

IN THE SUPREMECOURT OF THE STATE OF DELAWARE

LUCIAN SZCZEPANSKI,	§
	§ No. 397, 2004
Defendant Below,	§
Appellant,	§ Court Below – Superior Court
	§ of the State of Delaware,
v.	§ in and for Kent County
	§ C.A. No. 01T-003
CENDANT MORTGAGE	§
SERVICES,	§
	§
Intervenor Below,	§
Appellee,	§
	§
CITY OF DOVER,	§
	§
Plaintiff Below,	§
Appellee,	§
	§
JAMES HUNTER and MARY	§
HUNTER,	§
	§
Defendants Below,	§
Appellees.	§

Submitted: May 4, 2005
Decoded: May 6, 2005

Before **HOLLAND, BERGER** and **JACOBS**, Justices.

ORDER

This 6th day of May 2005, it appears to the Court that:

(1) This is an appeal from a final judgment of the Superior Court.

The Superior Court granted a motion for summary judgment by the

Intervenor-Appellee, Cendant Mortgage Services, and set aside a tax monition sale. The defendant-appellant, Lucian Szczepanski, was the successful bidder at the tax monition sale.

(2) The Superior Court stated alternative bases for its holding. First, it concluded that “Cendant’s conduct, taken as a whole constitutes excusable neglect sufficient to set aside the sale under Superior Court Civil Rule 60(b)(1).” Second, it concluded that the facts constitute “extraordinary circumstances” for setting aside the sale under Superior Court Civil Rule 60(b)(6).

(3) It is unnecessary to address the “excusable neglect” basis for the Superior Court’s holding because we have concluded that its judgment to set aside the tax monition sale under the “extraordinary circumstances” presented should be affirmed for the reasons stated in its opinion dated February 27, 2004.

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgment of the Superior Court is affirmed.

BY THE COURT:

/s/ Randy J. Holland
Justice