

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

BANKUNITED, ASSIGNEE OF THE FDIC, AS
RECIEVER FOR BANKUNITED, FSB,

Plaintiff,

v.

Case No. 09-20957-CI-19

DEREK ANDREWS, *et. al.*

Defendants,

**DEFENDANTS' EMERGENCY OBJECTION
TO RETURN OF ORIGINAL DOCUMENTS**

Defendants, DEREK ANDREWS and AMANDA ANDREWS, by and through undersigned counsel, hereby file their Objection to Plaintiff's Motion for Order Directing Clerk to Return Original Documents, and would show:

1. This matter was voluntarily dismissed by Plaintiff after a short sale.
2. The subject property has been sold and Defendants' liability under the subject Note and Mortgage has been satisfied.
3. Nonetheless, Plaintiff moved this Court, *ex parte*, for return of the original Note and Mortgage.
4. Proceeding *ex parte*, this Court entered an Order granting that motion.
5. Respectfully, there is no basis for the return of these documents. The property has been sold and Defendants' liability is extinguished.
6. Defendants' concern, of course, is that if the original note is returned, then there is nothing stopping Plaintiff or some other entity from taking the position that the Note remains outstanding. Respectfully, the Note should be removed from the stream of commerce.

7. At a minimum, this Court should compel Plaintiff to explain, at a duly-noticed hearing, why the Note and Mortgage should be returned to it instead of being destroyed with the file.

8. Defendants request relief on an emergency basis before the original Note is transferred or becomes part of the stream of commerce.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to J. Anthony Van Ness, Esq., Van Ness Law Firm, P.A., 1239 E. Newport Center Drive, Suite 110, Deerfield Beach, Florida 33442 on this 12th day of December 2011.

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