

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

| | | |
|--|---|------------------|
| In re Kathleen A. Thomas, Debtor |) | |
| |) | |
| |) | Chapter 13 |
| |) | No. 10-40549-MSH |
| Kathleen A. Thomas, Plaintiff |) | |
| |) | Adv. Pro. |
| v. |) | No. 10-04086 |
| |) | |
| CitiMortgage, Inc., Flagstar Bank, FSB, and Allied Home Mortgage Capital Corporation, |) | |
| Defendants |) | |
| |) | |

**DEFENDANT, CITIMORTGAGE, INC.'S,
MOTION FOR JUDGMENT ON THE PLEADINGS**

Defendant, Citimortgage, Inc. ("Citimortgage") respectfully moves, pursuant to Fed. R. Civ. P. 12(c) and MLBR 9013-1 that this Court declare that the Plaintiff is not entitled to the relief that she seeks in her complaint. In support of this motion, Citimortgage refers the Court to its Memorandum in Support of its Motion for Judgment on the Pleadings, filed herewith.

Wherefore, Citimortgage respectfully requests that its Motion for Judgment on the Pleadings be allowed.

Respectfully submitted,
CITIMORTGAGE, INC.
By its attorney,

/s/ Nathalie K. Salomon
Nathalie K. Salomon, Esq.
BBO #666893
HARMON LAW OFFICES, P.C.
P.O. Box 610389
Newton Highlands, MA 02461-0389
(617) 558-0500

Dated: October 4, 2010

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

| | | |
|---|---|------------------|
| _____ |) | |
| In re Kathleen A. Thomas, |) | |
| Debtor, |) | Chapter 13 |
| _____ |) | No. 10-40549-MSH |
| Kathleen A. Thomas, |) | |
| Plaintiff, |) | Adv. Pro. |
| v. |) | No. 10-04086 |
| |) | |
| CitiMortgage, Inc., |) | |
| Flagstar Bank, FSB, |) | |
| and |) | |
| Allied Home Mortgage Capital Corporation, |) | |
| Defendants. |) | |
| _____ |) | |

DEFENDANT, CITIMORTGAGE, INC.'S, MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR JUDGMENT ON THE PLEADINGS

In this case, the debtor seeks to have her mortgage on her home declared invalid and unenforceable.

On Counts I and II, she claims that the loan is unenforceable because (1) the loan is a High Cost Home Loan under G.L. c.183C by virtue of the fact that the \$10,446.44 fees and points paid at the closing exceeds the five percent (5%) statutory threshold and (2) no disclosures were made to the debtor as required by the statute.

In Count III, she alleges that the loan is unsecured because the holder of the mortgage is not the holder of the note.

As shown below, Counts I and II fail as a matter of law because the loan does not fall within the purview of G.L. c.183C. More specifically, after statutory exclusions are deducted from her calculations, she paid at most \$7,131.25 in fees and points, which represents only 4.66% of the loan, and which is below the statutory threshold of 5%.

Count III also fails as a matter of law because under Massachusetts law the note and mortgage can be held by different parties; and, as a matter of fact, in this case the note and the mortgage are held by one party.

For these reasons, the motion for judgment on the pleadings should be allowed.

I. FACTUAL SUMMARY

1. The Plaintiff, Kathleen A. Thomas ("Thomas"), is the current owner of the property located at 96 Apricot Street, Worcester, MA 01603 ("Property"). Complaint, ¶ 11 and ¶ 12, as well as the relevant deeds, copies of which are attached as Exhibit 1 and Exhibit 2 to the Complaint.
2. On or about May 8, 2006, Thomas decided to refinance her Property. In connection with the refinancing, Thomas executed a Note ("Note") in the amount of \$153,000.00, dated May 8, 2006, in favor of Allied Home Mortgage Capital Corp. Complaint, ¶ 15, and copy of the Note attached as Exhibit 3 to the Complaint.
3. To secure the payment of the Note, Thomas executed a mortgage ("Mortgage") in favor of Mortgage Electronic Registrations Systems, Inc. ("MERS") as nominee for Allied Home Mortgage Capital Corp., dated May 8, 2006, in the amount of \$153,000.00. Complaint, ¶ 13, and copy of the Mortgage attached as Exhibit 5 to the Complaint.
4. Citimortgage is the current holder by assignment of the Mortgage. Complaint ¶ 14, and copy of the Assignment attached as Exhibit 6 to the Complaint.
5. Thomas is in default of the payment of the underlying loan. Complaint ¶ 18.
6. Thomas filed this Complaint against Citimortgage, and other defendants, Flagstar Bank, FSB and Allied Home Mortgage Capital Corporation, claiming violation of G.L. c.183C (Count I). Thomas is also seeking a declaratory judgment that the mortgage should be discharged under c. 183C on the ground that the loan is

unenforceable (Count II); and, that the underlying loan is unsecured on the ground that the holder of the mortgage differs from the holder of the note (Count III). As demonstrated below, these claims fail as a matter of law. As such, judgment should enter in favor of Citimortgage.

II. ARGUMENT

STANDARD

Citimortgage is moving for judgment on the pleadings pursuant to Fed. Rule Civ. P. Rule 12(c). Under Rule 12(c), any party may move for judgment on the pleadings “[a]fter the pleadings are closed but early enough not to delay the trial.” Fed. R. Civ. P. 12(c). “The standard for evaluating a Rule 12(c) motion . . . is essentially the same as that for deciding a Rule 12(b)(6) motion.” *Asociación de Subscripción Conjunta del Seguro de Responsabilidad Obligatorio v. Flores Galarza*, 484 F.3d 1, 22 (1st Cir., 2007) (quoting *Pasdon v. City of Peabody*, 417 F. 225, 226 (1st Cir., 2005). Applying the standard for dismissal under Rule 12(b)(6), “a [movant’s] obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitations of the elements of a cause of action will not do.” *Morales-Tañon v. P.R. Elec. Power Auth.*, 524 F.3d 15, 18 (1st Cir. 2008) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

In support of its motion, Citimortgage has attached hereto as Exhibit A a copy of the Note and its Allonge. This document may be considered by the Court in determining whether Thomas has failed to present sufficient facts to support her claims brought. “[I]t is well-established that in reviewing the complaint, [a court] may properly consider the relevant entirety of a document integral to or explicitly relied upon in the complaint, even though not attached to the complaint, without converting the motion into one for

summary judgment. See *Clorox Co. v. Proctor & Gamble Commer.Co.*, 228 F.3d 24, 32 (1st Cir. 2000) citing *Shaw v. Digital Equip. Corp.*, 82 F. 3d 1194, 1220 (1st Cir. 1996).

FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

A. Thomas' claim under G.L. c. 183C (Count I and Count II) must fail because the subject loan does not fall within the purview of the statute

Thomas claims that the subject loan is a High Cost Home Loan as defined by M.G.L. c.183C §2 on the ground that the fees and costs associated with the closing of the loan exceed the five percent (5%) statutory limit of the loan. (Complaint, ¶25). Thomas further alleges that Citimortgage did not comply with the statutory requirements applicable to High Cost Home Loans (Complaint, ¶27), and requests that the loan be declared unenforceable and void. (Complaint ¶30 and ¶36). In support of her claims, Thomas claims that the total fees and costs are \$10,466.44, i.e. 6.84% of the loan. (Complaint ¶25). Citimortgage denies said allegations. By applying the provisions of the statute to the case at bar, however, it is evident that the loan in question is not a high cost loan within the meaning of c. 183C for the reasons stated below.

Per G.L. c. 183C, § 2, a loan will be considered as a "High cost home mortgage loan" when "**excluding either a conventional prepayment penalty or up to 2 bona fide discount points**, the total points and fees exceed the greater of 5 per cent of the total loan amount or \$400" (emphasis added). See M.G.L. c. 183C, § 2, Definitions.

In this instance, the loan is \$153,000.00. Thus, in order to be considered a High Cost Home Loan within the meaning of the statute, the total points and fees must exceed \$7,650.00, representing 5% of the total loan amount. Thomas asserts that the loan falls within the purview of the statute because the fees and costs total \$10,446.44. Thomas reached this amount by adding most of the fees and costs listed on the HUD Settlement Statement. Thomas' calculation is erroneous for two reasons: (1) in

calculating the fees and costs, she disregarded the statutory provisions which identifies the "points and fees" to be excluded from the calculation; and (2) she did not exclude from her calculation the bone fide discounts points.

First, M.G.L. c. 183C section 2 defines the points and fees which are excluded from the calculation as follows:

"Points and fees shall **not** include the following: (1) taxes, **filing fees, recording and other charges and fees paid to or to be paid to a public official for determining the existence of or for perfecting, releasing or satisfying a security interest**; and, (2) fees paid to a person other than a lender or to the mortgage broker for the following: fees for flood certification; fees for pest infestation; fees for flood determination; appraisal fees; fees for inspections performed before closing; credit reports; **surveys**; notary fees; escrow charges so long as not otherwise included under clause (i); title insurance premiums; and fire insurance and flood insurance premiums, if the conditions in sections 226.4 (d) (2) of Title 12 of the Code of Federal Regulations or 209 CMR 32.04(4)(b) of the Code of Massachusetts Regulations, as amended from time to time, are met. For open-end loans, the points and fees shall be calculated by adding the total points and fees known at or before closing, including the maximum prepayment penalties that may be charged or collected under the terms of the loan documents, plus the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line" (emphasis added). M.G.L. c. 183C section 2.

In this instance, Thomas claims that the total fees and points is \$10,446.44 by adding various fees contained in the HUD statement. Thomas provides a breakdown of said amount in her Complaint under Table 1 ("Table"), a copy of which is attached hereto as Exhibit B. (Complaint, page 5). The fees contained in the Table, totaling the amount of \$1,060.00 and identified respectively as Line 1103, Line 1105, Line 1107, Line 1111, Line 1113, Line 1201, Line 1205 and Line 1303, represent **filing fees, recording and other charges and fees paid to a public official for determining the existence of or for perfecting, releasing or satisfying a security interest**, as well as fees paid to a person other than a lender or to the mortgage broker for a **survey** (emphasis added).

Since the statute provides that such fees shall not be included in determining the total points and fees, it follows that Thomas erroneously included this \$1,060.00.

A review of the Table also reveals that Thomas included in her calculation the "Loan Discount" in the amount of \$2,255.22, identified as Line 802. As explained above, in determining the total points and fees, it is necessary to exclude "either a conventional prepayment penalty or up to 2 bona fide discount points". See M.G.L. c. 183C § 2, Definitions. Two (2) bona fide discount points on a \$153,000 loan equals \$3,060.00.

In this instance, the discount point represents 1.474% of the loan ($\$2,255.22 \div \$153,000 = 1.474\%$). Since under the statute "up to 2 bona fide discount points" can be excluded from the total fees and points, \$2,255.22 must be excluded from the calculation as it is under 2 discount points. i.e. under \$3,060.00.

Similarly the Discount Fee, itemized as Line 808, in the amount of \$2,252.22 in the Table should be excluded. Said fee, which is paid outside of closing (P.O.C), is not part of the fees and costs included in the HUD statement. In fact, Thomas seems to acknowledge that said fee should not be included ("Even if the ambiguous line 808 is disregarded, the limit of \$7,950.00 is exceeded by \$244.22).

Thus, the fees and points within the meaning of the statute total \$4,876.03 representing the following:

| | |
|-------------------------|--------------------------------|
| Amount claimed: | \$10,446.47 |
| Fees Excluded | (\$1,060.00) |
| Discount Point excluded | (\$2,255.22) (line 802) |
| Discount Fee excluded | <u>(\$2,253.22) (line 808)</u> |
| Total | \$4,878.03 |

In this case, in order to be considered a high cost home loan, the total points and fees must exceed \$7,650.00, representing 5% of the \$153,000.00 loan. As demonstrated above, the total points and fees of \$4,878.03 falls below the threshold (approximately 3.18% of the total amount of the loan). Even if the Discount fee is included in the calculation, the total points and fees would still be below the statutory threshold (4.66% of the total amount of the loan).

As a result, contrary to Plaintiff's allegation, the loan is not a High Cost Home Loan and as such it is not subject to the provision of G.L. c.183C. Counts I and II must be dismissed.

B. Plaintiff's claim that the loan is an unsecured debt (Count III) is without merit

Thomas alleges that while Citimortgage is the holder of the mortgage by assignment, Flagstar Bank, FSB is the holder of the Note. (Complaint ¶¶42 and ¶44). Thomas claims that the fact that the Note and the Mortgage are not held by the same entity renders the subject loan an unsecured debt. (Complaint ¶48).

First, the allegation that a debt is an unsecured debt when the holder of the mortgage is not the holder of the note is an incorrect statement of law. "It has long been held in this Commonwealth that the transfer of a note which is secured by a mortgage is a valid transaction with legal title to the mortgage document remaining with the mortgagee in trust for the purchaser of the note who can thereafter enforce in equity an assignment of the mortgage." *First National Bank of Cape Cod v. North Adams Hoosac Savings Bank*, 7 Mass. Appt. Ct. 790, 391 N.E. 2d 689, 693 (1979). See also *In re Huggins*, 357 B.R. 180 (Bankr. D. Mass. 2006) (finding that MERS, acting as nominee for Spectrum, holder of the Note, had standing to seek relief from stay for the purpose of foreclosing by power of sale).

Second, the allegation that Flagstar Bank, FBS is still the holder of the Note is an incorrect statement of fact. See attached, as Exhibit A, the endorsement in blank of the Note by Flagstar Bank, FBS, a copy of which was provided to Thomas' counsel prior to the filing of this Motion. Citimortgage is currently the holder of the Note.

Thus, Count III must be dismissed.

CONCLUSION

WHEREFORE, for the reasons stated above, Citimortgage respectfully moves this Court to grant its Motion for Judgment on the Pleadings.

Respectfully submitted,
CITIMORTGAGE, INC.
By its attorney,

/s/ Nathalie K. Salomon
Nathalie K. Salomon, Esq.
BBO #666893
HARMON LAW OFFICES, P.C.
P.O. Box 610389
Newton Highlands, MA 02461-0389
(617) 558-0500

Dated: October 4, 2010

V3 WBCD LOAN # 501075682
MIN: 100052550107568221

NOTE

MAY 8, 2006
[Date]

Worcester,
[City]

MASSACHUSETTS
[State]

96 Apricot St, Worcester, MA 01603
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$153,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is ALLIED HOME MORTGAGE CAPITAL CORP BRANCH 571, A TEXAS CORPORATION.

I will make all payments under this Note in the form of cash, check or money order. I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 5.875%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month. I will make my monthly payment on the 1ST day of each month beginning on JULY 1, 2006. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on JUNE 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at
189 MAIN ST
MILFORD, MA 01757

or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$905.05.

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 3.000% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT Form 3200 1/01
© 1999-2004 Online Documents, Inc.

Initials: KAT

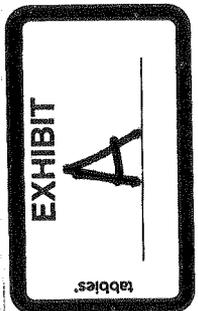
F3200NOT 0401

05-05-2006 9:35



501075682

96 Apricot St, Worcester, MA 01603



(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

Kathleen A. Thomas (Seal)
KATHLEEN A. THOMAS

PAY TO THE ORDER OF
FLAGSTAR BANK, FSB
WITHOUT RECOURSE

ALLIED HOME MORTGAGE CAPITAL
CORP BRANCH 571

BY: Peter Belli

PRINTED NAME: PETER BELLI

ITS: PRESIDENT



36 Americast St Worcester, MA 01603

501075682

[Sign Original Only]

PAY TO THE ORDER OF
WITHOUT RECOURSE
FLAGSTAR BANK, FSB

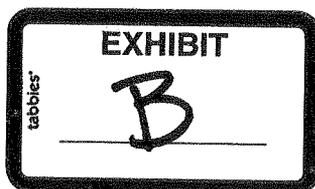
[Signature]
JEANETTE J. GIBSON, PRESIDENT

[Signature]
JEANETTE J. GIBSON, PRESIDENT

| Table 1 | Description | HUD Amount |
|-----------|--|------------|
| Line 801 | Loan Origination Fee to Allied Home Mortgage Capital Corp. | \$3,060.00 |
| Line 802 | Loan Discount to Allied Home Mortgage Capital Corp. | \$2,255.22 |
| Line 805 | Application Fee to Allied Home Mortgage Capital Corp. | \$550.00 |
| Line 806 | Processing Fee to Allied Home Mortgage Capital Corp. | \$550.00 |
| Line 807 | File Review Fee to Allied Home Mortgage Capital Corp. | \$129.00 |
| Line 808 | Discount Fee to Flagstar Bank, FSB by Allied Mortgage | \$2,252.22 |
| Line 809 | Administrative Fee to Flagstar Bank, FSB | \$590.00 |
| Line 1103 | Title Examination to Viera & DiGianfilippo, Ltd. | \$209.00 |
| Line 1105 | Document Preparation to Viera & DiGianfilippo, Ltd. | \$25.00 |
| Line 1107 | Attorney's fees to Viera & DiGianfilippo, Ltd. | \$460.00 |
| Line 1111 | Reconveyance Fee to Viera & DiGianfilippo, Ltd. | \$100.00 |
| Line 1113 | Survey Deletion to Viera & DiGianfilippo, Ltd. | \$90.00 |
| Line 1201 | Recording Fees, \$250, but upon information and belief the prior mortgage recorded the release and paid the \$75.00 fee, yielding a hidden fee of \$75.00. | \$75.00 |
| Line 1205 | Record Municipal Lien Certif to Commonwealth of MA, as no such document appears to have bene recorded | \$65.00 |
| Line 1303 | Federal Express to Viera & DiGianfilippo, Ltd. | \$36.00 |
| Total | | 10446.44 |

Count II Determination of Extent of Mortgage Lien

32. Plaintiff repeats and realleges all preceding complaints in Paragraphs 1 through 31.
33. Given the conclusion in Count I, there is no debt underlying the mortgage on the Plaintiff's home.



CERTIFICATE OF SERVICE

I, Nathalie K. Salomon, Esquire, state that on October 4, 2010, I electronically filed the foregoing Defendant Citimortgage, Inc.'s Motion for Judgment on Pleadings, Defendant, Citimortgage, Inc.'s Memorandum of Law in Support of Its Motion for Judgment on the Pleadings and Certificate of Service with the United States Bankruptcy Court for the District of Massachusetts using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Mary Ellen Manganelli, Esq. via electronic mail

Laird J. Heal, Esq. via electronic mail

Sean P. O'Connor, Esq. via electronic mail

Donn A. Randall, Esq. via electronic mail

Diane M. Saunders, Esq. via electronic mail

/s/ Nathalie K. Salomon

Nathalie K. Salomon

BBO#666893

HARMON LAW OFFICES, P.C.

P.O. Box 610389

Newton Highlands, MA 02461-0389

Direct: (617)558-8432

Fax: (617)243-4038

nsalomon@harmonlaw.com