

Deutsche Bank Nat'l Trust v. Griggs, et al., No. 640-11-06 Wrcv (Morris, J., Feb. 22, 2008)

[The text of this Vermont trial court opinion is unofficial. It has been reformatted from the original. The accuracy of the text and the accompanying data included in the Vermont trial court opinion database is not guaranteed.]

STATE OF VERMONT
WINDSOR COUNTY, SS.

DEUTSCHE BANK NATIONAL TRUST WINDSOR SUPERIOR COURT

VS.

ERNEST GRIGGS, ET. AL.

DOCKET NO. 640-11-06 WRCV

ENTRY ORDER--OBJECTIONS TO CLERK'S ACCOUNTING

A hearing was held on Plaintiff's objections to the Clerk's Accounting in this case on February 15, 2008. Richard Volpe, Esq. appeared on behalf of Plaintiff. There were no other appearances.

Plaintiff has asserted objection to six items of expense that were disallowed in the accounting:

1. Property inspection fee (\$105.00) (to inspect and preserve property during foreclosure process).
2. Maintenance fee (\$10.50)(performance of maintenance during foreclosure).
3. Title report fee (\$250.00)(to determine/confirm position of Plaintiff's mortgage on title to prepare its complaint).
4. Property valuation fee (\$1,514.00)(pre-filing appraisal to determine equity).
5. Stipulation set up fee (\$200.00)(To set up workout plan with borrower).
6. Collection cost fee (\$190.00).

At hearing, Plaintiff elaborated upon the bases for its objections and requests.

V.R.C.P. 80.1(f) provides that the Clerk's accounting is to address and "find the amount of principal, interest to date, and costs due". Thus, the Court's focus upon review of objections to the Clerk's accounting is upon whether costs claimed are reasonably related to the foreclosure proceeding itself, or otherwise authorized under the terms of the underlying agreement.

In context of this standard, the Court SUSTAINS Plaintiff's objections to disallowance of Items # 1 and 2, and these sums shall be included in the Clerk's accounting. The Court overrules, or denies, Plaintiff's objections to disallowance of Items # 3-6 claimed as costs, upon assessment that such are not properly imposed, as litigation or debt collection related expenses. Such is especially the case with respect to pre-foreclosure appraisal, conducted essentially for the benefit of Plaintiff's case calculus. Items # 3-6 shall not be included in the Clerk's accounting.

So ordered, at Woodstock, this _____ day of February, 2008.

Walter M. Morris, Jr.
Presiding Judge