

STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
CIVIL ACTION
Docket No. RE-10-197
NM - Cum - 2/1/2013

JP MORGAN CHASE BANK,
NATIONAL ASSOCIATION,
successor by merger to CHASE
HOME FINANCE LLC,

Plaintiff

v.

ORDER

1 FEB '13 AM 10:43

HANNAH MCCHESENEY,

Defendant

The plaintiff seeks a summary judgment on its complaint for foreclosure. The defendant opposes the plaintiff's motion for summary judgment and requests summary judgment in her favor.

The plaintiff has failed to establish the foundation necessary for consideration of Affiant Donna J. Gilkerson's testimony and the business records referred to in her affidavit.¹ (Gilkerson Aff. ¶¶ 1-2, 4-7.) See Beneficial Maine, Inc. v. Carter, 2011 ME 77, ¶¶ 15-16, 25 A.3d 96; HSBC Mortgage Services, Inc. v. Murphy, 2011 ME 59, ¶ 10, 19 A.3d 815; M.R. Evid. 803(6); M.R. Civ. P. 56(e).

The plaintiff also failed to cite correctly to portions of the record that support key statements of material fact. (Pl.'s S.M.F. ¶¶ 1, 3-4, 6-9, 18; Gilkerson Aff. ¶¶ 3-7.) See M.R. Civ. P. 56(h)(4). The plaintiff has not addressed the modification of the loan in the statement of material facts. (See Gilkerson Aff. ¶ 8.) Finally, although the plaintiff filed

¹The plaintiff has not provided adequate information to show that Affiant Gilkerson is qualified to testify about the records created by Chase Manhattan Mortgage Corporation and Chase Home Finance LLC.

a notice or merger,² the relationship among the entities is not addressed in the statement of facts. (Pl.'s S.M.F. ¶ 15.)

The court declines to grant summary judgment in the defendant's favor, as questions of material fact remain regarding ownership of the note and mortgage. (Def.'s A.S.M.F. ¶¶ D1-D2; Schofield Aff. ¶¶ 3-6.)

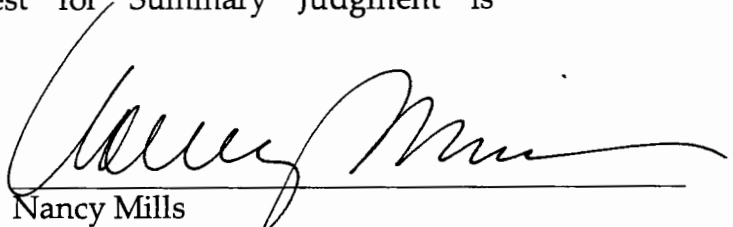
The entry is

The Plaintiff's Motion for Summary Judgment is DENIED.

The Defendant's Request for Summary Judgment is DENIED.

Dated: _____

1.31.13



Nancy Mills
Justice, Superior Court

² No motion for substitution of parties was filed. M.R. Civ. P. 25.

CHASE HOME FINANCE LLC VS HANNAH MCCHESEY

UTN:AOCSSr -2010-0049317

CASE #:PORSC-RE-2010-00197

04 0000009451 SANTIAGO, MICHELLE
ONE PORTLAND SQUARE 5TH FL PO BOX 31 PORTLAND ME 04112
F HANNAH MCCHESEY DEF RTND 08/20/2010
W/DRWN 10/24/2011

05 0000004454 SCHOFIELD, GERALD B
746 HIGH STREET BATH ME 04530
F HANNAH MCCHESEY DEF RTND 06/08/2012

CHASE HOME FINANCE LLC VS HANNAH MCCHESEY

UTN:AOCSSr -2010-0049317

CASE #:PORSC-RE-2010-00197

01 0000007035 ABBONDANZA, RICHARD
511 CONGRESS STREET SUITE 801 PORTLAND ME 04101
F HANNAH MCCHESEY DEF RTND 08/20/2010

02 0000000118 THELIN, PAUL E
7 OCEAN ST PO BOX 2412 SOUTH PORTLAND ME 04116-2412
F CHASE HOME FINANCE LLC PL RTND 05/17/2010

03 0000008571 GAMACHE, JEROME J
7 OCEAN ST PO BOX 2412 SOUTH PORTLAND ME 04116-2412
F CHASE HOME FINANCE LLC PL RTND 09/29/2011