

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

PENNYMAC CORP,
Plaintiff,

vs.

Case No.: 2012 CA 1270
Division: D

LUZ E. SANABRIA, ET AL,
Defendants.

_____ /

TRANSCRIPT OF NON-JURY TRIAL

BEFORE: HONORABLE THOMAS M. GALLEN,
CIRCUIT JUDGE

DATE TAKEN: October 14, 2014

TIME: 10:00 a.m. - 11:50 a.m.

PLACE: Manatee County
Judicial Center
1051 Manatee Avenue West
Bradenton, Florida

Stenographically Reported by:
Elsa Rohow
Registered Professional Reporter

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<p>1 APPEARANCES:</p> <p>2</p> <p>3 Counsel for Plaintiff:</p> <p>4 JACLYN E. JONES, ESQUIRE</p> <p>5 McCalla Raymer, LLC</p> <p>6 201 North Franklin Street</p> <p>7 Suite 1300</p> <p>8 Tampa, Florida 33602</p> <p>9 Counsel for Defendant Luz E. Sanabria:</p> <p>10 MATTHEW D. WEIDNER, ESQUIRE</p> <p>11 Matthew D. Weidner, P.A.</p> <p>12 250 Mirror Lake Drive North</p> <p>13 St. Petersburg, Florida 33701</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 EXHIBITS - (continued)</p> <p>2</p> <p>3 DEFENDANT'S NO. DESCRIPTION PAGE</p> <p>4 1 Interest-Only Period Adjustable 45</p> <p>5 Rate Note - July 10, 2007</p> <p>6</p> <p>7 2 Interest-Only Period Adjustable 58</p> <p>8 Rate Note - July 9, 2007</p> <p>9 3 Known Signature 64</p> <p>10 4 Questioned Signature 65</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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6

1 the order setting the trial.

2 MR. WEIDNER: Yes, sir.

3 THE COURT: You correctly state the rule

4 about an avoidance, but plaintiff didn't file an

5 avoidance to the affirmative defenses. The rules

6 do not permit a reply to affirmative defenses.

7 They allow an avoidance. There's a difference.

8 MR. WEIDNER: I appreciate the technical,

9 and thank you, Your Honor.

10 THE COURT: Okay.

11 MR. WEIDNER: I appreciate that. Thank you,

12 and so I guess we'll withdraw that.

13 THE COURT: Pardon?

14 MR. WEIDNER: I guess we'll withdraw our

15 motion.

16 THE COURT: You'll withdraw the motion.

17 I'll deny it.

18 MR. WEIDNER: Thank you, Your Honor.

19 (Witness sworn in.)

20 THE COURT: You may proceed.

21 KAREN SCOTT, called as a witness by the

22 Plaintiff, having been first duly sworn, testified as

23 follows:

24 THE WITNESS: I do.

25

7

1 DIRECT EXAMINATION

2 BY MS. JONES:

3 **Q. Please state your name.**

4 A. Karen Scott.

5 **Q. And who are you employed by?**

6 A. PennyMac Loan Services.

7 **Q. And can you describe your job duties with**

8 **PennyMac?**

9 MR. WEIDNER: I'm sorry, Your Honor. I hate

10 to interrupt. One more procedural matter, I want

11 to make sure that we're here on the right

12 complaint.

13 There had been an original complaint, an

14 amended complaint, and I want to make the record

15 clear that we're trying the complaint that they

16 filed and, counsel, so we're on the same page,

17 that would be the second amended verified

18 complaint filed on September 18th, 2013?

19 MS. JONES: Correct.

20 MR. WEIDNER: And just so we're all clear,

21 that's the complaint that you're trying and

22 that's what the witness' testimony, and the

23 defense doesn't consent to anything else.

24 THE COURT: Proceed.

25 MR. WEIDNER: Thank you, Your Honor.

8

1 BY MS. JONES:

2 **Q. And can you describe your job duties?**

3 A. Yes. I review the bank records in regards

4 to defaulted loans.

5 **Q. And can you describe what kind of bank**

6 **records you're reviewing?**

7 A. We review the note, the mortgage, the

8 allonges, the assignments, the payment histories, the

9 notice of intent, letters, welcome letters, any

10 correspondence, any loss mitigation types of things

11 that have taken place or had been mailed out, any

12 bankruptcy records.

13 **Q. Can you describe -- you said you work for**

14 **PennyMac Loan Services?**

15 A. Yes.

16 **Q. -- their relationship with the plaintiff?**

17 A. We're the servicer.

18 **Q. Thank you. And I'm handing you a copy of**

19 **the note. Could you identify this record?**

20 A. This is a copy of interest-only adjustable

21 rate note.

22 MR. WEIDNER: Objection, hearsay, improper

23 predicate, lack of foundation. Your Honor, the

24 witness has testified that she's a default

25 specialist for PennyMac.

9

1 She's just offered testimony there about the

2 document that's in front of her, which she has no

3 foundation to provide, and, Your Honor, this is

4 going to be very important in this case and I

5 will draw your attention to this issue.

6 THE COURT: She's just identifying a

7 document. She has not testified. The document

8 speaks for itself.

9 MR. WEIDNER: Thank you, Your Honor.

10 BY MS. JONES:

11 **Q. Where did you first see a copy of this**

12 **document?**

13 A. This is in the loan file, the collateral

14 file for this loan.

15 **Q. And does that copy match what you saw, to**

16 **your memory, in the loan file?**

17 A. Yes, it does.

18 **Q. And is it the regular business practice for**

19 **PennyMac to keep those kind of records?**

20 A. Yes.

21 **Q. Is it kept in the ordinary course of**

22 **regularly conducted business?**

23 A. Yes.

24 **Q. Okay. Can you describe the original lender**

25 **on that note?**

10	<p>1 A. American Lending Group, Inc., a Missouri 2 corporation.</p> <p>3 Q. And I believe there's a couple of allonges 4 on there. If you could please describe them as well.</p> <p>5 A. There is an allonge from American Lending 6 Group to blank. It's a blank endorsement, and there 7 is a blank endorsement from CitiMortgage as well to 8 PennyMac.</p> <p>9 Q. Okay. Thank you.</p> <p>10 MS. JONES: And, Your Honor, I'd ask you to 11 take judicial notice that the original note has 12 been filed with the Court.</p> <p>13 MR. WEIDNER: We would object, Your Honor 14 and for reasons that I'll make very clear in my 15 voir dire and direct testimony. There's a very 16 important reason for that, but we object to 17 taking judicial notice of a copy of a document 18 when the rules require the original.</p> <p>19 THE COURT: She has to take judicial notice 20 of the original.</p> <p>21 MR. WEIDNER: I agree, but we have to have 22 the original, and we can't take judicial notice 23 of something that's not in the courtroom. 24 There's no basis for it.</p> <p>25 THE COURT: Okay. We'll recess this trial.</p>	12	<p>1 made a mistake.</p> <p>2 MR. WEIDNER: I'll be clear, Your Honor, 3 something is very wrong here and it's not just a 4 paralegal giving a bad copy.</p> <p>5 So I ask that you reserve on what she's just 6 asked you in striking any testimony, and let the 7 witness continue with the alleged original 8 documents that I objected to the testimony of the 9 witness being original or having any capacity to 10 make the statements.</p> <p>11 MS. JONES: It's absolutely a paralegal 12 error, Your Honor. It's definitely my mistake.</p> <p>13 MR. WEIDNER: I would respectfully request 14 that the witness be provided what they allege is 15 an original document, and let's elicit some 16 testimony from this witness about the alleged 17 original document and see whether she has any 18 ability to authenticate this forgery you're 19 holding in your hand.</p> <p>20 THE COURT: Okay. I have -- I have what the 21 plaintiff has filed as the original promissory 22 note. Have you had an opportunity to look at it?</p> <p>23 MR. WEIDNER: I have, Your Honor. And so 24 the record is clear, that is the filing date 26 25 September 2013. It's got a signature of Jaclyn</p>
11	<p>1 Go get the original.</p> <p>2 MS. JONES: Okay. Thank you, Your Honor.</p> <p>3 THE COURT: We'll continue this trial later 4 this morning.</p> <p>5 MR. WEIDNER: Thank you, Your Honor. 6 (Recess.)</p> <p>7 THE COURT: We'll return to 8 PennyMac/Sanabria 2012 1270. Do we have the 9 original note?</p> <p>10 MS. JONES: Yes, Your Honor.</p> <p>11 MR. WEIDNER: Alleged note. So the record 12 is clear, alleged original note.</p> <p>13 THE COURT: Pardon?</p> <p>14 MR. WEIDNER: So the record is clear, 15 alleged original note.</p> <p>16 THE COURT: May I see the document?</p> <p>17 MS. JONES: Your Honor, I'd actually like to 18 move to strike some testimony. Going back to the 19 original -- or the copy of the note I handed to 20 the witness, it appears my paralegal gave me a 21 bad copy.</p> <p>22 If you can see, even on the second amended 23 complaint, the copy and the original note that 24 you have there in your hand, the first allonge 25 endorsed to CitiMortgage, so it appears that I</p>	13	<p>1 Jones.</p> <p>2 THE COURT: And it appears to have a 3 signature of Luz E. Sanabria. Are you claiming 4 that's a forgery?</p> <p>5 MR. WEIDNER: Absolutely, Your Honor.</p> <p>6 THE COURT: Okay.</p> <p>7 MS. JONES: So it's all right if we use that 8 original note as our exhibit, or that alleged 9 original note?</p> <p>10 THE COURT: The Court is taking judicial 11 notice of the document that's alleged to be the 12 original promissory note. You can use it as far 13 as having the witness identify it.</p> <p>14 MS. JONES: Thank you.</p> <p>15 MR. WEIDNER: Judge, would you like my copy 16 of what you're handing now? The witness will 17 have the original. Would you like a copy of that 18 filing?</p> <p>19 THE COURT: No. I just want the original.</p> <p>20 MR. WEIDNER: Yes, sir. And just so the 21 record is clear, I'm going to object to all 22 testimony this witness has to authenticity. I 23 don't want to keep making repetitive objections.</p> <p>24 THE COURT: Okay.</p> <p>25 BY MS. JONES:</p>

14

1 **Q. I'd like to go back to right after your job**
2 **responsibilities. So you're familiar with the**
3 **Sanabria loan?**
4 A. Uh-huh. Yes.
5 **Q. And how did you become familiar with these**
6 **loan documents?**
7 A. By reviewing everything that had to do with
8 this particular loan for this trial.
9 **Q. And PennyMac -- and you testified earlier**
10 **that PennyMac Loan Services was the servicer for this**
11 **loan?**
12 A. Yes.
13 **Q. And who was the servicer before that?**
14 A. That would be --
15 MR. WEIDNER: Your Honor, I'd like to -- is
16 the witness looking at something other than a
17 document that's in front of her?
18 THE WITNESS: I'm looking at my notes.
19 MR. WEIDNER: Your Honor, I would ask that
20 the witness turn over whatever document she's
21 looking at. She's not going to --
22 MS. JONES: She's --
23 MR. WEIDNER: Excuse me.
24 She's not going to testify from notes unless
25 those are being entered.

15

1 THE COURT: She can refresh her memory.
2 MR. WEIDNER: Well, I'd like those marked as
3 an exhibit then. I can't see what she's seeing.
4 THE WITNESS: There's nothing on here that
5 you don't already know, but you may have a copy
6 of it.
7 THE COURT: You can see whatever she's
8 looking at.
9 MR. WEIDNER: I'd like it marked as an
10 exhibit, please. Would you mind putting the rest
11 of your documents up so the Court can see them?
12 THE WITNESS: I'm not looking at anything.
13 MS. JONES: Do you need any of those?
14 THE WITNESS: No.
15 MS. JONES: I'm just going to put them on my
16 desk.
17 MR. WEIDNER: I'd like whatever she's
18 looking at to be marked. If she's relying on
19 that, it needs to be marked.
20 MS. JONES: Let me see it again.
21 THE WITNESS: There's nothing on there.
22 MS. JONES: Your Honor, she's allowed to
23 have her own notes to refresh her memory.
24 Counsel has looked at it. There's nothing new on
25 there. I don't think there's any reason to mark

16

1 it as an exhibit.
2 MR. WEIDNER: Absolutely she can look at any
3 notes, but, Your Honor, as you've just indicated,
4 if she's refreshing her recollection with those
5 notes, it's got to be marked and entered in or
6 she can't use them.
7 THE COURT: I have no objection to marking
8 them and entering them in.
9 MS. JONES: Okay.
10 MR. WEIDNER: Is that Plaintiff's 1, that --
11 notes?
12 MS. JONES: That's fine.
13 THE CLERK: I haven't marked them yet.
14 (Plaintiff's Exhibit No. 1 was marked for
15 identification.)
16 BY MS. JONES:
17 **Q. So going back, who's the servicer before**
18 **PennyMac?**
19 A. Citi.
20 **Q. Okay. And did PennyMac board the records of**
21 **CitiMortgage?**
22 A. Yes.
23 **Q. And by "Citi," you meant CitiMortgage?**
24 A. Yes, CitiMortgage.
25 **Q. Okay. And can you talk a little bit about**

17

1 **that boarding process?**
2 MR. WEIDNER: Objection, relevance if she's
3 going to testify generally. If she wants to
4 testify specifically about what happened with
5 this loan, that's relevant.
6 THE COURT: Okay. Overruled.
7 **Q. Go ahead.**
8 A. Again, what takes place in a boarding
9 process is we review all of the information
10 pertaining to the loan, the due date, so forth, make
11 sure that we have all the collateral documents and
12 everything necessary. If these items are not in the
13 collateral file, can't be located, we do not accept
14 the loan and it is sent back --
15 **Q. Okay.**
16 A. -- to that servicer.
17 **Q. And did this loan go through that process?**
18 A. Yes.
19 **Q. Okay. Thank you. Can you -- do you**
20 **recognize what document that's been handed to you,**
21 **the --**
22 A. Yes.
23 **Q. What is it?**
24 A. It is an original interest-only adjustable
25 rate note.

18

1 MR. WEIDNER: I'm going to object to the
 2 foundation of that testimony, Your Honor. She's
 3 not qualified to testify whether that's an
 4 original.
 5 She's holding a document in her hand. She's
 6 not qualified to make a statement that it is an
 7 original.
 8 THE COURT: Okay. I'll accept it. It
 9 appears to be the original.
 10 A. It appears to be an original.
 11 MR. WEIDNER: It appears to be. Your Honor,
 12 could you -- just subject to striking that later.
 13 THE COURT: Overruled.
 14 MR. WEIDNER: Thank you, Your Honor.
 15 BY MS. JONES:
 16 **Q. And did you review this document before**
 17 **coming here today?**
 18 A. Yes, a copy of this document.
 19 MR. WEIDNER: I appreciate that
 20 clarification. Could you please restate that?
 21 **Q. Did you review a copy of this document?**
 22 A. Yes, I did.
 23 **Q. And where did you review that document?**
 24 A. Where did I review it?
 25 **Q. Where did you first see it? If not before**

19

1 **in this courtroom, where did you see it?**
 2 A. In the loan file and in the business
 3 records.
 4 **Q. Of PennyMac?**
 5 A. Of PennyMac.
 6 **Q. Okay. Thank you. And is this document kept**
 7 **in the ordinary course of regularly conducted**
 8 **business?**
 9 A. Yes.
 10 **Q. Is it part of your job duty to have regular**
 11 **access to PennyMac's system?**
 12 A. Yes.
 13 **Q. Is it regular business practice that**
 14 **PennyMac keep this record in its system?**
 15 A. Yes.
 16 **Q. And during the boarding process, when does a**
 17 **note typically get imaged into your system?**
 18 A. Usually within five days --
 19 **Q. Okay.**
 20 A. -- after it's accepted.
 21 MR. WEIDNER: I would object to relevance,
 22 all this testimony about usually. She's got no
 23 testimony about what happened in this loan.
 24 THE COURT: Overruled.
 25 **Q. And what is the date on that note?**

20

1 A. July 10th, 2007.
 2 **Q. And what is the principal amount due?**
 3 A. \$700,000.
 4 **Q. And can you just read the property address**
 5 **on there?**
 6 A. 7547 Tori Way, Bradenton, Florida 34202.
 7 **Q. And who is the original lender?**
 8 A. American Lending Group.
 9 **Q. Okay. And are there any allonges attached**
 10 **to that note?**
 11 A. There is what appears to be an original
 12 allonge September 24th, 2007.
 13 THE COURT: Do you want to approach?
 14 MR. WEIDNER: I just want to make sure that
 15 what she's looking at is what I'm looking at.
 16 THE COURT: Sure.
 17 MR. WEIDNER: Thank you, Your Honor.
 18 **Q. Go ahead.**
 19 A. This is from American Lending Group paid to
 20 the order of CitiMortgage. There is what appears to
 21 be an original -- second original allonge. It is --
 22 MR. WEIDNER: Your Honor, I'm going to
 23 continue to object. If she's qualifying and
 24 saying "it appears to be," I'll accept that, but
 25 I'm going to object if she's not qualifying the

21

1 statements.
 2 THE COURT: Okay.
 3 A. This is from CitiMortgage, and it is in
 4 blank.
 5 **Q. Okay. And who's the borrower on that note?**
 6 **What does it appear the signature is for the**
 7 **borrower?**
 8 A. The signature on the note?
 9 **Q. Yes, the name.**
 10 MR. WEIDNER: Same objection, unless she
 11 qualifies, Your Honor.
 12 **Q. What does it appear the name is?**
 13 A. It appears to be Luz, L-u-z, middle initial
 14 E, Sanabria.
 15 **Q. Can you spell that last name?**
 16 A. S-a-n-a-b-r-i-a.
 17 **Q. Okay. Thank you.**
 18 MS. JONES: Your Honor, we'd like to move
 19 Plaintiff's Exhibit No. 1 into evidence, the
 20 original notice.
 21 MR. WEIDNER: We, of course, are going to
 22 object. I'd like to voir dire, but I'd like to
 23 present to you the complaint that we're traveling
 24 under.
 25 THE COURT: When she finishes her testimony,

22

1 you can cross-examine. I'm reserving on
 2 exhibits.
 3 MR. WEIDNER: We can shorten it, but I'll
 4 respect the Court's wishes.
 5 THE COURT: Let's proceed.
 6 **Q. Do you recognize this document?**
 7 MR. WEIDNER: Your Honor, to move along, if
 8 we want to kind of truncate things a bit, if you
 9 want to hold on to the note, and then if you're
 10 telling me that's the copy of the mortgage that's
 11 recorded --
 12 MS. JONES: It's not. It's the power of
 13 attorney.
 14 MR. WEIDNER: Oh, it's the power of
 15 attorney? I'm going to object to the power of
 16 attorney. Well, let me see.
 17 MS. JONES: I think it's recorded.
 18 MR. WEIDNER: I'm going to object to the
 19 power of attorney. That's a copy, Your Honor.
 20 It's not recorded in this county. It's hearsay.
 21 THE COURT: Overruled.
 22 **Q. And do you recognize this document?**
 23 A. I do.
 24 MR. WEIDNER: And again, Your Honor, to be
 25 respectful of the Court's time, if what the

23

1 witness is going to try and do with this power of
 2 attorney over my objection is to assert that
 3 that's how they're basing their testimony, I want
 4 to be respectful of your time and --
 5 MS. JONES: No, it's not. If you'll look at
 6 it, it's from CitiMortgage to PennyMac. It's the
 7 last endorsement.
 8 MR. WEIDNER: Your Honor, if you've
 9 overruled my objection as to hearsay and the best
 10 evidence, then she can just move right along to
 11 what she wants to use it for.
 12 THE COURT: It's overruled. It's a business
 13 record.
 14 MR. WEIDNER: Yes, sir. So again, with
 15 that, Your Honor, I'm not going to object to
 16 whatever the contents are so we can move along.
 17 MS. JONES: Your Honor --
 18 MR. WEIDNER: The document is what it is.
 19 It's been admitted.
 20 MS. JONES: Okay.
 21 BY MS. JONES:
 22 **Q. Did you -- when did you first review this**
 23 **document?**
 24 MR. WEIDNER: If I could, is that
 25 Plaintiff's 3? 2 is the note, 3 is the power of

24

1 attorney.
 2 MS. JONES: That's fine. Then we'll move
 3 on.
 4 (Plaintiff's Exhibit No. 2 was marked for
 5 identification.)
 6 (Plaintiff's Exhibit No. 3 was marked for
 7 identification.)
 8 **Q. Do you recognize this document?**
 9 A. I do.
 10 **Q. And did you review that document before**
 11 **coming today?**
 12 A. I did, yes. It's a mortgage.
 13 **Q. And did you review that document again in**
 14 **PennyMac's business records?**
 15 A. Yes, I did.
 16 MR. WEIDNER: Your Honor, we don't have any
 17 objection, and I don't want to belabor things, so
 18 I'll waive any objections and she can testify
 19 whatever she thinks that document's value is.
 20 THE COURT: All right.
 21 **Q. Just if you just want to go over the address**
 22 **and who signed that, or who it appears signed that.**
 23 A. Okay. The address on this mortgage is 7547
 24 Tori Way, Bradenton, Florida 34202.
 25 MR. WEIDNER: And again, Your Honor, to help

25

1 expedite things, if we can just say that --
 2 confirming the OR book and page number. May I
 3 approach?
 4 THE COURT: You may.
 5 MR. WEIDNER: That OR book and page number
 6 at the top there, is that 2239?
 7 MS. JONES: Show him the first one. He
 8 wants to just see the recording information.
 9 MR. WEIDNER: So I stipulate that this is
 10 the mortgage 2239, page 2903 that is attached to
 11 the second amended verified complaint that we
 12 agree we're here to try.
 13 MS. JONES: Okay. If you just want to read
 14 the names on there.
 15 THE WITNESS: Okay. The names on this copy
 16 is Luz, L-u-z, E. Sanabria.
 17 MR. WEIDNER: Again, just to interrupt, Your
 18 Honor, if I've stipulated to that document, I'm
 19 not stipulating to admission, but she doesn't
 20 need to identify it. It's stipulated.
 21 It's attached to the complaint, and I would
 22 expect that because you're going to allow me to
 23 cross-examine each piece of evidence, we'll mark
 24 them, but they're not admitted until I have an
 25 opportunity to cross-examine.

26

1 MS. JONES: We'll just admit it into
 2 evidence. Thank you.
 3 (Plaintiff's Exhibit No. 4 was marked for
 4 identification.)
 5 BY MS. JONES:
 6 **Q. Do you recognize this document?**
 7 MR. WEIDNER: If you'd show it to me, it
 8 might just make this a lot easier.
 9 MS. JONES: You have a copy.
 10 A. Yes. This is the payment history for the
 11 loan.
 12 **Q. And did you review this document before**
 13 **coming here today?**
 14 A. Yes.
 15 **Q. Did you review that in PennyMac's business**
 16 **records?**
 17 A. Yes, I did.
 18 **Q. Was this record made at or near the time of**
 19 **the event described within these documents?**
 20 A. Yes.
 21 **Q. Is it made by or from information with the**
 22 **person with knowledge?**
 23 MR. WEIDNER: Objection, foundation.
 24 THE COURT: Overruled.
 25 A. Yes.

27

1 **Q. Is it kept in the ordinary course of**
 2 **business?**
 3 A. Yes.
 4 **Q. Is it regular business practice that**
 5 **PennyMac keep this record?**
 6 A. Yes.
 7 **Q. As part of your job duties, do you regularly**
 8 **access the records of payments and charges made to**
 9 **the loans?**
 10 A. Yes.
 11 **Q. And you have regular access to these records**
 12 **and payments from the --**
 13 MR. WEIDNER: Your Honor, I'm going to
 14 object to the foundation and I'll tell you why.
 15 This is a witness for PennyMac.
 16 The attorney is asking her questions about a
 17 composite exhibit that contained multiple
 18 entries, multiple statements from entities that
 19 this witness has no basis for providing such
 20 testimony. That's the basis of the foundation
 21 and improper predicate.
 22 THE COURT: Overruled.
 23 MR. WEIDNER: May I have a continuing
 24 objection, Your Honor?
 25 THE COURT: Yes, you may.

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1 MR. WEIDNER: Thank you, Your Honor.
 2 **Q. And can you describe how these loan payments**
 3 **and charges are boarded from CitiMortgage to**
 4 **PennyMac's records?**
 5 A. How they are boarded?
 6 **Q. Yes.**
 7 A. Well, of course, the records are reviewed.
 8 If there is any irregularities or any -- anything
 9 that is wrong with them, again, we don't board the
 10 loan, but if everything is in order, then, yes, we
 11 would accept it.
 12 **Q. Could you talk a little bit about the checks**
 13 **that are made to make sure the records are accurate**
 14 **in the boarding process?**
 15 A. Well, everything needs to be, of course,
 16 matched up. Everything needs to make sure that
 17 it's -- the records are correct, that everything is
 18 sequential and that it -- you know, the title is --
 19 the chain of title is correct.
 20 **Q. Thank you. And based on your review of the**
 21 **records, were all the required payments made for this**
 22 **loan?**
 23 MR. WEIDNER: Objection, foundation,
 24 hearsay, improper predicate.
 25 THE COURT: Overruled. You can have a

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1 standing objection.
 2 MR. WEIDNER: Yes, sir.
 3 **Q. According to the records, what date is this**
 4 **loan due for?**
 5 A. January 1st, 2009.
 6 **Q. And is the borrower in default of this loan?**
 7 A. Yes.
 8 **Q. Has the default been cured?**
 9 A. No.
 10 **Q. Has the loan been forgiven or charged off?**
 11 A. No.
 12 **Q. Has the loan been sold to any other entity**
 13 **or individual?**
 14 A. No.
 15 MS. JONES: Thank you. I'd like to move
 16 plaintiff's exhibit into evidence.
 17 MR. WEIDNER: I object. I'd like it marked,
 18 but not moved into evidence subject to our
 19 cross-examination.
 20 THE COURT: I'll reserve on the exhibits
 21 until cross-examination.
 22 MS. JONES: I'm sorry?
 23 THE COURT: I'll reserve on the exhibits
 24 until the cross-examination.
 25 MR. WEIDNER: Just so we're clear, that's

30

1 Plaintiff's 5, the composite?
 2 MS. JONES: I believe so, right.
 3 THE CLERK: I haven't marked anything
 4 because I don't have anything.
 5 MS. JONES: It will be 5.
 6 (Plaintiff's Exhibit No. 5 was marked for
 7 identification.)
 8 MR. WEIDNER: Is Plaintiff's 6 the default
 9 letters?
 10 MS. JONES: It is.
 11 MR. WEIDNER: Rather than belaboring, Your
 12 Honor, I'm going to let her assert that those are
 13 default letters that might have been mailed out
 14 by CitiMortgage.
 15 THE COURT: Okay.
 16 MS. JONES: All right. So you have no
 17 objections to them being --
 18 MR. WEIDNER: Just mark them. I don't want
 19 to admit them.
 20 (Plaintiff's Exhibit No. 6 was marked for
 21 identification.)
 22 MS. JONES: So this is the demand letter. I
 23 would like to have my witness just identify it a
 24 little bit.
 25 BY MS. JONES:

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1 **Q. Can you identify this document?**
 2 MR. WEIDNER: Same objection during this
 3 line of testimony. She's not a CitiMortgage
 4 employee. She can't lay a business records
 5 predicate.
 6 She's not an otherwise qualified witness and
 7 she's not the business records custodian of
 8 CitiMortgage records.
 9 THE COURT: Overruled.
 10 MR. WEIDNER: Continuing objection, Your
 11 Honor.
 12 THE COURT: Yes.
 13 **Q. Did you review this document before coming**
 14 **here today?**
 15 A. Yes.
 16 **Q. And did you review this document in**
 17 **PennyMac's business records?**
 18 A. Yes.
 19 **Q. Is it kept in the ordinary course of**
 20 **business?**
 21 A. Yes.
 22 **Q. Is it regular business practice that**
 23 **PennyMac keep this record?**
 24 A. Yes.
 25 **Q. Can you describe how this record is boarded**

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1 **into PennyMac's record?**
 2 A. Of course, it is examined to make sure that
 3 it was not only worded properly, that it was sent out
 4 in a timely manner, it was sent out in the proper
 5 mailing process and on the date.
 6 **Q. Okay. You verified that with the previous**
 7 **servicer?**
 8 A. Excuse me?
 9 **Q. You verified that with the previous**
 10 **servicer?**
 11 A. With their servicing records, yes.
 12 MR. WEIDNER: I will object to any testimony
 13 of records that aren't in the courtroom, Your
 14 Honor.
 15 THE COURT: Overruled.
 16 MR. WEIDNER: Thank you.
 17 MS. JONES: Okay. Thank you. I have no
 18 further questions at this time, Your Honor.
 19 THE COURT: Defendant may inquire.
 20 MR. WEIDNER: Has the plaintiff rested?
 21 MS. JONES: Just no further questions at
 22 this time.
 23 MR. WEIDNER: Have you rested?
 24 MS. JONES: Rested, yes.
 25 MR. WEIDNER: Your Honor, I want to draw

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1 your attention as I begin my questioning to the
 2 second amended complaint. We all agreed that
 3 this was the complaint that the plaintiff was
 4 traveling under and, Your Honor, I'm approaching
 5 you and I'm handing you what is actually filed.
 6 I'll remove the filing page, but that was --
 7 I'll just give it all to you, but I want you to
 8 focus on what's important. Page 3 of their
 9 filing, I'll draw your attention to the last
 10 sentence down there. It says: The copies of the
 11 note and mortgage are attached as Exhibits A and
 12 B respectively.
 13 And then moving ahead to page 8 of 48 of
 14 what was filed, I'm handing you now, Your Honor
 15 what they purport to be the note at issue in this
 16 case, which you now have in front of you, and as
 17 I question the witness, I'd like you to, well,
 18 focus on that. If I could have the original
 19 note.
 20 Here's the allonge and there's the last page
 21 of the original note. So, Your Honor, you have a
 22 copy that's all marked there with the Bates
 23 number for the sequential numbers of what was
 24 actually filed.
 25 The bottom line is this, Your Honor:

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1 They've got a fake original note. I don't use
2 those words lightly. I don't come to a courtroom
3 and talk about fake and forgery and fraud, but
4 we're on record and I'm very clear about that.
5 Now, to make the point clear, now I'm
6 holding in my hand the original note that the
7 witness just attempted to testify was an original
8 and authenticate, and she said it was the
9 signature, and all that.
10 I just want you to begin by looking at the
11 first page there of the copy, and I want you to
12 focus down at the very bottom. You'll note that
13 the document that's attached to the complaint,
14 down at the bottom it has 1 of 6 pages, and yet
15 the alleged original note that you have in your
16 hands is 1 of 5 pages. The irregularities don't
17 stop there. You'll note that the initial there
18 is quite different.
19 THE COURT: I'm looking at it. It says 1 of
20 6 on the original and it says 1 of 6 on the
21 copies.
22 MR. WEIDNER: Let's look carefully.
23 THE COURT: Let's save these for argument.
24 Let's continue with the examination. Let me ask
25 you this: I don't see any response by the

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1 defendant contesting the authenticity of the
2 note.
3 MR. WEIDNER: There is. In fact, we denied
4 that it was an original note, and on our
5 affirmative defense, we denied the authenticity
6 as an affirmative defense.
7 THE COURT: You alleged there was a forgery?
8 MR. WEIDNER: We denied authenticity under
9 673, Your Honor.
10 MS. JONES: They did not allege it as a
11 counterclaim and it's not alleged as a forgery.
12 THE COURT: Let's proceed with the
13 cross-examination.
14 MR. WEIDNER: So would you like me to
15 take --
16 THE COURT: No. I'd like for you to proceed
17 with the cross-examination.
18 MR. WEIDNER: Can I see the complaint back?
19 CROSS EXAMINATION
20 BY MR. WEIDNER:
21 **Q. Okay. So I'm showing you what the plaintiff**
22 **would have the Court believe is an original note, but**
23 **you, in fact, were not at closing, were you?**
24 A. No.
25 **Q. And you, in fact, have never seen this note**

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1 **before just a few minutes ago, correct?**
2 A. No. I have reviewed that note as soon as we
3 were aware that there was a trial.
4 **Q. Okay. You reviewed a copy on some computer**
5 **screen somewhere, correct?**
6 A. It was an imaged copy, yes.
7 **Q. So, again, the question very specifically:**
8 **In this courtroom for the first time just a few**
9 **minutes ago is when you first saw this document**
10 **that's got a blue signature on there, correct?**
11 A. Yes. It appears to be an original.
12 **Q. Okay. But you have no foundation to**
13 **establish that that, in fact, is --**
14 MS. JONES: Your Honor, I object. It's
15 definitely a legal question.
16 MR. WEIDNER: It's a factual question, Your
17 Honor.
18 MS. JONES: Foundation to establish what --
19 I mean, that's a legal question.
20 THE COURT: I don't think there's any
21 evidence that she witnessed the signature being
22 signed, if that's what you're getting at.
23 MS. JONES: No one is testifying to that.
24 THE COURT: I assume that you're not raising
25 your defense that it's a forgery. You've raised

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1 defense to endorsement to the note, the
2 authenticity, but not as to the borrower's
3 signature. Let's proceed.
4 BY MR. WEIDNER:
5 **Q. Okay. And the document that's attached to**
6 **the complaint bears the signature on there of the**
7 **endorsement. You have no idea when that appeared on**
8 **there, correct?**
9 A. When what appeared on there?
10 **Q. The signature on the endorsement -- or, I'm**
11 **sorry, on the allonge.**
12 MS. JONES: Which allonge are you talking
13 about?
14 MR. WEIDNER: We'll make that clear.
15 **Q. So the ALG, American Lending Group, allonge**
16 **that allegedly has a signature of Warren Kumar, you**
17 **don't have any idea when that appeared on there,**
18 **correct?**
19 A. Well, it is dated September 24th of 2007.
20 **Q. Okay. I'm going to show you this document**
21 **here. Does this document appear to be a copy of --**
22 MS. JONES: Can I see that, please?
23 MR. WEIDNER: Sure.
24 MS. JONES: Your Honor, I object to the
25 introduction of this. This is -- I don't know

<p style="text-align: right;">38</p> <p>1 what this is. 2 It doesn't appear to be the note that we're 3 suing on. I don't know where he got this or why 4 it's relevant. 5 MR. WEIDNER: That's a good point, Your 6 Honor. We have the document custodian from the 7 title company that closed the loan. 8 The document custodian will testify that 9 that document that they have right there is, in 10 fact, the original that was signed at closing, 11 and it was different from that document that the 12 witness has right there. 13 MS. JONES: It's not the note we're suing 14 on. 15 THE COURT: You can present that with your 16 witness. 17 MR. WEIDNER: Okay. 18 THE COURT: Let me see it. 19 MR. WEIDNER: Thank you, Your Honor. And 20 Your Honor, again, drawing your attention, that 21 is the document that was obtained from the 22 closing agent, who's here in the courtroom. We 23 also have -- 24 THE COURT: Let's continue with your 25 cross-examination, please.</p>	<p style="text-align: right;">40</p> <p>1 there and you don't know whether or not that's her 2 signature or the husband's signature, correct? 3 A. Correct. 4 MS. JONES: Object. 5 THE COURT: I think it's stipulated that she 6 wasn't at the closing, so you're just wasting the 7 Court's time. 8 MR. WEIDNER: If we're stipulating to all of 9 that, then that's fine. 10 THE COURT: Okay. 11 Q. Then as to these business records, you work 12 at PennyMac; you didn't work at CitiMortgage? 13 A. Uh-huh. 14 Q. You were not there when any of these records 15 were inputted, correct? 16 A. Correct. 17 Q. You don't know whether, in fact, 18 disbursements that are appearing on there, in fact, 19 were correct; is that right? 20 A. Are you asking me -- 21 Q. You have no firsthand knowledge of the 22 information that's on there, correct? 23 A. Other than PennyMac's. 24 Q. Correct. 25 A. I don't have firsthand knowledge.</p>
<p style="text-align: right;">39</p> <p>1 BY MR. WEIDNER: 2 Q. You have no factual testimony regarding 3 whether or not that mark that appears on there is, in 4 fact, of Luz Sanabria, correct? 5 MS. JONES: I'm sorry, which mark? 6 MR. WEIDNER: On the front page -- or 7 frankly, on each page, there's a mark that 8 appears, blue ink. 9 Q. But you have no foundation for any testimony 10 that that's her signature, correct? 11 A. If you're asking me if I know that that's 12 her signature? 13 Q. Right, that's what I'm asking. 14 A. How would I know that? 15 Q. That's precisely the point. The answer to 16 the question -- or is the answer to the question no? 17 A. I don't know that that's her signature. 18 Q. Okay. And you don't know if, in fact, this 19 was an original note that she signed at closing in 20 2007 because you were not there and you do not 21 recognize her signature, correct? 22 A. I was not there. 23 Q. And you do not recognize her signature? 24 A. I don't know her signature. 25 Q. Okay. As to the mortgage, you were not</p>	<p style="text-align: right;">41</p> <p>1 Q. You don't have any firsthand knowledge of 2 CitiMortgage? Okay. 3 And the CitiMortgage alleged default 4 letters, you don't have any firsthand knowledge as to 5 whether or not this letter was sent out, correct? 6 A. Again, you're saying firsthand. You mean 7 seeing -- me personally seeing it? 8 Q. Correct. 9 A. No. 10 Q. You've got no business records to show 11 whether, in fact, this letter was sent out, correct? 12 A. We have the business records. 13 Q. Point to me the business records. I've got 14 the default history. Point to me in there where 15 there's some evidence of -- 16 A. This is a transactional history. This is 17 not considered a transaction. It would be in the 18 notes, the collection -- the notes, the servicing 19 notes, the collection notes, the loss mitigation 20 notes. It would be in the notes that that was sent 21 out. 22 Q. Just so the record is clear, we don't have 23 any of those records here in this courtroom, correct? 24 A. No. 25 MS. JONES: Okay. I move to strike the</p>

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1 testimony as to whether it was sent. That's a
2 photocopy of something.
3 THE COURT: Overruled.
4 MR. WEIDNER: Thank you, Your Honor. Your
5 Honor, I have no further questions of this
6 witness. I'd like to make a motion if she's
7 done, if she has any cross.
8 MS. JONES: I don't have any redirect.
9 THE COURT: Do you have any redirect?
10 MS. JONES: No, Your Honor.
11 THE COURT: What's your motion?
12 MR. WEIDNER: A motion for an involuntary
13 dismissal based on the failure of proof for the
14 original note. There's been no testimony as to,
15 in fact, it was an original note. We're
16 disputing it's an original note, and there's no
17 testimony that, in fact, it was.
18 THE COURT: Does the plaintiff have any
19 further witnesses?
20 MS. JONES: No, Your Honor.
21 THE COURT: Are you going to call the
22 defendant?
23 MS. JONES: No.
24 THE COURT: The motion is denied. The
25 defendant may present its witnesses.

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1 MR. WEIDNER: Your Honor, I'm going to call
2 the records custodian. Your Honor, a few days
3 ago we issued a trial subpoena. I had my client
4 come in and examine the note that was attached to
5 the complaint, and in the course of doing so, she
6 discovered an irregularity.
7 As a result, we issued a trial subpoena for
8 this witness. He's an attorney from the law firm
9 that performed the closing and he has with him
10 the original closing file.
11 (Witness sworn in.)
12 MS. JONES: Your Honor, we object to this
13 questioning of this witness. As you, yourself,
14 stated, this is not part of his affirmative
15 defenses; therefore, we believe that this kind of
16 argument is deemed waived.
17 THE COURT: Overruled. You can come and
18 have a seat.
19 MICHAEL P. INFANTI, called as a witness by
20 the Defendant Sanabria, having been first duly sworn,
21 testified as follows:
22 THE WITNESS: I do.
23 DIRECT EXAMINATION
24 BY MR. WEIDNER:
25 **Q. Mr. Infanti, please state your name for the**

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1 **record.**
2 A. It's Michael Infanti.
3 **Q. Is it true you're an attorney licensed to**
4 **practice law in this state?**
5 A. That is correct.
6 **Q. Please state the name of the law firm that**
7 **you work at.**
8 A. Norton, Hammersley, Lopez & Skokos.
9 **Q. Did that law firm perform the closing of**
10 **this particular file?**
11 A. My firm did perform the closing.
12 **Q. And do you have in the courtroom the closing**
13 **file from this particular closing?**
14 A. We have copies of all the documents that are
15 on our system, computer system for this file.
16 **Q. I'd like you to open up the file there, and**
17 **can you find within the file a copy of the note that**
18 **was signed at closing?**
19 A. (Witness so complied.)
20 **Q. And have you identified that document?**
21 MR. WEIDNER: I'd like to mark this as
22 Defendant's 1, please.
23 THE COURT: You can mark it. The Court
24 doesn't mark it.
25 MR. WEIDNER: Yes. Should I mark it Defense

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1 1.
2 THE COURT: Yes.
3 MR. WEIDNER: Thank you.
4 (Defendant's Exhibit No. 1 was marked for
5 identification.)
6 **Q. I'm showing you now what you've removed from**
7 **your court file and I've marked down at the bottom**
8 **there Defendant's 1. Do you recognize that document?**
9 A. I do.
10 **Q. And is that a copy of the note that was**
11 **signed at closing?**
12 A. It appears to be, yes.
13 **Q. And I want to share with you what the**
14 **plaintiff purports to be the original note that they**
15 **want the Court to consider. Looking on the first**
16 **page, can you describe for the Court any difference**
17 **down at the bottom of the page there?**
18 A. There do seem to be some differences. The
19 signature is a little different. There's some
20 notations at the bottom as far as page references.
21 MS. JONES: Objection, Your Honor. This
22 witness was not brought here to authenticate
23 signatures.
24 THE COURT: You didn't conduct the closing
25 personally?

46	<p>1 THE WITNESS: No, Your Honor, I did not.</p> <p>2 THE COURT: You're just authenticating the</p> <p>3 business records of your law firm?</p> <p>4 THE WITNESS: That is correct.</p> <p>5 THE COURT: So you don't know which</p> <p>6 signatures are authentic and which are not?</p> <p>7 THE WITNESS: That is correct, Your Honor.</p> <p>8 BY MR. WEIDNER:</p> <p>9 Q. Very quickly, in the record that you brought</p> <p>10 in here, does that indicate that this alleged note is</p> <p>11 five pages long?</p> <p>12 A. It says page 1 of 5, yes.</p> <p>13 Q. Just so the record is real clear, we've got</p> <p>14 2 of 5, 3 of 5, 4 of 5, and 5 of 5; is that correct?</p> <p>15 A. Yes, that is correct.</p> <p>16 Q. So the document in your closing file quite</p> <p>17 clearly says pages 1 through 5. Is that different</p> <p>18 from the alleged original that's in the courtroom?</p> <p>19 A. It appears to be, yes.</p> <p>20 Q. And what's the difference?</p> <p>21 A. This is page 1 of 6, and it continues on to</p> <p>22 page 6 of 6.</p> <p>23 Q. Okay. Can you explain why there is another</p> <p>24 original note that they're trying to introduce?</p> <p>25 MS. JONES: Objection, Your Honor. He</p>	48	<p>1 MR. WEIDNER: Thank you, Your Honor.</p> <p>2 THE COURT: You may be excused.</p> <p>3 THE WITNESS: Thank you, Your Honor.</p> <p>4 (The witness was excused from the</p> <p>5 courtroom.)</p> <p>6 THE COURT: Defendant may call its next</p> <p>7 witness.</p> <p>8 MR. WEIDNER: Ms. Sanabria.</p> <p>9 (Witness sworn in.)</p> <p>10 THE COURT: You may continue.</p> <p>11 LUZ E. SANABRIA, called as a witness by the</p> <p>12 Defendant Sanabria, having been first duly sworn,</p> <p>13 testified as follows:</p> <p>14 THE WITNESS: I do.</p> <p>15 DIRECT EXAMINATION</p> <p>16 BY MR. WEIDNER:</p> <p>17 Q. Ms. Sanabria, did you have an opportunity to</p> <p>18 examine the document that's before you right now? So</p> <p>19 the record is clear, it's the alleged original note</p> <p>20 that was filed on 20th September 2013?</p> <p>21 A. Yes. This one, yes.</p> <p>22 Q. When did you see that?</p> <p>23 A. Well, about three months ago when she filed</p> <p>24 the original -- no, when she said -- when she said</p> <p>25 that she filed the original note, that's when I</p>
47	<p>1 doesn't work for PennyMac.</p> <p>2 MR. WEIDNER: I'll withdraw the question.</p> <p>3 Your Honor, I have no more further questions for</p> <p>4 this witness.</p> <p>5 THE COURT: Do you have any questions of</p> <p>6 this witness?</p> <p>7 MS. JONES: I do not, Your Honor.</p> <p>8 THE COURT: Pardon?</p> <p>9 MS. JONES: I do not.</p> <p>10 THE COURT: Okay.</p> <p>11 MR. WEIDNER: No further questions, Your</p> <p>12 Honor.</p> <p>13 THE COURT: Are you offering that exhibit</p> <p>14 into evidence?</p> <p>15 MR. WEIDNER: Yes, Your Honor. I'll keep</p> <p>16 Defense 1 up here, if you don't mind.</p> <p>17 THE COURT: It will be received, the</p> <p>18 defendant's copy of the promissory note.</p> <p>19 (Defendant's Exhibit No. 1 for</p> <p>20 identification was received in Evidence.)</p> <p>21 MR. WEIDNER: Your Honor, can you sign this?</p> <p>22 THE COURT: Does the defendant have any</p> <p>23 other witnesses?</p> <p>24 MR. WEIDNER: Yes, Your Honor.</p> <p>25 THE COURT: Call your next witness.</p>	49	<p>1 noticed that it was -- I went into my records. I</p> <p>2 took my file and I compare and --</p> <p>3 MR. WEIDNER: Your Honor, so the record is</p> <p>4 clear, we've got a little language difficulty, so</p> <p>5 I'm going to try and help out a little bit.</p> <p>6 Q. When did you come to the Manatee County</p> <p>7 Courthouse and physically examine the document that's</p> <p>8 before you?</p> <p>9 A. Oh, about, I believe, two weeks ago.</p> <p>10 Q. Okay.</p> <p>11 A. I don't recall, but it was around two weeks</p> <p>12 ago, something like that.</p> <p>13 Q. And you are now looking at what the</p> <p>14 plaintiff alleges is an original note with your</p> <p>15 signature on it. Is that your -- well, beginning</p> <p>16 with page 1, is that your initial?</p> <p>17 A. No, it's not.</p> <p>18 Q. And I'm flipping through pages 2 through 5.</p> <p>19 It looks like 2 through 4 have an initial down at the</p> <p>20 bottom. None of those are your initials?</p> <p>21 A. No.</p> <p>22 Q. Turning lastly to the signature page which</p> <p>23 is page 6 of 6, I want you to look very carefully at</p> <p>24 that. Is that your signature?</p> <p>25 A. That is not my signature. I recognize my</p>

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1 signature right away because I always put, like, E in
 2 the middle, and I don't see E here, and it's not my
 3 signature. I just -- everybody recognize your own
 4 signature.
 5 **Q. Okay. But sometimes our memory can get**
 6 **cloudy after a while, but you're clear that that's**
 7 **not your signature?**
 8 A. No, that's not my signature.
 9 **Q. Okay. So now I'm going to show you what is**
 10 **marked as Defense 1, and I'm going to ask you: Do**
 11 **you recognize the scribbles there?**
 12 A. Yes, that's my signature.
 13 **Q. Is Defense 1, and this is the document**
 14 **that's attached to the complaint, is that your**
 15 **signature -- are those your initials?**
 16 A. Yes, that is my initials. They are -- the
 17 difference, they are a little more separate here than
 18 this one are together, and long.
 19 **Q. I need to make sure we're clear with the**
 20 **language on here because you've made representations**
 21 **that this is not your signature.**
 22 A. This one is my signature, the one that says
 23 five pages, one to five.
 24 **Q. Right. That one?**
 25 A. On the five to six pages, that's not my

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1 signature.
 2 **Q. Okay. So this document which the closing**
 3 **agent just came into the courtroom, the records**
 4 **custodian presented, he said that you were in their**
 5 **office and that this is the document you signed at**
 6 **closing?**
 7 A. Yes. I only signed one note.
 8 **Q. Now, beginning with page 1, you recognize**
 9 **this is a copy of your initials?**
 10 A. Yes.
 11 **Q. Okay. Two?**
 12 A. Yes.
 13 **Q. Three?**
 14 A. Yes.
 15 **Q. Four and five?**
 16 A. Yes.
 17 **Q. All right. The final page is five, and**
 18 **there's a signature on there. Is that, in fact, your**
 19 **signature?**
 20 A. Yes, that's my signature.
 21 **Q. Okay. I'm going to show you the document**
 22 **that's attached to the lawsuit, the note that is**
 23 **alleged to be at issue in this case. Is this your**
 24 **initial there? This is the one that's attached to**
 25 **the complaint.**

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1 A. Yeah, that's not my signature.
 2 **Q. Okay. Because is that signature the same as**
 3 **that alleged original?**
 4 A. Correct. That's the -- that one is the copy
 5 of the one that I submitted.
 6 **Q. Okay. So is it your testimony that the**
 7 **alleged original note that's attached to the**
 8 **complaint does not, in fact, bear your signature but**
 9 **is a fabrication?**
 10 A. Correct.
 11 **Q. Just so we're clear, looking at that last**
 12 **page right there, that's the signature page on the**
 13 **note. Is that your signature?**
 14 A. Correct, that's not my signature.
 15 **Q. Do you have any explanation as to why**
 16 **there's one document which you signed at closing**
 17 **which you testify is your signature and the alleged**
 18 **original that's quite clearly different does not bear**
 19 **your signature?**
 20 A. No, I was not understanding. That's why I
 21 immediately called my title agency and I asked them
 22 about two months ago, "Why you have two notes?"
 23 And they told me, "What you mean you have
 24 two notes?"
 25 "Yes. You have two notes, because the

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1 plaintiff has one note and I have one note, so I want
 2 you to tell me why."
 3 He says, "No."
 4 So they send me -- I went here to Manatee
 5 County and I see that it was not my note. The only
 6 copy that I have in my house and my file, it was
 7 completely different which one it was here in Manatee
 8 County.
 9 MR. WEIDNER: Okay. I have no further
 10 questions, Your Honor.
 11 THE COURT: Plaintiff may inquire.
 12 CROSS EXAMINATION
 13 BY MS. JONES:
 14 **Q. Ma'am, did you make a loan for \$700,000 to**
 15 **purchase the property on 7547 Tori Way in Bradenton,**
 16 **Florida on July 10th, 2007?**
 17 A. Yes.
 18 **Q. And it's your testimony today that there's**
 19 **two separate notes? It's your testimony today that**
 20 **there are two notes, correct?**
 21 A. Yes. I found -- I discover that there's two
 22 notes, the one that you present and the one that is
 23 in my file, yeah.
 24 **Q. Okay. Have you seen any other mortgages?**
 25 A. Mortgage?

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1 **Q. Yes, a mortgage.**
2 A. Yes.
3 **Q. There are two mortgages?**
4 A. Two mortgage? No.
5 **Q. No? Okay. Did you ever live in this**
6 **property?**
7 A. Yes. That was my homestead when I applied
8 for the loan.
9 **Q. But it's not anymore?**
10 A. No, it's not anymore.
11 **Q. Do you have tenants renting from you?**
12 MR. WEIDNER: Objection, relevance.
13 THE COURT: Overruled.
14 **Q. Do you have tenants renting from you?**
15 A. Yes.
16 **Q. Okay. Do you have a reason why you think**
17 **there are two notes?**
18 A. Well, because it's different.
19 **Q. No. Why do you think someone would have**
20 **another note, a forgery?**
21 A. Because that's not my signature.
22 **Q. No. I'm not asking you --**
23 A. I don't understand your question.
24 **Q. Let me try and reask it. I know that you're**
25 **saying that one of them is not your signature, okay,**

55

1 **but why do you think someone would do that?**
2 A. I don't know. I don't understand the
3 question.
4 **Q. Why do you think someone would forge your**
5 **signature?**
6 A. Oh, I don't know.
7 **Q. So you have no reason to believe that**
8 **someone would do that? Other than seeing it today,**
9 **you have no reason to believe that someone would do**
10 **that?**
11 A. Well, that's not my signature. That's what
12 I'm saying is two notes, because one, it doesn't
13 belong to me. The other one is the one that I did at
14 the closing.
15 **Q. But nothing happened at the closing to think**
16 **that there's two notes?**
17 A. No, not at all, because I have my copies in
18 my writing things, my notes, and I saw and I verify
19 this one with the copies that I have, and I know
20 which one I sign and it's the same copy. This note,
21 even I have it here, that on July 9, 2007, they send
22 me a copy, all right.
23 **Q. I'm sorry. On July 9th, 2007?**
24 A. Correct, and when I went to closing, they
25 changed the date and is the same note. I have a copy

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1 here what they send me on July and it's the same note
2 and this is what I signed, the one that it says one
3 to five.
4 **Q. Okay. And how many documents did you sign**
5 **that day?**
6 A. A lot of documents.
7 **Q. Okay. So is it possible that you signed two**
8 **notes?**
9 A. No, because I'm very -- I was making notes
10 and I was focus only on note, because on the note, I
11 know about interest and about -- I know I was doing a
12 lot of questions and I was having -- on this one, on
13 the copy that I -- I did a lot of questions because
14 that's the only thing that I concentrate because I
15 know the only value is the note. I don't know the
16 mortgage.
17 **Q. Okay. And can you look at plaintiff's**
18 **exhibit that we filed as the original note and tell**
19 **me: What's the interest rate on that note?**
20 MR. WEIDNER: Objection, relevance.
21 A. I'm sorry. I've got to get my glasses.
22 THE COURT: Pardon?
23 MR. WEIDNER: Relevance. The document
24 speaks for itself.
25 THE COURT: Let me ask this question to

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1 shorten the matter: Other than one -- the copy
2 that the defendant offered as an exhibit has one
3 through five, the plaintiff's copy has one
4 through six, are the terms different on either
5 one?
6 MS. JONES: That's what I was trying to get
7 to. I don't think they are, Your Honor.
8 THE COURT: I'm asking a question of the
9 defendant. Show me any difference other than the
10 page numbers.
11 MR. WEIDNER: The document itself is
12 facially different. You can see where -- looking
13 at --
14 THE COURT: You didn't answer my question.
15 Let's move on.
16 MS. JONES: The interest rate are the same
17 and the principal amount are the same.
18 THE WITNESS: The bottom is different.
19 Everything is different on the bottom.
20 THE COURT: We're wasting the Court's time.
21 THE WITNESS: The writing things on the
22 second page is different.
23 THE COURT: I can see there are two notes.
24 Let's move on. Do you have any other questions?
25 MS. JONES: No, that's it, Your Honor.

<p style="text-align: right;">58</p> <p>1 THE COURT: Pardon?</p> <p>2 MS. JONES: That's all, Your Honor. No</p> <p>3 other questions.</p> <p>4 THE COURT: Do you have any redirect of this</p> <p>5 witness?</p> <p>6 MR. WEIDNER: Brief redirect. I'm going to</p> <p>7 mark this as Defense 2.</p> <p>8 (Defendant's Exhibit No. 2 was marked for</p> <p>9 identification.)</p> <p>10 BY MR. WEIDNER:</p> <p>11 Q. Ms. Sanabria, I'm going to show you what is</p> <p>12 Defense 2. Is this a copy of the note that you saved</p> <p>13 as part of your closing?</p> <p>14 A. Yes.</p> <p>15 Q. And is that copy of the note the same as</p> <p>16 Defense 1?</p> <p>17 A. Yes. It is the same because it says on the</p> <p>18 bottom the same thing and it says one to five.</p> <p>19 Q. Okay. And just so the record is clear,</p> <p>20 Defense 1 is pages 1 through 5. Defense 2 is one</p> <p>21 through 5, and the alleged original is six pages; is</p> <p>22 that correct?</p> <p>23 A. Correct.</p> <p>24 Q. Okay.</p> <p>25 MS. JONES: Can I just see those?</p>	<p style="text-align: right;">60</p> <p>1 identification was received in Evidence.)</p> <p>2 (Plaintiff's Exhibit No. 3 for</p> <p>3 identification was received in Evidence.)</p> <p>4 (Plaintiff's Exhibit No. 4 for</p> <p>5 identification was received in Evidence.)</p> <p>6 (Plaintiff's Exhibit No. 5 for</p> <p>7 identification was received in Evidence.)</p> <p>8 (Plaintiff's Exhibit No. 6 for</p> <p>9 identification was received in Evidence.)</p> <p>10 THE COURT: We're ready to continue. Do you</p> <p>11 have any other witnesses?</p> <p>12 MR. WEIDNER: Yes, Your Honor.</p> <p>13 THE COURT: Call your next witness.</p> <p>14 JEAN J. BERRIE-PERRINO, called as a witness</p> <p>15 by the Defendant Sanabria, having been first duly</p> <p>16 sworn, testified as follows:</p> <p>17 THE WITNESS: I do.</p> <p>18 DIRECT EXAMINATION</p> <p>19 BY MR. WEIDNER:</p> <p>20 Q. Ms. Berrie, are you a document examiner?</p> <p>21 A. I'm a forensic document examiner.</p> <p>22 Q. Have you been certified as an expert in</p> <p>23 courts in this jurisdiction?</p> <p>24 A. Yes.</p> <p>25 Q. And have you testified before in courts</p>
<p style="text-align: right;">59</p> <p>1 MR. WEIDNER: Sure.</p> <p>2 MS. JONES: These are different -- or wait,</p> <p>3 this is the unsigned copy.</p> <p>4 MR. WEIDNER: It's just not signed. She</p> <p>5 testified that's what she got at closing, but</p> <p>6 that's not signed.</p> <p>7 THE COURT: Does the defendant have any</p> <p>8 further questions of this witness?</p> <p>9 MR. WEIDNER: Not of this witness, Your</p> <p>10 Honor.</p> <p>11 THE COURT: Then Defendant's 1 and 2 are</p> <p>12 received into evidence, and Plaintiff's Exhibits</p> <p>13 1 through 5, is it?</p> <p>14 MS. JONES: I think it's six with the</p> <p>15 letters.</p> <p>16 THE COURT: 1 through 6 are received into</p> <p>17 evidence.</p> <p>18 MR. WEIDNER: I object to them being</p> <p>19 received into evidence, Your Honor.</p> <p>20 THE COURT: Overruled.</p> <p>21 (Defendant's Exhibit No. 2 for</p> <p>22 identification was received in Evidence.)</p> <p>23 (Plaintiff's Exhibit No. 1 for</p> <p>24 identification was received in Evidence.)</p> <p>25 (Plaintiff's Exhibit No. 2 for</p>	<p style="text-align: right;">61</p> <p>1 across the country?</p> <p>2 A. Yes.</p> <p>3 Q. How many times, roughly?</p> <p>4 A. I couldn't be sure, but probably over 100.</p> <p>5 I don't know.</p> <p>6 MR. WEIDNER: I can't remember. Was the</p> <p>7 witness sworn?</p> <p>8 THE COURT: I swore the witness, yes.</p> <p>9 Q. For me and for the Court, please state your</p> <p>10 name fully.</p> <p>11 A. Jean Joanne Berrie-Perrino.</p> <p>12 Q. You're a forensic document examiner?</p> <p>13 A. Yes.</p> <p>14 Q. Please state your qualifications.</p> <p>15 A. I am certified by three independent</p> <p>16 organizations, and I have attended seminars and</p> <p>17 presented seminars and produced seminars all over the</p> <p>18 world.</p> <p>19 Q. You've been qualified to testify as an</p> <p>20 expert in courtrooms?</p> <p>21 A. Yes.</p> <p>22 MS. JONES: Your Honor, I object to this</p> <p>23 witness. Again, this forgery is not part of</p> <p>24 their affirmative defenses. It's deemed waived.</p> <p>25 They can't bring it into trial today.</p>

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1 MR. WEIDNER: We just learned of it, Your
2 Honor.
3 THE COURT: I sustain the objection, and the
4 Court cites the case of Riggs versus Aurora Loan
5 Services, 36 So.3d 932. You can proffer this
6 evidence.
7 MR. WEIDNER: Thank you.
8 **Q. Ma'am, did you have an opportunity to**
9 **examine the documents that are before you? I'll**
10 **identify Defense 1 and the alleged original note,**
11 **which I think is Plaintiff's 2. We'll just call it**
12 **plaintiff's original note. Have you had an**
13 **opportunity to examine both of those documents?**
14 A. I examined the photocopies of these
15 documents, yes.
16 **Q. Okay. And did you reach a conclusion**
17 **regarding the signature -- or the initial that**
18 **appears on page 1 of Defense 1?**
19 A. This is partially illegible, but it is not
20 the same as this.
21 **Q. Okay. And did you examine the alleged**
22 **signature -- initial down at the bottom of page 2**
23 **with the one in plaintiff's original note?**
24 A. They are different.
25 **Q. Okay. And page 3?**

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1 A. Again, they're similar, but they are
2 different.
3 **Q. Okay. Page 4 of defense and page 4 of the**
4 **alleged original note?**
5 A. Yes.
6 **Q. Okay. And then turning especially to page 5**
7 **of 5 of Defense 1 and the alleged original note of**
8 **the plaintiff, can you please testify at some length**
9 **about -- focusing first on the alleged original note**
10 **and tell us your conclusions regarding that alleged**
11 **signature.**
12 A. I found fundamental differences between the
13 known and the questioned documents in several areas,
14 and it's my opinion that they are not written by the
15 same person. I have enlargements if you want them.
16 **Q. May we see the enlargements?**
17 A. I probably have enough here if you would
18 like a copy. There's extra there.
19 MR. WEIDNER: Your Honor, I'm going mark
20 this as Defense 3.
21 MS. JONES: Let me see.
22 MR. WEIDNER: And it's a composite, so I'll
23 give you those and then you have a set for the
24 judge.
25 THE WITNESS: Those were all the same.

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1 (Defendant's Exhibit No. 3 was marked for
2 identification.)
3 **Q. So what is Defense 3?**
4 A. This is the known.
5 **Q. Okay.**
6 A. This is the questioned.
7 **Q. Okay. So Defense 3 we'll mark as what you**
8 **say is what Ms. Sanabria has testified as her**
9 **signature, correct?**
10 A. Yes.
11 MR. WEIDNER: Your Honor, I'll present that
12 to you as Defense 3.
13 **Q. And give me Defense 4 as the questioned.**
14 A. This one, sir.
15 **Q. So Defense 3, does that signature match what**
16 **the signature on Defense 1 is, the signature she**
17 **acknowledged at closing? So Defense 1 that you're**
18 **holding in your hand is the document that she**
19 **acknowledges signing at closing. Is that the known**
20 **signature you referred to?**
21 A. Yes. That's this one, yes.
22 **Q. Okay. And so Defense 3 is -- you've blown**
23 **up or expanded the known signature, correct?**
24 A. Yes.
25 **Q. All right. So now what I'm showing you is**

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1 **Defense 4. Is this a copy of the alleged original?**
2 A. Yes.
3 **Q. And can you give me another copy of that?**
4 A. Sure.
5 MR. WEIDNER: Okay. So, Your Honor, I'm
6 going to mark this as Defense 4 and show it to
7 you.
8 (Defendant's Exhibit No. 4 was marked for
9 identification.)
10 **Q. So this is the alleged original. Ma'am,**
11 **could you explain to the judge what's different about**
12 **Defense 3 and Defense 4?**
13 A. The initial strokes on the original
14 signature, the genuine signature, begins at the lower
15 part of the writing with a hook; whereas, in the
16 questioned, there is no hook, yet there is a heavier
17 writing there.
18 Also, there are hesitation points, I should
19 point out, in the questioned signature. When a
20 person is writing something which is not their known
21 signature -- or is trying to copy, as you go along,
22 every time the eye lifts from the paper and goes
23 back, you have a blob or a heavier portion. So,
24 therefore, you see where it begins, you have a
25 heavier portion in the Luz signature as opposed to

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1 having a hook.
2 I'm sorry. The known signature is more
3 simplified than the questioned signature; whereas, it
4 goes up, you have a high loop, which is true, and
5 then you have a lower sort of a diagonal -- or,
6 sorry, an oblong triangle on the known signature, and
7 you have a more rounded one on the questioned
8 signature. Where it goes across the questioned, it
9 comes down and it just goes across and crosses over
10 to the last signature; whereas, this is not found in
11 the known signature.
12 Also, there are extra loops in the
13 questioned signature as opposed to the known. The E
14 in the known signature goes up. It has an oval loop
15 at the top. It comes down with a small loop in the
16 middle and then it continues into the S; whereas, in
17 the questioned, it is a smaller loop. It is
18 straight, and then it goes into what I assume was
19 supposed to be an S, and then it goes back into the
20 other. It kind of overlaps.
21 Your endings are different because in the
22 known signature, it is a straight down loop and in
23 the questioned, it is hooked around. Also, the I-dot
24 in the questioned is off to the right. There is no
25 I-dot in the original.

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1 There are many other hesitation points in
2 there within the writing. Where it joins from the
3 Luz to the E, you see there is -- a sort of a
4 retraced blob. It goes up, down. It's retraced
5 before it goes in, so there are many differences
6 within this writing.
7 THE COURT: Are you finished?
8 **Q. Is there any question in your mind but that**
9 **the signature on the alleged original is not, in**
10 **fact, an actual signature of Ms. Sanabria?**
11 A. It's my opinion that they were written by
12 two different people.
13 **Q. Thank you. And turning to Defense 1 and**
14 **Defense 2, which are the documents that we have**
15 **provided as the documents we received from closing,**
16 **are they, in fact, different than what the alleged**
17 **original is in length?**
18 **So, for instance, is the alleged original**
19 **six pages long and your copies there show five pages**
20 **long?**
21 MS. JONES: Objection, Your Honor. She's a
22 signature expert and not here to testify about
23 the contents of the note or how long they are.
24 THE COURT: Sustained.
25 **Q. Okay. Defense 1 and 2, how many pages are**

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1 **they?**
2 A. It says one of five on each of them.
3 **Q. The alleged original, how many?**
4 A. One of six, I believe.
5 MR. WEIDNER: Your Honor, I have no further
6 questions of this witness.
7 THE COURT: Any questions from the
8 plaintiff?
9 MS. JONES: A few.
10 CROSS EXAMINATION
11 BY MS. JONES:
12 **Q. When were you retained to look at these, to**
13 **compare the signatures? When were you hired to look**
14 **at these signatures?**
15 A. In October.
16 **Q. So this month?**
17 A. Yes.
18 **Q. Do you know the date?**
19 A. I'm not sure of the exact date.
20 **Q. So a week ago --**
21 A. I don't have it with me.
22 **Q. Okay. So a week ago, you think, or two**
23 **weeks ago?**
24 A. Two. About a week-and-a-half, I would say.
25 **Q. And are you being paid today?**

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1 A. I have been retained, yes, and I will be
2 paid. I will charge for today.
3 **Q. And how much do you usually charge?**
4 A. My retainer is \$800, and for court, half a
5 day is 500. A full day is 1,000.
6 MS. JONES: Thank you. No further
7 questions.
8 THE COURT: Any redirect?
9 MR. WEIDNER: No redirect, Your Honor.
10 THE COURT: You may be excused.
11 (The witness was excused from the
12 courtroom.)
13 THE COURT: Do you have any further
14 witnesses?
15 MR. WEIDNER: No.
16 THE COURT: Does the plaintiff have any
17 redirect?
18 MS. JONES: No, Your Honor. We would ask
19 for a short recess, though, before closing
20 argument.
21 MR. WEIDNER: I want to make sure that we
22 have Defense 1 and 2 with you, and then we'll
23 just put all the plaintiff's documents together
24 here.
25 MS. JONES: Can I just look at Defendant's 1

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1 and 2 one more time?
 2 MR. WEIDNER: Sure.
 3 THE COURT: Anything further to come before
 4 the Court?
 5 MR. WEIDNER: Closing argument.
 6 THE COURT: Plaintiff?
 7 MS. JONES: I'm just asking for a recess
 8 before closing argument, Your Honor.
 9 THE COURT: Pardon?
 10 MS. JONES: I'm just asking for a recess
 11 before closing argument since this was all
 12 brought on me today, just a short recess.
 13 THE COURT: We'll take the 11:00 o'clock
 14 docket.
 15 (Recess.)
 16 THE COURT: We'll continue with
 17 PennyMac/Sanabria. Plaintiff?
 18 MR. WEIDNER: If it please the Court, if I
 19 could, Your Honor, I see you're marking the
 20 exhibits. I just technically want to make sure
 21 you admitted theirs and ours and now you're
 22 accepting argument.
 23 THE COURT: Yes.
 24 MR. WEIDNER: Thank you.
 25

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 2 CLOSING ARGUMENT
 3 BY MS. JONES:
 4 Thank you, Your Honor. Your Honor, this is
 5 a 2012 case. The original complaint filed in
 6 this case had a copy of the note on it.
 7 Defendant did not raise that argument in their
 8 affirmative defenses that were filed. The
 9 original note was filed over a year ago,
 10 September 26, 2013. Defendant had --
 11 MR. WEIDNER: I object to this.
 12 MS. JONES: I'm sorry, this is closing.
 13 MR. WEIDNER: I still want to object to --
 14 THE COURT: Don't interrupt closing
 15 argument, please.
 16 MS. JONES: Over a year ago, the note was
 17 filed and defendant did not raise this argument.
 18 Defendant admitted that she signed a note and
 19 mortgage for the same amount, the same interest
 20 rate, on the same date, for the same time. She
 21 said there's no other security instrument;
 22 therefore, she made the note. She enjoyed the
 23 property. She now rents it out and makes money
 24 off of it because she's not making loan payments
 25 to anyone.

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1 She hasn't testified that she's not in
 2 default. She hasn't testified that she has made
 3 payments to someone over all these years. This
 4 has been in default since January of 2009, Your
 5 Honor, and they haven't testified that they made
 6 any payments during that time.
 7 I'd also like to point out that since she
 8 enjoyed the property and made that loan in 2007,
 9 that although she has testified that there's
 10 another note, this is an equitable action in
 11 foreclosure. She's enjoyed the property. She
 12 received the money. She bought the property for
 13 the same address, for the same amount. There's
 14 no question that she got to enjoy this property.
 15 If the judgment is granted today, it will be
 16 PennyMac's responsibility to defend if someone
 17 else comes up with another note that's been sold
 18 to any other entity or individual.
 19 Therefore, we believe based on the
 20 preponderance of the evidence, the defendant made
 21 payments on this property, enjoyed this property,
 22 is in default of this loan and plaintiff has
 23 brought forth records saying that they purchased
 24 this loan and were servicing this loan;
 25 therefore, we believe that judgment should be

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1 granted for the plaintiff.
 2 THE COURT: Okay. Defense response.
 3 CLOSING ARGUMENT
 4 BY MR. WEIDNER:
 5 May it please the Court, Your Honor, Matt
 6 Weidner for the defendant. Your Honor, the
 7 transcript is going to reveal repeatedly that the
 8 attorney for the plaintiff has referred to the
 9 documents as fraudulent or forgery.
 10 I thought that was very interesting that in
 11 her testimony and then in my testimony, the
 12 plaintiff's own advocate was admitting that there
 13 were documents that were fraudulent and were
 14 forgery by repeatedly referring to them.
 15 The statement that they were not on notice
 16 of that is not true. My client has advised that
 17 shortly after the amended complaint was filed,
 18 she brought this to their attention, that the
 19 alleged original is a forgery, is a fraud.
 20 Now, you, of course, have to weigh the
 21 evidence and you've got to look at what's in
 22 front of you. Their own witness admitted over
 23 and over again that she wasn't there at closing.
 24 She could not authenticate and, therefore, could
 25 not lay a proper foundation for the admission of

74	<p>1 the alleged original, which I'll refer to</p> <p>2 repeatedly as a fraud and as a forgery.</p> <p>3 So they haven't even met their burden to get</p> <p>4 it in. If they don't get the note in, then none</p> <p>5 of the other documents come in. The mortgage is</p> <p>6 irrelevant. The payment history, all those other</p> <p>7 things are completely irrelevant, so all those</p> <p>8 should be excluded as well.</p> <p>9 The plaintiff failed to meet their burden</p> <p>10 because they didn't authenticate that note at</p> <p>11 all, and many times we may overlook that, but as</p> <p>12 you saw from our testimony, there was very good</p> <p>13 reason for those authenticity objections that I</p> <p>14 was making, hearsay and all the other arguments</p> <p>15 against admission of the note.</p> <p>16 You denied her motion and then defendant put</p> <p>17 on our case. Remember what our case was. First,</p> <p>18 we had the records custodian from the actual</p> <p>19 closing documents. He's an attorney. He</p> <p>20 testified to about what their documents were.</p> <p>21 That's Defense 1, and that is clearly a document</p> <p>22 which is demonstrably different than what they</p> <p>23 allege is an original note.</p> <p>24 Next, we -- and keep in mind that the</p> <p>25 plaintiff didn't elicit any testimony that</p>	76	<p>1 testified quite credibly it's not her signature.</p> <p>2 We brought you an expert.</p> <p>3 Ms. Berrie testified that she as a certified</p> <p>4 document examiner, a forensic document examiner</p> <p>5 she looked at the documents. She provided you</p> <p>6 exhibits as Defense 3 and 4, I believe, and</p> <p>7 provided the comparison to make it absolutely</p> <p>8 clear and undisputable that the alleged original</p> <p>9 that is sitting in front of you and the document</p> <p>10 that was attached to their second amended</p> <p>11 complaint is a fraud, is a forgery and does not</p> <p>12 bear the signature of the defendant in this</p> <p>13 courtroom.</p> <p>14 Your Honor, at this point in time, it's</p> <p>15 clear that the evidence favors defendant. The</p> <p>16 plaintiff has not made their case. They're free</p> <p>17 to find an original note and refile. It's not</p> <p>18 statute of limitations issue.</p> <p>19 They can find the original note somehow and</p> <p>20 file it again, but as to what happened in this</p> <p>21 courtroom this morning, there is no question but</p> <p>22 that there is no original note and the defendants</p> <p>23 are entitled to a judgment.</p> <p>24 REBUTTAL CLOSING ARGUMENT</p> <p>25 BY MS. JONES:</p>
75	<p>1 contradicts what that witness said.</p> <p>2 Next, we brought up the person most</p> <p>3 qualified to give you testimony about the</p> <p>4 authenticity, the veracity of the document that's</p> <p>5 before you, and that is the defendant and, you</p> <p>6 know, I think we should be cautious of listening</p> <p>7 to a defendant saying it's not my signature.</p> <p>8 They may have reasons for that, but when you</p> <p>9 reflect carefully at what she said, she was</p> <p>10 explicit, and I see that you're looking at the</p> <p>11 alleged original note right now, and also there's</p> <p>12 a copy there.</p> <p>13 There is no question but that that is not</p> <p>14 her signature on the alleged original note. Her</p> <p>15 testimony is very credible, very legitimate, and</p> <p>16 quite frankly, the plaintiff's counsel only</p> <p>17 elicited more testimony that supported that it</p> <p>18 was not the original. She didn't impeach it at</p> <p>19 all. She just, again, confirmed that there is a</p> <p>20 fraud, that there is a forgery that you're</p> <p>21 looking at that's in your courtroom.</p> <p>22 But then taking it one step further, we</p> <p>23 didn't just rely on the records custodian that</p> <p>24 had the actual document at closing. We didn't</p> <p>25 just rely on the testimony of the defendant who</p>	77	<p>1 Your Honor, it would be inequitable to allow</p> <p>2 her to get a free house. She hasn't paid one</p> <p>3 payment on this loan since December of 2008. She</p> <p>4 paid a year-and-a-half worth of payments.</p> <p>5 My client testified through business records</p> <p>6 that they have purchased this loan, that it's in</p> <p>7 default, and defendant should not get a free home</p> <p>8 because she's alleging that she did not sign that</p> <p>9 note.</p> <p>10 They brought a witness that they found a</p> <p>11 week-and-a-half ago. I haven't had any chance to</p> <p>12 question them. This is all new, even though a</p> <p>13 copy of the original note that was filed with</p> <p>14 this Court was on the complaint in 2012.</p> <p>15 Thank you, Your Honor.</p> <p>16 THE COURT: Based on the evidence presented,</p> <p>17 the Court finds that Plaintiff's Exhibit 2 is the</p> <p>18 original note and the signature is authentic and,</p> <p>19 further, the defendant failed to raise the</p> <p>20 authenticity of the signature as required in</p> <p>21 Riggs/Aurora Loan Services, 36 So.3d 932, so the</p> <p>22 judgment is for the plaintiff, standard sale</p> <p>23 date.</p> <p>24 Do you have a judgment?</p> <p>25 MS. JONES: I do, Your Honor.</p>

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<p>1 MR. WEIDNER: Your Honor, I want to take a 2 look at the judgment here. Their judgment has 3 failed to be supported by evidence, Your Honor. 4 MS. JONES: Actually, the business 5 records -- 6 THE COURT: I have ruled. Would you please 7 return to your seat. 8 MR. WEIDNER: I object to the judgment. 9 While they may have business records, I'll make a 10 further objection, then, that the amounts that 11 they're asking you to sign in there are not 12 supported by any evidence before the Court. 13 MS. JONES: If you'll look at the payment 14 history, it will show such. 15 THE COURT: The Court is adjourned. 16 MS. JONES: Thank you, Your Honor. What is 17 the sale date on that? 18 THE CLERK: First available? 19 MS. JONES: For the first available. 20 MR. WEIDNER: Your Honor, could we have an 21 extended sale date? 22 MS. JONES: We absolutely object to that, 23 Your Honor, and the statute says the plaintiff 24 must consent. She has tenants living there. 25 She's not living at the property.</p>	<p>1 CERTIFICATE OF REPORTER 2 3 STATE OF FLORIDA 4 COUNTY OF MANATEE 5 6 I, Elsa Rohow, Registered Professional 7 Reporter, do hereby certify that I was authorized to 8 and did report in Stenotypy and electronically the 9 foregoing proceedings and evidence in the captioned 10 case and that the foregoing pages constitute a true 11 and correct transcription of my recordings thereof. 12 IN WITNESS WHEREOF, I have hereunto affixed 13 my hand this 20th day of October, 2014, at Bradenton 14 Beach, Manatee County, Florida. 15 16 17 18 _____ 19 Elsa Rohow, RPR 20 SCLAFANI WILLIAMS COURT REPORTERS 21 22 23 24 25</p>
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<p>1 MR. WEIDNER: Objection, Your Honor. 2 MS. JONES: Excuse me. 3 THE COURT: The Court is adjourned, standard 4 sale date. 5 MS. JONES: Thank you. And what is that 6 date? 7 THE CLERK: November 14th. 8 THE BAILIFF: All rise. 9 (Proceedings concluded at 11:50 a.m.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	