

# Hodsdon & Ayer

July 6, 2016

ATTORNEYS AND  
COUNSELORS AT LAW

STEPHEN Y. HODSDON

GORDON C. AYER  
of Counsel

MATTHEW J. WILLIAMS

VIA UPS NEXT DAY

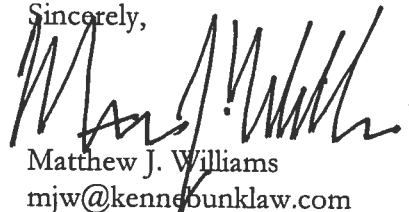
Matthew Pollack, Clerk  
Maine Supreme Judicial Court  
205 Newbury Street  
Portland, Maine 04101

*RE: U.S. Bank NA, as Trustee v. Reagan, et al.  
Law Court Docket No. Yor-15-361*

Dear Mr. Pollack:

Enclosed for filing, please find the original and one copy of Appellant's Motion for Relief. Thank you for your attention to this matter.

Sincerely,



Matthew J. Williams  
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◆  
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Enclosure

cc: Debra Reagan  
John J. Aromando, Esq.  
Citifinancial Inc.

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STATE OF MAINE

SUPREME JUDICIAL COURT  
Sitting as the Law Court  
Docket No. Yor-15-361

US BANK NATIONAL ASSOCIATION, AS  
TRUSTEE ON BEHALF OF SAIL 2006-3  
TRUST FUND,

Appellee/Plaintiff

v.

DEBRA J. REAGAN,

Appellant/Defendant

&

CITIFINANCIAL, INC.,

Appellee/ Party-In-Interest

**MOTION FOR RELIEF**

NOW COMES the Appellant Debra J. Reagan, through counsel, and moves the Law Court for relief as follows:

By its Order dated June 22, 2016, this Court directed Reagan to file a motion pursuant to M.R. App. P. 10 asserting that Appellee U.S. Bank. National Association as Trustee on behalf of SAIL 2006-3 (the “Bank”) had no standing to initiate this foreclosure action against her, and requesting extraordinary relief. Reagan reasserts the facts, arguments and request for relief as stated in her Brief filed with this Court dated October 13, 2015 and incorporates the same into this motion by reference.

As argued in her Brief, during the original proceedings in Springvale District Court and in her first appeal, Reagan made the argument that the Bank did not have standing to foreclose as a result of an ineffective assignment from MERS. She cited *Mortgage Elec. Registration Sys.*,

*Inc. v. Saunders*, 2010 ME 79, 2 A.3d 289, in support of her position.<sup>1</sup> The language pertaining to MERS in Appellant's mortgage to Countrywide Home Loans, Inc. at issue in this case is identical to the language pertaining to MERS discussed in the mortgage at issue in *Saunders*. Compare App. 33-35 (the mortgage) with *Saunders*, 2010 ME 79, ¶ 9, 2 A.3d 289, 294-295. *Saunders* was decided 2 1/2 years before the Judgment of Foreclosure and Sale in this case.

In *Saunders*, this Court concluded that the mortgage in that case granted to MERS "only the right to record the mortgage" as the lender's nominee, and "having only that right, MERS [did] not qualify as a mortgagee pursuant to our foreclosure statute." *Id.* ¶¶ 10–11 (quotation marks omitted). In *Greenleaf*, this Court applied *Saunders* to hold that an assignment from MERS was ineffective to provide standing to the assignee because MERS could only assign its right to record the mortgage as nominee for the lender. *Bank of America, N.A. v. Greenleaf*, 2014 ME 89, ¶¶ 15-17, 96 A.3d 700, 707-08.

As argued in her Brief, *Greenleaf* did not create new law. If *Greenleaf* did not create new law, then there is no cognizable reason why the Judgment of Foreclosure and Sale against her should stand. The standing argument advanced by Reagan in the original proceedings justified a ruling in her favor then and it justifies a vacation of the Judgment now.

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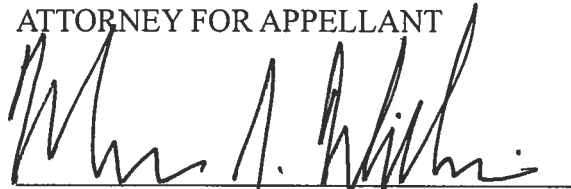
<sup>1</sup> Reagan (pro-se) argued in her pleadings and at a trial in Springvale District Court that the Bank lacked standing to foreclose because, among other reasons, MERS did not have the authority to assign the mortgage. App. at 59 & 69 (Counterclaim); 88 at lines 1-15 (Transcript of Hearing); and 90-91 (Defendant's Closing Arguments). A Judgment of Foreclosure and Sale entered against Reagan on January 3, 2013. App. at 18-21. Reagan appealed and again argued in her Brief that MERS did not have authority to assign the mortgage. App. at 93-95 (quoting *Mortgage Elec. Registration Sys., Inc. v. Saunders*, 2010 ME 79, 2 A.3d 289). The Bank responded in its Appellee Brief that the MERS assignment was a valid transfer of the mortgage. App. at 97-98. The myriad of issues raised by Reagan on appeal were not directly addressed by this Court and the Judgment was affirmed in a memorandum of decision. *U.S. Bank N.A. v. Reagan*, Mem-13-139 (Dec. 24, 2013).

WHEREFORE, for all the reasons stated above and in her Brief filed in this matter, Reagan requests that the District Court's Order denying her Motion for Relief from Judgment be reversed and that this matter be remanded to the District Court for an Order:

- a) granting Reagan's Motion for Relief,
- b) vacating the Judgment of Foreclosure and Sale entered against her,
- c) awarding her reasonable costs and attorney fees pursuant to 14 M.R.S. § 610,
- d) prohibiting the Bank from seeking to recover from Reagan (1) in any future action to enforce the note and mortgage, any costs or attorney fees related to this foreclosure action, and (2) in any future action to enforce the note and mortgage, any late fees or interest that accrued on the debt in the period between the commencement of this foreclosure action and the vacation of the present Judgment of Foreclosure and Sale, and
- e) for such other and further relief the Court deems just.

Dated this 6<sup>th</sup> day of July, 2016 at Kennebunk, Maine.

ATTORNEY FOR APPELLANT



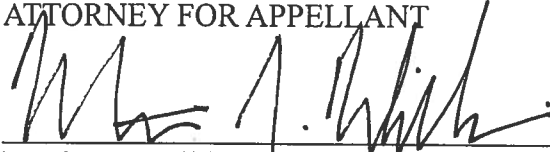
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(207) 985-6184

CERTIFICATE OF SERVICE

I hereby certify that on this date I served one copy of the foregoing Motion on all parties of record via First Class United States Mail.

Dated this 6<sup>th</sup> day of July, 2016 at Kennebunk, Maine.

ATTORNEY FOR APPELLANT

A handwritten signature in black ink, appearing to read "Matthew J. Williams", is written over a horizontal line.

Matthew J. Williams, Esq. (Bar No. 4479)  
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