

STATE OF MAINE
CUMBERLAND, ss

SUPERIOR COURT
CIVIL ACTION
Docket No. RE-11-335

NM-CUM-7/11/2013

BANK OF AMERICA, N.A.,

Plaintiff

v.

CHRISTOPHER L. JETTINGHOFF,

Defendant

ORDER ON PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT

and

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC. AS NOMINEE FOR
COUNTRYWIDE HOME LOANS, INC.,

11 JUL '13 PM 2:45

Party-In-Interest

The plaintiff seeks a summary judgment on its complaint for foreclosure. The plaintiff has failed to establish the foundation necessary for consideration of affiant Denise Sipe's testimony and the business records referred to in her affidavit.¹ (Sipe Aff. ¶¶ 1-3.); see Beneficial Maine, Inc. v. Carter, 2011 ME 77, ¶¶ 14-16, 25 A.3d 96; HSBC Mortgage Services, Inc. v. Murphy, 2011 ME 59, ¶ 10, 19 A.3d 815; M.R. Evid. 803(6); M.R. Civ. P. 56(e).

In addition, the plaintiff failed to "certify proof of ownership of the mortgage note" 14 M.R.S. § 6321; see Bank of Am., N.A. v. Cloutier, 2013 ME 17, ¶ 16, 61 A.3d 1242. The plaintiff fails to state the owner the note. The Law Court has held that a

¹Ms. Sipe fails to provide adequate detail concerning the source of her knowledge regarding the record keeping practices of the plaintiff and other entities involved. Attorney Doonan does not remedy the foundation issue. (See Pl.'s S.M.F. ¶ 3; Doonan Aff. ¶ 1.)

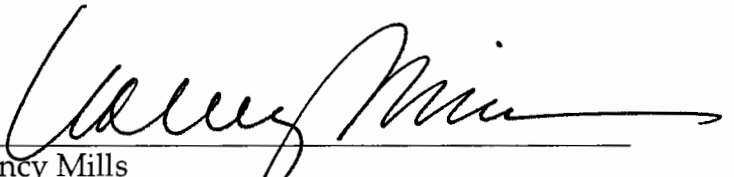
plaintiff is required "to identify the owner or economic beneficiary of the note and, if the plaintiff is not the owner, to indicate the basis for the plaintiff's authority to enforce the note pursuant to Article 3-A of the UCC." Cloutier, 2013 ME 17, ¶ 16, 61 A.3d 1242.

The entry is

The Plaintiff's Motion for Summary Judgment is DENIED.

Dated: _____

7.11.13



Nancy Mills
Justice, Superior Court

BAC HOME LOANS SERVICING LP VS CHRISTOPHER L JETTINGHOFF ET AL

UTN:AOCSSr -2011-0054845

CASE #:PORSC-RE-2011-00335

01 0000003250 DOONAN, JOHN A
100 CUMMINGS CENTER, STE 225D BEVERLY MA 01915
F BAC HOME LOANS SERVICING LP PL RTND 06/10/2011

02 0000004682 CORMIER, JENAI J
100 CUMMINGS CENTER, STE 225D BEVERLY MA 01915
F BAC HOME LOANS SERVICING LP PL RTND 06/10/2011