

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA**

**CITIMORTGAGE, INC.
ES**

Case No. 2008CA5013-

Plaintiff,

vs.

**MICHAEL EASOM, ET AL,
Defendants.**

_____ /

ORDER DENYING MOTION FOR SUMMARY JUDGMENT

THIS CAUSE came on to be heard on August 10, 2009. Counsel for Plaintiff, Citimortgage, Inc., appeared by phone. None of the defendants appeared or filed affidavits on their own. The undersigned, in ruling on the lawful basis for a Summary Judgment and the amount thereof, must review the legal sufficiency of the Plaintiff's filings and the adequacy of the affidavits in support of the Motion for Summary Judgment. Accordingly, the court finds as follows:

1. The Plaintiff has filed adequate proof of the basis of \$565.00 in proof of service expenses.
2. The Plaintiff has filed an assignment of mortgage signed January 16, 2009, "effective as of the 20th of May, 2008." It was recorded January 22, 2009. It was assigned by *Cheryl Samons, Assistant Secretary of Mortgage Electronic Registration System, Inc.* The lawsuit was filed June 17, 2008, in the name of "Citimortgage, Inc".
3. The Assignment of Mortgage *jurat* [notary affirmation] lacks a date Cheryl Samons personally appeared before the notary.

4. An “Assignment: for Signing Authority” was filed August 12, 2009 along with the incorporated “Mortgage Electronic Registration Systems, Inc Corporate Resolution”. At paragraph 3, the employees of “Vendor” law offices of David J. Stern, P.A. are “appointed as assistant secretary” and are granted “limited authority to act on behalf of MERS”... based upon the referenced corporate resolutions.
5. A list of seven employees of LAW OFFICE OF DAVID J. STERN, P.A. is included therein. Said employees, per the resolution “are authorized to: Assign the lien... [and] release the lien...”
6. No further basis of authority has been submitted for Cheryl Samons of the Law Offices of David J. Stern, P.A. , who signed the January 16, 2009 Affidavit in Support of Plaintiff’s Motion for Summary Judgment as “It’s Attorney-in Fact,pursuant to Power of Attorney recorded in the Public Records of Broward County, Florida.”

The Court concludes as a matter of law as follows:

1. The Plaintiff, Citimortgage, Inc. had no standing on June 19, 2008 to file a lawsuit. On that date it was not a holder of the note and mortgage and did not become one until January 16, 2009.
2. Even if the Assignment could confer standing retroactively, the Assignment fails due to multiple deficiencies:
 - a. The *jurat* does not indicate it was signed in the presence of the notary.
 - b. Cheryl Sammons has no documented authority by either of the above described documents to assign a mortgage.

3. The “Affidavit in Support of the Plaintiff’s Motion for Summary Judgment” is not signed by an individual with corporate authority or demonstrated knowledge.

Accordingly, it is Ordered that the January 20, 2009 Motion for Summary Final Judgment of Foreclosure and Taxation of Attorney’s Fees and Costs, is hereby **DENIED**.

DONE AND ORDERED in chambers, Dade City, Pasco County, Florida this ___ day of August, 2009.

Lynn Tepper, Circuit Judge

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