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IN THE CIRCUIT COURT  
OF THE 15TH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA  
CASE NO. 502009CA008637XXXXMB

EVERHOME MORTGAGE COMPANY

Plaintiff,

vs.

NOEL VELEZ

Defendant.

\_\_\_\_\_ /

TRANSCRIPT OF PROCEEDINGS

DATE TAKEN: AUGUST 30, 2010  
TIME: 1:40 P.M. - 2:44 P.M.  
PLACE: PALM BEACH COUNTY COURTHOUSE  
205 N. DIXIE HIGHWAY, 6J  
WEST PALM BEACH, FL 33401  
BEFORE: THE HONORABLE ROGER COLTON

This cause came to be heard at the time and  
place aforesaid, when and where the following proceedings  
were reported by:

RAQUEL ROBINSON, REGISTERED PROFESSIONAL REPORTER  
FLORIDA PROFESSIONAL REPORTER  
ROBINSON REPORTING, INC.  
680 S. MILITARY TRAIL, SUITE 211  
WEST PALM BEACH, FL 33415

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APPEARANCES FOR THE PLAINTIFFS:

Laura B. Fernandez, Esq.  
SHAPIRO AND FISHMAN  
2424 N. Federal Highway, Ste. 360  
Boca Raton, Fl 33431

APPEARANCES FOR THE DEFENDANTS:

Loretta Bangor, Esq.  
LAW OFFICE OF LORETTA BANGOR  
433 Plaza Real, Suite 275  
Boca Raton, Fl 33432

1 (Judge Roger Colton enters the room at 1:40  
2 p.m.)

3 THE COURT: Good afternoon, folks. Please  
4 have a seat. Bear with me for about the next five or  
5 eight minutes, folks, before the fire marshall gets  
6 after me. Please spread that way so I can talk to  
7 these people.

8 Anyway, folks, bear with me for about the  
9 next five minutes, if you will, 'cause I'm going to  
10 try to give you a real hurried up what we're going to  
11 do today. Don't be nervous when you see all these  
12 files here, but that's what I have to do this  
13 afternoon. So how does that affect you?

14 How are you doing there, son? You doing all  
15 right? Okay. I'm going to keep my eye on you. If I  
16 say something that's not right, will you let me know?

17 Okay. Folks, my name is Colton. I'm what's  
18 referred to as a senior judge. Four years ago I hit  
19 that magical age under the Florida constitution and  
20 they said, "Don't let the door hit you on the way  
21 out." So, I didn't. Then they called me back and  
22 they said, "Judge Colton, would you be able to come in  
23 and handle foreclosure division five days a week,  
24 through December, 2011?" I said, "No, no, I can only  
25 be here maybe on Mondays and Tuesday." So if I'm

1 here, it's got to be a Monday or a Tuesday. So what's  
2 today? Is it Monday or Tuesday? Tuesday, Thank you.

3 Now, what can I do for you? Well, as you  
4 notice, we've got a lot of people here today, and so  
5 there's going to be, when I get through here, some of  
6 you will be going outside to talk to some of the  
7 lawyers. The lawyers will remain in here to talk to  
8 the other lawyers. And this morning we had about the  
9 same amount, and it took about an hour and a half. So  
10 this afternoon we've got a lot more. So just give me  
11 some time and I guarantee you, you will each have an  
12 opportunity to talk to me.

13 But there are certain things that I already  
14 know that I want to share with you. And that is:  
15 I've heard every reason why we, and I say we, are in  
16 the predicament that we are in today. I know all  
17 about the Chinese drywall problems. I know all about  
18 sickness. I know all about divorce. I know all about  
19 anything else as to why we find ourselves in this  
20 position today.

21 And the biggest problem that I have come  
22 across is that: How you do expect anyone to be able  
23 to continue mortgage payments when 12.2 percent of the  
24 people in Palm Beach County are unemployed? There are  
25 no jobs.

1                   So consequently, what are we going to do  
2                   about it? So what can I do about it? And, honestly  
3                   folks, there's not much I can do about it. But I'm  
4                   willing to see what can be of some assistance to you.

5                   Now, number one, when people come before me,  
6                   they're usually looking for one thing, time, time --  
7                   and believe me time does not cure all -- but time to  
8                   be able to say, see if the lender will take a deed in  
9                   lieu of foreclosure, so that you folks can get out of  
10                  here and not have a foreclosure. Okay. I haven't  
11                  found that too successful.

12                  Two, to be able to modify your loan. In  
13                  other words, to get lower monthly payments. And  
14                  three, you need more time because the property is up  
15                  for sale and you have what we call a short sale and  
16                  you're waiting for the bank to give you an answer.

17                  Now, a lot of that, I've been hearing, the  
18                  bank never calls us back. I've sent information to  
19                  the bank, the bank never calls me back. I've sent it  
20                  two or three times, they lose the information. I  
21                  don't know who I'm talking to. I'm aware of all of  
22                  that. So, but I'm handcuffed to a certain extent as  
23                  to what I can do for you. But I'm trying my best to  
24                  be able to resolve some of the problems by the  
25                  following options that you will have here today:

1                   As I mentioned to you, time seems to be the  
2                   cure all. Sometimes it is, sometimes it isn't.  
3                   However, the statute provides that once I sign a  
4                   summary judgment, then the property should be sold  
5                   between 20 to 35 days.

6                   Folks, there's no way that this can be  
7                   accomplished, because when I sign all of this  
8                   paperwork and it goes down to what we call the clerk's  
9                   office, I refer to it as the black hole, 'cause I  
10                  don't know what happens to it after it goes down to  
11                  the clerk's office.

12                  And, but I will do this, and I can do this:  
13                  One, remember what I told you, 20 to 35 days, I can  
14                  give you 45 days, 60 days, 90 days, 120 days and if  
15                  you have really a good reason why, I might even give  
16                  you 150 days. That's five months, five months before  
17                  the property will be set for sale.

18                  Now, in addition, I will give you an extra  
19                  piece of paper that is an order. And that's an order  
20                  that will order the bank, not you so much, but the  
21                  bank to be in contact with you for either a mediation  
22                  or a conciliation.

23                  Now, what's the difference? A mediation  
24                  means you're going to have a live human being present  
25                  there as an intermediary as a mediator between you and

1 the lender. The lender is going to appear by phone,  
2 because the Florida Supreme Court says they can appear  
3 by phone. Hopefully, somebody on the other end of the  
4 line will have authority to resolve and give you an  
5 answer.

6 A conciliation is when there's just a phone  
7 conference. There's no fee for a conciliation. For a  
8 mediation, if the property is Homestead property, if  
9 you're living in the property, then there is no fee to  
10 you, the homeowner, it's capped off at \$750.00, the  
11 lender will pay. However, if it is investment  
12 property and you're renting the property, then you  
13 will each be responsible for 50 percent of the cost of  
14 the mediator. Most of the mediators are charging  
15 about \$250.00 an hour lasting two hours. I'd say like  
16 five hundred dollars.

17 Now the bad news. The bad news is that I've  
18 been advised that only about 25 to 30 percent of  
19 mediations end successfully, or that there is really a  
20 resolution. Most of them, like 70 percent, are ending  
21 in what they refer to as an impasse. There will be no  
22 resolution.

23 So, if I give you, let's say, 120 days,  
24 that's four months, have the mediation within 60 days,  
25 you have to have the mediation within 60 days, and it

1 still doesn't get resolved, remember, there's only 60  
2 more days before the property is going to be sold or  
3 it's supposed to be sold.

4 Now, a lot of people are saying -- now, if  
5 you're asking for a short sale, to give you some idea  
6 about short sales, just very, very briefly. I have  
7 found, whatever the balance of your mortgage payment  
8 is, let's say it's \$300,000.00, for example, that  
9 about one-third of what your mortgage payment is is  
10 what short sales are usually going for. So if you  
11 have a \$300,000.00 balance on your mortgage, you can  
12 look for a short sale, maybe, offer of anywhere from  
13 ninety to a hundred thousand dollars. That's just  
14 what I have found over the past months when I asked  
15 about that. So that gives you some idea about the  
16 short sale.

17 I can't force the bank to do anything. I  
18 can't force the bank to say to you, like a lady asked  
19 me the other day, she said, "Judge Colton, I have a  
20 three hundred thousand dollar mortgage on my house. I  
21 can't sell my house for a hundred thousand dollars.  
22 Tell the bank to reduce my mortgage to a hundred  
23 thousand dollars." I can't do that. Plus I wouldn't  
24 do that. And it wouldn't be fair to a lot of other  
25 people.



1                   So, lastly, I wanted to let you know that  
2                   these people, Shapiro and Fishman, right? Where are  
3                   my lawyers? Raise your hand. Okay. All of these  
4                   young ladies are Shapiro and Fishman. And I presume  
5                   your notice of hearing shows 1:30 p.m., and the law  
6                   firm that sent you the notice is Shapiro and Fishman.  
7                   These are the lawyers for the lender. Now, folks,  
8                   I'll guarantee you, I can almost guarantee you, now,  
9                   there might be some exceptions, I can almost guarantee  
10                  you the banks don't want your property. They've got  
11                  more property now than they know what to do with. And  
12                  we are stacked up down in our clerk's office.

13                  When I came in a few months ago, I don't  
14                  know, it seems like a few, it's probably six months  
15                  ago, we had fifty-five thousand pending foreclosure  
16                  matters. Now, I understand it's less than forty-five  
17                  thousand. Now, I came from a little town in Illinois.  
18                  We only had five thousand people in the entire town.  
19                  And now we've got over forty-five thousand still  
20                  pending foreclosure matters.

21                  Now, these lawyers are under my instructions  
22                  to talk to you. They're not trying to pry into your  
23                  business or anything else. They're under my  
24                  instructions to talk to you. They are not your  
25                  lawyer. They are not giving you legal advice, the

1 same way I'm not giving you legal advice, because I  
2 can't do that. But they're under my instructions to  
3 talk to you, because, to refresh what I have tried to  
4 tell you in the last five minutes or so, to just go  
5 over that with you.

6 Now, how many lawyers are here? Raise your  
7 hand. All right. For you lawyers, now the lawyers,  
8 I'm going to ask these lawyers to talk to the lawyers  
9 first. Now, as I mentioned to you, the fire marshall  
10 is about ready to come in any time. And I don't want  
11 to get in trouble. So I'm going to ask a lot of the  
12 people who are not represented by lawyers to just step  
13 outside, if you can find some room. Not yet, not yet.  
14 Don't go out yet. And then we'll call you as soon as  
15 possible. 'Cause I have to get rid of the lawyers  
16 first.

17 Now, for you lawyers, if I deny a motion for  
18 summary judgment, and that's usually what the lawyers  
19 want, "Judge, deny it because I don't have the proper  
20 standing." "I don't know who the owner of it is."  
21 "Who's got the note." I've heard all of that. "They  
22 don't have, the affidavits aren't correct, or they  
23 don't have all the information attached to the  
24 affidavit." I've heard all of that.

25 If you want me to deny a motion for summary

1 judgment, fine. I may or I may not. But if you want  
2 me to deny a motion for summary judgment, you will get  
3 a trial date within 30 days. Now, that doesn't mean  
4 you're going to go to trial within 30 days. It means  
5 you will get a trial date in front of Judge Garrison  
6 within 30 days. I'm willing to give up to 120, 150  
7 days with a mediation thrown in. So you have to make  
8 up your mind as to what you really, really want to do.

9 So folks, please bear with me. Be patient.  
10 I guarantee you will all have the opportunity to talk  
11 to me. As soon as we get more room in here, we'll  
12 have a new group come in. So at this point in time,  
13 what I'm going to do, the lawyers who are here will be  
14 talking to the lawyers from Fishman and Shapiro. For  
15 you pro se litigants without lawyers, I'm just going  
16 to ask that you wait outside for a minute. We have a  
17 question...

18 UNIDENTIFIED MALE: Yeah, you just mentioned  
19 that you're going to require mediation, for the bank  
20 to contact the homeowner within 60 days?

21 THE COURT: I hope they're going to contact  
22 you within six days or so. And you have the mediation  
23 over and done with within sixty days.

24 UNIDENTIFIED MALE: What if they don't contact  
25 me?

1                   THE COURT:  What if they don't?  Come back and  
2                   I'll hold them in contempt of court.  We can do that.  
3                   They'll contact you.  We've got a regular procedure.  
4                   The main thing about if you're going through  
5                   mediation, folks it's so important that you have all  
6                   your financial data, W-2 forms, Income tax returns,  
7                   everything else, sent to the lender and to the  
8                   mediator at least 14 days in advance.  I've been  
9                   advised one of the reasons why there's so many  
10                  impasses on mediation is that the mediator and the  
11                  lender, they don't seem to have enough financial  
12                  information.

13                  Thank you for your attention.  I'm going to  
14                  ask that --

15                  MS. FERNANDEZ:  With regards to mediation,  
16                  since a lot of you guys are pro se, and we may not  
17                  have your telephone numbers on record, either provide  
18                  it to us when we speak to you, or if you've not  
19                  received a phone call in a month, in four weeks,  
20                  please contact our office and you can speak directly  
21                  to our mediation department and they will get  
22                  everything set up.

23                  THE COURT:  We'll make sure, I'll make sure  
24                  that there's a phone number for you to be contacted.  
25                  So I'm going to excuse myself at this time.  We'll be

1 in recess. And I'll come back whenever my bailiff  
2 tells me you're ready.

3 (Judge exits the room at 1:53 P.M.)

4 (Proceedings are reconvened at 2:06 p.m.)

5 THE BAILIFF: Come to order, court is back in  
6 session. Okay. Everybody kind of get to a seat just  
7 so that we can kind of have some order here.

8 THE COURT: First case...

9 \* \* \* \* \*

10 THE COURT: Okay. This is Velez?

11 MS. FERNANDEZ: Correct.

12 THE COURT: And what are we doing with Velez?

13 MS. BANGOR: Your Honor, I would, I move for,  
14 to deny the summary judgment, the affidavit filed in  
15 support is grossly deficient. It doesn't verify the  
16 documents that were attached to the complaint, which  
17 is the mortgage and the note. The mortgage that was  
18 actually attached to the complaint was off the public  
19 record, with the "not a certified copy" across it.  
20 The note that was attached to the complaint is  
21 different than the one that she just showed me. The  
22 note attached to the complaint has no endorsement on  
23 it.

24 THE COURT: How can it be different?

25 MS. FERNANDEZ: Your Honor, I'm unsure.

1 THE COURT: Are you talking about the back of  
2 the note might be different?

3 MS. BANGOR: No, the last page, the signature  
4 page.

5 MS. FERNANDEZ: There's an allonge to the  
6 note.

7 THE COURT: There is?

8 MS. FERNANDEZ: Yes.

9 MS. BANGOR: There was no allonge attached to  
10 the complaint.

11 MS. FERNANDEZ: Your Honor, opposing counsel  
12 came in at the last minute. She did file the  
13 affidavit in opposition. The affidavit goes beyond  
14 the answer and affirmative defenses raised within the  
15 case. And there are no affirmative defenses at this  
16 point in time, that I was aware of, that would prevent  
17 the entry of summary judgment.

18 THE COURT: You're looking for an allonge,  
19 right?

20 MS. BANGOR: Your Honor, there actually are  
21 affirmative defenses, the defendant was pro se and she  
22 filed a motion challenging the authenticity of the  
23 documents that were attached. And, to this  
24 endorsement, an allonge was never provided. And,  
25 again, this not the original mortgage. My client,

1 specifically in her answer said on the original she  
2 initialed every page. This, the copies weren't  
3 initialed that she received with the complaint.  
4 They're not initialed here.

5 She also raised the defense of, she raised  
6 several defenses, maybe inartfully because she was pro  
7 se, but she said that the legal description is  
8 incorrect. She denied ever giving a note or mortgage  
9 to the plaintiff in this case. And we don't --

10 THE COURT: She denied what?

11 MS. FERNANDEZ: Giving a mortgage to the  
12 plaintiff in this case because it was a different  
13 name --

14 MS. BANGOR: And never having the allonge, it  
15 wasn't attached to the complaint that my client  
16 received.

17 MS. FERNANDEZ: She's not entitled to the  
18 allonge.

19 MS. BANGOR: Well, we're entitled to know who  
20 has the right to enforce the note.

21 MS. FERNANDEZ: No, you're not. Pursuant to  
22 the mortgage, there are terms that state that the  
23 mortgage, when it gets transfer, the owner, we're not  
24 required to let you know who that transfer happened  
25 to. However, we are required to let you know who the

1 current servicer is, because that's where your payment  
2 should be made.

3 MS. BANGOR: You're required, when you file  
4 the lawsuit, to show that you have standing. And  
5 without attaching that allonge, then the question of  
6 standing was not satisfied till this moment. And I  
7 haven't had time to review that allonge to check its  
8 authenticity, anything. I mean, I'm just seeing it  
9 for the first time right now. And --

10 MS. FERNANDEZ: Being that you came into the  
11 case about three days ago. But it would have been  
12 enough time.

13 MS. BANGOR: Notwithstanding, my client is  
14 challenging the validity of the affidavit in support,  
15 not only the validity, but the fact that the affiant  
16 never even said that she reviewed any of the records  
17 that she is attesting to, nor did she attach any of  
18 the records. Nor did she say that the allegations of  
19 the complaint were true and correct.

20 THE COURT: Okay. I'm going to sign the final  
21 summary judgment. 120 days?

22 MS. BANGOR: Your Honor, I would ask, then, to  
23 give me a trial date.

24 THE COURT: Well, I've already signed it. So  
25 I've denied your objections. My question was: Do you



1 want 120 days?

2 MS. BANGOR: Your Honor, I want a trial. My  
3 client is entitled to a trial.

4 THE COURT: Ma'am, I just denied your request.  
5 I signed the final judgment.

6 MS. BANGOR: Okay. I want 120 days, Your  
7 Honor.

8 THE COURT: You got it.

9 (Hearing on Velez concluded at 2:44 p.m.)

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1 THE STATE OF FLORIDA )

2 COUNTY OF PALM BEACH )

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5 I, Raquel Robinson, RPR, FPR certify that I was  
6 authorized to and did stenographically report the  
7 foregoing proceedings and that the transcript is a true  
8 and complete record of my stenographic notes.

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12 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Raquel Robinson, RPR, FPR

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