**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT IN AND FOR MANATEE, COUNTY, FLORIDA**

**CHASE HOME FINANCE, LLC,**

Plaintiff,

v. **Case No.** 41 2010 CA 003006

**MATTHEW W. DENTON, et al.,**

Defendant(s).
_____/

**FINAL ORDER DISMISSING *SUA SPONTE*, DUE TO INCOMPLETELY VERIFIED COMPLAINT, ACTION TO FORECLOSE RESIDENTIAL MORTGAGE**

Florida Rule of Civil Procedure 1.110(b) now requires that a complaint to foreclose a mortgage on residential property be verified. *In re Amendments to Fla. R. Civ. P.*, 2010 WL 455295, at *1, *4-5 (Fla. Feb. 11, 2010). In adopting this amendment, the supreme court summarized its purposes as follows:

> The primary purposes of this amendment are (1) to provide incentive for the plaintiff to appropriately investigate and verify its ownership of the note or right to enforce the note and ensure that the allegations in the complaint are accurate; (2) to conserve judicial resources that are currently being wasted on inappropriately pleaded "lost note" counts and inconsistent allegations; (3) to prevent the wasting of judicial resources and harm to defendants resulting from suits brought by plaintiffs not entitled to enforce the note; and (4) to give trial courts greater authority to sanction plaintiffs who make false allegations.

*Id.* at *1. The clear import of the amendment itself, in light of the above purposes, is that *all* of the factual allegations in the complaint must be verified.

Upon review of the record, the Court has determined that Plaintiff's complaint is to foreclose a residential mortgage and that certain portions of it are not verified.

Although Plaintiff's counsel attached an "Affirmation" regarding certain subject matters within the complaint, the "Affirmation" leaves other subject matters unverified. Specifically, the "Affirmation" does not verify the allegations in paragraphs 2 (execution, delivery, and recording of note and mortgage), 4 (property ownership), 7 (amounts owed), 9 (conditions precedent), 10-13 (other defendants), and 15-19 (lost note). Regarding the lost note allegations, the supreme court's purpose (2) in the quotation above implies that in a residential foreclosure action, allegations in a separate count for lost note must be verified.

**THEREFORE,** as a sanction for noncompliance, **IT IS ORDERED THAT:**

1. Plaintiff's action is **DISMISSED** with leave to file a new action. No other pleadings by Plaintiff will be permitted in this case. If Plaintiff elects to re-file to foreclose the same property, a new complaint and filing fee will be required.

2. Plaintiff may move for reconsideration, on the sole ground that the subject property is not residential, within **ten days** from the date of this order. A copy of the motion and any supporting memorandum shall be provided to the undersigned judge at the following address: **1051 Manatee Ave. West, Bradenton, FL 34205**. The Court may rule on the motion without a hearing. Thus, no hearing shall be set on the motion for reconsideration unless approved by the Court through its Judicial Assistant.

3. To avoid dismissal of any future action to foreclose a residential mortgage, Plaintiff's counsel is also advised to confirm that its client's standing, via ownership of the note and mortgage, is evident from the face of the complaint's exhibits.

**DONE AND ORDERED** in Bradenton, Manatee County, Florida, this 6 day of May, 2010.

Circuit Judge

cc: Plaintiff's counsel
Property owner or property owner's counsel