

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

THE BANK OF NEW YORK MELLON, AS TRUSTEE,

Plaintiff,

v.

Case No. 2011-11652-CI-II

NICHOLAS LOFGREN A/K/A NICHOLAS  
H. LOFGREN, et al.,

Defendant,

**ORDER GRANTING SUMMARY JUDGMENT**

THIS CAUSE, having come before the Court on October 5, 2012 on Defendant's Motion for Summary Judgment, and the Court, having reviewed the motion, heard the arguments of counsel, and being duly advised in the premises, it is hereby;

ORDERED AND ADJUDGED as follows:

1. There are no disputed issues of material fact, and Defendant is entitled to summary judgment as a matter of law. To wit, Plaintiff failed to send the notice and cure letter as 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.

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

DONE AND ORDERED in Chambers in St. Petersburg, Pinellas County, Florida on this  
\_\_\_ day of October, 2012.

cc: Mark P. Stopa, Esq.  
Smith, Hiatt & Diaz

Hon. Pamela Campbell  
Circuit Court Judge

Original Signed  
OCT 05 2012  
Pamela A.M. Campbell  
Circuit Judge