

**SUPREME COURT OF THE STATE OF NEW YORK**  
**COUNTY OF \_\_\_\_\_**

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,  
Plaintiff

**INDEX NO:** \_\_\_\_\_

**-against-**

**VERIFIED ANSWER TO  
FORECLOSURE COMPLAINT**

,  
Defendant.

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**Defendant** \_\_\_\_\_ **answers as follows:**

- ☐ General Denial.

**I plead the following Defenses and Affirmative Defenses:**

- ☐ Lack of Standing to Sue:
- ☐ Plaintiff does not have standing to sue because it was not the legal owner of the Note and/or Mortgage at the time it commenced this foreclosure lawsuit.
  - ☐ I have no knowledge that the plaintiff was assigned my debt or there was no Affirmative Allegation of Standing (NY Real Property Actions and Proceedings Law § 1302, high-cost and subprime home loans): Plaintiff failed to allege in the Foreclosure Complaint that it is the legal owner and holder of the Note and/or Mortgage or has the authority to foreclose.
- ☐ Improper Service of the Summons and Complaint (NY Civil Practice Law and Rules Section 308) because I was not served in any of the following three methods.
1. A copy of the Summons and Complaint were not handed to me in person; OR
  2. A copy of the Summons and Complaint were not left at my home or business with a “person of suitable age and discretion” with another copy mailed within 20 days to your home or business; OR
  3. A copy of the Summons and Complaint were not attached to my home or business door, with another copy mailed within 20 days to my home or business.

- ☐ I did not receive the notice of default required by my mortgage agreement, and the mailing of this notice is a condition precedent to the foreclosure.
  
- ☐ 90-Day Pre-Foreclosure Notices (NY Real Property Actions and Proceedings Law Section 1304) were inadequate because (check one or both if applicable):
  - ☐ Two copies not delivered.
  - ☐ Foreclosure lawsuit filed within 90 days of Pre-Foreclosure Notices.
  
- ☐ I did not receive the notice “Help for Homeowners in Foreclosure” that was supposed to be served with the Foreclosure Summons and Complaint (NY Real Property Actions and Proceedings Law Section 1303).
  
- ☐ An active service member is an owner of the property and is on the mortgage and qualifies for Active Military Service protections under state or local law (Federal Service Members Civil Relief Act, 50 App. U.S.C. 501 et seq.; and New York State Soldiers’ and Sailors’ Civil Relief Act, NY Military Law Section 300 et seq.)
  
- ☐ Homeowner’s Mental Disability or Incompetence (NY Civil Practice Law and Rules Section 1202)
  
- ☐ I am eligible for the Home Affordable Modification Program (“HAMP”) because it meets the following qualifiers: (1) My loan is secured by a one-to-four unit property, co-op, or condo; (2) This is my principal residence; (3) The loan was originated on or before January 1, 2009; and (4) I cannot afford my monthly mortgage payments. The loan servicer failed to comply with HAMP for the following reason(s) (check one or both if applicable):
  - ☐ Chapter II, Section 3 of the MHA Handbook prohibits the servicer from referring my loan to foreclosure until I have been evaluated for HAMP or determined ineligible for the program. I did not fail a HAMP trial period plan, I have responded to all reasonable requests for information, and I have not refused help under the program.
  - ☐ Other reason: \_\_\_\_\_

Compliance with HAMP is a condition precedent to foreclosure and failure to comply with HAMP gives rise to equitable defenses to this action.

- ☐ My loan is insured by the Federal Housing Administration (“FHA”). The loan servicer has not complied with regulations of the Department of Housing and Urban Development requiring pre-foreclosure and loss mitigation evaluation for FHA-insured mortgage loans. Compliance with these regulations is a condition precedent to foreclosure. Further, failure to comply with these rules gives rise to equitable defenses to this action.
  
- ☐ My mortgage is guaranteed by the VA pursuant to Title 38 of the United States Code. The loan servicer has not complied with the regulations requiring that the servicer extend all reasonable forbearance options. Compliance with these regulations is a condition precedent to foreclose. Further, failure to comply with these rules gives rise to equitable defenses to this action.
  
- ☐ I have tried to tender payments in the amount of \$\_\_\_\_\_ on \_\_\_\_\_ which would have paid the principal, interest, and fees I owed at the time in full, but the lender refused to accept the payment and proceeded to foreclosure against me wrongfully.
  
- ☐ Partial or Full Payment:
  - ☐ I have made payments in the amount of \$\_\_\_\_\_ which have not been properly credited and are not reflected in the Complaint.
  
  - ☐ Other explanation or additional information:  
\_\_\_\_\_  
\_\_\_\_\_
  
- ☐ On \_\_\_\_\_ (date of loan origination), Mr./Ms. \_\_\_\_\_, the \_\_\_\_\_ made statements to me to intentionally convince me to enter the mortgage and note at issue in this foreclosure action. I relied upon those statements and I was fraudulently induced to sign the mortgage and note. Mr./Ms. \_\_\_\_\_ told me that:  
  
  - ☐ I would receive a fixed rate loan, but instead I received an adjustable rate loan.
  
  - ☐ My mortgage term would be no more \_\_\_\_\_ years, but instead I received a \_\_\_\_\_ year loan.
  
  - ☐ My total monthly payment would include principal, interest, property taxes and hazard insurance, but instead my monthly payment did not include property taxes and hazard insurance.

- ☐ My monthly payment would not be higher than \$\_\_\_\_\_, but instead my monthly payment was \$\_\_\_\_\_.
- ☐ My loan amount would not exceed \$\_\_\_\_\_, but instead my loan amount was higher at \$\_\_\_\_\_.
- ☐ Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I was injured by the above fraudulent statements because I paid more for my mortgage than I could afford and ultimately fell into foreclosure as a result of the higher cost of the mortgage.

- ☐ Other defenses or counterclaims. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ Other important facts concerning my mortgage or home:  
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Wherefore, Defendant requests that the Complaint be dismissed; that the relief requested by Defendant be granted in its entirety; that Defendant be granted costs and attorneys' fees if he or she retains counsel; and any other relief allowed by law and considered just by this Court.

DATE: \_\_\_\_\_  
DEFENDANT'S NAME: \_\_\_\_\_  
DEFENDANT'S ADDRESS: \_\_\_\_\_  
DEFENDANT'S PHONE NO. \_\_\_\_\_

Appearing Pro Se

## VERIFICATION

I, \_\_\_\_\_, being duly sworn, state that the within Answer is true to the best of my knowledge, except as to those matters alleged upon information and belief, which I believe to be true.

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Defendant (Print Name)

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Defendant (Signature)

Sworn to and subscribed before me this

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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Notary Public

## AFFIDAVIT OF SERVICE

I, \_\_\_\_\_, hereby certify that I delivered a copy of the Verified Answer to Plaintiff's Attorney (attorney's name and address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

I delivered the Notice of Appearance by the following method (check all that apply):

- ☐ first class mail
- ☐ certified mail
- ☐ certified mail, return receipt requested
- ☐ overnight delivery service
- ☐ facsimile
- ☐ personal delivery.

on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Subscribed to and sworn this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Notary Public

My commission Expires: