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THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND
FOR DUVAL COUNTY, FLORIDA
CASE NO.: 16-2008-CA-012971
DIVISION: CV:G

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GMAC MORTGAGE, LLC,)

6

Plaintiff,)

7

vs.)

8

CARRIE GASQUE, et al.)

9

)

Defendant.)

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11

12

900 South Pine Island Road
Suite 400
Plantation, Florida
June 3, 2009
12:57 p.m. - 2:15 p.m.

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Deposition of BETH CERNI

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Taken before Amy Lyon, Shorthand Reporter and
Notary Public in and for the State of Florida at Large,
pursuant to Notice of Taking Deposition filed in the
above cause.

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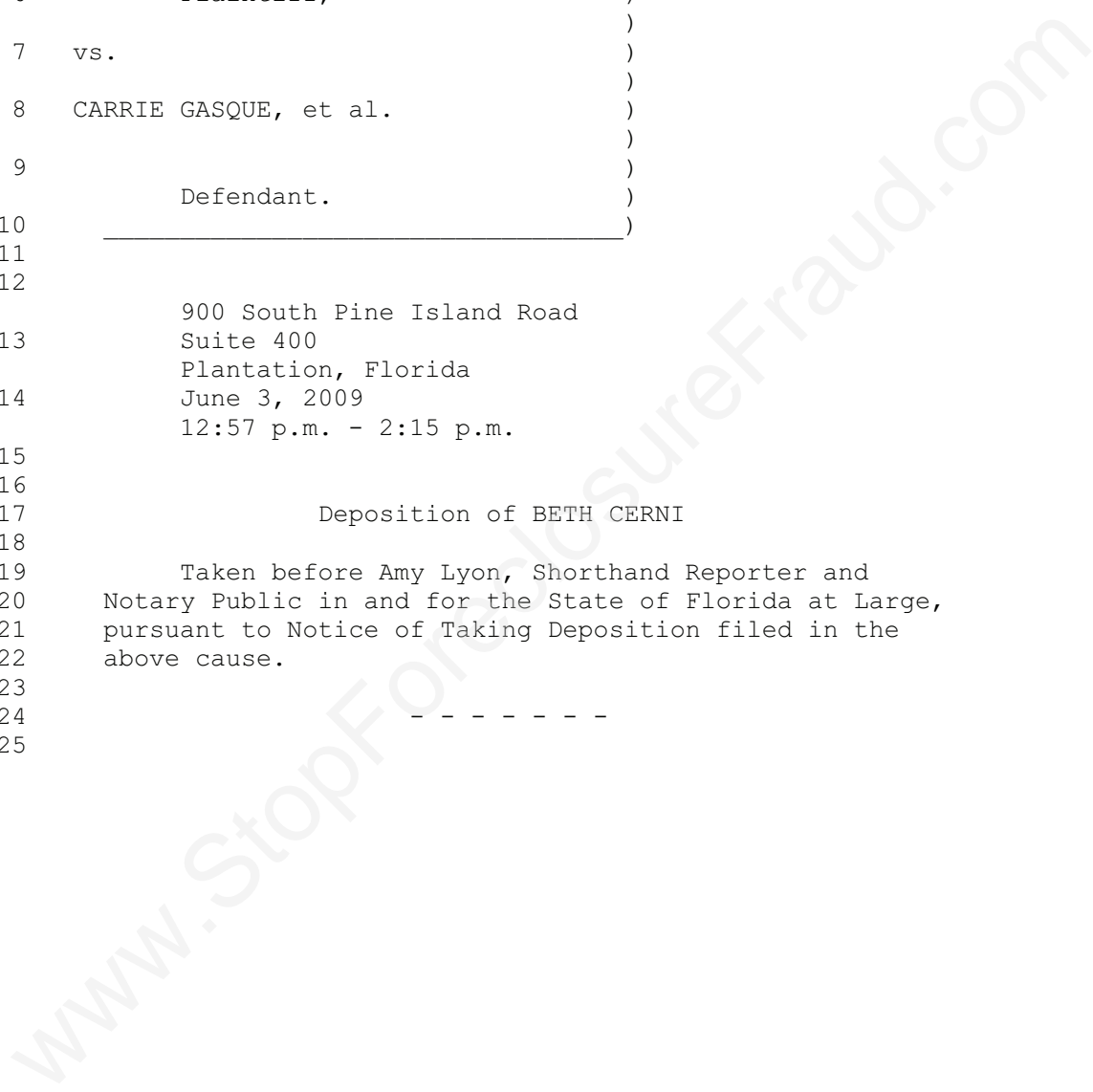
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APPEARANCES :

ON BEHALF OF THE PLAINTIFF:
LAW OFFICES OF DAVID J. STERN, P.A.
900 South Pine Island Road
Suite 400
Plantation, Florida 33324-3920
BY: DONNA GLICK, Esq.
ON BEHALF OF THE DEFENDANT:
JACKSONVILLE AREA LEGAL AID, INC.
126 West Adams Street
Jacksonville, Florida 32202
BY: LYNN DRYSDALE, Esq.

ALSO PRESENT:

JEFFREY TEW, Esq. - On behalf of the witness
RONALD V. MORRIN - Videographer

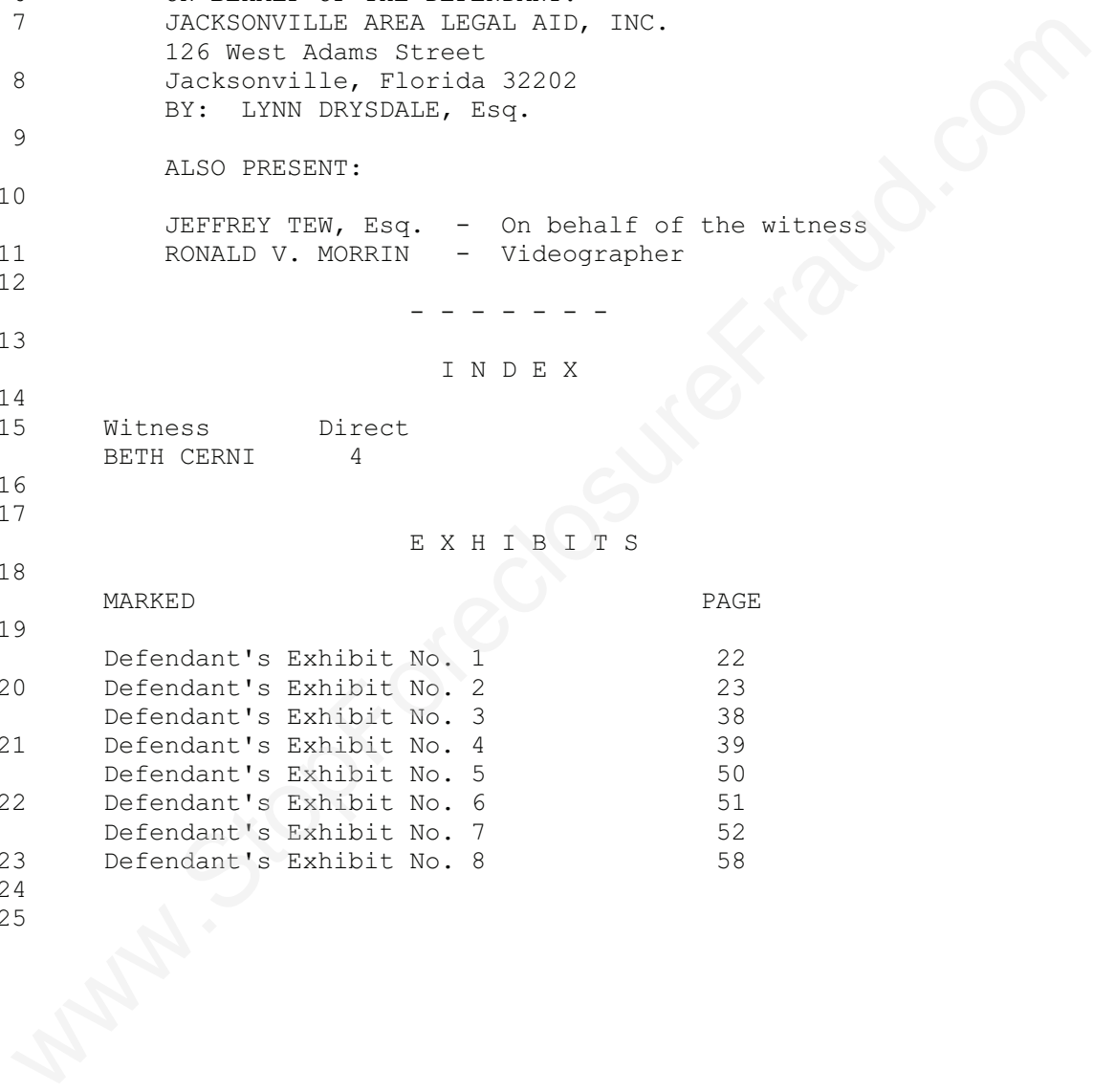
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I N D E X

Witness Direct
BETH CERNI 4

E X H I B I T S

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0003

1 THE VIDEOGRAPHER: We are on the record.
2 The date is June 3, 2009. The time is 12:57 p.m.
3 This is the deposition of Beth Cerni, in the
4 matter of GMAC Mortgage, LLC, versus Carrie
5 Gasque, et al. My name is Ron Morrin,
6 representing Justice Video. The court reporter is
7 Amy Lyon, from Boss Reporting.

8 At this time, would the attorneys please
9 state their names for the record.

10 MS. DRYSDALE: Lynn Drysdale, representing
11 the defendant, Ms. Gasque.

12 MR. TEW: Jeffery Tew of the firm of Tew
13 Cardenas, for the witness.

14 MS. GLICK: Donna Glick, on behalf of the
15 Plaintiff.

16 THE VIDEOGRAPHER: Could we please swear in
17 the witness.

18 Thereupon:

19 BETH CERNI,
20 was called as a witness by the Defendant, and after
21 being first duly sworn, was examined and testified
22 under oath as follows:

23 THE WITNESS: I will.
24
25

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DIRECT EXAMINATION

2

BY MS. DRYSDALE:

3

Q. Miss Cerni, my name is Lynn Drysdale. I introduced myself earlier, but I just wanted to get that on the record. I'll be asking you a series of questions today.

4

5

Have you ever had your deposition taken before?

6

7

A. No.

8

Q. Okay. Um, if you don't understand a question that I ask you, please just ask me to -- to rephrase it, or tell me that you don't understand, and I'll be glad to try to rephrase it for you.

9

10

If at any point in time you get tired, you want to take a break for any reason, just let me know. Um, it's not a marathon, so um, we want to make sure that you're comfortable.

11

12

And if you will please make sure to answer my questions audibly with a yes or a no, because the court reporter will be unable to take uh-huh's or huh-hu's or head nods?

13

14

A. Okay.

15

Q. Do you have any questions for me?

16

A. No, ma'am.

17

Q. Okay. Could you please state your name and address for the reporter?

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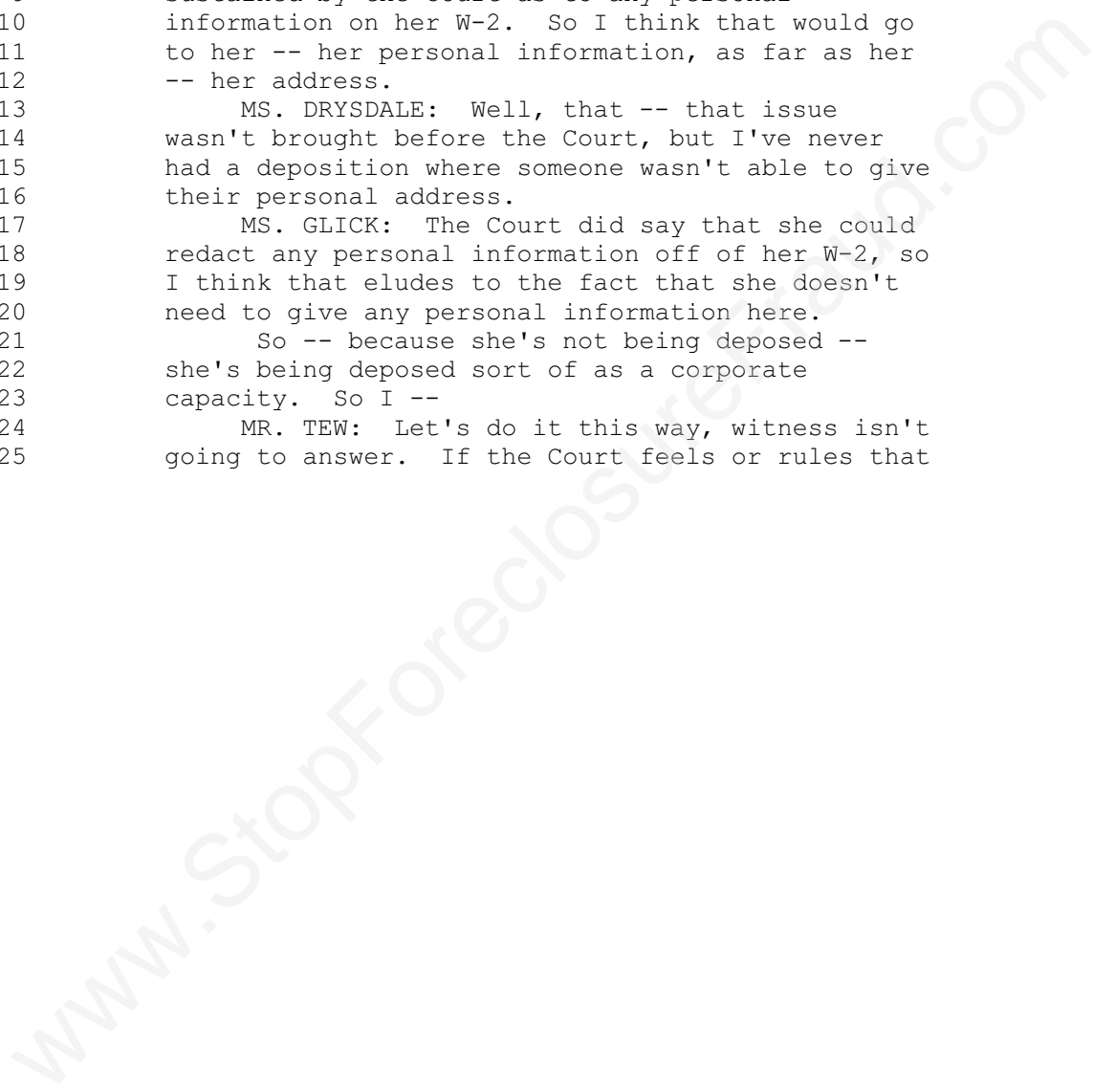
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A. Beth Cerni. My address is 11431 North --
MS. GLICK: Objection to the personal.
MR. TEW: Yeah. I was going to say that.
You can give them your business address.
THE WITNESS: Oh. I apologize, thank you.
MS. DRYSDALE: Well, I think she can state
her -- her personal address.
MS. GLICK: The objection was previously
sustained by the Court as to any personal
information on her W-2. So I think that would go
to her -- her personal information, as far as her
-- her address.
MS. DRYSDALE: Well, that -- that issue
wasn't brought before the Court, but I've never
had a deposition where someone wasn't able to give
their personal address.
MS. GLICK: The Court did say that she could
redact any personal information off of her W-2, so
I think that eludes to the fact that she doesn't
need to give any personal information here.
So -- because she's not being deposed --
she's being deposed sort of as a corporate
capacity. So I --
MR. TEW: Let's do it this way, witness isn't
going to answer. If the Court feels or rules that



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1 it's required, we can supply the information in
2 writing.

3 MS. DRYSDALE: I appreciate that, but my
4 concern is that we're going to be using the court
5 order to make -- that the Court was eluding to
6 this or eluding to that. I mean, we're not going
7 to get any answers today if we're going to read
8 the court order that broadly.

9 If -- if it -- if the -- if the witness were
10 concerned about her personal address being --
11 being stated on the record, then that should have
12 been raised and it hasn't been. I mean, I accept
13 your proposal, and we'll go with that but --

14 MR. TEW: Let's do it that way.

15 MS. DRYSDALE: -- but I just -- I want to --
16 want you to know that we're not going to read the
17 order that broadly. The report specifically --

18 MR. TEW: No. I'm not suggesting anything
19 about the order. I'm just saying practically, the
20 witness isn't going to give her personal address.
21 If the Court feels that it should be given, it can
22 be supplied in writing.

23 BY MS. DRYSDALE:

24 Q. You can go ahead Miss Cerni.

25 A. I'm sorry, please repeat.

0007

1 Q. Your address?

2 A. The 900 South Pine Island Road, Suite 400,
3 Plantation, Florida 33324.

4 Q. And that is your employment address?

5 A. Yes.

6 Q. And by -- with whom are you employed?

7 A. The Law Offices of David J. Stern.

8 Q. How long have you been employed with David J.
9 Stern?

10 A. Since December 15, 1997.

11 Q. Could you describe your educational
12 background, beginning with high school?

13 A. Cardinal Mooney High School.

14 Q. And when did you graduate?

15 A. Nineteen seventy-seven.

16 Q. And did you have any further education past
17 that point?

18 A. Two years Youngstown State University.

19 Q. And did you receive a degree?

20 A. No. I didn't finish my Bachelor's.

21 Q. What were you studying there?

22 A. Business Management.

23 Q. And what did you do after you left
24 Youngstown?

25 A. I moved to Florida.

0008

1 Q. Okay. And did you -- were you employed when
2 you moved to Florida?
3 A. Yes.
4 Q. What were you doing?
5 A. Working for a law office.
6 Q. What law office?
7 A. Weiner (phonetic), Shapiro, and Rose.
8 Q. And what type of work did they do?
9 A. Foreclosures.
10 Q. How long did you work for that firm?
11 A. Approximately a year.
12 Q. And did -- were you fired from that firm, or
13 did you leave voluntarily to go to another position?
14 A. I left to start a family.
15 Q. Okay. When were you next employed?
16 A. Um, 1992.
17 Q. With whom were you employed in 1992?
18 A. In the State of Ohio - we had moved there - I
19 worked for -- as a substitute for the School Board of
20 Ashtabula County.
21 Q. How long did you hold that position?
22 A. Approximately two years.
23 Q. Okay. What was your next position?
24 A. Then I was full-time with the school board, I
25 ran the school office.

0009

1 Q. How long did you have that position?

2 A. Until 1996.

3 Q. And what caused you to leave that job?

4 A. We moved back to Florida.

5 Q. In 1996, did you become employed with any
6 other -- with another company?

7 A. I worked part-time in '96 for Burdines, what
8 was Burdines at the time.

9 Q. And then you started with the Stern Law
10 Office in 1997?

11 A. Yes.

12 Q. What's your current position with the law
13 firm?

14 A. Foreclosure Manager.

15 Q. What duties does that entail, what are your
16 day-to-day duties?

17 A. Um, I work in the client's systems, I review
18 bids, I prepare pleadings for files, I manage a staff.
19 Do you need more broad than that?

20 Q. What do you mean when you say you work in
21 client systems?

22 A. I update client systems. We have the ability
23 to work in their systems, their computer systems.

24 Q. Is that a software program?

25 A. Uh-huh.

0010

1 Q. And what does that software program do?

2 A. We update what we do on the files in the
3 client system.

4 Q. So all of the client files, all of your
5 clients have a file in that system, and you maintain
6 records relating to that client in these files?

7 A. No. Specific clients are in specific
8 systems. So you update only those clients that are in
9 that particular system.

10 Q. Okay. What system would MERS be in?

11 A. MERS isn't in the system.

12 Q. They're not? What about GMAC Mortgage, LLC?

13 A. They're NewTrack.

14 Q. What other systems do you use for the -- for
15 the clients, for your clients?

16 A. It depends upon the client.

17 Q. Can you give me some examples of the systems?

18 A. Um, we have Lendstar, we have Vendorscape,
19 those are the two that I have used.

20 Q. And you've also used NewTrack?

21 A. Yes, ma'am.

22 Q. What type of information do you keep in the
23 systems?

24 A. We have to update when hearings are
25 scheduled, when service is complete for the clients.

0011

1 Q. Do you also keep in those systems,
2 information as to when the lawsuit is filed, when
3 assignments are executed, when affidavits are
4 executed?

5 A. When complaints are filed, yes.

6 Q. But not when assignments are executed or
7 affidavits are executed?

8 A. No.

9 Q. Is that information kept in another software
10 program?

11 A. Not to my knowledge.

12 Q. Is there another way of tracking that
13 information?

14 A. Not to my knowledge.

15 Q. It's just kept in the client's physical file?

16 A. Yes.

17 Q. You said that you also managed a staff, how
18 many people do you manage?

19 A. There's approximately fifty paralegals on my
20 floor.

21 Q. And what do they do?

22 A. They work on files for clients, case loads.

23 Q. So do they schedule hearings; do they prepare
24 pleadings?

25 A. Yes, some schedule hearings. And yes, some

0012

1 prepare pleadings.

2 Q. What other types of things do they do?

3 A. Um, some cancel hearings. Some request -- I
4 don't know. Some request documents from the clients
5 when needed, just general office.

6 Q. Do they take instruction from attorneys that
7 work in the office?

8 A. Yes.

9 Q. And they also take instruction from you?

10 A. They come to me with questions for procedural
11 type things, but they're -- they take instruction
12 directly from attorneys, they're assigned to an
13 attorney.

14 Q. When you said procedural type things, do you
15 mean office procedures or --

16 A. Yes, ma'am. Office procedures.

17 Q. You also said you prepare pleadings, what
18 type of pleadings do you prepare?

19 A. If an attorney needs things prepared on the
20 file, his paralegal may be out, I'll prepare the
21 pleadings for court for them.

22 Q. And then what happens next, after you prepare
23 the pleadings?

24 A. They're given to the attorney for review and
25 signature.

0013

1 Q. Do you work for several attorneys, or do you
2 work for one attorney in particular?

3 A. I'm not assigned to a particular attorney,
4 no.

5 Q. How does work come to you?

6 A. As the attorneys need help, if their
7 paralegals are out, they'll come to me.

8 Q. But you're not assigned to work with any
9 particular attorney?

10 A. No, ma'am.

11 Q. You also said you reviewed something, and I
12 didn't catch what you said you reviewed?

13 A. I review reports.

14 Q. What type of reports?

15 A. What my paralegals are doing on their files
16 and their case loads, to make sure they're doing them
17 correctly.

18 Q. What type of reporting -- what types of
19 things do they --

20 MS. GLICK: You're getting close to work
21 product and -- and --

22 MS. DRYSDALE: Okay.

23 MS. GLICK: -- and attorney client privilege
24 information just so -- tread lightly, Lynn.

25 MS. DRYSDALE: Okay.

0014

1 BY MS. DRYSDALE:

2 Q. Are they reporting -- is it a case management
3 type of reporting that they're doing? Are you looking
4 to make sure that the complaints are getting filed,
5 and the cases are being followed through with, is that
6 the type of a --

7 A. And making sure timelines are followed, yes.

8 Q. And who sets the standard for the timelines?

9 A. They are set by the firm.

10 Q. How long have you been the foreclosure -- are
11 you the foreclosure manager or a foreclosure manager?

12 A. A.

13 Q. How many other foreclosure managers are
14 there?

15 A. Um, I have one counterpart, and then I have a
16 superior.

17 Q. And who is your superior?

18 A. Cheryl Samons.

19 Q. And who is your counterpart?

20 A. Tammy Sweatt.

21 Q. For the court reporter, that's T-A-M-M-Y --

22 A. Yes.

23 Q. -- S-W-E-A-T-T. So do you work -- as a
24 foreclosure manager, do you work in the litigation
25 department, or is that a separate department?

0015

1 A. That's separate.

2 Q. What distinguishes between those two
3 departments, why would a file be in the foreclosure
4 department as opposed to the litigation department?

5 A. A file becomes litigated when there's a
6 contested issue.

7 Q. What position did you hold before you were
8 the foreclosure manager?

9 A. Paralegal.

10 Q. How many years were you a paralegal?

11 A. I think I've been a manager now for at least
12 five years. Forgive me, I don't remember the exact
13 date.

14 Q. When you were a paralegal, were you -- did
15 you move up from paralegal to foreclosure manager?

16 As a foreclosure manager, are you now supervising
17 paralegals for which position you just held?

18 A. Yes.

19 Q. Thanks for answering that, that wasn't a very
20 well articulated question.

21 Do you receive any compensation from any other
22 companies?

23 A. No.

24 Q. And are -- do you -- are you employed by any
25 other companies presently?

0016

1 A. No.

2 Q. Are you considered an officer, director, or
3 managing agent for your company, for Stern's office,
4 David Stern's office?

5 A. No.

6 Q. Are you for any other companies?

7 A. I'm not sure that I understand that question.

8 Q. I'm asking you if you hold the title of any
9 sort of officer, director, or managing agent?

10 Um, well, let's just -- let's narrow it down. Do
11 you hold the title of officer or director for any --
12 for David Stern's office?

13 A. No.

14 Q. Any other companies, do you hold the position
15 of officer or director for any other companies?

16 A. No.

17 Q. Did you do anything to prepare for your
18 deposition today?

19 A. I have reviewed the file, that was it.

20 Q. Okay. Also do -- also in your position, you
21 execute assignments of mortgage; is that correct?

22 A. Yes.

23 Q. How much of your day is attributed to the
24 executing assignments of mortgage, on a -- on a
25 day-to-day basis?

0017

1 A. Not even -- I wouldn't even say two hours a
2 day.

3 Q. But you do execute assignments of mortgage
4 every day?

5 A. Some days I don't.

6 Q. What's the process when you do execute an
7 assignment of mortgage, do you prepare the assignment?

8 A. No.

9 Q. Who prepares it?

10 A. The paralegals.

11 Q. And this is a paralegal that you supervise?

12 A. Yes.

13 Q. Where did they get the direction to prepare
14 the assignment?

15 A. The -- the file has the information that they
16 need to prepare.

17 Q. Is there title information in the file that
18 they look at?

19 A. Yes.

20 Q. Where did they get the title information, how
21 does the title information get into the file? Does it
22 come from the client, does it come from your office?

23 A. I'm not sure I understand.

24 Q. In putting together an assignment, there's a
25 lot of information contained in it. There's the

0018

1 company that is executing -- that is assigning the
2 mortgage, the company that the mortgage is being
3 assigned to, there are dates and there's a property
4 description. Where does that person preparing the
5 assignment get that information?
6 A. From the file.
7 Q. How does that information get into the file?
8 A. Initially it's the client's referral.
9 Q. So all that information is coming from the
10 client?
11 A. Culmination of the client, and then when the
12 title work is done.
13 Q. Who's doing the title work?
14 A. The title company, Professional Title.
15 Q. Is that a company that's affiliated with
16 David stern's office?
17 A. No.
18 Q. Is any of that ever done in house?
19 A. They're a separate company.
20 Q. So when you prepare -- when you execute an
21 assignment, it has been prepared pursuant to title
22 work prepared by another company?
23 A. Correct.
24 Q. At what point do you determine that an
25 assignment is needed?

0019

1 A. If the title work calls for one.

2 Q. How would you know by looking at the title
3 work that it called for one?

4 A. It would be marked assignment required.

5 Q. Is that frequently the case, when a file
6 comes into your department that an assignment is
7 needed?

8 A. Yes.

9 Q. What percentage of the time when a file comes
10 into your office is an assignment needed?

11 A. I'm going to guess 90 percent.

12 Q. Are there any other departments in the Stern
13 Law Firm that prepare the foreclosures, or are all the
14 foreclosures prepared by your department?

15 A. The foreclosures are prepared in the
16 foreclosure department.

17 Q. Do you ever speak with anyone before you
18 execute an assignment?

19 A. No.

20 Q. Why don't you just sort of walk me through
21 that, how that happens, how an assignment will end up
22 on your desk, and you will be asked to execute it?

23 A. The assignments are prepared when the
24 pleadings are prepared within the file. They're given
25 to an attorney for review. Once they're reviewed by

0020

1 the attorney, if there's any need for anything to be
2 signed by myself for an assignment, then the files are
3 put into an office on the fifth floor. I go in there
4 with a notary when I'm going to sign them and sign
5 them.

6 Q. So the assignments are prepared with the
7 initial foreclosure packet, the pleadings?

8 A. They are now, yes. Uh-huh.

9 Q. And 10 percent of the time an assignment is
10 not needed?

11 A. Yes.

12 Q. Do you review any documents before you
13 execute an assignment?

14 A. The attorney reviews the documents before I
15 sign them.

16 Q. Okay. Do you ever ask the attorney questions
17 about the -- about the assignment that you're
18 preparing to execute?

19 A. No.

20 Q. There's um, on all of the assignments
21 obviously there's a date. Who determines what date to
22 put on the assignment?

23 A. The date is the referral from the client.

24 Q. So the date on the assignment is always going
25 to be the date that the file was referred to your

0021

1 office from the client, which will ultimately become
2 the plaintiff?

3 A. The date is given to us by the client.

4 Q. The date to put on the assignment is provided
5 by the plaintiff?

6 A. The servicer, which is our client.

7 Q. Which will not necessarily be the plaintiff;
8 is that correct?

9 A. Correct.

10 Q. Turning to this case, I want to show you a
11 copy of a Notice of Lis Pendens and Foreclosure
12 Complaint, and ask you if you recognize this document?

13 I'm giving you three copies so counsel can take a
14 look as well. If you don't mind just taking a look at
15 that, and see if you recognize that document?

16 A. The Lis Pendens?

17 Q. The composite exhibit, which we've not yet
18 marked. It's a Lis Pendens and a Mortgage Foreclosure
19 Complaint.

20 A. Uh-huh.

21 Q. Was that one of the files that you prepared?

22 A. The complaint, no.

23 Q. I'm sorry. That file, was that file one of
24 the files that you worked on, Miss Gasque's file?

25 A. I've worked on the file, yes.

0022

1 MS. DRYSDALE: Okay. If I could mark that
2 as, I guess that'd be Defendant's 1.

3 (Defendant's Exhibit No. 1 was marked for
4 identification.)

5 BY MS. DRYSDALE:

6 Q. In this instance, you see that GMAC Mortgage,
7 LLC, is the plaintiff. Do you know if GMAC Mortgage,
8 LLC, in this case is the servicer?

9 A. Do I know?

10 Q. Yes, ma'am.

11 A. Yes, they're the servicer.

12 Q. So in this case the lawsuit was filed on
13 behalf of the servicer; is that correct?

14 A. Correct.

15 Q. And how do you know that?

16 A. My referral tells me who the servicer is.

17 Q. When you say your referral, is that an
18 individual, or a document that you're reviewing?

19 A. The referrals come from the client.

20 Q. And the client in this case would be GMAC?

21 A. Correct.

22 Q. Now, showing you a copy of an assignment of
23 mortgage, asking you if you recognize this document?

24 A. That's an assignment, uh-huh.

25 Q. Do you recognize your signature on this

0023

1 assignment of mortgage?

2 A. Yes.

3 MS. DRYSDALE: Okay. If we could mark that
4 as Defendant's 2.

5 (Defendant's Exhibit No. 2 was marked for
6 identification.)

7 BY MS. DRYSDALE:

8 Q. Can you tell -- explain the process by which
9 you assign this assignment of mortgage? Do you
10 remember how this assignment came to you?

11 Somebody else -- you told me that everybody -- I
12 mean, that all the assignments are prepared, and you
13 don't do anything to prepare them, you just execute
14 them; is that correct?

15 A. Correct.

16 Q. And do you remember when in the process this
17 assignment came to you to be executed?

18 A. That's correct -- or this specific
19 assignment?

20 Q. Yes, ma'am.

21 A. No, I don't recall.

22 Q. About how many assignments would you say you
23 execute in your average week?

24 A. Perhaps 20 to 25, maybe more.

25 Q. When you executed this assignment, it

0024

1 indicates that it was signed on November 7, 2008. Do
2 you have any reason to believe that, that wasn't the
3 date that you actually executed it?

4 A. No.

5 Q. And who is Amanda Whitfield?

6 A. An employee.

7 Q. Is she a paralegal that you supervise?

8 A. Yes.

9 Q. And she's a notary?

10 A. Yes.

11 Q. And was she in the room with you when you
12 executed this assignment?

13 A. Yes.

14 Q. And what about Candice -- I'm not quite sure
15 I know how to pronounce this, Um- --

16 A. Umana.

17 Q. Umana?

18 A. Uh-huh.

19 Q. U-M-A-N-A. So you executed this on
20 November 7, 2008; is that correct?

21 A. Yes.

22 Q. Now, the language after the date it was
23 executed the assignment provides, "but effective as of
24 the 11th day of September, 2008," what does that
25 language mean?

0025

1 MR. TEW: Well, she's not here to give legal
2 opinions, and I think that's what you're calling
3 for. So um, I'm going to suggest to her, that if
4 you know you can give it, but don't speculate as
5 to the legal meaning of that phrase.

6 MS. DRYSDALE: And with all due respect, I
7 think the -- the proper way to do it is to object
8 um, without --

9 MR. TEW: Okay.

10 MS. DRYSDALE: -- leading the witness.

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

12 MS. DRYSDALE: All right.

13 THE WITNESS: I don't know.

14 BY MS. DRYSDALE:

15 Q. You don't know?

16 A. (Nodding.)

17 Q. So you don't know what the phrase "effective
18 of the 11th day of September" means?

19 MR. TEW: Same objection.

20 BY MS. DRYSDALE:

21 Q. Is that correct, that you don't --

22 A. That's correct.

23 Q. -- you don't know what that means?

24 Do you read the assignments before you execute
25 them?

0026

- 1 A. It's a form. It's the same form for every
2 assignment.
- 3 Q. So you do not read them?
- 4 A. They're checked by an attorney before I sign.
- 5 Q. So you rely on the attorney?
- 6 A. Yes.
- 7 Q. Okay. Also, in this document it indicates
8 that "Mortgage Electronic Registration Systems, Inc.,
9 residing or located at care of GMAC Mortgage, LLC,"
10 what does that mean?
- 11 A. The address of the servicer.
- 12 Q. So Mortgage Electronic Registration System is
13 the servicer?
- 14 A. Mortgage Electronic Registrations is who
15 the -- the mortgage apparently was sitting in the name
16 of for this file at the time.
- 17 Q. And GMAC is the servicer?
- 18 A. Correct.
- 19 Q. What does that phrase residing or located at
20 care of mean?
- 21 A. That's an address.
- 22 Q. So MERS is physically located at GMAC
23 Mortgage, LLC?
- 24 A. I don't know.
- 25 Q. Don't know. Do you have access to any of the

0027

1 title work, or any other information before you
2 execute the assignments of mortgage?

3 A. It's in the file that's been reviewed by the
4 attorney.

5 Q. So you don't review them yourself?

6 A. No. It's been reviewed by the attorney.

7 Q. Are you -- what provides you the
8 authorization to sign?

9 You notice on the assignment, that you're
10 executing it as Assistant Secretary of Mortgage
11 Electronic Registration System; is that correct?

12 A. Correct.

13 Q. So before I asked you if you were employed by
14 any other corporations, you indicated that you were
15 not. What does it mean when you hold the position of
16 Assistant Secretary of Mortgage Electronic
17 Registration Systems, Inc.?

18 A. We have power of attorney.

19 Q. And what does that mean?

20 A. That we had authorization to sign on behalf
21 of.

22 Q. And did you obtain that power of attorney?

23 A. No, I did not.

24 Q. Did you -- do you know anything about the
25 negotiations leading up to the execution of that power

0028

1 of attorney?

2 A. No.

3 Q. And we're going -- we'll look at those
4 documents, I believe they've been produced; is that
5 correct?

6 A. Yes.

7 Q. So we'll look at them in a few minutes. Is
8 GMAC a client that you work with regularly?

9 A. Yes.

10 Q. Do you hold any positions with them?

11 A. No.

12 Q. Do you know at the time that you executed
13 this assignment of mortgage, if GMAC held the subject
14 loan - the loan was in their possession - the mortgage
15 and the note?

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

17 BY MS. DRYSDALE:

18 Q. I can re-ask the question if it would be
19 easier for you to answer.

20 When you executed the assignment of mortgage on
21 November 7, 2008, did you know where the note and
22 mortgage were physically?

23 A. I don't recall that on that date.

24 Q. Generally speaking, when you execute an
25 assignment of mortgage, do you know where the note and

0029

1 the mortgage are, the physical -- where the mortgage
2 and note physically are located?

3 A. They would be in the file.

4 Q. The original note and mortgage is always in
5 the file?

6 A. It would be in the file or the Doc Team.

7 Q. What's the Doc Team?

8 A. It's where all our documents come into.

9 Q. Is that -- is the Doc Team a group that is
10 employed by David J. Stern?

11 A. It's a department.

12 Q. What does the Doc Team do?

13 A. Files original docs in the files.

14 Q. So they -- they find these documents and then
15 they file them; is that correct?

16 A. They receive them and they file them.

17 Q. Who do they receive them from?

18 A. The client.

19 Q. Do you know if they ever receive them from
20 Fidelity National Information Services or Lender
21 Processing Services?

22 A. I don't know.

23 Q. If you'll take a look at the first document
24 that I handed to you, the Lis Pendens and complaint.
25 If you look, there's a document attached to that as

0030

1 Exhibit A. And who is listed as the lender on that
2 document?

3 A. It says MERS.

4 Q. And does it, a little bit further down, also
5 say Taylor, Bean, and Whitaker Mortgage Corporation,
6 "lender --

7 A. Uh-huh.

8 Q. -- is organized and existing under the laws
9 of?"

10 A. Uh-huh.

11 Q. Do you have any documents -- did you have any
12 documents in your file relating to Taylor, Bean and
13 Whitaker Mortgage Corporation at the time you executed
14 the assignment?

15 A. I don't know.

16 Q. Would you have looked at the original
17 mortgage prior to executing the assignment?

18 (Brief telephonic interruption.)

19 THE WITNESS: No. Again, they were reviewed
20 by an attorney.

21 MS. GLICK: Lynn.

22 MS. DRYSDALE: Uh-huh.

23 MS. GLICK: I have an attorney on the phone
24 who's calling in for depositions with Mr. Golant.
25 So can you give me an approximation of --

0031

1 MS. DRYSDALE: Oh, Mr. Golant is on the
2 phone?
3 MS. GLICK: -- how much longer we have. No,
4 no. Mr. Golant is sitting right out there.
5 MS. DRYSDALE: Oh, he can come in.
6 MS. GLICK: There's an -- well, he's not part
7 of this case, so I'm not sure that he can. But
8 um, there's an attorney on the phone who is
9 calling in for that next deposition. So I just
10 want to know - and he asked me to call back - can
11 you give me an approximation of how much more time
12 you think we have here --
13 MS. DRYSDALE: Um --
14 MS. GLICK: -- so I can tell him how much
15 longer to call back.
16 MS. DRYSDALE: It's not going to be an hour,
17 I'd say 45 minutes with me.
18 MS. GLICK: Forty-five minutes.
19 (Ms. Glick relayed message to the caller.)
20 MS. DRYSDALE: Did we go off?
21 THE VIDEOGRAPHER: No.
22 MS. DRYSDALE: We didn't, okay.
23 BY MS. DRYSDALE:
24 Q. Do you keep any sort of logs or lists of all
25 of the assignments that you execute?

0032

1 A. No.

2 Q. Does anybody in the office keep a log of
3 assignment -- mortgage assignments that are executed?

4 A. I don't know.

5 Q. You indicated that Miss Whitfield was present
6 when you executed the assignment; is that correct?

7 A. Correct.

8 Q. And Miss Umana?

9 A. Correct.

10 Q. How many -- when you were executing the
11 assignment which we've marked as 2, how many
12 assignments were in that stack do you recall, or
13 ordinarily would be in a stack?

14 MR. TEW: Well, I object it's a -- two
15 questions in one so.

16 MS. DRYSDALE: Okay.

17 MR. TEW: Either break it up, or you can
18 answer it in pieces.

19 THE WITNESS: Can you state it again, please?
20 BY MS. DRYSDALE:

21 Q. Yes, ma'am. Do you -- when you executed the
22 assignment that we've marked as 2, was that the only
23 document that you executed at that time?

24 A. I don't recall.

25 Q. As a general practice, when you go into the

0033

1 room on the fifth floor, are you executing a stack of
2 assignments or will -- is it your regular practice to
3 go, and just execute one at a time?

4 A. Each assignment is on it's specific file. So
5 as you sign them, they're on that file.

6 Q. Would you go into the room, and there'd be a
7 stack of files for you to execute assignments?

8 MS. GLICK: Objection to the form. I'm not
9 sure I understand stack.

10 BY MS. DRYSDALE:

11 Q. So the question is, do you just go in there,
12 execute an assignment, leave, come back couple hours
13 later, execute another assignment or would you go in
14 there, and execute two or three or four assignments at
15 one time?

16 A. If there's more than one file sitting there,
17 I will execute them at that time.

18 Q. Ordinarily, is that the case when there is
19 more than one?

20 A. Yes.

21 Q. Is there any money that changes hands when
22 the assignment -- or when the documents are actually
23 transferred, do you know?

24 A. No.

25 Q. Do you know anything about when the documents

0034

1 are actually transferred?

2 A. No.

3 Q. Are you pay -- do you receive an additional
4 payment for executing assignments?

5 A. No.

6 Q. Do you have any sort of quotas for numbers of
7 foreclosure that you have to process in any during
8 month?

9 A. No.

10 Q. Any sort of limitation on the turnaround time
11 within which you have to execute an assignment?

12 A. No.

13 Q. Do you know where Taylor, Bean and Whitaker
14 is located?

15 A. No.

16 Q. Do you have signing authority for Taylor,
17 Bean, Whitaker?

18 A. No.

19 Q. How long have you been an Assistant Secretary
20 with MERS?

21 A. You would have to look on the power of
22 attorney.

23 Q. Okay. We can do that.

24 Who are you assistant to? You're an Assistant
25 Secretary, who is the secretary that you're assistant

0035

1 to?
2 A. You would have to look at the document.
3 Q. So you don't know?
4 A. No.
5 Q. Have you read the power of attorney document?
6 A. Not recently.
7 Q. When was the last time that you read them?
8 A. Oh, I'm sure it was at least six, seven
9 months ago maybe.
10 Q. When were you first appointed as an
11 assistant, about that same time?
12 A. I don't recall.
13 Q. Whose idea was it for you to become an
14 Assistant Secretary of MERS?
15 A. I don't recall.
16 Q. Is that something that you were asked to do
17 as part of your job duties?
18 A. I don't recall.
19 Q. Do you remember the first time you were asked
20 to execute an assignment?
21 A. No.
22 Q. Do you recall if you learned of the power of
23 attorney before or after the first time you were asked
24 to execute an assignment?
25 A. It would have to be before.

0036

1 Q. You learned of the power of attorney before
2 you started executing assignments?

3 A. I couldn't sign anything if it wasn't
4 executed.

5 Q. If the power of attorney was not executed?

6 A. Correct.

7 Q. So when you were first asked to sign an
8 assignment, you asked about the power of attorney?

9 A. Yes.

10 Q. Who do you -- do you know where MERS is
11 located?

12 A. No.

13 Q. Have you ever been there?

14 A. No.

15 Q. Do you communicate with anyone at MERS?

16 A. No.

17 Q. And when I refer to MERS, I'm referring to
18 Mortgage Electronic Registration System, you
19 understand that right?

20 A. Yes.

21 Q. Can you explain how you become an Assistant
22 Secretary of MERS?

23 A. No.

24 Q. Has anybody ever explained to you what it
25 meant to be appointed as an assistant secretary of

0037

1 MERS?

2 A. No.

3 Q. And you have no communications with anyone at
4 that -- at MERS?

5 A. No.

6 Q. Written or by telephone, email?

7 A. No.

8 Q. Did you -- have you been trained in any
9 respect, before you were -- you started executing
10 assignments of mortgage?

11 A. No.

12 Q. What other duties do you have as an Assistant
13 Secretary of MERS?

14 A. I have no other duties.

15 Q. So your only duty is to execute assignments
16 of mortgage on behalf of MERS?

17 A. That's it.

18 Q. Have you signed assignments on any -- on
19 behalf of anyone other than MERS?

20 A. No.

21 Q. Do you know if MERS ever owned this mortgage
22 loan?

23 A. According to the mortgage.

24 Q. I'm sorry?

25 A. If you look at the mortgage.

0038

1 Q. The mortgage says that it owns the mortgage
2 loan?
3 A. Yes.
4 Q. Okay. Do you know if it ever held the note?
5 A. Is there a copy of the note?
6 Q. I can provide you a copy of the note.
7 MS. DRYSDALE: We'll mark this as
8 Defendant's 3.
9 (Defendant's Exhibit No. 3 was marked for
10 identification.)
11 BY MS. DRYSDALE:
12 Q. You're looking at a copy of a note dated
13 August 22, 2001, from Miss Gasque to Taylor, Bean and
14 Whitaker Mortgage Corporation. Does this help you
15 answer my previous question?
16 A. I'm sorry. Can you repeat your question?
17 Q. Did MERS ever hold the note?
18 A. Well, they did according to the mortgage.
19 Q. But they're not listed on the note?
20 A. No.
21 Q. Do you know if they ever acted as a servicer
22 for this particular loan?
23 A. No.
24 Q. You don't know, or you know they didn't?
25 A. It doesn't say; I don't know.

0039

1 Q. So the servicer would be listed on the note?

2 A. Not necessarily, no.

3 Q. So your -- what you're answer -- you're
4 answering that you don't know whether or not they ever
5 serviced the loan?

6 A. Correct.

7 Q. Do you know if they ever serviced any of the
8 loans for which you executed an assignment?

9 A. No.

10 Q. You don't know?

11 A. No.

12 Q. I'm sorry. I don't understand if you're
13 answering no, or you're telling me that you don't
14 know?

15 A. I don't know.

16 Q. Okay. Do you know if MERS keeps any records
17 relating to these assignments?

18 A. I don't know.

19 Q. So you don't report to -- you don't report to
20 anyone at MERS?

21 A. No.

22 Q. I want to show you another document, entitled
23 Affidavit in Support of Plaintiff's Motion for Summary
24 Judgment, and this will be Defendant's 4. Do you
25 recognize that document?

0040

1 A. Yes.
2 (Defendant's Exhibit No. 4 was marked for
3 identification.)
4 BY MS. DRYSDALE:
5 Q. What is -- what is this that we've marked?
6 A. Affidavit in support.
7 Q. Okay. And you recognize your signature on
8 the third page?
9 A. Yes.
10 Q. And in -- on this affidavit, you're an
11 authorized signatory of the Law Offices of David J.
12 Stern; is that correct?
13 A. As Attorney-in-Fact for GMAC Mortgage.
14 Q. What does that mean?
15 A. That we have power of attorney.
16 Q. So is that the same power of attorney that
17 you used to execute the assignment?
18 A. No. It's a different document.
19 Q. So you have a separate power of attorney
20 for -- you have one power of attorney to execute the
21 assignment, and another power of attorney to execute
22 the affidavit?
23 A. Yes.
24 Q. Did you prepare this affidavit?
25 A. No.

0041

1 Q. Who prepared it?

2 A. The paralegal on the file.

3 Q. Do you know who that -- that is in this
4 instance?

5 A. Not off the top of my head, no.

6 Q. But you could look at the file to determine
7 that?

8 A. I could try to figure it out.

9 Q. Do you have the file with you?

10 A. Yes.

11 Q. Could you -- do you mind checking to see if
12 you could determine which paralegal prepared this?

13 A. Janet Maceira prepared it according to the
14 file.

15 Q. Could you um, spell the last name, please?

16 A. M-A-C-E-I-R-A.

17 Q. When you executed this affidavit, what
18 documents did you review prior to executing it?

19 A. The figures given to us by the client.

20 Q. In what form did they give those figures to
21 you?

22 A. They provided them to us - excuse me - via an
23 e-mail.

24 Q. So when you say they provided the figures,
25 they gave -- did they give you the underlying data as

0042

1 to how they arrived - and I'm looking at second the
2 page - of the principal balance of the note of
3 63,464.17?

4 A. No.

5 Q. Did they give you the underlying information
6 relating to how they arrived at the interest amount of
7 3569.85?

8 A. No.

9 Q. Same answer for late charges, did you have
10 the underlying data?

11 A. No.

12 Q. Same answer for inspections, did you have the
13 underlying data?

14 A. No.

15 Q. Is -- do you -- you've executed more than one
16 of these affidavits; is that correct?

17 A. Yes.

18 Q. Is it the standard procedure that you will
19 be -- you would be provided with an affidavit, with
20 figures provided by the Plaintiff and you would
21 execute it?

22 A. Correct.

23 Q. Do you ever look at any other documents prior
24 to executing the affidavit?

25 A. No.

0043

1 Q. Do you ever look at any other information
2 relating to numbers, account histories, statements,
3 any of that form from the client?

4 A. No.

5 Q. Do you know how they gather the information
6 they give to you to put in the affidavit?

7 A. No.

8 Q. Who from the client gives you this
9 information, what -- what position do they hold?

10 A. I don't know what their positions are within
11 the company.

12 Q. Do you always get the information from the
13 same person?

14 A. No.

15 Q. Who do you ask to speak to when you're --
16 when you're trying to get the information?

17 A. You don't speak to anyone, they send them via
18 e-mail.

19 Q. And it doesn't indicate what department the
20 person is in that's sending it?

21 A. They are from the foreclosure department.

22 Q. Of, in this case, GMAC Mortgage?

23 A. Correct.

24 Q. Who you've identified as the servicer of the
25 loan?

0044

1 A. Correct.

2 Q. Do you know who the owner of the loan is in
3 this instance, in this case?

4 A. I'm sorry. I don't understand your question.

5 Q. I'm asking you if you know who owns the loan
6 that is the subject of Miss Gasque's lawsuit?

7 A. Who holds the loan?

8 Q. Who owns it?

9 A. Well, at this point, GMAC.

10 Q. I thought you indicated they were the
11 servicer?

12 A. They're also the plaintiff.

13 Q. So you're saying that they -- they own it and
14 they service it?

15 A. Yes.

16 Q. Okay. So you know that they own it?

17 A. They're the Plaintiff.

18 Q. How -- what -- how else would you know that
19 they owned it?

20 A. They're the Plaintiff.

21 Q. So you assume, because they are the
22 Plaintiff, that they own it; is that correct?

23 A. I don't understand your question.

24 Q. You're not giving me a basis for how you know
25 that they're the owner, except for they're the

0045

1 plaintiff.

2 So I'm asking you, that you are assuming because
3 they're the plaintiff, that they're the owner?

4 A. They are the plaintiff; they own the
5 mortgage.

6 Q. But -- and you said they also service the
7 loan?

8 A. Yes. They're the servicer.

9 Q. Is the assignment, is that what gives them
10 the status of the owner of the loan?

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

12 Calls for a legal conclusion.

13 THE WITNESS: I don't know.

14 BY MS. DRYSDALE:

15 Q. Do you know what the purpose of the
16 assignment is?

17 MR. TEW: Same objection.

18 MS. GLICK: Beth, I think we're waiting for
19 an answer.

20 THE WITNESS: Oh, I'm sorry. I thought that
21 since you objected, I apologize.

22 MS. DRYSDALE: Can you read back that last
23 question?

24 (Requested portion was read by the reporter.)

25 THE WITNESS: No.

0046

1 BY MS. DRYSDALE:

2 Q. Did you ever look at the mortgage accounts or
3 records of GMAC, prior to executing the affidavit
4 we've marked as four?

5 A. No.

6 Q. In Mrs. Gasque's case, you were signing on --
7 you've signed the affidavit on behalf of Mr. Stern's
8 office and for GMAC, and you've also acted as an
9 Assistant Secretary for MERS; is that correct?

10 A. Correct.

11 Q. So in this instance you represent -- you
12 represent in some capacity both the Plaintiff and the
13 company that was your client's predecessor; is that
14 correct?

15 MR. TEW: Object to the form of the question.
16 What do you mean by represent?

17 THE WITNESS: I'm not a legal counsel of any
18 sort.

19 BY MS. DRYSDALE:

20 Q. But you -- you are an Assistant Secretary of
21 MERS, and you're also an authorized signatory of
22 Mr. Stern's office and GMAC, do you not think that,
23 that's a conflict of interest?

24 MR. TEW: Object to the form of the question.
25 Calls for a legal collusion.

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THE WITNESS: I don't know --

MR. TEW: You don't have to answer that.

MS. DRYSDALE: Again, I think that you're supposed to object to --

MR. TEW: But she's not qualified, she's here as a fact witness. I'm not going to let her act -- try to answer your questions that call for a legal conclusion.

The facts are as you state them, she signed in certain capacities. Now you're asking her what the legal effect of that is, or if there's a legal conflict of interest. You're not going to get into that with her.

MS. DRYSDALE: All right. She can say -- I can ask the question, and she can say she doesn't know --

MR. TEW: Fine.

MS. DRYSDALE: -- but you're continuing to coach her --

MR. TEW: I'm not coaching her, I'm objecting --

MS. DRYSDALE: -- and I stated at the very beginning, that I believe the proper way to do this is to object to the form of the question.

MR. TEW: I understand that but these are

0048

1 improper questions, and you know they're improper.
2 To ask a paralegal who's not a licensed lawyer,
3 legal questions.

4 MS. DRYSDALE: With all due respect, she's
5 executing legal documents, so I have the right to
6 inquire as to her knowledge.

7 MR. TEW: Say -- if you know the legal effect
8 of any of these questions you can say so, if you
9 don't, say you don't know.

10 THE WITNESS: I don't know.

11 BY MS. DRYSDALE:

12 Q. But so you don't see any problem with
13 representing both David Stern's office and MERS and
14 apparently GMAC as well; is that correct?

15 MR. TEW: Object to the form of the question.
16 Calls for a legal conclusion. Also problem isn't
17 defined in the question.

18 MS. DRYSDALE: You can answer the question if
19 you can.

20 THE WITNESS: I don't know.

21 BY MS. DRYSDALE:

22 Q. So who is the client of David J. Stern in
23 Mrs. Gasque's case?

24 A. GMAC.

25 Q. Is MERS a client?

0049

1 A. No.

2 Q. And you said that 90 percent of the
3 assignments are executed in-house, is that to help
4 expedite the foreclosure process?

5 A. No. It's because the power of attorney for
6 MERS.

7 Q. Do you know when the documents are actually
8 transferred?

9 A. No.

10 MS. GLICK: Asked and answered.

11 BY MS. DRYSDALE:

12 Q. Do you ever -- do you ever execute
13 assignments after the lawsuit has been filed?

14 A. No.

15 Q. So, every time you execute an assignment,
16 it's before the lawsuit's been filed?

17 A. Yes.

18 Q. In this instance, this lawsuit, if you'll
19 look at Exhibit 1, this lawsuit was filed on
20 September 26, 2008.

21 MS. GLICK: That's actually not a
22 representation, that's the date it was signed, and
23 I don't know if that's the date that it was filed.

24 BY MS. DRYSDALE:

25 Q. But you agree that the assignment was not

0050

1 executed until November the 7th 2008; is that correct?

2 A. I'm sorry what was your question?

3 Q. The question was -- I understand from your --
4 you're testifying that the assignments are always
5 executed prior to the filing of the lawsuit; is that
6 correct?

7 A. Yes, they are.

8 Q. Okay. I want to show you a copy of a Second
9 Amended Notice of Taking Deposition Duces Tecum, I
10 think you all have copies of these, but. Have you --
11 have you seen that document before, and we'll mark
12 that as Defendant's 5?

13 A. Yes.

14 (Defendant's Exhibit No. 5 was marked for
15 identification.)

16 BY MS. DRYSDALE:

17 Q. And I understand that you produced certain
18 documents pursuant to this notice; is that correct?

19 A. Correct.

20 Q. And the first document you produced was a W-2
21 from 2007, listing you're employer as David A. Stern
22 (sic) P.A. --

23 A. Uh-huh.

24 Q. -- and listing your name, do you recognize
25 this document?

0051

1 A. Yes.

2 Q. You all each have a copy of this; is that
3 correct?

4 We'll mark that as Defendant's 6.

5 (Defendant's Exhibit No. 6 was marked for
6 identification.)

7 MS. DRYSDALE: If we could go off the record
8 for just a minute. I've got a whole large stack
9 of documents.

10 THE VIDEOGRAPHER: Going off record 1:50 p.m.

11 (A discussion was had off the record.)

12 THE VIDEOGRAPHER: Back on record 2:00 p.m.

13 BY MS. DRYSDALE:

14 Q. Miss Cerni, I'm handing you a stack of
15 documents, and asking you if you could take a look at
16 those, and identify them for the record.

17 A. Agreement for signing authority. Agreement
18 for signing authority. Agreement for signing
19 authority.

20 Q. And could you also read the name of the
21 companies that the agreements relate to?

22 MR. TEW: Maybe the way to do this, to say
23 these are agreements of signing authority for the
24 following, and then just read them.

25 THE WITNESS: Okay. For MERS, GMAC; for

0052

1 MERS, Citimortgage; for MERS, Homecomings
2 Financial, LLC; for MERS, Wells Fargo Home
3 Mortgage; for MERS, Litton Loan Servicing; for
4 MERS, Country Wide Financial Corporation; for
5 MERS, Chase Home Finance, LLC.

6 Q. Do you recognize those documents?

7 A. These are the powers of attorney.

8 Q. So you've seen them before?

9 A. I've seen them before.

10 Q. And when was the last time you saw them?

11 A. I don't recall.

12 Q. Do you remember when the first time that you
13 saw them was?

14 A. I don't recall.

15 MS. DRYSDALE: And that -- I want to mark
16 that as Defendant's Composite 7.

17 (Defendant's Composite Exhibit No. 7 was
18 marked for identification.)

19 BY MS. DRYSDALE:

20 Q. I understand from your --

21 MS. GLICK: I think -- did I miss six?

22 MR. TEW: No. Six is the W-2 --

23 MS. GLICK: I thought that was five.

24 MR. TEW: I think.

25 MS. GLICK: I thought --

0053

1 MS. DRYSDALE: Five is the notice.
2 MR. TEW: Notice is five, W-2 is six --
3 MS. GLICK: Oh, I'm sorry.
4 MS. DRYSDALE: Four is the affidavit.
5 MR. TEW: -- yeah, I think
6 MS. GLICK: Sorry.

7 BY MS. DRYSDALE:

8 Q. So you recognize these agreements. What did
9 these agreements give you the authority to do?

10 A. To sign assignments on behalf of MERS.

11 Q. Does it give you the right to do anything
12 else?

13 A. No.

14 Q. I understand from your counsel, that each of
15 the documents that you've just described are probably
16 substantially similar but perhaps not identical; is
17 that your understanding?

18 A. I don't know.

19 Q. Don't know. I just say that, because I
20 may -- I haven't had a chance to look at all of them,
21 and may have questions later, if after I've had an
22 opportunity to do so, if there are idiosyncrasies.

23 So you have signing authority for each of those
24 companies that you just read to me; is that correct?

25 A. Not all of them.

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Q. I'm sorry?

A. Not all of them.

Q. What -- the one for GMAC, what does that give you the authority to do?

MR. TEW: It might be easier -- she segregated the ones that mention her and the ones who don't.

MS. DRYSDALE: Okay.

MR. TEW: So why don't we just have her identify the ones that don't apply to her.

MS. DRYSDALE: Okay. Would you -- is it better to tell me the ones that do apply?

MR. TEW: Okay --

MS. DRYSDALE: Which ones --

MR. TEW: -- you know, whichever.

MS. DRYSDALE: -- give you authority?

MR. TEW: Some do; some don't.

THE WITNESS: Do you want do or don't?

MS. DRYSDALE: Do.

THE WITNESS: GMAC, Homecomings Financial, Litton Loan Servicing, Countrywide Financial, Chase Home.

BY MS. DRYSDALE:

Q. And do you know how it was determined that those -- that you would be appointed as someone who

0055

1 could -- who could sign on authority for those
2 companies?
3 A. I don't know.
4 Q. Who told you that you had this new authority?
5 A. I don't recall.
6 Q. Do you know who prepared these documents?
7 A. I don't know.
8 Q. Do you know -- do you understand what each of
9 these documents mean, other than the fact that they
10 give you the right to sign on behalf of certain
11 companies?
12 A. I just know I can sign the MERS assignments.
13 Q. Have you read through each of these
14 agreements?
15 A. No.
16 Q. So you don't -- you've not -- you don't know
17 what all of the terms are?
18 A. No.
19 Q. Who told you that these agreements gave you
20 the authority to sign on behalf of MERS?
21 A. I don't recall.
22 Q. Someone within Mr. Stern's office?
23 A. I don't recall who told me.
24 Q. Was it -- would it have been somebody outside
25 of Mr. Stern's office?

0056

1 A. No.

2 Q. So it would have been somebody employed --

3 A. Someone here.

4 Q. I'm sorry?

5 A. Someone here.

6 Q. But you've not actually read the agreements;
7 is that correct?

8 A. No.

9 Q. I'm showing you now a stack of documents,
10 most of which are entitled Limited Power of Attorney,
11 do you recognize those documents?

12 A. I've seen them before.

13 Q. Can you tell me which of these documents
14 provide you with -- well, why don't you tell me what
15 these -- what the limited power of attorney gives you
16 the right to do.

17 You've testified before that you were signing
18 pursuant to a power of attorney, was this the power of
19 attorney that you were referring to?

20 A. For Affidavit A's?

21 Q. For assignments of mortgage?

22 A. No. Those are assignments of mortgage.

23 Q. Okay. What about for affidavits?

24 A. These are for affidavits.

25 Q. Okay. You -- you used a term affidavit --

0057

1 did you -- did you say affidavit, or was there another
2 term that you used?

3 A. We call them Affidavit A's.

4 Q. What's an Affidavit A?

5 A. The first exhibit to your motion for summary
6 judgment.

7 Q. So that "A" means that it's always going to
8 be the first exhibit on the motion for summary
9 judgment?

10 A. Yes.

11 Q. Are there other affidavits that you prepare
12 and sign -- or that you sign?

13 A. No.

14 Q. Just for -- in support of the motions for
15 summary judgment?

16 A. Correct.

17 Q. Okay. The limited power of attorney then,
18 was that -- that's the document you referred to
19 earlier, when you talked about having signing
20 authority for the affidavit; is that correct?

21 A. Correct.

22 Q. Do you recognize which of the affidavits in
23 front of you give you the -- give you the authority to
24 act on different companies?

25 A. You want me to go through them?

0058

1 Q. Yes, ma'am. Please.
2 While she's doing that, I want to mark the entire
3 packet as 8, the Composite 8.
4 (Defendant's Exhibit No. 8 was marked for
5 identification.)
6 THE WITNESS: Do you want the list of those
7 that I can?
8 BY MS. DRYSDALE:
9 Q. Yes, ma'am.
10 A. GMAC, LLC; Homecomings Financial; IndyMac;
11 National City Bank; Wells Fargo Bank; and this is a
12 duplicate, Homecomings Financial.
13 Q. Have you read the -- each of these limited
14 powers of attorney?
15 A. Not recently, no.
16 Q. Have you ever read the entire um, limited
17 power of attorneys?
18 A. At one point.
19 Q. Specifically relating to the GMAC Mortgage
20 document, can you pull that out of your stack?
21 A. This is GMAC.
22 Q. Okay. Does -- let me make sure we are
23 looking at the same thing. Okay. Can -- can you show
24 me in that document where it gives you the authority
25 to execute affidavits in support of motions for

0059

1 summary judgment?

2 A. I'm here on this page for the corporate
3 resolution.

4 Q. Okay. Is that the second page?

5 A. Third.

6 Q. I only have two pages?

7 A. Two -- there's four pages -- two, three,
8 four.

9 Q. That must -- can we go off the record for a
10 sec?

11 THE VIDEOGRAPHER: Going off record 2:10 p.m.
12 (A discussion was had off the record.)

13 THE VIDEOGRAPHER: Back on the record

14 2:12 p.m.

15 BY MS. DRYSDALE:

16 Q. Okay. Looking again at the limited power of
17 attorney executed on behalf of GMAC Mortgage, LLC, if
18 you could point out in that document where it gives
19 you the authority to execute affidavits in support of
20 motions for summary judgments.

21 A. I'm on the corporate resolution.

22 Q. Okay. Which part?

23 A. Page three.

24 Q. I'm -- where does it provide the authority on
25 that -- on page three?

0060

1 A. Well, paragraph one provides the authority,
2 paragraph three shows the corporate resolution.

3 Q. Which -- can you read to me which paragraph
4 you mean as paragraph one?

5 A. Do you want me to read the whole --

6 Q. The first whereas clause, is that the
7 paragraph?

8 A. No. Paragraph one, on page one.

9 Q. Mine on -- under corporate resolutions, mine
10 are not numbered. Are you looking on the very first
11 page?

12 A. What -- limited power of attorney.

13 Q. Okay. So you're not looking at the corporate
14 resolution attached --

15 A. Corporate --

16 Q. -- you're looking at the very first page?

17 A. Correct.

18 Q. Okay. Which paragraph?

19 A. One.

20 Q. Okay.

21 A. Well, not number one, the first paragraph on
22 the page of the paper.

23 Q. In other words, the introductory paragraph
24 gives you the authority?

25 A. Yes.

0061

1 Q. Can you read the specific section for me?

2 You don't have to read the whole paragraph, just
3 the part that provides you the authority.

4 A. "It's true and lawful attorney-in-fact, with
5 full power and authority hereby conferred in its name,
6 place, and stead and for its use and benefit, to make,
7 sign, execute, acknowledge, deliver, file for record,
8 and record any instrument on his behalf, and to
9 perform such other act or acts as it may be
10 customarily and reasonably necessary and appropriate
11 to effectuate the following enumerated transactions."

12 Q. So that would refer down to 1 through 7?

13 A. Correct.

14 Q. So which paragraph, 1 through 7 relates to
15 the affidavits of summary judgment?

16 A. I don't know. I -- I mean, I don't recall
17 which paragraph it is.

18 Q. But you believe that you've read it before
19 and that gave you -- this is the document that gives
20 you the authority. Is there -- is there another
21 document that provides you the authority to execute
22 the summary judgment affidavits?

23 A. I don't know.

24 Q. You're not aware of any other documents?

25 A. I don't know of any others.

0062

1 MS. DRYSDALE: Okay. I have nothing further.

2 MS. GLICK: I don't have any questions.

3 MR. TEW: I have no questions.

4 THE VIDEOGRAPHER: Concluding the deposition,
5 going off record at 2:15 p.m.

6 MS. GLICK: We'll waive.

7 MS. DRYSDALE: You'll waive?

8 MS. GLICK: Well --

9 MR. TEW: That's fine.

10 (Thereupon, the deposition was concluded at
11 2:15 p.m., and the reading and signing were
12 waived.)
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CERTIFICATE OF OATH

STATE OF FLORIDA)
 SS:
COUNTY OF BROWARD)

I, AMY LYON, Florida Professional
Reporter, Notary Public, State of Florida, certify that
BETH CERNI personally appeared before me on June 3,
2009, and was duly sworn.

Signed this 3rd day of June, 2009.

AMY LYON, FPR and
Notary Public, State of Florida
My Commission No: DD 805442
Expires: July 12, 2013

www.StopForeclosureFraud.com

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
 SS:
COUNTY OF BROWARD)

I, AMY LYON, Florida Professional Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of BETH CERNI, that the review of the transcript was not requested; and that the foregoing transcript, pages 1 through 64, is a true record of my stenographic notes.

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

DATED this 13th of June, 2009, at Broward County, Florida.

AMY LYON, FPR

