

5CV03

IN THE IOWA DISTRICT COURT FOR MARION COUNTY

<p>WELLS FARGO BANK NA Plaintiff(s)</p> <p>VS.</p> <p>RODNEY R SWENSON SPOUSE OF RODNEY R SWENSON PARTIES IN POSSESSION</p> <p>Defendant(s)</p>	<p>05631 EQCV094210</p> <p>ORDER GRANTING SUMMARY JUDGMENT MOTION</p>
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The Court has carefully reviewed the Defendant's motion for summary judgment and the Plaintiff's resistance thereto. The Plaintiff has failed to submit an adequate defense to the motion as contemplated by IRCivP 1.981(5). The Plaintiff's resistance consists of conclusory denials that fail to adequately rebut the affidavit submitted in support of the Defendant's summary judgment motion.

ABN AMRO Mortg, Group, Inc. v. Tullar, 770 NW2d 851 (Iowa App. 2009) (Table of Unpublished Decisions) provides persuasive authority for the conclusion that failure to comply with HUD regulations provides a defense to the foreclosure of a HUD subsidized mortgage. By concluding that the record establishes a failure on the part of the Plaintiff Bank to comply with mandatory HUD regulatory requirements, the Court finds that the Defendant has established an "impenetrable shield" that precludes granting the Plaintiff's foreclosure petition in this action.

The Defendant's summary judgment motion is granted. The Plaintiff's foreclosure petition is dismissed.

IT IS SO ORDERED ON THIS DAY 03/08/13.

Copies to:

BRIAN G SAYER
531 COMMERCIAL ST STE 250
PO BOX 2363
WATERLOO IA 50704

C. ANTHONY CRNIC, III
531 COMMERCIAL ST STE 250
PO BOX 2363
WATERLOO IA 50700

DAVID MICHAEL LOETZ

IOWA LEGAL AID
112 EAST THIRD ST
OTTUMWA IA 52501



State of Iowa Courts

Case Number
EQCV094210

Case Title
WELLS FARGO BANK NA VS RODNEY R SWENSON ET AL
Type:
OTHER ORDER

So Ordered

Terry Rickers, District Court Judge,
Fifth Judicial District of Iowa

Electronically signed on 2013-03-08 16:25:41