STATE OF MAINE CUMBERLAND, ss.

SUPERIOR COURT CIVIL ACTION Docket No. RE-14-198

TDW-CUM-01-06-15

FEDERAL NATIONAL MORTGAGE ASSOCIATION.

Plaintiff.

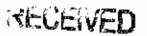
v. ORDER

DANIEL BERUBE, et al,

Defendants

STATE OF MAINE Curring and an Charles Office

JAN 06 2015



A trial was held in the above-captioned mortgage foreclosure action on January 5, 2015.

As stated on the record, the court reserved decision on one issue - (1) whether the notice of default offered as Exhibit E is admissible as a business record.

Based on Beneficial Maine Inc. v. Carter, 2011 ME 77 ¶ 14-16, 25 A.3d 96, the court concludes that Mr. Cooper's testimony indicates that he has no firsthand knowledge about the recordkeeping practices of CitiMortgage and therefore is not a custodian or other qualified witness who can establish that Exhibit E is a business record admissible under M.R.Evid. 803(6).

Defendants did not appear for trial, but the court cannot default them without determining that the notice requirements of 14 M.R.S. § 6111 have been strictly performed, and if Exhibit E is not admissible, the court cannot make that determination.

The entry shall be:

Judgment entered dismissing the complaint without prejudice. The clerk is directed to incorporate this order in the docket by reference pursuant to Rule 79(a).

<sup>&</sup>lt;sup>1</sup> The court also agreed that it would reconvene the trial at a later date to allow plaintiff to produce the original note in order to prove that it is the holder of the note. That will no longer be necessary.

Dated: January 6, 2015

Thomas D. Warren Justice, Superior Court CLERK OF COURTS
Cumberland County
205 Newbury Street, Ground Floor
Portland, ME 04101

CHARLES BOYLE ESQ BENDETT & MCHUGH PC 30 DANFORTH STREET SULTE 104 PORTLAND ME 04101 Plaintiff's PHADINEY

CLERK OF COURTS

Cumberland County 205 Newbury Street, Ground Floor Portland, ME 04101

> DANIEL BERUBE BARBARA BERUBE 20 ASHLEY LANE PORTLAND ME 04103

DeFendants