

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

U.S. BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR CSFB MORTGAGE-BACKED
TRUST SERIES 2005-9,

Plaintiff,

Case No. 10 19844

v.

WALTER J. MIDDLEKAUFF and JANET
H. MIDDLEKAUFF, *et. al.*

Defendants,

ORDER GRANTING SUMMARY JUDGMENT

THIS CAUSE, having come before the Court on October 24, 2012 on Defendants' Motion for Summary Judgment, and the Court, being duly advised in the premises, it is hereby;

ORDERED AND ADJUDGED as follows:

1. There are no disputed issues of material fact, and Defendants are entitled to summary judgment, for two reasons.
2. First, Plaintiff lacked standing at the inception of this case. Although the Note attached to the Amended Complaint contains an allonge, the undisputed, summary judgment evidence before the Court establishes that this allonge was created post-filing. As Plaintiff lacked standing when it filed this lawsuit, dismissal is required. See McLean v. J.P. Morgan Chase Bank, N.A., 79 So. 3d 170 (Fla. 4th DCA 2012).
3. Second, the undisputed, summary judgment evidence showed that Plaintiff failed to provide Defendants the requisite notice and opportunity to cure, as required by paragraph 22 of the subject mortgage.

4. The motion is granted, and this case is dismissed without prejudice.

DONE AND ORDERED in Chambers in Tampa, Hillsborough County, Florida on this
____ day of October, 2012.

cc: Mark P. Stopa, Esq.
Albertelli Law

Circuit Court Judge

