

1 IN THE CIRCUIT COURT OF THE 17TH
2 JUDICIAL CIRCUIT IN AND FOR
3 BROWARD COUNTY, FLORIDA

4 CASE NO: CACE 08-011097

5 CITIMORTGAGE, INC.,

6 Plaintiff,

7 -vs-

8 DENNIS BROWN,

9 Defendant.

10 _____/

11 D E P O S I T I O N OF MS. CHERYL SAMONS
12 Volume I of I
13 Pages 1 through 70

14 Thursday, April 29, 2010
15 10:30 a.m. to 12:00 p.m.
16 101 N.E. 3rd Avenue, Suite 1500
17 Fort Lauderdale, Florida

18 Stenographically Reported By:
19 SHARON HODGE
20 Court Reporter

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1 APPEARANCES:

2 On Behalf of the Defendant.
3 Law Office of Kenneth Eric Trent
831 E. Oakland Park Blvd.
Fort Lauderdale, Florida 33334-2752
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954-567-5877
Trentlawoffice@yahoo.com
BY: KENNETH E. TRENT, ESQUIRE

On Behalf of the Plaintiff.
Law Office of David J. Stern
900 S. Pine Island Road, Suite 400
Plantation, Florida 33324-3903
954-233-8000
Gdreilinger@dstern.com
BY: GREGG R. DREILINGER, ESQUIRE.

On Behalf of the Witness.
Tew Cardenas LLP
1441 Brickell Ave, Floor 15
Miami, Florida 33131-3429
305-536-8452
Jt@tewlaw.com
BY: JEFFREY A. TEW, ESQUIRE.

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1 Deposition taken before Sharon Hodge, Court
2 Reporter and Notary Public in and for the State of
3 Florida at Large in the above cause.

4 * * * * *

5 THE COURT REPORTER: Please raise your right
6 hand.

7 Do you solemnly swear that the testimony
8 you're about to give will be the truth, the whole
9 truth, and nothing but the truth so help you God?

10 THE WITNESS: Yes.

11 THE COURT REPORTER: Thank you.

12 THEREUPON:

13
14 Having been first duly sworn, was examined,
15 and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. TRENT:

18 Q Good morning.

19 A Good morning.

20 Q State your name for the record please.

21 A Cheryl Samons.

22 Q Can you spell that?

23 A C-H-E-R-Y-L, last name Samons, S-A-M-O-N-S.

24 Q And your business address?

25 A 900 South Pine Island Road, Plantation,

5

1 Florida.

2 Q Zip code?

3 A 33324.

4 Q Do you have your drivers license here with
5 you today?

6 Let me see it please.

7 MR. TRENT: Let the record reflect that she
8 is handing me her drivers license.

9 Madam Court Reporter, can I get you to make a
10 copy of this so that I can mark it as an exhibit?

11 MR. TEW: No. There is no subpoena to
12 produce your license. Give it back to her.

13 You can look at it and make a note. You are
14 not going to make a copy of it.

15 BY MR. TRENT:

16 Q I see that you signed your drivers license.

17 Is that the way you normally sign your name?

18 A That was signed approximately ten years ago.
19 I has been renewed via e-mail. So yes, back then, that
20 was the way I signed my name.

21 Q Okay. Back then when you signed your name,
22 you actually wrote out your name in a manner that
23 everybody could pretty much see --

24 A Read it.

25 Q -- and read it?

6

1 A Yes.

2 Q Did there come a time that you started
3 signing your name in a different way?

4 A I do sign my name in a different way many
5 times. Yes. Sometimes in my personal business I
6 actually spell my name out so it is readable. But more
7 often, at work I don't. It is my initials, because I
8 sign a lot of documents.

9 Q Are you a Notary Public?

10 A Yes.

11 Q As a Notary Public, is there one of your
12 signatures that you use more than you use the others?

13 A I would venture to say that more often than
14 not it is my initials at this point in time.

15 Q Has it ever occurred to you that a person
16 signature is expected to be somewhat consistent, so
17 that if an issue ever arises regarding the legitimacy
18 of the signature, it can be compared with others?

19 A To be honest with you, no, it did not occur
20 to me. I know my signature, so if it were ever in
21 question, I would be able to tell you if I signed

22 something.

23 Q How many different signatures do you use?

24 A Probably two. One if I am writing maybe a
25 check. I may spell my name out a little bit more

7

1 coherently. But more often than not, it is my
2 initials.

3 Q Why is it that you would spell your name out
4 more coherently on a check?

5 A Because I have been questioned on checks when
6 I use my initials, so I am a little more detailed when
7 I sign a check now.

8 Q Because you know that the check has legal
9 significance. And it might come into question later,
10 correct?

11 A Because I have been questioned on it.

12 Q Have you ever been questioned on any of the
13 signatures that you have done while working at the law
14 office of David J. Stern?

15 A Just on checks.

16 Q Just on checks?

17 A Yes.

18 Q So it never occurred to you that any of your
19 signatures on any legal documents, while at work, might
20 come into question?

21 A No.

22 Q Ever heard of that happening before?

23 A No.

24 Q Have you had your deposition taken before?

25 A Yes.

1 Q How many times?

2 A Approximately four.

3 Q Can you tell me where they all the same type
4 of case or were they different sort of situations?

5 If that question makes any sense.

6 A If you are asking me in relation to
7 assignments, I have had my deposition taken once
8 before. They other two were unrelated.

9 Q Would it be fair to say that you are familiar
10 with the process of having your deposition taken?

11 A Yes.

12 Q You are aware that if you do not understand a
13 question, you can ask me to repeat it?

14 A Yes.

15 Q Are you under the influence of any medication
16 or other substance that would impair your ability to
17 answer my questions today?

18 A No.

19 Q I see that you have a gentleman sitting here
20 to your right, by the name of Mr. Tew, T-E-W.

21 Is he your attorney?

22 A Yes.

23 Q When did you retain him, or did you retain
24 him?

25 A I did not retain him. The firm did.

1 Q How did he become your attorney?

2 A The firm retained him.

3 Q By "firm" you mean?

4 A The Law Offices of David Stern.
5 Q Okay. who is your employer?
6 A The Law Offices of David Stern.
7 Q How long have you worked there?
8 A Approximately 20 years.
9 Q Is there anyone else who is your employer?
10 A No.
11 Q Are you an officer or director of any
12 corporations?
13 A I am. Yes.
14 Q Okay. Tell me the corporations of which you
15 are an officer?
16 A DJSP processing. But that is a recent
17 corporation. So I guess, technically I am employed by
18 both companies.
19 Q And what is your position as an officer with
20 D-J-S-P Processing?
21 A I am the operations manager.
22 Q Is it your understanding that that is an
23 officer of the corporation?
24 A That is my understanding.
25 Q Do you know if you are listed on the Florida

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1 Division of corporations as an officer with this DJSP
2 Processing?

3 A I have never seen it. No. Like I said, it
4 is a new company.

5 Q I am sorry if I missed this.
6 But how long have you worked for David J.
7 Stern's office?

8 A Approximately 20 years.
Page 8

9 Q And during that time, have you become
10 familiar with corporations in Florida and the ways that
11 they generally operate?

12 A It is not part of my day-to-day job
13 requirement. No.

14 Q But have you become familiar with
15 corporations as legal entities?

16 A I guess I don't understand the question.

17 Q Tell me everything you know about
18 corporations.

19 A In respect to what a corporation is?

20 Q Yes.

21 A What a corporation does?

22 Q Yes. Both.

23 A They can be lots of different things. I
24 don't really have a general knowledge. I guess I am
25 still a little confused as to what you are asking me.

11

1 Q Do you have any idea of the types of names
2 that corporations can have when they register with the
3 State of Florida?

4 A As far as I know, they can have any type of
5 name.

6 Q Do they need to end in Inc or Corp?

7 A I do not know.

8 Q Have you ever registered a corporation --

9 A No.

10 Q -- on the division of corporations website?

11 A Have I ever registered a corporation?

12 Q Yes, ma'am.

13 A No, sir.

14 Q Have you ever visited Sunbiz.org and looked
15 up the information on a corporation or other entity?

16 A No. I do not use Sunbiz.

17 Q Is there another website that you use to
18 check that information?

19 A I do not do that as part of my day-to-day
20 routine. No.

21 Q But my question was, have you ever?

22 A No.

23 Q Are you aware of who I am, and who represent,
24 and what case this is being taken in?

25 A I am aware that you represent the Browns in

12

0
1 this particular case.

2 MR. TRENT: Okay. I am going to hand you
3 what I will asked to marked -- I will mark them as
4 I introduce them -- as Defendant's Exhibit 1.
5 which is complaint to foreclose mortgage and to
6 enforce lost loan documents.

7 (Defense Exhibit Number 1 was marked as an
8 exhibit to the deposition.)

9 MR. TRENT: I will ask you to just take a
10 look at that and read it over. And tell me when
11 you are finished.

12 THE WITNESS: Okay.

13 BY MR. TRENT:

14 Q Have you seen it before?

15 A I don't recall this particular complaint, but
16 this is a complaint drafted by our office.

17 MR. TEW: The question is, "Do you recall
Page 10

18 this complaint?"

19 THE WITNESS: No.

20 MR. TRENT: Okay. Just put that aside, and
21 we will come back to it in a minute.

22 I am now going to hand you what I will mark
23 as Defendant's Exhibit 2.

24 (Defense Exhibit Number 2 was marked as an
25 exhibit to the deposition.)

13

1 MR. TRENT: which is an assignment of
2 mortgage. I will ask you to look that over and
3 tell me when you are finished.

4 THE WITNESS: I am finished.

5 BY MR. TRENT:

6 Q Have you seen this before?

7 A I signed it.

8 Q That wasn't my question.

9 Do you recognize it?

10 A I do not recognize this particular one piece
11 of paper.

12 Q How do you know that you signed it?

13 A Because that is my signature.

14 Q Show me on the page where your signature
15 appears. (Indicating)

16 Any other places?

17 A No.

18 Q You see down on the left hand side where it
19 says, "Witness: Shannon Smith"?

20 A Yes.

21 Q You see her signature there?

22 A I do.

23 Q And you also see her signature down at the
24 bottom in the Notary section?

25 A Yes.

14

1 Q Can you tell us how it is that you can
2 distinguish between your signature above your name and
3 the signature above Shannon Smith's name?

4 A Well, the first difference is that this is
5 that is Shannon's is entirely too neat to be my
6 signature.

7 Q What other differences do you see between the
8 signature that is supposedly yours and the signatures
9 that are supposedly Shannon's?

10 A There is a second loop in my signature,
11 because I put C-L-S, which is my initial. She appears
12 to be using like a S-S. But if you look at this loop,
13 this an L. It is C-L-S.

14 Q You would agree with me that your signature
15 looks pretty similar to hers; wouldn't you?

16 A On this document, yes, it does. But I know
17 that is not my signature.

18 Q Okay. Did you sign this document before or
19 after Shannon signed it?

20 A Before.

21 Q How do you know that?

22 A Because the Notary is stamped then after I
23 signed it then.

24 Q How do you know that is true for this
25 particular document?

1 A Because a Notary would not sign the document
2 before me.

3 Q So it is your testimony that is impossible
4 that anybody would notarize a document prior to you
5 signing it or another person signing on behalf of the
6 Stern Firm?

7 A They would not do it intentionally.

8 Q So are you admitting then that it could
9 happen accidentally?

10 A No. I am not admitting. I am saying I have
11 ever seen a document notarized before I put my name on
12 it. No.

13 Q Have you ever seen any of the documents in
14 your time working at the Stern Firm that were notarized
15 prior to someone actually executing it?

16 A Not to my knowledge.

17 Q What gave you the authority to sign this
18 document on behalf of Mortgage Electronic Registrations
19 Systems, Inc.?

20 A I had a power of attorney.

21 Q From who to whom?

22 A From MERS to the Law Offices of David Stern.

23 Q What did that power of attorney say?

24 A That certain members of the firm could
25 execute documents on behalf of MERS.

1 Q Did it have your name specifically listed?

2 A Yes.

3 Q And you say you had a power of attorney.

4 Is it no longer in place?
5 A Correct.
6 Q When did it stop being in effect?
7 A Approximately May of 2009.
8 Q Do you know why the power of attorney stoped
9 being effective?
10 A Yes.
11 Q Tell me please.
12 A Because MERS asked our firm to take on
13 additional responsibilities, which we were unable to do
14 at the time.
15 Q And so, because you could not take on the
16 additional responsibilities, MERS withdrew the power of
17 attorney?
18 A Correct.
19 Q Was there a document that you saw associated
20 with the withdrawal of the power of attorney?
21 A There is a letter.
22 Q Do you know who would have that letter, so
23 that I can get a copy of it?
24 A I have the letter. It is at my office.
25 Q Okay. So who should I subpoena in order to

17

1 get a copy of that, the Law Office or you?
2 MR. TEW: You can serve me with the subpoena.
3 And then we will appropriately respond. I am not
4 going to voluntarily turn it over.
5 BY MR. TRENT:
6 Q So is it your position then, at the time that
7 you allegedly signed this assignment of mortgage, that
8 you had authority to assign the subject mortgage and
Page 14

9 note to CitiMortgage, Inc.?

10 A Yes.

11 Q First of all, when did you sign this?

12 A February 5th, 2009.

13 Q As of February 5th, 2009, did you have the
14 authority, on behalf of MERS, to assign this mortgage
15 and note to CitiMortgage, Inc.?

16 A Yes, I did.

17 Q As of February 5th, 2009, did the Law Office
18 of David J. Stern represent MERS?

19 A Yes.

20 Q As of February 5th, 2009, did the Law Office
21 of David J. Stern represent CitiMortgage, Inc.?

22 A Yes.

23 Q As of February 5th, 2009, were you an
24 assistant secretary for MERS?

25 A Yes.

18

1 Q Tell me what duties you performed, at or
2 about that time, as assistant secretary for MERS?

3 A My duty was to sign assignments.

4 Q How would you know when you needed to sign an
5 assignment?

6 A Because the file -- the assignment would be
7 prepared and the file laid out for my signature.

8 Q would you speak with someone from MERS, who
9 would give you authority to sign a documents like this?

10 A No.

11 Q what knowledge did you have of the mortgage
12 and note, as of the time you assigned it on behalf of

13 MERS?

14 A Could you clarify the question, please?

15 Q Is it not a fact, ma'am, that when you signed
16 this, you really didn't know anything about the case or
17 the mortgage?

18 A I knew, based on the information given to me
19 by the people that reviewed the file prior to me, that
20 an assignment was needed, based on the request of the
21 client and a review of the file by a title examiner.
22 That an assignment was needed from MERS to the
23 appropriate plaintiff. Yes.

24 Q Okay. And who was the client, who made the
25 request that this assignment be executed?

□

19

1 A CitiMortgage.

2 Q Did you speak with someone from CitiMortgage,
3 who told you that this assignment was needed?

4 A No, sir.

5 Q So tell me all the information that you has,
6 as of the time you signed this, that CitiMortgage had
7 requested this assignment?

8 A When the case is referred to foreclosure, the
9 client gives specific instructions on who the plaintiff
10 is in the case. The title examiner then reviews the
11 public records to see if that particular entity is
12 already in title. If not, an appropriate assignment is
13 generated, based on those instructions.

14 Q I will ask you to take a look at, I guess,
15 it's the third line down. It is the start of the first
16 full paragraph.

17 It says, "Residing or located at: CO, P.O.

18 Box 790014, St. Louis, Missouri 63179."

19 Do you see that?

20 A Yes.

21 Q First of all, whose address is that?

22 A CitiMortgage.

23 Q Doesn't this say that Mortgage Electronic
24 Registration Systems, Inc. resides or is located there?

25 A It says, "care of."

20

1 Q Care of who?

2 A Care of P.O. Box 79004. which is
3 CitiMortgage. MERS doesn't hold anything in their
4 office.

5 Q So P.O. Box 790014, you are telling me is
6 like a d/b/a or fictitious name for CitiMortgage?

7 A No. CitiMortgage is one of many servicers
8 that actually services the loan on behalf of MERS.
9 MERS doesn't actually have any loans in their office.

10 Q I did not ask you that.

11 I am just trying to understand this CO P.O.
12 Box.

13 Can you tell me, do you know what CO means?

14 A Care of.

15 Q So can you tell me how it makes sense to say
16 that MERS resides or is located at: Care of P.O. Box?

17 A Because CitiMortgage services their loans, so
18 anything that says MERS is going to be care of another
19 servicer.

20 Q Right. But it doesn't say that here, does
21 it?

22 A I guess if that is the way you read it. I do
23 not read it that way.

24 Q where do you see CitiMortgage in the first
25 sentence that we are discussing?

21

1 A The Care of P.O. Box is the CitiMortgage
2 address. I just know that.

3 Q Right. But there is no entity named in that
4 sentence, is there?

5 A Okay.

6 Q So --

7 A I am not sure how that makes a difference but
8 okay.

9 Q Mortgage Electronic Registration Systems,
10 Inc. is the assignor.

11 You see where it says that towards the end of
12 that first sentence?

13 A Yes.

14 Q Okay. Can you tell me how it is that MERS
15 has the right to assign this mortgage?

16 A That information was provided by the title
17 search that was done. I did not do the title search.

18 Q who was it provided to?

19 A who was the title search provided to?

20 Q No, ma'am.

21 who was the information, that establishes
22 that MERS has the right to assign this mortgage, given
23 to, by the title agent?

24 A It was given to out law firm.

25 Q so then, I asking you, since you are the

1 person who executed this, based upon whatever
2 information you had at the time; what is it that gives
3 MERS the right to assign this mortgage?

4 MR. TEW: Object to the form of the question,
5 calls for a legal conclusion.

6 But if you know and answer it as a factual
7 matter, you can answer it.

8 MR. TRENT: She can also give her legal
9 understanding.

10 MR. TEW: No, she cannot.

11 MR. TRENT: Yes. She can.

12 THE WITNESS: I am not a lawyer.

13 MR. TEW: Anyway, she is not --

14 MR. TRENT: Are you instructing her not to
15 answer?

16 MR. TEW: I am not instructing not to. I am
17 instructing her not to give a legal opinion. She
18 can answer whatever facts she knows, but do not
19 get into trying to speculate legally.

20 MR. TRENT: Hold on a second.

21 THE WITNESS: I do not have a --

22 MR. TRENT: Excuse me, ma'am. Please stop.

23 Sir, I want you to tell me whether or not you
24 are instructing her not to answer the question, as
25 to her understanding of the legal basis for MERS

1 to have the right to assign this mortgage.

2 MR. TEW: If she has an understanding of the
3 basis, she can do it. But do not give any

4 opinions as to what the law requires.

5 MR. TRENT: You cannot instruct her like
6 that, sir.

7 MR. TEW: Sure I can.

8 MR. TRENT: You can either state an objection
9 or you can assert a privilege and instruct her not
10 to answer. If you state an objection, she is to
11 go ahead and answer the question anyway. You are
12 a veteran. You know that quite well.

13 MR. TEW: I have told her to answer the
14 question.

15 MR. TRENT: Okay.

16 BY MR. TRENT:

17 Q Do you know the question, ma'am?

18 A I do not have the mortgage or the title
19 search in front of me, so I cannot answer the question.

20 MR. TRENT: I am handing you what I will mark
21 as Defendant's Exhibit 3. Which is the note and
22 mortgage at issue.

23 (Defense Exhibit Number 3 was marked as an
24 exhibit to the deposition.)

25 MR. TRENT: Ma'am, just take as much time as

24

1 you need. Go ahead and review that. And then
2 using that information, since you indicated it
3 would be helpful, answer my question.

4 THE WITNESS: I don't have the title search.

5 BY MR. TRENT:

6 Q So my question is: what is it that, as of
7 February 5th, 2009, gave MERS the right to assign this
8 mortgage to CitiMortgage?

9 A MERS is the mortgagee on the mortgage. But I
10 don't have the title search to know if there were any
11 further assignments before, during, or after, or any
12 other issues that came up.

13 Q Let's say there were not any assignments
14 prior. what difference would that make?

15 A I am just saying, I am looking at a mortgage
16 that says MERS is the mortgagee, so that would give
17 them the right to assign this mortgage out.

18 Q Right. And you stated that you would need to
19 know whether there had been any assignments before
20 that.

21 So I am asking you, what difference that
22 would make?

23 A Assignments after this. You are asking me if
24 I knew if MERS had the authority. I don't know if MERS
25 assigned it to someone else before this.

25

1 Q Right.

2 A I don't have a title search.

3 Q Okay.

4 A But looking at this mortgage, it clearly
5 states in bold letters, MERS is the mortgagee, of this
6 security instrument. That would give them the right to
7 assign the mortgage.

8 Q So if there had been assignments prior to
9 February 5th, 2009; would that affect the right of MERS
10 to execute this Exhibit 2, assignment of mortgage?

11 A If there had been assignments from MERS to
12 another entity, I would assume the answer is yes.

13 Q what if there had been an assignment by the
14 original lender to another entity, prior to this
15 assignment, would that affect things?

16 A It probably would. But I would have to
17 review it.

18 Q If you could go back please to Exhibit 2, the
19 assignment of mortgage. We are on the first sentence
20 of the first paragraph.

21 You see where it says, "for and in
22 consideration of the sum of one dollar" on the second
23 line of that paragraph?

24 A Yes. I do.

25 Q Did you pay that dollar, or did you receive

26

1 that dollar?

2 A I did not have anything to do with any money
3 exchanging hands on these assignments.

4 Q Okay. So when you executed this assignment,
5 did you take any steps to determine whether or not this
6 one dollar had actually changed hands?

7 A No.

8 Q Do you know of any information that would
9 establish that the one dollar did or did not change
10 hands?

11 A No.

12 Q who would I ask to find that out?

13 A I have no idea.

14 Q It says, "other good and valuable
15 consideration."

16 Do you see that?

17 A I do.

18 Q In executing this document, for and on behalf
19 of MERS, can you tell me what other good and valuable
20 consideration there was that gave rise to this
21 assignment?

22 A No. I cannot.

23 Q Do you have any idea, in your capacity as
24 assistant secretary of MERS, who I could contact to
25 find out what the good and valuable consideration was?

27

1 A No.

2 Q It says, "The receipt of which is hereby
3 acknowledged."

4 Do you see that?

5 A Yes. I do.

6 Q Did you acknowledge receipt of that one
7 dollar and other good and valuable consideration when
8 you signed this document?

9 A No.

10 Q Can you tell me where, on here, any person
11 signed to acknowledge the receipt of the one dollar and
12 other good and valuable consideration?

13 A No.

14 Q So when it says, "The receipt of which is
15 hereby acknowledged." Is that an error?

16 A I have no idea.

17 Q Is there anybody who would have more
18 information about this transaction reflected in this
19 assignment, other than you?

20 A No.

21 Q It says, CitiMortgage resides or located at

22 P.O. Box 790014. I am now on to the fourth line of
23 that paragraph.

24 Do you see that?

25 A Yes.

28

1 Q where are MERS offices located?

2 A Virginia.

3 Q what is the address?

4 A Off the top-of-my-head, I do not know.

5 Q How many times have you been there?

6 A Never.

7 Q How many employees does MERS have?

8 A I have no idea.

9 Q who is the secretary of MERS?

10 A I have no idea.

11 Q who do you answer to at MERS?

12 A I do not answer to anyone at MERS.

13 Q Have you ever spoken with any representative
14 of MERS?

15 A Yes.

16 Q whom have you spoken with?

17 A I do not remember the name off the
18 top-of-my-head.

19 Q what were the circumstances of that
20 communication?

21 A Service of process.

22 Q And when you dealt with someone from MERS,
23 were you dealing with them as a representative of their
24 attorney's office, the Law Office of David J. Stern?

25 A Yes.

1 Q Have you ever dealt with CitiMortgage, Inc.?

2 A Yes.

3 Q When you deal with them, are you dealing with
4 them as an employee of the attorney for MERS, on behalf
5 of MERS, or as an employee of the attorney of
6 CitiMortgage?

7 A As an employee for the attorney for
8 CitiMortgage.

9 Q Are MERS and CitiMortgage the same thing?

10 A No.

11 Q Was there actually a transfer of interest in
12 the property from MERS to CitiMortgage?

13 A Could you repeat the question?

14 Q Was there actually a transfer of any interest
15 in the mortgage from MERS to CitiMortgage?

16 MR. TEW: Excuse me. I have got an emergency
17 here. Let us take a break for two minutes.

18 MR. TRENT: Not while a question is pending.
19 Can we let her answer the question?

20 MR. TEW: No.

21 (A brief recess was had.)

22 (The proceedings resumed.)

23 MR. TEW: Thank you for giving me a break.

24 BY MR. TRENT:

25 Q Do you remember the question, ma'am?

1 A Was there a transfer of this mortgage from
2 MERS to CitiMortgage?

3 MR. TRENT: Could you read back my question,

4 please?

5 THE COURT REPORTER: Yes, sir.

6 (The record was read back as follows:)

7 "Was there actually a transfer of interest in
8 the property from MERS to CitiMortgage?"

9 THE WITNESS: The assignment transferred the
10 interest from MERS to Citi.

11 BY MR. TRENT:

12 Q Can you explain what interest that is?

13 MR. TEW: I am going to object to the form of
14 the question, to the extent that it calls for a
15 legal conclusion.

16 But you can answer.

17 THE WITNESS: For the purposes of what I
18 signed, interest is to be able to foreclose the
19 mortgage.

20 BY MR. TRENT:

21 Q Is there any other aspect to that interest,
22 or is it simply that?

23 A As far as I know, it is simply that.

24 Q Was the original mortgage and note in the
25 possession of MERS as of the time that you signed this

□

31

1 on February 5th, 2009?

2 A I do not know the answer to that question.

3 Q Do you know of anyone who would?

4 A No.

5 Q At the time you signed this, was there a
6 physical transfer of money or documents to go along
7 with it?

8 A I do not know the answer to that question.

9 Q Do you know of anyone who would?
10 A No.
11 Q Now, I want you to skip down, please, to the
12 line immediately below the legal description. which
13 begins with "together."
14 Do you see that?
15 A Yes.
16 Q Can you please take a look at Exhibit 3?
17 The note is right there on top.
18 And show me where in there MERS is given any
19 rights with regard to it?
20 A I cannot answer that.
21 Q why can't you answer?
22 A Because I am not going to analyze the note
23 and tell you whether MERS has any authority. I am not
24 an attorney.
25 Q well, you signed this.

32

1 A I guess I don't understand what your question
2 is and what you are trying to accomplish with the
3 question.
4 Q well, you don't really have to.
5 A I assigned an assignment of the mortgage.
6 Q And note. And I am asking you to take a look
7 --
8 A They go together. They were signed by the
9 borrowers at the same time. I am not really sure what
10 you are looking for me to answer.
11 Q Just the question as posed.
12 Taking a look at that note there in front of

13 you, since you have signed this document, you claim,
14 assigning it from MERS to CitiMortgage.

15 Can you tell me if there is any reference in
16 that note to MERS?

17 A This is not.

18 Q Do you know or can you tell me any legal
19 basis for MERS having the right to assign the note to
20 CitiMortgage?

21 MR. TEW: Object to the form of the question.
22 It calls for legal opinion.

23 MR. TRENT: Actually, I just asked her
24 whether she could tell me any basis, so it really
25 doesn't call for a legal opinion.

33

1 But you can answer.

2 THE WITNESS: The note secures the mortgage.
3 You know, the mortgage and the note go together.
4 They were signed together at the same time. MERS
5 was the mortgagee on the mortgage. The note
6 cannot stand alone.

7 BY MR. TRENT:

8 Q It can't?

9 A I don't see how, when it is secured.

10 Q Is there any other basis, that you know if,
11 that would give MERS the right to assign the note, even
12 though MERS doesn't appear on the face of the note?

13 A No.

14 Q Do you know of any assignment of the note to
15 MERS?

16 A No.

17 Q If we could skip down to the next line, where
Page 28

18 it says, "to have and to hold," still on Exhibit 2.

19 Do you see where it says that?

20 A Yes.

21 Q Can you tell me what it means at the end,
22 where it says, "without recourse" on the undersigned?

23 MR. TEW: Object to the form of the question,
24 to the extent it calls for a legal opinion.

25 THE WITNESS: No.

34

□

1 BY MR. TRENT:

2 Q who is the undersigned?

3 A Me.

4 Q But you do not know what that means when it
5 says "without recourse" on the undersigned?

6 A No.

7 Q And then you see where it says, "in witness
8 whereof, the said assignor has here and to set his hand
9 and seal, or cause these presents to be signed by its
10 proper corporate officer and its corporate seal to be
11 hereto affixed."

12 Do you see that?

13 A Yes.

14 Q who is the assignor?

15 A MERS.

16 Q Can you show me where he set his "hand and
17 seal"?

18 A You mean me, as the assistant secretary for
19 MERS?

20 Q You said MERS is the assignor.

21 So where is his "hand and seal"?

22 That is the language directly from the
23 document.

24 A I guess I am a little confused again.

25 If I have power of attorney for MERS, and it

35

1 says, "hand and seal", and I signed it. Then I am not
2 following your question.

3 Q Do you know what a corporate seal is?

4 A Yes. But a corporate is not required when
5 there is two witnesses.

6 Q Why does it say here that it caused its
7 corporate seal to be affixed?

8 A It is standard language. You can do one or
9 other. Either affix the corporate seal or have two
10 witnesses.

11 Q So, as long as it is standard language, it
12 does not matter if it is totally contradicted by the
13 actual document itself?

14 A I do not read it as being contradictory. You
15 have one or the other. But there is no corporate seal
16 on here because there were two witnesses.

17 Q And how do you know that two witnesses
18 eliminate the requirement that there be a corporate
19 seal, even on a document, which says that it has its
20 corporate seal affixed?

21 A Because that it was what was explained to me
22 by one of our title examiners.

23 Q Who was that?

24 A Sam Silverglade (ph).

25 Q Does he still work at the Law Office of David

1 J. Stern?

2 A Yes. He does.

3 Q There it says, "This (blank) day of February
4 2009."

5 Can you tell me why there is no date written
6 there?

7 A That was an oversight on my part when I
8 signed it.

9 Q Are the one who normally write that there?

10 A Yes.

11 Q Did you read this document before you signed
12 it?

13 A Yes. I did.

14 Q How do you know that?

15 A Because I read all the documents before I
16 signed them.

17 Q You said read as in past tense.

18 During what period of time did you read all
19 the documents before you signed them?

20 A I do not sign them anymore, since I don't
21 have MERS. That is why I said, "read."

22 Q Okay.

23 During the entire time that you were signing
24 documents on behalf of MERS, you read all the documents
25 before signing them; is that correct?

1 A I read them. Yes.

2 Q About how many assignment did you sign in an
3 average day, during the time that you had power of

4 attorney for MERS?

5 A It would have varied.

6 Q Just give me a range. I know you do not know
7 exactly.

8 A Yes. I do not know exactly. It would
9 depend. I would spend an hour or two a day signing.

10 Q And reading, correct?

11 A And reading.

12 Q would you say you signed more than ten on an
13 average day?

14 A Yes. I would.

15 Q More than 50 on an average day?

16 A Probably not. No.

17 Q Somewhere between ten and 50?

18 A Yes.

19 Q It says, "but effective as of the 19th day of
20 February 2008."

21 Do you see that?

22 A Yes.

23 Q where did you get that date from?

24 A I did not pick that date. That date was put
25 in by the processor that prepared the assignment.

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□

1 Q And who was that?

2 A Off the top-of-my-head, I do not know who
3 actually typed this assignment.

4 Q Okay. But you are signing on behalf of MERS.
5 And you are stating here that it is effective as of the
6 19th day of February 2008, correct?

7 A Correct.

8 Q At the time you signed this, what reason did
Page 32

9 you have, as agent for MERS, to make it effective as of
10 the 19th day of February 2008?

11 A I did not pick that date. And I do not
12 recall this document.

13 Q Sitting here today, you have no idea why it
14 is that it says, "effective as of the 19th day of
15 February 2008." Is that correct?

16 A Looking at this one particular piece of
17 paper, I do not recall or know the answer to that
18 question right now. No.

19 Q Is there some general practice, of which you
20 are aware, that would give us information as to why
21 this particular date was inserted?

22 A That information was determined by the people
23 that review the file prior to me.

24 Q And what would they base that on, as a
25 general practice?

39

1 A I do not know.

2 Q You don't know? Were, to your knowledge, any
3 physical documents transferred on February 19th, 2008?

4 A I do not know.

5 Q To your knowledge, was there any exchange of
6 money or other valuable consideration on the 19th day
7 of February 2008?

8 A I do not know.

9 Q To your knowledge, does the 19th day of
10 February 2008 have any significance?

11 A I do not know.

12 Q Ma'am, if you signed this document on behalf

13 of MERS, picking this date, this effective date --

14 A I did not pick the effective date.

15 Q But you ratified it by signing this; didn't
16 you?

17 MR. TEW: Object to the form of the question.

18 BY MR. TRENT:

19 Q Didn't you attest to the accuracy of that
20 date by signing this document?

21 MR. TEW: Object to the form of the question.

22 THE WITNESS: I would say, no.

23 BY MR. TRENT:

24 Q Did you attest to this document, as a whole,
25 by signing it?

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1 MR. TEW: Object to the form of the question.

2 THE WITNESS: I do not think that in my
3 capacity of signing these assignments, it was my
4 position to attest. My role as to be given a
5 document that had been reviewed by an attorney,
6 had been reviewed by a title examiner, had
7 instructions from the client, and I was to sign
8 the assignment as secretary on behalf of MERS.

9 BY MR. TRENT:

10 Q Right. And when you signed it as secretary
11 on behalf of MERS, were you approving and agreeing with
12 the terms contained therein for MERS?

13 A I believe that I was approving and agreeing
14 to the fact that the mortgage needed to be assigned
15 from MERS to another entity.

16 Q But what about all the other details in here,
17 such as the consideration, the effective date?

18 A I do not believe that that was my role.

19 Q Is there anyone, who signed this assignment
20 of mortgage that was, at the time they signed,
21 attesting to or approving all of the terms in it, on
22 behalf of MERS?

23 A I do not have an answer to that question.

24 Q why don't you have an answer?

25 A Because I do not know what you are thinking

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1 needs to be attested to, other than the fact that MERS
2 was not the proper plaintiff, and there needed to be an
3 assignment into CitiMortgage to foreclose the mortgage.

4 Q What I am thinking needs to be approved or
5 ratified is the terms that are written in this
6 document.

7 A Okay.

8 Q So, did anyone, to your knowledge, approve
9 and agree with all of those terms, on behalf of MERS,
10 in signing this document?

11 A I do not have an answer to that question.

12 Q If you don't know, then the answer would be,
13 no.

14 A Okay. No.

15 Q It says, witness, over on the left, Michelle
16 Grant?

17 A Yes.

18 Q Do you know who that it is?

19 A Yes.

20 Q Does she still work at the firm?

21 A Yes. She does.

22 Q And below that, it says, Shannon Smith?

23 A Yes.

24 Q Is it your testimony that that is not your
25 signature on that line?

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1 A That is absolutely not my signature.

2 Q Is it your testimony that that is Shannon
3 Smith's signature on that line?

4 A I cannot testify that -- how Shannon signs
5 here name. I know it is not my signature.

6 Q So you are not familiar with Shannon's
7 signature?

8 A I have seen Shannon's signature.

9 But can I swear, you know, that I saw her
10 sign that?

11 No. I cannot. But that looks like Shannon's
12 signature.

13 Q How many different signatures -- I am sorry
14 if I asked you this before -- do you have?

15 A I have two or three.

16 Q How many different signatures does Michelle
17 Grant have?

18 A I do not know.

19 Q How many different signatures does Shannon
20 Smith have?

21 A I do not know.

22 MR. TRENT: That may be all the questions I
23 have about that document.

24 Now, I would ask you to go back, please, to
25 Exhibit 1. which is the complaint.

1 BY MR. TRENT:

2 Q I will ask you first of all, does Exhibit 2,
3 to your understanding, make CitiMortgage the owner of
4 the mortgage?

5 MR. TEW: Object to the form of the question,
6 to the extent it calls for a legal conclusion or
7 opinion.

8 THE WITNESS: Could you repeat that question?

9 MR. TRENT: Can you read it back, please?

10 (The record was read back as follows:)

11 THE COURT REPORTER: "Now, I would ask you to
12 go back to Exhibit 1. which is the complaint.
13 And first of all, does Exhibit 2, to your
14 understanding, make CitiMortgage the owner of the
15 mortgage?"

16 THE WITNESS: That is my understanding.

17 BY MR. TRENT:

18 Q To your understanding, does Exhibit 2 make
19 CitiMortgage the holder of the note and mortgage?

20 A That is my understanding.

21 Q To your understanding, does Exhibit 2 make
22 CitiMortgage the owner of the note?

23 A That is my understanding.

24 Q And what is that based upon?

25 A The assignment of mortgage.

1 Q And was MERS the owner of the mortgage at the
2 time you executed this assignment on its behalf?

3 A That was my understanding.

4 Q And was MERS the holder of the mortgage at
5 the time you executed Exhibit 2 on its behalf?

6 A That was my understanding.

7 Q Was MERS the owner of the note at the time
8 you executed Exhibit 2 on its behalf?

9 A That was my understanding.

10 Q Was MERS the holder of the note at the time
11 you signed Exhibit 2 on its behalf?

12 A That was my understanding.

13 Q If you look at the front of Exhibit 1, you
14 see there is a stamp that says, "a true copy, March
15 13th, 2008."

16 Do you understand that to be the date that
17 this complaint was filed?

18 A That would appear to be correct. Yes.

19 Q I saw there that you looked at the last page
20 of the complaint, page three.

21 What were you looking for there?

22 A I was just looking to see if there was a more
23 readable copy of this stamp. I could not tell who
24 stamped it. But it appears to be the Clerk of Court.

25 Q Isn't it a fact, ma'am, that you were looking

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1 to see whether the attorney who signed it had dated it
2 on the last page, as is normally the custom?

3 A No.

4 Q Does the fact that this action was file don
5 march 13th, 2008, have anything to do with the fact
6 that in the assignment it states it was retroactively
7 effective to February 19th, 2008?

8 A As I stated before, I did not pick that date,
Page 38

9 so I do not have any knowledge as to that.

10 Q So as a general practice, you would not have
11 any knowledge as to why those retroactive dates are
12 chosen?

13 A As I stated before, I do not pick those
14 dates.

15 Q Right. That is not my question.

16 My question is: Do you have any knowledge of
17 the reasons that certain dates are picked for effective
18 dates of assignments?

19 A No.

20 Q Isn't it a fact, ma'am, that that is usually
21 the date that the mortgage came in to the Law Office of
22 David J. Stern to foreclosed upon?

23 A Off the top-of-my-head, I do not recall the
24 practice. It has been over a year since I have signed
25 any of these.

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1 Q To the best of your knowledge, you never
2 heard of that?

3 A I am saying I do not recall.

4 Q Who would know?

5 A I do not know.

6 Q In paragraph five, where it says, "the
7 plaintiff owns and holds the note and mortgage," do you
8 have any knowledge that, of the basis for that
9 statement, as of March 13th, 2008?

10 A I did not sign this complaint.

11 Q I did not ask you that, ma'am.
12 I asked if you had any knowledge.

13 A No. I do not have any knowledge.

14 Q As of March 13th, 2008, to your knowledge,
15 were there any legal documents establishing that
16 CitiMortgage was either the owner or the holder of the
17 note and mortgage?

18 A I do not have that information.

19 Q I would like you to take a look at Count Two
20 with me please. It appears at the bottom of the second
21 page.

22 First, let me ask you, as of March 13th,
23 2008, based upon your knowledge and/or review of this
24 document; is it fair to say that the Law Office of
25 David J. Stern represented CitiMortgage, Inc.?

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1 A Yes.

2 Q So down at the bottom of the second page,
3 Count Two, where it says, "The plaintiff is not
4 presently in possession of original note and mortgage."

5 Do you know whether that is referring to
6 CitiMortgage or the Law Office of David J. Stern?

7 A Which paragraph again?

8 I am sorry.

9 Q Paragraph 18.

10 A It says, "The plaintiff is not in possession
11 of the note and mortgage."

12 Q Do you have any idea who was in possession of
13 the note and mortgage, as of March 13th, 2008?

14 A I do not have that information. No.

15 Q Can I ask you to turn over to the next page,
16 where it says, "The plaintiff was in possession of the
17 note and mortgage and was (it looks like) entitled to

18 enforce them when the loss of possession occurred."?

19 Can you tell me how the plaintiff could have
20 been in possession of the original note and mortgage on
21 March 13th, 2008, when you did not execute the
22 assignment until February 5th, 2009?

23 A Could you repeat the question?

24 MR. TRENT: Read it back, please.

25 (The record was read back as follows:)

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1 THE COURT REPORTER: "Can you tell me how the
2 plaintiff could have been in possession of the
3 original note and mortgage on March 13th, 2008,
4 when you did not execute the assignment until
5 February 5th, 2009?"

6 THE WITNESS: The note and the mortgage
7 documents are never actually housed at MERS, so
8 CitiMortgage --

9 MR. TRENT: The plaintiff is CitiMortgage.

10 THE WITNESS: Right. So CitiMortgage would
11 have had the collateral file and the documents
12 before the assignment perhaps. It happens.
13 CitiMortgage always serviced the loan, even though
14 MERS was on the mortgage. MERS doesn't have
15 physical documents in their possession.

16 BY MR. TRENT:

17 Q So who would have transferred the physical
18 documents to CitiMortgage?

19 A Whoever originated -- would have been either
20 originated somewhere at CitiMortgage or originates
21 somewhere at SIB. I do not know.

22 Q I do not know if you understood my question.
23 SIB is the original lender, correct?
24 A I see that. Yes.
25 Q And then SIB sent out a notice saying that

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1 Aurora was becoming the servicer?

2 A I would not have any knowledge of that.

3 Q I am telling you that.

4 A Okay.

5 Q And then Aurora sent out a notice saying that
6 CitiMortgage was becoming the servicer, but there was
7 no reference here to any transfer of ownership and that
8 kind of thing.

9 So my question to you is: who is it that
10 would have transferred the original note and mortgage
11 to CitiMortgage, Inc., so that CitiMortgage, Inc. could
12 lose the original note and mortgage?

13 A And I would have to respond with a question.
14 In that I am not understanding, how you think I would
15 know that information, in my capacity of signing an
16 assignment on behalf of MERS?

17 Q I do not know is an acceptable answer.

18 A Okay.

19 Q But asking questions however is not
20 acceptable.

21 A Then I do not know.

22 Q Okay.

23 You do not know?

24 A No. I do not know.

25 Q So if, as of March 13th, 2008, the plaintiff

1 cannot reasonably obtain possession of the note and
2 mortgage because their whereabouts cannot be
3 determined; how is it possible that the mortgage and
4 note could have been assigned by MERS to CitiMortgage
5 on February 19th, 2008?

6 How is that possible?

7 A I did not draft this complaint. I have never
8 seen this complaint. I cannot testify as to anything
9 in this complaint.

10 MR. TRENT: Let's take a quick break.

11 (A brief recess was had.)

12 (The proceedings resumed.)

13 MR. TRENT: I am going to hand you what I
14 will mark as Defendant's Exhibit 4. Just take a
15 look at that.

16 (Defense Exhibit Number 4 was marked as an
17 exhibit to the deposition.)

18 BY MR. TRENT:

19 Q I would ask you to read that first question.

20 A Out loud?

21 Q No. To yourself.

22 Can you tell me whether there are any written
23 documents, other than the assignment we have gone over,
24 that were associated with that assignment?

25 MR. TEW: If you know.

1 THE WITNESS: I do not know. I guess, again,
2 I do not understand the question.

3 BY MR. TRENT:

4 Q Any written documents associated with that
5 assignment, other than that assignment?

6 A Not that I am aware of. No.

7 Q You see where it says, "Cindy Snyder" on the
8 second page?

9 A Yes.

10 Q Do you know who that is?

11 A No.

12 Q Do you see down at the bottom where the
13 Notary has signed this, "Notary Public, State of"?

14 A Yes.

15 Q Do you see the signature of Cindy Snyder
16 anywhere on here?

17 A No. I do not.

18 Q And you told us earlier that, in your
19 opinion, it would be unusual for a Notary to notarize
20 something without the signature of the person executing
21 the document; is that correct?

22 A That is what I said. Yes.

23 Q Do you want to change that statement now in
24 looking at this document?

25 A No. I did not notarize this, and I do not

52

1 know these people.

2 Q But you would agree with me, that is pretty
3 unusual, huh?

4 A Unusual.

5 Q Do you have any knowledge of Shannon Smith
6 having changed her signature?

7 A I am aware that she stated she changed her
8 signature. Yes.

9 Q How are you aware of that?
10 A She told me.
11 Q when did she tell you?
12 A This week.
13 Q Tell us the circumstances of when she told
14 you that she said she changed her signature.
15 A When we were asked to produce assignments
16 signed by Shannon.
17 Q what exactly did she tell you?
18 A That she had changed her signature.
19 Q what else?
20 A That is all.
21 Q Can you tell us why it is that you do not
22 keep a log of the documents you sign?
23 A There was never, in my mind, a need to keep a
24 log.
25 Q Are you aware that the Attorney General of

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□

1 Florida issued an opinion that is preferred practice
2 for Notaries to keep such a log?
3 A Are you talking about my capacity as a Notary
4 or my capacity as a signer?
5 Q As a Notary.
6 A I did not notarize any of these.
7 So are we talking about me notarizing
8 something?
9 Q I am well aware of the documents that you
10 have notarized and the ones you haven't. That doesn't
11 change my question. So thanks for pointing that out.
12 But if you could go ahead and respond.

13 A Do I keep a log of the documents I have
14 notarized?

15 The answer to that is, no.

16 Q And my next question was --

17 A No. I am not aware of the Attorney General's
18 opinion.

19 Q Okay. To your knowledge, is the transfer of
20 servicing the same as an assignment of a mortgage?

21 A To my knowledge, no.

22 Q would an assignment normally be done at the
23 same time as a transfer of servicing?

24 A I do not know.

25 Q who is your immediate supervisor at the Law

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1 Office of David J. Stern?

2 A Miriam Mendieta.

3 Q When did she become your immediate
4 supervisor?

5 A She has been my immediate supervisor since
6 1996 or 7.

7 Q You remember I asked you earlier, whether or
8 not you read assignments before you signed them, and
9 you testified, yes, correct?

10 A Yes.

11 Q About how much time would you say you spent,
12 on average, reviewing each assignment, prior to
13 signing?

14 A I do not have an estimate of that.

15 Q You do not know how long it would take you to
16 read something like that?

17 A No.

18 Q You ever found any mistakes in the
19 assignments that you reviewed, before signing them?

20 A Yes. I have found mistakes.

21 Q Give us some examples of the kind of mistakes
22 you have found in assignments?

23 A Typographical errors mostly.

24 Q Do you remember any one in particular?

25 A No.

55

1 Q About how many times did that happen, that
2 you found an error?

3 A I do not have an estimate. I do not know.

4 Q What happened on those occasions when you did
5 notice a mistake?

6 who did you report that to, if anyone?

7 A I would just not sign the assignment, cross
8 it out, and send it back to have it redone.

9 Q Are you paid anything or were you paid
10 anything by MERS?

11 A No.

12 Q Did you have any job duties?

13 A Other than signing assignments? No.

14 Q You ever attend any meetings at MERS?

15 A No.

16 Q Are you involved, at all, with the governance
17 of MERS?

18 A No.

19 Q Do you have any MERS employees who report to
20 you?

21 A No.

22 Q Do you have any vote or say so in any
23 corporate decisions of MERS?

24 A No.

25 Q How many offices does MERS have?

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1 A I do not know.

2 Q How many people at the Law Office of David
3 Stern were authorized to sign assignments for MERS
4 pursuant to that power of attorney you testified about?

5 A I do not have knowledge of the power of
6 attorney, off the top-of-my-head. It is recorded, but
7 I do not have it in front of me, so I do not know.

8 Q Where is it recorded?

9 A In the Broward County public records.

10 Q When you executed Exhibit 2, did you execute
11 it on behalf of MERS as nominee?

12 A The nominee language is not on this
13 particular assignment.

14 Q So my question remains: Did you execute it
15 as a nominee, for MERS as nominee or just for MERS on
16 its own behalf?

17 A MERS in any capacity. I am not sure that I
18 was ever instructed the nominee language made a
19 difference.

20 Q In any capacity is not one of the choices I
21 am giving you.

22 Did you execute as on behalf of MERS as
23 nominee or on behalf MERS on its own behalf, on its
24 own?

25 A It executed in whatever capacity MERS had as

1 it was drafted.

2 Q You are not sure what capacity that was?

3 A It says, MERS. There is no nominee language
4 on here.

5 Q So does that mean then that you executed it
6 on behalf of MERS, not as nominee but on its own
7 behalf?

8 A In whatever capacity MERS had. The nominee
9 language is not needed on the assignment to make a
10 difference.

11 Q And what legal authority do you base that on?

12 A My title examiner, Sam Silverglade.

13 Q So is he the guy that I would go to with a
14 lot of these questions?

15 A Sure.

16 Q Except for the ones where you told me you did
17 not know anyone who would know the answer, correct?

18 A I just told you he would know the answer to
19 this particular question.

20 Q Okay.

21 Are you familiar with something called,
22 affidavits of lost originals?

23 A Yes.

24 Q Did you sign any of those, or have you signed
25 any of those during your time working with the Law

1 office of David J. Stern?

2 A If a note was lost within our office for some
3 reason, I may have signed one or two.

4 Q To your knowledge, are those required for
5 judgment to be entered in foreclosures such as this
6 one?

7 A The judges may require one, yes.

8 Q Who would sign that in this instance, if one
9 was required?

10 would you be able to do that?

11 A If the original note and the mortgage were
12 forwarded to our office by s servicer, and somehow lost
13 between out office and the courts or somehow misfiled
14 in out office, that would be the only time that one of
15 my employees or myself would sign an affidavit of lost
16 documents. Normally, they are signed by the bank.

17 Q So in this case, since the complaint says
18 that the mortgage and note were in the possession of
19 the plaintiff at the time they were lost, who would you
20 look to to have signed an affidavit such as that?

21 A CitiMortgage.

22 Q Do you know someone there who would sign it?

23 A There would be any myriad of employees that
24 would sign it. They have a document control group.

25 Q How is it that they would figure out when

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1 exactly it was that the mortgage and note were lost?

2 A I cannot testify to that. I do not work for
3 CitiMortgage.

4 Q So you do not have any knowledge of how they
5 operate in terms of that?

6 A No, sir.

7 Q Do you have any knowledge in this case, based
8 on the documents that we have reviewed, that the note

9 was ever assigned to MERS?

10 A No.

11 Q Do you happen to know who is the investor in
12 this case?

13 A No. I do not.

14 Q Do you happen to know who is the investor on
15 any case involving MERS?

16 A No. I do not.

17 Q How would a person or how would you find out
18 who the investor was on a particular case, if you
19 needed to know?

20 A You would ask the client.

21 Q In this case, who is the client,
22 CitiMortgage?

23 A CitiMortgage.

24 Q who is the lender on this note?

25 A The lender is SIB Mortgage Corp., a New

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1 Jersey Corporation, according to the --

2 Q Are they still the lender now?

3 A They would always be the lender. The lender,
4 in and of itself, does not change. They lent the
5 original money, I guess.

6 Q As of the time the mortgage was originally
7 signed, can you tell who the servicer was?

8 A No. I do not know who the servicer was.

9 Q As of the time the mortgage was originally
10 signed, would there have been an investor?

11 A I do not have knowledge of that.

12 Q Can you tell from reviewing Exhibit 3,

13 whether there was an investor involved at the time of
14 the signing of the original note and mortgage?

15 A No.

16 Q It doesn't say anything about an investor,
17 does it?

18 A I haven't read it all the way through. I do
19 not see anything. But I have not read it all the way
20 through.

21 MR. TRENT: I am going to hand you what I
22 will mark as Defendant's Exhibit 5.

23 Sorry, I do not have copies of this for
24 everyone. A little too thick.

25 This is the Law Office of David J. Stern,

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1 P.A., Cheryl Samon's and Shannon Smith's document
2 production, pursuant to Court's order, dated April
3 20th, 2010.

4 (Defense Exhibit Number 5 was marked as an
5 exhibit to the deposition.)

6 MR. TRENT: I am going to hand this to you.
7 It is about 69 pages. I ask you to take your time
8 and look through there.

9 Basically, I am going to be asking you
10 whether it is your signature on all of those
11 documents, where it appears to be your signature.
12 So you should look at them carefully.

13 THE WITNESS: Okay.

14 BY MR. TRENT:

15 Q Are all of those documents in there that
16 contain the printed name, Cheryl Samons, signed by you?

17 A They appear to be signed by me. Yes.

18 Q Did you review all of those documents before
19 you signed them?

20 A I did.

21 Q Did you read them all before you signed them?

22 A I read the document. Yes.

23 Q Are you familiar with something called, the
24 rules of the investor?

25 A No. I am not.

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1 Q You have never heard that term?

2 A No.

3 Q Do you know the name of any investor in any
4 mortgage that you have come into contact with in your
5 time working at the Law Office of David J. Stern?

6 A There are different investors that we have
7 dealings with. Yes.

8 Q And what sort of occasions would you have
9 dealings with investors?

10 A Sometimes the investors on loans contact our
11 office and ask for information. We have daily contact
12 with Fannie Mae and Freddie Mack.

13 Q Are they investors?

14 A Yes.

15 Q Do we represent any investors?

16 A Do we represent them in their capacity as an
17 investor or in their capacity as a client, as a
18 mortgage holder?

19 Q Do you represent any investors?

20 A I guess I cannot answer the question.

21 Q Why not?

22 A Because I do not understand what you are
23 asking me. We represent -- Banks can be investors or
24 banks can be mortgage holders. And banks can be
25 clients. They have different roles.

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1 So do we normally represent them as the
2 investor?

3 No.

4 But could we?

5 Yes.

6 Q So in a case like this, is it possible that
7 you could represent -- You already told me you were
8 representing MERS at the time of the assignment, and
9 that you were representing CitiMortgage at the time of
10 the assignment.

11 Is it possible you were also representing the
12 investor at the time of the assignment?

13 A In a separate capacity? No.

14 Q In their capacity as investor?

15 A I do not know who the investor is on this
16 loan. I do not have that knowledge.

17 Q I think I already asked you that, so that
18 wasn't my question.

19 Is it possible that you could have also been
20 representing the investor, at the same time as you
21 represented MERS, at the same time as you represented
22 CitiMortgage, on February 5th, 2009?

23 A We weren't hired by the investor. Other than
24 that, I cannot answer the question.

25 Q Is it possible you could have been

1 representing them, without having been retained by
2 them?

3 A Well, I would assume, but then I would be
4 making assumptions.

5 Q Go ahead and assume, and tell me what --

6 MR. TEW: Don't assume. If she knows.

7 THE WITNESS: I cannot assume.

8 MR. TEW: If you don't, don't assume.

9 MR. TRENT: Okay.

10 BY MR. TRENT:

11 Q Do you know whether there are contracts
12 between loan servicers and lenders?

13 A I do not have knowledge as to that.

14 Q Do investors make decisions on settlements of
15 foreclosure cases?

16 A I cannot state any knowledge of any matters
17 that happen between investors and their clients. I do
18 not work in that capacity. I do not have any of that
19 knowledge.

20 Q Don't people from the Law Office of David J.
21 Stern sometimes speak with investors about whether or
22 not they can settle a case on particular terms?

23 A Sometimes we do. But I do not know the inner
24 workings of their relationships. I do not know how
25 they function on a day-to-day basis with each other.

1 MR. TEW: Excuse me. I have got to take
2 another break.

3 (A brief recess was had.)

4 (The proceedings resumed.)

5 BY MR. TRENT:

6 Q Did you ever have anything to do with the
7 distribution of the proceeds after a foreclosure?

8 A There would only be proceeds on a third-party
9 sale.

10 Q Right.

11 A If that is what you are asking?

12 Q Yes.

13 A If the property is sold third-party, we
14 distribute the money from the court back to the client.
15 Yes.

16 Q Which client would you be distributing the
17 money to, in general, the plaintiff, MERS?

18 How does that work?

19 A It would go to the client, the plaintiff,
20 CitiMortgage in this case. But this did not go to
21 sale.

22 Q Right.

23 What about the investor, would they get some
24 of the money?

25 A I do not have any knowledge as to that. We

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1 would not give them the money directly. No.

2 MR. TRENT: I believe that is all the
3 questions I have.

4 MR. TEW: I do not have anything.

5 She will read.

6 MR. TRENT: I will take that on regular
7 delivery.

8 (The deposition was concluded at 12:00 p.m.)

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C E R T I F I C A T E OF OATH

STATE OF FLORIDA
COUNTY OF BROWARD

I, Sharon Hodge, Court Reporter and Notary
Public, State of Florida, certify that MS. CHERYL
SAMONS personally appeared before me on the 29th
day of April, 2010, and was duly sworn.

Signed this 7th day of May, 2010.

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Sharon Hodge
Notary Public, State of Florida
Commission No.:
Commission Expires:

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CERTIFICATE OF REPORTER

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STATE OF FLORIDA
COUNTY OF BROWARD

I, Sharon Hodge, Court Reporter, certify that I was authorized to and did stenographically report the deposition of MS. CHERYL SAMONS, pages 1 through 66; that a review of the transcript was requested; and that the transcript is a true and correct record of stenographic notes.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 7th day of May, 2010.
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Sharon Hodge
Court Reporter

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WITNESS LETTER

May 7th, 2010

MS. CHERYL SAMONS
c/o Jeffrey A. Tew of Tew Cardenas, LLP
1441 Brickell Ave, Floor 15
Miami, Florida 33131-3429

In Re: CitiMortgage, Inc., vs. Dennis Brown

Please take notice that on the 29th day of April, 2010, you gave your deposition in the above cause. At that time you did not waive signature. The transcript is now available at our office for your review.

Please call 754-367-2748 to schedule an appointment between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, at Accurate Reporting.

If you are a party in this action and your attorney has ordered a copy of this transcript, you may wish to read his/her copy of the transcript. In that event, please execute the Errata Sheet, which can be found at the back of the transcript, and return it to us for distribution to all parties. We have enclosed a self-addressed envelope for your convenience.

If you do not read and sign the deposition within a reasonable amount of time/30 days, the original, which has already been forwarded to the ordering attorney, may be filed with the Clerk of the Court.

If you wish to waive your signature now, please sign your name in the blank at the bottom of this letter and return it to us.

Very truly yours,

