

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 11-cv-02683-RBJ-KMT

E. ELLEN WESSLER, and
MONTY WESSLER,

Plaintiffs,

v.

COLONIAL NATIONAL MORTGAGE, a division of COLONIAL SAVINGS, F.A.,
WELLS FARGO BANK,
MORTGAGE ELECTRONICS REGISTRY SYSTEMS, INC.,
CASTLE STAWIARSKI, LLC,
JOHN OR JANE DOES 1-1000, Unknown Investors, and
JOHN ROES 1-20, Undisclosed Mortgage Aggregators, Mortgage Originators, Loan Sellers,
Trustees of Pooled Assets, and/or Trustees for Holders of Certificates of Collateralized Mortgage
Obligations, and All Unknown Persons Who Claim any Interest in the Subject Matter of this
Action,

Defendants.

ORDER REGARDING QUESTIONED DOCUMENT

This matter is before the court on “Unopposed Motion of Defendant Colonial National Mortgage, a Division of Colonial Savings, F.A.’s for Submission of Document to Office of the District Court Clerk for Forensic Inspection and Testing” [Doc. No. 85] filed July 31, 2012.

The Court, having reviewed the motion and being fully advised, finds and orders as follows:

The plaintiffs have alleged that a certain promissory note at issue in the amount of \$999,999.00 is forged. The plaintiffs wish to engage in forensic inspection and testing of the note, pursuant to Fed. R. Civ. P. 34, and defendant Colonial Savings does not object. In light of the sensitivity of what is purported to be an original document, the court suggested at a previous hearing that Colonial Savings consider submitting the questioned document to the Office of the District Court Clerk for safekeeping and where the inspection and testing could take place. The parties have now all agreed with this suggestion.

IT IS HEREBY ORDERED

“Unopposed Motion of Defendant Colonial National Mortgage, a Division of Colonial Savings, F.A.’s for Submission of Document to Office of the District Court Clerk for Forensic Inspection and Testing” [Doc. No. 85] is **GRANTED**. A representative of Castle Stawiarski, LLC, as the attorneys representing Colonial Savings, shall deliver what they claim to be Plaintiff Mrs. Wessler’s original promissory note (hereinafter “Document”) to the Clerk’s Office within two business days after the issuance of this order. The Document shall be accompanied by a declaration establishing the chain of custody immediately prior to delivery to the Clerk’s Office and documenting the delivery to the Deputy Clerk. The Document and the declaration shall be physically brought to the Clerk’s Office unsealed whereupon both the person delivering the Document and the Deputy Clerk accepting the Document will annotate the declaration indicating the exchange and acknowledging the applicability of D.C.COLO.LCivR 79.2. The Document and a copy of the annotated declaration shall be sealed in an envelope in front of the Deputy Clerk and remitted to the custody of the Clerk of Court for the District of Colorado. Within one

(1) day after having submitted the document, Castle Stawiarski, LLC shall file and serve a notice that the document has been deposited.

IT IS FURTHER ORDERED

After the note has been submitted, the parties shall implement a set of protocols compliant with D.C.COLO.LCivR 79.2. by which the inspection/testing will take place. The parties are to co-ordinate with the Clerk's Office to arrange the logistics related to the examination.

Dated this 3d day of August, 2012.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge