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U.S. Bank National Association, as Trustee,
Successor in Interest to Bank of America,
National Association, as Trustee, Successor
by Merger to LaSalle Bank, National
Association, as Trustee for Merrill Lynch
First Franklin Mortgage Loan Trust,
Mortgage Pass-Through Certificates, Series
2007-1

PLAINTIFF

VS.

Andre L. Vaughn a/k/a Andre Vaughn and
Monique N. Vaughn a/k/a Monique Vaughn
DEFENDANTS

COURT OF COMMON PLEAS
CIVIL DIVISION
YORK COUNTY

NO: 2018-SU-001081

FILED
HARRISBURG, PA

SEP 18 2018

PER



DEPUTY CLERK

**MOTION OF PLAINTIFF, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE,
SUCCESSOR IN INTEREST TO BANK OF AMERICA, NATIONAL ASSOCIATION,
AS TRUSTEE, SUCCESSOR BY MERGER TO LASALLE BANK, NATIONAL
ASSOCIATION, AS TRUSTEE FOR MERRILL LYNCH FIRST FRANKLIN
MORTGAGE LOAN TRUST, MORTGAGE PASS-THROUGH CERTIFICATES,
SERIES 2007-1
FOR SUMMARY JUDGMENT**

Plaintiff, U.S. Bank National Association, as Trustee, Successor in Interest to Bank of
America, National Association, as Trustee, Successor by Merger to LaSalle Bank, National
Association, as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Mortgage Pass-
Through Certificates, Series 2007-1 (hereinafter referred to as "Plaintiff"), by and through its

attorneys, Shapiro & DeNardo, LLC, pursuant to Pa. R.C.P. No. 1035.1 et seq., hereby moves this Court for Summary Judgment in its favor and against Defendants Andre L. Vaughn a/k/a Andre Vaughn and Monique N. Vaughn a/k/a Monique Vaughn (hereinafter referred to as "Defendants"). In support of this Motion, Plaintiff avers the following:

1. On or about January 18, 2007, First Franklin Financial Corp., An OP. Sub. of MLB&T Co., FSB ("Lender") extended a loan to Defendant, Andre L. Vaughn, in the principal sum of \$265,500.00 (the "Subject Loan"). A Promissory Note executed by the Andre L. Vaughn in the amount of \$265,500.00 ("Note") evidences the Subject Loan. A true and correct copy of the Note is attached hereto, incorporated herein by reference and marked as Plaintiff's Exhibit "A."

2. A mortgage in favor of Mortgage Electronic Registration Systems, Inc. as nominee for First Franklin Financial Corp., An OP. Sub. of MLB&T Co., FSB, its successors and assigns ("Mortgage") on real property commonly known as 346 Majestic Circle, Dallastown, PA 17313 (the "Subject Property") secures the Subject Loan. The Mortgage executed by the Defendants, Andre L. Vaughn and Monique N. Vaughn, was duly recorded in the Office of the Recorder of Deeds of York County on January 31, 2007, in Book 1872, Page 1642, Instrument No. 2007008677. A true and correct copy of the recorded Mortgage is attached hereto, incorporated herein by reference and marked as Plaintiff's Exhibit "B."

3. The above Mortgage was assigned to Plaintiff by a series of written Assignments of Mortgage ("Assignments") recorded in York County as follows:

Assignor: Mortgage Electronic Registration Systems, Inc. as nominee for First Franklin Financial Corp., An Op. Sub. of MLB&T Co., FSB

Assignee: Bank of America, National Association as successor by merger to LaSalle Bank National Association, as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Mortgage Loan Asset-Backed Certificates, Series 2007-1

Date of Assignment: February 24, 2009

Recording Date: March 9, 2009

Book: 2009

Page: 54

Instrument No.: 2009012154

Corrective Assignment¹

Assignor: Mortgage Electronic Registration Systems, Inc. as nominee for First Franklin Financial Corp., An OP. Sub. of MLB&T Co., FSB, its successors and assigns, its successors and assigns

Assignee: U.S. Bank National Association, as Trustee, Successor in Interest to Bank of America, National Association, as Trustee, Successor by Merger to LaSalle Bank National Association, Trustee for First Franklin Mortgage Loan Trust 2007-1, Mortgage Pass-Through Certificates, Series 2007-1

Date of Assignment: July 13, 2015

Recording Date: July 20, 2015

Book: 2329

Page: 4685

Instrument No.: 2015031499

Assignor: U.S. Bank National Association, as Trustee Successor in Interest to Bank of America, National Association, as Trustee, Successor by Merger to LaSalle Bank National Association, as Trustee for First Franklin Mortgage Loan Trust 2007-1, Mortgage Pass-Through Certificates, Series 2007-1, by Nationstar Mortgage as its Attorney-in-Fact

Assignee: U.S. Bank National Association, as Trustee, Successor in Interest to Bank of America, National Association, as Trustee, Successor by Merger to LaSalle Bank, National Association, as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-1

Date of Assignment: March 30, 2018

Recording Date: April 6, 2018

Book: 2465

Page: 1559

Instrument No.: 2018013936

True and correct copies of the recorded Assignments are attached hereto, incorporated herein by reference and marked respectively as Plaintiff's Exhibit "C-1" – "C-3."

4. Accordingly, Plaintiff is the mortgagee of record and is also in possession of the original Note, duly indorsed in blank. See Note, Pltf.'s Ex. "A" at P. 3; Pltf.'s Aff., Ex. "J" *infra* at ¶ 11.

¹ This corrective assignment was recorded to correct the assignee in the assignment of mortgage recorded on March 9, 2009 at Book 2009, Page 54, Instrument #2009012154.

5. Defendants are the record owners of the Subject Property via a Deed dated January 18, 2007, that was duly recorded in the York County Recorder of Deeds on January 31, 2007, in Book 1872, Page 1638, Instrument No. 2007008676. A true and correct copy of the recorded Deed is attached hereto, incorporated herein by reference and marked as Plaintiff's Exhibit "D."

6. On May 10, 2017, Defendant, Andre Vaughn, executed a Loan Modification Agreement, for the modified principal balance of the subject Note in the amount of \$345,311.22 ("Modification"). A true and correct copy of the Modification is attached hereto, incorporated herein by reference and marked as Plaintiff's Exhibit "E."

7. Pursuant to the Modification, monthly payments of principal and interest each in the amount of \$1,058.75, were to commence on January 1, 2017 at the reduced interest rate of 2.000% until December 2018; thereafter, on January 1, 2019, the interest rate changes to 3.500% until the maturity date of April 1, 2056. *See* Ex. "E" at ¶¶ 2. Also, Defendant was required to make additional payments for taxes and insurance (escrow). *Id.* at pp. 6-7.

8. Defendants subsequently defaulted on the Subject Loan by failing to make the required monthly payment due on August 1, 2017, and all payments due thereafter.

9. On or about January 3, 2018, Plaintiff sent Defendants an Act 91 Notice of Homeowners' Emergency Mortgage Assistance Act of 1983, 35 P.S. §1680.402c, *et seq.*, via certified and regular mail (the "Act 91 Notice"). *See* Pltf's Aff., Ex. "J" *infra* at ¶ 20. The Act 91 Notice afforded Defendants thirty-three (33) days, to cure the Subject Loan's arrears before commencing the instant foreclosure action. True and correct copies of the Act 91 Notices (and USPS postal receipt for the certified mailing) are attached hereto, incorporated herein by reference, and marked collectively as Exhibit "F".

10. Defendants failed to cure the mortgage default.

11. On April 19, 2018, Plaintiff instituted the instant action against Defendants pursuant to Pa. R.C.P. No. 1141, *et seq.* (the "Foreclosure Action"). Plaintiff commenced the Foreclosure Action due to Defendants defaulting on the Subject Loan. A true and correct copy of the Complaint is attached hereto, incorporated herein by reference and marked as Plaintiff's Exhibit "G".

12. On May 14, 2018, Defendants filed an Answer and Defenses to Plaintiff's Complaint ("Answer"). A true and correct copy of the Answer is attached hereto, incorporated herein by reference and marked as Plaintiff's Exhibit "H."

13. On or about May 29, 2018, Plaintiff filed its Reply to Defendants' Defenses ("Reply"). A true and correct copy of the Reply is attached hereto, incorporated herein by reference and marked as Plaintiff's Exhibit "I."

14. The pleadings have been closed and there is no issue of genuine fact. Accordingly, Plaintiff hereby files this instant motion for summary judgment against Defendants.

15. In their Answer, Defendants unequivocally admit in an unnumbered paragraph titled "General Denial" the following: (A) the recorded Mortgage as a public record (Ans. pp. 1-2)); (B) the legal description of the Subject Property as a public record (pp. 1-2,). *See generally*, Ex. "H."

16. Defendants generally deny the remaining paragraphs as lacking knowledge of the allegations contained in Plaintiff's Complaint. *See generally*, Ex. "H" at pp. 1-2, (General Denial).

17. However, an averment of fact not specifically denied is deemed admitted. *See* Pa.R.Civ.P. 1029(b); *see also*, *First Wisconsin Trust Co. Strausser*, 439 Pa.Super. 192, 653 A.2d

688 (1995); *New York Guardian Mortgage Corp. v. Dietzel*, 362 Pa.Super. 426, 524 A.2d 951 (1987). Further, Defendants signed the mortgage and obligated themselves to the terms of the security instrument. *Pines v. Farrell*, 848 A.2d 94, 100 (Pa. 2004).

18. Accordingly, Defendants have admitted paragraphs 1-12 of Plaintiff's Complaint as to the following: **(A)** the parties to Mortgage (Compl. ¶1(a)); **(B)** the date of the mortgage (Compl. ¶(b)); **(C)** the recording information for the mortgage (Compl. ¶1(c)); **(D)** the Loan Modification Agreement (Compl. ¶1(d)); **(E)** the recorded assignments of mortgage (Compl. ¶1(e)); **(F)** Plaintiff is the holder of the mortgage (Compl. ¶2); **(G)** the legal description of the mortgaged premises (Compl. ¶3); **(H)** Defendant, Andre L. Vaugh, executed the note (Compl. ¶4); **(I)** their names and mailing addresses (Compl. ¶5); **(J)** they are the mortgagors or real owners (Compl. ¶6); **(K)** the mortgage is in default form August 1, 2017 (Compl. ¶7); **(L)** the itemized outstanding amount due (Compl. ¶8); **(M)** interest continues to accrue each day (Compl. ¶9); **(N)** attorneys' fees and costs under the mortgage (Compl. ¶10); **(O)** Plaintiff sent Defendants the Act 91 Notice (Compl. ¶11); and **(P)** separate Act 6 notice is not required (Compl. ¶12).

19. Defendants' Defenses contain merely conclusions of law, unsupported by any factual allegations. Accordingly, the Defenses fail to comply with Rule 1019(a) and should be disregarded. *See Corestates Bank v. Cutillo*, 1999 PA Super 14, 723 A.2d 1053, 1057 (Pa. Super. 1998). As such, Defendants' Defenses fails to present a genuine issue of material fact and should not preclude summary judgment in Plaintiff's favor.

20. Defendants' purported denials are not pled with the requisite factual specificity as required by Pa. R.C.P. Nos. 1019(a), (b), (f), and (h) and 1029(a) and (b).

21. Defendants' Answer further fails to specifically to raise a genuine issue of material fact to preclude an entry of the Summary Judgment in favor of Plaintiff.

22. Pursuant to the terms of the Mortgage, once Defendants failed to make the Subject Loan's required payments, all sums become due upon demand.

23. Attached hereto and incorporated by reference as Exhibit "J" is the Affidavit of Carol Davis, employed by Plaintiff's mortgage loan servicer, which establishes that the Subject Loan is in default, and that as of May 25, 2018, the following amounts are due and owing:

Principal of Mortgage Debt Due and Unpaid	\$342,399.73
Interest at 2.0%	\$6,156.98
Late Charges	\$0.00
Escrow Advances	\$5,289.11
Property Inspection	\$180.00
Foreclosure Fees & Costs	\$265.00
BPO Costs	\$175.00
Streamline Mods	\$145,735.37
<u>TOTAL</u>	\$500,201.19

24. The per diem interest rate is calculated as \$18.76 for each day after May 25, 2018 that the debt remains unpaid until judgment. *See* Ex. "J" at ¶ 16.

25. The pleadings, exhibits thereto, together with Plaintiff's Affidavit of Amount Due and Loan History, clearly demonstrate that there is no genuine issue as to any material fact, and that Plaintiff is entitled to summary judgment as a matter of law. Further, disposition of the motion will not delay trial in this matter.

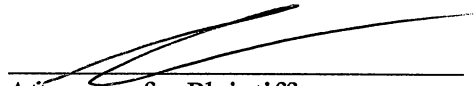
WHEREFORE, Plaintiff, U.S. Bank National Association, as Trustee, Successor in Interest to Bank of America, National Association, as Trustee, Successor by Merger to LaSalle Bank, National Association, as Trustee for Merrill Lynch First Franklin Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-1 respectfully prays that this Honorable Court enter judgment of Mortgage Foreclosure in rem in its favor and against Defendants, Andre L.

Vaughn a/k/a Andre Vaughn and Monique N. Vaughn a/k/a Monique Vaughn, jointly and severally, in the amount of \$500,201.19, authorizing sale of the mortgaged property, together with additional expenses and interest through the date of judgment and thereafter as provided by the Mortgage and applicable law, plus reasonable attorneys' fees actually incurred, and costs. A proposed order to such effect is filed herewith.

SHAPIRO & DeNARDO, LLC

Date: 8/20/2018

BY:


Attorneys for Plaintiff

18-058945

LESLIE J. RASE, ESQUIRE

VERIFICATION


Leslie J. Rase, Esquire, hereby states that she is the Attorney for the Plaintiff in this action, that she is authorized to make this Verification, and that the statements made in the foregoing Motion for Summary Judgment are true and correct to the best of her knowledge, information and belief.

The undersigned understands that this statement herein is made subject to the penalties of 18 Pa. C.S. Sec. 4904 relating to unsworn falsification to authorities.

SHAPIRO & DeNARDO, LLC

DATE: August 20, 2018

BY:



Leslie J. Rase, Esquire
Attorney for Plaintiff

S&D: 18-058945

INTERROGATIVES Depositions for Disclosure & Discovery
ALLEGED DEBT COLLECTOR/CREDITOR DISCLOSURE STATEMENT
Re "Offer of Performance"

This statement and the answers contained herein may be used by the Issuer & Maker, if necessary, in any court of competent jurisdiction
Respondent's Interrogatives/Depositions for Alleged Creditor

Notice: This Debt Collector/Creditor Disclosure Statement is not a substitute for, nor the equivalent of, the hereinabove-requested verification of the record, i.e. "Confirmation of correctness, truth, or authenticity, by affidavit, oath, or deposition" (Black's Law Dictionary, Sixth Edition, 1990), re the alleged debt, and must be completed in accordance with the United States Statutes at Large including the National Bank Act also known as the national Currency Act Public Law Volume 13 38th Congress Stat 99-118 as well as 91 Stat 880 the Actual Law of the primae facie code of the Fair Debt Collection Practices Act, 15 USC § 1692g and the Freedom of Information Act 5 USCA § 552, applicable portions of Truth in Lending (Regulation Z), 12 CFR 226 Contract Disclosure and UCC 1-308, and demands as cited above in Offer of Performance. Debt Collector/Creditor must make all required disclosures clearly and conspicuously in writing re the following:

- 1. NAME OF ALLEGED DEBT COLLECTOR/CREDITOR:
2. Address of Debt Collector/Creditor:
3. Are you [Alleged Creditor] required to register with the United States Department of Treasury as a financial institution? YES NO
4. Please provide the Documents that certify that you are a financial institution registered with the federal government through the United States Department of Treasury.
5. Have you exchanged the alleged note for bonds from the United States Treasury? YES NO If yes, please provide exchange notes certifications and other information.
6. Do you have an oath to follow the laws governing Banks which are The National Currency Act Statutes at Large Public Laws of United States Congress Published at Volume 13 38th Congress Stat 99-118? YES NO
7. Please provide a certified copy of your oath.
8. Have you [Alleged Creditor] ever violated the above Laws in any manner? YES NO
9. Is the note and mortgage security interest lien in this contract for more than 5 years? YES NO. If so, how long is the Mortgage?
10. Are you aware that pursuant to the above federal law a thirty year mortgage is a fraudulent act? YES NO
11. Are you aware that if you violate any part of The National Currency Act Statutes at large Public Laws of United States Congress Published at Volume 13 38th Congress Stat 99-118 that your financial institution can be shutdown? YES NO
12. Are you the holder in due course of the Original Note and or Contract? YES NO. If so, provide certified (notarized) front and back copies of the original contract and or note.
13. What is the nature and cause of any claim(s)/defense(s) re this alleged account?
14. Does Debt Collector/Creditor receive Letter of Credit Financing from a major financial institution to run its operational budget? YES NO
15. Please provide the 1096 and 1098 Tax Returns for this account.
16. Please provide the 1099 OID and the 1099 INT forms for this account.
17. Are you [Alleged Creditor] the payor or the recipient on the 1099 OID forms?
18. Does this account operate as a pooling and servicer agreement? YES NO
19. Have you [Alleged Creditor] ever received any benefit from a third party financial institution due to the alleged contract with the alleged obligor? YES NO
20. Have you [Alleged Creditor] ever received stocks, bonds, securities or any other commercial items from any third party institutions in respect to the alleged contract with the obligor? YES NO
21. Are there any stocks, bonds, or securities attached to the contract between you [Alleged Creditor] and the alleged obligor? YES NO
22. If the answer to the former question is yes could you please provide the CUISP number for the said financial instrument?
23. Is this account connected to any Trust agreements?
24. Please provide the trust account number and the name of the trust and the name of the indentured trustee, who is handling and paying the interest on the certified securities on the Depository Trust Corporation relative to this account.
25. Is this account in any way connected to any financial and or securities fraud?
26. Please provide certified copies of the N-8A registration filed pursuant to section 8A of the Investment Company Act of 1940, the 10 K annual report, the S-3 registration statement and the S-4 prospectus filed pursuant to Rule 425 (b) 5 with the Securities and Exchange Commission under section 13 & 15 (d) of the Securities and Exchange Act of 1934 in reference to this account and any certificated or uncertificated stocks, bonds, securities, or other financial instruments associated with this account.
27. Was alleged Debtor/Obligor provided with a loan by Debt Collector/Creditor? YES NO
28. If the alleged Debtor/Obligor was provided with a loan does the Debt Collector/Creditor have proof that assets were provided from the financial institution to the alleged obligor. Please provide certified copies, front and back of all documentary proof.
29. At the time the alleged original contract was executed, were all parties apprised of the meaning of the terms and conditions of said alleged original contract and was full disclosure of the nature of the contract provided to the alleged obligor? YES NO
30. At the time the alleged original contract was executed, were all parties apprised that said alleged contract was a private credit Instrument? YES NO

Debt Collector/Creditor's failure, both intentional and otherwise, in completing/answering points "1" through "30" above and returning this Debt Collector/Creditor Disclosure Statement, as well as providing Maker with the requisite verification validating the hereinabove-referenced alleged debt, constitutes Debt Collector/Creditor's tacit agreement that Debt Collector/Creditor has no verifiable, lawful, bona fide claim re the hereinabove-referenced alleged account, and that Debt Collector/Creditor tacitly agrees that Debt Collector/Creditor waives all claims against Maker and indemnifies and holds Maker harmless against any and all costs and fees heretofore and hereafter incurred and related re any and all collection attempts involving the hereinabove—referenced alleged account.

Declaration: The Undersigned hereby declares under penalty of perjury of the laws of this State that the statements made in this Debt Collector/Creditor Disclosure Statement are true and correct in accordance with the Undersigned's best firsthand knowledge and belief.

Date Printed name of Signatory

Official Title of Signatory Authorized Signature for Debt Collector/Creditor

Debt Collector/Creditor must timely complete and return this Debt Collector/Creditor Disclosure Statement, along with all required documents referenced in said Debt Collector/Creditor Disclosure Statement. Debt Collector/Creditor's claim will not be considered if any portion of this Debt Collector/Creditor Disclosure Statement is not completed and timely returned with all required documents, which specifically includes the requisite verification, made in accordance with law and codified in the Fair Debt Collection Practices Act at 15 USC § 1692, Freedom of Information Act 5 USCA § 552 et seq., and which states in relevant part: "A debt Collector/Creditor may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt," which includes "the false representation of the character, or legal status of any debt," and "the threat to take any action that cannot legally be taken," all of which are violations of law.

If Debt Collector/Creditor does not respond as required by law, Debt Collector/Creditor's claim will not be considered and Debt Collector/Creditor may be liable for damages for any continued collection efforts, as well as any other injury sustained by Maker of this Document. Please allow thirty (30) days for processing after Respondents receipts of Debt Collector/Creditor's response.