

# EXHIBIT "1"

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR MANATEE COUNTY

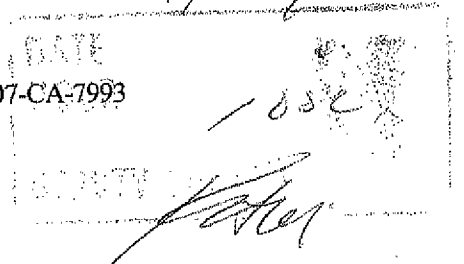
HSBC BANK USA, NATIONAL ASSOCIATION, AS  
TRUSTEE FOR LUMINENT MORTGAGE TRUST  
2006-6,

Plaintiff,

vs.

ANTONIO DE FREITAS, *et. al.*,  
Defendants.

CASE NO. 2007-CA-7993



**ORDER TO SHOW CAUSE WHY PLAINTIFF AND PLAINTIFF'S ATTORNEYS  
SHOULD NOT BE HELD IN CONTEMPT AND SANCTIONED**

To: HSBC Bank USA  
1800 Tysons Bend  
McLean VA 22105

Smith Hiatt & Diaz PA  
PO Box 11438  
Fort Lauderdale FL 33339-1438  
Attn: Robert A. Smith, Bar #116186  
Attn: Ryan T. Cox, Bar #0032686  
Attn: Patrice A. Tedesco, Bar # 0628451  
Attn: Michael D. Wild, Bar #0028643  
Attn: Daniel S. Stein, Bar # 0117412  
Attn: Gavin W. MacMillan, Bar # 0037641  
Attn: Gabrielle M. Strauss, Bar #0059563

FILED FOR RECORD  
R. B. SHORE  
2010 JUL -7 AM 11: L2  
CLERK OF CIRCUIT COURT  
MANATEE CO FLORIDA

**YOU ARE HEREBY NOTIFIED** that this Court shall conduct a hearing at the Manatee County Judicial Center, 1051 Manatee Ave West, Bradenton FL 34205, before the Honorable Janette Dunnigan on **MONDAY, AUGUST 30, 2010 AT 1:30 P.M.** to allow Plaintiff and Plaintiff's Attorneys to show cause why they should not be held in Contempt of Court and sanctioned for failing to conduct themselves properly in the above case.

The Court finds as follows:

1. The Mortgage Foreclosure Complaint was filed November 16, 2007. The case has been at issue since 2008.

2. Plaintiff's Motion for Summary Judgment was filed February 27, 2008 and set for hearing on May 29, 2008. Although Kimberly Humphrey Esq. appeared telephonically on behalf of the plaintiff, the plaintiff failed to comply the local rules and the hearing was canceled.
3. Another hearing was scheduled for July 31, 2008. No one appeared and plaintiff still had not complied with local rules.
4. Plaintiff scheduled another summary judgment hearing for December 9, 2009 but a failed to notice the hearing. Plaintiff did not cancel or release the time on the court's calendar. No one appeared for the hearing when the case was called by the court.
5. Plaintiff re-noticed for summary judgment on November 16, 2009 but canceled the December 17, 2009 hearing.
6. Barrington Ridge Homeowners Association Inc filed a Motion to Compel Plaintiff to Proceed with Foreclosure Sale or Pay Assessments Due to Association.
7. The Court granted Barrington Ridge Homeowners Association Inc's Motion to Compel at a hearing on February 4, 2010 and ordered the Plaintiff to set a hearing on the Motion for Summary Judgment within 90 days. Dustin Hay Esq. appeared on behalf of the plaintiff at the hearing.
8. Plaintiff re-noticed for summary judgment on February 26, 2010 but then filed an Amended Notice of Hearing on March 22, 2010 scheduling the motion for summary judgment on April 5, 2010. Plaintiff failed to appear at the hearing. The Court was required to call Plaintiff's attorney, Ryan Cox. Although Mr. Cox signed the notice of hearing, he was unable to provide the Court with any explanation as to why Plaintiff's counsel or any of them, were not present for the hearing yet again.
9. The Plaintiff re-noticed for summary judgment on May 21, 2010 scheduling the hearing for June 28, 2010. Plaintiff again failed to appear at the hearing and didn't file a Notice of Cancellation until June 29, 2010, one day after the hearing.

This conduct has caused disruption to the Court's calendar, demonstrated utter disregard and disrespect to the Court, caused time and money to be wasted by the other parties to the action who appear at scheduled hearings, failed to move the case forward pursuant to mandated time standards, failed to comply with local rules and caused counsel for Barrington Ridge Homeowners Association Inc. additional attorneys fees.

FAILURE TO APPEAR AT THE ABOVE HEARING SHALL BE GROUNDS FOR CONTEMPT AND FOR SANCTIONS TO INCLUDE FINES, COSTS, ATTORNEY'S FEES, DISMISSAL AND/OR INCARCERATION AS DEEMED APPROPRIATE.

DONE AND ORDERED in Chambers at Bradenton, Manatee County, Florida this

6 day of July, 2010.

  
Janette Dunnigan, Circuit Judge

Copies furnished via US mail to:

Antonio De Freitas  
6121 41<sup>st</sup> St East  
Bradenton FL 34203

Camila De Freitas  
4948 79<sup>th</sup> Ave Dr East  
Sarasota FL 34243

David G. Muller, Esq.  
OBO Barrington Ridge HOA  
6230 University Pkwy, Suite 204  
Sarasota FL 34240

Mortgage Electronic Registration System  
c/o CT Corporation System, Inc  
1200 S Pine Island Rd  
Plantation FL 33324



STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 13 day of

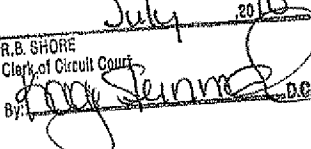
July 2010  
R.B. SHORE  
Clerk of Circuit Court  
By:  R.B. Shore, D.C.

EXHIBIT "2"

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

CASE NO. 412007CA007993XXXXXX

HSBC BANK USA, NATIONAL ASSOCIATION, AS  
TRUSTEE FOR LUMINENT MORTGAGE TRUST  
2006-6 ,

Plaintiff,

vs.

ANTONIO DE FREITAS; CAMILA DE FREITAS;  
BARRINGTON RIDGE HOMEOWNERS  
ASSOCIATION, INC.; MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC. MIN NO.  
1000460-0012835542-1; UNKNOWN TENANT NO. 1;  
UNKNOWN TENANT NO. 2; and ALL UNKNOWN  
PARTIES CLAIMING INTERESTS BY, THROUGH,  
UNDER OR AGAINST A NAMED DEFENDANT TO  
THIS ACTION, OR HAVING OR CLAIMING TO  
HAVE ANY RIGHT, TITLE OR INTEREST IN THE  
PROPERTY HEREIN DESCRIBED,

Defendants.

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**PLAINTIFF'S RESPONSE TO COURT'S ORDER  
TO SHOW CAUSE AND PLAINTIFF'S REQUEST FOR PARTIAL RELIEF**

Plaintiff, HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR LUMINENT MORTGAGE TRUST 2006-6, Ryan T. Cox, Patrice A. Tedesco, Gavin W. MacMillan, and Gabrielle M. Strauss, by and through the undersigned counsel, and Michael D. Wild, Robert A. Smith, and Daniel S. Stein<sup>1</sup>, by special appearance through the undersigned counsel, files this response to the Court's order to show cause, and states:

This Court has entered an order to show cause why Plaintiff and Plaintiff's attorneys should not be held in contempt and sanctioned for failure to appear, or timely cancel, scheduled hearings.

Plaintiff's counsel submits that Plaintiff did not engage in willful conduct, did not intend to subvert the efficient operation of the court, and meant no disrespect to the presiding Judge or the litigants; further, Plaintiff has now dismissed Plaintiff's case.

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<sup>1</sup>Robert A. Smith and Michael D. Wild were not served the Order to Show Cause. Daniel S. Stein was not served with the Order to Show Cause notwithstanding the indication of "individual service". The process server left the attached order reflecting service on July 21, 2010 at 10:50 a.m. (See Exhibit "A"). The return of service reflects a time of service of 12:11 p.m. (See exhibit "B"). Mr. Stein was in Palm Beach County Court the morning of July 21, 2010 and was not present for individual service, and was not served.

**BACKGROUND OF PLAINTIFF'S COUNSEL'S PROCEDURES  
FOR ABIDING BY LOCAL RULES**

Plaintiff's counsel receives referrals for foreclosure litigation across all Counties within the State of Florida. In order to accommodate these referrals, Plaintiff's counsel, headquartered in Fort Lauderdale, Florida, utilizes electronic communications, frequent travel, and the services of local counsel in order to provide representation in each Circuit of the State of Florida.

Each such Circuit, and each Judge presiding in each Circuit, has implemented local rules for the efficient operation of their Court. Plaintiff understands and appreciates the importance of these rules, and the need for all attorneys practicing therein to strictly follow these mandates.

In order to manage the disparate requirements of each jurisdiction, Plaintiff's counsel utilizes a computer database which populates the particular rules of each i) Circuit ii) Court, and iii) Judicial Division into Plaintiff's counsel's file once a lawsuit is filed and assigned to that particular division.

Plaintiff's counsel has assigned 6 members of its staff to the task of maintaining updated and accurate information regarding each division's rules and requirements in an effort to ensure that the computer database accurately reflect the rules of each division.

As a result of the circumstances surrounding the instant case, Plaintiff's counsel has now discovered that a portion of the rules applicable to the 12<sup>th</sup> Circuit, Circuit Civil Division B, were not included in the Plaintiff's database, resulting in a failure to abide by scheduling requirements for this division.

**PLAINTIFF'S COUNSEL HAS CORRECTED THE INCORRECT  
INFORMATION FOR THIS JUDICIAL DIVISION**

Plaintiff's counsel has reviewed the procedures indicated herein to discover and ascertain the reason that Plaintiff may have failed to abide by the rules of this Court. Plaintiff has discovered that this Court's rules were not accurate within the computer system, resulting in a failure to properly schedule and cancel hearings on the Court's calendar.

Plaintiff's counsel had been under the mistaken impression that a cancellation in this division could occur informally, and had acted under that mistaken impression during the entirety of this litigation.

Plaintiff has now updated Plaintiff's database to reflect the most recent requirements for the 12<sup>th</sup>

Circuit, Circuit Civil Division B. Plaintiff attaches hereto, as Exhibit "C", the most updated Information and Requirements Plaintiff has obtained for this division.

**PLAINTIFF'S ATTORNEYS SHOULD NOT BE  
HELD IN DIRECT OR INDIRECT CIVIL CONTEMPT**

At all times pertinent to this case, Plaintiff's counsel has operated in accordance with their obligations as members of the Florida Bar. Per Rule 4-3.4(c) of the Rules of Professional Conduct, "A lawyer shall not *knowingly* disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists." (Emphasis added).

In the present litigation, Plaintiff's counsel did not knowingly violate the rules of court, as the failure to properly schedule and cancel hearings was not intentional. Further, Plaintiff's counsel does not dispute the validity of the court's rules.

Additionally, Rule 4-3.2 of the Rules of Professional Conduct states that "A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client." In the present case, Plaintiff's counsel abided by this requirement, as well. Although the present litigation did extend over several years, this was due to communications with the client, and in furtherance of their interests as the Plaintiff in the case.

The comment to Rule 4-3.2 notes that "Nor will a failure to expedite be reasonable if done for the purposes of frustrating an opposing party's attempt to obtain rightful redress or repose." This comment is not applicable in the present case. Although Defendant Barrington Homeowner's Association did seek, and did obtain, an order compelling Plaintiff to proceed with its action, Plaintiff's delay a) was not done to frustrate the Association's remedies at law, and b) did not prevent or otherwise frustrate the Association from seeking its own legal redress. Moreover, the delays in the case did not prejudice the remaining defendants, Antonio De Freitas and Camila De Freitas (who are the homeowners), as they have not been displaced from their residence at any time during the pendency of this litigation.

**PLAINTIFF HAS PURGED ANY CLAIMED CONTEMPT**

Plaintiff's respectfully submits that it has corrected the issues that may have led to a lack of compliance with this Court's local rules. Plaintiff submits that it has purged any claimed contempt and asks the Court to make such a finding and enter a ruling in accordance therewith.



### ALTERNATIVE REQUEST FOR PARTIAL RELIEF

To the extent that this Court does not find this response to be a showing of good cause, Plaintiff would ask the court to amend the order to allow Plaintiff to designate the undersigned to attend the scheduled hearing on August 30, 2010.

The Court's order to show cause was directed towards 7 attorneys associated with Plaintiff's law firm. Of those attorneys, Michael D. Wild is no longer employed with the firm. Another attorney, Daniel S. Stein, will be leaving the employ of Plaintiff's firm on August 31, 2010. A third attorney, Robert A. Smith, is retired and not actively practicing with the firm. With due respect to the Court's order, the undersigned has submitted this pleading under a special appearance on their behalf due to the jurisdictional issues arising from the lack of service of process.

While the remaining attorneys did file pleadings in this case, they did so according to the policies and procedures that were in part created and implemented by undersigned counsel, who is Senior Litigation Partner at Smith, Hiatt, and Diaz. As a shareholder and officer of the firm, the undersigned assumes responsibility for the conduct of the associates.

As such, Plaintiff would request that Roy A. Diaz be substituted for the named parties in the Court's order to show cause, such that Roy A. Diaz is the only person compelled to attend the August 30, 2010, hearing.

### CONCLUSION

The undersigned counsel certainly recognizes the strain imposed on the Florida Judiciary due to the current foreclosure crisis. It is this law firm's sincere intention to meet its ethical obligation of assuring cases are expedited in accordance with Florida law and in the most judicially economical way possible.

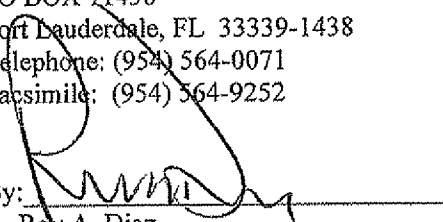
Plaintiff, and Plaintiff's attorney, wholeheartedly regret any confusion or consternation that may have arisen from this case, either for the litigants or for the court system. Plaintiff, and its counsel, endeavor to act with the utmost respect and deference to this Court. It is on this basis that Plaintiff has elected to dismiss Plaintiff's case rather than further aggravate the parties.

Plaintiff submits that inadvertent delays created the issues attendant to the Court's motion, and would ask that good cause be found, and that neither Plaintiff nor Plaintiff's counsel be held in contempt for the conduct in this case.

In the alternative, if good cause is not found, Plaintiff would ask that attorney Roy A. Diaz, senior Litigation partner at Smith, Hiatt, and Diaz, P.A., be selected to represent the Plaintiff's interests at the Court's scheduled August 30, 2010 hearing.

I HEREBY CERTIFY that a copy of the Motion has been mailed to the parties on the attached service list this 18<sup>th</sup> day of August, 2010.

SMITH, HIATT & DIAZ, P.A.  
Attorneys for Plaintiff  
PO BOX 11438  
Fort Lauderdale, FL 33339-1438  
Telephone: (954) 564-0071  
Facsimile: (954) 564-9252

By:   
Roy A. Diaz  
Florida Bar No. 767700

**SERVICE LIST**

Case No. 412007CA007993XXXXXX

ANTONIO DE FREITAS  
6121 41ST STREET EAST  
BRADENTON, FL 34203

CAMILA DE FREITAS  
4948 79TH AVENUE DR E  
SARASOTA, FL 34243

David G. Muller, Esq.  
Attorney For BARRINGTON RIDGE HOMEOWNERS ASSOCIATION, INC.  
6230 University Parkway, Suite 204  
Sarasota, FL 34240

MERS  
C.T. Corporation System, Inc.  
1200 South Pine Island Road  
Plantation, FL 33324

# EXHIBIT "A"

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR MANATEE COUNTY

*Handwritten signature*

HSBC BANK USA, NATIONAL ASSOCIATION, AS  
TRUSTEE FOR LUMINENT MORTGAGE TRUST  
2006-6,  
Plaintiff,

DATE  
FILED  
1050  
SEP  
*Handwritten signature*

CASE NO. 2007-GA-7993

vs.

ANTONIO DE FREITAS, *et. al.*,  
Defendants.

**ORDER TO SHOW CAUSE WHY PLAINTIFF AND PLAINTIFF'S ATTORNEYS  
SHOULD NOT BE HELD IN CONTEMPT AND SANCTIONED**

To: HSBC Bank USA  
1800 Tysons Bend  
McLean VA 22105

Smith Hiatt & Diaz PA  
PO Box 11438  
Fort Lauderdale FL 33339-1438  
Attn: Robert A. Smith, Bar #116186  
Attn: Ryan T. Cox, Bar #0032686  
Attn: Patrice A. Tedesco, Bar # 0628451  
Attn: Michael D. Wild, Bar #0028643  
Attn: Daniel S. Stein, Bar # 0117412  
Attn: Gavin W. MacMillan, Bar # 0037641  
Attn: Gabrielle M. Strauss, Bar #0059563

FILED FOR RECORD  
R.B. STORKE  
2010 JUL -7 AM 11:42  
CLERK OF CIRCUIT COURT  
MANATEE CO FLORIDA

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Judicial Center, 1051 Manatee Ave West, Bradenton FL 34205, before the Honorable Janette Dunnigan  
on **MONDAY, AUGUST 30, 2010 AT 1:30 P.M.** to allow Plaintiff and Plaintiff's Attorneys to show  
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FAILURE TO APPEAR AT THE ABOVE HEARING SHALL BE GROUNDS FOR CONTEMPT AND FOR SANCTIONS TO INCLUDE FINES, COSTS, ATTORNEY'S FEES, DISMISSAL AND/OR INCARCERATION AS DEEMED APPROPRIATE.

DONE AND ORDERED in Chambers at Bradenton, Manatee County, Florida this

6 day of July, 2010.

  
Janelle Dunnigan, Circuit Judge

Copies furnished via US mail to:

Antonio De Freitas  
6121 41<sup>st</sup> St East  
Bradenton FL 34203

Camila De Freitas  
4948 79<sup>th</sup> Ave Dr East  
Sarasota FL 34243

David G. Muller, Esq.  
OBO Barrington Ridge HOA  
6230 University Pkwy, Suite 204  
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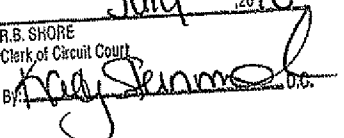
Mortgage Electronic Registration System  
c/o CT Corporation System, Inc  
1200 S Pine Island Rd  
Plantation FL 33324



STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.

Witness my hand and official seal this 13 day of

July, 2010  
R.B. SHORE  
Clerk of Circuit Court

By:  D.C.

# EXHIBIT "B"



**RETURN OF SERVICE**

Assignment: 10332 Service Sheet # 10-044573  
HSBC BANK USA, N.A., ETC. vs. ANTONIO DE FREITAS, ET AL DEFENDANT CASE # 07-CA-7993  
ORDER TO SHOW CAUSE vs. CIRCUIT MANATEE COURT HEARING DATE 8/30/2010  
 TYPE OF WRIT  
STEIN, DANIEL S. SERVE 2801 E OAKLAND PARK BLVD., SUITE 303  
FORT LAUDERDALE, FL 33308

Received this process on 7/19/2010  
Date

338008  
CLERK OF MANATEE COUNTY  
POST OFFICE BOX 25400  
BRADENTON, FL 34208

Served  
 Not Served - see comments  
 Date 7/19/10 at 12:11 Time

On 7/19/2010 at 12:11 in Broward County, Florida, by serving the within named person a true copy of the writ, with the date and time of service endorsed thereon by me, and a copy of the complaint, petition, or initial pleading, by the following method:

INDIVIDUAL SERVICE

SUBSTITUTE SERVICE:

- At the defendant's usual place of abode on "any person residing therein who is 15 years of age or older", to wit: \_\_\_\_\_ in accordance with F.S. 48.031(1)(a)
- To \_\_\_\_\_, the defendant's spouse, at \_\_\_\_\_ in accordance with F.S. 48.031(2)(a)
- To \_\_\_\_\_, the person in charge of the defendant's business in accordance with F.S. 48.031(2)(b) for two or more attempts to serve the defendant have been made at the place of business

CORPORATE SERVICE:

- To \_\_\_\_\_, holding the following position of said corporation \_\_\_\_\_ in the presence of any superior officer in accordance with F.S. 48.081
- To \_\_\_\_\_, an employee of defendant corporation in accordance with F.S. 48.081(3)
- To \_\_\_\_\_, as resident agent of said corporation in accordance with F.S. 48.091

PARTNERSHIP SERVICE: To \_\_\_\_\_, partner, or to \_\_\_\_\_, designated employee or person in charge of partnership, in accordance with F.S. 48.061(1)

POSTED RESIDENTIAL: By attaching a true copy to a conspicuous place on the property described in the complaint or summons. Neither the tenant nor a person residing therein 15 years of age or older could be found at the defendant's usual place of abode in accordance with F.S. 48.183

1<sup>st</sup> attempt date/time: \_\_\_\_\_ 2<sup>nd</sup> attempt date/time: \_\_\_\_\_

POSTED COMMERCIAL: By attaching a true copy to a conspicuous place on the property in accordance with F.S. 48.183

1<sup>st</sup> attempt date/time: \_\_\_\_\_ 2<sup>nd</sup> attempt date/time: \_\_\_\_\_

OTHER RETURNS: See comments

COMMENTS: \_\_\_\_\_

You can now check the status of your writ by visiting the Broward Sheriff's Office Website at [www.sheriff.org](http://www.sheriff.org) and clicking on the icon "Service Inquiry"

AL LAMBERTI, SHERIFF  
BROWARD COUNTY, FLORIDA

BY [Signature] D.S.  
R. Kraus

ORIGINAL

FILED FOR RECORD  
 R.B. MORE  
 280 JUL 26 PM 4:48  
 BROWARD COUNTY  
 CLERK OF COURT  
 MANATEE CO. FLORIDA

RECEIPT INFORMATION  
 RECEIPT #: 10-044573  
 CHECK #: \_\_\_\_\_  
 SVC FEE: \$0.00  
 SUS FEE: \$0.00  
 QUANTIFY:  
 ORIG: 7  
 SVCS: 7

EXECUTION COSTS  
 DOCKET & INDEX \$0.00  
 LEVYING \$0.00  
 ADVERTISING \_\_\_\_\_  
 HOLDING SALE \_\_\_\_\_  
 POSTAGE \$0.00  
 BILL OF SALE \_\_\_\_\_  
 TOTAL: \$0.00

DEMAND/LEVY INFORMATION  
 JUDGMENT DATE: 00/00/0000  
 JUDGMENT AMT.: \$0.00  
 INTEREST PERCENT 0%  
 INTEREST AMOUNT \$0.00  
 SHERIFF'S COST \$0.00  
 TOTAL AMOUNT: \$0.00

# EXHIBIT "C"

**Janette Dunnigan**  
Circuit Judge

**Marcia Kral**  
Judicial Assistant

**Circuit Civil Division B – Information and Requirements**  
(Updated August 16, 2010)

*IMPORTANT UPDATE: There are new changes in our Foreclosure Procedures. Please visit the Foreclosure portion of our website for the latest updates prior to scheduling a hearing. Scheduling a hearing on the wrong docket will result in the hearing being canceled without notice.*

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**Contact Information**

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**Office Hours:** Regular office hours are from 8:30 am to 5:00 pm EST

**Courtroom:** Proceedings are held in Courtroom 6E at the Manatee County Judicial Center, 1051 Manatee Ave West, Bradenton FL 34205

**Mailing Address:** PO Box 3000, Bradenton FL 34206

**Telephone:** (941) 749-3635  
Please **DO NOT CALL** the judicial assistant without first reading these requirements. **To inquire about the outcome of a hearing, please consult the Clerk's website at [www.manateeclerk.com](http://www.manateeclerk.com)**

**Fax:** (941) 749-3686  
The fax should be used for **emergencies only**, such as canceling a mortgage foreclosure sale, or with permission from the judicial assistant.

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**Local Rules & Standards of Professionalism**

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All attorneys must follow the Local Rules and the 12<sup>th</sup> Judicial Circuit Standards of Professionalism, which are available via the internet at [www.manateebar.com](http://www.manateebar.com) or [www.jud12.flcourts.org](http://www.jud12.flcourts.org)

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## Scheduling Hearings (for Foreclosure Hearings, see section below)

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**Hearings 1 hour or less:** All hearings 1 hour or less in length must be scheduled through the Judicial Automated Calendaring System (JACS). Available timeslots are 15, 30, 45 and 60 minutes. JACS can be accessed online at [www.jud12.flcourts.org](http://www.jud12.flcourts.org)

**Hearings More Than 1 Hour:** All hearings estimated to last more than 1 hour must be scheduled through the judicial assistant.

**Uniform Motion Calendar (UMC):** Unless otherwise noted, UMC is held at 9:00 a.m. every Friday, excluding holidays. UMC motions are to be non-evidentiary and 5 minutes or less in length. These hearings are **not** scheduled through JACS or the judicial assistant. Please do not forward copies of the Notice of UMC Hearing to the judge's office or call the judicial assistant with any cancelations. Attorneys will sign up as they arrive to the courtroom for the hearing and the hearings will generally be taken in order of sign up. **No telephone appearances are permitted and no court files are available.** Counsel will comply with Florida Rules of Civil Procedure and applicable case law in terms of motions and notices and will bring copies of these pleadings to the hearing for the judge.

**Emergency Hearings:** All motions requesting emergency hearing time shall be delivered directly to the judge along with a cover letter. The motion shall be detailed and include the amount of hearing time required. The judge will review the motion and determine whether an expedited hearing is required.

**Motions for Rehearing, Reconsideration and New Trial:** DO NOT SET THESE FOR HEARING. All Motions for Rehearing, Reconsideration or for New Trial are to be submitted directly to the judge along with a cover letter. The motion should be detailed. The judge will review the motion to determine whether a hearing is required.

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## Cancelation of Hearings

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**General Information:** JACS should be used to cancel hearings when possible. However, JACS will not authorize a cancelation when it results in short notice to the parties. When JACS does not permit a cancelation, the moving party may cancel the hearing by contacting the judicial assistant by telephone. The phone call shall be promptly followed by a Notice of Cancelation filed with the Clerk of Court and notice of the cancelation provided to all parties.

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## Telephonic Appearance

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**General Information:** Telephonic appearances are NOT allowed on any Foreclosure proceeding or UMC's. Telephonic appearances are allowed on non-evidentiary hearings 15 minutes or less in length. The Court will not initiate the call. The attorney wishing to appear telephonically will call the judicial assistant at (941) 749-3635 at the scheduled hearing time.

**Conference Calls:** The Court does not have the ability to accept more than one incoming call at a time. Therefore, if more than one person will be appearing telephonically, arrangements for a conference call must be arranged by the moving party.

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## Agreed Orders

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Effective immediately, any Agreed Order submitted to the judge ex parte shall be accompanied with a signed stipulation by all involved parties.

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## Ex Parte Motions and Orders

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Once a party has appeared by filing any paper in the case, the Court will not accept, consider or rule upon any ex parte motions or communications from any other party. Any motion shall be set for hearing with notice to all parties.

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## Trials

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- General Information:** Once the case is at issue, file a Notice That Case Is At Issue and Ready For Trial with the clerk and forward a copy to the judge's office.
- Case Management Conference (CMC):** The judicial assistant will prepare an Order of Case Management which contains a date for case management, available trial dockets and a trial stipulation. If the parties can stipulate to a trial period and the original trial stipulation has been submitted to the judge's office 3 days prior to the case management conference, appearance at the case management conference is waived. If an agreement on a trial docket cannot be reached, counsel shall appear at the conference with their professional calendars.
- Trial Orders:** Once all parties have stipulated to a trial docket, the judicial assistant will prepare a trial order and an order of mediation.
- Pre-Trial Conference (PTC):** The Pre-Trial Conference is optional for trials 5 days or less but mandatory for trials more than 5 days (refer to your trial order). Trials 5 days or less in which the PTC is optional may waive appearance if a stipulated Pre-Trial Order is submitted to the judge's office 3 days prior to the conference.
- Trial Schedule:** After the Pre-Trial Conference, the trial schedule will be created and posted on the internet. It is the responsibility of the attorneys and all parties to see when their case is scheduled to begin.
-

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## FORECLOSURE HEARINGS

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EFFECTIVE JULY 19, 2010, FORECLOSURE HEARINGS ARE NO LONGER SCHEDULED ON THE DIVISION JUDGE'S HEARING DOCKETS. READ THE INFORMATION BELOW VERY CAREFULLY. SCHEDULING A HEARING ON THE INCORRECT DOCKET WILL RESULT IN YOUR HEARING BEING CANCELED WITHOUT NOTICE.

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**General Information:** All foreclosure hearings must be scheduled through the Judicial Automated Calendaring System (JACS) on either FORECLOSURE UNCONTESTED; JUDGE HARRY RAPKIN or FORECLOSURE CONTESTED; FORECLOSURE JUDGE. JACS can be accessed online at [www.jud12.flcourts.org](http://www.jud12.flcourts.org) . Prior to scheduling any foreclosure hearing, please visit the foreclosure portion of our website to ensure that you have reviewed and complied with the administrative orders and mandatory requirements.

**Questions & Inquiries:** All communication relating to a mortgage foreclosure case should be directed to the Foreclosure Case Managers at (941) 749-3600 ext 7196.

**Telephonic Hearings:** **NO TELEPHONIC APPEARANCE** is permitted at any type of mortgage foreclosure hearing per Administrative Order 2009-2.1.

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### Scheduling Foreclosure Hearings

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**For UNCONTESTED Summary Judgments of Mortgage Foreclosure:** These hearings are to be set on the FORECLOSURE UNCONTESTED; JUDGE HARRY RAPKIN hearing docket in JACS. All hearings are to be noticed for 9:00 a.m. in Courtroom 4E. **DO NOT SEND COPIES OF THE NOTICE OR MOTION TO THE CASE MANAGERS.**

For **CONTESTED**  
Summary Judgments  
of Mortgage Foreclosure:

These hearings are to be set on the **FORECLOSURE CONTESTED; FORECLOSURE JUDGE** hearing docket in JACS. All hearings are to be noticed for Courtroom 4E. Send copies of the Notice of Hearing and motion(s) to be heard to Foreclosure Case Manager, Manatee County Judicial Center, 1051 Manatee Ave West, Bradenton FL 34205.

For **ALL OTHER**  
**MOTIONS** in  
Mortgage Foreclosures:

These hearings are to be set on the **FORECLOSURE CONTESTED; FORECLOSURE JUDGE** hearing docket in JACS. All hearings are to be noticed for Courtroom 4E. Send copies of the Notice of Hearing and motion(s) to be heard to Foreclosure Case Manager, Manatee County Judicial Center, 1051 Manatee Ave West, Bradenton FL 34205.

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## Canceling Foreclosure Hearings

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**General Information:**

JACS should be used to cancel hearings when possible. However, JACS will not authorize a cancelation when it results in short notice to the parties. When JACS does not permit a cancelation, the moving party **MUST** cancel the hearing by contacting the foreclosure case manager at (941) 749-3600 ext 7196. The phone call shall be promptly followed by a Notice of Cancelation filed with the Clerk of Court and notice of the cancelation provided to all parties.

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## Canceling Foreclosure Sales

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**General Information:**

Immediately fax a Motion and Order to cancel a sale to the judge's office at (941) 749-3686.



# EXHIBIT "3"

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR MANATEE COUNTY

HSBC BANK USA, NATIONAL ASSOCIATION, AS  
TRUSTEE FOR LUMINENT MORTGAGE TRUST  
2006-6,  
Plaintiff,

vs.

CASE NO. 2007-CA-7993

ANTONIO DE FREITAS, *et. al.*,  
Defendants.

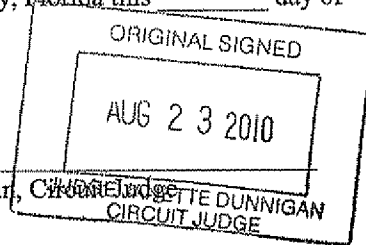
**ORDER EXCUSING APPEARANCE AT SHOW CAUSE HEARING**

THIS CAUSE having come before the Court upon the Plaintiff's Alternative Request for Partial Relief, and the Court having considered the request, and otherwise being fully advised in the premises, it is

**ORDERED AND ADJUDGED** that MICHAEL D. WILD, DANIEL S. STEIN, and ROBERT A. SMITH are hereby excused from appearing at the August 30, 2010 Order to Show Cause hearing scheduled for 1:30 p.m..

DONE AND ORDERED in Chambers at Bradenton, Manatee County, Florida this \_\_\_\_\_ day of August, 2010.

Janette Dunnigan, Clerk of Court  
JANETTE DUNNIGAN  
CIRCUIT JUDGE



Copies forwarded via US mail to:

Attn: Robert A. Smith, Bar #116186  
Attn: Roy A. Diaz, Bar #767700  
Attn: Ryan T. Cox, Bar #0032686  
Attn: Patrice A. Tedesco, Bar # 0628451  
Attn: Michael D. Wild, Bar #0028643  
Attn: Daniel S. Stein, Bar # 0117412  
Attn: Gavin W. MacMillan, Bar # 0037641  
Attn: Gabrielle M. Strauss, Bar #0059563  
Smith Hiatt & Diaz PA  
PO Box 11438  
Fort Lauderdale FL 33339-1438

RECEIVED AUG 26 2010

---

HSBC Bank USA  
1800 Tysons Bend  
McLean VA 22105

Antonio De Freitas  
6121 41<sup>st</sup> St East  
Bradenton FL 34203

Camila De Freitas  
4948 79<sup>th</sup> Ave Dr East  
Sarasota FL 34243

Scott K. Petersen, Esq.  
OBO Barrington Ridge HOA  
6230 University Pkwy, Suite 204  
Sarasota FL 34240

Mortgage Electronic Registration System  
c/o CT Corporation System, Inc  
1200 S Pine Island Rd  
Plantation FL 33324

# EXHIBIT "4"

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

FILED FOR RECORD  
R.B. SHORE  
2010 SEP -2 AM 10:26  
CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

HSBC BANK USA, NATIONAL ASSOCIATION,  
As Trustee for Luminent Mortgage Trust 2006-6,  
Plaintiff,

v.

CASE NO.: 2007-CA-007993

ANTONIO DE FREITAS, et al.,  
Defendants.

ORDER ADJUDICATING PLAINTIFF'S ATTORNEYS IN CONTEMPT OF COURT

THIS MATTER came before this Court on its Order to Show Cause Why Plaintiff and Plaintiff's Attorneys Should Not be Held in Contempt and Sanctioned, filed on July 7, 2010, which is hereby incorporated as part of this Order.

The Order to Show Cause was served upon the Plaintiff, HSBC Bank USA, National Association, the Law Firm of Smith, Hiatt & Diaz P.A., and attorneys of the firm: Robert A. Smith, Ryan T. Cox, Patrice A. Tedesco, Michael D. Wild, Daniel S. Stein, Gavin W. MacMillan, and Gabrielle M. Strauss. Attorney Roy Diaz appeared on behalf of the Plaintiff, the Law Firm and each attorney.

On August 19, 2010, Smith, Hiatt & Diaz, P.A. filed Plaintiff's Response to Court's Order to Show Cause and Plaintiff's Request for Partial Relief.

On August 20, 2010, Plaintiff filed its Notice of Voluntary Dismissal and this Court dismisses the Plaintiff from the contempt action.

On August 30, 2010, Smith, Hiatt & Diaz, P.A., through Roy Diaz, Ryan T. Cox, Patrice A. Tedesco, Gavin W. MacMillan, and Gabrielle M. Strauss, appeared before the Court. Robert A. Smith, Michael D. Wild and David S. Stein were excused because they are no longer



associated with the Law Firm. All parties acknowledged service, waived any defect in service and acknowledged jurisdiction of the Court. The Court held a hearing on the matter, whereby it heard testimony and argument from Plaintiff's attorney, Roy Diaz. His testimony and arguments were adopted by each attorney present.

This Court, having considered the Plaintiff's Response, the court file and docket, the testimony and arguments of counsel, the applicable law, and being otherwise duly advised in the premises, finds as follows:

1. The Law Firm of Smith, Hiatt & Diaz, P.A. (hereinafter referred to as "The Law Firm") conducts a high volume mortgage foreclosure practice which does not assign particular cases to particular lawyers. The Law Firm reserves hearing time on the Court's calendar prior to their receipt of all documents necessary from the client to proceed. The Law Firm does not make diligent efforts to notify other parties of cancellations of hearings because "the defendants don't usually show up". The Law Firm was aware of and had internet access to the Clerk's Dockets, Administrative Orders, Judges' requirements and foreclosure programs in the Twelfth Judicial Circuit, Manatee County, Florida. In the above styled case, the Law Firm conducted itself as follows:
  - a. The Law Firm secured summary judgment hearing time for May 29, 2008 on the Court's automated calendar system and attempted to appear by telephone in violation of the Court's requirements. It further failed to comply with the Foreclosure Procedures of the Twelfth Judicial Circuit by not having all documents filed prior to the hearing.
  - b. The Law Firm secured summary judgment hearing times for July 31, 2008 and December 9, 2008, but still did not comply with the Foreclosure Procedures by

not having all documents filed prior to the hearings. The Law Firm did not appear nor cancel the hearings, nor notice the Court or the other parties.

- c. The Law Firm then again secured summary judgment hearing time and cancelled same 3 days prior to the December 9, 2009 hearing. Late cancellations do not permit other litigants to utilize that time.
- d. The Law Firm then appeared through local counsel on Defendant Barrington Ridge Homeowners Association, Inc.'s motion to compel on February 4, 2010, which was granted. Plaintiff was ordered to proceed to summary judgment within 90 days.
- e. The Law Firm scheduled and rescheduled hearings on their motion for summary judgment with notice but did not proceed.
- f. On April 4, 2010, the Court called up the Motion for Summary Judgment (which had been filed February 27, 2008) for hearing, but the Law Firm failed to appear. The Court telephoned Ryan T. Cox, who had signed the Notice of Hearing. Mr. Cox did not have knowledge of the hearing scheduled nor any excuse as to why the hearing was not docketed on the Law Firm's calendars. The Court advised Mr. Cox that the Motion for Summary Judgment was denied and the Court would be preparing an Order to Show Cause as to why Mr. Cox and the Law Firm should not be held in contempt for having set the 5 previous hearings but did not appear or cancel or notify the Court or other parties.
- g. On April 13, 2010, the Law Firm noticed the Motion for Summary Judgment (which had already been denied and had not been re-filed) for hearing on June 28, 2010. On May 21, 2010 the same motion was renoticed for the same June

28, 2010 date. The Court withheld filing its Order to Show Cause to await the outcome of that hearing.

- h. On June 28, 2010, the Law Firm failed to appear or cancel the hearing. The Court took testimony from the Defendant, Antonio De Freitas, regarding his lost wages and costs because he had appeared for the previously set hearings and had never been noticed of any cancellations. The Court reiterated that the Motion for Summary Judgment had been denied and Ordered Sanctions to reimburse the Defendant.
- i. All Court appearance records are available on line and the Law Firm could have determined the Court's prior ruling by simply reviewing the Clerk's on line docket.
- j. The Law Firm failed to comply with the Court's Order to proceed within 90 days.

2. The Law Firm operates its procedures in the above styled case and in the representation of Plaintiffs in mortgage foreclosures in deliberate and contumacious disregard for the authority of the Court, the efficient administration of justice, and in utter disregard for the consequences to other litigants. Their disobedience of Court Orders is constant and flagrant, and, therefore, justifies this Court's imposition of sanctions for contempt.

3. The Law Firm failed to adhere to the standards of the Florida Bar's Creed of Professionalism, in that they failed to conduct themselves in a manner "to assure the just, speedy and inexpensive determination of every action and resolution of every controversy." They failed to "respect the time and commitments of others," and they failed to "be diligent and punctual in communicating with others and in fulfilling commitments." The Law Firm further failed to



adhere to the Oath of Admission to the Florida Bar, in that they failed to “maintain the respect due to courts of justice and judicial officers.”

4. The Law Firm scheduled seven hearings in this case, to which they only appeared at one, which was by telephone in violation of the Twelfth Circuit rules prohibiting telephone hearings. The Law Firm did not provide proper notice of cancellation to this Court or to Defendants regarding the six other scheduled hearings. Securing time on a Court calendar without being properly prepared precludes other litigants the opportunity to obtain hearing time. This Court reviewed the file prior to each hearing and waited in the courtroom the allotted time because the hearing was not cancelled. The Defendants appeared pursuant to the notices. The failure to be prepared for, appear at, or properly cancel scheduled hearings in accordance with local rules constitutes a direct and willful disregard for the Court’s calendar and the administration of justice.

5. The Law Firm was under an Order Compelling Plaintiff to proceed and failed to proceed or dismiss within the mandated time frame. No explanation was ever submitted to explain why the hearings were scheduled but either rescheduled or ignored.

6. The Law Firm’s noncompliance and disobedience was either intentional and deliberate or so grossly negligent that it rises to the level of willful misconduct. The Law Firm has repeatedly failed to be prepared for, appear at, or properly cancel hearings in accordance with local rules. Local rules are easily located on the Twelfth Judicial Circuit’s website and the court appearance records are available online through the Manatee Clerk’s website. The Law Firm was specifically advised of their noncompliance at the first hearing over 2 years ago. Their willful misconduct by failing to correct docketing errors is most illustrative as this Court personally warned Mr. Cox via telephone after the firm failed to appear on behalf of its client at

a hearing scheduled in this case on April 5, 2010. During that conversation, this Court apprised Mr. Cox of the firm's misconduct, of the Court's intention to file an Order to Show Cause, and specifically warned Mr. Cox that the firm's practices violated the code of ethics. Thereafter, Plaintiff's attorneys committed the same misconduct by failing to appear at or properly cancel the very next scheduled hearing.

7. The Law Firm's lack of consideration for the Court's calendars, their disobedience for this Court's local rules and orders, and their misconduct in handling mortgage foreclosure cases is deliberate, willful and flagrant in nature, and as such, is evidence of contempt. The Law Firm's misconduct was not a single incident—instead their deliberate, willful and flagrant misconduct derives from a combination of their repeated failure to appear at or to notify the Court or the other parties of a cancellation of scheduled hearings, and the same continued misconduct after this Court specifically warned the firm of such misconduct.

8. Moreover, this Court notes that Plaintiff's attorneys have been previously warned in Hillsborough County concerning the filing of sham pleadings. The Court considers the repeated filing of notices for scheduled hearings when they failed to appear, failed to provide proper notice of cancellation, or failed to be adequately prepared for scheduled hearings establishes that they were woefully unprepared to proceed or had no intention of actually proceeding in the case. Further, the continued noticing of hearings on a motion that had been previously denied amounts to the filing of sham pleadings.

9. The Law Firm has no reasonable justification or adequate excuse for their noncompliance of local rules and court orders. Mr. Diaz's excuse is insufficient to justify a finding of good cause to preclude sanctions for contempt. The Law Firm's inadequate policies and procedures or ability to manage multiple local rules of the circuits of this state in which they

choose to practice is an internal business decision and does not require the Court to allow them a lesser standard than any other lawyer licensed to practice in the State of Florida, nor should the Law Firm's business model be allowed to impede the administration of justice. The fact that Mr. Diaz advises this Court that the firm has implemented policies and procedures to cure their misconduct is not sufficient to lull this Court into accepting that the Law Firm will adhere to this Court's future orders or to the current local rules. The Law Firm has already committed the same misconduct after those claimed policies and procedures to cure the problem were implemented. Such continued misconduct shows their deliberate, willful and flagrant disregard for this Court's authority and it is indicative of the firm's disrespect for this Court.

10. Mr. Diaz's explanation of the firm's newly implemented policies and procedures to cure their inadequacies regarding scheduled hearings were vague. Most importantly, those policies and procedures, which were claimed to have been implemented weeks prior to the date of this hearing, failed to cure the firm's scheduling inadequacies. On the very morning of the hearing on this matter, a plaintiff and an attorney from The Law Firm did not appear at or properly cancel a scheduled hearing in case number Manatee County Circuit Court Case No. 2007-CA-4470. The Law Firm's alleged newly implemented policies and procedures, therefore, do not provide this Court with assurance of future compliance.

11. The conduct is not an act of neglect or inexperience on the part of the lawyers specifically named. The lawyers willfully and with knowledge of the inadequacy of the internal calendaring system, continue to abide by the methods of the Law Firm.

12. In addition, Plaintiff's failure to appear at or provide proper notice of cancellation regarding scheduled hearings has prejudiced and injured Defendants by depriving them of lost wages and costing them legal related fees. Compensatory fines to Defendants are justified

because Plaintiff's attorneys failed to appear at or provide Defendants with notice of cancellation for the scheduled hearing on June 28, 2010. Defendant appeared and testified that as a result of appearing that date and for prior hearings as scheduled, they lost wages in the amount of four hundred dollars (\$400.00) and paid an interpreter fifty dollars (\$50.00). Plaintiff's attorneys waived the right to cross-examine Defendant regarding those expenses due to their failure to appear at the hearing.

13. Compensatory fines to the Barrington Ridge Homeowners Association, Inc. are justified for its expended attorney's fees. Defendant's attorney's appearance at hearings and expenses after the granting of the Motion to Compel were injury to the Defendant homeowner association. Plaintiff's attorneys, individually, and/or the Law Firm shall be required to pay such fees within 30 days upon the filing of an affidavit thereto.

14. The cost to the Law Firm for their required appearance before the Court to answer the Order to Show Cause is approximately seven thousand dollars (\$7,000.00). Roy Diaz is a partner and accepts responsibility for the conduct of the Law Firm's lawyers.

Accordingly, based on the above findings, it is hereby **ORDERED AND ADJUDGED** that:

15. The Law Firm of Smith, Hiatt & Diaz, P. A. is in contempt of court.

16. The Law Firm shall create effective, internal policies and procedures which will assure that its attorneys will attend scheduled hearings and be adequately prepared for all future hearings. Said policies and procedures shall be in writing and a copy forwarded to this Court within 30 days from the date of this Order.

17. The Law Firm shall submit to this Court an instrument of certification from each individual attorney and support staff, who are presently employed and become employed in the

future during the pendency of this action who will practice in Manatee County, Florida attesting under oath that such policies and procedures are in fact implemented at the firm and that each has read and understood the Administrative Orders, Local Rules of the Twelfth Judicial Circuit, and the particular judge's requirements in the handling of mortgage foreclosure cases. Each attorney shall also acknowledge that they have read the Guidelines for Professional Conduct as provided by the Florida Bar.

18. The Law Firm will not schedule future hearings with this Court until their clients have provided the appropriate documents, instruments and affidavits in support of their motions and same are in the possession of the Law Firm.

19. The firm shall provide to this Court, within five (5) days of the filing of this Order, a receipt to the effect that all pending cases the firm represents in Manatee County have been reviewed and that all hearings which are presently scheduled by the firm have been docketed on its respective attorney's calendar, and such receipt shall be signed by the attorney assigned to handle the disposition of the particular case.

20. This Court shall impose a daily fine of seven thousand dollar (\$7,000.00) for each day the firm is not in compliance with submitting said certified instruments from each attorney and staff member. Said fine shall begin accruing September 30, 2010 and shall continue daily until the Court has received compliance herewith. Compliance, when accepted by the Court, shall purge this fine.

21. Coercive fines are imposed upon the Law Firm in the amount of forty-nine thousand dollars (\$49,000.00). The Court considered the cost of seven thousand (\$7,000.00) for the Law Firm to appear in Court to answer a contempt charge for each hearing that the Law

Firm failed to appear at or properly cancel. Plaintiff's attorneys have thirty days (30) days from the date of this Order to purge the coercive fine.

22. The firm shall pay Defendants four hundred and fifty dollars (\$450.00) within ten (10) days, commencing August 30, 2010.

23. The firm shall pay the appropriate compensatory fine to Barrington Ridge Homeowners Association, Inc. following a determination of the appropriate attorney's fees and the Court reserves jurisdiction to order same.

24. Fines shall be paid to the Clerk of Circuit Court, Manatee County, Florida.

24. The Court reserves jurisdiction for a period of 60 days from the date of this judgment to notice The Law Firm, Roy Diaz, Ryan T. Cox and Gavin MacMillan on charges of indirect criminal contempt. All other attorneys are dismissed from this action.

**DONE AND ORDERED** in Chambers, at Bradenton, Manatee County, Florida, this 2<sup>nd</sup> day of September 2010.

  
JANETTE DUNNIGAN  
CIRCUIT COURT JUDGE

Copies furnished to:

**HSBC Bank USA**  
1800 Tysons Bend  
McLean, VA 22105

**Antonio De Freitas**  
6121 41st Street East  
Bradenton, Florida 34203

**David G. Muller, Esq.**  
OBO Barrington Ridge HOA  
6230 University Pkwy, Ste. 204  
Sarasota, Florida 34240

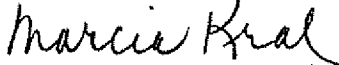
**Smith, Hiatt & Diaz, P.A.**  
P.O. Box 11438  
Ft. Lauderdale, Florida 33339

**Camila De Freitas**  
4948 79th Avenue Drive East  
Sarasota, Florida 34243

**MERS**  
c/o CT Corporation System, Inc.  
1200 S. Pine Island Road  
Plantation, Florida 33324

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this Order has been furnished to the above addressees by United States mail this 2 day of September 2010.

  
\_\_\_\_\_  
Judicial Assistant

# COMPOSITE EXHIBIT "5"



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

CASE NO. 2007CA4470

HSBC BANK USA, NATIONAL ASSOCIATION, AS  
TRUSTEE FOR THE SUNTRUST ALTERNATIVE  
LOAN TRUST 2006-1F.

Plaintiff,

vs.

DENNIS CHENAULT; et al

Defendants.

---

NOTICE OF CANCELLATION OF HEARING  
Motion Calendar

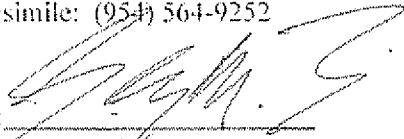
TO: ALL PARTIES LISTED ON ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that Plaintiff's Hearing on Motion for Summary Final  
Judgment and for Attorneys' Fees which was set before the Honorable Edward Nicholas, on August 30,  
2010 at 11:00 AM, is hereby canceled.

PLEASE GOVERN YOURSELVES ACCORDINGLY.

I HEREBY CERTIFY that a copy of the foregoing Notice was mailed to the parties on  
the attached Service List this AUG 24 2010  
day of \_\_\_\_\_, 2010.

SMITH, HIATT & DIAZ, P.A.  
Attorneys for Plaintiff  
PO BOX 11438  
Fort Lauderdale, FL 33339-1438  
Telephone: (954) 564-0071  
Facsimile: (954) 564-9252

By:   
Glen M. Lindsay  
Florida Bar No. 0059200

1110-81967

**SERVICE LIST**  
Case No. 2007CA4470

Melody D. Genson, Esq.  
Attorney For DENNIS CHENAULT  
2750 Ringling Boulevard, Suite 3  
Sarasota, FL 34237

Melody D. Genson, Esq.  
Attorney For DONNA M CHENAULT  
2750 Ringling Boulevard, Suite 3  
Sarasota, FL 34237

MERS  
c/o Corporate Counsel  
3300 SW 34th Ave, Suite 101  
Ocala, FL 34474

THE INLETS AT RIVERDALE, INC  
c/o Curtis D. Hamlin  
1205 Manatee Ave W  
Bradenton, FL 34205

David G. Muller, Esq.  
Attorney For THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION, INC F/K/A  
THE INLETS  
630 South Orange Avenue, 3rd Floor  
Sarasota, FL 34236

Request #	Document #	Submission Date	Case #	File Name	Document Status	Docket Date/Rejection Reason
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294001	563660	08/30/2010 03:41:11 PM	2010 CA 003128	FINAL DISP FORM.PDF	Pending Review	
294001	563661	08/30/2010 03:41:11 PM	2010 CA 003128	NOS - PROPOSED.PDF	Pending Review	
294001	563662	08/30/2010 03:41:11 PM	2010 CA 003128	CT - PROPOSED.PDF	Pending Review	
294001	563663	08/30/2010 03:41:11 PM	2010 CA 003128	CD - PROPOSED.PDF	Pending Review	
294001	563664	08/30/2010 03:41:11 PM	2010 CA 003128	CS - PROPOSED.PDF	Pending Review	
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291422	558700	08/25/2010 09:18:24 AM	NEW CASE	COMPLAINT.PDF	Pending Review	
291422	558701	08/25/2010 09:18:24 AM	NEW CASE	FORM A.PDF	Pending Review	
291422	558702	08/25/2010 09:18:24 AM	NEW CASE	LP.PDF	Pending Review	
291422	558703	08/25/2010 09:18:24 AM	NEW CASE	MED NOT.PDF	Pending Review	
291422	558704	08/25/2010 09:18:24	NEW CASE	NOT TO HOMEOWNERS.PDF	Pending Review	

		AM			
291422	558705	08/25/2010 09:18:24 AM	NEW CASE	SUMMONS HARRIET.PDF	Pending Review
291422	558706	08/25/2010 09:18:24 AM	NEW CASE	SUMMONS LAWRENCE.PDF	Pending Review
291422	558707	08/25/2010 09:18:24 AM	NEW CASE	SUMMONS MOTE RANCH HOA.PDF	Pending Review
291422	558708	08/25/2010 09:18:24 AM	NEW CASE	SUMMONS UT1.PDF	Pending Review
291422	558709	08/25/2010 09:18:24 AM	NEW CASE	SUMMONS UT2.PDF	Pending Review
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291257	558432	08/24/2010 04:52:01 PM	2008 CA 010138	NOF LOST MORTGAGE.PDF	Pending Review
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291133	558157	08/24/2010 02:58:37 PM	2009 CA 007936	PRIVILEGE LOG FOR RTP.PDF	Pending Review
291039	557903	08/24/2010 01:54:45 PM	2010 CA 002225	NOF DOCS.PDF	Pending Review
291034	557897	08/24/2010 01:50:02 PM	2009 CA 009883	NOF AOI 8- 18-10.PDF	Pending Review
291031	557886	08/24/2010 01:48:23 PM	2009 CA 009338	NOC 8-26- 10.PDF	Pending Review
291029	557883	08/24/2010 01:43:24 PM	2008 CA 006859	SFJ - PROPOSED.PDF	Pending Review
291029	557884	08/24/2010 01:43:24 PM	2008 CA 006859	FINAL DISP FORM.PDF	Pending Review

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291020	557858	08/24/2010 01:33:40 PM	2008 CA 006859	CD - PROPOSED.PDF	Pending Review
291020	557859	08/24/2010 01:33:40 PM	2008 CA 006859	CS - PROPOSED.PDF	Pending Review
291020	557860	08/24/2010 01:33:40 PM	2008 CA 006859	SFJ - PROPOSED.PDF	Pending Review
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




## Case Information

<b>Case Number:</b>	41 2007 CA 004470	<b>File Date:</b>	7/11/2007
<b>Case Type:</b>	Mortgage Foreclosure	<b>Case Status:</b>	Open
<b>Case Action Code:</b>	MORTGAGE FORECLOSURE	<b>Judge:</b>	EDWARD NICHOLAS





























## Parties

	Party Type	Name	Gender	Race	DOB
1	Plaintiff	HSBC BANK USA NATIONAL ASSOCIATION <i>ATTORNEY: MASSEY, DAVID M</i> <i>ATTORNEY: KAHL, MATTHEW L</i>			
2	Plaintiff	SUN TRUST ALTERNATIVE LOAN TRUST			
3	Defendant	CHENAULT, DENNIS <i>ATTORNEY: GENSON, MELODY D</i>			
4	Defendant	CHENAULT, DONNA M <i>ATTORNEY: GENSON, MELODY D</i>			
5	Defendant	INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INC <i>FKA : INLETS AT RIVERDALE EAST INC</i> <i>ATTORNEY: MULLER, DAVID G</i>			
6	Defendant	INLETS AT RIVERDALE INC			
7	Defendant	MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC			

## Dockets

	Image	Date	Description
1		07/11/2007	CIVIL ATTACHMENT TO COMPLAINT- MORTGAGE NOTE ANDLITTON LOAN SERVICES LOAN INFORMATION
2		07/11/2007	COMPLAINT TO FORECLOSE MORTGAGE AND TO ENFORCE LOST LOAN DOCUMENTS
3		07/11/2007	CIRCUIT COURT FILING FEE ASSESSED Receipt: 31279408 Date: 07/11/2007
4		07/11/2007	ADDITIONAL DEFENDANTS CIRCUIT CIVIL Receipt: 31279408 Date: 07/11/2007
5		07/11/2007	CIVIL COVER SHEET
6		07/11/2007	NOTICE OF LIS PENDENS-RECORDED
7		07/11/2007	SUMMONS ISSUED EACH DEFENDANT AND HANDED TO PROCESS SERVER
8		08/06/2007	ANSWER OF THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INC - (DAVID G MULLER ATTORNEY)
9		08/10/2007	NOTICE OF APPEARANCE AND REQUEST FOR NOTICES ( MELODY D GENSON ESQ OBO DENNIS R CHENAULT AND DONNA M CHENAULT)
10		08/17/2007	SUMMONS SERVED - DONNA CHENAULT - 08/06/2007
11		08/17/2007	SUMMONS RETURNED NON-SERVICE - JOHN DOE (VACANT)
12		08/17/2007	SUMMONS SERVED - DENNIS CHENAULT - 08/06/2007
13		08/17/2007	SUMMONS SERVED - MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC - 07/16/2007
14		08/17/2007	SUMMONS RETURNED NON-SERVICE - JANE DOE (VACANT)
15		08/17/2007	SUMMONS SERVED - THE INLETS AT RIVERDALE INC - 07/18/2007



16		08/17/2007	SUMMONS SERVED - THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INC - 07/17/2007
17		10/30/2007	REQUEST FOR PRODUCTION
18		10/30/2007	REQUEST FOR ADMISSIONS
19		11/13/2007	THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INCS RESPONSE TO PLAINTIFFS REQUEST FOR ADMISSIONS
20		11/13/2007	THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INCS RESPONSE TO PLAINTIFFS FIRST REQUEST FOR PRODUCTION
21		02/26/2008	MEMORANDUM OF LAW OF DEFENDANT THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INC IN SUPPORT OF THE CONSTITUTIONALITY OF 720 3085(2) FLA STAT
22		10/01/2008	EXHIBIT E MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS MOTION FOR SUMMARY JUDGMENT AS IT RELATES TO FS 720 3085 -ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
23		10/01/2008	EXHIBIT B - AFFIDAVIT OF COSTS- -ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
24		10/01/2008	MOTION FOR SUMMARY FINAL JUDGMENT OF FORECLOSURE AND TAXATION OF ATTORNEYS FEES AND COSTS
25		10/01/2008	EXHIBIT A -AFFIDAVIT IN SUPPORT OF PLAINTIFFS MOTION FOR SUMMARY JUDGMENT - -ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
26		10/01/2008	NOTICE OF CHANGE OF ADDRESS
27		10/01/2008	EXPARTE MOTION FOR DEFAULT - AS TO DENNIS CHENAULT AND DONNA M CHENAULT
28		10/01/2008	NOTICE OF DROPPING PARTY DEFENDANT - AS TO JOHN AND JANE DOE
29		10/01/2008	EXHIBIT C - AFFIDAVIT OF PLAINTIFFS COUNSEL AS TO ATTORNEYS FEES- - ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
30		10/01/2008	EXHIBIT D - AFFIDAVIT OF PLAINTIFFS ATTORNEYS TIME - -ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
31		10/02/2008	NONMILITARY SERVICE AFFIDAVIT
32		10/03/2008	ORDER OF DEFAULT ( DENNIS CHENAULT AND DONNA M CHENAULT )
33		10/08/2008	SUGGESTION OF BANKRUPTCY - DENNIS CHENAULT
34		12/11/2008	NOTICE OF CHANGE OF ADDRESS
35		06/25/2009	NOTICE OF FILING ORDER GRANTING LITTON LOAN SERVICING LP AS SERVICING AGENT FOR HSBC BANK USA NATIONAL ASSOCIATION AS TRUSTEE FOR THE SUNTRUST ATERNATIVE LOAN TRUST MOTION FOR RELIEF FROM STAY
36		07/01/2009	MOTION FOR DEFAULT - DEFAULT THE INLETS AT RIVERDALE INC AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC
37		07/01/2009	PROPOSED UNIFORM FINAL JUDGMENT OF FORECLOSURE
38		07/01/2009	PROPOSED CERTIFICATE OF TITLE
39		07/01/2009	NOTICE OF FILING ORIGINAL NOTE - E-FILED
40		07/01/2009	NOTICE OF HEARING
41		07/01/2009	PROPOSED CERTIFICATE OF SALE
42		07/01/2009	PROPOSED CERTIFICATE OF DISBURSEMENTS
43		07/01/2009	ATTORNEYS CERTIFICATE OF COMPLIANCE WITH TWELFTH CIRCUIT HOMESTEAD FORECLOSURE CONCILIANTION PROGRAM

44		07/01/2009	PROPOSED NOTICE OF FORECLOSURE SALE
45		07/01/2009	NOTICE OF FILING ORIGINAL MORTGAGE - E-FILED
46		07/09/2009	DEFAULT ENTERED ON THE INLETS AT RIVERDALE INC AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC
47		08/05/2009	NOTICE OF CANCELLATION OF HEARING
48		10/20/2009	PROPOSED UNIFORM FINAL JUDGMENT OF FORECLOSURE
49		10/20/2009	NOTICE OF A COPY OF THE RECORDED ASSIGNMENT OF MORTGAGE
50		10/20/2009	NOTICE OF HEARING
51		10/20/2009	SUMMARY JUDGMENT CHECKLIST
52		11/19/2009	SUMMARY JUDGMENT HEARING: PLAINTIFF REPRESENTED BY - GENE STREBEL DEFENDANT REPRESENTED BY - NA NON COMPLIANCE WITH ADMINISTRATIVE ORDER - HEARING CANCELLED JUDGE PAUL E LOGAN
53		05/27/2010	DEFENDANT THE INLETS OF RIVERDALE NEIGHBORHOOD ASSOCIATION INC MOTION TO COMPEL PLAINTIFF TO PROCEED WITH FORECLOSURE SUIT
54		07/01/2010	REPLY TO AFFIRMATIVE DEFENSES
55		07/26/2010	FINAL DISPOSITION FORM
56		07/26/2010	NOTICE OF HEARING 8/30/10 11:00AM
57		07/26/2010	AMENDED AFFIDAVIT OF ATTORNEYS FEES
58		07/26/2010	AMENDED MOTION FOR SUMMARY FINAL JUDGMENT AND ATTORNEY FEES
59		07/26/2010	AMENDED AFFIDAVIT OF INDEBTEDNESS
60		07/26/2010	SUMMARY JUDGMENT CHECKLIST
61		07/26/2010	AMENDED AFFIDAVIT OF ATTORNEYS FEES AND COSTS
62		07/26/2010	NOTICE OF APPEARANCE AS CO COUNSEL (DAVID M MASSEY)
63		08/30/2010	HEARING: NO PARTIES PRESENT COURT ORDERS CASE DISMISSED - NOT IN COMPLIANCE (JUDGE THOMAS GALLEN)

**Disposition**

	Status	Status Date	Disposition Code	Disp Date	Judge
1	Open	07/11/2007	UNDISPOSED		NICHOLAS , EDWARD

**Events**

	Date	Start Time	End Time	Event Type	Judge	Result
1	08/06/2009	9:00:00 AM	9:00:00 AM	MOTION HEARING	MANATEE JUDGE, -	
	<b>Location:</b> COURTROOM 6-D					
2	11/19/2009	10:00:00 AM	10:00:00 AM	MOTION HEARING	MANATEE JUDGE, -	
	<b>Location:</b> COURTROOM 6-D					
3	08/30/2010	11:00:00 AM	11:00:00 AM	MOTION HEARING	FORECLOSURE JUDGE	
	<b>Location:</b> COURTROOM 4-E					

**Financial Summary**

	<b>Docket Application</b>	<b>Owed</b>	<b>Paid</b>	<b>Dismissed</b>	<b>Due</b>
1	FILING FEE	\$4.00	\$4.00	\$0.00	\$0.00
2	FILING FEE	\$255.00	\$255.00	\$0.00	\$0.00
	<b>Total</b>	\$259.00	\$259.00	\$0.00	\$0.00

**Receipts**

	<b>Date</b>	<b>Receipt</b>	<b>Received From</b>	<b>Payment Amount</b>	<b>Applied Amount</b>	<b>Change Returned</b>
1	07/11/2007	31279408	DAVID J. STERN P.A.	\$259.00	\$259.00	\$0.00

Case Information

Case Number: 41 2007 CA 004470	File Date: 7/11/2007
Case Type: Mortgage Foreclosure	Case Status: Closed
Case Action Code: MORTGAGE FORECLOSURE	Judge: EDWARD NICHOLAS

Parties

Party Type	Name	Gender	Race	DOB
1 Plaintiff	HSBC BANK USA NATIONAL ASSOCIATION <i>ATTORNEY: MASSEY, DAVID M</i> <i>ATTORNEY: KAHL, MATTHEW L</i>			
2 Plaintiff	SUN TRUST ALTERNATIVE LOAN TRUST			
3 Defendant	CHENAULT, DENNIS <i>ATTORNEY: GENSON, MELODY D</i>			
4 Defendant	CHENAULT, DONNA M <i>ATTORNEY: GENSON, MELODY D</i>			
5 Defendant	INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INC <i>FKA : INLETS AT RIVERDALE EAST INC</i> <i>ATTORNEY: MULLER, DAVID G</i>			
6 Defendant	INLETS AT RIVERDALE INC			
7 Defendant	MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC			

Dockets

Image	Date	Description
1	07/11/2007	CIVIL ATTACHMENT TO COMPLAINT- MORTGAGE NOTE AND LITTON LOAN SERVICES LOAN INFORMATION
2	07/11/2007	COMPLAINT TO FORECLOSE MORTGAGE AND TO ENFORCE LOST LOAN DOCUMENTS
3	07/11/2007	CIRCUIT COURT FILING FEE ASSESSED Receipt: 31279408 Date: 07/11/2007
4	07/11/2007	ADDITIONAL DEFENDANTS CIRCUIT CIVIL Receipt: 31279408 Date: 07/11/2007
5	07/11/2007	CIVIL COVER SHEET
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7	07/11/2007	SUMMONS ISSUED EACH DEFENDANT AND HANDED TO PROCESS SERVER
8	08/06/2007	ANSWER OF THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INC - (DAVID G MULLER ATTORNEY)
9	08/10/2007	NOTICE OF APPEARANCE AND REQUEST FOR NOTICES ( MELODY D GENSON ESQ) OBO DENNIS R CHENAULT AND DONNA M CHENAULT)
10	08/17/2007	SUMMONS SERVED - DONNA CHENAULT - 08/06/2007
11	08/17/2007	SUMMONS RETURNED NON-SERVICE - JOHN DOE (VACANT)
12	08/17/2007	SUMMONS SERVED - DENNIS CHENAULT - 08/06/2007
13	08/17/2007	SUMMONS SERVED - MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC - 07/16/2007
14	08/17/2007	SUMMONS RETURNED NON-SERVICE - JANE DOE (VACANT)
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17	10/30/2007	REQUEST FOR PRODUCTION
18	10/30/2007	REQUEST FOR ADMISSIONS
19	11/13/2007	THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INCS RESPONSE TO PLAINTIFFS REQUEST FOR ADMISSIONS
20	11/13/2007	THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INCS RESPONSE TO PLAINTIFFS FIRST REQUEST FOR PRODUCTION
21	02/26/2008	MEMORANDUM OF LAW OF DEFENDANT THE INLETS AT RIVERDALE NEIGHBORHOOD ASSOCIATION INC IN SUPPORT OF THE CONSTITUTIONALITY OF 720 3085(2) FLA STAT

Image	Date	Description
22	10/01/2008	EXHIBIT E MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS MOTION FOR SUMMARY JUDGMENT AS IT RELATES TO FS 720 3085 -ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
23	10/01/2008	EXHIBIT B - AFFIDAVIT OF COSTS- -ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
24	10/01/2008	MOTION FOR SUMMARY FINAL JUDGMENT OF FORECLOSURE AND TAXATION OF ATTORNEYS FEES AND COSTS
25	10/01/2008	EXHIBIT A -AFFIDAVIT IN SUPPORT OF PLAINTIFFS MOTION FOR SUMMARY JUDGMENT - -ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
26	10/01/2008	NOTICE OF CHANGE OF ADDRESS
27	10/01/2008	EX PARTE MOTION FOR DEFAULT - AS TO DENNIS CHENAULT AND DONNA M CHENAULT
28	10/01/2008	NOTICE OF DROPPING PARTY DEFENDANT - AS TO JOHN AND JANE DOE
29	10/01/2008	EXHIBIT C - AFFIDAVIT OF PLAINTIFFS COUNSEL AS TO ATTORNEYS FEES- -ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
30	10/01/2008	EXHIBIT D - AFFIDAVIT OF PLAINTIFFS ATTORNEYS TIME - - ATTACHED TO THE MOTION FOR SUMMARY JUDGMENT
31	10/02/2008	NONMILITARY SERVICE AFFIDAVIT
32	10/03/2008	ORDER OF DEFAULT ( DENNIS CHENAULT AND DONNA M CHENAULT )
33	10/08/2008	SUGGESTION OF BANKRUPTCY - DENNIS CHENAULT
34	12/11/2008	NOTICE OF CHANGE OF ADDRESS
35	06/25/2009	NOTICE OF FILING ORDER GRANTING LITTON LOAN SERVICING LP AS SERVICING AGENT FOR HSBC BANK USA NATIONAL ASSOCIATION AS TRUSTEE FOR THE SUNTRUST ATERNATIVE LOAN TRUST MOTION FOR RELIEF FROM STAY
36	07/01/2009	MOTION FOR DEFAULT - DEFAULT THE INLETS AT RIVERDALE INC AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC
37	07/01/2009	PROPOSED UNIFORM FINAL JUDGMENT OF FORECLOSURE
38	07/01/2009	PROPOSED CERTIFICATE OF TITLE
39	07/01/2009	NOTICE OF FILING ORIGINAL NOTE - E-FILED
40	07/01/2009	NOTICE OF HEARING
41	07/01/2009	PROPOSED CERTIFICATE OF SALE
42	07/01/2009	PROPOSED CERTIFICATE OF DISBURSEMENTS
43	07/01/2009	ATTORNEYS CERTIFICATE OF COMPLIANCE WITH TWELFTH CIRCUIT HOMESTEAD FORECLOSURE CONCILIANTION PROGRAM
44	07/01/2009	PROPOSED NOTICE OF FORECLOSURE SALE
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46	07/09/2009	DEFAULT ENTERED ON THE INLETS AT RIVERDALE INC AND MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC
47	08/05/2009	NOTICE OF CANCELLATION OF HEARING
48	10/20/2009	PROPOSED UNIFORM FINAL JUDGMENT OF FORECLOSURE
49	10/20/2009	NOTICE OF A COPY OF THE RECORDED ASSIGNMENT OF MORTGAGE
50	10/20/2009	NOTICE OF HEARING
51	10/23/2009	SUMMARY JUDGMENT CHECKLIST
52	11/19/2009	SUMMARY JUDGMENT HEARING: PLAINTIFF REPRESENTED BY - GENE STREBEL DEFENDANT REPRESENTED BY - NA NON COMPLIANCE WITH ADMINISTRATIVE ORDER - HEARING CANCELLED JUDGE PAUL E LOGAN
53	05/27/2010	DEFENDANT THE INLETS OF RIVERDALE NEIGHBORHOOD ASSOCIATION INC MOTION TO COMPEL PLAINTIFF TO PROCEED WITH FORECLOSURE SUIT
54	07/01/2010	REPLY TO AFFIRMATIVE DEFENSES
55	07/26/2010	FINAL DISPOSITION FORM
56	07/26/2010	PROPOSED UNIFORM FINAL JUDGMENT OF MORTGAGE FORECLOSURE
57	07/26/2010	NOTICE OF HEARING 8/30/10 11:00AM

Image	Date	Description
58	07/26/2010	PROPOSED CERTIFICATE OF TITLE
59	07/26/2010	AMENDED AFFIDAVIT OF ATTORNEYS FEES
60	07/26/2010	AMENDED MOTION FOR SUMMARY FINAL JUDGMENT AND ATTORNEY FEES
61	07/26/2010	PROPOSED CERTIFICATE OF SALE
62	07/26/2010	PROPOSED NOTICE OF SALE PURSUANT TO CHAPTER 45
63	07/26/2010	PROPOSED CERTIFICATE OF DISBURSEMENTS
64	07/26/2010	AMENDED AFFIDAVIT OF INDEBTEDNESS
65	07/26/2010	SUMMARY JUDGMENT CHECKLIST
66	07/26/2010	AMENDED AFFIDAVIT OF ATTORNEYS FEES AND COSTS
67	07/26/2010	NOTICE OF APPEARANCE AS CO COUNSEL (DAVID M MASSEY)
68	08/11/2010	PROPOSED UNIFORM FINAL JUDGMENT OF MORTGAGE FORECLOSURE
69	08/11/2010	PROPOSED CERTIFICATE OF SALE
70	08/11/2010	PROPOSED CERTIFICATE OF DISBURSEMENTS
71	08/11/2010	PROPOSED NOTICE OF SALE PURSUANT TO CHAPTER 45
72	08/11/2010	PROPOSED CERTIFICATE OF TITLE
73	08/24/2010	NOTICE OF CANCELLATION OF HEARING
74	08/30/2010	HEARING: NO PARTIES PRESENT COURT ORDERS CASE DISMISSED - NOT IN COMPLIANCE (JUDGE THOMAS GALLEN)
75	09/03/2010	JUDGMENT OF DISMISSAL - RECORDED

Disposition

Status	Status Date	Disposition Code	Disp Date	Judge
1 Closed	07/11/2007	DISMISSED AFTER HEARING- OTHER	09/03/2010	NICHOLAS EDWARD

Events

Date	Start Time	End Time	Event Type	Judge	Result
1 08/06/2009	9:00:00 AM	9:00:00 AM	MOTION HEARING	MANATEE JUDGE, -	
Location: COURTROOM 5-D					
2 01/19/2009	10:00:00 AM	10:00:00 AM	MOTION HEARING	MANATEE JUDGE, -	
Location: COURTROOM 5-D					
3 08/30/2010	11:00:00 AM	11:00:00 AM	MOTION HEARING	FORECLOSURE JUDGE	
Location: COURTROOM 4-E					

Financial Summary

Docket Application	Owed	Paid	Dismissed	Due
1 FILING FEE	\$4.00	\$4.00	\$0.00	\$0.00
2 FILING FEE	\$255.00	\$255.00	\$0.00	\$0.00
<b>Total</b>	<b>\$259.00</b>	<b>\$259.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

Receipts

Date	Receipt	Received From	Payment Amount	Applied Amount	Change Returned
1 07/11/2007	31279408	DAVID J. STERN P.A.	\$259.00	\$259.00	\$0.00

# EXHIBIT "6"

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR  
HILLSBOROUGH COUNTY, STATE OF FLORIDA  
CIRCUIT CIVIL DIVISION

BANK OF AMERICA, NATIONAL ASSOCIATION,  
AS SUCCESSOR BY MERGER TO LASALLE BANK,  
N.A. AS TRUSTEE FOR THE MLMI TRUST SERIES  
Plaintiff,

and

ALBERT S. KEATON; JULIA M. KEATON; et al.  
Defendants.

CASE NO. 09-7541  
DIVISION H

ORDER ON ORDER TO APPEAR AND SHOW CAUSE

This cause having come on to be heard on July 31, 2009 on an order to Appear and Show Cause directed to Michael D. Wild, Esquire, Gabrielle Strauss, Esquire, Patrice A. Tedesco, Esquire, Gavin MacMillan, Esquire, Tat-Lin Angus, Esquire and Robert Smith, Esquire; and the court having heard the testimony of Michael D. Wild, Esquire, Gabrielle Strauss, Esquire, Patrice A. Tedesco, Esquire and Randall O. Reder, Esquire and argument of Roy A. Diaz, Esquire and otherwise being duly advised in the premises,

It is hereupon **ORDERED AND ADJUDGED** that

1. Michael D. Wild, Esquire, Gabrielle Strauss, Esquire, Patrice A. Tedesco, Esquire, Gavin MacMillan, Esquire, Tat-Lin Angus, Esquire and Robert Smith, Esquire are not in willful contempt of court as they did not intentionally violate Rule 1.150 of the Florida Rules of Civil Procedure, Rule 2.515 (a) of the Florida Rules of Judicial Administration and Rule 4-3.1 and 4-8.4 (c) of the Florida Rules of Professional Conduct. However, said attorneys are reminded of their obligation to refrain from conduct involving any misrepresentation to the court and further reminded that their signature to a pleading constitutes a certificate by that attorney that he or she has read it and to the best of the attorney's knowledge, information and belief, there are good grounds to support it.

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2. In all Division H cases wherein the law firm of Smith, Hiatt & Diaz, P.A. appears on behalf of the Plaintiff and files a Complaint containing a count to reestablish a lost promissory note, counsel for Plaintiff shall, in writing, advise all Defendants and the Court within fifteen (15) days of notification that the original note and/or mortgage and/or assignment has been located that these originals documents have been found and that they do not intend to proceed on the lost note count.

3. That within fifteen (15) days of this order Smith, Hiatt & Diaz, P.A. shall pay Randal O. Reder, Esquire the sum of \$1,500.00 as and for attorney's fees for preparing the Defendant's Motion to Dismiss and for his attendance of the hearing on same.

**DONE AND ORDERED** in Chambers at Tampa, Hillsborough County, Florida, this \_\_\_\_\_ day of August, 2009.

\_\_\_\_\_  
**BERNARD C. SILVER**  
**CIRCUIT COURT JUDGE**

ORIGINAL SIGNED  
CONFORMED COPY

AUG 19 2009

BERNARD C. SILVER  
CIRCUIT JUDGE

Copies to:  
Smith, Hiatt & Diaz, P.A.  
All parties on the attached Service List

SERVICE LIST  
Case No. 09-7541 Div H

Randall O. Reder, Esq.  
1319 W. Fletcher Ave.  
Tampa, FL 33612

Mortgage Electric Registration Systems, Inc.  
Electronic Data Systems Corporation  
3300 SW 34<sup>th</sup> Ave., Suite 101  
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Guido Nardi  
13033 Barrow St.  
Spring Hill, FL 34609

Carrollton Lakes Homeowners Association, Inc.  
Duarte, Antonio III  
6221 Land O' Lakes Blvd.  
Land O' Lakes, FL 34639