

IN THE COURT OF COMMON PLEAS
OF CUYAHOGA COUNTY, OHIO

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BANK OF AMERICA, N.A., etc.

Plaintiff,

vs. Case No. CV-12-789401

EDGEWATER REALTY, LLC, et al.

Defendant.

~~~~~

Deposition of

SUE ETHRIDGE

May 14, 2015

10:10 a.m.

Taken at:

Offices of Harry Buffalo

18605 Detroit Avenue

Lakewood, Ohio 44107

Tracy Morse, RPR and Notary Public

1 APPEARANCES:

2 On behalf of the Plaintiffs:

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17 ~ ~ ~ ~ ~

18 ALSO PRESENT:

19 James P. Sheridan, Esq.

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1 SUE ETHRIDGE, of lawful age, called for
2 examination, as provided by the Ohio Rules of
3 Civil Procedure, being by me first duly sworn,
4 as hereinafter certified, deposed and said as
5 follows:

6 EXAMINATION OF SUE ETHRIDGE

7 BY MR. MILLIGAN:

8 Q. Good morning, Ms. Ethridge.

9 A. Good morning.

10 Q. My name is PJ Milligan. I am
11 attorney for the defendants in this case, which
12 is captioned Bank of America versus Edgewater
13 Realty, Cuyahoga County Court of Common Pleas,
14 case number CV-12-789401. You're here today in
15 response to a subpoena you received, correct?

16 A. Correct.

17 Q. Before we get into the questions, I
18 just want to ask: Have you ever been deposed
19 before?

20 A. No.

21 Q. This is your first deposition?

22 A. Yes.

23 Q. So being that it's your first
24 deposition, I just want to go over some general
25 information and rules regarding depositions.

1 I'm sure your attorney has probably gone over
2 some of this with you already. One of the
3 things I'm going to ask of you is to make sure
4 you audibalize all of your answers so the court
5 reporter can take down your answer, meaning it
6 has to be verbal. Do you understand?

7 A. Yes.

8 Q. That's because nods of the head and
9 things like that can't be recorded very
10 accurately. Okay?

11 A. Okay.

12 Q. I'm also going to ask that you wait
13 until I'm finished with a question before
14 responding so we can avoid talking over each
15 other. Do you understand?

16 A. Yes.

17 Q. Third, if I ask a question, and
18 sometimes I tend to maybe mumble or it might be
19 confusing, just ask me to rephrase the question
20 and I'll try my best to do that. Do you
21 understand?

22 A. Yes.

23 Q. If I ask a question and you've
24 answered it, I'm going to assume you understood
25 the question. Is that fair?

1 A. Yes.

2 - - - - -

3 (Thereupon, Deposition Exhibit A,
4 Subpoena, was marked for purposes of
5 identification.)

6 - - - - -

7 Q. Ms. Ethridge, you've been handed
8 what's been marked Defendant's Exhibit A. Take
9 a second to review the document.

10 A. Okay.

11 Q. Have you had a chance to review it?

12 A. Yes.

13 Q. Have you seen this document before?

14 A. Yes.

15 Q. And can you describe it for us?

16 A. It's a subpoena to be here today.

17 Q. This is a subpoena that you
18 received at your office at Carlisle McNellie
19 Rini Kramer & Ulrich?

20 A. Yes.

21 Q. I would like you to turn to the
22 third page of that document where it indicates,
23 "Documents to Be Produced." Are you there?

24 A. Yes.

25 Q. In response to the subpoena, you've

1 provided two documents. Is that correct?

2 A. Yes.

3 Q. What did you do in terms of
4 searching for documents responsive to this
5 subpoena?

6 A. I pulled our old file that we had
7 and pulled out a copy of the mortgage
8 assignment and then I pulled a copy of that
9 agreement out of our Bank of America file.

10 Q. Where are these files kept?

11 MR. DEIGHTON: Objection.

12 Q. You can answer.

13 MR. DEIGHTON: I'm objecting based
14 on proprietary information, privileged
15 information.

16 I'm instructing my client not to answer.

17 MR. MILLIGAN: The location of
18 files is proprietary and privileged?

19 MR. DEIGHTON: Yes.

20 MR. MILLIGAN: I don't understand.

21 MR. DEIGHTON: The way we organize
22 and keep our files is privileged, proprietary
23 information.

24 MR. MILLIGAN: I'm going to have to
25 disagree with you on that.

1 MR. DEIGHTON: I'm willing to
2 stipulate generally that they're located at
3 24755 Chagrin Boulevard, Suite 2002, Beachwood,
4 Ohio 44122, but beyond that, the location and
5 maintenance of physically how we keep and where
6 we keep our files is proprietary.

7 BY MR. MILLIGAN:

8 Q. Well, let me ask: Are they kept
9 electronically or hard file?

10 MR. DEIGHTON: I'm going to object.

11 MR. MILLIGAN: Are you asserting
12 some sort of --

13 MR. DEIGHTON: Not on that one.

14 MR. MILLIGAN: Okay.

15 Q. You can answer.

16 A. Both.

17 Q. Did you search both electronic
18 records and hard copies?

19 A. Yes.

20 Q. Did anyone assist you in searching
21 for documents responsive to the subpoena?

22 A. No.

23 Q. Okay. Let's look at the first
24 item, which requests, "All documents evidencing
25 Ms. Ethridge's employment with Mortgage

1 Electronic Registration Systems, Inc. and/or
 2 MERSCORP Holdings, Inc. and/or MERS System
 3 and/or MERS Residential (hereinafter 'MERS').
 4 Documents responsive to this request include,
 5 but are not limited to, W-2s, tax returns, 1099
 6 tax forms, contract of employment, offer of
 7 employment, personnel file, offer of
 8 employment."

9 Of the documents you provided to me, do
 10 you consider any of those documents responsive
 11 to the particular request I just read to you?

12 A. No.

13 Q. Are you an employee of Mortgage
 14 Electronic Registration Systems?

15 MR. SANDY: Object to form.

16 Q. You can answer.

17 A. No.

18 Q. Have you ever been employed by
 19 Mortgage Electronic Registration Systems?

20 A. No.

21 Q. The second request on the list of
 22 items to be produced is, "All documents vesting
 23 Ms. Ethridge with authority to act on behalf of
 24 MERS." Do you see that?

25 A. Yes.

1 Q. Of the documents produced, what
2 documents do you consider responsive to that
3 request?

4 A. Agreement for signing authority.

5 - - - - -

6 (Thereupon, Deposition Exhibit B,
7 Agreement for Signing Authority, was
8 marked for purposes of
9 identification.)

10 - - - - -

11 Q. You've been handed what's been
12 marked as Defendant's Exhibit B. If you would
13 take a minute to review the exhibit and let me
14 know when you're finished.

15 A. I'm finished.

16 Q. Can you describe the exhibit?

17 A. It's an agreement between BAC, MERS
18 and our law office to execute certain
19 documents.

20 Q. Who is BAC?

21 MR. DEIGHTON: Objection.

22 Q. You can answer.

23 A. Bank of America entity, I guess.

24 Q. Now, in your own words, can you
25 describe this agreement for signing authority,

1 what it covers, what it entails?

2 MR. SANDY: Objection, form.

3 MR. DEIGHTON: Objection. The
4 document speaks for itself.

5 MR. MILLIGAN: I want to know her
6 understanding of the document.

7 MR. DEIGHTON: My objection has been
8 noted.

9 A. On a corporation resolution, it
10 authorizes us to execute mortgage assignments,
11 deeds, affidavits, quitclaims, affidavits
12 regarding lost promissory notes.

13 Q. When did you first see this
14 document?

15 A. Prior to April 10 -- or April 26,
16 2010. I don't know exactly.

17 Q. Do you know who drafted the
18 document?

19 A. I do not.

20 Q. You did review it, though, prior to
21 its execution?

22 MR. DEIGHTON: Objection.

23 Q. You can answer.

24 A. Yes.

25 Q. Are there any other agreements for

1 signing authority that you're aware of that
2 vest in you the power to sign documents on
3 behalf of MERS?

4 MR. DEIGHTON: Objection.

5 MR. SANDY: Object to form.

6 A. No.

7 Q. Have you signed documents pursuant
8 to the authority created by this Exhibit B?

9 MR. DEIGHTON: Objection. Seeks a
10 legal conclusion.

11 A. I don't understand what you're
12 asking.

13 Q. Do you sign documents on behalf of
14 MERS?

15 A. Now, today?

16 Q. Have you signed documents on behalf
17 of MERS?

18 A. Yes.

19 Q. If you recall, when did you first
20 start signing documents on behalf of MERS?

21 A. After April 2010.

22 Q. Going back to Defendant's
23 Exhibit A. Turn to the third page of that
24 exhibit. Are you aware of any other documents
25 that vest in you the authority to act on behalf

1 of MERS?

2 MR. DEIGHTON: Objection. Seeks a
3 legal conclusion.

4 Q. You can answer.

5 A. No.

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

8 A. No.

9 Q. Okay. The next item on the list on
10 page 3 of Exhibit A asks you to produce, "All
11 documents vesting Ms. Ethridge with authority
12 to sign documents on behalf of MERS." Today
13 you produced the agreement for signing
14 authority that's been marked Exhibit B. Are
15 you aware of any other documents vesting in you
16 the authority to sign documents on behalf of
17 MERS?

18 MR. DEIGHTON: Objection. Seeks a
19 legal conclusion.

20 MR. SANDY: Object to form.

21 A. No.

22 Q. Did you look for any other
23 documents that would vest your authority to act
24 on behalf of MERS or to sign documents on
25 behalf of MERS?

1 MR. DEIGHTON: Objection. Seeks a
2 legal conclusion.

3 A. No.

4 MR. MILLIGAN: If there's an
5 objection, you don't need to provide the basis
6 for the objection. You can just note the
7 objection. If there's a need for us to
8 discuss, we can do that off the record.

9 MR. DEIGHTON: Okay.

10 BY MR. MILLIGAN:

11 Q. Let's move down to the next item on
12 the list. "All documents related to
13 Ms. Ethridge's involvement in the assignment of
14 documents pertaining to the foreclosure action
15 in Cuyahoga County Court of Common Pleas, Case
16 Number CV-12-789401.

17 MR. SANDY: I object to that
18 category on the basis of work product doctrine.
19 Anything the law firm did to prepare for the
20 foreclosure on behalf of Bank of America, I
21 believe is privileged and their work product.
22 I'm going to limit that.

23 MR. MILLIGAN: When you say, "The
24 law firm," you mean --

25 MR. SANDY: Carlisle, her

1 employer.

2 MR. MILLIGAN: And that's fair.
3 You were going to limit something.

4 MR. SANDY: The assignment is a
5 matter of public record, so, I mean, if you're
6 limiting your questions to the assignment of
7 mortgage, I don't have an objection to that,
8 but the way that is worded is overly broad and
9 I think that would encompass things that would
10 be protected by work product.

11 MR. MILLIGAN: It's noted.

12 BY MR. MILLIGAN:

13 Q. So going back, notwithstanding the
14 objection, what documents have you brought
15 today responsive to this request?

16 A. Mortgage assignment.

17 Q. The mortgage assignment?

18 A. Yes.

19 - - - - -

20 (Thereupon, Deposition Exhibit C,
21 Mortgage Assignment, was marked for
22 purposes of identification.)

23 - - - - -

24 Q. Okay. You've been handed what's
25 been marked Defendant's Exhibit C. Did you

1 have a chance to review the document?

2 A. Yes.

3 Q. Is this a true and accurate copy of
4 the mortgage assignment that you previously
5 just mentioned?

6 A. Yes.

7 Q. I want to go back. When I say
8 "MERS," do you understand that that means
9 Mortgage Electronic Registration System?

10 A. Yes.

11 Q. And also its subsidiary mortgage --
12 or I'm sorry. Let me back up. When I say,
13 "MERS," that means MERS Corp., Inc. as well as
14 its subsidiary Mortgage Electronic Registration
15 Systems, Inc. Do you understand that?

16 A. Yes.

17 Q. So it would be fair throughout this
18 deposition when a question has been asked and
19 I've said, "MERS," you understood it to mean
20 Mortgage Electronic Registration Systems, Inc.
21 or MERS Corp., Inc.?

22 MR. DEIGHTON: Objection.

23 A. Yes.

24 MR. DEIGHTON: Objection. If you're
25 saying going forward, but if you are now asking

1 her to ratify all of her previous testimony
2 based on a definition you're now providing --

3 MR. MILLIGAN: I am. I am asking
4 her to do that.

5 MR. DEIGHTON: -- I object to that.

6 MR. MILLIGAN: Okay.

7 BY MR. MILLIGAN:

8 Q. All right. Just so we're clear:
9 How much time did you spend searching for
10 documents responsive to the subpoena?

11 A. Forty-five minutes.

12 Q. And were any documents responsive
13 to the subpoena located at your home?

14 A. No.

15 Q. So the documents were at your
16 office, correct?

17 A. Yes.

18 Q. And you searched both
19 electronically and hard copies?

20 A. Correct.

21 Q. Hard files?

22 A. Yes.

23 Q. Finally, I would like you to turn
24 to Exhibit A. In Exhibit A, the last item or
25 category of documents to be produced requests

1 that you produce from the period October 2010
2 through the present all documents
3 signed/executed by Ms. Ethridge in which she
4 purports to act on behalf of MERS and/or in
5 which she indicates she is an authorized
6 representative of MERS.

7 MR. DEIGHTON: I'm objecting to
8 that category of documents. Those are
9 documents that are not in Ms. Ethridge's
10 possession. Those are documents that, if they
11 exist, would be freely available to both
12 parties in a public record, but if they exist
13 in the form of business records of Carlisle,
14 there has been no subpoena served on Carlisle
15 to produce those documents. Those are
16 documents that are not in Ms. Ethridge's
17 possession.

18 Q. So you did not produce any
19 documents responsive to the particular category
20 I just mentioned. Is that correct?

21 A. Correct.

22 Q. Did you do anything to search for
23 those documents?

24 A. No.

25 Q. Are you aware of the existence of

1 documents that would be responsive to this
2 request?

3 A. I'm not sure I understand the
4 question.

5 Q. I understand you didn't look for
6 any documents. There's a difference between
7 whether you actually looked for those documents
8 and whether documents that would be responsive
9 to this particular request actually exist. So
10 I'm asking you: Are you aware, are there
11 documents that would be responsive to the
12 request that exist?

13 MR. DEIGHTON: I'm going to object
14 based on form. Are you asking about a general
15 broad category of documents or are you asking
16 her if she's aware of specific assignments, if
17 she has actual knowledge of assignments from
18 one entity to another?

19 MR. MILLIGAN: It's more of a
20 general question. And the category, just to be
21 clear, are documents from October of 2010
22 through the present, documents signed and/or
23 executed by you in which you purported to act
24 on behalf of MERS and/or in which you indicated
25 you were an authorized representative of MERS.

1 MR. DEIGHTON: Object to form and
2 the over broadness of the request itself.

3 BY MR. MILLIGAN:

4 Q. But my question is: Are there any
5 documents that you are aware of that would be
6 responsive to that particular category
7 identified in the subpoena?

8 A. Yes.

9 Q. Where would those documents be
10 kept?

11 A. I don't know.

12 Q. Do you know who would know?

13 MR. DEIGHTON: Objection.

14 A. No.

15 Q. I'm going to back up a little here.
16 Normally I would ask these kind of questions
17 first. I want to get a little information
18 about your background. Where do you work?

19 A. Carlisle McNellie Rini Kramer &
20 Ulrich.

21 Q. And how long have you worked there?

22 A. February 1997.

23 Q. What's your title?

24 A. Director of client relations.

25 Q. How long have you been director of

1 client relations?

2 A. I don't recall.

3 Q. What position did you hold, prior
4 to director of client relations?

5 A. Foreclosure administrator.

6 Q. Do you know the dates that you held
7 that position, as foreclosure administrator?

8 A. I do not.

9 Q. What was your first position with
10 Carlisle?

11 A. Legal assistant.

12 Q. Who were you legal assistant for?

13 A. All of the attorneys.

14 Q. Were you promoted to foreclosure
15 administrator after legal assistant?

16 A. Yes.

17 Q. You don't recall the date?

18 A. I do not.

19 Q. And you don't recall when you were
20 promoted to director of client relations?

21 A. No.

22 Q. What do you do as director of
23 client relations?

24 A. I attend conferences. I go through
25 client contracts, make sure we're compliant,

1 work with our staff.

2 Q. When you say that you go through
3 client contracts to make sure of compliance,
4 what do you mean by that?

5 MR. DEIGHTON: I'm going to object.
6 That's proprietary information.

7 I'm going to instruct my client not to
8 answer.

9 MR. MILLIGAN: Okay.

10 Q. What type of contracts are you
11 referring to that you review in your role as
12 director of client relations?

13 A. Work product instructions, what the
14 requirements might be, how things need to be
15 done.

16 Q. When you say, "How things need to
17 be done," is that in connection with pursuing
18 foreclosure actions?

19 MR. DEIGHTON: I'm going to object.
20 Proprietary action.

21 Instruct my client not to answer.

22 Q. What type of contracts do you
23 review?

24 MR. DEIGHTON: I'm going to object,
25 asked and answered.

1 Q. I didn't quite understand the
2 answer. Are these contracts between your firm
3 and the client?

4 A. Yes.

5 Q. And contracts that lay out the
6 scope of legal services that your firm would
7 provide to the client?

8 MR. DEIGHTON: I'm going to object
9 based on proprietary information.

10 Instruct my client not to answer.

11 MR. MILLIGAN: I'm just asking in a
12 general sense, what type of contracts she's
13 reviewing in her role as director of client
14 relations. I'm not trying to invade into
15 Carlisle's proprietary information. I'm not
16 interested in trying to compete with Carlisle,
17 engage in any type of, you know, creditor's
18 foreclosure action-type of practice. I just
19 want to know what she does in her role as
20 director of client relations.

21 MR. DEIGHTON: Okay. May I have a
22 moment to discuss it with my client?

23 MR. MILLIGAN: Sure.

24 (Recess taken.)

25 (Discussion held off the record.)

1 MR. MILLIGAN: Okay. You were
2 going to propose a stipulation.

3 MR. DEIGHTON: Yes. I do believe
4 that that information is proprietary, but for
5 the purposes of moving this deposition along,
6 we're willing to stipulate that as part of her
7 job responsibilities, she reviews contracts
8 between our law firm and our clients to ensure
9 that we are operational -- on an operational
10 basis complying with the contracts, but to go
11 any further I believe would be infringing on
12 our proprietary information, how we do
13 business, how we maintain our clients, how we
14 get our clients --

15 MR. MILLIGAN: Sure.

16 MR. DEIGHTON: -- so I'm not
17 willing to allow her to testify any further
18 than that.

19 MR. MILLIGAN: Okay. Just so I
20 understand, basically her role is to ensure
21 that your firm is providing the services that
22 it represented it would in the contracts
23 between your firm and its clients?

24 MR. DEIGHTON: What we're willing
25 to stipulate to is that she reviews the

1 contracts to make sure that the operations that
2 we have set up will provide those services.
3 I'm not stipulating that on a file-level basis
4 or a client-level basis or on an
5 individualized-level employee basis that she
6 ensures that -- that the overall operation
7 itself is set up and designed to comply with
8 the client requirements.

9 MR. MILLIGAN: Okay. That's fair.

10 BY MR. MILLIGAN:

11 Q. Do you have a current resume,
12 Ms. Ethridge?

13 A. No.

14 Q. When you worked as a foreclosure
15 administrator, do you recall the dates that you
16 were in that role?

17 A. No.

18 Q. Do you have even a ballpark idea?

19 A. I don't.

20 Q. Okay. Do you know when you signed
21 the mortgage assignment that's Exhibit C
22 whether you were a director of client relations
23 or foreclosure administrator at that time?

24 MR. DEIGHTON: Objection.

25 A. Director of client relations.

1 Q. Is one of your job duties as
2 director of client relations to execute certain
3 documents on behalf of MERS?

4 MR. DEIGHTON: Objection.

5 A. No.

6 Q. Who directs you to sign mortgage
7 documents or any other type of document on
8 behalf of MERS?

9 MR. SANDY: Objection.

10 MR. DEIGHTON: Objection.

11 Q. All right. What did you do before
12 you worked at Carlisle? Where were you
13 employed, I mean?

14 A. Benco Industries.

15 Q. Can you spell that?

16 A. B-e-n-c-o.

17 Q. What did you do at Benco
18 Industries?

19 A. Sold their products.

20 Q. You were in sales?

21 A. Yes.

22 Q. How long were you in sales for
23 Benco?

24 A. A couple years.

25 Q. Prior to working for Carlisle, had

1 you had any other experience working at a law
2 firm?

3 A. Some.

4 Q. Describe that experience.

5 A. My father was a lawyer.

6 Q. And you worked for your father at
7 some point?

8 A. Summer vacations.

9 Q. What firm did your father work at?

10 A. Sole practice.

11 Q. What's your father's name?

12 A. Leo Collins.

13 Q. Collins?

14 A. Yes.

15 Q. Are you an employee of MERS?

16 A. No.

17 MR. DEIGHTON: Objection, asked and
18 answered.

19 Q. Can you explain for us the
20 circumstances under which you were appointed as
21 a vice president of MERS?

22 MR. SANDY: Objection.

23 A. I don't understand. I don't
24 understand what you're asking.

25 Q. Can you look at Exhibit C?

1 A. Okay.

2 Q. Are you there?

3 A. Yes.

4 Q. It indicates that you are a vice
5 president for MERS, correct?

6 A. Correct.

7 Q. So my question was: Can you
8 describe the circumstances under which you were
9 appointed vice president of MERS?

10 MR. SANDY: Objection.

11 MR. DEIGHTON: Objection.

12 A. The agreement for signing
13 authority.

14 Q. I may have asked this. You don't
15 know who prepared the agreement for signing
16 authority?

17 A. I do not.

18 Q. Would it have been an attorney at
19 your firm?

20 A. I don't know.

21 Q. Is there any other documentation,
22 other than this agreement for signing
23 authority, that would evidence your appointment
24 as a vice president for MERS?

25 MR. SANDY: Objection.

1 A. No.

2 Q. Have you had any other titles in
3 your role with MERS?

4 MR. DEIGHTON: Objection. The
5 documents speak for themselves.

6 Q. Well, the mortgage assignments
7 indicate that you're vice president. Have you
8 ever been secretary or any other title, when
9 you signed a document for MERS?

10 MR. DEIGHTON: I'm going to object.
11 I'm going to point to Exhibit B, the third
12 page, which states that the list of candidates
13 on the fourth page are appointed as assistant
14 secretaries and vice presidents of MERS; and
15 we're willing to stipulate that pursuant to
16 this agreement, that she would be both an
17 assistant secretary and vice president.

18 MR. MILLIGAN: Okay.

19 Q. Have you been in a role other than
20 assistant secretary or vice president for MERS?

21 A. No.

22 Q. Do you consider yourself a
23 corporate officer of MERS?

24 MR. DEIGHTON: Objection.

25 A. No.

1 Q. Have you ever been paid by MERS?

2 A. No.

3 Q. Have you ever received any type of
4 compensation from MERS?

5 A. No.

6 Q. Have you ever visited MERS'
7 corporate offices?

8 A. No.

9 Q. Have you ever spoken with any
10 corporate officers of MERS?

11 A. No.

12 Q. Do you know where MERS' corporate
13 offices are located?

14 A. No.

15 Q. Have you ever spoken to anyone at
16 MERS?

17 A. Yes.

18 Q. Who have you spoken to at MERS?

19 A. I don't recall their names.

20 Q. Do you recall the last time you
21 spoke with someone from MERS?

22 A. Years.

23 Q. Years ago?

24 A. (Nodding.)

25 Q. Five years?

1 MR. DEIGHTON: Objection.

2 A. I don't recall.

3 Q. Do you recall who that person was?

4 A. No.

5 Q. Do you recall what the conversation
6 was about?

7 A. No.

8 Q. Do you recall how many
9 conversations you've had with people affiliated
10 with MERS?

11 A. No.

12 Q. Can you give a ballpark?

13 A. I don't know.

14 Q. A dozen?

15 MR. SANDY: Objection.

16 Q. A couple dozen?

17 A. I don't know.

18 Q. But it's been years since you've
19 talked to anyone at MERS?

20 A. Correct.

21 Q. Did you have any obligation to
22 report to anyone at MERS?

23 MR. DEIGHTON: Objection.

24 A. No.

25 Q. Did you ever report to anyone at

1 MERS?

2 A. No.

3 Q. Did anyone at MERS direct your
4 activities?

5 MR. SANDY: Objection.

6 A. No.

7 Q. And you mentioned that years ago,
8 you had talked to someone at MERS. Would that
9 have been on a weekly basis, daily basis?
10 What's the frequency with which you would speak
11 to someone at MERS?

12 A. Random.

13 Q. And what would be the reason for
14 those discussions?

15 A. Assistance of their website
16 typically.

17 Q. Assist with their website?

18 A. Assistance for me with their
19 website.

20 Q. What type of assistance would you
21 need?

22 A. Maneuvering it. Sometimes it was
23 changed and I couldn't find what I needed to
24 find.

25 Q. So it was more or less for

1 technical support?

2 A. Yes.

3 Q. Do you recall the last time you
4 executed a document on behalf of MERS?

5 A. No.

6 Q. Was it within the last year --

7 MR. DEIGHTON: Objection, asked and
8 answered.

9 Q. -- if you know?

10 A. I don't know.

11 Q. Have you executed any documents on
12 behalf of MERS within the last month?

13 A. No.

14 Q. Have you executed any documents on
15 behalf of MERS within the calendar year of
16 2015?

17 A. No.

18 Q. What about 2014?

19 A. I do not believe so.

20 Q. Do you know the frequency or how
21 often you would sign documents on behalf of
22 MERS?

23 MR. DEIGHTON: Objection.

24 A. No.

25 Q. Did anyone at Carlisle -- and when

1 I say, "Carlisle," I'm referring to your
2 current employer. Is that fair?

3 A. Yes.

4 Q. You understand what I mean by,
5 "Carlisle," correct?

6 A. Yes.

7 Q. Okay. Did anyone from Carlisle
8 direct your activities with respect to MERS?

9 A. No.

10 Q. So explain to me; when you would
11 get a document, a mortgage assignment for
12 instance, can you explain the process for me?
13 Can you describe that process for me?

14 A. Sure. I would get the mortgage
15 assignment along with the file, the title work.
16 I would look at the title work. I would look
17 at the foreclosure referral. I would look at
18 the mortgage assignment. I looked at MERS
19 website, reviewed all those items.

20 Q. Who would assign the file to you?

21 A. The mortgage assignment girls
22 that -- they prepare them. There's girls that
23 prepare these assignments.

24 Q. These are employees of Carlisle?

25 A. Yes.

1 Q. Legal assistants?

2 A. Yes.

3 Q. And in this case, you executed a
4 mortgage assignment that we've identified as
5 Exhibit C. Were there any other types of
6 documents you would sign on behalf of MERS?

7 MR. SANDY: Objection.

8 A. No.

9 Q. So your role pursuant to the
10 agreement for signing authority was strictly
11 limited to signing mortgage assignments?

12 MR. DEIGHTON: Objection.

13 MR. SANDY: Objection.

14 MR. DEIGHTON: The document speaks
15 for itself.

16 Q. That was a bad question. I'm
17 sorry. I guess what I'm trying to get at is:
18 There's other types of documents related to
19 transfers of real property. In this case,
20 there was a mortgage assignment. Did you sign,
21 execute documents other than mortgage
22 assignments?

23 A. No.

24 Q. Just so we're clear, I'm asking
25 that question in a general sense, not just

1 limited to this particular case. Do you
2 understand?

3 A. Yes.

4 Q. Okay. Can you give me an estimate
5 of how many mortgage assignments on behalf of
6 MERS you've executed total?

7 A. No.

8 Q. Can you give a range?

9 A. I really don't know. I really
10 don't know.

11 Q. Is it more than a hundred?

12 A. Yes.

13 Q. More than a thousand?

14 A. No.

15 Q. And you gave me the agreement for
16 signing authority, which was executed in April
17 of 2010.

18 A. Um-hum.

19 Q. Prior to April of 2010, did you
20 sign any documents on behalf of MERS?

21 A. No.

22 Q. So between April 2010 through the
23 present, you estimate that it's been at least a
24 hundred mortgage assignments that you've signed
25 on behalf of MERS?

1 A. Yes.

2 Q. Were there any other employees of
3 Carlisle that signed documents on behalf of
4 MERS?

5 MR. DEIGHTON: Objection,
6 proprietary information.

7 Instruct my client not to answer.

8 MR. MILLIGAN: I'm not asking the
9 identity of the employees, just whether there
10 was anyone else other than her, so I'm not sure
11 how that's proprietary information.

12 BY MR. MILLIGAN:

13 Q. I know the agreement for signing
14 authority lists James Sassano. Is that an
15 employee of Carlisle?

16 A. Yes.

17 Q. Did he sign documents on behalf of
18 MERS?

19 A. I don't know.

20 Q. Did you work with him?

21 A. He's a partner at the law firm.

22 Q. And Richard McNellie is also a
23 partner of the law firm, correct?

24 A. Correct.

25 Q. Just so we're clear on the record,

1 Sue Barnes is your previous name?

2 A. Yes.

3 Q. Were you married, divorced? How
4 did your name change?

5 A. Both but recently married.

6 Q. Congratulations. How recent?

7 A. 2012.

8 Q. So after you were married, you took
9 your husband's name which is Ethridge, correct?

10 A. Correct.

11 Q. Have you signed any documents on
12 behalf of MERS as Sue Ethridge?

13 A. No.

14 Q. You were describing the process of
15 when you would receive a file from the legal
16 assistants at the firm. Did you have any
17 specific training in how to execute documents,
18 mortgage assignments? Did you have any
19 training related to your role in the process
20 that you previously described?

21 A. No.

22 Q. So when you received a mortgage
23 assignment, describe for me specifically what
24 it was that you would do.

25 A. First review the title work to see

1 who holds the mortgage, review the mortgage
2 assignment, review the instructions from the
3 client to see who they would like the
4 foreclosure action in the name of.

5 Q. And you personally would review the
6 title work?

7 A. Prior to the file coming to me, it
8 went to an attorney who is responsible for the
9 case. The mortgage assignment is prepared and
10 went to the attorney who was handling the
11 foreclosure action. They route it and then it
12 came to me and I also did my review prior to
13 executing the mortgage assignment.

14 Q. What did your review entail?

15 A. Making sure everything is in line
16 where you had the parcel number, you had the
17 recording information, you had the mortgage.
18 All of this information that's in here listing
19 the prior mortgage, I would make sure that all
20 matched what's on the title work, the mortgage.

21 Q. So you were, I guess a second set
22 of eyes on the document.

23 A. Yes.

24 MR. DEIGHTON: Objection.

25 Q. Do you have a physical office

1 location with MERS?

2 A. No.

3 Q. Does anyone from MERS have an
4 office at Carlisle?

5 MR. DEIGHTON: Objection.

6 A. No.

7 Q. Are there any employees of MERS
8 that you work with?

9 MR. SANDY: Objection.

10 A. No.

11 Q. And what are your duties as a
12 representative of MERS?

13 MR. SANDY: Objection.

14 A. I reviewed mortgage assignments and
15 executed them.

16 Q. It's been several years since
17 you've executed a mortgage assignment, I
18 believe you testified. When it was part of
19 your job duties to execute mortgage
20 assignments, what was the frequency in which
21 you would do that?

22 A. I don't recall.

23 Q. Was it a daily thing? Was it a
24 weekly thing?

25 A. Weekly.

1 Q. Well, other than BAC Home Loan
2 Servicing, LP, are there any other banks or
3 lenders or servicing companies that you would
4 sign mortgage assignments on behalf of MERS?

5 A. No.

6 Q. So you were strictly Bank of
7 America. Is that correct?

8 MR. SANDY: Objection.

9 Q. That was a bad question. You only
10 signed documents related to Bank of America
11 accounts. Is that correct?

12 A. That's correct.

13 Q. And Carlisle wanted you to sign
14 mortgage assignments on behalf of MERS?

15 MR. DEIGHTON: Objection,
16 proprietary information.

17 I'm instructing my client not to answer.

18 MR. SANDY: Objection.

19 Q. Your role with MERS came about
20 through your employment with Carlisle. Is that
21 correct?

22 A. Yes.

23 Q. It's not as if someone from MERS
24 independently approached you and asked you to
25 sign mortgage assignments. Is that correct?

1 A. That's correct.

2 Q. Who at Carlisle first approached
3 you about doing mortgage assignments for MERS?

4 MR. DEIGHTON: Objection,
5 proprietary information.

6 A. I don't recall.

7 Q. Okay. I want to go back to
8 Exhibit C. Do you have that in front of you?

9 A. Yes.

10 Q. You've had a chance to review that
11 exhibit. Can you verify for us that that is in
12 fact your signature on the first page?

13 A. Yes, that's my signature.

14 Q. The mortgage assignment was
15 prepared by an attorney at your firm. Is that
16 correct?

17 A. Attorney and staff member.

18 Q. The printed handwriting on the
19 document, is that your handwriting also?

20 A. No.

21 Q. Whose handwriting is it?

22 A. Legal assistant's.

23 Q. Do you know the individual whose
24 handwriting is on this particular document?

25 A. I don't know.

1 Q. How many legal assistants were
2 there at Carlisle that prepared or were
3 involved in the preparation of mortgage
4 assignments?

5 A. It's varied, but two, three from
6 time to time.

7 Q. And what are their names?

8 A. Renee McGowan --

9 Q. Can you spell it?

10 A. M-c-g-o-w-a-n, I believe.

11 -- and other people in that department.
12 Some of them aren't there. I don't even know.
13 It was always one department, the complaint and
14 mortgage assignment department, but Renee would
15 be the primary person.

16 Q. Who worked in the complaint and
17 mortgage assignments department?

18 A. That are still employees or --

19 Q. Let's start there. Currently.

20 A. Shannon Maki, M-a-k-i, I believe.

21 Q. What's her position?

22 A. Legal assistant.

23 Q. Is there an attorney who's in
24 charge of that particular department?

25 A. No. They work for all the

1 attorneys.

2 Q. All the attorneys?

3 A. Yes.

4 Q. How many attorneys are at Carlisle?

5 A. Sixteen.

6 Q. In November 2010, who worked in the
7 complaint and mortgage assignment department?

8 A. I don't recall. I really don't.
9 It would be a guess and I don't remember, so.

10 Q. How many employees would have
11 worked in that particular department?

12 A. I don't know.

13 Q. How many currently work in the
14 mortgage assignment and complaint department?

15 A. Four.

16 Q. And you mentioned Shannon Maki.
17 Who are the other three?

18 A. The other ones only prepare
19 complaints.

20 Q. What are their names?

21 A. Denise Williger. I do not know how
22 to spell her name.

23 Q. And?

24 A. Kim Furlong.

25 Q. Furlong?

1 A. F-u-r-l-o-n-g. That's it. Denise,
2 Kim, Shannon and Renee.

3 Q. And Shannon and Renee do the
4 mortgage assignments?

5 A. Mostly Renee.

6 Q. Did she do the mortgage assignments
7 in November of 2010?

8 A. Possibly.

9 Q. Has the department maintained a
10 consistent level of employees, since November
11 of 2010?

12 A. It's fluctuated quite a bit, up and
13 down.

14 Q. Quite a bit. How many?

15 A. Well, since 2010 -- well, only
16 maybe lost one and gained -- it's probably
17 stayed the same. Lost one or two and gained
18 one or two. It's hard to remember.

19 MR. SANDY: PJ, can we go off
20 the record for a moment?

21 MR. MILLIGAN: Certainly.

22 (Off the record.)

23 BY MR. MILLIGAN:

24 Q. Okay. Let's turn to page 2 of
25 Exhibit C. Now, on this notary clause -- do

1 you see where I'm looking at?

2 A. Yes.

3 Q. -- it indicates that you signed on
4 behalf of MERS with the authority of its board
5 of directors. Do you know where that authority
6 is evidenced?

7 MR. DEIGHTON: Objection. Seeks a
8 legal conclusion.

9 Q. You can answer.

10 A. The agreement. (Indicating.)

11 Q. It's from the agreement for signing
12 authority that you produced today and has been
13 identified as Exhibit B?

14 A. Yes.

15 Q. Do you know who is on the board of
16 directors of MERS?

17 A. No.

18 Q. No?

19 A. No.

20 Q. Do you know who William Holtman is?

21 A. No.

22 Q. Let's move back to Exhibit B. Can
23 you turn to page 2 of that exhibit.

24 Well, before we turn to page 2: Prior to
25 today, when was the last time you reviewed

1 Exhibit B?

2 A. Yesterday.

3 Q. Prior to yesterday, when was the
4 last time you had reviewed it?

5 A. Within the last year.

6 Q. Do you know what the reason for
7 your review of that document within the last
8 year was?

9 A. A case similar to this.

10 Q. A different foreclosure case? Do
11 you recall the name of that case?

12 A. I don't exactly.

13 Q. Do you recall where it was filed?

14 A. In Cuyahoga County.

15 Q. Do you know; is that case still
16 pending?

17 A. No. It was dismissed.

18 Q. Do you know why it was dismissed?

19 A. No.

20 Q. Do you recall the name of the
21 property owner?

22 A. I believe it's the same as this
23 case.

24 Q. I'm sorry. The homeowner in the
25 other case, do you recall the person's name?

1 MR. DEIGHTON: I'm willing to
2 stipulate to help make this easier.

3 THE WITNESS: Thank you.

4 MR. DEIGHTON: There was a lawsuit
5 filed by, I think it was by Mr. Sheridan here
6 against Sue and Jim and it was dismissed.

7 MR. MILLIGAN: Oh, okay. Thanks.

8 MR. DEIGHTON: You're welcome.

9 BY MR. MILLIGAN:

10 Q. So in a previous lawsuit that
11 Mr. Sheridan had filed, that gave you cause to
12 review Exhibit B in relation to your being
13 named as a defendant in that lawsuit?

14 A. Correct.

15 Q. Prior to that review, which you
16 indicated was within the last year, had you had
17 any other occasion to review Exhibit B?

18 A. Not that I can recall.

19 Q. Would you have had any other reason
20 to review Exhibit B prior to Mr. Sheridan's
21 lawsuit?

22 A. No.

23 Q. Exhibit C -- and I'm sorry. I'm
24 bouncing around a little bit. On page 2 of
25 Exhibit C, do you see where it says, "This

1 instrument prepared by"?

2 A. Yes.

3 Q. At the very bottom of that section,
4 there are numbers indicated, 10-6606. Do you
5 see where I'm looking at?

6 A. Yes.

7 Q. What do those numbers mean?

8 MR. DEIGHTON: I'm going to object
9 based on proprietary information.

10 MR. MILLIGAN: So are you
11 instructing her not to answer?

12 MR. DEIGHTON: I'm instructing her
13 not to answer, but we will stipulate that as a
14 law firm we assign file numbers based on a
15 two-digit date for the year and an up to four
16 digit date for the number of file that was
17 opened that year.

18 MR. MILLIGAN: So these are
19 internal file numbers for Carlisle. Is that
20 fair?

21 MR. DEIGHTON: The first one is.

22 MR. MILLIGAN: Is there a
23 stipulation for the second number?

24 MR. DEIGHTON: There is no
25 stipulation for the second number, but based on

1 the first number, I imagine it is some sort of
2 way that we track the documents internally.

3 Q. Do most mortgage assignments have
4 two numbers affiliated with them? I'm asking
5 you.

6 A. No.

7 Q. Do you know why this particular one
8 has two numbers?

9 A. No.

10 Q. Do you have any involvement in the
11 assignment of numbers to files?

12 A. No.

13 Q. Did you sign mortgage documents
14 that were recorded in you Cuyahoga County?

15 A. Yes.

16 Q. Did you sign mortgage assignments
17 that were recorded in any other counties?

18 A. Yes.

19 Q. Do you know which counties?

20 A. It could have been any of them.

21 Q. Do you know how many counties in
22 Ohio Carlisle files foreclosure actions?

23 A. All of them.

24 Q. So you could have signed mortgage
25 assignments in any one of Ohio's 88 counties, I

1 believe?

2 A. That's correct.

3 Q. What about any other out-of-state
4 mortgages?

5 A. No.

6 Q. Strictly Ohio?

7 A. Yes.

8 Q. Okay. In general what's your
9 understanding of how this mortgage assignment
10 works?

11 MR. SANDY: Objection.

12 A. It puts everybody on notice of who
13 holds the mortgage once you record it, who is
14 the mortgage holder.

15 Q. Can you explain a little more
16 detail what you mean by, "It puts everybody on
17 notice"?

18 A. The loan service transfers and it
19 transfers to a new entity. The mortgage
20 assignment reflects that and gives notice to
21 everybody once it's recorded.

22 Q. What was your understanding of why
23 you were executing mortgage assignments on
24 behalf of MERS?

25 A. Because we can't foreclosure in the

1 name of MERS.

2 Q. So was the only reason for you to
3 execute mortgage assignments on behalf of MERS
4 was so that Carlisle could institute
5 foreclosure actions on behalf of its clients?

6 MR. DEIGHTON: Objection,
7 proprietary information.

8 Q. What was the reason for you signing
9 mortgage assignments?

10 A. We did receive a foreclosure
11 referral and to get the record to reflect the
12 proper plaintiff.

13 Q. Did you sign mortgage assignments
14 in any other capacity, other than in connection
15 with a foreclosure action?

16 A. No.

17 Q. It's your understanding a
18 foreclosure assignment was necessary -- or is
19 necessary because a foreclosure action cannot
20 be instituted on behalf of MERS?

21 MR. DEIGHTON: Objection as to form.
22 If you could clear that up. You asked her
23 about a foreclosure assignment, not a mortgage
24 assignment.

25 MR. MILLIGAN: I'm sorry.

1 Can you just read it back, please.

2 (Record was read.)

3 Q. And after your counsel has
4 clarified that, do you understand the question?

5 A. Yes.

6 Q. When I said, "Foreclosure
7 assignment," I meant, "mortgage assignment."
8 So it's your understanding that a mortgage
9 assignment is needed because a foreclosure
10 action cannot be brought in the name of MERS.
11 Is that correct?

12 A. Correct.

13 Q. What's your understanding of how
14 MERS functions?

15 A. What do you mean?

16 Q. Explain for us your understanding
17 of MERS; what it is, what it does, how it
18 functions.

19 A. It's an entity that -- how do I
20 describe this? -- mortgages are held in their
21 name so when loans transfer, service
22 transferring people can find them by going to
23 MERS.

24 Q. Where do people find the mortgages?

25 A. You can access it through their

1 website, so you would know who the servicer is
2 currently on any MERS mortgage.

3 Q. Can anyone access the information
4 on the MERS website?

5 A. I believe so.

6 Q. Do you have to have a special
7 account or password?

8 A. I didn't.

9 Q. Currently in your job at Carlisle,
10 do you access the MERS website on a regular
11 basis?

12 A. From time to time.

13 Q. What's the primary reason for doing
14 so?

15 A. To find who the servicer is of the
16 loan.

17 Q. Typically what servicers do you
18 work with or work for?

19 MR. DEIGHTON: Objection. That's
20 proprietary information.

21 I'm going to instruct my client not to
22 answer.

23 Q. In this case, the loan servicer has
24 been identified as BAC Home Loan Servicing, LP.
25 Is that correct? Is that your understanding?

1 A. Yes.

2 Q. Did you personally work with any
3 other loan servicers?

4 MR. DEIGHTON: Objection. That's
5 an overbroad question. Are you referring to
6 this case?

7 MR. MILLIGAN: Not this case, in
8 general.

9 Q. In general, were there any other
10 loan servicers that you would execute mortgage
11 assignments?

12 A. No.

13 Q. Other than executing mortgage
14 assignments, did you do anything else on behalf
15 of MERS?

16 MR. DEIGHTON: Objection.

17 A. No.

18 Q. Other than the agreement for
19 signing authority that's been marked Exhibit B,
20 is there any other documents that would define
21 your responsibilities with MERS?

22 A. No.

23 Q. When a file would come to you --
24 and you described the process earlier -- I
25 believe you testified that you would get it

1 from one of the legal assistants in the
2 complaint and mortgage assignment department.
3 Is that correct?

4 A. Correct.

5 Q. Were you considered a part of that
6 department or were you in a different
7 department?

8 A. Different department.

9 Q. What was your department?

10 A. Myself. I wasn't part of any
11 specific department.

12 Q. You have an office at Carlisle?

13 A. Yes.

14 Q. Who would direct you to sign the
15 mortgage assignments?

16 A. No one.

17 Q. When you would receive a mortgage
18 assignment on your desk, it would already be
19 prepared, correct?

20 A. Correct.

21 Q. And it would have been one of the
22 attorneys or their assistants who drafted it?

23 A. Correct.

24 Q. I just want to make sure I have it
25 clear. You would look at the mortgage

1 assignment and basically double-check it
2 against the title work to make sure of
3 accuracy. Is that correct?

4 A. Prior to signing.

5 Q. Then what would happen after you
6 signed?

7 A. I reviewed them first and then I
8 would call the notary in and we would go
9 through them and I would execute and sign. She
10 would notarize and then I would give the files
11 back to the legal assistant.

12 Q. Did you ever draft any of the
13 mortgage assignments yourself?

14 A. No.

15 Q. So the people drafting the mortgage
16 assignments are all legal assistants or
17 attorneys at Carlisle?

18 A. A legal assistant drafts it. The
19 attorney reviews it.

20 Q. What other types of documents,
21 besides the title and the actual mortgage
22 assignment, would you review?

23 A. The referral from the client.

24 Q. What's in the referral from the
25 client?

1 MR. SANDY: I'm going to object
2 on the basis of attorney-client privilege. Any
3 referral from my client to the law firm is
4 covered by the privilege. My client is not
5 waiving the privilege.

6 MR. MILLIGAN: So it's your
7 position that the type of documents that would
8 be in a referral are --

9 MR. SANDY: Any communications
10 between my client and its counsel will be
11 privileged.

12 MR. MILLIGAN: Well, I'm not asking
13 about specific advice that's given, legal
14 advice. I don't think the privilege is as
15 broad as you're suggesting.

16 MR. SANDY: I think it is and I
17 think you're asking for --

18 MR. MILLIGAN: I just want to know
19 what type of documents are provided in general
20 from a client when it's referred.

21 MR. SANDY: I think that's
22 privileged information.

23 MR. MILLIGAN: So you're objecting
24 and instructing the witness not to answer?

25 MR. SANDY: On behalf of Bank of

1 America, it's not waiving any privilege.

2 MR. MILLIGAN: Are you going to
3 instruct your client not to answer the
4 question?

5 MR. DEIGHTON: The objection is on
6 the record.

7 MR. MILLIGAN: Right. But you're
8 here representing her today.

9 MR. SANDY: My client, though,
10 holds the privilege, not the law firm and my
11 client isn't waiving the privilege.

12 MR. MILLIGAN: I understand that.
13 She could still answer and waive the privilege.

14 MR. SANDY: She doesn't have the
15 authority to waive the privilege. The only
16 party who can waive the privilege is the actual
17 client. That's why I'm saying: My client is
18 not waiving the privilege, so she cannot
19 testify to it.

20 MR. MILLIGAN: All right. Well,
21 I'm going to ask the question again. Let's try
22 to clear this up.

23 BY MR. MILLIGAN:

24 Q. What's in a referral package that
25 you receive from a client?

1 MR. SANDY: I'm going to again
2 object to the extent you're asking about this
3 particular case. Now, if you're asking just in
4 general --

5 Q. In general, what type of documents
6 are in a referral package?

7 MR. DEIGHTON: I'm going to at this
8 point suggest that we go off the record, the
9 three attorneys talk about it, perhaps a
10 stipulation -- four attorneys. I apologize.
11 We might be able to clear up Attorney Sandy's
12 issue and still address your needs for
13 information. And if we're not able to resolve
14 it, then we can go back on the record and you
15 can ask your questions.

16 MR. MILLIGAN: Let's do that.

17 (Discussion held off the record.)

18 MR. MILLIGAN: We were off the
19 record. Do you want to put it on the record?

20 MR. DEIGHTON: I'll put the
21 stipulation on the record.

22 MR. MILLIGAN: Okay.

23 MR. DEIGHTON: I'm going to put a
24 stipulation on that addresses what is typically
25 contained in a typical foreclosure referral

1 package. In a typical foreclosure referral
2 package, a client will direct a law firm to
3 take a specific action with regards to a loan.
4 That might be, file an answer in a preexisting
5 foreclosure case, initiate a foreclosure case.
6 They'll identify the loan by a loan number, by
7 an address, by a party's name.

8 They will sometimes include loan
9 documents. They will include the date of last
10 payment, the current principal balance, the
11 interest rate. They will include the name of
12 the entity that the client wants us to
13 foreclose in. That is a typical foreclosure
14 referral. It is a letter from the client to
15 the law firm. That's my stipulation.

16 MR. MILLIGAN: Okay. Thanks.

17 BY MR. MILLIGAN:

18 Q. Ms. Ethridge, when you receive a
19 mortgage assignment, do you go through the
20 entire file with all the documents and the
21 referral that your attorney just described?

22 A. Yes.

23 Q. Do you recall; did you personally
24 review the referral documents in this
25 particular case?

1 A. I would have to say, yes. I did in
2 every case.

3 Q. You did in every case?

4 A. Yes.

5 Q. Can you describe the scope of your
6 review and what exactly you would do?

7 A. I would look for the name who we're
8 instructed to foreclosure in. I would look at
9 the title work and see what the title work
10 said, figure out the connection of where we
11 need to go from there, what we needed to do,
12 review the title work, review the mortgage
13 assignment, make sure everything matches
14 recording information, the dates of the
15 mortgage.

16 Q. Would you review the actual
17 mortgage itself?

18 A. Yes.

19 Q. And would you have the notes in the
20 file, promissory notes?

21 A. Yes, the note would be in the file.

22 Q. And the promissory note would be
23 one of the things you would review?

24 A. Sometimes.

25 MR. DEIGHTON: Before you ask your

1 next question, I want to make sure that the
2 stipulation I previously read on the record,
3 when we were off the record, all counsel in the
4 room had the chance to hear that stipulation
5 and approve it before I put that on the record.
6 Is everyone in agreement with that?

7 MR. SANDY: I agree.

8 MR. MILLIGAN: Yes.

9 MR. DEIGHTON: Okay.

10 BY MR. MILLIGAN:

11 Q. Are you aware of any resolution
12 between MERS and Republic Bank stating that you
13 have authority to sign mortgage assignments?

14 MR. SANDY: Objection.

15 Q. You can answer.

16 A. No.

17 Q. Are you familiar with Republic
18 Bank?

19 A. No.

20 Q. Back to Exhibit C. Do you see
21 where it says that MERS is acting solely as a
22 nominee for Republic Bank on the second line?

23 A. Yes.

24 Q. What does that mean to you, acting
25 solely as a nominee for Republic Bank?

1 A. They're acting on their behalf,
2 MERS.

3 Q. And prior to signing this document,
4 did you request any verification that MERS was
5 in fact a nominee for Republic Bank?

6 A. No.

7 Q. Do you know whether MERS is in fact
8 a nominee for Republic Bank?

9 A. No.

10 Q. Do you know whether Republic Bank
11 was in business when you signed the mortgage
12 assignment in November of 2010?

13 MR. SANDY: Objection.

14 A. No.

15 Q. Do you know if Republic Bank is
16 currently in business?

17 MR. SANDY: Objection.

18 A. I don't believe so.

19 Q. Now, you've given me Exhibit B, the
20 agreement for signing authority, which lists
21 BAC Home Loan Servicing, LP. Are you aware of
22 whether there's a resolution between MERS and
23 Bank of America, a similar resolution to this
24 one?

25 A. No.

1 Q. Is there any distinction between
2 BAC Home Loan Servicing, LP and Bank of America
3 in your understanding?

4 MR. SANDY: Object. Bank of
5 America has all sorts of different entities.
6 When you're talking about a Bank of America
7 entity, what entity are you talking about?

8 MR. MILLIGAN: Bank of America --
9 I'm not really referring to any specific
10 entity. In this case, we have BAC Home Loan
11 Servicing, LP. I guess I'm not understanding
12 the basis for your objection. Are there
13 other --

14 MR. SANDY: Well, it's like
15 anyone. I mean, lots of different banks have
16 different entities, different subsidiaries,
17 things of that nature. So when you use the
18 term, "Bank of America," as a generalized
19 terms, what relationship are you --

20 MR. MILLIGAN: Let's go off the
21 record.

22 MR. SANDY: Sure.

23 (Discussion held off the record.)

24 BY MR. MILLIGAN:

25 Q. Okay. My question here is that the

1 agreement for signing authority, which has been
2 marked Exhibit B, specifically identified BAC
3 Home Loan Servicing, LP. As Bank of America's
4 attorney just indicated, Bank of America has
5 several different entities and subsidiaries
6 that fall under the Bank of America umbrella.

7 My question is: Does this agreement for
8 signing authority that specifically references
9 BAC Home Loan Servicing, LP encompass all of
10 the Bank of Americas entities and subsidiaries?

11 MR. DEIGHTON: Objection. Seeks a
12 legal conclusion.

13 Q. If you know.

14 A. I don't know.

15 Q. Are you aware of any other Bank of
16 America subsidiaries or entities?

17 A. Yes.

18 Q. Can you identify those other Bank
19 of America entities?

20 A. BA Mortgage. There's been several
21 over the years when they -- Countrywide --
22 purchased Countrywide and BAC, BA Mortgage,
23 LLC. I've seen several over the years. And,
24 no, I don't know specifically who they are.
25 They're Bank of America.

1 Q. When you say you've seen several,
2 where would you see them?

3 A. Title work, additional lienholders
4 in cases, plaintiffs in actions.

5 Q. Would they be identified in
6 particular mortgage assignments that you would
7 have signed?

8 A. I don't believe so.

9 Q. I'm sorry?

10 A. I don't believe so.

11 Q. Okay. Are there other agreements
12 for signing authority related to Bank of
13 America entities other than the one that you've
14 provided in Exhibit B?

15 A. No.

16 Q. So is it your understanding that
17 this agreement for signing authority would
18 encompass all of Bank of America's entities?

19 MR. DEIGHTON: Objection --

20 MR. SANDY: Objection.

21 MR. DEIGHTON: -- seeks a legal
22 conclusion.

23 A. I don't know.

24 Q. I guess what I'm asking: For your
25 purposes, for what you would do in terms of

1 signing a mortgage assignment -- and let's look
2 at Exhibit C again. This one is assigned to
3 BAC Home Loan Servicing, LP. Do you recall
4 whether you ever signed a mortgage assignment
5 assigning an interest to an entity other than
6 BAC Home Loan Service, LP?

7 A. No.

8 Q. You don't recall or you didn't?

9 A. Don't recall.

10 Q. But you may have assigned --

11 MR. DEIGHTON: Objection,
12 speculation.

13 A. I don't know.

14 MR. MILLIGAN: Let's take 5.

15 (Recess taken.)

16 BY MR. MILLIGAN:

17 Q. Exhibit C again, if you could.

18 A. Okay.

19 Q. The mortgage assignment starts
20 with, "For value received." Are you aware of
21 what consideration was given for the
22 assignment?

23 MR. SANDY: Objection.

24 A. No.

25 Q. Do you know what's meant by, "For

1 value received"?

2 A. No.

3 Q. When you would execute a mortgage
4 assignment, would you ask for or review any
5 documents showing that there was any type of
6 consideration given for the assignment?

7 MR. SANDY: Objection.

8 A. No.

9 Q. On Exhibit C, you signed, "Sue
10 Barnes." I'm assuming now you sign things,
11 "Sue Ethridge." Is that correct?

12 A. Right.

13 Q. And you've done that since you've
14 been married, correct?

15 A. Yes.

16 Q. But you've already identified that
17 that is in fact your signature and --

18 MR. SANDY: Objection. Asked and
19 answered.

20 Q. You can answer.

21 A. Yes, yes.

22 Q. Do you always sign your signature
23 the same way?

24 A. No.

25 Q. Do you mind signing -- and we'll

1 mark this as an exhibit, but --

2 A. Barnes or Ethridge?

3 Q. Do both and all the different
4 variations of how you would sign your
5 signature.

6 MR. DEIGHTON: Objection.

7 A. (Witness complies.)

8 MR. DEIGHTON: Do you have copies
9 for us?

10 MR. MILLIGAN: I'll make copies.

11 MR. DEIGHTON: Okay.

12 - - - - -

13 (Thereupon, Deposition Exhibit D,
14 Signatures of Sue Ethridge, was
15 marked for purposes of
16 identification.)

17 - - - - -

18 BY MR. MILLIGAN:

19 Q. We've marked as Defendant's
20 Exhibit D a piece of legal pad that you've
21 provided the different variations of your
22 signature both as Sue Barnes and Sue Ethridge.
23 Is that correct?

24 A. That's correct.

25 Q. And this document accurately

1 reflects how you would have signed documents in
2 the past and how you sign documents today?

3 MR. DEIGHTON: Objection.

4 A. That's correct.

5 Q. So as far as a mortgage assignment
6 goes, you didn't always sign it the same way.
7 Is that correct?

8 MR. SANDY: Objection.

9 Q. Is that correct?

10 A. That's correct.

11 Q. Let me rephrase that. A particular
12 mortgage assignment that you would have signed
13 could have included any of the two Sue Barnes
14 signatures. Is that correct?

15 A. Also like that, any of these.
16 (Indicating.)

17 Q. Okay. So on Exhibit D, you've
18 indicated with an asterisk next to the
19 signature the variations of your signature that
20 might appear on a mortgage assignment. Is that
21 correct?

22 A. That's correct.

23 Q. Do you have any other documents
24 here with you that would show your signature?

25 A. No, I do not.

1 Q. Maybe a driver's license?

2 A. I didn't bring it in.

3 Q. Back on Exhibit C. Are you
4 familiar with the notary Samantha Miloro?

5 A. Yes.

6 Q. How do you know Samantha?

7 A. She's an employee at the law firm.

8 Q. What's her title?

9 A. Legal assistant.

10 Q. Is she still currently employed
11 at Carlisle?

12 A. Yes.

13 Q. What department does she work in?

14 A. Currently the billing department.

15 Q. Do you know what department she was
16 in when the mortgage assignment, Exhibit C, was
17 signed?

18 A. Foreclosure department.

19 Q. How many departments are there?

20 MR. DEIGHTON: Objection,
21 proprietary information.

22 MR. MILLIGAN: I just want the
23 number of departments.

24 A. I don't know. I mean, there's the
25 foreclosure -- five, six.

1 Q. Is the complaint and mortgage
2 assignment department part of the foreclosure
3 department?

4 A. Yes.

5 Q. Do you know what Samantha would do,
6 what was her job duties?

7 MR. DEIGHTON: Objection. Can you
8 clean it up by limiting the period of time that
9 you're asking about?

10 Q. On or around when the mortgage
11 assignment in this case was executed.

12 A. I don't recall. She has worked in
13 many departments at the firm.

14 Q. Were you present when Samantha
15 notarized this?

16 A. Yes.

17 Q. Was Samantha present when you
18 signed the document?

19 A. Yes.

20 Q. Do you recall whether you signed
21 any other documents on November 17, 2010 in
22 front of Samantha?

23 A. I don't recall.

24 Q. Do you know who prepared this
25 particular mortgage assignment, Exhibit C?

1 A. No.

2 Q. Who instructed you to execute this
3 mortgage assignment?

4 A. No one.

5 Q. No specific individual instructed
6 you?

7 A. No.

8 Q. Is there a policy at Carlisle
9 related to execution of mortgage assignments?

10 MR. DEIGHTON: Objection. That
11 seeks proprietary information.

12 Instruct my client not to answer.

13 Q. Did anyone from MERS instruct you
14 to sign --

15 MR. SANDY: Objection.

16 Q. -- the mortgage assignment?

17 A. No.

18 Q. When the mortgage assignment is
19 presented to you, how long does the process
20 typically take to review, sign and notarize?

21 A. Fifteen minutes.

22 Q. Just so we're clear, you do not get
23 any compensation from MERS?

24 MR. SANDY: Objection, asked and
25 answered.

1 A. That's correct.

2 Q. Do you recall reviewing any of the
3 loan documents related to the property that's
4 the subject of the mortgage assignment that's
5 been identified as Exhibit C?

6 A. No.

7 Q. Do you recall having reviewed the
8 mortgage that was assigned?

9 A. No.

10 Q. Do you typically review the
11 mortgage before signing the mortgage
12 assignment?

13 A. Yes.

14 - - - - -

15 (Thereupon, Deposition Exhibit E,
16 Open-End Mortgage, was marked for
17 purposes of identification.)

18 - - - - -

19 Q. Okay. I've handed you what's been
20 marked as Defendant's Exhibit E. Take a second
21 and review it. Let me know when you've
22 finished reviewing it. You're done?

23 A. Yes.

24 Q. Have you seen Exhibit E before
25 today?

1 A. Don't recall.

2 Q. Would you agree that this is a copy
3 of the open-end mortgage that is related to the
4 mortgage assignment that's been identified as
5 Exhibit C?

6 MR. DEIGHTON: Objection.

7 A. Yes.

8 Q. And having taken a minute to look
9 at Exhibit E, does it do anything to refresh
10 your memory as to whether you reviewed this
11 document prior to executing a mortgage
12 assignment?

13 A. No.

14 Q. It does not jog your memory?

15 A. No.

16 Q. Have you reviewed or had a chance
17 to see any other assignments related to the
18 property that's the subject of this lawsuit?

19 A. No.

20 Q. Are you aware of any other
21 assignments?

22 A. No.

23 Q. Do you know if you reviewed the
24 promissory note that was related to this
25 particular property?

1 A. I do not recall.

2 Q. Did you review any documents prior
3 to today in preparation for your deposition
4 today?

5 A. No.

6 Q. Did you review the case file for
7 this particular property?

8 A. No.

9 Q. What did you do in preparation,
10 other than talking to your attorney, in
11 preparation for the deposition today?

12 A. Gathered the documents that I
13 presented.

14 MR. MILLIGAN: Off the record.

15 (Recess taken.)

16 (Record was read.)

17 - - - - -

18 (Thereupon, Deposition Exhibit F,
19 Note, was marked for purposes of
20 identification.)

21 - - - - -

22 BY MR. MILLIGAN:

23 Q. I'm handing you what's been marked
24 as Defendant's Exhibit F. Take a second and
25 review each page and let me know when you're

1 finished reviewing.

2 MR. SANDY: Just for the record,
3 I'm going to object. Ms. Ethridge indicated
4 she did not review the note for this case.

5 MR. MILLIGAN: I believe she
6 indicated she didn't recall.

7 (Record was read.)

8 BY MR. MILLIGAN:

9 Q. Have you had an opportunity to look
10 at Exhibit F?

11 A. Yes.

12 Q. Have you seen Exhibit F before
13 today?

14 A. I do not know.

15 Q. Can you describe Exhibit F for us?

16 A. It appears to be a promissory note.

17 Q. It's a promissory note related to
18 this foreclosure case?

19 A. Yes.

20 Q. And the third page of the exhibit
21 is the allonge. Is that correct?

22 A. Correct.

23 Q. Are you familiar with allonges?

24 A. A little bit.

25 Q. What's your understanding of how an

1 allonge works?

2 MR. DEIGHTON: Objection. Seeks a
3 legal conclusion.

4 Q. Go ahead.

5 A. It's like a mortgage assignment for
6 a mortgage. It shows -- transfers the note.

7 Q. Have you ever prepared an allonge?

8 A. No.

9 Q. Do you know who prepared this
10 allonge?

11 A. No.

12 Q. Do you know whether you reviewed
13 the note allonge prior to executing the
14 mortgage assignment?

15 A. I do not know.

16 Q. Is an allonge typically one of the
17 types -- or one of the types of documents that
18 is included in your review when you're
19 reviewing a file in connection with executing a
20 mortgage assignment?

21 A. Sometimes.

22 Q. And that would depend on whether
23 the client gave you a copy, correct?

24 A. Correct.

25 Q. Do you prepare or are you involved

1 in any part of the process of preparing
2 complaints that are filed?

3 A. No.

4 MR. MILLIGAN: All right. I don't
5 have any further questions today. I would like
6 to thank you for your time.

7 MR. SANDY: I would like to ask
8 a few questions.

9 MR. MILLIGAN: Okay. I have no
10 further questions at this time.

11 EXAMINATION OF SUE ETHRIDGE

12 BY MR. SANDY:

13 Q. Good afternoon, Sue. Do you mind
14 if I call you Sue?

15 A. That's fine.

16 Q. Just again, my name is James Sandy.
17 I'm one of the attorneys representing Bank of
18 America in this matter. I just have a couple
19 follow-up questions for you. Okay?

20 A. Okay.

21 Q. Referring to Defendant's Exhibit B,
22 the agreement for signing authority. This
23 agreement appointed you as an assistant
24 secretary and vice president of MERS, correct?

25 A. Correct.

1 Q. And it gave you authority to sign
2 mortgage assignments on behalf of MERS?

3 MR. DEIGHTON: Objection. Seeks a
4 legal conclusion.

5 A. Yes.

6 Q. And that was effective as of
7 April 26, 2010, right?

8 A. Correct.

9 Q. Okay. Going to Exhibit C, the
10 mortgage assignment in this case. You've
11 testified that that is your signature on that
12 mortgage assignment?

13 A. Yes.

14 Q. And you executed that mortgage
15 assignment on behalf of MERS, correct?

16 A. Correct.

17 Q. As vice president, right?

18 A. Correct.

19 Q. And that was pursuant to the
20 agreement for signing authority that's been
21 marked as Exhibit B?

22 MR. DEIGHTON: Objection. Seeks a
23 legal conclusion.

24 A. Correct.

25 Q. And the mortgage assignment itself

1 is from Mortgage Electronic Registrations
2 Systems, Inc. acting solely as nominee for
3 Republic Bank, correct?

4 A. Correct.

5 Q. And real quick. Exhibit E is the
6 mortgage. You previously testified that you
7 don't recall if you saw it, right?

8 A. Yes.

9 Q. Would you agree that the first
10 paragraph on the first page of the mortgage
11 states, "This security instrument is given to
12 Mortgage Electronic Registration Systems, Inc.
13 (MERS), (solely as a nominee for lender, as
14 hereinafter defined, and Lender's successors
15 and assigns), as mortgagee"? Is that what it
16 says?

17 A. Yes.

18 MR. MILLIGAN: I'll stipulate that
19 it says that.

20 MR. SANDY: Okay.

21 Q. That's who the mortgage assignment
22 was from in this case as well, correct?

23 A. Correct.

24 MR. SANDY: I don't have any
25 more questions. Thank you for your time.

1 MR. MILLIGAN: Subject to the
2 objections based on privilege in which the
3 witness was instructed not to answer, I'm going
4 to adjourn the deposition and reserve the right
5 to recall Ms. Ethridge after having an
6 opportunity to present those objections to the
7 Court for review.

8 MR. DEIGHTON: She'll read.

9 I'm going to let you know that in most
10 depositions, most court reporters I found are
11 incredibly accurate. I have no reason to have
12 any reason to doubt that this young lady is
13 incredibly accurate. This being said, most
14 people will want to review their testimony
15 before having it become official, although you
16 do have the right to waive the right to review
17 that testimony before plaintiff in this case is
18 able to use it as evidence in this case.

19 THE WITNESS: I would like to
20 review it.

21 (Thereupon, the deposition
22 was adjourned at 12:27 p.m.)
23
24
25

1 Whereupon, counsel was requested to give
2 instruction regarding the witness's review of
3 the transcript pursuant to the Civil Rules.

4
5 SIGNATURE:

6 Transcript review was requested pursuant to the
7 applicable Rules of Civil Procedure.

8
9 TRANSCRIPT DELIVERY:

10 Counsel was requested to give instruction
11 regarding delivery date of transcript.

12 Patrick J. Milligan ordered the original
13 transcript regular delivery.

14 Copy--James W. Sandy
15
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REPORTER'S CERTIFICATE

The State of Ohio,)

SS:

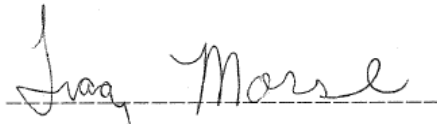
County of Cuyahoga.)

I, Tracy Morse, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, SUE ETHRIDGE, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not
2 a relative, counsel or attorney for either
3 party, or otherwise interested in the event of
4 this action.

5 IN WITNESS WHEREOF, I have hereunto
6 set my hand and affixed my seal of office at
7 Cleveland, Ohio, on this 21st day of May, 2015.
8
9
10
11

12 
13

14 Tracy Morse, Notary Public
15 within and for the State of Ohio
16

17 My commission expires 1/26/2018.
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Veritext Legal Solutions
1100 Superior Ave - Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

May 21, 2015

To: Eric T. Deighton

Case Name: Bank Of American, N.A., etc. v. Edgewater Realty, LLC, et al.

Veritext Reference Number: 2070574

Witness: Sue Ethridge Deposition Date: 5/14/2015

Dear Sir/Madam:

The deposition transcript taken in the above-referenced matter, with the reading and signing having not been expressly waived, has been completed and is available for review and signature. Please call our office to make arrangements for a convenient location to accomplish this or if you prefer a certified transcript can be purchased.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,

Production Department

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT NO: 2070574

CASE NAME: Bank Of American, N.A. v. Edgewater Realty, LLC

DATE OF DEPOSITION: 5/14/2015

WITNESS' NAME: Sue Ethridge

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have made no changes to the testimony as transcribed by the court reporter.

_____	_____
Date	Sue Ethridge

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn Statement; and
Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT NO: 2070574

CASE NAME: Bank Of American, N.A. v. Edgewater Realty, LLC

DATE OF DEPOSITION: 5/14/2015

WITNESS' NAME: Sue Ethridge

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Sue Ethridge

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They have listed all of their corrections in the appended Errata Sheet;

They signed the foregoing Sworn Statement; and

Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

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ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST
ASSIGNMENT NO: 2070574

PAGE/LINE(S) / CHANGE /REASON

Date Sue Ethridge
SUBSCRIBED AND SWORN TO BEFORE ME THIS _____
DAY OF _____, 20_____ .

Notary Public

Commission Expiration Date

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