

IN THE FIFTEENTH JUDICIAL CIRCUIT COURT IN AND FOR

PALM BEACH COUNTY, FLORIDA

CASE NO. 2009 CA 016685 (AW)

WELLS FARGO BANK, NA, DBA)
AMERICAS SERVICING COMPANY,)
)
Plaintiff,)

vs.)

DENISE THOMAS,)
)
Defendant.)

Deposition by Brian Korte)

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DEPOSITION OF CAROL CURRY, THE PLAINTIFF,
TAKEN AT THE INSTANCE OF THE DEFENDANT

- - -

West Palm Beach, Florida
Wednesday, March 9, 2011
10:00 a.m. - 10:55 a.m.

- - -

1 APPEARANCES:

2 FLORIDA DEFAULT LAW GROUP, P.L.
3 Suite 300
4 9119 Corporate Lake Drive
5 Tampa, Florida 33634
6 Attorneys for the Plaintiff
7 BY: ELIZABETH A. WULFF, ESQ.

8 KORTE & WORTMAN, P.A.
9 Suite 102
10 2041 Vista Parkway
11 West Palm Beach, Florida 33411
12 Attorneys for the Defendant
13 BY: BRIAN K. KORTE, ESQ.

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Deposition by Brian Korte

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I N D E X

WITNESS:

PAGE

CAROL CURRY:

Direct Examination by Mr. Korte

4

EXHIBITS

Defendant's Exhibit 1 for i.d.

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Defendant's Exhibit 2 for i.d.

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Deposition by Brian Korte

1 The deposition of CAROL CURRY, The Plaintiff, was
2 taken before me, Phillip W. Loter, RMR, Notary Public,
3 State of Florida at Large, at Suite 102, 2041 Vista
4 Parkway, in the City of West Palm Beach, County of Palm
5 Beach, State of Florida, beginning at the hour of 10:00
6 a.m., on Wednesday, March 9, 2011, pursuant to the
7 Notice filed herein, at the instance of the Defendant
8 in the above-entitled cause pending before the
9 above-named Court.

10 - - -

11 THEREUPON,

12 CAROL CURRY,

13 being by me first ~~Deposition by Brian Korte~~ testify the whole
14 truth, as hereinafter certified, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. KORTE:

17 Q. Ma'am, will you please state your name for
18 the record spelling your last.

19 A. Yes. My name is Carol, and that's
20 C-a-r-o-l. Last name is Curry, C-u-r-r-y.

21 Q. Ms. Curry, my name is Brian Korte. I am
22 going to be taking your deposition in the matter of
23 Wells Fargo Bank d/b/a Americas Servicing Company
24 versus Denise Thomas.

25 You have been asked to come here today as

1 the plaintiff. Is that your understanding?

2 A. Yes.

3 Q. All right, ma'am. Will you do me a favor
4 and give me the benefit of your work history starting
5 from the time you left high school going forward.

6 A. My work history you mean in college or --

7 Q. From the time you left high school going
8 forward.

9 A. Oh, okay. Well --

10 Q. If you had college jobs that are minor
11 don't bother with that.

12 A. Okay. I graduated from high school in '76
13 and then, of course I went to college. Then coming
14 out I had a paralegal degree and then I worked for
15 three groups of attorneys for various years.

16 From '78 -- it came out to 31 years. 31,
17 32 years. And then I relocated to Maryland in '98.
18 And I was working in a different job segment.

19 I was in the printing industry at one time.
20 And then I moved over to Wells I want to say 2002.

21 Q. All right, ma'am. So before working for
22 Wells -- and do you mean Wells Fargo Bank?

23 A. Yes.

24 Q. Before moving over to Wells Fargo Bank in
25 2002 did you have any experience in the banking

1 industry?

2 A. Yes.

3 Q. What was your experience in the banking
4 industry?

5 A. Well, I had experience in the banking
6 industry as far as with working for the attorneys. We
7 did foreclosures, we did mortgages and that, but I did
8 not work for another bank per se.

9 Q. Okay. And when you entered Wells'
10 employment in 2002 what was your job title?

11 A. I was a foreclosure specialist.

12 Q. And what does a foreclosure specialist do?

13 A. What we did is we make sure that the
14 foreclosures were put in -- that the properties going
15 into default were put into foreclosure with the first
16 legal action and everything being within the proper
17 time frame.

18 Q. Okay. And then did you get a promotion or
19 switch job titles at some point in time?

20 A. Actually, I switched job titles. That
21 position moved to another state and I did not want to
22 relocate, so I stayed in Maryland.

23 And then I went into a special collection
24 unit for approximately, I think that was like one and a
25 half years.

1 Q. Was it called special collection unit?

2 A. It was called HUD 601 if I am correct. And
3 what we did is we reviewed loans. And our objective
4 was to put people into a performing loan and work with
5 the borrowers in that we either modified them or got
6 them into some type of repayment plan or whatnot.

7 Q. And when did you become part of the HUD 601
8 division after joining Wells?

9 A. I want to say that was 2005, because then I
10 left Wells in 2006.

11 Q. Where did you go in 2006?

12 A. I went to a printing company.

13 Q. Okay. ~~Question by Brian Korta~~ What was the name of the printing
14 company?

15 A. EU Services.

16 Q. How long did you stay employed with EU
17 Services?

18 A. I said 2006, right? I want to say 2009.
19 No. I am sorry. Take that back to 2008.

20 Q. At 2008 did you leave the employment of EU
21 Services?

22 A. Yes, I did.

23 Q. And where did you go then?

24 A. Then I went to a company called The
25 Borrower's Advocate and I specialized in short sales.

1 I worked with all the lenders. And I worked with
2 borrowers in getting short sales.

3 Q. When you say getting short sales what does
4 that mean?

5 A. Processing short sales and getting them
6 approved and whatnot. Had a very high success rate
7 working with the lenders.

8 Q. So you would accumulate documents on behalf
9 of borrowers and process short sales to completion?

10 A. Yes.

11 Q. And you would present sales contracts to
12 the various banks?

13 A. Yes. ~~Deposition by Brian Korte~~ and whatnot. I saw
14 it through closing and then -- I am sorry. I
15 interrupted.

16 Q. When did you leave The Borrower's Advocate?

17 A. June 2009, that's when I started Wells
18 again. I came back to Wells. And I came back to Wells
19 in their community housing -- community housing
20 assistance program in June.

21 And what I did in that, we were -- I
22 traveled around the country to various events such as
23 NACA Wells events.

24 And we had what was called Hope Now events.
25 And I met face to face with borrowers. And our

1 objective was to on the spot, of course, if they had
2 affordability, put them into a loan mod or some type of
3 repayment plan or whatever was necessary or whatever
4 they could afford.

5 Q. And are you still holding the position at
6 community housing assistance division?

7 A. No.

8 Q. When did you leave that division?

9 A. In February 2010. And then I became the
10 what I am today, a default litigation specialist.

11 Q. What does a default litigation specialist
12 do?

13 A. What I ~~Deposition by Brian Korte~~ these are loans that
14 are in default and that are litigated. And I research
15 the issue of the litigation and I work with our
16 attorneys then hopefully to resolve the matter.

17 Q. When did you first become involved in the
18 Denise Thomas matter?

19 A. I became involved when the notice of
20 deposition was sent out.

21 Q. When was that, if you know?

22 A. I am going to say sometime in February.

23 Q. Ma'am, other than speaking with your lawyer
24 did you take any other time to prepare for coming to
25 this deposition?

1 A. Yes.

2 Q. Did you review documents before coming to
3 this deposition?

4 A. Yes, I did.

5 Q. Other than those prepared by your lawyer
6 can you tell me which documents you reviewed?

7 A. I reviewed the basic, the note, the
8 mortgage, the assignments, the payment history,
9 lossment notes.

10 I am trying to think what else. I reviewed
11 a lot of the business records in our system.

12 Q. When you say business records what do you
13 mean by business records? ~~Deposition~~ by Brian Korte

14 A. All the records such as -- that are held in
15 our system such as when payments were made, when the
16 loan was service transferred to us.

17 All the particulars that go into this loan,
18 you know, when it was delinquent, when it became due,
19 when it was put in -- referred to foreclose.

20 All the background research that I do.

21 Q. Did you review anything else that you can
22 recall?

23 A. No, unless something jars my memory.

24 Q. Fair enough. Well, let's talk about this
25 loan itself.

1 A. Okay.

2 Q. Do you know when Wells Fargo purchased this
3 loan?

4 A. Actually, we did not purchase it. It was
5 service transferred to us.

6 Q. Who was the service transferred by?

7 A. I am not sure without seeing the particular
8 document.

9 Q. Well, can you tell me who the owner of the
10 note is?

11 A. Right now the owner of the note is Wells
12 Fargo ASC.

13 Q. Okay. ~~Deposited by Brian Korte~~ buy it?

14 A. No. It was service transferred.

15 Q. Did ASC buy it?

16 A. No. Service transferred.

17 Q. But they own it?

18 A. Yes.

19 Q. How do you own something you didn't buy?

20 A. It was -- there was a blank endorsement on
21 the note.

22 Q. Okay. So is it your testimony today that
23 Wells Fargo did not purchase this note, but merely
24 acquired it?

25 A. Yes.

1 Q. So Wells Fargo is the owner of the note?

2 A. Through the service transfer.

3 Q. What does the service transfer do?

4 A. We were -- we are servicing the note.

5 Q. You are servicing the note on behalf of
6 whom?

7 A. Oh, Freddie. I am sorry.

8 Q. Freddie?

9 A. Yes.

10 Q. Who is Freddie?

11 A. Freddie Mac.

12 Q. Why would you service the note on behalf of
13 Freddie Mac? Who ~~deposited by Brian Korte~~ has a relationship to this
14 note?

15 A. They are the guarantee -- the guarantor.

16 Q. They are guaranteeing the note from whom?

17 A. The note was originated and -- excuse me,
18 because I would have to see the original note to tell
19 you who it was originated by.

20 Q. Okay.

21 A. I don't have that in my memory.

22 Q. Just so I have got this correct, Wells
23 Fargo Bank, NA, d/b/a Americas Servicing Corporation is
24 not the owner of the note, they are servicing the note,
25 correct?

1 A. Yes.

2 Q. Freddie Mac is the guarantor of the note?

3 A. Yes.

4 Q. But we don't know yet who the owner of the
5 note is, do we?

6 A. That's -- the original note will tell you
7 who -- at the time when the note was originated who
8 that owner was. But since that time the note was
9 then -- there were endorsements on the note.

10 Q. Okay. And at some point in time it was
11 transferred around, correct?

12 A. Yes.

13 Q. Do you ~~recall~~ ~~seeing~~ the note before coming
14 here today?

15 A. A copy of it.

16 Q. Have you ever seen the original note?

17 A. No.

18 Q. And although the note may have been
19 transferred through different hands, are you aware of
20 whose hands it actually belongs to?

21 A. Well, the last endorsement is a blank
22 endorsement.

23 Q. Let me take this a different way.

24 A. Okay.

25 Q. I am not getting the answer that I want,

1 and maybe it's my bad questions that I am asking.

2 When Wells Fargo services the loan would
3 you agree with me that part of servicing the loan is to
4 collect payments?

5 A. Yes. Absolutely.

6 Q. When Wells Fargo collects payments who does
7 it send them to?

8 A. That I do not know.

9 Q. Well, who would know more than you?

10 A. I don't know.

11 Q. You're here today as the plaintiff in this
12 case, correct?

13 A. Yes. **Deposition by Brian Korte**

14 Q. But you can't tell me who actually owns the
15 note; you can just tell me who services the note,
16 correct?

17 A. I could, once I look at the note, be able
18 to answer that question.

19 Q. Okay.

20 A. To draw on my memory, I am sorry.

21 MR. KORTE: I am going to have this
22 marked as Defendant's One, if you would.

23 (Thereupon, the proffered document
24 was marked Defendant's Exhibit
25 No. 1 for identification only.)

1 BY MR. KORTE:

2 Q. Ma'am, you have just been handed what's
3 been marked as Defendant's No. 1.

4 A. Okay.

5 Q. Do you know what that document is, ma'am?

6 A. Yes.

7 Q. What is it?

8 A. This is the foreclosure complaint.

9 Q. All right, ma'am. Contained in the
10 foreclosure complaint can you find the note we were
11 discussing earlier?

12 A. I will look here. I see the note.

13 Q. Ma'am, ~~Deposited by Brian Korte~~ of the note that you
14 reviewed before coming here today?

15 A. Yes.

16 Q. Ma'am, you testified earlier that you never
17 saw the original note, correct?

18 A. Correct.

19 Q. You have seen versions that are copies?

20 A. Copies, yes.

21 Q. Are those copies computer screen copies or
22 are they physical copies like we have here in
23 Defendant's Exhibit One?

24 A. Both.

25 Q. Let me ask you a little bit about the

1 computer screen copies.

2 A. Okay.

3 Q. Do you know the policy of scanning at Wells
4 Fargo?

5 A. Yes.

6 Q. Is it the policy of Wells Fargo to scan
7 documents as they receive them?

8 A. Yes.

9 Q. Is it the policy of Wells Fargo to scan
10 notes and mortgages when it receives them?

11 A. Yes.

12 Q. Is it a policy of Wells Fargo to scan the
13 entirety of the no ~~Deposition by Brian Korte~~ front and back?

14 A. Yes.

15 Q. Is the scan dated in any way?

16 A. That I do not know.

17 Q. Do you know if Wells Fargo scans documents
18 at or near the time when it receives the documents?

19 A. That is what they are to do.

20 Q. And does it scan copies or does it scan
21 originals?

22 A. That I do not know.

23 Q. Well, let me ask you about this case. Was
24 a copy scanned or was an original scanned?

25 A. That I do not know.

1 Q. Okay. Do you know the date the note was
2 scanned in this particular case?

3 A. No.

4 Q. All right. I would like for you to review
5 the note and tell me who the owner of the note is.

6 A. Aegis Wholesale Corporation.

7 Q. It's your testimony today that Aegis
8 Wholesale Corporation is currently the holder -- let me
9 strike the question.

10 Is it your testimony today that Aegis
11 Wholesale Corporation owns the note today?

12 A. At the time that the note was originated
13 they held the note **Deposition by Brian Korte**

14 Q. Okay. But my question is who owns and
15 holds the note today?

16 A. As far as holding the note, we at ASC hold
17 the note.

18 Q. When you say we hold the note what does
19 that mean?

20 A. We hold the note as far as we have it in
21 our possession, the original note.

22 Q. Have you seen the original note?

23 A. No.

24 Q. Where is the original note held?

25 A. It's usually held in a secure vault or we

1 give it over to our counsel.

2 Q. Okay.

3 A. And in this case I believe that counsel has
4 the original note.

5 Q. Can you tell me the date the original note
6 was received --

7 A. No.

8 Q. -- by --

9 A. I am sorry.

10 Q. Let me reask the question. Can you tell me
11 the date the original note was received by Wells Fargo
12 or ASC?

13 A. Well, ~~Deposition by Brian Korte~~ service transferred to
14 us on November 1st, 2004. And at the time of the
15 service transfer the note would have been in that
16 package. Should have been in that package.

17 Q. Well, let me have you look at Defendant's
18 One one more time. If you look at the complaint,
19 ma'am, there is a count three of the complaint.

20 A. Okay.

21 Q. If you would review that count and tell me
22 when you're done reviewing it.

23 A. Count three, reestablishment of note. And
24 this is a lost note provision.

25 Q. Ma'am, when was the note lost, if you know?

1 A. I do not know.

2 Q. Do you know if the note was ever lost?

3 A. I do not know that information.

4 Q. And you don't know if the note was ever
5 received by the plaintiff?

6 A. Well, at some time when it was service
7 transferred to us we had possession of the note because
8 we later made it available to counsel.

9 Q. Okay. And upon receipt of that note it
10 would have been scanned?

11 A. That's the theory and that's the -- that is
12 the procedure.

13 Q. Well, ~~Deposition by Brian Korte~~ Was the note in fact
14 scanned at some point in time?

15 A. I cannot answer that. I was not the person
16 who scanned it.

17 Q. Well, you reviewed the system before coming
18 here today, right?

19 A. Yes, I did.

20 Q. Was it scanned on the system?

21 A. Yes.

22 Q. So at some point in time the note was
23 scanned and put in the system?

24 A. Yes.

25 Q. Do you know if the note attached to the

1 complaint differs in any way from the original note?

2 A. I would not be able to come to a conclusion
3 without having something to compare it to.

4 Q. Okay. Well, in your review of the scanned
5 document is it in any way different than the one
6 attached to the complaint?

7 A. Say that again. This is the scanned
8 document attached to the complaint.

9 Q. Okay. That's all I wanted to know. Is
10 that the copy of the scanned document you have?

11 A. This was a copy that was provided to
12 counsel.

13 Q. Let me ~~Deposition by Brian Kirby~~ ask you one more question so that it's clear.

14 A. Okay.

15 Q. Is the note attached to the complaint
16 identical to the scanned version contained on your
17 system?

18 A. I cannot attest to that.

19 Q. Okay. Are you aware of any difference?

20 A. I cannot attest to that.

21 Q. Well, let me ask you a little bit further
22 then as to the note attached to Defendant's One.

23 A. Okay.

24 Q. Do you see how there is a back page to this
25 note titled allonge?

1 A. Yes.

2 Q. Do you know if that document was attached
3 to the document on the day the mortgage closed?

4 A. I do not know. I was not at closing.

5 Q. Well, I would like for you to go to the
6 first page of the note if you would. I would like for
7 you to look at the lower right-hand corner where it
8 says page one of four.

9 A. Uh-huh.

10 Q. What is your understanding of what that
11 means?

12 A. Well, in legal terms we always put however
13 the total number of pages and then we put one of four,
14 two of four and so forth.

15 Q. Would you do me a favor and count how many
16 pages there are in this note?

17 A. I count four.

18 Q. Does that count the allonge?

19 A. No.

20 Q. How come?

21 A. I cannot answer.

22 Q. Ma'am, in your scan system are the
23 documents broken down in different files or is it one
24 bulk scan?

25 A. It varies.

1 Q. Well, let me ask about in this case. Is it
2 one bulk scan or is it different files?

3 A. That I do not know without having access to
4 my system.

5 Q. When you reviewed the note today do you
6 recall if the note was contained in a batch scan or if
7 it was a separate document?

8 A. I only reviewed the note today physically.
9 I did not review it in my system.

10 Q. Okay. Can you tell me if your system
11 delineates between the note and the allonge or if it's
12 contained as one document?

13 A. Our system ~~Deposition by Brian Korte~~ depends on who's
14 putting the information in. The person could, A, put
15 it all together and classify it -- and title it as a
16 note.

17 Or another person could take this and
18 separate it and call it a note and then another scan
19 would be done for the allonge.

20 Q. Gotcha.

21 A. In this case I cannot tell you if they were
22 done together simultaneously and live under the
23 category entitled note, or if they were separated out.

24 Q. I have got you. I am going to mark this as
25 Defendant's Two.

1 (Thereupon, the proffered document
2 was marked Defendant's Exhibit
3 No. 2 for identification only.)

4 BY MR. KORTE:

5 Q. Ma'am, you have just been handed what's
6 been marked as Defendant's No. 2.

7 A. Okay.

8 Q. Would you look at that document for a
9 moment and let me know when you are done reviewing it.

10 A. Okay. Okay.

11 Q. Ma'am, I understand that Defendant's Two is
12 a composite exhibit, but from that composite exhibit
13 can you tell me when ~~Deposition by Brian Korte~~ service was transferred
14 from?

15 A. Let's see here. According to the allonge
16 it was originated with Aegis. I am sorry. Aegis
17 Mortgage Corporation.

18 And then it was transferred at some point
19 to DLJ Mortgage Capital, Inc. Then DLJ Mortgage
20 Capital, Inc. transferred the note with a blank
21 transfer -- with a blank endorsement. I am sorry.

22 Q. Do you know who received the note after DLJ
23 endorsed it with a blank endorsement?

24 A. Yes.

25 Q. Who received it?

1 A. Wells Fargo Bank, NA, successor by merger
2 to Wells Fargo Mortgage Company doing business as
3 Americas Servicing Company.

4 Q. And how does that blank endorsement tell
5 you that?

6 A. Because we -- if you go by the endorsements
7 we ended up with the original note.

8 Q. So let me ask you. Do you know that to be
9 the case or are you supposing that from the fact that
10 it's got a blank endorsement and you now possess it?

11 A. Because it has the blank endorsement and we
12 now possess it.

13 Q. Is it ~~possible by Brian Korte~~ possible that this note was
14 transferred to another party who didn't then endorse it
15 and then sold it to Wells Fargo?

16 A. Not by my knowledge which is evidenced
17 here.

18 Q. Okay. Well, how did Freddie get it?

19 A. Freddie -- I believe when the note was
20 originated the note was originated with Aegis and
21 Freddie as the guarantor.

22 Q. So is it your testimony today that Wells
23 Fargo Bank, NA, d/b/a Americas Servicing Corporation is
24 servicing for DLJ?

25 A. No.

1 Q. Looking at this document can you tell me
2 who Wells Fargo Bank, NA, is servicing for?

3 A. No. We are servicing for Freddie.

4 Q. But Freddie is not the owner of the note,
5 are they?

6 A. No.

7 Q. And you can't tell me as you sit here today
8 who actually owns it?

9 A. The holder of the note is ASC.

10 Q. And they hold it for who?

11 MS. WULFF: Objection. Asked and
12 answered. You can answer again.

13 THE DEPOSITS BY BRIAN KORTE hold it for --
14 according to the business records they hold it for
15 Freddie.

16 BY MR. KORTE:

17 Q. So Freddie owns the note?

18 A. Yes.

19 Q. Who did you speak to at Freddie before
20 coming here today to be designated as the plaintiff in
21 this matter?

22 A. No one.

23 Q. Have you ever spoken to anybody at Freddie?

24 A. No.

25 Q. Ever had any correspondence with anybody at

1 Freddie?

2 A. No.

3 Q. Any communication whatsoever, e-mail,
4 voicemail, text messages or tweets between yourself and
5 Freddie regarding this note?

6 A. No.

7 Q. So when you made the statement that Freddie
8 owns the note, what is that based upon?

9 A. That's based upon our business records.

10 Q. Okay. What in your business records that
11 you can point out indicates that Freddie owns the loan
12 and the note?

13 A. It was ~~deposition by Brian Korte~~ based on our internal business
14 records.

15 Q. Which ones?

16 A. Which ones?

17 Q. Yes.

18 A. On various screens.

19 Q. Give me the first screen.

20 A. It would be our acquisition screen.

21 Q. What on your acquisition screen would lead
22 you to believe that Freddie owns the loan?

23 A. Because it had it set forth on that screen.

24 Q. Set forth as the owner or the guarantor?

25 A. Freddie is -- yes, both.

1 Q. Freddie is now the owner and guarantor. Do
2 you know when Freddie purchased the loan?

3 A. Not specifically, not offhand. I would
4 have to look at my system.

5 Q. When I asked you earlier when we started
6 the deposition who the owner was how come you didn't
7 tell me Freddie then?

8 A. Sheer -- I can't say why I didn't offer
9 that then.

10 Q. Ma'am, contained within the composite
11 exhibit is also a mortgage. Would you please turn to
12 that mortgage?

13 A. Yes. **Deposition by Brian Korte**

14 Q. Ma'am, is there any indication that that
15 mortgage has in any way, shape or form been assigned to
16 Freddie?

17 A. No.

18 Q. Ma'am, is there any indication that that
19 mortgage has ever been assigned to anybody?

20 A. No.

21 Q. Are you aware of any document assigning the
22 mortgage to either Freddie or Wells Fargo?

23 A. Yes.

24 Q. What document are you aware of?

25 A. There is an assignment of mortgage.

1 Q. And do you know the date it was executed?

2 A. No, not without seeing the document.

3 Q. Are you aware whom it was executed by?

4 A. Not without seeing the document.

5 Q. Was it executed by MERS?

6 A. I believe the assignment was from MERS.

7 Q. Is there any indication in your system that
8 anybody at Wells Fargo or ASC asked MERS to begin the
9 assignment to the benefit of the plaintiff?

10 A. I cannot answer that.

11 Q. How did the assignment of mortgage come
12 into being, if you know?

13 A. Do you have a copy of the assignment?

14 Q. I wish I did, but no, I don't.

15 A. I do not know.

16 Q. Without seeing the document is there any
17 way for you to tell me how the document came into
18 being?

19 A. No.

20 Q. Okay.

21 A. I would have to see the assignment.

22 Q. Ma'am, I am going to go back to Defendant's
23 One for a moment if you would.

24 A. Yes.

25 Q. In the complaint there is a count in there,

1 I believe it's count one, asking for a corrective deed.

2 A. Yes. Corrective quitclaim deed.

3 Q. Ma'am, can you tell me how it came to be
4 there is an incorrect deed?

5 A. Well, it could have been simply by an error
6 in the description.

7 Q. I am asking -- and maybe I should have told
8 you in the beginning. I don't want you to guess. If
9 you don't know the answer --

10 A. I do not know the answer.

11 Q. Okay. Do you see paragraph four of the
12 complaint, that subsection?

13 A. Yes. **Deposition by Brian Korte**

14 Q. Where it says inadvertently, and contrary
15 to the clear intention of the parties?

16 A. Uh-huh.

17 Q. How do you know that to be true that it was
18 inadvertent?

19 A. Same way I would know it not to be true.

20 Q. And how is that?

21 A. It's listed here that it was inadvertently.
22 That's -- and --

23 Q. Let me back up. The corrective quitclaim
24 deed we are discussing is not between Wells Fargo and
25 any party, is it?

1 A. Without seeing that corrective quitclaim
2 deed I would be unable to answer that.

3 Q. Okay. Well, then how is the statement made
4 that it was inadvertently and to the contrary -- let me
5 strike the question.

6 How do we know that it was done
7 inadvertently and contrary to the sincere intentions of
8 the parties without the document?

9 A. I can't answer that.

10 Q. Well, who would be able to answer that for
11 me?

12 A. I would imagine the person who drew up the
13 corrective quitclaim. Deposited by Brian Korte

14 Q. Any indication in your records that person
15 was ever spoken to?

16 A. No.

17 Q. Any indication that anybody ever spoke to a
18 Denise Thomas in regards to the corrective quitclaim
19 deed?

20 A. Not that I am aware of. I have no clue.

21 Q. Well, since you're the plaintiff here I am
22 asking you what you meant by paragraph number four.

23 A. Yes.

24 Q. What did you mean by it?

25 A. That there was a problem with the

1 description and it had to be corrected.

2 Q. But you don't know as you sit here today
3 whether it was inadvertent or purposeful, do you?

4 A. Not to the best of my knowledge.

5 Q. And do you know if it was contrary to the
6 intentions of the parties?

7 A. I am sorry?

8 Q. Do you know if the action was contrary to
9 the clear intentions of the parties making the
10 corrective quitclaim deed or was it their actual
11 intention to make the error?

12 A. You're asking me whether or not someone
13 made the mistake on ~~Deposition by Brian Korte~~

14 Q. I am asking if it was a clear intention to
15 write block two or block 22.

16 A. I can't answer that on behalf of another
17 person.

18 Q. Ma'am, the plaintiff in this case is
19 seeking monetary damages, correct?

20 A. Yes.

21 Q. Do you know how much those monetary damages
22 are?

23 A. Yes.

24 Q. How much are they?

25 A. Right now as of today we have monetary

1 damages in the amount of \$143,944.38.

2 Q. And ma'am, how was that calculated?

3 A. I took this from the business records and I
4 broke it out with the principal balance.

5 Q. And how much was the principal balance?

6 A. \$118,174.20.

7 Q. Ma'am, and how was the principal balance
8 calculated?

9 A. The principal balance is calculated by the
10 payments applied to the account.

11 Q. Now, how did you figure out which payments
12 were applied to this account if Wells Fargo didn't
13 always possess this ~~Deposition~~ **Deposition by Brian Korte**

14 A. Because that information when a loan is
15 service transferred to us is given to us.

16 Q. From who?

17 A. From the person -- from whoever we receive
18 the loan from. So in this case this loan came from
19 DLJ.

20 Q. So DLJ service transferred this, correct?

21 A. Yes.

22 Q. And what was done to authenticate the
23 servicing records of DLJ?

24 A. I believe at the time of the service
25 transfer DLJ hands over everything that they had in

1 their possession as far as the way the note and the
2 mortgage were handled, as far as the payments and every
3 other relevant document.

4 And they attest that they are providing us
5 with a complete package.

6 Q. Anything else done?

7 A. As far as -- I don't know.

8 Q. Well, let me ask in this case.

9 A. Yes.

10 Q. Was anything else done other than the
11 attestation of DLJ as to the accuracy of the records to
12 ascertain their accuracy?

13 A. That I ~~Deposition by Brian Korte~~

14 Q. Do you know if DLJ had their records
15 service transferred to them at any point?

16 A. I do not know.

17 Q. Well, DLJ didn't originate this note, did
18 they?

19 A. No, they didn't. Aegis did.

20 Q. In fact, which Aegis did? Would you tell
21 me the name of the party who originated the loan?

22 A. Aegis Mortgage. I am sorry. Aegis
23 Wholesale Corporation.

24 Q. They then transferred it to who?

25 A. DLJ.

1 Q. Would you do me a favor and look at the
2 allonges one more time, ma'am, on Defendant's Exhibit
3 Two?

4 I don't want this to be a trick question.

5 A. Okay.

6 Q. So is it your testimony today that Aegis
7 Wholesale Lending transferred this directly to DLJ?

8 A. Yes. To DLJ Mortgage Capital. Actually,
9 it's here paid to the order of -- yes. Aegis Wholesale
10 Corporation.

11 Q. To whom?

12 A. Well, it went to Aegis Mortgage
13 Corporation. **Deposition by Brian Korte**

14 Q. And then to whom?

15 A. Then it went to DLJ.

16 Q. So as far as you can see from the allonge
17 provided in Defendant's Two how many transfers
18 occurred?

19 A. Three.

20 Q. Do you have the servicing records of all
21 three, or are they only contained in the DLJ records
22 that were received by Wells?

23 A. I do not know.

24 Q. Do you know if anything was done to test
25 the authenticity or accuracy of the records by the

1 prior servicers?

2 A. I do not know.

3 Q. Would it be fair to say that Wells Fargo's
4 records rely upon the records of third parties that
5 came before it?

6 A. Yes, we rely upon those business records.

7 Q. And that any calculation of damages would
8 rely upon those records?

9 A. The business records.

10 Q. Is that accurate, ma'am?

11 A. Yes.

12 Q. So when you say damages of \$143,944.38
13 coming from the business records, you're discussing the
14 business records of Wells and its predecessors?

15 A. Well, actually, let's clarify this. The
16 principal balance was on the payment history. Okay.
17 And that, of course, came from our business records.
18 Okay.

19 This loan service transferred to us in '04.
20 And then I believe the borrowers were consistent with
21 payments for approximately five years.

22 Now, as far as the interest and the late
23 charges and the remaining, that came into play and
24 those charges while we were servicing the loan. Not
25 from a prior servicer.

1 Q. Well, let's talk about how you calculate
2 interest.

3 A. Okay.

4 Q. Would you agree with me that interest is
5 calculated at the interest rate times the principal
6 amount?

7 Is that accurate?

8 A. This is at a 6.75 percent interest.

9 Q. Correct.

10 A. Fixed interest rate.

11 Q. Relatively simple to calculate?

12 A. Yes.

13 Q. Would you agree with me that interest is
14 calculated as the interest rate times the principal?

15 A. I believe it's a little bit more
16 complicated than that.

17 Q. Well, why don't you tell me how it's done.

18 A. I rely on the business records. I don't
19 calculate it myself.

20 Q. Okay. Well, that's fair enough. Would you
21 agree with me though if the principal amount was
22 inaccurate when you took it that inaccuracy would carry
23 through the remainder of your business records even
24 during the five-year period?

25 A. Well, you want me to -- are you

1 hypothetically speaking?

2 Q. I am asking you if it was, would it
3 calculate through? If the number you took from a prior
4 servicer was inaccurate wouldn't the rest of your
5 records be inaccurate?

6 A. We have checks and balances that we would
7 be reviewing this information with.

8 Q. So --

9 A. And if there was something that stood out
10 it would be addressed or brought to the attention of a
11 prior servicer.

12 Q. So I am asking you what was done in this
13 case to test the ~~Deposition by Brian Korte~~ records that Wells
14 Fargo received from DLJ?

15 A. All I know is that according to, you know,
16 there are standard procedures that they adhere to. And
17 I don't have access to those standard procedures that
18 they follow.

19 Q. Can you tell me from personal knowledge
20 that the servicing was actually transferred from DLJ
21 and not some third party?

22 A. According to the allonge I cannot tell you
23 that.

24 Q. Well, let me back up then. Is it not
25 customary in mortgages to have a servicer and an owner?

1 A. They can be two different entities.

2 Q. Many times they are two different entities,
3 aren't they?

4 A. Yes.

5 Q. And the owner is the person who transfers
6 the note, correct?

7 A. The owner has to transfer the note.

8 Q. And the servicer doesn't even have to be
9 listed on the note, does it?

10 A. No. We are not listed.

11 Q. So if a note is transferred from one party
12 to the other you may not know who the prior servicer
13 was.

Deposition by Brian Korte

14 A. But because of the allonge we have DLJ
15 Mortgage Capital, Inc.

16 Q. Do you have any personal knowledge that DLJ
17 was the prior servicer, or could it have been some
18 other third party that DLJ contracted with?

19 A. The only knowledge I am relying upon is
20 what is on the allonge.

21 Q. And the allonge says DLJ is the servicer of
22 its prior mortgage?

23 A. They were the holder of the note.

24 Q. I am asking you who the servicer was for
25 DLJ.

1 A. I don't know.

2 Q. Is there any way to tell who the servicer
3 was for Aegis Mortgage Corporation?

4 A. No.

5 Q. Any way to determine who the servicer was
6 for Aegis Wholesale Lending?

7 A. No.

8 Q. And there could have been multiple
9 servicers for the same owner, correct?

10 A. That I do not know.

11 Q. Is it possible?

12 A. I do not know.

13 Q. Do you know as a sure here today if Wells
14 Fargo Bank, NA, is the parent to Americas Servicing
15 Corporation, or is Americas Servicing Company the d/b/a
16 of Wells Fargo Bank, NA?

17 A. ASC is the d/b/a/ of Wells Fargo Bank.

18 Q. In what state are they incorporated?

19 A. Who?

20 Q. Wells Fargo Bank, NA, d/b/a Americas
21 Servicing Company.

22 A. I do not know.

23 Q. Well, who would know?

24 A. That would be filed, I believe, in the
25 corporation bureau of --

1 Q. Whatever state they are incorporated?

2 A. Yes.

3 Q. So how would I find out?

4 A. Well, it's public record.

5 Q. There are a lot of those, aren't there?

6 A. Yes.

7 Q. Fifty states, right?

8 A. Yes.

9 Q. And you're the plaintiff?

10 A. Yes.

11 Q. And you can't tell me where you're
12 incorporated?

13 A. I did ~~Deposites by Brian Korte~~ before I came.

14 Q. I believe you testified that Wells Fargo
15 Bank, NA, d/b/a Americas Servicing Company is holding
16 the note for a third party. Correct?

17 A. Yes.

18 Q. And you told me that third party is Freddie
19 Mac.

20 A. Well, yes. Freddie is the guarantor. And
21 I want to make that clear.

22 Q. Well, then let me back up again. Who is it
23 holding it for?

24 A. I would have to look at that business
25 record.

1 Q. Would it be fair to say that the plaintiff
2 in this case, Wells, will receive payments from time to
3 time on behalf of the owner of the note, correct?

4 MS. WULFF: Form.

5 BY MR. KORTE:

6 Q. Let me ask this. Did Wells Fargo ever
7 receive payments on this note?

8 A. You mean from the person who -- from the
9 entity who transferred it to us? Or are you talking
10 about from the borrower?

11 Q. Let me ask the question more artfully.

12 A. Okay.

13 Q. Do you have any records that indicate
14 Denise Thomas made payments on this note to Wells
15 Fargo?

16 A. Yes.

17 Q. Okay. And she made more than one?

18 A. Yes. She made approximately, if I am
19 correct in my calculation, about 60 payments. 60
20 months, yes.

21 Q. Okay. And those payments were taken in by
22 Wells Fargo?

23 A. Yes. Well, Wells Fargo doing business as
24 Americas Servicing Company, yes.

25 Q. Taken in by them?

1 A. Yes.

2 Q. And processed?

3 A. Yes. That's -- yes.

4 Q. But the benefit of those payments were
5 transferred to whom, if you know?

6 A. That I do not know.

7 Q. Would it be fair to say that Wells Fargo
8 Bank, NA, doesn't have the benefit of the payments?

9 A. We are just servicing the loan.

10 Q. You are not the beneficial owner of the
11 loan?

12 A. No.

13 MR. ~~DEPOTTE~~ ~~by Brian Korte~~ have any further
14 questions for you.

15 THE WITNESS: Okay.

16 MS. WULFF: No.

17 MR. KORTE: Ma'am, you have the
18 opportunity to read or waive signing your deposition.

19 MS. WULFF: We are going to read. Are
20 you ordering?

21 MR. KORTE: I will.

22 MS. WULFF: And I will get copies.

23 (Thereupon, at 10:55 a.m. the foregoing
24 proceedings were concluded.)

25

CERTIFICATE OF OATH

THE STATE OF FLORIDA
COUNTY OF PALM BEACH

I, Phillip W. Loter, the undersigned authority,
certify that CAROL CURRY personally appeared before me
and was duly sworn.

WITNESS my hand and official seal this 21st day of
March 2011.

Deposition by Brian Korte

Phillip W. Loter
Notary Public, State of Florida
My Commission #DD0858406
Expires: April 8, 2013

