

SUPREME COURT - STATE OF NEW YORK  
I.A.S. PART 6 - SUFFOLK COUNTY

**P R E S E N T:**

Hon. Gary J. Weber  
Acting Justice of the Supreme Court

MORTGAGE ELECTRONIC REGISTRATION  
SYSTEMS, INC., as nominee for HSBC  
MORTGAGE CORPORATION (USA),

Plaintiffs

-against-

ERRIN HATWOOD, HSBC  
MORTGAGE CORPORATION (USA),  
TEACHERS FEDERAL CREDIT UNION,

“JOHN DOE” and “JANE DOE”, said names  
being fictitious, parties intended being possible  
tenants or occupants of premises.

Defendants

ZAVATSKY, MENDELSON, GROSS  
SAVINO & LEVY, LLP  
by: Joseph C. Savino, Esq.  
Attorney for defendant  
P.O. Box 510  
33 Queens Street  
Syosset, New York 11791-0510

RONALD LENOWITZ, ESQ.  
Attorney for Defendant  
Errin Hatwood  
7600 Jericho Turnpike  
Woodbury, New York 11797

DAWN A. HANZLIK, ESQ.  
Attorney for Defendant  
HSBC MORTGAGE CORPORATION (USA)  
220 North Point Parkway, Suite 6  
Amherst, New York 14228

NICHOLAS VINCENT CAMPASANO, ESQ.  
Attorney for Defendant  
Teachers Federal Credit Union  
200 Deer Park Avenue  
Deer Park, New York 11729

This is an application by the Plaintiff “Mortgage Electronic Registration Systems, Inc. as nominee for HSBC Mortgage Corporation” for Summary Judgment on an action in foreclosure.

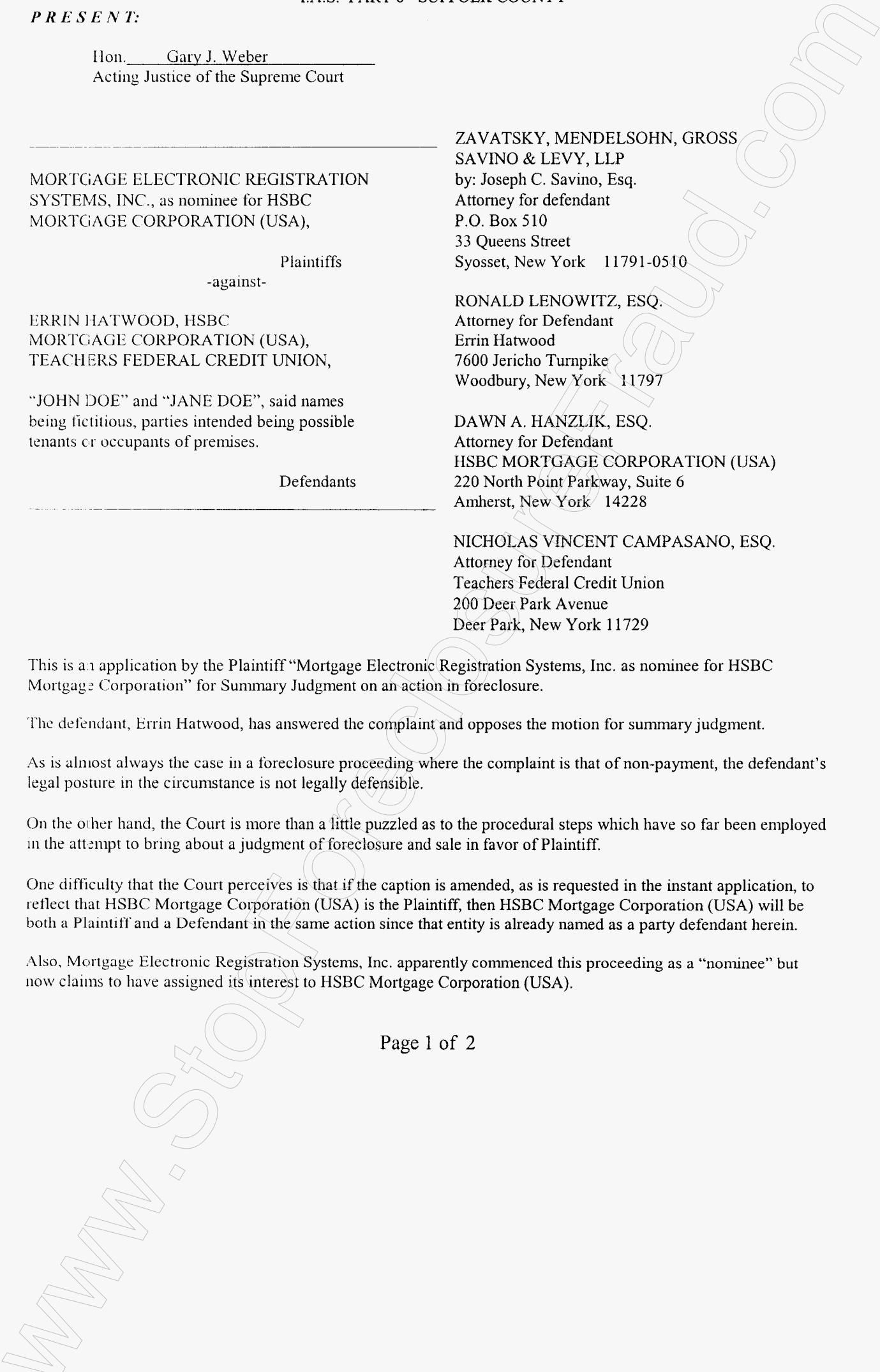
The defendant, Errin Hatwood, has answered the complaint and opposes the motion for summary judgment.

As is almost always the case in a foreclosure proceeding where the complaint is that of non-payment, the defendant’s legal posture in the circumstance is not legally defensible.

On the other hand, the Court is more than a little puzzled as to the procedural steps which have so far been employed in the attempt to bring about a judgment of foreclosure and sale in favor of Plaintiff.

One difficulty that the Court perceives is that if the caption is amended, as is requested in the instant application, to reflect that HSBC Mortgage Corporation (USA) is the Plaintiff, then HSBC Mortgage Corporation (USA) will be both a Plaintiff and a Defendant in the same action since that entity is already named as a party defendant herein.

Also, Mortgage Electronic Registration Systems, Inc. apparently commenced this proceeding as a “nominee” but now claims to have assigned its interest to HSBC Mortgage Corporation (USA).



From a conveyancing standpoint there needs to be reference to each recorded document in a chain of title to the subject mortgage leading to and ending with the plaintiff (whatever person or entity that might be) so that the County Clerk's Record might be complete and accurate. Viewed in this way, it is hard to see how the term "nominee" or a person or entity's status or non-status as such has any legal meaning absent any corresponding assignments of record as described above. Apparently, no such assignment of record to plaintiff "Mortgage Electronic Registration Systems, Inc." existed at the time that this proceeding was instituted, or otherwise, for that matter.

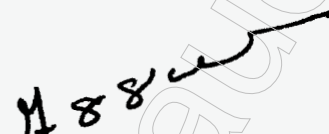
In any event, the mortgagor has no defense to the actual foreclosure proceeding.

Accordingly, the motion for summary judgment as against the defendant Errin Hanwood is granted.

However, Plaintiff's proposed Judgment of Foreclosure and Sale is unsigned and Plaintiff is directed to submit another, on notice to the answering Defendant(s), which should include a clear chain of title (by its terms and/or by way of a supporting affidavit) leading from the mortgagee to the Plaintiff (whoever or whatever that entity may be) in the nature of reference to the appropriate recorded documents, as well as any other customary required materials.

Submit Judgment on Notice.

Dated: November 9, 2006

  
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Gary J. Weber, Acting J.S.C.

Non-Final Disposition  
Scan

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