

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**GENESEE COUNTY**, a municipal corporation, and **DEBORAH CHERRY**, in her capacity as Genesee County Treasurer, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

Case No. 2:11-cv-14971-VAR-LJM  
Hon. Victoria A. Roberts  
Magistrate Judge Laurie J. Michelson

**FEDERAL HOUSING FINANCE AGENCY, AS CONSERVATOR FOR FEDERAL NATIONAL MORTGAGE ASSOCIATION AND FEDERAL HOME LOAN MORTGAGE CORPORATION; FEDERAL NATIONAL MORTGAGE ASSOCIATION**, a federally Chartered corporation; and **FEDERAL HOME LOAN MORTGAGE CORPORATION**, a federally chartered corporation,

**ORDER CERTIFYING CLASS ACTION AND OTHER MATTERS**

Defendants.

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ORDER (1) CERTIFYING CLASS ACTION, (2) PERMITTING  
INTERVENTION, AND (3)  
SETTING BRIEFING SCHEDULE

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At a session of Court, held in Detroit, Michigan on:

\_\_\_\_\_  
PRESENT: HON. VICTORIA A. ROBERTS  
U.S. District Court Judge

The parties stipulate and the Court finds that:

A. The proposed class consists of (1) all counties in Michigan that have recorded a real estate conveyance from the Federal National Mortgage Association ("Fannie Mae") or the Federal Home Loan Mortgage Corporation ("Freddie Mac," and together with Fannie

Mae, the “Enterprise Defendants”) where the Enterprise Defendants have claimed they are exempt from the Michigan Transfer Tax, MCL §§ 207.501 *et seq.*, 207.521 *et seq.*; and (2) the treasurers for each such county in their official capacity. There are 83 counties in Michigan. On information and belief, Fannie Mae and Freddie Mac have recorded such conveyances in each county. As a result, the proposed class is so numerous that joinder of all members is impracticable.

B. The question of law common to the class is whether the Enterprise Defendants and the Federal Housing Finance Agency in its capacity as Conservator of Fannie Mae and Freddie Mac (the “Conservator,” and together with the Enterprise Defendants, the “Defendants”) are exempt from the Michigan Transfer Tax. This common question of law predominates over the individual issues, if any, in this case. The claim of the class representatives is typical of the claim of absent class members.

C. A class action is a superior method to efficiently and fairly adjudicate this controversy.

**THEREFORE, IT IS ORDERED** that:

1. Pursuant to FRCP 23(b)(2) and (3), the Court certifies the following class:

Any Michigan county and county treasurer that has recorded a deed or other conveyance from Defendants Fannie Mae or Freddie Mac from November 10, 2005 to the present where those Defendants have claimed they are exempt from the Michigan Transfer Tax.

2. Plaintiffs Genesee County and Deborah Cherry, in her capacity as Genesee County Treasurer are appointed class representatives. Attorneys William H. Horton and Kenneth J. Robinson, and the law firm of Giarmarco, Mullins & Horton, P.C. are appointed class counsel.

3. Plaintiffs shall send a copy of the Notice of Class Action, attached, by first class mail to the Clerk and Treasurer for each county in Michigan and may also email them. The Notice shall provide that the final date for opting out is January 31, 2012.

4. Oakland County and its Treasurer, Andrew E. Meisner, have chosen to opt out of the class and will continue to proceed with their claim through their separate action, Case No.: 2:11-cv-12666-VAR-LJM (the "Oakland County Action").

5. Defendants do not waive any counterclaims they may have against class members. Such counterclaims, if any, are deemed not to be compulsory counterclaims under Fed. R. Civ. P. 13(a).

6. The intervening Plaintiffs in the Oakland County Action, the Michigan Department of Attorney General and Michigan Department of Treasury (collectively, the "State Plaintiffs"), shall be permitted to intervene in this case.

7. The dispositive motions and associated briefs pending in the Oakland County Action will also serve as the dispositive motions and briefs in this case upon consolidation.

8. With respect to Plaintiffs Genesee County and Deborah Cherry's Motion for Summary Judgment, Defendants will file appropriate papers incorporating their opposition to Plaintiffs' Motion for Summary Judgment and cross-motion for summary judgment in the Oakland County Action within five business days after entry of this Order. The parties waive any further response or reply briefs with respect to Plaintiffs' Motion for Summary Judgment or Defendants' cross-motion.

9. With respect to the State Plaintiffs, the State Plaintiffs will file appropriate papers incorporating their Motion for Summary Judgment in the Oakland County Action within five business days after entry of this Order. Defendants will file appropriate papers

incorporating their opposition to the State Plaintiffs' Motion for Summary Judgment and cross-motion for summary judgment in the Oakland County Action within five business days after the State Plaintiffs' filing. The parties waive any further response or reply briefs with respect to the State Plaintiffs' Motion for Summary Judgment or Defendants' cross-motion.

S/Victoria A. Roberts  
**HON. VICTORIA A. ROBERTS**  
U.S. District Court Judge

Dated: December 30, 2011

**I STIPULATE TO ENTRY OF THE ABOVE ORDER:**

/s/ William H. Horton  
**WILLIAM H. HORTON** (P31567)  
Attorney for Plaintiffs

/s/ with consent of Ann Marie Uetz  
**ANN MARIE UETZ** (P48922)  
Attorney for Defendant Federal National  
Mortgage Association

/s/ with consent of Clyde M. Metzger  
**CLYDE M. METZGER** (P31040)  
Attorney for Defendant Federal Home Loan  
Mortgage Corporation

/s/ with consent of Michael A. Johnson  
**MICHAEL A. JOHNSON**  
Attorney for Federal Housing Finance Agency

/s/ with consent of D. J. Pascoe  
**D.J. PASCOE** (P54041)  
Attorney for Intervening State Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Case No. 2:11-cv-14971-VAR-LJM  
Hon. Victoria A. Roberts

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NOTICE OF PENDENCY OF CLASS ACTION

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GENESEE COUNTY, et al

v.

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION (Fannie Mae) and  
FEDERAL HOME LOAN MORTGAGE  
CORPORATION (Freddie Mac), et al.

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**To:** Any Michigan county and any county Treasurer that has recorded a deed or other conveyance from Defendants Federal National Mortgage Association ("Fannie Mae") or Federal Home Loan Mortgage Corporation ("Freddie Mac").

On December 29, 2011, the United States District Court for the Eastern District of Michigan certified this case to proceed as a class action on behalf of any Michigan county and its Treasurer where that county has recorded a deed or other conveyance from either Defendant Fannie Mae or Freddie Mac from November 10, 2005 to the present, and where either Fannie Mae or Freddie Mac has asserted that it is exempt from the Michigan Transfer Tax, MCL §§ 207.501 *et seq.*, 207.521 *et seq.*

***THIS NOTICE IS PROVIDED TO INFORM YOU OF THE PENDENCY OF THE LAWSUIT, THE COURT'S DECISION TO HAVE THE LAWSUIT PROCEED AS A CLASS ACTION AND YOUR RIGHT TO ELECT TO OPT-OUT. PLEASE READ THIS NOTICE CAREFULLY. DO NOT CALL THE COURT. DO NOT CALL GENESEE COUNTY OR DEBORAH CHERRY. DO NOT CALL DEFENDANTS' COUNSEL.***

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## BASIC INFORMATION

### 1. What is this lawsuit about?

This lawsuit claims that Fannie Mae and Freddie Mac were and are required to pay the Michigan Transfer Tax when they convey real estate in Michigan. The Transfer Tax consists of a tax due the county in which the property is located and a tax to be collected by the county Treasurer to be paid to the State of Michigan. Fannie Mae, Freddie Mac, and the Federal Housing Finance Agency in its capacity as Conservator of Fannie Mae and Freddie Mac each contend that it is exempt from paying the Transfer Tax. The lawsuit seeks to recover the Transfer Tax from Fannie Mae and Freddie Mac for prior transfers involving each Defendant and to declare that each must pay the Transfer Tax in the future.

### 2. How do I know if I am a member of the class?

You are a member of the class if you are:

Any Michigan county Treasurer or county that has recorded a deed or other conveyance from Fannie Mae or Freddie Mac from November 10, 2005 to the present where either Defendant has claimed that it is exempt from the Michigan Transfer Tax.

### 3. Do I have or need a lawyer in this case?

The Court has named lawyers William H. Horton and Kenneth J. Robinson, and the law firm of Giarmarco, Mullins & Horton, P.C. as Class Counsel. Class Counsel is obligated to protect and pursue the interests of all class members. There is no cost to you to be represented by Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense. If you choose to hire your own lawyer, he or she must file an appearance by January 31, 2012.

### 4. What if I do not want to be part of this lawsuit?

If you do not want to participate as a member of the Plaintiff class in this lawsuit, but you want to keep your right to sue any of the Defendants on your own over the claims in this case, you must exclude yourself and thus "opt-out." To opt-out, you must write a letter or send an email as directed below stating that you wish to be excluded from *Genesee County v. Federal Housing Finance Agency, et al*, Case No. 2:11-cv-14971-VAR-LJM. In any such letter or email, be sure to include the name of your county and the county's address and telephone number. It must be signed by an authorized county representative and, if separately necessary, an authorized representative of the county treasurer. The request to be excluded must be mailed by first-class mail or the

equivalent to Transfer Tax Litigation C/O Giarmarco, Mullins & Horton, P.C., 101 West Big Beaver Road, 10<sup>th</sup> Floor Columbia Center, Troy, Michigan 48084-5280 or by email at [transfertaxlit@gmhlaw.com](mailto:transfertaxlit@gmhlaw.com). If you want to opt-out, your request to be excluded must be post-marked or emailed by January 31, 2012.

If you opt-out of this lawsuit, you will NOT receive any portion of any recovery that may be awarded to the Plaintiff class. However, you will have the right to sue the Defendants over the claims raised in this case, either on your own or as part of a different lawsuit. If you exclude yourself and decide to file your own lawsuit, any amount that you might recover in that separate suit will be limited to the amount of Transfer Tax due to you within six years of when you file your own lawsuit (not November 10, 2005 – six years prior to the date of the filing of this class action).

**5. What happens if I do not exclude myself?**

If you remain a class member, you will be bound by the Court's rulings in the lawsuit, including any final judgment or settlement. However, you will be able to object to or comment on any proposed settlement, if any, and you also will have the right to appear in Court. In the event that there is a judgment in favor of the Plaintiff class, Class Counsel will be entitled to seek reasonable attorneys' fees and reimbursement of expenses from the amount recovered. The Court will determine the amount of such attorneys' fees and costs.

**6. How can I obtain more information?**

There is a website that contains more information about this case – [www.transfertaxlit.com](http://www.transfertaxlit.com). You can review the complaint, the order certifying the class and see other selected court papers. You may also email any questions to Class Counsel at [transfertaxlit@gmhlaw.com](mailto:transfertaxlit@gmhlaw.com).

**DO NOT CALL THE COURT. DO NOT CALL GENESEE COUNTY OR DEBORAH CHERRY. DO NOT CALL DEFENDANTS' COUNSEL.**

**YOUR LEGAL RIGHTS AND OBLIGATIONS IN THIS LAWSUIT:**

<b>Do Nothing</b>	By doing nothing, you automatically become a member of the Plaintiff class. Any decision or settlement in favor of the Plaintiffs entitles you to receive a share of the amount recovered, if any.
<b>Exclude Yourself</b>	By giving written notice that you want to opt-out by January 31, 2012, you exclude yourself from this lawsuit. You will receive no share of any amount recovered, but you will keep your right to sue the Defendants.

BY ORDER OF THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN,  
SOUTHERN DIVISION

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