

U.S. BANK NATIONAL ASSOCIATION,
AS TRUSTEE FOR BAFC 2006-D,

Plaintiff,

v

JIMMY CORREA, TAMARA S. CORREA, et al.,

Defendants.

Case No. 07-CA-014072

General Civil Division K

EMERGENCY MOTION FOR STAY PENDING APPEAL

Defendant, TAMARA S. CORREA, by and through her undersigned counsel and pursuant to Fla.R.App.Pro. 9.310, moves this Court for an Order staying the foreclosure sale in this case pending her prosecution of her appeal in Case No. 2D12-2209, and would show:

1. On March 23, 2012, this Court entered its Final Judgment of Foreclosure. The sale date is scheduled for June 29, 2012.
2. On April 24, 2012, Defendant filed her Notice of Appeal. That appeal is now pending in the Second District, Case No. 2D12-2209.
3. Under Rule 9.310, this Court has jurisdiction to issue a stay pending appeal.
4. Attached is a rough draft of Defendant's Initial Brief. Although the record cites are not contained therein (because the clerk has not yet prepared the record), so the brief is not yet finished, even as it now exists, this brief shows that Defendant's chances of prevailing on appeal are overwhelming. Defendant won't belabor the point in this regard (as that is why the Initial Brief is attached), but, frankly, this may be the most meritorious appeal the undersigned has ever seen.
5. Again, Defendant sees no reason to re-state all of the arguments in the Initial

ed. Suffice it to say Plaintiff never filed the Note (an original or a copy), did not introduce the Note into evidence at trial (an original or a copy), and did not prove the terms of the Note (via documents, testimony, or otherwise), but this Court re-established the lost Note anyway. As the brief explains, Plaintiff failed to prove any of the other terms of the Note, either.

6. Additionally, the trial proceeded even though Defendant was given less than 30 days notice, and even though this Court did not issue an Order setting the trial date.

7. For all of these reasons, the scheduled foreclosure sale should be stayed until this appeal is concluded. Respectfully, Defendant should not face a foreclosure on her home when her chances of prevailing on this appeal are so strong.

8. Conversely, there is no harm in granting the stay. If the appeal is denied, the foreclosure sale could simply be rescheduled at that time.

WHEREFORE Defendant respectfully requests relief in accordance with the foregoing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail to Morris, Hardwick, Schneider, 5110 Eisenhower Blvd, Suite 120, Tampa, FL 33634 on this 4th day of May, 2012.

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