> <p>7 a document that was prepared</p> <p>8 specifically during the course of</p> <p>9 litigation. It's protected by</p> <p>10 privilege, and you can't ask him</p> <p>11 questions about it.</p> <p>12 BY MR. COX:</p> <p>13 Q. Deposition Exhibit-1 has</p> <p>14 your name stamped on it with a stamp; is</p> <p>15 that correct?</p> <p>16 A. That is correct.</p> <p>17 Q. And below your name, the</p> <p>18 words "limited signing officer" appear;</p> <p>19 is that correct?</p> <p>20 A. That is correct.</p> <p>21 Q. Who puts that stamp on these</p> <p>22 affidavits?</p> <p>23 A. My team.</p> <p>24 Q. On this particular</p> <p>25 affidavit, your name and title is stamped</p>	<p style="text-align: right;">45</p> <p>1 STEPHAN</p> <p>2 is privileged. Do not answer the</p> <p>3 question, Jeff.</p> <p>4 BY MR. COX:</p> <p>5 Q. Mr. Stephan, do you recall</p> <p>6 testifying in your Florida deposition in</p> <p>7 December, with regard to your employees,</p> <p>8 and you said, quote, they do not go into</p> <p>9 the system and verify the information as</p> <p>10 accurate?</p> <p>11 A. That is correct.</p> <p>12 MS. PITNEY: I'm sorry.</p> <p>13 Tom, could you please repeat what</p> <p>14 you just said? I just couldn't</p> <p>15 hear.</p> <p>16 MR. COX: Quote: They do</p> <p>17 not go into the system and verify</p> <p>18 the information as accurate.</p> <p>19 BY MR. COX:</p> <p>20 Q. Is that correct?</p> <p>21 A. That is correct.</p> <p>22 MR. FLEISCHER: Tom, can you</p> <p>23 reference what litigation that was</p> <p>24 in, do you know?</p> <p>25 MR. COX: The Florida case</p>

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1 STEPHAN
 2 that he testified in.
 3 MR. FLEISCHER: I just
 4 thought you might have a reference
 5 there.
 6 MR. COX: I'll get it
 7 shortly.
 8 BY MR. COX:
 9 Q. Do you and your 14-person
 10 team all work in the same physical space?
 11 A. Yes. We're all in the same
 12 department.
 13 Q. Do you have an office or a
 14 cubicle, or what?
 15 A. Cubicle.
 16 Q. Do the employees bring
 17 documents to you to sign?
 18 A. That is correct.
 19 Q. How many do they bring to
 20 you at a time, on average?
 21 A. For a month, anywhere from
 22 six to 8,000 documents.
 23 Q. Do you recall testifying in
 24 your Florida deposition in December that
 25 you estimated it was 10,000 documents a

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1 STEPHAN
 2 month?
 3 A. I do not recall. I'm going
 4 off of numbers within the past month or
 5 so.
 6 Q. Have those numbers gone down
 7 in the past month or so?
 8 A. There has been a decrease.
 9 Q. Back in December, were you
 10 signing in the range of 10,000 documents
 11 a month?
 12 A. I may have been.
 13 Q. Back in August of 2009,
 14 roughly, how many documents a month were
 15 you signing?
 16 A. I cannot estimate. I don't
 17 know.
 18 Q. Do you believe that it was
 19 more or less than the number you were
 20 signing in December?
 21 A. I'm going to assume, more.
 22 Q. And on a given day, I
 23 understand an employee brings you a group
 24 of documents for you to sign, is that
 25 correct?

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1 STEPHAN
 2 A. That would be correct.
 3 Q. Roughly, how many are
 4 brought to you in a group, on average?
 5 A. Throughout a day, I believe
 6 we are averaging approximately 400 new
 7 requests coming in from our attorney
 8 network. So I would say approximately
 9 400 per day.
 10 Q. This sounds very basic.
 11 But, physically, are you handed a pile of
 12 100 documents, 300 documents? How does
 13 that work?
 14 A. They bring them to me in
 15 individual folders from each one of the
 16 members of my team. I do not count how
 17 many are in the files.
 18 Q. So each team employee has a
 19 folder of document; is that correct?
 20 A. That is correct.
 21 Q. When you receive a summary
 22 judgment affidavit to be signed by you,
 23 is it accompanied by any other documents
 24 relating to the loan?
 25 MS. PITNEY: Objection. The

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1 STEPHAN
 2 document is prepared for
 3 litigation. And anything he does
 4 when he's preparing it is
 5 privileged.
 6 MR. COX: Are you telling
 7 him not to answer?
 8 MS. PITNEY: I am. Tom, if
 9 you want to ask him about general
 10 procedures, which you have been,
 11 then I'm not going to object as
 12 much. But if you want to ask him
 13 about what goes into preparing a
 14 document that was used for summary
 15 judgment, that's clearly prepared
 16 for litigation, and it's
 17 privileged and protected.
 18 MR. COX: I think you
 19 haven't heard my question, Julia.
 20 I'll state it again.
 21 BY MR. COX:
 22 Q. When you receive a summary
 23 judgment document for your execution, is
 24 it accompanied by any other documents?
 25 MS. PITNEY: My objection is

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1 STEPHAN
2 -- you can answer that question,
3 Jeff.
4 THE WITNESS: There are
5 times when it has the Complaint
6 connected. There are times when
7 it is brought to me just as the
8 affidavit.
9 BY MR. COX:
10 Q. When you say that there are
11 times when it comes to you with a
12 Complaint connected, you mean attached as
13 an exhibit?
14 A. Such as this one, yes.
15 Q. When you say "this one,"
16 you're referring to Deposition Exhibit-1?
17 A. Yes, that is correct.
18 Q. Deposition Exhibit-1 has
19 several exhibits attached to it; is that
20 correct?
21 MS. PITNEY: Could you
22 please tell me what the exhibits
23 that are attached are, because I
24 don't have the benefit of having
25 them in front of me?

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1 STEPHAN
2 THE WITNESS: Exhibit-A is a
3 copy of the note and the --
4 MR. COX: Julia, this is
5 your summary judgment affidavit.
6 MS. PITNEY: I'm not
7 doubting that it is. I just don't
8 know what these other exhibits
9 attached are.
10 MR. COX: Don't you have
11 your copy?
12 MS. PITNEY: You're the one
13 verifying if they're the same as
14 the one I'm looking at, Tom.
15 THE WITNESS: Exhibit-B is
16 the mortgage. Exhibit-C is the
17 assignment of note and mortgage.
18 Exhibit-D -- I believe we're
19 looking at the demand, or the
20 breach letter. And those are the
21 four documents that are connected
22 to this affidavit of summary
23 judgment.
24 BY MR. COX:
25 Q. In your usual practice, are

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1 STEPHAN
2 those exhibits attached to the affidavit
3 at the time that you sign them?
4 MS. PITNEY: Objection.
5 You're asking about a document
6 that was prepared by an attorney.
7 Anything that comes with it that
8 he's asked to review is
9 privileged -- the communication
10 between a client and an attorney.
11 Do not answer the question.
12 BY MR. COX:
13 Q. Mr. Stephan, would you
14 please look at Paragraph 3 of Exhibit-1.
15 Do you see there the statement: That a
16 true and correct copy of which is
17 attached hereto is Exhibit-A?
18 A. Where are you looking?
19 Q. Paragraph 3. Do you see
20 that statement?
21 A. Yes, I do.
22 Q. When you sign an affidavit
23 such as Exhibit-1, are the exhibits
24 attached to it?
25 MS. PITNEY: Objection. A

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1 STEPHAN
2 document that's provided to him by
3 an attorney is privileged.
4 MR. COX: Are you telling
5 him not to answer that question?
6 MS. PITNEY: Yes. I'll say
7 again, Tom, if you would like to
8 ask him about the facts that are
9 in the affidavit, the details
10 about this loan -- which I might
11 remind you involves a woman by the
12 name of Nicole Bradbury -- then
13 I'm sure Jeff will answer your
14 question?
15 MR. COX: Well, he has the
16 affidavit in front of him in this
17 case. And the affidavit which he
18 swore to says a true and correct
19 copy of the note is attached to
20 it. And I'm asking him if that
21 document was attached to it at the
22 time that he signed it.
23 BY MR. COX:
24 Q. Would you please answer that
25 question?

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1 STEPHAN
2 A. To my knowledge, I do not
3 recall.
4 Q. Is it your usual business
5 practice to have exhibits attached to
6 affidavits that you sign?
7 A. Yes.
8 Q. All exhibits?
9 MS. PITNEY: Object to form.
10 THE WITNESS: I do not know.
11 BY MR. COX:
12 Q. When you sign a summary
13 judgment affidavit, do you check to see
14 if all the exhibits are attached to it?
15 A. No.
16 Q. Does anybody in your
17 department check to see if all the
18 exhibits are attached to it at the time
19 that it is presented to you for your
20 signature?
21 A. No.
22 Q. When you sign a summary
23 judgment affidavit, do you inspect any
24 exhibits attached to it?
25 A. No.

55

1 STEPHAN
2 MS. PITNEY: Could you
3 repeat the question, Tom? Did you
4 say -- or can you have it read
5 back, please?
6 (Whereupon, the pertinent
7 portion of the record was read.)
8 MS. PITNEY: Object to the
9 form.
10 BY MR. COX:
11 Q. What happens to an affidavit
12 in your department after you sign it?
13 MS. PITNEY: Objection.
14 What happens to the document
15 afterwards is -- it's in the
16 course of litigation. The same
17 objection as I said before. Where
18 it goes is privileged.
19 MR. COX: Where it goes is
20 not a communication. It is not
21 privileged.
22 MS. PITNEY: You don't know
23 that.
24 MR. COX: Pardon me?
25 MS. PITNEY: You don't

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1 STEPHAN
2 necessarily know that.
3 MR. COX: The physical
4 movement of a document is not a
5 communication. It's a fact.
6 BY MR. COX:
7 Q. My question to you is, where
8 does a summary judgment go after you sign
9 it?
10 A. After I sign it, it is
11 handed back to my staff. My staff hands
12 it to a notary for notarization. It is
13 then handed back to my staff. They send
14 it back to the network attorney
15 requesting any type of affidavit.
16 Q. So you do not appear before
17 the notary; is that correct?
18 A. I do not.
19 Q. What does your staff do with
20 a summary judgment affidavit, such as
21 Deposition Exhibit-1, after it receives
22 it back from the notary?
23 A. They go into our LPS system,
24 close out process, stating it's being
25 sent back to --

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1 STEPHAN
2 MS. PITNEY: Objection.
3 Sorry. I don't mean to interrupt
4 you, Jeff. I'm going to instruct
5 you not to answer anything else,
6 because you've already testified
7 that the LPS system is the means
8 by which you communicate with your
9 attorney. The attorney/client
10 communication is privileged. So
11 don't continue to answer the
12 question.
13 Actually, if there is no
14 question, pending, I'd like to
15 take a brief break to discuss
16 something with Brian Fleischer.
17 (Whereupon, a short recess
18 was taken.)
19 BY MR. COX:
20 Q. Mr. Stephan, do you recall
21 testifying in your Florida deposition in
22 December that you rely on your attorney
23 network to ensure that the documents that
24 you receive are correct and accurate?
25 A. That is correct.

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1 STEPHAN
 2 Q. And is that, in fact, the
 3 case?
 4 A. Yes.
 5 Q. And your department does not
 6 do any independent accuracy check of
 7 those records; isn't that correct?
 8 MR. FLEISCHER: Objection as
 9 form.
 10 THE WITNESS: Can you
 11 rephrase?
 12 BY MR. COX:
 13 Q. Your department does not do
 14 any independent check of the accuracy of
 15 the information on the summary judgments
 16 coming to you; isn't that correct?
 17 A. I review, quickly, the
 18 figures. Other than that, that's about
 19 it.
 20 Q. Do you recall testifying in
 21 your Florida deposition in December, that
 22 the affidavits that you sign are not
 23 based upon your own personal knowledge?
 24 A. I do not recall.
 25 MS. PITNEY: Objection to

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1 STEPHAN
 2 the form.
 3 BY MR. COX:
 4 Q. You do not recall that?
 5 A. I do not recall.
 6 Q. When you receive a summary
 7 judgment affidavit from one of your staff
 8 members, what do you do with it?
 9 A. I will first review it
 10 against our computer system, which is
 11 Fiserv, in general terms, to verify that
 12 the figures are correct. And then I will
 13 execute it and hand it back to my staff
 14 to have it notarized.
 15 Q. You say "in general terms"
 16 you review it. What do you mean?
 17 MS. PITNEY: Objection.
 18 THE WITNESS: I compare the
 19 principal balance. I review the
 20 interests. I take a look at the
 21 late charges. I look at the
 22 outstanding escrow amounts. When
 23 I say "general terms," I mean I'm
 24 not looking at the escrow and
 25 breaking it down to the penny.

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1 STEPHAN
 2 I'm saying, yes, it looks correct
 3 in my computer system.
 4 BY MR. COX:
 5 Q. Is there anything else that
 6 you look at in your computer system when
 7 you're signing a summary judgment
 8 affidavit?
 9 MS. PITNEY: I'm sorry. I
 10 couldn't hear the last part of
 11 that.
 12 BY MR. COX:
 13 Q. Is there anything else that
 14 you look at in your computer system at
 15 the time that you sign a summary judgment
 16 affidavit?
 17 A. The only other thing I
 18 can --
 19 MS. PITNEY: One second.
 20 Are we talking about the computer
 21 system, the communication system?
 22 I just was asking for
 23 clarification of --
 24 MR. COX: Let me clarify it.
 25 MS. PITNEY: What computer

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1 STEPHAN
 2 communication system Tom was
 3 asking him about.
 4 BY MR. COX:
 5 Q. You testify that you go into
 6 the First Serve (sic) system; is that
 7 correct?
 8 A. Yes, Fiserv.
 9 Q. Fiserv. Do you go into any
 10 other computer system at the time that
 11 you're signing a summary judgment
 12 affidavit?
 13 A. No.
 14 Q. And you just testified that
 15 you look at principal, interest, late
 16 charges and escrow; is that correct?
 17 A. That is correct.
 18 Q. Is there anything else that
 19 you look at in your computer system when
 20 you're signing a summary judgment
 21 affidavit?
 22 A. The only thing I review,
 23 other than that, is who the borrower is.
 24 Q. When you receive a summary
 25 judgment affidavit to sign, do you read

<p style="text-align: right;">62</p> <p>1 STEPHAN 2 every paragraph of it? 3 A. No. 4 Q. What do you read? 5 A. I look for the figures. 6 Q. That's all that you look at 7 when you sign a summary judgment 8 affidavit? 9 A. Yes, to ensure that the 10 figures are correct. 11 Q. Is it fair to say then that 12 when you sign a summary judgment 13 affidavit, you do not know what it says, 14 other than what the figures are that are 15 contained within it? 16 MR. FLEISCHER: Objection as 17 to form. 18 MS. PITNEY: Objection to 19 the form of the question. 20 THE WITNESS: Please 21 rephrase. 22 BY MR. COX: 23 Q. It fair to say that when you 24 sign a summary judgment affidavit, you 25 don't know what information it contains,</p>	<p style="text-align: right;">64</p> <p>1 STEPHAN 2 volume of documents that you sign? 3 A. No. 4 Q. Is any part of your 5 compensation tied to the volume of 6 documents that your department processes? 7 A. No. 8 Q. Is it your understanding 9 that the process that you follow in 10 signing summary judgment affidavits is 11 in accordance with the policies and 12 procedures required of you by GMAC 13 Mortgage? 14 A. Yes. 15 Q. Does GMAC do any quality 16 assurance training for your department? 17 A. Presently, no. 18 Q. Has it in the past? 19 A. I do not know. 20 Q. You don't recall any? 21 A. I never received any. 22 Q. Do you have any memory of 23 checking the numbers on the Bradbury 24 affidavit that's in front of you as 25 Deposition Exhibit-1?</p>
<p style="text-align: right;">63</p> <p>1 STEPHAN 2 other than the figures that are set forth 3 within it? 4 A. Other than the borrower's 5 name, and if I have signing authority for 6 that entity. That is correct. 7 Q. The practice that you've 8 just described for signing summary 9 judgment affidavits is the practice that 10 you use signing all summary judgment 11 affidavits that you handle; is that 12 correct? 13 MR. FLEISCHER: Again, I'm 14 going to object to the form of the 15 question. 16 BY MR. COX: 17 Q. Is that correct? 18 A. The practice that I use for 19 summary judgment affidavits is the same 20 practice that I use for all affidavits. 21 Q. And that's the one that 22 you've just described? 23 A. Yes. 24 Q. Is any part of your 25 compensation at GMAC Mortgage tied to the</p>	<p style="text-align: right;">65</p> <p>1 STEPHAN 2 A. I do not recall. 3 Q. If a loan has been modified, 4 does that show up in the Fiserv system 5 that you look at? 6 A. When you say "modified," are 7 you stating a loan modification? 8 Q. Yes. 9 A. Yes. 10 Q. Does that show up? 11 A. Yes. 12 Q. If a loan has been modified, 13 is any information put in the summary 14 judgment affidavits that you sign about 15 that? 16 MR. FLEISCHER: Objection. 17 Are you talking about modified, or 18 his term was loan modification. I 19 just want to make sure we're 20 clear. 21 MR. COX: That's fine. 22 BY MR. COX: 23 Q. If there's a loan 24 modification, does information about a 25 loan modification appear in the summary</p>

66	<p>1 STEPHAN</p> <p>2 judgment affidavits that you sign?</p> <p>3 A. I do not know.</p> <p>4 MS. PITNEY: In all of them,</p> <p>5 or in this one?</p> <p>6 MR. COX: In any of them.</p> <p>7 THE WITNESS: I don't know.</p> <p>8 BY MR. COX:</p> <p>9 Q. Based upon your testimony,</p> <p>10 Mr. Stephan, is it correct that when you</p> <p>11 sign a summary judgment affidavit, such</p> <p>12 as Deposition Exhibit-1 that is in front</p> <p>13 of you, you don't know whether any</p> <p>14 portion of it is true, other than the</p> <p>15 paragraph containing the numbers that</p> <p>16 you just described; is that correct?</p> <p>17 MS. PITNEY: Object to the</p> <p>18 form. Tom, are you asking him</p> <p>19 about this affidavit?</p> <p>20 MR. COX: Well, he's</p> <p>21 testified that doesn't recall</p> <p>22 signing this particular affidavit,</p> <p>23 so that was not my question. Let</p> <p>24 me restate it.</p> <p>25 BY MR. COX:</p>	68	<p>1 STEPHAN</p> <p>2 Q. Is it correct?</p> <p>3 A. That is correct.</p> <p>4 Q. And isn't it also correct</p> <p>5 that you do not check the numbers on</p> <p>6 every single summary judgment affidavit</p> <p>7 that you sign?</p> <p>8 A. That is not correct.</p> <p>9 Q. You check every single one?</p> <p>10 A. Yes.</p> <p>11 Q. How long does it take you,</p> <p>12 on average, to process the execution of a</p> <p>13 summary judgment affidavit?</p> <p>14 MS. PITNEY: Object to the</p> <p>15 form.</p> <p>16 MR. COX: Please answer.</p> <p>17 THE WITNESS: Anywhere from</p> <p>18 five to 10 minutes, off the top of</p> <p>19 my head.</p> <p>20 MR. COX: If we can take a</p> <p>21 break. I may be done, but we can</p> <p>22 take a break for five minutes.</p> <p>23 (Whereupon, a short recess</p> <p>24 was taken.)</p> <p>25 BY MR. COX:</p>
67	<p>1 STEPHAN</p> <p>2 Q. In your practice of signing</p> <p>3 summary judgment affidavits, Mr. Stephan,</p> <p>4 is it correct that they always have a</p> <p>5 paragraph containing the numbers of the</p> <p>6 amounts claiming to be due?</p> <p>7 A. That would be correct.</p> <p>8 Q. And is it correct that when</p> <p>9 you sign those affidavits, you don't know</p> <p>10 whether any other part of the affidavit</p> <p>11 is true or correct?</p> <p>12 A. Please advise me. What do</p> <p>13 you mean by "any other part"?</p> <p>14 Q. Any other paragraph, other</p> <p>15 than the one containing the numbers.</p> <p>16 A. I review it for the due</p> <p>17 date, if that's included in there.</p> <p>18 Q. So all of them --</p> <p>19 A. So that would be the</p> <p>20 numbers.</p> <p>21 Q. So other than the due date</p> <p>22 and the balances due, is it correct that</p> <p>23 you do not know whether any other part of</p> <p>24 the affidavit that you sign is true?</p> <p>25 A. That could be correct.</p>	69	<p>1 STEPHAN</p> <p>2 Q. Mr. Stephan, referring you</p> <p>3 again to the bottom line on Page 1 of</p> <p>4 Exhibit-1, it states: I have under my</p> <p>5 custody and control, the records relating</p> <p>6 to the mortgage transaction referenced</p> <p>7 below.</p> <p>8 It's correct, is it not,</p> <p>9 that you did not have in your custody any</p> <p>10 records of GMAC at the time that you</p> <p>11 signed a summary judgment affidavit?</p> <p>12 MS. PITNEY: Objection to</p> <p>13 the form.</p> <p>14 THE WITNESS: I have the</p> <p>15 electronic record. I do not have</p> <p>16 papers.</p> <p>17 BY MR. COX:</p> <p>18 Q. You have access to a</p> <p>19 computer. Is that what you mean?</p> <p>20 A. Yes.</p> <p>21 Q. You have no control over</p> <p>22 that system, do you?</p> <p>23 MR. FLEISCHER: Objection as</p> <p>24 to form.</p> <p>25 BY MR. COX:</p>

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