STATE OF MAINE CUMBERLAND, ss

INFINITY FEDERAL CREDIT UNION,

Plaintiff

v.

SUPERIOR COURT CIVIL ACTION Docket No. RE-13-0079 AM-CUM-10/3/2013

ORDER ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

SARAH E. DUNNE,

Defendant

The plaintiff seeks a summary judgment on its complaint for foreclosure. For the following reasons, the motion is denied.

The plaintiff has failed to establish the foundation necessary for consideration of Affiant Bryan Mills's testimony and the business records referred to in his affidavit. (Mills Aff. ¶¶ 4-6.) See Beneficial Maine, Inc. v. Carter, 2011 ME 77, ¶¶ 14-16, 25 A.3d 96; HSBC Mortgage Services, Inc. v. Murphy, 2011 ME 59, ¶ 10, 19 A.3d 815; M.R. Evid. 803(6) (records made "by, or from information transmitted by, a person with knowledge"); M.R. Civ. P. 56(e).

The plaintiff must "certify proof of ownership of the mortgage note . . . " 14 M.R.S. § 6321; see Bank of Am., N.A. v. Cloutier, 2013 ME 17, ¶ 16, 61 A.3d 1242. In its statement of material facts, the plaintiff states that the defendant executed and delivered the note to the plaintiff and there have been no assignments or endorsements. The note was amended by a loan modification. The plaintiff certified it is the holder of the note. (Pl.'s S.M.F. ¶¶ 9-11.)

The entry is

The Plaintiff's Motion for Summary Judgment is DENIED.

Dated: 11 · 3 · 13

Nancy Wills

Justice, Superior Court

INFINITY	FEDERAL	CREDIT	UNION	VS	SARAH	\mathbf{E}	DUNNE	
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