

IN THE CIRCUIT COURT OF THE XXXXXXXXXXXX JUDICIAL CIRCUIT
IN AND FOR XXXXXXXXXXXX COUNTY, FLORIDA

XXXXXXXXXXXXXXXXXXXXXXXXXX,

Plaintiff,

vs.

JOHN XXXXXXXXXXXXXXXXXXXX, et al.,

Defendant

Case No.: XXXXXX

**MOTION TO STRIKE VERIFICATION OF THE VERIFIED AMENDED COMPLAINT
AS A SHAM AND MEMORANDUM IN SUPPORT THEREOF**

COMES NOW Defendant, JOHN XXXXXXXXXXXXXXXXXXXX, by and through undersigned counsel, pursuant to Florida Rule of Civil Procedure 1.150, files this Motion to Strike Verification of the Verified Amended Complaint as a Sham and Memorandum in support thereof and states the following:

1. This is a residential foreclosure action filed on September 22, 2011.
2. The Plaintiff has filed an Verified Amended Complaint (hereinafter "Complaint")

pursuant to Florida Rules of Civil Procedure 1.110(b) which states in relevant part:

When filing an action for foreclosure of a mortgage on residential real property the complaint shall be verified. When verification of a document is required, the document shall include an oath, affirmation, or the following statement: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief."

3. Plaintiff's Complaint contains the above verification, signed by Angela XXXXXXXXXXXXXXXXXXXX, Vice President for XXXXXXXXXXXXXXXXXXXX, Inc., as attorney-in-fact for the Plaintiff. (Attached as Exhibit A is the Verified Amended Complaint, without attachments).

4. The deposition of Angela XXXXXXXXXXXXXXXX took place on February 8, 2013, during which Ms. XXXXXXXXXXXXXXXX was questioned about her knowledge of the truth and correctness of the facts in the complaint, which she allegedly verified. (Attached as Exhibit B is the Deposition Transcript of Angela XXXXXXXXXXXXXXXX).

5. During the deposition, Ms. XXXXXXXXXXXXXXXX admitted that she was not the Vice President of XXXXXXXXXXXXXXXX, Inc., had no document which clearly gave her the right to verify the complaint on the Plaintiff's behalf, and she could not verify the truth and accuracy of the alleged facts in paragraphs 2, 4, 5, 7, 9, 10, 11, 12, 13, and 14 of the Complaint, despite the fact that she signed the verification under penalty of perjury. Defendant's Memorandum in Support of this Motion contains the details of the false verification and is incorporated herein.

6. Ms. XXXXXXXXXXXXXXXX admitted that some of the facts were verified by merely reading the Complaint and nothing else. In those instances, Ms. XXXXXXXXXXXXXXXX was relying on the same document she was charged with verifying in order to confirm the veracity of the allegation in the Complaint. This obviously defeats the purpose of verification.

7. Therefore, according to the admission of the Plaintiff's deponent, the verification found in the Complaint is a sham and should be stricken pursuant to Rule 1.150 of the Florida Rules of Civil Procedure.

8. Rule 1.150 states:

Rule 1.150. Sham Pleadings

(a) Motion to Strike. If a party deems any pleading or part thereof filed by another party to be a sham, that party may move to strike the pleading or part thereof before the cause is set for trial and the court shall hear the motion, taking evidence of the respective parties, and if the motion is sustained, the pleading to which the motion is directed shall be stricken. Default and summary judgment on the merits may be entered in the discretion of the court or the court may permit additional pleadings to be filed for good cause shown.*(emphasis added)*

9. Florida courts have clearly equated the word "sham" with "false" and held that a pleading is considered a sham "when it is inherently false and based on plain or conceded facts, clearly known to be false at the time the pleading was made." *Decker v. County of Volusia*, 698 So. 2d 650 (Fla. 5th DCA 1997)(quoting *Destiny Const. Co. v. Martin K. Eby Const.*, 662 So.2d 388, 390 (Fla. 5th DCA 1995)); *Jimenez v. WSUA Broadcasting Corp.*, 870 So. 2d 873 (Fla. 3d DCA 2004)(Pleadings were properly struck upon showing that complaint contained false allegations, and was tantamount to fraud on the court.).

10. Upon reading Ms. XXXXXXXXXXXXXXXX testimony, there can be no doubt that the verification in the Complaint meets the definition of a sham pleading and should be stricken.

11. The Florida Supreme Court has held that courts have the power to strike a sham pleading. "The power is not derived from statute but is inherent in the court." *Guaranty Life Ins. Co. of Florida v. Hall Bros. Press*, 138 Fla. 176, 189 So. 243 (1939)(quoting *Rhea v. Hackney*, 117 Fla. 62, 157 So. 190 (1934)). "The power to eliminate sham pleadings is an indispensable power to the protection and maintenance of the character of the court, and the proper administration of justice." *Id.*

12. Given the falsity of the verification, this Court has a duty to strike the verification. Once stricken, the Complaint will no longer state a cause of action pursuant to Rule 1.110(b), as it will fail to contain a verification.

13. Rule 1.110(b) states that:

A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third-party claim, **must state a cause of action and shall contain** (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, unless the court already has jurisdiction and the claim needs no new grounds of jurisdiction to support it, (2) a short and plain statement

of the ultimate facts showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which the pleader deems himself or herself entitled. Relief in the alternative or of several different types may be demanded. Every complaint shall be considered to demand general relief.

When filing an action for foreclosure of a mortgage on residential real property the complaint shall be verified.
(emphasis added)

14. Dismissal is a proper remedy for failure to state a cause of action. *See Barrett v. City of Margate*, 743 So. 2d 1160 (Fla. 4th DCA 1999).

15. In *Barrett* a *pro se* plaintiff's complaint failed to comply with Rule 1.110(b) by failing to state a cause of action. *Id.* The trial Court allowed the plaintiff the opportunity to amend the complaint in order to correct the problem but the plaintiff failed to do so. *Id.* As a result, the trial Court dismissed the Complaint with prejudice. *Id.* On appeal the Fourth District Court of Appeals affirmed the trial courts ruling **holding that it was not improper to dismiss a complaint, with prejudice, for repeated refusal to comply with the rules of pleading.** *Id.*

16. The Fourth District Court of Appeal emphasized the importance of complying with the Rules of Civil Procedure in stating that the plaintiff's improper complaint "coupled with their refusal to comply with either the trial court's directives or the mandate of Florida Rule of Civil Procedure 1.110(b), clearly demonstrates the need for the rule and exemplifies the potential for abuse of the judicial process when the rule is not enforced." *Id.*

17. In the above styled case, the Plaintiff was also given an opportunity to correct the verification in the complaint but failed to do so properly.

18. On October 14, 2011, the Defendant filed a Motion to Strike the Plaintiff's Verified Complaint for failure to properly verify. (Attached as Exhibit C is the Defendant's Motion to Strike the Plaintiff's Verified Complaint).

19. On May 2, 2012, Defendant's Motion was granted and Plaintiff was given 60 days to amend the verification. (Attached as Exhibit D is this Court's Order).

20. Plaintiff then filed the Verified Amended Complaint, which is the subject of this Motion, and again failed to comply with the verification requirements, this time by providing a false verification.

21. Given the holding of the Fourth District in *Barrett* and the history of the Plaintiff's action regarding the verification, dismissal of the above styled case is proper and well within this Court's power.

WHEREFORE, the Defendants respectfully request this Honorable Court enter an Order striking the Plaintiff's Verification contained within its Verified Amended Complaint as a sham, dismiss the Complaint, without prejudice, and award attorney's fees and costs and for any other relief this Court deems just and proper.

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing and the facts stated in it are true.

Evan M. Rosen, Esq.
Fla. Bar 120103

**MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO STRIKE
STRIKE VERIFICATION OF THE AMENDED COMPLAINT AS A SHAM**

Plaintiff's Complaint is improperly verified according to the admissions of the verifier, Angela XXXXXXXXXXXXXXX, who is the alleged Vice President for XXXXXXXXXXXXXXX, Inc., the alleged attorney-in-fact for Plaintiff. As stated above, during her deposition Ms. XXXXXXXXXXXXXXX admitted that some of the facts alleged in the Complaint were not true; she also admitted that she could not and did not verify paragraphs 2, 4, 5, 7, 9, 10, 11, 12, 13, and 14.

First, although the Ms. XXXXXXXXXXXXXXX listed her position as "Vice President" in the verification of the Complaint, Ms. XXXXXXXXXXXXXXX admitted that **she was "not the vice president"** of the company. (XXXXXXXXXXXXXXXXX' Depo, Pg. 90 Lns. 3-16). Then, Ms. XXXXXXXXXXXXXXX admitted that the alleged Power of Attorney which allegedly gave the servicer, her employer, the right to act on behalf of the Plaintiff, was not made by the Plaintiff and **did not even mention the Plaintiff's name**. (XXXXXXXXXXXXXXXXX' Depo, Pg. 71 Lns.3-16 & Pg. 92 Lns. 15 - Pg. 93 Ln. 14)(See XXXXXXXXXXXXXXXX' Depo Defense Exhibit 7 – Power of Attorney). Further, the Corporate Resolution from the Plaintiff's employer contained conflicting directives as to whether or not Ms. XXXXXXXXXXXXXXX was actually even authorized to sign for the company for which she worked, XXXXXXXXXXXXXXX, which is not even a party to this action. (See XXXXXXXXXXXXXXXX' Depo Defense Exhibit 5 – Corporate Resolution).

Even if she was authorized to sign on behalf of the Plaintiff, Ms. XXXXXXXXXXXXXXX admitted that she did not and could not verify all of the factual allegations in the Complaint. Although Ms. XXXXXXXXXXXXXXX signed the verification on the Complaint under penalty of perjury and swore that all of the facts alleged in the complaint were **true and correct** to the best

of her knowledge and belief, she admitted in her deposition that her knowledge regarding most of the information was **gained solely from the information found in the Complaint**. The very document Ms. XXXXXXXXXXXXXXXX was charged with verifying.

Ms. XXXXXXXXXXXXXXXX testified that in order to verify the Complaint, she reviewed a packet of documents which included the Mortgage, Note, Payment History, Demand Letter, Loan Fact Sheet, Corporate Resolutions and Power of Attorney (hereinafter "the Packet"). (XXXXXXXXXXXXXXXXX Depo, Pg. 27 Lns. 19 - Pg. 28 Ln. 21). She also reviewed her computer system which mirrored what was in the Packet. (XXXXXXXXXXXXXXXXX Depo, Pg. 16 Lns. 1-8 & Pg. 53 Lns. 8-13). Alone, the documents contained in the packet would not have been sufficient to verify the complaint. However, as the deposition progressed, Ms. XXXXXXXXXXXXXXXX "remembered" some additional documents she allegedly reviewed but did not have with her and were not provided to Defense counsel despite having been subpoenaed prior to the deposition. Regardless, even if she did have the alleged additional documents when verifying the Complaint, it is clear from her testimony that she did not and does not have sufficient knowledge to properly and thoroughly verify the Complaint.

The Complaint and Ms. XXXXXXXXXXXXXXXX' testimony are as follows respectively.

Paragraph 2 of Complaint: "The court has jurisdiction over the subject matter."

As to the basis of Ms. XXXXXXXXXXXXXXXX' belief that paragraph 2 of the Complaint is true and correct to the best of her knowledge - as required by Fla.R.Civ.P. 1.110(b) - she states, "[o]ther than the complaint and what I have in front of me, that's pretty much all I have. **I'm hoping that it's factual.**" (XXXXXXXXXXXXXXXXX Depo, Pg. 72 Ln 22 - Pg 73 Ln 2).

Paragraph 4 of Complaint: "The mortgage of the Plaintiff is a lien superior in dignity to any prior or subsequent right, title, claim,

lien, or interest arising out of mortgagor or the mortgagor's predecessors in interest."

Ms. XXXXXXXXXXXXXXX, after attempting to seem as if she had verified this fact, finally admitted **that she did "not know if there's any other liens."** (XXXXXXXXXXXXXXXXX Depo, Pg. 76 Lns. 8-10). If Ms. XXXXXXXXXXXXXXX did not know whether other liens existed, then she could not have known whether paragraph 4 was true and correct for purposes of verification.

Paragraph 5 of Complaint: "Plaintiff is entitled to enforce the terms of the note and mortgage pursuant to Florida Statute 673.3011."

At the deposition, Ms. XXXXXXXXXXXXXXX admitted she was not familiar with Florida Statute 673.3011.

Q: How do you know that the plaintiff is entitled to enforce the terms of a note and mortgage pursuant to that statute?

A: Because the mortgagors have signed off on those documents stating.

Q: Do you know what that statute says?

A: No, I do not, not at this time.

Q: Have you ever known what that statute says?

A: It was a part of our training, I'm sure that -- but I just can't remember off the top of my head right now.

(XXXXXXXXXXXXXXXXX Depo, Pg. 77 Lns. 3-13). Out of the 18 count complaint, paragraph 5 is the **only** paragraph that contains a statute. This statute is one of the most critical facts the Plaintiff must establish. Section 673.3011 contains **two sentences** that define who is entitled to enforce the instruments which are the basis for the Plaintiff's cause of action. It is unacceptable that the person charged with verifying the truth and correctness of the Plaintiff's right to enforce does not even know what the statute says and was not prepared to answer how she knew that

paragraph 5 was true and correct, despite knowing that her deposition was about the verification of the Complaint.

Paragraph 7 of Complaint: "Plaintiff declares the full amount payable under the note and mortgage to be due."

Ms. XXXXXXXXXXXXXXX clearly had no idea where to find the information that would enable her to know whether the Plaintiff declared the full amount due under the note and mortgage. (XXXXXXXXXXXXXXXXX Depo, Pg. 77 Ln. 15 - Pg. 79 Ln. 9). First she pointed to the fact that the Defendant signed the note and mortgage. (XXXXXXXXXXXXXXXXX Depo, Pg. 77 Lns. 15-20). Then she attempted to correct herself by saying that she knew because of the Complaint that was filed. (XXXXXXXXXXXXXXXXX Depo, Pg. 77 Lns. 21-24). In the same sentence she corrected herself again and said that she knew the full amount was declared by the Plaintiff because they placed a judgment against the borrower. (XXXXXXXXXXXXXXXXX Depo, Pg. 77 Ln. 24-25). Ms. XXXXXXXXXXXXXXX then said that the Demand Letter shows that the Plaintiff declared the full amount but upon further questioning quickly realized that this was not true either. (XXXXXXXXXXXXXXXXX Depo, Pg. 78 Ln. 9 - Pg. 79 Ln. 1). Finally, having run out of answers, Ms. XXXXXXXXXXXXXXX gave up and admitted "I'm not sure." (XXXXXXXXXXXXXXXXX Depo, Pg. 79 Lns. 2-7).

Q: How do you know that the plaintiff declares the full amount payable under the note and mortgage to be due?

A: Because of their signature. They've signed off stating they would pay that amount and they became delinquent.

Q: But how do you know the plaintiff is declaring that amount payable?

A: Oh, I'm sorry. Because of the complaint that's been filed. I apologize. Okay. It's because **they placed a judgment against the borrowers.**

Q: The plaintiff placed a judgment against the borrowers?

A: Meaning us - well, the attorneys have filed a complaint stating that they have been delinquent with their payments, so, therefore, they have -- they're no -- they're not keeping up with

what they have stated that they would pay, their payments monthly, if that makes -- I'm trying to make sense of it.

Q: What in the documents that you've reviewed for this case tells you that the plaintiff declares the full amount payable under the note and mortgage to be due?

A: The demand letters that were served to the borrowers.

Q: Let's take a look at that. Can you show me in either D-2 or D-3 where the plaintiff declares the full amount due?

A: Not -- okay. I see what you're saying, the full amount due. It shows the delinquent payments, of course. But the actual note has the full amount that the borrower signed off on that shows the amount that they were to pay. And, of course, I have my fact verification sheet, which is D-4, that shows the original amount of the mortgage, which was 5,020, and the amount of each payment that should have been paid and when the last payment was received.

Q: And I appreciate what you're saying, but none of that's answering the question. I just want to know what shows you that the plaintiff has made this declaration.

A: Okay. When you say -- meaning the complaint itself -- I'm not sure. **Really, I'm not sure what you're -- other than -- I'm just going to be quiet on that one. I'm not sure.**

(XXXXXXXXXXXXXXXX Depo, Pg. 77 Ln. 15 - Pg. 79 Ln. 9). For someone tasked with verifying a complaint, knowing whether or not the servicer had declared the full amount under the note should have been fairly simple and straight forward. From this fact alone, it is clear that Ms. XXXXXXXXXXXXXXXX did not properly verify the Complaint and could not have done so with her limited knowledge.

Paragraph 9 of Complaint: "In order to protect its security, the Plaintiff may have advanced and paid Ad Valorem Taxes, premiums on insurance required by the mortgage and other necessary costs, or may be required to make such advances during the pendency of this action. Any such sum so paid will be due and owing Plaintiff."

At first, Ms. XXXXXXXXXXXXXXXX said that the Plaintiff had advanced taxes, premiums on insurance and other costs. But when asked to show where in the Pay History this was shown,

Ms. XXXXXXXXXXXXXXX retracted her statement and admitted that no payments of this nature were made by the Plaintiff. (XXXXXXXXXXXXXXXX Depo, Pg. 79 Ln. 10 -Pg. 80 Ln. 10).

Q: Okay. How do you know that in order to protect its security the plaintiff may have advanced or paid taxes -- excuse me, ad valorem taxes, premiums on insurance required by the mortgage and other necessary costs or may be required to make such advances during the pendency of this action?

A: The actual payments are on the -- are on this payment history that you've been given. And then, of course, we have the note and mortgage. It shows the --

Q: So has the plaintiff advanced any taxes or premiums on insurance or other costs?

A: Yes. I mean, according to what I have here on the pay history.

Q: Can you show me on the pay history where the plaintiff --

A: When you say the plaintiff, I hope I'm understanding that correctly. We're talking about the borrower or the actual ...

Q: Sure. The plaintiff in this case is, technically, Master Adjustable Rate Mortgages Trust 2007-1, Mortgage Pass-through Certificates Series 2007-1.

A: Oh, where they've actually paid anything? **No. I don't see that for them.** I'm talking about the actual mortgagor². So I'm sorry. I misunderstood that question.

(XXXXXXXXXXXXXXXX Depo, Pg. 79 Ln. 10 -Pg. 80 Ln. 10).

Paragraph 10 of Complaint: "On or about February 28, 2008, TERRY XXXXXXXXXXXXXXX died."

Once again, Ms. XXXXXXXXXXXXXXX' uncertain answers demonstrate that she did not properly and independently verify every fact in the Amended Verified Complaint.

(XXXXXXXXXXXXXXXX Depo, Pg. 80 Ln. 11 - Pg. 83 Ln. 12). Ms. XXXXXXXXXXXXXXX was asked:

Q: Your knowledge that she is dead is because -- on that date is because it's stated on the complaint; isn't that what you just said to me?

A: Yes, that is correct, because it's stated on the complaint.

² Based on this response, it seems the witness does not even know which party is the Mortgagor and which is the Mortgagee.

(XXXXXXXXXXXXXXXXX Depo, Pg. 81 Lns. 12-16). Ms. XXXXXXXXXXXXXXX then back-tracked and stated that she must have seen a death certificate if Terry XXXXXXXXXXXXXXX passed away. (XXXXXXXXXXXXXXXXX Depo, Pg. 83 Lns. 9-12). However, this death certificate was not mentioned as being part of the Packet, was not in Ms. XXXXXXXXXXXXXXX possession and had not been provided to Defense counsel as part of the subpoena documents which were requested.

Paragraph 11 of Complaint: "The record legal title to said mortgaged property is vested in Defendant(s), JOHN XXXXXXXXXXXXXXX, living and if dead, the unknown spouses, heirs, and beneficiaries who hold or holds possession."

Ms. XXXXXXXXXXXXXXX had no idea which document demonstrates that Defendant, John XXXXXXXXXXXXXXX, has the record legal title to the property which is the subject of this law suit. (XXXXXXXXXXXXXXXXX Depo, Pg. 83 Lns. 16 - Pg. 85 Ln. 11). When asked how she knew paragraph eleven was true and correct, Ms. XXXXXXXXXXXXXXX pointed first to the Mortgage and Note. (XXXXXXXXXXXXXXXXX Depo, Pg. 83 Lns. 16-22). Then Ms. XXXXXXXXXXXXXXX stated that the Defendant **did not** hold legal title because he had not paid off the Mortgage and would have legal title once the Mortgage had been paid in full. (XXXXXXXXXXXXXXXXX Depo, Pg. 83 Ln. 23- Pg. 84 Ln. 6). Ms. XXXXXXXXXXXXXXX then retracted her statement and said that she relied on Mortgage, Note, Demand Letter, and Pay History to verify that the Defendant was the record legal title owner. (XXXXXXXXXXXXXXXXX Depo, Pg. 84 Ln. 25 - Pg. 85 Ln. 11). Obviously, despite Ms. XXXXXXXXXXXXXXX' alleged training allowing her to verify the facts alleged in the Complaint, she cannot even articulate that the recorded Deed is what gives the Defendant evidence of legal title. Further, she is clearly unaware of the basic function of a mortgage under Florida's "lien theory."

Q: How do you know that the record legal title to the mortgage property is vested in John XXXXXXXXXXXXXXXX?

A: Because of the documents he signed, the note and mortgage.

Q: The note and mortgage tells you that he owns the property?

A: Yes.

Q: And that legal title is vested to him?

A: Once he pays it off completely, then yes.

Q: What was that? I'm sorry?

A: Once it's paid in its entirety.

Q: I couldn't hear you. If he's paid in its entirety?

A: I said once he's paid this debt off in its entirety, then he would own this title -- own it. But, yes, he's in pursuit of paying for the title.

(XXXXXXXXXXXXXXXXX Depo, Pg. 83 Ln. 16 - Pg. 85 Ln. 11). Once again, Ms. XXXXXXXXXXXXXXXX demonstrated her lack of knowledge and inability to verify the Complaint.

Paragraph 12 of Complaint: "All conditions precedent to the acceleration of this mortgage note and to foreclosure of the mortgage have been fulfilled and have occurred."

Ms. XXXXXXXXXXXXXXXX readily admitted that she **did not know** what a condition precedent was and that **she relied on the Complaint** to verify that this was true.

(XXXXXXXXXXXXXXXXX Depo, Pg. 85 Lns. 12-21).

Q: Can you tell me what a condition precedent is?

A: I cannot.

Q: Tell me how you know that all conditions precedent to the acceleration of the mortgage note and to foreclosure of the mortgage have been fulfilled and have occurred.

Ms. XXXX: Again, objection based on legal contention, but go ahead.

A: By reading the complaint, the information that's here.

(XXXXXXXXXXXXXXXXX Depo, Pg. 85 Lns. 12-21).

This obviously defeats the purpose of trying to verify the facts in the Complaint. Furthermore, even if she would have known that the condition precedent referred to the Demand Letter, Ms. XXXXXXXXXXXXXXXX admitted that she did not know if the Demand Letter was

mailed out. (XXXXXXXXXXXXXXXXX Depo, Pg. 60 Lns. 3-6 & Pg. 61 Lns. 18-20). Therefore, she could not have verified that all conditions precedent were fulfilled.

Paragraph 13 of Complaint: "For purposes of collection and foreclosure, the Plaintiff has retained the undersigned attorney and is obligated to pay said attorney a reasonable fee for his services."

Ms. XXXXXXXXXXXXXXX pointed to the Demand Letter, which deals with the potential acceleration of the Note and not with the retention of counsel. Then she admitted that she did not know. (XXXXXXXXXXXXXXXXX Depo, Pg. 85 Ln. 22 - Pg. 86 Ln.4 & Pg. 86 Ln. 18 - Pg. 87 Ln. 1).

Q: How do you know that for purposes of collection and foreclosure the plaintiff has retained the undersigned attorney and is obligated to pay said attorney a reasonable fee for services?

A: That, again, dates back to the demand letter that was issued, the delinquent payments. And how he was obtained or who obtained and what date, **I'm not sure.**

(XXXXXXXXXXXXXXXXX Depo, Pg. 85 Ln. 22 - Pg. 86 Ln.4 & Pg. 86 Ln. 18 - Pg. 87 Ln. 1).

Q: So how do you know that XXXXXXXXXXXXXXXXXXXXXXX is the attorney -- the undersigned attorney that's been retained by the plaintiff?

A: I'm not sure.

(XXXXXXXXXXXXXXXXX Depo, Pg. 86 Ln. 18-21).

Paragraph 14 of Complaint: "Plaintiff alleges that the claims of the remaining Defendants are secondary, junior, inferior and subject to the prior claim of Plaintiff, and more particularly the remaining Defendants claim some right, title and interest in and to the mortgaged premises . . ."

Ms. XXXXXXXXXXXXXXX admitted that she was not sure if paragraph 14 was true and accurate. (XXXXXXXXXXXXXXXXX Depo, Pg. 87 Lns. 2-8). She referred to the information in the Packet and said she could not identify any other documents that would verify or deny paragraph

14. (XXXXXXXXXXXXXXXXX Depo, Pg. 87 Lns. 9-24). However, the information in the Packet clearly did not contain any information regarding claims of other defendants.

Q: How do you know that the remaining defendants claim some right, title and interest in the mortgage premises?

A: Again, all of this just goes back to the information that's in this packet and what they were -- so I don't have any -- other than what I see before me and what I would have viewed at that time.

Q: Besides what's stated here in the complaint, in Paragraph 14 that I just read to you --

A: Yes.

Q: -- is there any other document that you reviewed that states the defendants -- other defendants have some right, title and interest to the mortgage premises?

A: **No. I cannot think of it right off. I cannot recall.**

(XXXXXXXXXXXXXXXXX Depo, Pg. 87 Ln. 9-24).

CONCLUSION

It is plainly obvious that Ms. XXXXXXXXXXXXXXX has very little knowledge of even the basics of her employer's business. Although she claims she received training to verify complaints, she cannot explain basic facts that are alleged in the Complaint and does not even know what to look for in order to verify those facts. Most poignantly, she admittedly did not verify certain key aspects of the Complaint but instead relied on the Complaint itself as her proof that the allegations stated therein are true and correct.

If this were a philosophy paper, a somewhat circular statement such as "I think therefore I am" is perfectly acceptable. However, in a court of law, when a document requires that it be verified as true and correct, under penalty of perjury, one cannot sign off that what is stated in the Complaint is true because it is stated in the Complaint. This is preposterous.

The entire reasoning behind the Florida Supreme court taking unprecedented, historic action to amend rule 1.100(b) was because of the financial industry's well documented illegal

behavior. It was primarily in response to the “robo signing” scandal, which ultimately led to settlements with 49 states, OCC consent orders, and numerous class action and shareholder lawsuits. We now know that “robo-signing” is used to describe the rampant process of having a person sign a document without authority to do so and/or knowledge as to that which they are signing, despite swearing otherwise. Yet, no matter the amount and severity of lawsuits, settlements, and bad publicity, it appears, at least in this case, that the act of signing without proper authority or knowledge as to that which one is signing, continues. The result here is that the verification in the Complaint is a sham and must be stricken.

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to XXXXXXXXXXXXXXXXXXXXXXXX by e-mail on June 7th, 2013.

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