

THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

INDYMAC BANK, F.S.B.,)	
)	
Plaintiff(s),)	
)	
v.)	C.A. NO. 05L-10-099-FSS
)	
PHILLIP A. DYE, REBECCA J.)	
DYE and SOLOWIZ TRUST)	
INTERNATIONAL,)	
)	
Defendant(s).)	

ORDER

Upon Defendants’ Motion for Reargument Captioned “Judicial Notice of Non-Consent and Non-Acceptance” – *DENIED*

1. On April 18, 2008, the court granted Plaintiff’s motion for summary judgment and it denied Defendants’ counter pleadings.

2. On April 21, 2008, Defendants, *pro se*, filed the pleading referred to above. The court views it as a timely motion for reargument under Superior Court Civil Rule 59(e).

3. Mostly, the motion is frivolous. For example, Defendants deny the court’s jurisdiction to hear a foreclosure case; Defendants “demand” that the court and Plaintiff’s counsel post a “commercial indemnity bond” in Defendants’ favor;

and they threaten the court and counsel with a “civil action” for “Breach of ‘Oath of Office Contract’” and “‘Breach [of] Fiduciary Duty.’”

4. The only argument that appears substantive in the pending motion is Defendants’ claim that IndyMac failed to prove the mortgage and default. That claim is addressed, however, in the April 18, 2008 order. In summary, IndyMac attached the note and the mortgage, which was recorded, to its complaint. And, it submitted verified records showing the default. Defendants, directly and indirectly, admitted the mortgage’s existence and their default. Moreover, in the years this case has been pending, they never presented the slightest proof of payment.

For the foregoing reasons, Defendants’ informal request for reargument captioned “Judicial Notice of Non-Consent and Non-Acceptance” is ***DENIED***. Plaintiff’s proposed order granting summary judgement in its favor and denying and dismissing Defendants’ cross motions will be entered today. That will be the final order in this case.

IT IS SO ORDERED.

April 29, 2008

Date

/s/ Fred S. Silverman

Judge

cc: Prothonotary (Civil Division)
Adam Hill, Esquire
Phillip A. & Rebecca J. Dye