

STATE OF MAINE  
CUMBERLAND, ss.

NINTH DISTRICT COURT  
BRIDGTON  
DOCKET NO. BRI-RE-09-65

FEDERAL NATIONAL MORTGAGE ASSOC.

Plaintiff

v.

PARTIAL SUMMARY  
JUDGMENT ORDER

NICOLLE BRADBURY

The court has reviewed the Plaintiff's motion for summary judgment under Rule 56, its supporting affidavits, memos of law, and statement of material facts, as well as the Defendant's objection and opposing statement of material facts. Attorney Ben Campo represents the Plaintiff, and attorney Tom Cox represents the Defendant in this home foreclosure by civil action matter.

Plaintiff has the burden of persuasion by a preponderance of the evidence on its motion under Rule 56 to prove its entitlement to judgment as a matter of law and the absence of any material factual issues under 14 MRS §6321 et seq.

Plaintiff has produced a copy of the note and mortgage which Defendant admits signing. The note was clearly assigned from GMAC Mortgage Corporation to the Plaintiff. Defendant in her opposing statement of material facts objects to the facts asserted to establish her default, but does not deny them, except that she denies the amounts claimed due. Defendant has not filed an opposing affidavit, which is not required. Defendant has not denied delivery of the right to cure default and does not claim to have cured any default.

The court does not agree that the agent's affidavit for the Plaintiff must show personal knowledge of all the facts contained in the properly referenced business records that were produced to show Defendant's default and failure to cure same. The records themselves, kept in the ordinary course of business, are sufficient.

However, there is a genuine issue of material fact as to the amount Defendant owes Plaintiff due to her default. The affidavit likely does not have personal knowledge of the figures claimed due, and no business records were produced to support the allegations, which are challenged by Defendant's statement of opposing facts.

In conclusion, the court grants Plaintiff's Rule 56 motion only in part, establishing Defendant's liability to Plaintiff under the claimed note and mortgage. The motion is denied as to the Plaintiff's damages claim for particular amounts owed to Plaintiff due to Defendant's default.

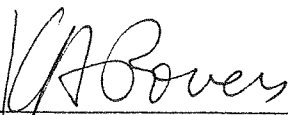
REC'D & FILED

JAN 29 2010

BRIDGTON DISTRICT  
COURT

The clerk shall docket this order by reference under Rule 79(a).

DATED: January 27, 2010

  
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Hon. Keith A. Powers, Judge  
Maine District Court

Date Docketed: 1-29-10