


IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY, FLORIDA
CASE NO. 50 2008 CA 037322XXXX MB AW
INDYMAC FEDERAL BANK, FSB,
Plaintiff,

vs.

;
ANY AND ALL UNKNOWN PARTIES CLAIMING BY,
THROUGH, UNDER, AND AGAINST THE HEREIN
NAMED INDIVIDUAL DEFENDANT(S) WHO ARE NOT
KNOWN TO BE DEAD OR ALIVE, WHETHER SAID
UNKNOWN PARTIES MAY CLAIM AN INTEREST AS
SPOUSES, HEIRS, DEVISEES, GRANTEES, OR OTHER
CLAIMANTS; TENANT #1, TENANT #2, TENANT #3,
and TENANT # 4, the names being fictitious
to account for parties in possession,

Defendants.

THE DEPOSITION OF
ERICA A. JOHNSON-SECK
VOLUME II
Pages 85 - 219

July 9, 2009
1655 Palm Beach Lakes Boulevard
West Palm Beach, Florida
3:14 p.m. - 6:45 p.m.

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1 THEREUPON,

2 (Witness hands document.)

3 MR. ICE: Thank you. Could I get a copy
4 of this so we can attach it as an exhibit?

5 THE WITNESS: That's yours.

6 BY MR. ICE:

7 Q. Oh, you brought this for me, just for me?

8 A. Just for you.

9 MR. ICE: Let's go ahead and mark this,
10 I guess we're going to have to mark it at the
11 end since these are all premarked, R, Exhibit
12 R.

13 (Thereupon, Defendants' Exhibit No. R
14 was marked for identification.)

15 BY MR. ICE:

16 Q. I'm going to hand you what's been marked as
17 Exhibit R to your deposition and ask you if you can
18 identify that document for me, please.

19 A. This is the LPOA giving me and a few others
20 signing authority to sign on behalf of the FDIC.

21 Q. Is it -- well, giving you authority to sign
22 on behalf of, as an attorney-in-fact, for IndyMac
23 Federal Bank?

24 A. Yes, and IndyMac Bank.

25 Q. Is it your testimony that that provides you

1 the authority to sign a set of interrogatories as the
2 attorney-in-fact for IndyMac Federal Bank, FSB?

3 A. It is.

4 Q. Can you point to the provision in there that
5 grants you the power to sign interrogatory answers on
6 behalf of Indymac Federal Bank, FSB?

7 A. It is my understanding this document allows
8 me to sign for IndyMac Federal Bank and IndyMac Bank.
9 And as it was prepared by the FDIC, I did not critique
10 it.

11 MR. MANCILLA: She did not know what's
12 in it.

13 THE WITNESS: But reading paragraph 2 --
14 I mean paragraph 1 it talks about
15 transferring property. Paragraph 2 is the
16 closest I can come to, for the purposes of
17 your question, to get to my permission to do
18 so.

19 BY MR. ICE:

20 Q. Paragraph 1 actually says that it allows you
21 to execute documents that evidence the sale and
22 transfer of any asset pursuant to the Servicing
23 Business Asset Purchase Agreement of OneWest; in other
24 words, the purchase agreement where OneWest bought
25 IndyMac Federal Bank, FSB, correct?

1 A. Yes.

2 Q. And all two says is you can sign any other
3 documents that needed --

4 MR. MANCILLA: Needed to be signed,
5 including the interrogatories.

6 BY MR. ICE:

7 Q. -- to effect the powers granted by the
8 Limited Power of Attorney.

9 MR. MANCILLA: That's my interpretation
10 of it.

11 MR. ICE: Well, it's --

12 MR. MANCILLA: But we didn't write it,
13 so we don't know.

14 MR. ICE: Right. I guess that's going
15 to have to be a legal question for the judge.

16 BY MR. ICE:

17 Q. But your understanding, this is the document
18 you're relying on?

19 A. Yes.

20 Q. Let's put this on the bottom, then.

21 Okay. Well, let's look at No. 1. First question
22 was: What's the name and the address of the person
23 answering these interrogatories. The answer was: The
24 undersigned counsel for the plaintiff, who is James
25 Spanolios, and the undersigned affiant, which would be

1 you, correct?

2 A. Yes.

3 Q. Other than signing this document, did you
4 participate in the answering of these interrogatories?

5 A. Not personally, because an interrogatory is
6 something else that I'm going to give to the
7 foreclosure specialist that's handling the case to
8 answer specific questions that are usually about the
9 file itself.

10 Q. You personally did not provide any of the
11 answers in this document; is that correct?

12 A. Not me personally.

13 Q. And is this true, as with the Affidavits of
14 Indebtedness, that you do not read the questions and
15 answers before you sign your name to this document?

16 A. Not if I have a seal of approval from one of
17 my specialists that they have read each question and
18 answer before I sign it.

19 Q. Is that a process that's different than your
20 Affidavit of Indebtedness?

21 A. No.

22 Q. What is this seal of approval? Is it a
23 sticky or something?

24 A. Yes, it's a sticky with their okay to sign.

25 Q. Every document you sign has some sort of

1 Post-it that says it's okay to sign?

2 A. Not every one. There are some substitutions
3 of trustees that no one is -- anything that requires --
4 anything that has a figure in it or anything that
5 requires a response from the bank.

6 Q. So the procedure would be, because this is
7 the answers to interrogatories, there would be a sticky
8 saying that someone had reviewed these answers?

9 A. Yes.

10 Q. As you're sitting here today, can you say
11 whether or not there was in fact a sticky on this
12 particular document?

13 A. I can't, no.

14 Q. Can you say who it was that would have
15 approved this for signature?

16 A. No.

17 Q. And that's because you don't know who it was?

18 A. I could guess, but I don't want to guess.

19 Q. I don't want you to guess. Is it one of
20 several people?

21 A. Yes.

22 Q. In No. 3, your answer -- there's this
23 question and answer: Please identify all the persons
24 and/or entities who are current legal owners of, or who
25 have a legal interest in, the promissory note and

1 mortgage. Answer: IndyMac Federal Bank, FSB.

2 From everything you have said so far in this
3 deposition, that is incorrect, correct?

4 A. No, it's not incorrect. It's just not the
5 complete answer. It should say Indymac Federal Bank
6 and Deutsche Bank.

7 Q. Well, IndyMac Federal Bank is not, when this
8 was signed, was not the current legal owner of the
9 promissory note?

10 A. No.

11 Q. Deutsche Bank was the current legal owner of
12 the promissory note?

13 A. Yes.

14 Q. And still is today?

15 A. Yes.

16 Q. IndyMac Bank, as opposed to IndyMac Federal
17 Bank, was the mortgagee at the time this document was
18 filed -- was signed?

19 A. OneWest Bank?

20 Q. I'm sorry?

21 A. What was your question? What did you say?
22 IndyMac Bank was the mortgagee?

23 Q. Yes.

24 A. At the time the document was --

25 Q. Yes.

1 A. Indymac Federal Bank.

2 Q. Right. IndyMac Federal Bank was the
3 mortgagee as of the time that this was executed by
4 virtue of an assignment that you yourself signed,
5 correct?

6 A. I don't know.

7 THE WITNESS: Did I sign an assignment?

8 MR. MANCILLA: I don't know. If you
9 didn't, if you don't remember signing one,
10 say so.

11 THE WITNESS: I don't think -- I think
12 the action started with IndyMac Federal Bank.
13 So I wouldn't have completed an assignment
14 from IndyMac Bank. I don't know.

15 BY MR. ICE:

16 Q. Well, I corrected my question. I want to
17 make sure that we're on the same page here.

18 My question is that at the time that this was
19 signed, IndyMac Federal Bank, FSB was the mortgagee by
20 virtue of an assignment that you yourself signed?

21 MR. MANCILLA: She says she doesn't
22 remember.

23 MR. ICE: Well, I just want to make
24 sure.

25 THE WITNESS: I don't remember.

1 BY MR. ICE:

2 Q. We will get to that.

3 A. Okay.

4 Q. In answer to -- question No. 2. I'm sorry.

5 Please identify all the persons and/or entities who are
6 the current beneficial owners of, or who have a
7 beneficial or equitable interest in the promissory note
8 and mortgage. Answer: Indymac Federal, FSB.

9 Do you agree with that answer?

10 A. Yes, but it's an incomplete answer. It
11 should also include Deutsche Bank.

12 Q. Does IndyMac Federal Bank, FSB have any
13 beneficial or equitable interest in the promissory note
14 and mortgage?

15 A. Yes, yes.

16 Q. What is their beneficial and equitable
17 interest?

18 A. Well, as the servicing agent, IndyMac Federal
19 Bank does get a servicing fee for this loan, although
20 it's owned by Deutsche Bank.

21 Q. Okay. I want to hand you what's been marked
22 as Exhibit D to your deposition.

23 A. Okay.

24 Q. Do you recognize that document?

25 A. Yes.

1 Q. Have you ever seen it before?

2 A. I don't know.

3 Q. So when you say you recognize it, you just
4 mean it's a kind of a document that you see all the
5 time?

6 A. Yes.

7 MR. MANCILLA: It's not signed, by the
8 way.

9 MR. ICE: It's not signed because it's
10 not -- there are no answers.

11 BY MR. ICE:

12 Q. Those are, I'll represent to you, those are
13 the questions from which we've been reading in
14 Exhibit -- what's the exhibit? C? Exhibit C.

15 As you can see from that document, there were some
16 definitions and instructions that went with those
17 interrogatories.

18 Have you ever seen those instructions and
19 definitions before?

20 A. D is for this case?

21 Q. IndyMac Federal Bank versus [REDACTED].

22 A. No.

23 Q. Do you see the definition in No. 8?

24 A. Yes.

25 Q. Definition for these answers to

1 interrogatories of a "beneficial or equitable interest"
2 means that ownership interest in the promissory note
3 which entitles the holder of that interest, be it an
4 investor, lender, or other person and/or entity, to
5 keep the proceeds of the promissory note or any
6 recovery in this case, without any requirement to
7 forward such proceeds to another person or entity. It
8 excludes any agent or other entity that is acting on
9 behalf of another person or entity which is ultimately
10 entitled to the proceeds.

11 Were you aware of that, that when this question
12 was asked, that's what that question meant?

13 A. No.

14 Q. Now knowing that that's what the question
15 meant, would you still agree with the answer?

16 A. I'm just going to read it again.

17 Q. Okay.

18 A. For any recovery in this case? My answer
19 stays the same.

20 Q. It's your testimony that IndyMac Federal Bank
21 would get to keep all the proceeds from this
22 foreclosure action?

23 A. No. The or any recovery in this case.

24 Q. Right. What would they get to keep from the
25 recovery in this case?

1 A. Well, I mean, I don't know because we're
2 talking -- we haven't gotten to that point, but my
3 understanding of this definition and of that question
4 is that we wouldn't keep the proceeds of the promissory
5 note, but we may be entitled to recovery in this case,
6 whatever that may be, that's outside of the proceeds
7 from the promissory note.

8 Q. Well, let's talk about that, because when you
9 transferred this case to your attorneys, you
10 specifically instruct them that the title of the
11 property, when judgment is issued eventually at the end
12 of the case where you're successful, the title of the
13 property is put in the name of Deutsche Bank National
14 Trust Company; isn't that right?

15 A. At the conclusion of the foreclosure?

16 Q. Yes.

17 A. Yes.

18 Q. Yes. So from the very beginning, before this
19 case ever starts, you know, the attorneys know,
20 everyone knows that the entity that's going to get the
21 house at the end of the day is Deutsche Bank National
22 Trust Company, not OneWest, right?

23 A. The house or the proceeds from the sale of
24 the REO.

25 Q. The house, title of the house is going into

1 the name of Deutsche Bank?

2 A. That's correct.

3 Q. In fact, one of the things that's commonly
4 done is there's a transfer of bid after the judgment --

5 A. Yes.

6 Q. -- over to the real owner of the note,
7 correct?

8 A. Yes.

9 Q. So when the attorney filled this out, drafted
10 this for you, he knew that at the end of the day the
11 proceeds of the note, whether that be money or house,
12 is going to go to Deutsche Bank; isn't that right?

13 A. Yes.

14 Q. Let's look at No. 4. If you contend that you
15 are the current legal and/or beneficial owner of the
16 promissory note, please identify with sufficient
17 specificity for a Request for Production, the current
18 accounting statements or other documents that list the
19 promissory note debt as an asset on the books of the
20 company.

21 Your attorney objected to that question, but the
22 truth of the matter is, the promissory note is not a
23 debt on the assets of the books -- on the asset books
24 of IndyMac Federal Bank, FSB?

25 A. I don't know that to categorically be true.

1 Q. Is the note an asset of Deutsche Bank
2 National Trust Company or of OneWest?

3 A. But I'm not sure of what the terms of the
4 Pooling and Servicing Agreement is for this loan or
5 even if the loan was reconstituted into another deal or
6 I don't know without researching it that that's true.
7 In theory, that's correct, but I don't know
8 specifically that that's true in this case.

9 Q. Are you saying that as you're sitting here
10 today, after having signed these interrogatories and
11 signing the Affidavit of Debt, you don't know who
12 really owns this loan?

13 A. I know who owns this loan.

14 Q. And that's Deutsche Bank?

15 A. That's Deutsche Bank.

16 Q. Not OneWest?

17 A. Not OneWest.

18 Q. If it's an asset on the books of any company,
19 it's going to be Deutsche Bank National Trust Company?

20 MR. MANCILLA: Well, that isn't what she
21 said. She doesn't know, you know, who has it
22 on the books.

23 THE WITNESS: I don't, yeah, that part I
24 just don't know a 100 percent.

25 BY MR. ICE:

1 Q. No. 5 asks: Please identify the current
2 investor or investors with an interest in the mortgage
3 loan. Again, your attorney objected, but you know the
4 answer to that question, don't you?

5 A. Yes.

6 Q. And the answer is?

7 A. Deutsche Bank.

8 Q. No. 6 identifies you as one of the persons
9 with full authority to settle, including authority to
10 write down the principal of the promissory note. Do
11 you see that?

12 A. Yes.

13 Q. And that's not true, either?

14 MR. MANCILLA: I'm not sure she
15 understands it.

16 THE WITNESS: I have full settlement
17 authority. I do.

18 MR. MANCILLA: And she already testified
19 that there may be a reduction of the
20 principal, sometime there was, but this never
21 got to this stage yet. She's doesn't know.

22 MR. ICE: Well, my understanding of her
23 testimony is that Deutsche Bank does not
24 allow principal reductions right now.

25 BY MR. ICE:

1 Q. And in any event, you would have to get
2 permission from them to get any kind of a principal
3 write-down; isn't that right?

4 A. Well, what I said or meant to say is that,
5 you know, from a loss mitigation perspective, this loan
6 would go under the FDIC model, which does not allow
7 principal reductions. But that's a loss mit
8 perspective. When we start talking about a legal
9 perspective, then my settlement authority is different
10 than what it would be for loss mit. I don't manage
11 loss mit, so I don't have the authority to settle from
12 a loss mit perspective, but I do from a legal
13 perspective.

14 Q. And you have the authority to write down
15 principal of a loan?

16 A. In effect, because if I make a settlement for
17 less than the total amount due, then in effect I'm
18 doing that.

19 Q. Have you ever done that?

20 A. Yes.

21 Q. What were the circumstances that you did
22 that?

23 A. I think that might be client, attorney-client
24 privilege in the times that I've had to do that.

25 MR. MANCILLA: It may be, I mean.

1 THE WITNESS: The file would have been
2 litigated. I mean, there are some times when
3 the file is not litigated and I am presented
4 with a settlement offer that I do a net
5 present value calculation and make a
6 determination about whether or not to settle.

7 BY MR. ICE:

8 Q. And sometimes that's -- and you have done
9 that on occasion where the amount that you've settled
10 for is less than the full value of the loan?

11 A. Less than the total debt? Normally it's,
12 normally --

13 THE WITNESS: If I do this on a
14 litigated case, am I free to share, I mean --

15 MR. MANCILLA: Well, you know, there's
16 two types of litigated cases, one of which
17 just has the people representing themselves,
18 which I think you could talk about, but the
19 other kind I don't know.

20 THE WITNESS: If I do a net -- if I am
21 approached with a settlement agreement -- and
22 of course it has to be a bona fide settlement
23 agreement, not something because the borrower
24 just wants something because we all want
25 something -- what I go through is a net

1 present value calculation to determine what
2 the losses look like. If I go through the
3 entire process -- of course I'm weighing this
4 for the reason for the settlement. If I go
5 through the entire foreclosure process of how
6 REO -- what REO would have to spend to market
7 the property, and if, at the end of that
8 analysis, it makes better sense to accept the
9 settlement than to take it through the
10 process, I will --

11 MR. MANCILLA: Can you explain what REO
12 is for the record?

13 THE WITNESS: Real estate owned.

14 -- so in order to keep from having to
15 take the property back at foreclosure sale.

16 BY MR. ICE:

17 Q. How many cases have you done that in?

18 A. Maybe -- not that often, but then I'm not the
19 only person with settlement authority so I don't see
20 them all.

21 Q. How many is that?

22 A. I think, since I've been at IndyMac Bank, I
23 probably -- well, I used to manage the litigation
24 department, so just give me a second to -- probably, in
25 two and a half years, probably one a month. Maybe

1 around 20.

2 Q. Were there confidentiality agreements
3 associated with any of those settlements?

4 A. Yes.

5 Q. Are there con --

6 A. The litigated ones, yes.

7 Q. Out of those 20, how many would you say had
8 confidentiality agreements?

9 A. More than not probably 90 percent of them.

10 Q. Were any of those in Florida?

11 A. Not that I can recall.

12 Q. Was the reason for your settlement in any of
13 these cases was because of fraud committed by the bank?

14 A. I don't think I can, I don't think I can talk
15 to that.

16 Q. Did any of these cases that you've settled,
17 have there been an allegation of fraud committed by the
18 bank?

19 A. I don't think I can talk about that, either.

20 Q. In any of the cases that you settled, had
21 there been an allegation of a TILA violation, T-I-L-A?

22 A. I feel like all of that, all those questions
23 I can't respond to. Not because I am not -- you know,
24 I always answer your questions. I just, I'm concerned
25 about the attorney-client privilege.

1 Q. These litigated cases, the allegations would
2 have been filed in the public records of wherever they
3 were filed, right?

4 A. If it got that far.

5 Q. Some of these were not filed?

6 A. Maybe.

7 MR. MANCILLA: Well, she's just doing
8 her best, I mean.

9 THE WITNESS: I mean, if we can just
10 talk in general, the case doesn't have to --
11 it doesn't have to be that the borrower
12 actually filed something in court for us to
13 take, for us not to take something seriously.
14 So if a borrower has a concern or a claim or
15 whatever, we're going to take it seriously
16 and approach it the same way we would a case
17 that was actually filed in court. So it
18 would not necessarily -- they would not have
19 had to necessarily file an answer to any of
20 our actions or record a lawsuit in court.

21 BY MR. ICE:

22 Q. Did any of these cases involve cases where
23 you had already filed foreclosure?

24 A. Yes.

25 Q. Getting back to my question, in the cases

1 where either you had filed the case or they had filed a
2 case against IndyMac, OneWest, whoever the entity was
3 at the time, those would be in the public record of
4 that state or county or wherever it was filed, correct?

5 MR. MANCILLA: Well, they may or may not
6 be. She said she --

7 THE WITNESS: May or may not be.

8 BY MR. ICE:

9 Q. Well, my question is intended, it wasn't the
10 most artful, question, I'll admit that, but it was
11 intended to restrict itself just to those cases that
12 had actually been filed. Not the ones that was
13 negotiated outside of court, but there was a pleading
14 filed in the case. Those would be on file and those
15 would be public record, correct?

16 A. Right.

17 Q. I'm just trying to understand where the idea
18 that there's an attorney-client privilege comes from?

19 A. Whatever the terms of the settlement
20 agreement are.

21 Q. Okay. But that would be a confidentiality
22 agreement as opposed to some sort of an attorney-client
23 communication, right?

24 A. Well, the settlement agreements -- okay.

25 Sure.

1 Q. Because presumably, the settlement terms are
2 known by the other side, correct?

3 A. Yes. Correct.

4 MR. MANCILLA: Yeah.

5 BY MR. ICE:

6 Q. So I just want to make it clear, because we
7 may have to go to the Court to compel production of
8 documents related to this, so I want to make clear that
9 what you're refusing to answer on, declining to answer,
10 let's put it that way, is confidentiality agreements
11 with respect to those settlements?

12 A. The ones that I was involved in that may or
13 may not have had the eyeball of our internal counsel,
14 which would then make it attorney-client privileged?

15 Q. Like I said, I don't know see how the terms
16 of an agreement that are known by the other side can
17 be --

18 MR. MANCILLA: It would be
19 confidentiality.

20 THE WITNESS: Okay. Confidentiality.

21 BY MR. ICE:

22 Q. So that's what you're going to stand on --

23 A. That's what I'm going to stand on.

24 Q. -- today?

25 MR. ICE: That's what you're going to

1 stand on today?

2 MR. MANCILLA: Maybe.

3 MR. ICE: He's sitting, I'm not
4 standing. Okay. Then we cleared that up.

5 BY MR. ICE:

6 Q. Where were we? I'm having so much fun.

7 A. We were on six.

8 Q. Yeah. No. 7: Please identify the trust in
9 which the subject loan has been securitized, as well as
10 the trustee, and the applicable Pooling and Servicing
11 Agreement. Answer: The mortgage is not securitized.

12 That is flatout wrong, correct?

13 A. Yes.

14 Q. No. 8: Please state whether there are any
15 terms of the applicable Pooling and Servicing Agreement
16 that restrict or limit your authority to modify the
17 subject loan. I'm going to skip down to the answer
18 because the answer is: There is no applicable Pooling
19 and Servicing Agreement.

20 Once again, that answer is flatout wrong?

21 A. That's right.

22 Q. So to the extent that someone looked at this
23 for you to determine its accuracy, apparently they
24 failed at getting the correct answers in there?

25 A. I have a training issue that I will be

1 addressing, yes.

2 Q. But beyond that, the attorney's the one who
3 drafted this for you; isn't that right?

4 A. Yes.

5 Q. And he certainly knew that the mortgage was
6 securitized, correct?

7 MR. MANCILLA: Maybe he didn't; maybe he
8 did. She doesn't know. Maybe he thought he
9 was telling the truth.

10 BY MR. ICE:

11 Q. Well, we're going to get into your
12 transmittal letter in a second, but you know that your
13 transmittal letter tells your counsel who owns the
14 loan. And in fact, in this case it says Deutsche Bank
15 National Trust Company, right?

16 A. Yes.

17 Q. They knew from day one that the loan was
18 securitized, they knew who the trustee was, they knew
19 who the Pooling and Servicing -- what Pooling and
20 Servicing Agreement governed the trust; isn't that
21 right?

22 A. Yes.

23 Q. Let's go to Exhibit D. Oh, I'm sorry, we
24 already covered D.

25 Let's move on to E. Do you recognize what has

1 been marked as Exhibit E to your deposition?

2 A. Yes.

3 Q. What is that document?

4 A. The assignment from MERS to IndyMac Federal
5 Bank.

6 Q. Does this refresh your recollection that you
7 in fact signed the mortgage from MERS to your own
8 company in this case?

9 A. Yes.

10 Q. Okay. And in doing so, you signed it as the
11 vice president, not of OneWest, not of IndyMac, not of
12 IndyMac Federal, but of Mortgage Electronic
13 Registrations Systems, Inc., right?

14 A. Right.

15 Q. As you said earlier, you are not an officer
16 of MERS, correct?

17 A. No.

18 Q. You have what you call signing authority to
19 sign as an officer of MERS?

20 A. I have signing authority as an officer of
21 OneWest Bank to sign for MERS.

22 Q. But when you signed this, you signed vice
23 president, and in doing so, you represented to the
24 world that you were the vice president of Mortgage
25 Electronic Registration Systems, Inc., correct?

1 A. When I signed this document, my understanding
2 was that I will sign as the vice president of IndyMac
3 Federal Bank and not, I was not representing myself as
4 a vice president of MERS.

5 Q. Well, is that your signature there where it
6 says by?

7 A. Yes.

8 Q. Okay. And directly above that it says
9 Mortgage Electronic Registration Systems, Inc., for
10 IndyMac Bank, FSB, a Federally Chartered Savings Bank?

11 A. Yes.

12 Q. It doesn't say OneWest there or IndyMac or
13 IndyMac Federal, right?

14 A. No, for IndyMac Bank.

15 Q. So isn't your representation there that you
16 are the vice president of that company?

17 A. IndyMac Bank.

18 Q. It's your testimony that that signature under
19 Mortgage Electronic Registration Systems, Inc. is not a
20 representation that you are the vice president of MERS?

21 A. That is my understanding when I signed this
22 document.

23 Q. Okay. Do you have the signing authority for
24 MERS?

25 A. I do. And that is your copy.

1 Q. Thank you.

2 MR. ICE: Before we get to that, I'm
3 going to have this marked as Exhibit S.

4 (Thereupon, Defendants' Exhibit No. S
5 was marked for identification.)

6 BY MR. ICE:

7 Q. I'm going to hand you what's been marked as
8 Exhibit S to your deposition in the [REDACTED] case. Do
9 you recognize that document?

10 A. Yes.

11 Q. What is it?

12 A. It's an Assignment of Mortgage from MERS to
13 IndyMac Federal Bank.

14 Q. And who signed that?

15 A. I did.

16 Q. That's your long signature again?

17 A. Yes.

18 Q. Once again, you, under your name, it says
19 vice president, correct?

20 A. Yes.

21 Q. And above your name, it says Mortgage
22 Electronic Registration Systems, Inc., as nominee for
23 Aegis Wholesale Corporation, correct?

24 A. Yes.

25 Q. So in this particular case, and I'll

1 represent to you that this is the assignment in the
2 DeBenedetti case that we will be deposing you on next,
3 the name IndyMac doesn't appear anywhere near your
4 name; isn't that right?

5 A. That's right.

6 Q. So again, you're representing to the world
7 that you are the vice president of Mortgage Electronic
8 Registration Systems, correct?

9 A. My understanding, when I signed this
10 document, is that I'm saying I'm the vice president of
11 IndyMac Federal Bank and -- that's my understanding.

12 Q. Is this a copy for me?

13 A. That's for you.

14 MR. ICE: Mark that as Exhibit T.

15 (Thereupon, Defendants' Exhibit No. T
16 was marked for identification.)

17 BY MR. ICE:

18 Q. Just for identification purposes, can you
19 tell me what has been marked as Exhibit T to your
20 deposition?

21 A. This is the Corporate Resolution that shows I
22 have signing authority for MERS.

23 Q. And that Corporate Resolution is made out to
24 Indymac Federal Bank, FSB, not OneWest, correct?

25 A. I have the OneWest one, but because of the

1 dates, I pulled the one for Indymac Federal.

2 Q. Would you read into the record the first line
3 of that document?

4 A. What is the first word? There's a hole
5 punch.

6 MR. MANCILLA: Be it resolved.

7 THE WITNESS: Be it resolved that the
8 attached list of candidates are employees of
9 IndyMac Federal Bank, FSB, a member of
10 Mortgage Electronic Registration Systems,
11 Inc., MERS, and are hereby appointed as
12 assistant secretaries and vice-presidents of
13 MERS, and, as such, are authorized to.

14 BY MR. ICE:

15 Q. Okay. Does that refresh your recollection
16 that what your signing authority does is give you the
17 right to sign as a vice president or assistant
18 secretary of MERS?

19 A. Yes.

20 Q. And in fact, that's what you're doing when
21 you signed Exhibit E, you signed as the vice president
22 of MERS?

23 A. Yes.

24 Q. I guess while we're on this exhibit, so we
25 don't have to come back to it, its a two-page exhibit.

1 On the second page your name is one of the certifying
2 officers, correct?

3 A. Yes.

4 Q. Now, given our last exchange, I'm sure you
5 will agree that you are not a vice president of MERS in
6 any sense of the word other than being authorized to
7 sign as one?

8 A. Yes.

9 Q. You are not --

10 A. Sorry.

11 Q. That's all right. You are not paid by MERS?

12 A. No.

13 Q. You have no job duties as a vice president of
14 MERS?

15 A. No.

16 Q. You don't attend any board meetings of MERS?

17 A. No.

18 Q. You don't attend any meetings at all of MERS?

19 A. No.

20 Q. You don't report to the president of MERS?

21 A. No.

22 Q. Who is the president of MERS?

23 A. I have no idea.

24 Q. You're not involved in any governance of
25 MERS?

1 A. No.

2 Q. The authority you have also says that you can
3 be an assistant secretary, right?

4 A. Yes.

5 Q. And yet you don't report to the secretary --

6 A. No.

7 Q. -- of MERS?

8 You don't have any MERS' employees who report to
9 you?

10 A. No.

11 Q. You don't have any vote or say in any
12 corporate decisions of MERS?

13 A. No.

14 Q. Do you know where the MERS' offices are
15 located?

16 A. No.

17 Q. Do you know how many offices they have?

18 A. No.

19 Q. Do you know where they're headquartered?

20 A. No.

21 Q. I take it then you've never been to their
22 headquarters?

23 A. No.

24 Q. Do you know how many employees they have?

25 A. No.

1 Q. But you do know that you have counterparts
2 all over the country signing as MERS' vice-presidents
3 and assistant secretaries?

4 A. Yes.

5 Q. Some of them are employees of third-party
6 foreclosure service companies, like LPS?

7 A. Yes.

8 Q. Why does MERS appoint you as a vice president
9 or assistant secretary as opposed to a manager or an
10 authorized agent to sign in that capacity?

11 A. I don't know.

12 Q. Why does MERS give you any kind of a title?

13 A. I don't know.

14 Q. Take me through the procedure for drafting
15 and -- the drafting and execution of this Assignment of
16 Mortgage, which is Exhibit E.

17 A. It is drafted by our firms, uploaded into
18 process management, downloaded by LPS staff in
19 Minnesota, shipped to Austin where we sign and notarize
20 it, and hand it back to an LPS employee, who then ships
21 it back to Minnesota, who uploads a copy and mails the
22 original to the firm.

23 Q. Very similar to all the other document,
24 preparation of all the other documents?

25 A. (Nods head.)

1 Q. Was that a yes? You were shaking your head.

2 A. Yes.

3 Q. As with the other documents, you personally
4 don't review any of the information that's on here --

5 A. No.

6 Q. -- other than to make sure that you are
7 authorized to sign as the person you're signing for?

8 A. Yes.

9 Q. Okay. And as with the other documents, you
10 signed these and took them out to be notarized just to
11 a Notary that's outside your office?

12 A. Yes.

13 Q. And they will get it notarized as soon as
14 they can. It may or may not be the same day that you
15 executed it?

16 A. That's true.

17 Q. In fact, up at the top where it says -- well,
18 sort of in the middle: In witness whereof, assignor
19 has executed and delivered this instrument on 12/2,
20 2008. Do you see that?

21 A. 11/20? November 20th?

22 Q. I think you may be looking at the DeBenedetti
23 one.

24 A. 12/2, yes.

25 Q. That's not your handwriting, correct?

1 A. No.

2 Q. That's filled in by the Notary, correct?

3 A. I don't know who filled that in. The
4 printing looks similar to the Notaries.

5 Q. So what that means is we don't know whether
6 you actually executed this on December 2nd of 2008?

7 A. That's right.

8 Q. In this case, the firm that prepared this
9 document is listed at the bottom. It's Florida Default
10 Law Group?

11 A. Yes.

12 Q. Did you take any steps to assure yourself in
13 executing this assignment that the assignee was the
14 correct recipient for this mortgage?

15 A. No.

16 Q. Do you know what steps, if any, that your law
17 firm, Florida Default, took to ensure that this was
18 being drafted such that the proper assignee was on the
19 assignment?

20 A. I don't know.

21 Q. Do you know if anyone in the chain, whether
22 it's you, your department, your attorneys, LPS, checks
23 the records that MERS keeps as to who should be the
24 proper owner of this mortgage?

25 A. I don't know, but I believe that with MERS'

1 documents, they're a little bit different because the
2 data comes directly from MERS, but I can't be certain.

3 Q. How is the assignee determined?

4 A. If it's a MERS' document, it has -- MERS has
5 to recognize the entity. That much I know, because
6 when OneWest acquired IndyMac Federal, paperwork had to
7 be filed with MERS so that when these documents came
8 out it was in the MERS' system that OneWest Bank now
9 acquired the loans.

10 So I don't really know who -- I don't know how a
11 MERS' document is prepared. I don't know if they go
12 into the MERS' system and pull it out. I don't know
13 that, but I do know that you could look up this loan in
14 MERS and know that on that date that's who it would say
15 who the property was assigned to, the assignee.

16 Q. You think the MERS' records would show that
17 this was assigned to IndyMac Federal Bank, FSB on
18 December 12th, 2008 (sic)?

19 A. I think that on that date it would say that
20 IndyMac Federal Bank was the assignee.

21 Q. Well, we have the records with us and we'll
22 be looking at those later.

23 A. Okay.

24 Q. But before we get there, do you know how the
25 assignee for this document is determined?

1 A. I don't know, other than to say that for
2 MERS' documents, that the information -- I mean, that's
3 the whole purpose for MERS is to keep track of all of
4 this. So the information, for MERS' documents, the
5 information is in MERS and that's what should be
6 replicated here.

7 Q. Should the assignee be the owner of the note?

8 A. The owner on record, yes. Well, I don't
9 know. I think -- I don't know. I don't know enough
10 about MERS to -- I'd be dangerous with that.

11 Q. That's fair enough. Isn't the answer to my
12 question simply that your attorneys are going to put
13 your name, meaning OneWest, IndyMac, whoever the
14 plaintiff is, in there as the assignee so they can
15 foreclose and take my client's property?

16 A. I don't know what the attorneys are going to
17 do.

18 MR. MANCILLA: Good answer.

19 THE WITNESS: I know that we don't want
20 to take your client's property.

21 MR. MANCILLA: Just want to get paid for
22 it.

23 MR. ICE: Let me restate the question.

24 BY MR. ICE:

25 Q. Isn't the purpose of this document to make it

1 so that IndyMac, in this case, IndyMac Federal Bank,
2 FSB, can foreclose in its own name, regardless of who
3 the real owner of the note is?

4 A. The purpose of this document is everything
5 you said, but I will add to that, that we cannot
6 foreclose in the name of MERS, which is why we have to
7 assign it out of MERS for the legal action.

8 Q. Nor can you foreclose in the name of Deutsche
9 Bank National Trust Company; isn't that true?

10 A. It used to be. Recently, we have been given
11 approval to action in the name of Deutsche Bank and
12 foreclosing in the name of Deutsche Bank, but up until,
13 I can't remember the exact date, early June, we had to
14 action in our name and vest in Deutsche's name.

15 Q. Do you have that new document with you?

16 A. No.

17 Q. So isn't that the purpose of this whole
18 charade is that you can't foreclose in the name of the
19 real owner of the note, you can't foreclose in the name
20 of the real owner of the mortgage, so IndyMac goes in
21 pretending to be the real owner of the note and the
22 mortgage?

23 MR. MANCILLA: Objection to the form of
24 the question. Go ahead and answer it, if you
25 can.

1 THE WITNESS: I don't know how to answer
2 that question.

3 MR. MANCILLA: Thank you. Ask him to
4 rephrase it or ask it again. Don't try to
5 guess if you don't understand it. I didn't
6 understand it either, anyway.

7 THE WITNESS: Most investors dictate
8 that we do the foreclosure action in our name
9 and not in the investor's name. It's in the
10 PSA or the regs. That's with Fannie and
11 Freddie. So we go through the action as a
12 servicing agent for the investor.

13 BY MR. ICE:

14 Q. And yet you never tell the Court, in any of
15 the documents that we've seen, never told the Court,
16 and even sworn documents, sworn things like these
17 answers to interrogatories, that the real owner of the
18 loan, real owner of the note is Deutsche Bank; isn't
19 that right?

20 A. In everything that you've shown me, that is
21 correct.

22 Q. Is there anything you can point to, any of
23 the pleadings in this case anywhere, where IndyMac, now
24 OneWest, has been up front with the Court in saying
25 we're just the servicer, the real owner is Deutsche

1 Bank?

2 A. No.

3 Q. You don't have the authority to see the
4 information that's in the MERS' tracking records,
5 right?

6 A. Not me personally.

7 Q. Did you ask anyone else to take a look at
8 that information for you?

9 A. In this case?

10 Q. Yes.

11 A. No.

12 Q. In any case?

13 A. Yes.

14 Q. You've asked for that in other cases?

15 A. I've had to, yes. Well, not because it was
16 contested, just because someone had a question about it
17 so I had someone pull information for me.

18 Q. I want you to look at the date that's now up
19 at the top in the first line where it says, For value
20 received on or before November 14th, 2008.

21 A. Where am I?

22 Q. You're on Exhibit E.

23 A. On the top line. Yes.

24 Q. For value received.

25 A. Yes.

1 Q. And there's a date there, November 14th,
2 2008. Who put that date in there?

3 MR. MANCILLA: If you know.

4 THE WITNESS: I don't know.

5 BY MR. ICE:

6 Q. If you know.

7 A. I don't know.

8 Q. Is it most likely the Florida Default Law
9 Group that prepared this?

10 A. I don't know. That sounds reasonable.

11 Q. What happened on November 14th, 2008?

12 A. I don't know.

13 Q. Do you know how that date was determined?

14 A. I don't.

15 Q. Did any physical transfer of the mortgage
16 take place on that date?

17 A. Physical transfer of the mortgage. The
18 actual mortgage document?

19 Q. Yes.

20 A. No.

21 Q. What value did MERS receive for transferring
22 the mortgage to IndyMac Federal Bank, FSB on
23 November 14th, 2008?

24 MR. MANCILLA: If you know.

25 THE WITNESS: I don't know.

1 BY MR. ICE:

2 Q. Are you aware of any transfer in value to
3 MERS for the transfer of this mortgage at any time?

4 A. No, I don't know.

5 Q. I'm sure you'll agree with me that this
6 assignment is not an affidavit?

7 A. Yes.

8 Q. Okay. You did not swear to its contents?

9 A. That's true.

10 Q. The Notary, when she notarizes this, doesn't
11 take an oath from you?

12 A. No.

13 Q. All that you're acknowledging is that you're
14 signing this instrument as an officer of MERS?

15 A. Yes.

16 Q. Okay. You're not swearing that anything
17 happened on November 14th of 2008?

18 A. What does swearing mean again?

19 Q. It's under oath. Not the other kind of
20 swearing which may take place later.

21 A. I didn't swear.

22 Q. And you have no personal knowledge that
23 anything happened on November 14th, 2008?

24 A. That's right.

25 Q. Isn't it true that this case was filed on

1 November 21st, 2008?

2 A. Hold on. Hold on. When did you say?

3 Q. November 21st, 2008. If this is of any help,
4 you can now look at this very --

5 A. Thank you.

6 Q. -- damp Exhibit A to your deposition.

7 A. Okay. Yes, that's true.

8 Q. So the effective date -- scratch that.

9 So the date that's on the top, where it says, on
10 or before, at the top of the Assignment of Mortgage,
11 the date of November 14th, 2008, is one week before
12 this case was filed?

13 A. Yes.

14 Q. And isn't it true that the plaintiff, IndyMac
15 Federal Bank, needed to be the mortgagee on that date
16 in order to bring this action?

17 A. No.

18 Q. Isn't it true that the date of November 14th,
19 2008 was chosen in order to retroactively create a
20 cause of action for plaintiff?

21 A. No, I don't believe so.

22 Q. But you have no explanation for that date?

23 A. I don't have an explanation for that.

24 Q. Further on down, right after the legal
25 description, do you see where it says that the mortgage

1 was transferred together with the note?

2 A. Yes.

3 Q. Would you agree that it's not true that the
4 note was transferred on November 14th, 2008?

5 MR. MANCILLA: If you know.

6 THE WITNESS: Okay. Where it says may
7 have been amended from time to time; together
8 with the note and indebtedness secured
9 thereby?

10 MR. ICE: Yes.

11 MR. MANCILLA: It doesn't really say
12 it's transferred, does it?

13 THE WITNESS: I don't understand that to
14 mean it was transferred.

15 BY MR. ICE:

16 Q. Well, it's a very long run-on sentence, but I
17 think if you read it, it says that MERS assigned,
18 transferred and conveyed to IndyMac Federal Bank all
19 title and interest in a certain mortgage encumbering
20 real property, with this legal address, together with
21 the note and indebtedness secured thereby. Isn't that
22 what it says?

23 MR. MANCILLA: But it doesn't say it was
24 done simultaneously with the execution of
25 this document.

1 MR. ICE: Well, the whole sentence
2 starts, on or before November 14th, 2008.

3 MR. MANCILLA: Um-um.

4 BY MR. ICE:

5 Q. So would you agree with me that the plain
6 English, although it might not be so plain because it's
7 quite a long sentence, but the meaning of it is, is
8 that on or before November 14th, 2008, the note and
9 indebtedness was transferred along with the mortgage?

10 MR. MANCILLA: I don't know if it means
11 that or not. I didn't write it.

12 MR. ICE: Okay.

13 MR. MANCILLA: I think it's ambiguous.

14 BY MR. ICE:

15 Q. Well, you're the witness.

16 A. What he said. No, I don't understand it to
17 mean that. And I thought a little bit about your
18 question about the date on here.

19 Q. Okay.

20 A. That may be the date we referred the file to
21 the firm, but I'd have to confirm that, which could be
22 a week or more before the actual complaint was filed.

23 Q. Okay. Getting back to the question about the
24 note, regardless of when, regardless of your
25 interpretation of when the note was transferred, would

1 you agree with me that it's saying the note was
2 transferred?

3 A. Let me just read it. Yes.

4 Q. We know that that's false because why?

5 A. Is this a test?

6 Q. See if I need to lead you on this one.

7 A. Because MERS didn't have the note.

8 Q. Exactly.

9 MR. MANCILLA: But that doesn't mean
10 it's false because it doesn't say that MERS
11 is transferring anything here in terms of the
12 note.

13 MR. ICE: Yeah. Well, I don't know how
14 else you could read it, but that's up to the
15 judge, I guess.

16 BY MR. ICE:

17 Q. MERS was never the owner or holder of the
18 note, never had anything to transfer with respect to
19 the note, correct?

20 A. Correct.

21 Q. Let's move on to Exhibit F. I'm going to
22 hand you now what's been marked as Exhibit F to your
23 deposition, ask you if you recognize that document?

24 A. No.

25 Q. Okay. Have you ever seen it before?

1 A. No.

2 Q. But you've seen documents like this?

3 A. Yes.

4 Q. Who's Roger Stotts?

5 A. One of my peers. He is --

6 Q. I'm sorry. Go ahead.

7 A. He is the CAO, chief administration officer.

8 Q. He's also a vice president of IndyMac Federal
9 Bank, FSB?

10 A. At the time that he signed, yes, he's vice
11 president of IndyMac Federal Bank.

12 Q. Do you see that these interrogatory questions
13 are aimed at getting additional information about the
14 Assignment of Mortgage that you signed?

15 A. Yes.

16 Q. Okay. Do you know why Roger Stotts ended up
17 signing this instead of you?

18 A. Well, if I go back to the system that LPS has
19 to pass all the documents for signature, it most likely
20 just ended up in a stack of items to sign.

21 Q. So there's no effort to try to, since these
22 have something to do with what you have signed, to get
23 you to sign this?

24 A. That would make sense, but I don't believe
25 that the LPS, since my name isn't on the document, I

1 don't believe that LPS would have made the connection.
2 To them, it's just a document. It's just a document
3 that they're trying to prep for signature.

4 Q. I'd like you to take a look at Exhibit G to
5 your deposition, ask you if you have ever seen those
6 before?

7 A. They look like the other document we saw
8 earlier.

9 Q. I will represent to you that those are the
10 interrogatories that Exhibit -- which was, the last one
11 was -- Exhibit F were intended to respond to.

12 A. Okay.

13 Q. I give you that because if you look at
14 question 3 on Exhibit F and question 3 on Exhibit G,
15 you'll see there's a slight difference.

16 MR. MANCILLA: She said she never saw
17 this before so she can't answer that.

18 BY MR. ICE:

19 Q. Do you see what the difference is?

20 A. Yes.

21 Q. The date has been left out of the answer,
22 right?

23 A. Yes.

24 Q. And the date that was left out is the
25 November 14th of 2008, which is the date on the

1 assignment that we've been talking about, correct?

2 A. Yes.

3 Q. So this was my effort to get some information
4 about the assignment that we're getting today but
5 didn't get with those answers to interrogatories.

6 I'd like for you to read the -- well, I'll read
7 the question and answer. Question was: Please
8 describe the reason the date, should say November 14th,
9 2008, appears in the Assignment of Mortgage attached to
10 the Amended Complaint in this case, including but not
11 limited to, all events that occurred on that date with
12 respect to the transfer of the subject promissory note
13 and mortgage. Some of the same questions I asked you
14 earlier.

15 Answer: Plaintiff is without knowledge as to this
16 interrogatory as the Assignment of Mortgage was not
17 executed by the plaintiff.

18 Are you comfortable with that answer?

19 A. No.

20 Q. Because the Assignment of Mortgage was
21 executed by you?

22 A. Right.

23 Q. And you are the vice president of the
24 plaintiff?

25 A. Yes.

1 Q. The answer that was just read was prepared by
2 Florida Default Law Group, correct?

3 A. I don't know. I'm assuming so. I don't
4 know.

5 Q. Well, it has their very recognizable file
6 number and doc ID number at the bottom, correct?

7 A. Oh, okay. So what was your question again?

8 Q. Well, this document, it's called Plaintiff's
9 Response to Defendants' Request for Interrogatories,
10 it's marked as Exhibit F to your deposition, has at the
11 bottom the traditional file number and doc ID number of
12 Florida Default.

13 A. Yes.

14 Q. And if you look on the last page, it was
15 served on me -- well, actually it doesn't say it's
16 served on anyone. It just says it was furnished by
17 mail to blank dated May 12th, 2009 and signed by James
18 Spanolios, correct?

19 A. Yes.

20 Q. And James Spanolios is with Florida Default
21 Law Group?

22 A. Correct.

23 Q. So it's also true that Florida Default Law
24 Group not only prepared the assignment that you signed,
25 which is Exhibit E to this deposition, they also

1 prepared the responses to the interrogatories, which is
2 Exhibit F to your deposition?

3 A. Yes.

4 Q. So certainly they knew or should have known
5 that you signed the Assignment of Mortgage?

6 A. Yes.

7 Q. Let's take a look at Exhibit H. Have you
8 ever seen that document before?

9 A. No.

10 Q. Have you seen documents like it?

11 A. Yes.

12 Q. Do you recognize it to be a pleading or a
13 response to discovery filed by your attorney in this
14 case?

15 A. Yes.

16 Q. And that by your attorneys, I'm referring to
17 Florida Default Law Group?

18 A. Yes.

19 Q. Have you ever seen documents like those that
20 are attached to this --

21 A. Yes, I have.

22 Q. -- response?

23 A. Yes.

24 Q. And what are those?

25 A. It shows the transfer of a file from MERS.

1 Q. When you say a file, you mean a mortgage
2 loan?

3 A. Yes.

4 Q. Have you seen these particular documents
5 before?

6 A. No.

7 Q. I want to take you back to the first page
8 about midway through the No. 2 response.

9 A. Okay.

10 Q. Do you see the line that says: A "transfers
11 of beneficial ownership" means that the promissory note
12 was endorsed and delivered by one member to another?

13 A. Yes.

14 Q. Now, that's something that was executed by
15 your attorneys on behalf of IndyMac Federal Bank,
16 correct?

17 A. Yes.

18 Q. Do you agree with that statement?

19 A. Theoretically.

20 Q. It's not a trick question. I want you to
21 agree with it. Do you know what it means when they say
22 one member, what does a member mean?

23 A. My understanding of that is could be anybody,
24 fill in the blank. So because we're talking about
25 MERS, I'm thinking one entity, servicing entity or

1 lender to another.

2 Q. Do you have an understanding that MERS is a
3 membership organization?

4 A. Yes, yes.

5 Q. And the members are --

6 A. Yes.

7 Q. -- banking entities such as OneWest?

8 A. Yes.

9 Q. In fact, OneWest is a member of MERS?

10 A. Yes.

11 Q. Is Deutsche Bank National Trust Company a
12 member of MERS?

13 A. I don't know.

14 Q. Most of the major banking institutions in the
15 United States, at least, are members of MERS, correct?

16 A. That sounds right.

17 Q. It's owned and operated by banking
18 institutions?

19 A. I'm not a big -- I don't, I don't know that
20 much about the ins and outs of MERS. I'm sorry. I
21 understand what it's for, but I don't know, I don't
22 understand the nitty-gritty.

23 Q. What is it for?

24 A. To track the transfer of doc -- of interest
25 from one entity to another. I know that it was

1 initially created so that a servicer did not have to
2 record the assignments, or if they didn't, there was
3 still a system to keep track of the transfer of the
4 property.

5 Q. Does it also have a function to hold the
6 mortgage separate and apart from the note so the note
7 can be transferred from entity to entity to entity,
8 bank to bank to bank --

9 A. That sounds right.

10 Q. -- without ever having to rerecord the
11 mortgage?

12 A. That sounds right.

13 Q. So it's a savings device. It makes it more
14 efficient to transfer notes?

15 A. Yes.

16 Q. And cheaper?

17 A. Yes.

18 Q. Let's just take a look at the milestones
19 page. And I don't think that you're disputing any of
20 the information on here, but I do want to run through
21 it real quick to get your take on it. Take a look at
22 the transfer for beneficial rights, one from the
23 bottom.

24 A. Okay.

25 Q. The bottom one is registration, and then as

1 you go up in time, the next one is transfer of
2 beneficial rights on March 18th of 2006. Do you see
3 that?

4 A. Yes.

5 Q. If you look in the right column, it says that
6 the new investor is Lehman Brothers Holdings, Inc.,
7 correct?

8 A. Yes.

9 Q. The old investor was FDIC as receiver for
10 IndyMac Federal Bank, FSB? It's part of that same
11 block.

12 A. Yes.

13 Q. Would you agree with me that what that's
14 recording, documenting, again, using the definition
15 that's in part 2 of your attorney's response, what a
16 transfer of beneficial ownership is, that that's
17 showing a transfer of the original note from IndyMac,
18 who was the original lender, to Lehman Brothers on
19 March 18th, 2006?

20 A. Yes.

21 Q. Going up one line to April 1st, a couple
22 weeks later, you will see that the new investor is
23 Deutsche Bank National Trust Company as trustee?

24 A. Yes.

25 Q. And not surprisingly, the old investor is

1 Lehman Brothers Holdings, Inc.?

2 A. Yes.

3 Q. So that records another transfer two weeks
4 later, or approximately two weeks later, to Deutsche
5 Bank National Trust Company?

6 A. Yes.

7 Q. Do you see any other transfers of the note
8 recorded there in the MERS tracking information?

9 A. I see the servicing rights, beneficial
10 rights.

11 THE WITNESS: Is this a trick question?

12 MR. MANCILLA: No.

13 MR. ICE: No, I want you to say no.

14 THE WITNESS: No, I don't see anything.

15 BY MR. ICE:

16 Q. The only other interesting thing on there is
17 that on March 29th, the FDIC registered OneWest Bank as
18 the new servicer on this loan?

19 A. Yes.

20 Q. Which makes perfect sense, correct?

21 A. Yes.

22 Q. So would you agree with me that this
23 accurately reflects what your understanding is of what
24 happened to the loan? It went from IndyMac as original
25 lender, passed through Lehman Brothers, over to

1 Deutsche Bank National Trust Company, and IndyMac
2 continued to serve as the servicer throughout its
3 different incarnations?

4 A. Yes.

5 Q. Okay. Take a look at Exhibit I. Have you
6 ever seen that document before?

7 A. No.

8 Q. But you have seen documents like it?

9 A. Yes.

10 Q. Once again, do you recognize the file number
11 and doc ID number of your attorneys, Florida Default
12 Law Group, upon this document?

13 A. It looks like the others, yes.

14 Q. And you see where it contains the signature
15 of your attorney, James Spanolios, of Florida Default
16 Law Group?

17 A. Yes.

18 Q. Let's take a look at Exhibit J, which, to
19 speed things up, I'll just represent to you that those
20 are the Request for Admissions to which Exhibit I is
21 intended to respond to.

22 A. Okay.

23 Q. So you will see that there's 12 requests for
24 admissions in our original request and there's 12
25 responses.

1 A. Yes.

2 Q. The title indicates that you're responding to
3 the defendants' Assignment of Mortgage Requests for
4 Admissions, which is the title of this document. Do
5 you see all that?

6 A. Yes.

7 Q. Okay. No. 6, and I'm sorry you've got to
8 jump between the two documents, but they didn't put
9 them together. So you've got to look at six to see
10 what the request was.

11 Admit that MERS did not physically transfer the
12 subject note or mortgage to plaintiff on or before
13 November 14th, 2008. Do you see that the response on
14 behalf of your company was denied?

15 A. Yes.

16 Q. So that would mean, the interpretation, the
17 only interpretation I can come up with is that MERS did
18 physically transfer the subject note or mortgage to
19 plaintiff on or before November 14th, 2008. Would you
20 agree that that's what it means?

21 A. Either that or they denied to answer the
22 question. I don't know.

23 MR. MANCILLA: Yeah, this is a Request
24 for Admissions. She's not really familiar
25 with what it means.

1 BY MR. ICE:

2 Q. Well, I think your attorney would tell you if
3 you're denying it, you're refusing to admit that MERS
4 did not physically transfer the subject note or
5 mortgage to plaintiff on or before November 14th, 2008.

6 A. Okay.

7 Q. Do you agree with that? Do you agree that
8 that should be denied?

9 THE WITNESS: Referring to this one?

10 MR. MANCILLA: No.

11 (Reporter requests clarification.)

12 MR. ICE: I don't care. They can
13 mumble.

14 MR. MANCILLA: I don't know if this
15 refers to MERS or not. I can't tell. The
16 only assignment of the note was referred to
17 in one assignment, but --

18 MR. ICE: I think he's just advising his
19 client. It doesn't have to be on the record.

20 THE WITNESS: Okay. I think I'm getting
21 lost in the legalese.

22 BY MR. ICE:

23 Q. Let me take you through a few questions and
24 maybe that one will be easier to answer.

25 A. Okay.

1 Q. Because I think you'll agree, MERS never
2 physically transferred anything to anybody?

3 A. That's true.

4 Q. MERS never had the note, so it didn't
5 physically transfer the note?

6 A. True.

7 Q. And as the signing officer of MERS, you know
8 that the only thing that happened with respect to that
9 mortgage is that you executed an assignment?

10 A. Assignment, yes.

11 Q. You didn't physically transfer the mortgage
12 to anyone?

13 A. No.

14 Q. The MERS records that we just went through,
15 they don't show the mortgage being physically
16 transferred to anyone?

17 A. No.

18 Q. Can you come up with a reason why your
19 company would deny that MERS did not physically
20 transfer the subject note or mortgage?

21 A. But this wasn't prepared by -- these are
22 not -- okay. Wait.

23 MR. MANCILLA: Maybe the lawyer didn't
24 understand it. I don't understand it, so
25 maybe he didn't.

1 THE WITNESS: I -- I don't know. I
2 wasn't there.

3 MR. MANCILLA: Yeah. Well, if you don't
4 know, you don't know.

5 BY MR. ICE:

6 Q. Okay. Well, you know, we can speculate that
7 the lawyer misunderstood, but as you're sitting here
8 today, can you provide a reason yourself why that
9 should be denied?

10 A. No.

11 Q. No. 9 says: Admit that plaintiff is not the
12 entity identified as the investor in the MERS' system.
13 That was denied.

14 MR. MANCILLA: Without knowledge.

15 THE WITNESS: Without knowledge and
16 therefore denied.

17 BY MR. ICE:

18 Q. Now, we just went over the MERS' records.
19 That response is absolutely false, isn't it?

20 A. Admit that plaintiff is not identified -- we
21 are identified as the servicer.

22 MR. MANCILLA: That's the investor.

23 THE WITNESS: But not as the investor.

24 MR. MANCILLA: Yeah, so that's correct.

25 BY MR. ICE:

1 Q. And yet it was denied?

2 MR. MANCILLA: No, but it says here
3 that, Admit that the plaintiff is not the
4 entity identified as the investor in the
5 MERS' system, and she's saying, and I agree
6 that we're identified as the servicer.
7 That's not the investor, so that's correct.

8 MR. ICE: It's correct that it should
9 have been admitted.

10 MR. MANCILLA: No.

11 MR. ICE: The plaintiff is not the
12 entity, admit that plaintiff is not the
13 entity.

14 MR. MANCILLA: Okay, yeah. That's
15 right, yeah.

16 BY MR. ICE:

17 Q. Okay. Would you agree that that should have
18 been admitted?

19 A. Normal language, please.

20 MR. MANCILLA: These things are very
21 confusing the way they're written. I would
22 object to them all the way they're written,
23 but --

24 BY MR. ICE:

25 Q. Let me ask the question this way, and let's

1 just say I'm asking this question in my deposition
2 today --

3 A. Okay.

4 Q. -- Admit that plaintiff is not the entity
5 identified as the investor in the MERS system. Do you
6 admit or deny that?

7 A. Mr. Ice, then I would say, can you please
8 rephrase that question?

9 Q. Is the plaintiff identified as the investor
10 in the MERS' system records?

11 A. No.

12 Q. So you admit that plaintiff is not
13 identified?

14 A. Yes.

15 Q. And you also admit that it should never have
16 been denied?

17 A. I don't see why it was denied.

18 MR. MANCILLA: Except he maybe didn't
19 understand it.

20 THE WITNESS: Confusing question, yes.

21 BY MR. ICE:

22 Q. No. 10, admit that plaintiff did not acquire
23 an interest in the mortgage prior to the filing of the
24 complaint. Answer: Denied.

25 A. Okay. I got it this time.

1 Q. Do you see that answer and response?

2 A. Yes.

3 Q. This response is also incorrect, isn't it?

4 A. Yes.

5 Q. Okay.

6 A. Now that I understand the tone of the
7 questions, I got it.

8 Q. Okay. Let's look at Exhibits K and L
9 together because, like the others, one is the answer
10 and one is the response.

11 For the record, Exhibit L is [REDACTED]
12 [REDACTED]'s Request for Production
13 Regarding the Assignment of Mortgage. K is Plaintiff's
14 Response to Defendants' Request for Production
15 regarding Assignment of Mortgage.

16 Have you ever seen either of these documents
17 before?

18 A. I don't think so.

19 Q. Did you participate in any way in providing
20 the responses?

21 A. I don't remember.

22 Q. Do you think that you would remember if you
23 had been asked?

24 A. No.

25 Q. Are you asked to help provide discovery in a

1 lot of cases?

2 A. Yes.

3 Q. Where you have to go get documents?

4 A. Yes.

5 Q. Okay. I'd like you to look at No. 2, which
6 asks for, Any and all documents that evidence an
7 equitable transfer of the mortgage from the original
8 mortgagee, MERS, to plaintiff on or before
9 November 14th, 2008.

10 A. Are we supposed to be on L and K?

11 Q. Yes.

12 A. L and K.

13 MR. MANCILLA: Yeah, these are the
14 questions, these are the answers.

15 THE WITNESS: Okay. Yes. Okay.

16 BY MR. ICE:

17 Q. Okay. The response was: All requested
18 documents in the plaintiff's possession, custody or
19 control will be produced, except those documents which
20 are privileged, confidential or work product. Do you
21 see that answer?

22 A. Yes.

23 Q. Do you have any documents to be produced?

24 A. Yes.

25 Q. In response to that question?

1 A. Yes.

2 Q. Did you bring any of them with you today?

3 A. It was all -- we -- Christy got everything,
4 but you have something.

5 MR. MANCILLA: Well, we have the MERS
6 tracking thing. The MERS' tracking report?

7 MR. ICE: No. I can represent to you
8 that the only thing that was produced with
9 this is attached, is your Assignment of
10 Mortgage, which we already had.

11 THE WITNESS: Oh, okay. The intention
12 was to, would have been to get you the
13 tracking report from MERS.

14 MR. MANCILLA: Which you got from
15 somewhere. I don't know where you got it
16 from.

17 MR. ICE: Well, it was a separate
18 request. That was a separate request.

19 BY MR. ICE:

20 Q. But you've already looked at those and you've
21 already told me that there's no evidence of any
22 equitable transfer on those documents on or before
23 November 14th, 2008?

24 A. That's right.

25 Q. So that wouldn't be responsive to No. 2?

1 A. That's right.

2 Q. As you're sitting here now, do you know of
3 any documents that will be produced in response to this
4 question?

5 MR. MANCILLA: If you know.

6 THE WITNESS: The assignment.

7 BY MR. ICE:

8 Q. Well, that's already been produced.

9 A. Oh, no. I don't, I don't think so. I can't
10 think of anything.

11 Q. Okay. Do you know of any documents that are
12 being withheld based on privilege, confidentiality, or
13 work product?

14 A. No.

15 Q. No. 3 is, Any and all documents that evidence
16 a physical transfer of the mortgage from MERS to the
17 plaintiff on or before November 14th, 2008. The
18 response was: All requested documents in plaintiff's
19 possession, custody or control will be produced, except
20 those documents which are privileged, confidential or
21 work product.

22 Correct me if I'm wrong, I think your testimony
23 already today was there was never a physical transfer
24 of the mortgage from MERS?

25 A. That's right.

1 Q. So you would have no documents responsive to
2 that?

3 A. That's right.

4 Q. Do you know of any documents that
5 Mr. Spanolios has that he will be producing?

6 A. No.

7 Q. Do you know of any documents in your
8 possession or Mr. Spanolios' position that are being
9 withheld due to privilege, confidentiality, or work
10 product objections?

11 A. I can't answer for Mr. Spanolios, but I
12 don't.

13 Q. And you're not aware of any?

14 A. And I'm not aware of anything.

15 Q. Exhibit M is a document that you saw before
16 in your last deposition, correct?

17 A. Yes.

18 Q. It's an opinion from Judge Schack up in New
19 York --

20 A. Yes.

21 Q. -- correct?

22 You're familiar with that?

23 A. Yes.

24 Q. In it, he says that you signed an Assignment
25 of Mortgage as the vice president of MERS, correct --

1 A. Yes.

2 Q. -- just as you did in this case?

3 Judge Schack also says that you executed an
4 affidavit as an officer of Deutsche Bank National Trust
5 Company, correct?

6 A. Yes.

7 Q. And is that true, you executed an affidavit
8 for Deutsche Bank in that case?

9 A. That is not true.

10 Q. You never executed a document as an officer
11 of Deutsche Bank National Trust Company in that case,
12 Judge Schack's case?

13 A. Let me just read it so I can -- I have to
14 refresh my memory completely.

15 Q. Okay.

16 A. I don't remember. Most likely.

17 Q. That you did?

18 A. It sounds reasonable that I may have. I
19 don't remember, and since it's not attached, I can't
20 say.

21 Q. And as a result, Judge Schack wanted to know
22 if you were engaged in self-dealing by wearing two
23 corporate hats?

24 A. Yes.

25 Q. And the court was concerned that there may be

1 fraud on the part of the bank?

2 A. I guess.

3 Q. I mean, he said that, right?

4 A. Oh, okay. I didn't read the whole thing.
5 Okay.

6 Q. Okay. The court ordered Deutsche Bank to
7 produce an affidavit from you describing your
8 employment history for the past three years, correct?

9 A. That's what this says.

10 Q. Did you do that?

11 A. No, because we were never -- no affidavit
12 ever existed and no request ever came to produce such a
13 document. The last time we spoke, I told you that
14 in-house counsel was reviewing the whole issue and
15 that's kind of where -- and we still haven't received
16 any communication to produce an affidavit.

17 Q. From your counsel?

18 A. From anywhere.

19 Q. Well, you're reading Judge Schack's opinion.
20 He seems to want one. Isn't that pretty clear on its
21 face?

22 A. We didn't get -- we never even got a copy of
23 this.

24 Q. Okay. But now you have it --

25 A. And --

1 Q. -- and you had it when we met at our
2 deposition back in February 5th.

3 A. And our in-house counsel's response to this
4 is we were never -- this was never requested of me and
5 it was his recommendation not to comply.

6 Q. What has become of that case?

7 A. I don't know.

8 Q. Was it settled?

9 A. I don't know.

10 Q. You've testified in court before?

11 A. Yes.

12 Q. Has a Federal Bankruptcy Court written an
13 opinion saying that it disbelieves your testimony?

14 A. Not quite like that. It's as it relates to
15 me being an officer of Freddie Mac.

16 Q. Okay. But the Court actually wrote an
17 opinion that's now in the public record that says he
18 disbelieves your testimony, right?

19 A. Not the entire testimony. It was as it
20 related to me being able to come into the court when
21 Freddie Mac was the investor for the loan.

22 Q. I'd like you to take a look at Exhibit N to
23 your deposition. Do you recognize that opinion?

24 A. You showed it to me the last time. I didn't
25 read it in full then and I still haven't. I can Google

1 my name and see all these comments.

2 Q. Right. You didn't get along too well with
3 this judge; is that right?

4 A. I got along fine with him. Yeah, this is
5 Bufford. I got along fine with him.

6 Q. Okay. And on page 5, just above the III,
7 Discussion, do you see that paragraph?

8 A. Um-um.

9 Q. That's where it says Ms. Johnson-Sect --

10 A. Yes.

11 Q. -- C-T, but that's you, right?

12 A. Yes.

13 Q. -- also testified that IndyMac has brought
14 this motion as the duly authorized servicing agent for
15 the new owner of the note. The Court disbelieves this
16 testimony.

17 And that would be your testimony, right?

18 A. Because Freddie Mac was the owner of the
19 note.

20 Q. Right. He said, particularly in view of her
21 testimony that she does not know who owns the note at
22 the present time.

23 A. If you read the court docket, which is public
24 knowledge, then you'd see that we, of course we knew.
25 Freddie Mac made me go to the hearing. So, I mean,

1 these things, you can take them anyway you want.

2 Q. Okay. Well, and the judge in this case will,
3 but my question was simply did a bankruptcy federal
4 court judge write an opinion saying he disbelieved your
5 testimony?

6 A. Yes, he did.

7 MR. ICE: This is a good place for a
8 break because I'm going to get into the
9 documents that were provided to me in advance
10 and so it's kind of a shift. So quick break?

11 MR. MANCILLA: All right.

12 (Thereupon, there was a brief pause in
13 the proceedings beginning at 4:01 p.m.,
14 resuming at 4:15 p.m.)

15 MR. ICE: So are we ready?

16 THE WITNESS: Okay.

17 BY MR. ICE:

18 Q. I'm going to hand you what's been marked as
19 Exhibit O to your deposition and ask you if you
20 recognize that document?

21 A. Yes.

22 Q. What is it?

23 A. That is the order telling me to come for the
24 deposition and what the questions would be.

25 Q. Okay. And attached to it is Exhibit A which

1 lists the documents that we asked for you to bring
2 today?

3 A. Yes.

4 Q. Okay. What I'm going to do is ask you to
5 kind of keep that list open, because I was provided a
6 stack of documents that weren't clearly delineated as
7 to what corresponded to what. All of the documents
8 that we're going to talk about that were previously
9 provided by your counsel I've marked as Exhibit P. And
10 I've taken a stab at connecting them to the item
11 request based on a number that was jotted down on the
12 top left-hand corner by someone.

13 A. Okay.

14 Q. And I'm going to start with the assumption
15 that that was intended to comply with whatever number
16 is in the corner. If it's not and these are not
17 correlating, please let me know as we go along.

18 A. Okay.

19 Q. So let's start with the duces tecum part of
20 your notice, which is the list of documents. No. 1
21 was: The affidavit of the last three years of
22 deponent's employment provided to Judge Schack in
23 response to the order dated January 31st, 2008 in the
24 case of Deutsche Bank National Trust Company vs. Maraj,
25 Case No. 25981-07, Supreme Court of New York.

1 We talked about that earlier. There is no such
2 affidavit, correct?

3 A. Correct.

4 Q. By the way, why was IndyMac permitted to
5 bring the case in Deutsche Bank's name in that case?

6 A. I don't -- I don't know. Now, errors have
7 been made.

8 Q. No. 2: The affidavit of the deponent
9 provided to Judge Schack in response to the order dated
10 February 6th, 2009 in the case of IndyMac Bank, FSB vs.
11 Bethley, 2009 New York Slip Opinion 50186, New York
12 Supreme Court 2/6/09, "explaining," and this is in
13 quotes, "her employment history for the past three
14 years; and, why a conflict of interest does not exist
15 in how she acted as vice president of assignee Indymac
16 Bank, FSB in the instant action, and vice president of
17 both Mortgage Electronic Registration Systems, Inc. and
18 Deutsche Bank in Deutsche Bank vs. Maraj," and it gives
19 the citation and that's the case that was referred to
20 in item 1 of our request.

21 Do you have that affidavit with you here today?

22 A. No.

23 Q. Were you aware of that second opinion where
24 Judge Schack asks for a second affidavit?

25 A. Nope. Where is Judge Schack sending these?

1 Q. Presumably to your counsel.

2 A. I wonder if he has the right address. Maybe
3 that's what we should do, send Judge Schack the most
4 recent, and I will gladly show up in his court and
5 provide him everything he wants.

6 Q. Okay. Well, I sent you this back in March.
7 Have you or your counsel or in-house counsel at IndyMac
8 pursued that?

9 A. No.

10 Q. No. 3 asks for, The deponent's most recent
11 curriculum vitae. And if you look at -- this should
12 say P3.

13 I hand you what's been marked as Exhibit P sub 3
14 to your deposition and ask you if that is a copy of
15 your most recent curriculum vitae?

16 A. Yes.

17 Q. And that's what was provided in response to
18 No. 3 on our Exhibit A to your subpoena duces tecum?

19 A. Yes.

20 Q. I see that it still has you working at
21 Indymac Bank, so you haven't updated it to reflect --

22 A. I haven't.

23 Q. Does that mean you're not looking for a job?

24 A. (No response.)

25 Q. No. 4 was: All documents authorizing

1 deponent to sign as vice president of, and it lists
2 three companies: Deutsche Bank National Trust Company,
3 Bank United, FSB, and Mortgage Electronic Registration
4 Systems, which is MERS.

5 Exhibit No. 4, P4, sorry, would you take a look at
6 that and tell me whether that's intended to be
7 responsive to No. 4?

8 A. Well, this is the MERS' one. Looks like
9 we're missing the Deutsche Bank. Can I give that to
10 you now?

11 Q. Sure.

12 A. And I don't believe one exists for Bank
13 United.

14 Q. Okay.

15 A. Okay. There's three different ones: There's
16 the Deutsche Bank when we were IndyMac Federal, there's
17 the most current Deutsche Bank, and then there's the
18 Deutsche Bank when we were IndyMac Bank.

19 MR. ICE: Let's just mark this as
20 Composite Exhibit U.

21 (Thereupon, Defendants' Exhibit No. U
22 was marked for identification.)

23 BY MR. ICE:

24 Q. Okay. I'm going to hand you what's been
25 marked as Exhibit U to your deposition and ask you to

1 identify three documents that are collected together in
2 that exhibit.

3 A. It's the LPOA for Deutsche Bank dated
4 April 22nd, 2008, the LPOA for IndyMac Federal Bank
5 dated October 9th, 2008, and then the Deutsche Bank
6 LPOA for OneWest Bank dated April 6th, 2009.

7 Q. And this is the Limited Power of Attorney
8 that we were discussing earlier that actually prohibits
9 OneWest or IndyMac from suing in the name of Deutsche
10 Bank National Trust Company, correct?

11 A. It's in the PSA that they prohibit, that
12 LPOA -- I'm not sure that it's actually in that LPOA.

13 Q. Did you look to see if the trust that's
14 involved in this litigation is in the list of trusts?

15 A. I did.

16 Q. And it is?

17 A. It is.

18 Q. I have my own copy that we'll get to later
19 where we can talk specifically about what powers it
20 provides you --

21 A. Okay.

22 Q. -- so we'll just put that aside.

23 No. 5 was: The specific "books, records, and
24 documents kept by IndyMac Bank, FSB concerning the
25 transactions alleged in the complaint" which you

1 personally examined according to the Affidavit as to
2 Amounts Due and Owing, paragraph 2.

3 Did you bring any documents with you --

4 A. I did.

5 Q. -- today that are responsive to that?

6 A. Well, I'm assuming you were sent documents,
7 but I have some too that are probably a copy of what
8 you have.

9 Q. I wasn't able to identify anything
10 correlating with that, so maybe if you could show me or
11 you can also look at -- also these are the exhibits
12 here, if you see them there.

13 A. So this is the Affidavit of Amounts Due and
14 Owing and these are the corresponding screen prints of
15 where the data came from.

16 Q. Okay. I think why there was these -- these
17 are later in Exhibit P, but I think the reason these
18 were not produced with respect to No. 5 is because you
19 didn't personally review these when you signed the
20 affidavit?

21 A. That's right.

22 Q. So why don't you just hold on to those and
23 we'll get to that.

24 Just to make sure we're clear, do you have any
25 books or records and documents kept by IndyMac Bank,

1 FSB concerning the transactions alleged in the
2 complaint which you personally examined in the
3 preparation of the Affidavit as to Amounts Due and
4 Owing?

5 A. No.

6 Q. No. 6 is, All documents, computer entries,
7 digital images, electronic correspondence or other
8 written materials you personally reviewed in
9 preparation for making the statement -- again, this is
10 the statement in that affidavit -- "have personal
11 knowledge of the facts regarding the sums of money
12 which are due and owing to IndyMac Federal Bank."
13 That's your affidavit in paragraph 3.

14 A. I don't have personal knowledge, but the
15 person who checked the figures did that works for me.

16 Q. Okay. The only document that had the No. 6
17 on here was the adjustable rate note.

18 A. No, that's not right. Can I look through
19 here to see if --

20 Q. Yes.

21 A. It would have been all this.

22 Q. Those are the same screen prints that we were
23 just talking about?

24 A. Yes.

25 Q. Okay. We'll get to that, but just for the

1 record, you were referring to Exhibits P8 -- turn this
2 so you can see -- P8, P9, P10, and that's it, right?

3 A. Yes. There might be a few missing, though.

4 Q. P12, as well?

5 A. Yes.

6 Q. And --

7 A. P14.

8 Q. -- P14?

9 A. That should be everything, but I have to go
10 through them all.

11 Q. No. 7 had to do with your statement that the
12 foreclosure case was uncontested.

13 A. Um-um.

14 Q. I didn't see any documents produced with
15 respect to that.

16 A. Because it wasn't -- because we don't
17 consider a case contested unless there are answers
18 filed to our motion. And in this case, at the time
19 that the -- as we're going through -- at the time that
20 I signed the affidavit, it was uncontested.

21 Q. Yeah, I think your affidavit predated our
22 appearance at all, much less an answer.

23 No. 8 was, All documents, computer entries,
24 digital images, electronic correspondence or other
25 written materials you personally reviewed in

1 preparation for making the statement that the principal
2 balance of the note is \$399,095.97.

3 A. Again, I didn't personally review it, but my
4 staff did.

5 Q. And the computer screen that your staff would
6 have looked at to verify the numbers that were already
7 in the affidavit, right?

8 A. (Hands document.)

9 MR. ICE: Okay. Let's go ahead and mark
10 this as the next exhibit.

11 (Thereupon, Defendants' Exhibit No. V
12 was marked for identification.)

13 BY MR. ICE:

14 Q. I hand you what's been marked as Exhibit V to
15 your deposition and ask you to identify that.

16 A. It is a screen shot on the [REDACTED] loan that
17 shows the records on the account affecting the way the
18 account looks since the last payment was made.

19 Q. When is that screen shot made?

20 A. I made this copy for myself this week. No,
21 this is the one that I pulled that was given to the
22 firms. I made a screen shot for myself, but then I
23 thought you would ask me that question, so I used the
24 same screen shots that were uploaded for the firms. So
25 probably 8/13/08. Yes, that's the date.

1 Q. Okay. So this is the same image that would
2 have been provided to your counsel when the case was
3 transmitted for foreclosure?

4 A. Yes.

5 Q. Can you take me quickly through what these
6 numbers mean and how to read this document?

7 A. So at the top, on all the green screens,
8 there will be the borrower's name, Social Security
9 number. This says what kind of loan it is and what the
10 interest rate is.

11 Q. That stands for the conventional residential?

12 A. Um-um. ARM. MAN code F. F means that the
13 loan is in foreclosure. These are the numbers we have
14 on the system.

15 Q. Phone numbers?

16 A. Phone numbers to call the borrower, property
17 address. And then you get into these blocks of time.
18 This is what the loan is due for, the August 1st, 2008
19 payment. This is payment. The P's for taxes,
20 insurance. There's a shortage for taxes. That's the
21 total payment. This shows the last few transactions
22 that were recorded on the account. So a check was paid
23 for hazard -- there's forced placed hazard insurance on
24 the account, and the last installment of taxes that
25 were paid.

1 This section right here are the late charges that
2 were due at the time this was pulled.

3 Q. So for the record, LC stands for late charge?

4 A. Yes. And then other fees would include a
5 bounced check fee if there was one. We try not to use
6 things like other and miscellaneous, so that you'll
7 rarely see anything there because we try not to use
8 buttons like that. The pending payment, that's the
9 new -- the payment change. They're due for the next
10 interest rate change, and the February of 2009 payment
11 would be this.

12 Q. Okay.

13 A. That's the principal balance at the time that
14 this was pulled. That's the negative escrow account
15 balance at the time this was pulled. If the borrower
16 had a credit on their account it would be in suspense.
17 If there was any damage to the property, the funds
18 would go in restricted escrow to be used specifically
19 for the damage to the property.

20 Q. So restrict -- RES, space, ESC stands for
21 restricted escrow?

22 A. Yes. And then the analyzed section right
23 here says that this loan is analyzed for taxes and
24 insurance once every 12 months. That was the last time
25 it was analyzed.

1 Q. What does COUP stand for?

2 A. I don't know.

3 Q. And MO is month?

4 A. Month. Um-um. And then this is kind of a
5 snapshot of the last monthly statement that they
6 received. Well, not -- yeah, not really a statement
7 but bill, more like their coupon. And then how much
8 they paid on principal year-to-date, taxes year-to-date
9 and interest year-to-date.

10 This down here is just, again, it tells the viewer
11 that the loan is active in foreclosure. The loan has a
12 foreclosure stop 1. The foreclosure process has a
13 foreclosure -- a foreclosure stop 1 tells me that the
14 only thing that's happened on this account is that we
15 filed the first legal action and we haven't done
16 anything else. A foreclosure stop 3 means it's
17 scheduled for foreclosure sale. So we haven't gotten
18 past first legal action.

19 The no notice stop says the loan is in MAN code F.
20 It's delinquent, don't send any more notices, don't
21 send any more statements because they're going to be
22 incorrect because they won't include attorney's fees or
23 things like such as that. Process stop F tells the
24 world that the loan is in foreclosure, so don't apply
25 funds to the account without someone in the foreclosure

1 department making sure it's not going to invalidate the
2 foreclosure or making sure we have the correct
3 stipulations in place to allow accepting funds and
4 apply them to the loan. And it's saying that at this
5 time the loan was past due four months.

6 Q. Okay. So does LN stand for loan in
7 foreclosure?

8 A. Yes.

9 Q. And the point of that is that OneWest can't
10 accept any payments during the foreclosure process
11 because that would invalidate the foreclosure process?

12 A. Well, we can accept payments if the borrower
13 were on a stipulated repay plan, meaning you recognize
14 that you are delinquent, we're going to accept a
15 payment for the next ten months, but if at any time you
16 default on this payment plan, we'll pick up where we
17 left on the foreclosure action so we, you know, so we
18 don't have to restart the action. And while the loan
19 is in foreclosure, it's just the way to warn
20 collections, customer service, loss mit that there's
21 someone else to check. It's in a legal action.
22 Something's happened with this loan, so don't just
23 treat the loan like you would a current borrower
24 because there are, you know, other things going on.

25 Q. So when you make these kind of deals where

1 you're accepting payments sort of on a temporary basis,
2 the foreclosure is put on hold?

3 A. It depends. Yes, in effect, yes, but if the
4 borrower makes -- their first payment on their payment
5 plan happens after the first legal action -- we're
6 talking about Florida, but, you know, in my mind I'm
7 going with several different states at the same time.

8 There are some processes where as soon you file
9 the first legal action other things have to happen.
10 Those have-to-happens will happen because the fees and
11 costs would have included that action because it's all
12 happening at the same time, so, but then at that point
13 it would be on hold.

14 So we're talking about Florida. In this case, if
15 the borrower were on a payment plan, we just put the
16 file on hold wherever we were. And if we had a hearing
17 date scheduled, we would postpone it based on the
18 outcome of the payment plan, payment arrangement.

19 Q. If a borrower just sends in a payment without
20 getting this kind of a payment plan in place, what
21 happens to it?

22 A. The payment goes back to the borrower.

23 Q. Okay. Anything else responsive to No. 8,
24 which is basically what you reviewed or what someone
25 reviewed to determine the principal balance?

1 A. No.

2 Q. Okay. Take a look at what's been marked as
3 P8 to your deposition and ask if you can identify what
4 that is?

5 A. This is the first page of a payoff statement.

6 Q. This is printed out in November, on
7 November 13th of 2008?

8 A. The whole -- it actually comes with several
9 pages, but it looks like this is also a part of what
10 was provided to the firm at the time of the referral,
11 yes.

12 Q. And I see there that there is a principal
13 balance figure that matches the figure in your
14 affidavit?

15 A. Yes.

16 Q. No. 9 was asking for whatever materials you
17 reviewed to make this statement of what interest was
18 due and owing.

19 A. Same idea. I didn't personally look, but my
20 staff did. It would be the screen that says -- hold
21 on, let's see. Just in case you don't have it there,
22 it's going to be one of the payoff screens. There it
23 is, right here. Pay 4, if you have one that says pay 4
24 at the top, like this says pay 1? If you don't, if you
25 don't, here's one.

1 Q. That doesn't look familiar.

2 MR. ICE: Let's go ahead and mark that
3 as the next exhibit.

4 (Thereupon, Defendants' Exhibit No. W
5 was marked for identification.)

6 BY MR. ICE:

7 Q. I'm going to hand you what's been marked as
8 Exhibit W to your deposition and ask if you can
9 identify that document?

10 A. This shows what the interest was due and
11 owing as of the date that the affidavit was supposed to
12 calculate the indebtedness.

13 Q. Okay. This was as of February 9th, 2009?

14 A. Yes.

15 Q. And your affidavit said that those figures
16 were --

17 A. Yes.

18 Q. -- valid as of February 9th, 2009?

19 A. Yes.

20 Q. I'm going to hand you what's been marked as
21 P9 to your deposition and ask you what that is?

22 A. This is also a pay 4 screen. And the
23 difference between both of these is this is interest as
24 of March 18th, 2009, so -- and this one, this is like
25 someone just pulled it this day. This one was pulled

1 on April 8th, 2009, where this came from the data that
2 was downloaded for the firms.

3 Q. Okay. Just for the record, P9 was what was
4 provided to us, among the documents that were provided
5 us before the deposition as responsive to our duces
6 tecum request.

7 I see a notice on here that says multiple IR
8 change periods crossed, calculations are suspect. What
9 does that mean?

10 A. Okay. So I kind of alluded to this. The
11 April -- this was printed on April 8th, so the system
12 is working real time, even if you put a back date here.
13 So what the system is saying is, now because that
14 number matches that number, it means that the person
15 who pulled this for you didn't change it, because if
16 they had, that's hard coded. You can't do anything
17 there. That's green, so. That's green and the date's
18 green. And then that comment will come up that says
19 that it's suspect and you match it here to see if
20 someone fooled, tried to trick the system.

21 But if -- I mean, because sometimes you do. You
22 might quote a reinstatement quote or payoff in the
23 future for a borrower because they know they're going
24 to pay off the home 60 days from now, so this happens.
25 There's no interest rate for April, so the system

1 doesn't know how to calculate it. So what it's doing
2 is it's just taking the data it has and trying to
3 forecast.

4 Q. When you say, was the term you used green?

5 A. Green screen, yes. There are areas on the
6 system that can be manipulated. In the pay screens --
7 you'd have to -- I mean, you'd have to kind of take my
8 word for it, I guess. This date is green, meaning the
9 user can change the date.

10 Q. Change it?

11 A. What's also green -- but this is a different
12 screen. See how these screens don't look exactly the
13 same, although they both say pay 4?

14 Q. Right.

15 A. This is when you're actually trying to create
16 a payoff. This is like a dummy workstation to this for
17 if you're trying to quote something on the phone. Not
18 that you're actually going to print a payoff. On this
19 screen, you can -- this is green, the 16,228.30. So if
20 I know that the interest rate is really 16,088, I could
21 type over that.

22 But here is where you -- that's not green. So
23 that's how, as a manager, if I'm researching something,
24 I can tell if the system was manipulated with whatever
25 data the borrower was given. If the borrower sends me

1 information, I can tell if it's been manipulated
2 because I know the screens and I've been working in the
3 same system for 18 years.

4 Q. This one says that it's printed by, it has a
5 code number at the bottom. Do you know who that code
6 belongs to?

7 A. Not off the top of my head, but it's one of
8 my staff.

9 Q. Okay. Do you know, what is the name of the
10 program that this, all this data is kept in?

11 A. MSP Fidelity. I think they may have just
12 changed their name again to LPS, different from LPS
13 Default Solutions, which is our outsource vendor.

14 Q. A mere coincidence that the names are the
15 same?

16 A. No, no, they used to be the same. It was all
17 the same company under MSP Fidelity, and the outsource
18 vendor was Fidelity and the system was Fidelity, but we
19 would refer to the system as MSP to differentiate. So
20 I just get in the habit of not saying the full LPS
21 Default Solutions is the outsource vendor and Lender
22 Processing Services is our system of record.

23 Q. Is this program owned by LPS, a third-party
24 vendor?

25 A. I think at one time it was the other way

1 around, the system owned Default Solutions.

2 Q. The software company --

3 A. Yes.

4 Q. -- that developed the program --

5 A. Yes.

6 Q. -- owned the third-party vendor foreclosure
7 services provider?

8 A. At some point in the past but they're
9 separate now.

10 Q. And is that the company that wrote the
11 program?

12 A. I assume so.

13 Q. Does IndyMac buy the program or they just
14 license it --

15 A. We're a licensed user.

16 Q. -- to use it?

17 A. OneWest Bank is a licensed user.

18 Q. No. 10 was whatever you personally reviewed
19 just to make the statement that the late charges due
20 and owing were \$253.44.

21 A. That's that same, the same printout. And you
22 see that as of the date that was put in here, because
23 the late charge -- if you -- in the affidavit it said
24 that the late charges were as of November 14th, 2008,
25 so that's how that number gets calculated.

1 Q. So because the principal and interest are
2 projected forward and the late fees are not, you have
3 to do two different type screens; is that right?

4 A. Yes, but it's because of the way the
5 affidavit reads. It reads that these are as of such
6 and such date, but then it kind of says late charges
7 are just as of.

8 MR. ICE: Let's go ahead and mark this
9 as the next exhibit.

10 (Thereupon, Defendants' Exhibit No. X
11 was marked for identification.)

12 BY MR. ICE:

13 Q. I'm going to hand you what's been marked as
14 Exhibit X to your deposition and ask you to identify
15 that document.

16 A. This is another screen in the pay 4
17 workstation that was used to get what the true late
18 charge was as of November 14th, 2008.

19 Q. I'm going to hand you what's been marked as
20 Exhibit P10 to your deposition and ask you if that's --
21 ask you to identify that document.

22 A. This is a system -- I mean, a screen on the
23 system that you can use to calculate late charges that
24 have been assessed to the loan. The problem with using
25 this for an Affidavit of Indebtedness is the system

1 only goes back so far and when there are other --
2 there's only so much room on the screen. One of the
3 issues with still using green screen, instead of a
4 web-based type application. So you can't correctly
5 depict to the penny what's due.

6 The other thing is the borrower can make a payment
7 and pay some to late charge. So if you're just going
8 to pick up the raw, this is what was assessed to the
9 loan, you would miss any credits that were paid to late
10 charges, where this is a better representation of going
11 back in history through a date.

12 Q. How are the late charges computed?

13 A. Did I print that? I think I have it on my
14 desk. There's actually a screen that says what the
15 percentage is for this loan and how it's computed. And
16 I didn't, I didn't bring it with me, but I can -- I
17 didn't bring it with me. I can show you that, though.
18 We have it. It's another green screen. You put in the
19 loan number and it says for this particular loan this
20 is the calculation that's used, this is the percentage
21 that's used for that payment to get this late charge.

22 Q. And that information ultimately came from the
23 original note and --

24 A. Yes.

25 Q. -- mortgage?

1 A. Yes, yes, yes.

2 Q. What screen would you ask for to show you
3 what the algorithm is being used to compute the late
4 charge?

5 A. MAS1, LTE1. Similar to MAS1. MAS1 means
6 master file, and then there's the second code that gets
7 you to certain specific areas you want to see.

8 Q. You don't have a printout of that with you
9 today, do you?

10 A. I don't, but I can get you that.

11 Q. No. 11 was materials that you personally
12 reviewed in preparation for making the statement that
13 inspections conducted on the property cost \$33.

14 A. I think I saw it in something that you
15 already have, but I have a copy here too.

16 Q. Would this be --

17 A. That's the actual bill. The system shows the
18 bill that was, when the bill was assessed, when it was
19 ordered and when the charge was assessed to what
20 account.

21 MR. ICE: Let's mark this as the next
22 exhibit.

23 (Thereupon, Defendants' Exhibit No. Y
24 was marked for identification.)

25 BY MR. ICE:

1 Q. Hand you what's now been marked as Exhibit Y
2 to your deposition and ask you to identify that
3 document, please.

4 A. This is, this workstation is called DDCH and
5 it shows all of the fees that have been applied to the
6 borrower's corporate advance account.

7 Q. What does DDCH stand for?

8 A. I don't know. Somebody in 1962 came up with
9 that.

10 Q. Can you tell me what these codes here,
11 starting with L, stand for?

12 A. I have to think about that for a second. No,
13 I can get that information for you, though, because I
14 don't work in these screens all the time. I know how
15 to get to them. I know what they do, but I own the
16 foreclosure and the bankruptcy workstations and another
17 business owner owns the accounting ones.

18 Q. Down here, the C/A payee, what does that
19 stand for?

20 A. I think, I believe that the person who pays
21 the bill, who would have paid this bill for this BPO,
22 would put a code in here so that there's a running
23 balance of what was paid and how.

24 Q. And TRAN?

25 A. I think those are just the, maybe the batch

1 numbers, the trans, the transaction codes.

2 Q. Are there supposed to be numbers or
3 figures --

4 A. No.

5 Q. -- in there?

6 Why are these all sort of blank lines?

7 A. Because it's a green screen, very old. So if
8 you're entering in data, and everyone doesn't have
9 access to do that, if you're entering in data, those
10 would be green so you can do that. For a normal user
11 that's just viewing, you wouldn't be able to manipulate
12 any data here. It would be just for informational
13 purposes. All you could really do is print the screen.

14 Q. In the, where the columns of information
15 actually begin, you have TRN, that stands for
16 transaction?

17 A. Transaction.

18 Q. They have numbers but some of the numbers are
19 repeated?

20 A. The user, what it's saying is how -- who --
21 that field is being used to say who the bill is paid or
22 how the bill was being paid. NIV stands for new
23 invoice which is the invoicing system that LPS created
24 that we use to pay for services that they render. We
25 order our BPOs from LPS Default Solutions so that's why

1 it says new invoice. Our property inspections used to
2 go through First American, but now go through Field
3 Services and that's what that acronym means, FS -- FFS.

4 Q. So even though the title is USR, which sounds
5 like user, those aren't initials of any particular
6 person?

7 A. No.

8 Q. And the transaction 631 just means that
9 that's an inspection?

10 A. I believe so. I don't know. They might use
11 that as the batch code, so if anyone had to ever go
12 look at the work, the actual line item, the backup for
13 this, I think that's how -- what they do with these.
14 It's to see what type of batch of work on that day you
15 would find the backup.

16 Q. What does FBIF inspection fee stand for?

17 A. This is just a description of what was paid.

18 Q. What is FBIF?

19 A. I don't know.

20 Q. COIF?

21 A. I don't know what that means.

22 Q. PCIP?

23 A. I don't know. I know that there are some --
24 let's see, what did I do with -- let's see if I have
25 something that I can show you. It might tell the type

1 of inspection that was ordered. Let me see if I can
2 just pick up that. No, I don't know. That could be
3 the person that actually did the transaction. I don't
4 know.

5 Q. Let's take a look at P11 and ask if you can
6 identify that document.

7 A. That is the actual bill for the property
8 inspection.

9 Q. And that bill is from LPS Field Services?

10 A. Yes.

11 Q. According to this, there was a property
12 inspection on March 18th of 2009?

13 A. Yes.

14 Q. The report was that it was occupied by name
15 unknown, right?

16 A. Yes.

17 Q. And the description was property inspection,
18 no contact inspection invoiced, right?

19 A. Right.

20 Q. What are they doing there?

21 A. We have some -- the type of property
22 inspections we order on loans and foreclosure and
23 bankruptcy are the general no contact property
24 inspection, meaning go to the house, make sure it's not
25 burnt down, make sure the grass is not ten feet high,

1 and bring us that information if it is, or if the
2 property is for sale or if it's occupied and how you
3 knew it was occupied, but don't knock on the door and
4 contact the borrower.

5 We have some campaigns where we do want the
6 borrower contacted, some loss mit campaigns where
7 they'll leave door knockers so that the borrower knows
8 that we're trying to reach out to you some kind of loss
9 mit. But a normal foreclosure or bankruptcy property
10 inspection outside of the campaigns is just a don't
11 knock on the door and, you know, get anyone upset, just
12 inspect the property, make sure it's still there.

13 Q. Does LPS have a local office where they have
14 somebody that does this?

15 A. I believe they contract out to, because it's
16 Maintenance Nationwide, so I believe they have
17 contractors. I don't, I don't manage the property
18 preservation.

19 Q. So from this, we don't know who actually
20 drove by the property?

21 A. No, there is something that tells -- oh, you
22 see how this one on here says door hanger? That's what
23 I was referring to. It's not on here, but there is
24 something in the system because the folks in the credit
25 prop pres department can always tell who did what.

1 Q. In the what department?

2 A. Prop pres, property preservation.

3 Q. How often are these ordered?

4 A. We want a property inspection completed one
5 every 30 days, but I believe the order cycle is sooner
6 than that. It like orders -- I can't be for sure
7 because I don't manage this process. I want to say the
8 order goes out, it might, it can even be every 20 days.
9 It's less than the 30-day threshold, to be sure that
10 every month the property gets inspected. If the
11 inspector sees that the property was just inspected,
12 like if the orders overlapped for some strange reason,
13 a short month or something like a February happened,
14 then the property inspector won't inspect the property.
15 The idea is to get one once a month.

16 Q. Okay. No. 12 was the materials you reviewed
17 in preparation for making the statement that the BPO
18 cost \$145.

19 A. That's here.

20 Q. And "here," you're referring to an entry on
21 Exhibit Y to your deposition?

22 A. Yes.

23 Q. I'm going to hand you what's been marked as
24 Exhibit P12 to your deposition and ask you if you can
25 identify that?

1 A. This is the DDCH again. It's a cover, it's a
2 cover to the difference between the one I provided you,
3 and this one is that this was generated when the
4 affidavit was done, and this was generated after lots
5 of things happened. So we're paying attorneys fees and
6 other things. Attached to it is the actual broker's
7 price opinion, BPO.

8 Q. Do you order a broker's price opinion in
9 every foreclosure case?

10 A. Yes. Well, we order a reconciled value on
11 every foreclosure case. I'm trying to, I'm trying to
12 say this simply. There are times when the broker comes
13 back with a value where the variance here, where it
14 says 24 percent? Okay. Can you read it?

15 What actually was ordered on here was the
16 reconciled value is this first grade, the second grade
17 line, right?

18 Q. Okay.

19 A. And what that reconciled value is this
20 desktop value, which is a desk appraiser value, and the
21 BPO. So what we actually order is this reconciled
22 value on every property and so it gives us a better
23 indication of that market. It's not just one
24 independent broker's opinion.

25 Q. Well, the document that we have here with the

1 pictures and the graphs in it, is that the BPO itself
2 or the reconciled value?

3 A. It's everything. It's everything, but it's
4 highlighting, the BPO is 250, but the reconciled value
5 is 190. And down where it says reconciliation
6 comments, it will explain why that appraiser valued it
7 the way that it was.

8 Q. Does this tell you who did the appraisal?

9 A. Somewhere it should. Again, I don't manage
10 this group, so I can't get to it -- I mean, I can't
11 flip to it quick or anything. And this is hard on my
12 eyes. They would know, someone in this group would
13 know how to get down to who actually completed the
14 value.

15 Q. Does someone physically go out to the house
16 to do this?

17 A. Yes.

18 Q. That's how they get these pictures?

19 A. Yes.

20 Q. I still didn't understand your answer. Do
21 you order a broker's price opinion in every case or
22 not?

23 A. We order a reconciled value in every case. A
24 reconciled value includes a broker's price opinion.

25 Q. If we wanted to see this in other cases, what

1 would we ask for?

2 A. You want me to -- are you going to pay me to
3 tell you how to do your work? Just any -- you could
4 just ask for how -- what our current value is, the
5 backup for our current value, and we'll pull whatever
6 we have. If you said BPO, you might get just a BPO.
7 You could say reconciled value.

8 Q. Do you have other means for determining
9 value?

10 A. None, none that we like to do. I mean, I
11 mean, there are AVMs are available. We just don't like
12 to use those. They're not as reliable.

13 Q. What's an AVM?

14 A. Those are, big companies do them, like if you
15 go to Realtor.com and you put your property address, it
16 will give you a value. It's kind of databased on
17 recent sales, but the property --

18 Q. Talking like GoZilla?

19 A. Like that, yes. So we don't like to depend
20 on -- we get them as a service with our prop pres
21 company -- I mean, our evaluation company, but we don't
22 use them. We don't make business decisions on it.

23 Q. And you call that AVM?

24 A. Yes.

25 Q. Do you know what that stands for?

1 A. No.

2 Q. No. 13 was asking for whatever you reviewed
3 for making the statement that plaintiff has employed
4 the services of Florida Default Law Group.

5 A. The referral transmittal.

6 Q. Okay. And that is Exhibit P13, correct?

7 A. Yes.

8 Q. The top of this form says FIS Desktop. That
9 is referring to your outsource vendor?

10 A. Yes, at that time. See, I pulled that in
11 November. Now they are LPS. At this time they were
12 FIS.

13 Q. This is a document that's issued by FIS, now
14 LPS, to the attorney?

15 A. Yes.

16 Q. An attorney in your approved network?

17 A. Yes.

18 Q. And this is what transmits the beginning of
19 the case?

20 A. Yes.

21 Q. Okay. It tells them, your counsel, whose
22 name to sue in, correct?

23 A. Yes.

24 Q. In this case, it instructed Florida Default
25 Law Group to sue in the name of IndyMac Federal Bank,

1 FSB, correct?

2 A. Yes.

3 Q. And then it tells them to vest title in
4 Deutsche Bank National Trust Company --

5 A. Yes.

6 Q. -- as trustee, et cetera, et cetera, correct?

7 A. Yes.

8 Q. What does that mean, to vest title in them?

9 A. At the conclusion of the foreclosure action,
10 to put the final deed in the name of Deutsche Bank
11 National Trust.

12 Q. The instruction, mortgage currently held by
13 and foreclosure should be in the name of, is not
14 correct because as of the date of this transfer, or
15 transmittal package, the mortgage was still in the name
16 of MERS, correct?

17 A. But we can't, we can't do the action in the
18 name of MERS, which is why a default's to IndyMac
19 Federal Bank.

20 Q. But the idea that the mortgage currently held
21 by IndyMac is incorrect?

22 A. Right, that shouldn't say "and." It probably
23 should say "and/or."

24 Q. Is there anything on this document that tells
25 your counsel that the note is lost?

1 A. No, we wouldn't, no one would know that at
2 the time this is generated.

3 Q. Do you have any involvement in negotiating
4 the contracts for the attorneys that are in your
5 network?

6 A. No, we don't have a contract with our
7 attorneys. It's a business relationship. LPS does
8 have contracts with the firms for use of the technology
9 and the bank is not party to that contract.

10 Q. So you select them, but you don't have any
11 direct contract with the attorneys? And when I say
12 you, I'm talking about OneWest, of course.

13 A. That's right.

14 Q. Their contracts are with FIS or LPS?

15 A. Right, for the technology, yes. Use of their
16 proprietary system, yes.

17 Q. But I'm interested in the contracts to
18 represent IndyMac or OneWest as their attorney.

19 A. We don't have contracts for that.

20 Q. The legal service contracts are with LPS?

21 A. Those aren't with LPS, either.

22 Q. Who are those with?

23 A. There are no contracts between OneWest Bank
24 and Florida Default Law. It's all built on
25 relationships and scorecards and -- and -- I'm looking

1 for a word. It escaped me. So there's no contract.
2 Our expectation is -- now, we do have expectations, but
3 there's no contract.

4 Q. Well, how do they know what to bill you?

5 A. They always -- the firms have to bill
6 according to Fannie or Freddie guideline, even if the
7 loan is not Fannie or Freddie. Usually we adopt Fannie
8 Mae's billing maximum bid. Fannie Mae have already
9 gone out and said for a file in California you can't
10 charge more than X dollars and the firms cannot charge
11 us more than that, and it doesn't matter who the
12 investor is.

13 Q. You mentioned scorecards. What information
14 is used for the scorecards?

15 A. Data like our -- it's -- I don't know. I
16 don't know. It's data --

17 THE WITNESS: Are you putting that in
18 there?

19 (Thereupon, there was an off-the-record
20 discussion held.)

21 MR. ICE: You can take it out. That's
22 okay.

23 THE WITNESS: Data like, it's hard data.
24 We referred ten files to the firm. We have
25 expectations that the first legal action,

1 once they get the referral, if there's no
2 reason, if it's a normal foreclosure process,
3 an uncontested foreclosure, our expectation
4 is that the first legal action be filed
5 within ten days. If it's filed within ten
6 days, and for that particular line item they
7 would have 100 percent that month.

8 But if something fell outside of that,
9 we have states where if all the assignments
10 aren't recorded prior to the first legal
11 action, then we can't proceed, like in New
12 York. So there will be a delay to get those
13 first, to get those intervening assignments
14 recorded. And then that delay, of course,
15 would affect their score. It's not really
16 their fault, but that's the way it works. So
17 it kind of grades different areas in the
18 process.

19 BY MR. ICE:

20 Q. But essentially you're scoring how quickly
21 your counsel can get through the foreclosure process?

22 A. No. Fannie Mae has and Freddie Mac, they
23 have a per -- like the fee schedule. They also say the
24 foreclosure in California -- and this is based on that
25 state's laws, too -- should not take longer than 120

1 days. There's no reason for it to take longer than 120
2 days because the state dictates that this is filed at
3 this point and this is filed at this point and this is
4 filed.

5 So the idea isn't to get through the process as
6 quickly as you can, unless if the property or the
7 borrower has abandoned it, the borrower has told us
8 they don't want the property; otherwise, IndyMac Bank,
9 IndyMac Federal Bank, OneWest Bank's perspective is how
10 do we keep the borrower in their home. So we don't
11 look at time lines. They're there, they're a guide and
12 it's the industry standard, but no one's being graded
13 on time lines.

14 Even the servicer isn't even being graded on time
15 lines like we were in the past. Fannie Mae would say,
16 Erica, what's going on in California because you're
17 20 percent outside of time, time lines. So we don't
18 have that same kind of oversight today.

19 Q. Well, let's try to narrow it down to your
20 Florida attorneys and how things run today.

21 A. Okay.

22 Q. Are the attorneys for the banks, for OneWest,
23 scored on how quickly they get the foreclosure through
24 the process?

25 A. It's too broad of a question. No. Generally

1 no, because there are controllable delays and
2 noncontrollable delays. So, of course, a
3 noncontrollable delay is bankruptcy, a noncontrollable
4 delay is a payment plan, review for loan modification,
5 deed in lieu, DIL review, because in a deed in lieu the
6 investor requires that the property is marketed for six
7 months, so noncontrollable delay. So those are carved
8 out of the time line, so.

9 And the firms are not incented on getting them
10 through the process as fast as they can. In a state
11 like Florida, specifically since this is a judicial
12 state, there are always court delays, there are the
13 mediations. Those are all uncontrollable delays.
14 Nothing in Florida is happening like a foreclosure
15 might happen two years ago. Now it's like what, plus
16 nine months.

17 So no one, there is not this mindset of getting
18 through the process as fast as you can. As a matter of
19 fact, it's quite the opposite. We know we're not going
20 to -- you know, the courts are backlogged, the
21 mediators are backlogged. Let's try to work this out
22 now before the mediator calls us to the table.

23 Q. I just want to be very, very clear because
24 what you just said is very counterintuitive to
25 everything that we have experienced on our side of the

1 table. You're telling us that as far as your attorneys
2 are concerned, there's absolutely no incentive to file
3 the cases as quickly as possible and get them through
4 the system?

5 A. No, we don't incent the attorneys. No, we
6 don't incent the attorneys to get it through the system
7 as fast as they can.

8 Q. How about file as quickly as they can?

9 A. We have an expectation that the first legal
10 is filed within ten days of referral. And so with
11 every state, once you file the first legal, the state
12 law takes over. As soon as that happens, you know, the
13 next step happens as a result of the first legal
14 action. And I'm not just speaking of Indymac. Only
15 OneWest Bank, right?

16 Q. Right.

17 A. Just not all servicers, just OneWest.

18 Q. Well, I don't mind telling you on the record,
19 the reason why I'm asking that question, I think a lot
20 of the things that are problematic in this case for
21 you, like the assignment, could have been avoided had
22 they just done the assignment first, got you to sign it
23 and then filed the case. I don't understand. Maybe
24 you can explain it to me, why there's this rush to get
25 it filed and then assign the mortgage after the case is

1 filed, which in Florida is a big problem. Do you have
2 any explanation for that? And this isn't --

3 A. Are we going back to the MERS?

4 Q. Yeah, the MERS' Assignment of Mortgage.

5 A. Okay. The reason, the idea is that MERS,
6 sometimes Deutsche in the past Fannie and Freddie,
7 would like for us to do the action in our name. That
8 doesn't mean that we cannot do the action in any of
9 those four entities names. The result, however, of
10 doing an action in their name, when their guide, the
11 investor guideline is that we not, is that if there's
12 any loss, we may be responsible for that loss.

13 If any lawsuit happens, like in this case, your
14 lawsuit is not against Deutsche, your lawsuit is
15 against IndyMac Federal. It's for that reason that
16 investors usually don't want you to do the action in
17 their name. It's there, it's for their protection, but
18 it doesn't mean that we don't, we categorically cannot.
19 It happens because it happens in error. It happens
20 because someone didn't realize this was a Fannie Mae
21 loan and thought it was an IndyMac Bank loan and -- I
22 mean, I'm sorry, vice versa -- and actually filed the
23 action in Fannie Mae's name.

24 So there's nothing -- we don't -- there are
25 guides, but the guides are loose and they're gray. So

1 the guide says, don't start this action in the name of
2 MERS, but it doesn't say what's going to happen if you
3 do.

4 Q. Okay. That's kind of addressing a different
5 question, but before I get back to my original question
6 I want to make sure. I didn't understand why the
7 Deutsche Bank, for example, in this case would object
8 to having the case brought in its own name?

9 A. Well, I can't speak for Deutsche, so what I'm
10 repeating to you is my understanding. And I did work
11 for Fannie Mae before, eight and a half years at --
12 what did you call my resume, duces tecum? So I can
13 tell you from my previous experience and being in this
14 industry for 18 years, that generally the investor does
15 not want their name tied, they don't want to be pulled
16 into the lawsuit. Their expectation of the servicer is
17 that they service the loan, which includes the good and
18 the bad, and that if for any reason there's ever a
19 lawsuit, then the bank would handle it.

20 So I'm going to go back to using Fannie Mae
21 because I worked there before. If this were a Fannie
22 Mae loan and we were paying excessive attorney fees and
23 costs because of the contested litigation, Fannie Mae
24 is not going to reimburse OneWest Bank for those fees.
25 OneWest Bank would eat the fees in that case because

1 Fannie Mae's expectation is, you're the servicer and,
2 you know, if it's contested, then, you know, you got to
3 fix it. That's part of the agreement, so.

4 Q. Those cases that you mentioned before that
5 you had settled, the difference that you settled it
6 for, did OneWest end up, as you say, eating the
7 difference?

8 A. Yes.

9 Q. Now, going back to my original question,
10 which is about, not about whose name to bring it in,
11 but the timing. Do you have an explanation why this
12 case would get filed before the Assignment of Mortgage
13 was in place such that IndyMac Federal Bank would be
14 the mortgagee at the time of filing?

15 A. I need to go look at the dates again. When
16 was it filed, the first legal action?

17 Q. The case was filed November 21st --

18 A. IndyMac Federal Bank.

19 Q. -- 2008 in the name of IndyMac Federal Bank.

20 A. And the MERS assignment?

21 Q. The MERS assignment was dated December 2nd,
22 2008. By waiting one week, this could have been in
23 place by the time the lawsuit was filed.

24 A. I mean, I can -- again, this is based on my
25 experience. I can come up with reasons why that's

1 possible. It's not ideal. Is it against the law in
2 Florida to start the action in the name, you know, one
3 way or the other, I don't know. I think that's
4 arguable, but in this case, in this particular case --

5 MR. ICE: Joe's got the argument.

6 MR. MANCILLA: It will be argued.

7 THE WITNESS: In this particular case, a
8 lot of these actions happen simultaneously.
9 The loan is referred, someone's trying to
10 order the original docs, someone's trying to
11 prep the assignments, well, it's going down
12 three different paths. The documents, the
13 last time we spoke, I was the only one
14 signing them. I could have gotten that
15 document, but I can't tell you now. But I
16 can tell you when that document was
17 originally sent to OneWest Bank for
18 signature. It could have been sent to
19 OneWest Bank on November 15th and it just
20 took me that long and the process that long
21 to get it back and it just, the items
22 crossed.

23 BY MR. ICE:

24 Q. But I want you to assume for the purposes of
25 my question, and Joe's free to argue it later, that you

1 need, you need to be the mortgagee when you file your
2 complaint, which, as an attorney, if I was working for
3 the bank, I would just make sure I had this document in
4 my hand before I went down -- and by this document, I
5 mean the Assignment of Mortgage -- before I went down
6 to file my complaint. I mean, it's not that difficult
7 to say I need A before I do B.

8 Do you have any explanation why that doesn't
9 happen in 99 percent of the cases?

10 A. No, if I did, this is off the record, I would
11 have won the lottery if I had those kind of answers.
12 No, I don't know. I mean, the only thing I can offer
13 is that I think some of these processes are happening
14 simultaneously and things are getting crossed and maybe
15 someone -- maybe there's -- I don't know. I don't
16 know. I can't really say.

17 Q. And the same question with the lost note
18 counts, I think we have about 50 or so cases with
19 Florida Default Law Group, and I can tell you that in
20 certainly much more than 50 percent there's a lost note
21 count. And from everything you've said today, that's
22 not true, that there's not 50 percent of the notes
23 getting lost out there.

24 A. Are you talking -- are all these OneWest
25 Bank?

1 MR. MANCILLA: No.

2 BY MR. ICE:

3 Q. No, they're not all OneWest Bank. But would
4 you agree that by holding off on filing the complaint
5 for a few days might reduce the number of lost note
6 counts because the note would show up at OneWest, or
7 whoever the servicer is?

8 A. Yes, I agree.

9 Q. So No. 14: Printout of the MAS INV1 for the
10 subject loan from the MSP Fidelity program.

11 A. Did you get that? I should have highlighted
12 it. And that's MAS1 INV1.

13 (Thereupon, Defendants' Exhibit No. Z
14 was marked for identification.)

15 BY MR. ICE:

16 Q. I'm handing you what's been marked as Exhibit
17 Z to your deposition and ask you to identify that
18 document.

19 A. This is a screen print of the master file
20 that shows who the investor is for this loan, the
21 [REDACTED] loan.

22 Q. I'm going to hand you what has been marked as
23 P14 to your deposition and ask you is that the same
24 document?

25 A. It is, yes.

1 Q. And the investor indicated on there is
2 Deutsche Bank?

3 A. Yes.

4 Q. What does HDR INDX stand for?

5 A. I think that HDR means holder. And index is
6 part of that full name. The system can't hold the full
7 name, all of that.

8 Q. And you say it's the full name of the trust.

9 A. The trust. So that INDX is a piece of the
10 full name.

11 Q. Right. And so it's 2006-AR4?

12 A. Yes.

13 Q. What is the address that's underneath that?

14 A. I believe that is when this PSA, at the time
15 of the PSA of the loan that's under this agreement,
16 that's the address in the PSA document for the bank,
17 for Deutsche Bank.

18 Q. Up at the top has MSP Loan Master Maintenance
19 & Display. That's the name of this document or this
20 print, this screen?

21 A. Yes.

22 Q. Below that, type 13, what does that stand
23 for?

24 A. It means that the first -- it kind of tells
25 you right there. It's a first mortgage. A one means

1 first mortgage, three means conventional.

2 Q. And W/O INS is without insurance?

3 A. Yes.

4 Q. Meaning it's not being escrowed for
5 insurance?

6 A. No, I think that means no MI.

7 Q. Mortgage insurance?

8 A. Yes.

9 Q. ARM, meaning it's an adjustable rate
10 mortgage?

11 A. Yes.

12 Q. What does group stand for?

13 A. I don't know. I don't think it's something
14 that we use, either.

15 Q. What is INV1 on the next line?

16 A. That is the sub-screen in the master
17 workstation.

18 Q. INV and then the line below that?

19 A. That's the investor code. Right next to it
20 is the category code. That is how, within the system,
21 that is how the sales are tagged.

22 Q. Does 753 stand for Deutsche Bank?

23 A. Probably.

24 Q. And do you know what 665 in the category
25 stands for?

1 A. I don't know, but any loan that came up with
2 this would always come up with this as the investor.

3 Q. Let me show you what's been marked as Exhibit
4 P15 to your deposition and ask you if recognize that?

5 A. Yes, I do.

6 Q. What is that?

7 A. The Affidavit as to Amounts Due and Owing.

8 Q. This appears to be the same one as you
9 signed, only the name is blank, correct?

10 A. Yes.

11 Q. Who fills in your name on the affidavit?

12 A. The firm.

13 Q. Okay. So you would never have seen something
14 that looks like this with your name still blank?

15 A. I know for sure I would never see any -- no,
16 I wouldn't ever see anything blank.

17 Q. How does the attorney who is preparing this
18 know to fill it out for your name?

19 A. Generally, because of the relationship, they
20 know that I'm the vice president of bankruptcy and
21 foreclosure and I would be the one answering rogs from
22 a bankruptcy or foreclosure contested matter.

23 Q. Okay. But that is the Affidavit of Amounts
24 Due and Owing.

25 A. Sorry. Same thing. Because I am the vice

1 president of bankruptcy and foreclosure, they know to
2 put my name down.

3 Q. Didn't you tell us earlier that there's
4 several people in your department now who sign?

5 A. Yes, there are now.

6 Q. So how do they know to choose you over them
7 when they put their name in it?

8 A. Well, they're always going to put my name,
9 and because my name is here, this would be one of the
10 documents I would always get, kind of like with the
11 Lost Note Affidavit, because they're going to put that
12 in before it gets to me. So that's won't go to Roger
13 because it has my name in it.

14 Q. So all the Affidavits as to Amounts Due and
15 Owing come to you?

16 A. If my name is there, it's going to come to
17 me, yes.

18 Q. Well, now back to how do they know to put
19 your name there?

20 A. Because of the relationship we have.

21 Q. So are you saying that all the Affidavits as
22 to Amounts Due and Owing prepared by Florida Default
23 would have your name on it?

24 A. Most likely, except for -- there's an
25 exception. If I'm on vacation, which I haven't had one

1 of those in two years -- that was off the record -- and
2 they know Roger's going to sign, then it will get to
3 the LPS folks with my name. They're going to reject it
4 and tell the firm they need to put a different name in
5 because I'm out of the office.

6 Q. If you turn further back in the pages that
7 are marked as Exhibit P15, do you see another copy of
8 Exhibit A to your notice of deposition duces tecum?

9 A. Yes.

10 Q. Have you seen that version before?

11 A. I don't know.

12 Q. By version, I mean do you see that somebody
13 made some markings on there?

14 A. Okay. I don't think I've seen anything with
15 markings on it before.

16 Q. You didn't make those marks, correct?

17 A. No.

18 Q. And you don't know who did?

19 A. No.

20 Q. Do you know what NOD stands for?

21 A. Notice of default.

22 Q. Do you know why that's written next to No. 5?

23 A. Whoever wrote it was probably thinking a
24 complaint was a notice of default, and that terminology
25 isn't true in the foreclosures in Florida, but in the

1 foreclosures in California.

2 Q. Take a look at P16, please.

3 A. Yes.

4 Q. That was produced along with all the other
5 documents?

6 A. Yes.

7 Q. Do you know what that is?

8 A. Yes, this is the procedure, that I'm sure
9 you've read it, like where it says, do a total payoff
10 on pay 4, it's like the procedure of how to get the
11 figures for the Affidavit of Indebtedness or judgment
12 figures.

13 Q. Is this instructions to your counsel?

14 A. Oh, no, no, no. This is instructions to --
15 it's not instructions to anyone. It's the procedure.
16 It's saying, LPS, when we are ready for the firm to do
17 a judgment, pull down these screen prints for the firm.
18 I'm sorry. Not even pull them down because it's
19 automatic.

20 As soon as we refer it, these screens that I've
21 given you automatically upload to LPS's system. So
22 when is this dated? This is probably a long time ago
23 before we automated that process. So at one point they
24 may have been, maybe before my time, they may have been
25 actually going in and printing the screens. That

1 doesn't happen today.

2 Q. Do you know why this was included in the
3 materials that were --

4 A. No.

5 Q. -- produced for your deposition?

6 A. I don't know, unless it was some reference to
7 how the figures, how we come up with the figures.
8 That's the only thing I can think of.

9 Q. No. Q, please.

10 A. Okay.

11 Q. This should be very similar to the Limited
12 Power of Attorney that you produced earlier --

13 A. Yes.

14 Q. -- giving IndyMac the right to sign on behalf
15 of Deutsche Bank, correct?

16 A. Okay.

17 Q. This particular one was recorded by Kahane &
18 Associates, not by Florida Default.

19 A. Okay.

20 Q. Can I see your version? Yeah. This one has
21 the highlighting.

22 I wanted to call your attention to the top of page
23 4, and I've highlighted the words, Nothing contained
24 herein shall, then it's a couple of things that jump to
25 No. 2, be construed to grant the servicer the power to

1 initiate or defend any suit, litigation or proceeding
2 in the name of Deutsche Bank National Trust Company
3 except as specifically provided for herein.

4 A. Okay. Yes.

5 Q. Going back to my earlier question, does this
6 refresh your recollection as to where the restriction
7 is that keeps IndyMac from filing in the name of
8 Deutsche Bank?

9 A. Yes.

10 Q. And that would be in the Limited Power of
11 Attorney that Deutsche Bank gives to IndyMac, correct?

12 A. Yes.

13 Q. And then when I turn back to page 8, I've
14 highlighted INDX 2006-AR4.

15 A. Yeah, you see that category code, 665? Right
16 here.

17 Q. Right. So this trust that you've identified
18 in your documents as being the owner, as being aware
19 that a note is securitized, is among those trusts for
20 which Deutsche Bank has given IndyMac Limited Power of
21 Attorney?

22 A. Yes.

23 Q. And that's all shown in Exhibit Q, correct?

24 A. Yes.

25 MR. ICE: All right. May I confer with

1 my associate?

2 MR. MANCILLA: Sure.

3 MR. ICE: I think that's about it.

4 MR. MANCILLA: I want her to read and
5 sign. Do you want to enter into a
6 stipulation for the record?

7 MR. ICE: We have agreed, because of the
8 late hour today, that there was a second
9 deposition scheduled in the IndyMac Federal
10 Bank, FSB vs. Monica DeBenedetti and others,
11 a second deposition of our deponent here in
12 this case, we have agreed that the questions
13 and answers in this deposition can be used in
14 the DeBenedetti case, and for the specific
15 purpose of shortening the deposition, that we
16 will now agree to take by phone at a later
17 date.

18 MR. MANCILLA: Fine.

19 MR. ICE: We're not waiving the right to
20 take the deposition. We have some documents
21 that are specific to the DeBenedetti case,
22 but we will not ask all of the general
23 questions that were asked in this deposition
24 based on the stipulation that we'll be able
25 to use those in the DeBenendetti case.

1 MR. MANCILLA: That's fine.

2 (Transcript order taken by Reporter.)

3 MR. ICE: No, we want this. Heck, she
4 came all the way down here, I want to see
5 every word.

6 MR. MANCILLA: Copy, no extra.

7 MR. ICE: All electronic. No, no extra
8 exhibits.

9 MR. MANCILLA: Yes, copy of exhibits.

10 (Thereupon, the foregoing proceedings
11 concluded at 6:45 p.m.)

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1 C E R T I F I C A T E

2 STATE OF FLORIDA)
) ss

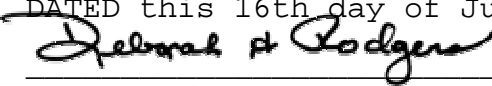
3 COUNTY OF PALM BEACH)

4 I, Deborah H. Rodgers, Certified Court Reporter
5 and Notary Public in and for the State of Florida at
6 Large, do hereby certify that I was authorized to and
7 did stenographically report the deposition of ERICA A.
8 JOHNSON-SECK; that a review of the transcript was
9 requested; and that the foregoing pages numbered 1
10 through 220 inclusive are a true and correct
11 transcription of my stenographic notes of said
12 deposition.

13 I further certify that said deposition was taken
14 at the time and place hereinabove set forth and that
15 the taking of said deposition was commenced and
16 completed as hereinabove set out.

17 I further certify that I am not an attorney or
18 counsel of any of the parties, nor am I a relative or
19 employee of any attorney or counsel of party connected
20 with the action, nor am I financially interested in the
21 action.

22 DATED this 16th day of July, 2009.

23 

24 DEBORAH H. RODGERS, CSR
Notary Public, State of Florida
My Commission DD496368 Expires 1/22/10

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C E R T I F I C A T E

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STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I HEREBY CERTIFY that I have read the foregoing deposition by me given, and that the statements contained herein are true and correct to the best of my knowledge and belief, with the exception of any corrections or notations made on the errata sheet, if one was executed.

DATED this ____ day of _____, _____.

Erica A. Johnson-Seck

1 July 16, 2009
2 Ms. Erica A. Johnson-Seck
c/o Joseph Mancilla, Jr., Esq.
3 Florida Default Law Group, P.L.
9119 Corporate Lake Drive, Suite 300
4 Tampa, Florida 33634
5 Re: IndyMac Federal Bank, FSB vs.
[REDACTED] et al., etc.

6
7 Dear Ms. Johnson-Seck:

8 Please take notice that on July 9th, 2009, you
gave your deposition in the above-referred matter. At
that time, you did not waive signature. It is now
9 necessary that you sign your deposition.

10 Please call our office at the below-listed number
to schedule an appointment between the hours of 9 a.m.
and 4:30 p.m., Monday through Friday.

11 If you do not read and sign the deposition within
a reasonable time, the original, which has already been
12 forwarded to the ordering attorney, may be filed with
the Clerk of the Court. If you wish to waive your
13 signature, sign your name in the blank at the bottom of
this letter and return it to us.

14
15 Very truly yours,

16 _____
Deborah H. Rodgers, CSR
Conсор & Associates
17 1655 Palm Beach Lakes Boulevard
Suite 500
18 West Palm Beach, Florida 33401
561.682.0905

19
20 I do hereby waive my signature

21 _____
Erica A. Johnson-Seck
22 cc via transcript: Thomas E. Ice, Esq.
23 File copy
24
25