

STATE OF MAINE  
CUMBERLAND, ss.

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

TJW-CUM-01-06-15

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff

v.

ORDER

DANIEL BERUBE, et al,

Defendants

STATE OF MAINE  
Cumberland Co. Clerk's Office

JAN 06 2015

RECEIVED

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.<sup>1</sup>

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>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

  
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Thomas D. Warren  
Justice, Superior Court

CLERK OF COURTS  
Cumberland County  
205 Newbury Street, Ground Floor  
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Defendants