

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

THE BANK OF NEW YORK MELLON,

Plaintiff,

Case No. 2011-CA-015903-O

v.

GABRIELLE S. POHLE, et al.,

Defendant.

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**ORDER GRANTING SUMMARY JUDGMENT**

THIS CAUSE, having come before the Court on September 6, 2012 on Defendants' Motion to Dismiss or for Summary Judgment, and the Court, being duly advised in the premises, it is hereby;

ORDERED AND ADJUDGED as follows:

1. The undisputed evidence shows that Plaintiff failed to send the notice and cure letter required by paragraph 22 of the subject mortgage, a fact proven by Defendant's affidavit and the absence of any summary judgment evidence from Plaintiff to the contrary. Hence, there are no disputed issues of material fact, and Defendant is entitled to summary judgment as a matter of law.

2. Plaintiff's failure to comply with this condition precedent does not justify a summary judgment on the merits, but this case is dismissed without prejudice and without leave to amend.

DONE AND ORDERED in Chambers in Orlando, Orange County, Florida on this 6th day of September, 2012.

Original Signed

SEP 06 2012

Thomas R. Kirkland

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Circuit Court Judge Senior Judge

cc: Mark P. Stopa, Esq.  
Morris, Hardwick & Schneider