

No. 18-223

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IN THE  
**Supreme Court of the United States**

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IN RE CHRISTOPHER DAWSON,  
*Petitioner.*

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CHRISTOPHER DAWSON,  
*Petitioner,*

v.

LITTON LOAN SERVICING, LP (Now Ocwen)  
OCWEN FINANCIAL CORPORATION,  
OCWEN LOAN SERVICING, LLC, AND  
CONSUMER FINANCIAL  
PROTECTION BUREAU; CFPB,  
*Respondents.*

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ON APPEAL FROM A JUDGMENT AND DECISION OF  
THE WAREHAM DISTRICT COURT

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**RESPONSE TO  
PETITION FOR WRIT OF MANDAMUS**

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Dated: October 23, 2018

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## **QUESTIONS PRESENTED FOR REVIEW**

The extraordinary relief of mandamus cannot be used to control a lower court's decision or be used as a substitute for appeal. Petitioner seeks a writ of mandamus to vacate a judgment entered after trial and a subsequent order denying relief from that judgment, which he admittedly failed to appeal. Must this petition be denied?

## **CORPORATE DISCLOSURE STATEMENT**

Ocwen Loan Servicing, LLC is a non-governmental limited liability company, whose sole member is Ocwen Financial Corporation, a publicly traded corporation. Litton Loan Servicing, LP, is a limited partnership. Its sole general partner is Ocwen Capital Management LLC, whose sole member is Ocwen Financial Corporation. Its sole limited partner is Ocwen Loan Servicing, LLC. Ocwen Financial Corporation is a publicly traded corporation, with no entity owning more than 10% of its stock.

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## STATEMENT OF THE CASE

### **A. Nature of Case.<sup>1</sup>**

Christopher Dawson petitions this Court for a writ of mandamus to direct a Massachusetts trial court judge to vacate a 2011 judgment of possession entered in Respondent, Litton Loan Servicing, LP's favor after trial, as well as its March 16, 2017, denial of his motion for relief from judgment. The Petitioner's writ cannot lie, however, as he had an adequate means to challenge the 2011 judgment and the subsequent orders but in each instance, he failed to perfect his appeal. As the extraordinary writ of mandamus may not be used as a substitute for appeal, the petition must be denied.

### **B. Statement of Facts, Course of Proceedings and Disposition Below.**

#### **1. The Mortgage Loan, the Default, and the Foreclosure Sale**

On November 6, 2006, the Petitioner borrowed \$1,400,000.00 from Aegis Wholesale Corp. ("Lender"), and executed a note ("Note") in favor of the Lender. *See* Respondents' Appendix ("App. \_\_") B at 15a. To secure his obligations under the Note, the Defendant executed a mortgage dated November 6, 2006 (the "Mortgage"), in favor of Mortgage Electronic Registration Systems, Inc. ("MERS"), as mortgagee and nominee for the Lender, pledging as security property known as 12 North Drive, Marion, Massachusetts ("Property"). App. B:15a. The

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<sup>1</sup> Respondents do not address Petitioner's request for mandamus directed to the Consumer Financial Protection Bureau.

Mortgage was recorded with the Plymouth County Registry of Deeds (the "Registry") on November 8, 2006, at Book 33645, Page 178. App. B:15a.

MERS assigned the Mortgage to Litton Loan Servicing, LP ("Litton") by assignment dated February 17, 2010 ("Assignment") recorded with the Registry on March 29, 2010, at Book 38368, Page 32. App. B:15a. The Assignment was executed by Marti Noriega, Assistant Vice President of MERS before a notary public. App. B:28a. The Petitioner defaulted on his loan and Litton commenced foreclosure proceedings, resulting in a foreclosure pursuant to the statutory power of sale on August 27, 2010, in which Litton was the high bidder and took title to the Property. App. B:15a-16a. A foreclosure deed with an affidavit certifying compliance with M.G.L. c. 244, §14, was recorded with the Registry on December 31, 2010, at Book 39489, Page 143. App. B:16a.

## **2. Summary Process: The Subject Action and Subsequent Sale of the Property**

After the foreclosure, Litton served the Petitioner and those residing at the Property with notices to quit and vacate and on September 19, 2011, filed a summary process action in the Massachusetts Trial Court for the Wareham District, Case No. 1160SU000102, seeking possession of the Property. App. A:4a & App. B:16a. A bench trial occurred on October 27, 2011, after which, judgment for possession and use and occupancy entered in Litton's favor on November 7, 2011. App. A:5a. Execution entered in Litton's favor on March 9, 2012. App. A:7a. A stay of the execution was thereafter issued at Petitioner's request on April

4, 2012 (App. A:7a), and subsequently vacated on Litton's motion on May 10, 2012. App. A:8a. The Property was thereafter vacated, assigned by Litton to another entity, and sold to a third-party purchaser. App. B:16a.

### **3. Petitioner's Lawsuits**

The Petitioner filed several lawsuits related to the foreclosure, which are relevant to his petition, as they establish that Massachusetts' courts have already considered and adjudicated the basis for his request for mandamus.

#### **a. The First Action.**

The Petitioner's first lawsuit was filed in Plymouth Superior Court on May 13, 2011, under Docket No. 1183CV00572 ("First Action"). App. C:31a & C:34a. Litton was the only defendant named. App. C:32a. After the Petitioner failed to appear for his deposition and subsequent hearing on Litton's motion to compel, the First Action was dismissed without prejudice on December 9, 2011. App. D.

#### **b. The Second Action.**

The Petitioner filed a Complaint to Vacate Final Judgment of Foreclosure and Injunctive Relief against Litton on May 1, 2012, again in the Plymouth Superior Court as Case No. 1283CV00541 ("Second Action"). App. E:43a; App. F. In the Second Action, the Petitioner asserted four untitled claims for relief, including a claim that "Litton wrongfully acquired title to the property ... through a pattern of intentional fraudulent conduct, including, but not

limited to, the ‘robo-signing’ of the FORECLOSURE DEED AND AFFIDAVIT.” App. F:54a, ¶26. Petitioner requested the court vacate the final judgment of foreclosure pursuant to Rule 60(b)(3) as procured by fraud. App. F:54a, ¶27.

The Petitioner’s request for injunctive relief was denied after hearing on June 26, 2012. App. E:45a. On October 12, 2012, Litton’s motion to dismiss for failure to state a claim upon which relief can be granted was allowed and judgment entered in Litton’s favor. App. F:46a-47a; App. G. The Petitioner appealed the judgment of dismissal on November 9, 2012 (App. F:47a), but the appeal was dismissed on March 20, 2013, on Litton’s motion. App. F:48a.

**c. The Third Action.**

The Petitioner filed his third action on September 25, 2015, in Plymouth Superior Court as Case No. 1583CV00945, against Litton, Ocwen Loan Servicing, LLC, and Ocwen Financial Corporation (collectively “Ocwen”) (“Third Action”). App. H:63a, 68a; App. J. Litton removed this matter to the United States District Court for the District of Massachusetts on January 15, 2016, under Case No. 16-cv-10069. App. H:71a; App. I:72a.

In this complaint, the Petitioner asserted claims for breach of contract, breach of implied covenant of good faith and fair dealing, and violation of Massachusetts Consumer Protection Statute, G.L. c. 93A stemming from Litton’s purported wrongful foreclosure and eviction action. App. J:84a-87a. The Petitioner claimed that new facts had been discovered, which Litton had not disclosed during the pendency of the summary process action

regarding a lawsuit and settlement between the Consumer Financial Protection Bureau (“CFPB”), attorneys general in several states and the District of Columbia, and the Ocwen entities, relating to past mortgage servicing and foreclosure activities. App. J:81a-83a, ¶¶17-18. More specifically, the Petitioner summarily alleged that the CFPB lawsuit and settlement demonstrated Litton’s fraud in the foreclosure and eviction action because, *inter alia*, Litton failed to disclose it was required to withdraw any pending foreclosure in which filed affidavits, like the foreclosure deed, were robo-signed or otherwise not accurate (App. J:82a, ¶18(a)), and that the Assignment was “executed by a known robosigner, Marti Noriega.” App. J:83a, ¶ 21(b).

Litton and Ocwen moved to dismiss the Petitioner’s third complaint on several grounds including, *inter alia*, that the claims were barred by res judicata due to the judgment dismissing the Second Action, in which the Petitioner sought to void the foreclosure on the basis of fraud. App. K. The Federal District Court heard argument on the motion to dismiss on March 9, 2016, and thereafter allowed the motion finding res judicata barred the claims. App. I:76a. An order dismissing the case issued on March 10, 2016. App. L.

The Petitioner moved for reconsideration of on April 6, 2016, on the grounds that his claims were not precluded as his Third Action involved new issues. I:77a. His motion was denied on April 7, 2016. Id. The Petitioner chose not to appeal. Id.

#### 4. Return to Wareham District Court

Instead, six months later on October 3, 2016, the Petitioner filed a motion for relief from the November 7, 2011 judgment for possession pursuant to Massachusetts Rule of Civil Procedure 60(b) on almost identical grounds raised in his Third Action. *Compare* App. J *with* Petitioner's App. C. That is, that the Litton's foreclosure and eviction were procured by fraud because the CFPB lawsuit and settlement allegedly showed that Litton/Ocwen committed illegal practices and Litton failed to disclose that the Assignment of his Mortgage to Litton, which was executed during the period of the CFPB lawsuit and settlement, was invalid as it was executed by a known robo-signer. *See* Petitioner's Appendix C. Litton opposed the Petitioner's motion for relief on November 9, 2016, on several grounds, including that the motion was untimely under Rule 60(b)(1) as it was not brought within one year, that the Petitioner failed to present the requisite clear and convincing evidence to show Litton's foreclosure and eviction were procured by fraud, and the motion was barred by res judicata due to the judgment dismissing his nearly identical Third Action. App. B:14a-30a. The parties appeared for oral argument on the motion on March 2, 2017, and the matter was taken under advisement. App. A:4a & 9a.

On March 22, 2017, the Wareham District Court (Sharkansky, J.) issued a ruling finding the Petitioner failed to meet his burden under Mass. R. Civ. P. 60(b). *See* Petitioner's Appendix B. Specifically, the district court found:

[T]he [Petitioner] failed to present clear and convincing evidence of the nature of

the alleged fraud warranting relief from final judgment. The [Petitioner] once again claims that [Litton] knowingly and intentionally misled this court by failing to disclose illegal practices associated with the assignment of a mortgage. However, [Litton] has at all times denied any such allegations made against it and eventually executed a Consent Agreement in which it denied any wrongdoing.

Moreover, the [Petitioner] is precluded from relief under Rule 60(b) based on principles of res judicata as the causes of action alleged in this motion are identical to the issues raised in prior actions filed in Plymouth Superior Court. In said cases the Court entered a final judgment of dismissal of fraud and misrepresentation claims brought by this [Petitioner] against [Litton]. In fact, subsequent to the second Plymouth Superior Court dismissal, a new action was filed in Plymouth Superior Court and removed to federal court. This action was dismissed based on res judicata principles relying upon the second Plymouth Superior Court action. This case stands on the same grounds and therefore denies the [Petitioner's] Motion for Relief in this matter.

Id. The Petitioner moved for reconsideration of the court's denial of his motion for relief on April 6, 2017, which Litton opposed on April 18, 2017. App.

M; App. N. Petitioner's motion for reconsideration was denied on April 20, 2017. App. O.

On May 1, 2017, forty days after his motion for relief from judgment was denied and eleven days after his motion for reconsideration was denied, the Petitioner filed a notice of appeal from the denial of his motion for relief from judgment.<sup>2</sup> App. P. Litton moved to dismiss the appeal pursuant to District/Municipal Courts Appellate Division Rules 3(a) and 4(a), as it was not filed within ten days of order denying the motion for relief from judgment and his motion for reconsideration did not toll the ten-day deadline as a matter of law. App. Q. The Petitioner opposed the motion to dismiss the appeal on June 15, 2017. App. A:11a

Litton appeared for oral argument on the motion on June 29, 2017, and the district court (Barrett, J.) thereafter issued an order allowing Litton's motion finding Petitioner's appeal untimely. App. R. The Petitioner moved for reconsideration of this order on July 19, 2017 (App. A:11a), which was denied on August 3, 2017. App. S. This Petition followed.

### **SUMMARY OF ARGUMENT**

The Petitioner's request for mandamus is improper and must be denied. Mandamus is an extraordinary relief, which is used to compel a judicial officer to exercise existing jurisdiction. It is not used to control a judge's decision. Likewise, it is not meant to be used to vacate a decision made in

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<sup>2</sup> The notice of appeal was docketed as filed on May 3, 2017. App. A:10a.



the exercise of lawful jurisdiction, or to replace a party's right to appeal.

Petitioner asks this Court to order the Wareham District Court to vacate its 2011 judgment for possession, which was entered in Litton's favor after a summary process bench trial, despite the fact that the Petitioner admittedly failed to perfect his appeal of this judgment. He likewise asks that mandamus issue to vacate the Wareham District Court's March 2017 order denying the Petitioner's motion for relief from the 2011 judgment, which, again, he failed to timely appeal. As the judgment and order were an exercise of the Wareham District Court's lawful judicial discretion, from which the Petitioner failed to appeal, mandamus cannot lie. The petition must be denied.

### ARGUMENT

The Petitioner's writ must be denied as mandamus is improper.

Mandamus is a "drastic and extraordinary" remedy "reserved for really extraordinary causes." Cheney v. United States Dist. Court, 542 U.S. 367, 380, 124 S. Ct. 2576, 159 L. Ed. 2d 459 (2004) (quoting Ex parte Fahey, 332 U.S. 258, 259-260, 91 L. Ed. 2041, 67 S. Ct. 1558 (1947)). "The traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine [the court against which mandamus is sought] to a lawful exercise of its prescribed jurisdiction." Id. (quoting Roche v. Evaporated Milk Ass'n, 319 U.S. 21, 26, 87 L. Ed. 1185, 63 S. Ct. 938 (1943)). Mandamus "in civil cases does not lie to compel a reversal of a decision, either interlocutory

or final, made in the exercise of a lawful jurisdiction, especially where in regular course the decision may be reviewed upon a writ of error or appeal.” Maryland v. Soper, 270 U.S. 9, 29, 46 S. Ct. 185, 70 L. Ed. 449 (1926). Mandamus may not be used as a substitute for an appeal. *See also* Ex parte Fahey, 332 U.S. 258, 259, 91 L. Ed. 2041, 67 S. Ct. 1558 (1947). This is precisely what Petitioner seeks here.

Petitioner asks this Court to exercise mandamus to compel the Wareham District Court to vacate the 2011 judgment for possession to Litton entered after a summary process bench trial, as well as its March 2017 order denying his motion for relief from that judgment. Petitioner’s remedy to review the propriety of the judgment and order of the Wareham District Court was to timely and properly pursue the appeal of the judgment and order to the Massachusetts Appellate Division. The Petitioner recognizes that he had the right to appeal the judgment and the order but acknowledges that he failed to exercise these rights. *See* Petition at 7. Still, he asks this Court to review the Wareham District Court’s judgment and order and essentially, reverse these decisions. Under these circumstances, mandamus does not lie.

Because the Wareham District Court’s judgment for possession and its denial of the Petitioner’s motion for relief from judgment were each an exercise of lawful judicial discretion, from which the Petitioner failed to appeal, neither the judgment nor the order can be controlled by mandamus. *See Soper*, 270 U.S. at 29, 46 S. Ct. 185, 70 L. Ed. 449. The petition must be denied.

**CONCLUSION**

For the foregoing reasons and authorities, the Respondents, Litton Loan Servicing, LP, Ocwen Financial Corporation and Ocwen Loan Servicing, LLC respectfully request that Christopher Dawson's petition for writ of mandamus is denied.

Respectfully submitted,

LITTON LOAN SERVICING, LLP,  
OCWEN FINANCIAL CORPORATION  
AND OCWEN LOAN SERVICING, LLC

By: Their Attorneys

*/s/ Kathleen E. Kelly*

---

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Dated: October 23, 2018

# APPENDIX

**APPENDIX A**

**1160SU000102**

**Litton Loan Servicing, LP v. Dawson, Christopher**

Case Type  
Summary Process

Case Status  
Disposed for Statistical Purposes

File Date  
09/19/2011

DCM Track:

Initiating Action:  
Summary Process – Residential (c239)

Status Date:  
10/27/2011

Case Judge:

Next Event:

**Property Address**  
12 North Drive  
Marion MA 02738

**Party Information**  
Litton Loan Servicing, LP  
- Plaintiff

**Party Attorney**

Attorney

Tchobanian, Esq., Effie Gikas

Bar Code

654693

Address

Orlans PC

465 Waverley Oaks Rd Suite 401

Waltham, MA 02452

Phone Number

(781)790-7835

Dawson, Christopher

- Defendant

Margulis, Mike

- Defendant

**Judgments**

Date

11/07/2011

Type

Judgment for Plaintiff for  
Possession and Rent

Method

by agreement  
of the parties

For

Litton Loan Servicing, LP

Against

And all other  
Occupants

**Events**

<u>Date</u>	<u>Session</u>
09/29/2011 10:00 AM	Summary Process Session
<u>Type</u>	<u>Result</u>
Bench Trial (CV)	Event Continued
10/13/2011 10:00 AM	Summary Process Session
Bench Trial (CV)	Brought Forward
10/27/2011 10:00 AM	Summary Process Session
Bench Trial (CV)	All Parties Failed to Appear, Event Not Held
10/27/2011 10:00 AM	Summary Process Session
Bench Trial (CV)	Held
01/26/2012 10:00 AM	Summary Process Session
Motion Hearing (CV)	Event Continued
02/02/2012 10:00 AM	Summary Process Session
Motion Hearing (CV)	Event Continued
02/09/2012 10:00 AM	Summary Process Session
Motion Hearing (CV)	Event Continued
03/09/2012 09:00 AM	Summary Process Session
Motion Hearing (CV)	Held
03/09/2012 10:00 AM	Summary Process Session
Hearing	Held
04/04/2012 02:00 PM	Summary Process Session
Motion Hearing (CV)	Held
05/09/2012 09:00 AM	Civil Session
Motion Hearing (CV)	Brought Forward
05/09/2012 09:00 AM	Summary Process Session
Motion Hearing (CV)	Held
02/09/2017 10:00 AM	Summary Process Session
Motion Hearing (CV)	Event Continued

03/02/2017 10:00 AM Motion Hearing (CV)	Summary Process Session Held
04/20/2017 10:00 AM Motion Hearing (CV)	Summary Process Session Defendant Failed to Appear
06/29/2017 10:00 AM Motion Hearing (CV)	Summary Process Session Held

<u>Docket</u> <u>Date</u>	<i>Docket Text</i>	<u>File</u> <u>Ref</u> <u>Nbr.</u>
09/19/2011	Complaint filed	1
09/19/2011	Termination notice filed (Uniform Summary Process Rule 2).	2
09/19/2011	Attorney Merritt, Esq., David W. representing Litton Loan Servicing, LP as of Mon Sep 19 00:00:00 EDT 2011	
09/19/2011	Event Scheduled Event: Bench Trial (CV) Date: 09/29/2011 Time: 10:00 AM Result: Event Continued	
09/26/2011	Answer filed by Christopher Dawson	3
09/26/2011	Answer filed by Mike Margulis.	4
09/29/2011	Event Scheduled Event: Bench Trial (CV) Date: 10/13/2011 Time: 10:00 AM Result: Brought Forward	



10/11/2011	Motion to remove default (Mass. R.Civ.P. 55[c]) filed by Christopher Dawson.	5
10/27/2011	Event Scheduled Event: Bench Trial (CV) Date: 10/27/2011 Time: 10:00 AM Result: Held	
11/07/2011	Agreement for judgment for Litton Loan Servicing, LP against Christopher Dawson in amount of 0.00 after Mediation.	6
11/07/2011	Agreement for judgment for Litton Loan Servicing, LP against Mike Margulis in amount of 0.00 after mediation	7
11/07/2011	Judgment Entered: Judgment for Plaintiff for Possession and Rent, by agreement of the parties Wright, Hon. Therese M Judgment For: Litton Loan Servicing, LP Judgment Against: Dawson, Christopher / Margulis, Mike / And all other occupants Terms of Judgment: Jdgmnt Date: 11/07/2011 Further Orders: EXECUTION TO ISSUE ON JANUARY 31, 2012 Execution entered on 03/09/2012	

01/18/2012 Motion to stay execution (Mass.R. Civ.P. 62) filed by Mike Margulis. 8

02/03/2012 Order of notice to Litton Loan Servicing, LP for AND Michael Margulis  
DEFT. ORDERED TO PAY USE AND OCCUPANCY TO THE PLF. IN THE AMOUNT OF \$1,000.00 PER MONTH BEGINNING 2/10/12 AND EACH MONTH THEREAFTER ON THE TENTH DAY OF THE MONTH UNTIL FURTHER ORDER OF THE COURT

03/08/2012 Motion Plf's motion to issue execution filed by Litton Loan Servicing, LP. 9

03/09/2012 Motion Plf's motion to issue execution allowed Hon. Joseph I Macy

03/9/2012 Motion to dismiss (Mass.R.Civ. P. 12[b]) filed by Mike Margulis. 10

03/09/2012 Notice sent to parties. A notice to the Parties was generated and sent to: Plaintiff David W. Merritt, Esq. Defendant: Christopher Dawson Defendant: Mike Margulis Defendant: And all other occupants

- 03/09/2012 Execution Issued: Execution on Possession of a Dwelling  
Judgment Debtor: Margulis, Mike Judgment Creditor: Litton Loan Servicing, LP  
Terms of Execution:  
EXON Issuance Date:  
03/09/2012 Post Judgment  
Int. Rate: .12 Execution  
Total: .00
- 03/09/2012 Execution Issued: Execution on Possession of a Dwelling  
Judgment Debtor: And all other occupants Judgment Creditor: Litton Loan Servicing, LP  
Terms of Execution:  
EXON Issuance Date:  
03/09/2012 Post Judgment  
Int. Rate: .12 Execution  
Total: .00
- 04/04/2012 Ex parte motion to stay execution filed by Christopher Dawson. 11
- 04/04/2012 Motion Deft. Christopher Dawson's Ex parte motion to stay execution allowed Hon. Christopher D Welch
- 04/04/2012 Notice sent to parties.  
A Notice to the Parties was generated and sent to:  
Plaintiff: David W. Merritt, Esq. Defendant: Christopher Dawson Defendant: Mike Margulis Defendant: And all other occupants

04/20/2012	Motion Motion for Reconsideration on Deft's ex Parte motion to stay Execution for possession filed by Litton Loan Servicing LP.	12
05/07/2012	Opposition filed by Christopher Dawson to Motion Plf's motion for reconsideration of Deft's ex-parte motion to stay execution that was filed on 04/20/2012.	13
05/10/2012	Motion Plf's motion for reconsideration on defendant Christopher Dawson's ex parte motion to stay execution for possession allowed Hon. Christopher D Welch ex parte motion to stay execution is DENIED. Welch, Justice.	
05/10/2012	Notice sent to parties. A Notice to the Parties was generated and sent to: Plaintiff: David W. Merritt, Esq. Defendant: Christopher Dawson Defendant: Mike Margulis Defendant: And all other occupants	
05/10/2012	Notice sent to parties. A Notice to the Parties was generated and Sent to: Plaintiff: David W. Merritt, Esq. Defendant: Christopher Dawson	

10/03/2016	Motion deft's motion & incorporated memorandum of law in support thereof for relief for judgment filed by Christopher Dawson	14
10/24/2016	Appearance filed On this date David W. Merritt, Esq. dismissed/ Withdrawn as Private Counsel for Plaintiff Litton Loan Servicing, LP	15
10/24/2016	Appearance filed On this date Justin Mark Fabella, Esq. added as Private Counsel for Plaintiff Litton Loan Servicing, LP	16
10/09/2016	Opposition filed by Litton Loan Servicing, LP to Motion for relief from judgment that was filed on 10/03/2016.	17
03/02/2017	Motion under advisement by judicial officer	
03/22/2017	Motion Defendant's motion for Relief from judgment denied.	
03/22/2017	Appearance filed On this date Gregg S. Tarayan, Esq. added as Private Counsel for Defendant Christopher Dawson	18
03/22/2017	Notice sent to parties. A Notice to the Parties was generated and sent to: Plaintiff: Justin Mark Fabella, Esq. Defendant: Gregg S. Tarayan, Esq.	

04/06/2017	Motion for reconsideration filed by Christopher Dawson.	19
04/18/2017	Opposition filed by Litton Loan Servicing, LP to Motion to deft's motion for reconsideration that was filed on 04/04/2017.	20
04/20/2017	Motion for reconsideration denied.	
04/20/2017	Motion for waiver of personal appearance and consent to ruling without oral argument allowed Hon. Edward H. Sharkansky	
04/20/2017	Notice sent to parties. A Notice to the Parties was generated and sent to: Plaintiff: Justin Mark Fabella, Esq. Defendant: Christopher Dawson Defendant: And all other occupants	
05/03/2017	Notice of appeal to Appeals Court from Appellate Division decision filed by Christopher Dawson (G.L. c.231 §109); trial judge & other parties notified.	21
05/26/2017	C.D. Mailed to Christopher Dawson for transcriber	
06/05/2017	Motion to strike/dismiss Defendant's appeal filed by Litton Loan Servicing, LP.	22

- 06/15/2017 Opposition filed by Christopher Dawson to Motion to strike / Dismiss defendant's appeal that was filed on 06/05/2017. 23
- 06/29/2017 Motion to strike/dismiss Defendant's appeal allowed Hon. Thomas S Barrett after hearing, (Defendant not being present) the Court ALLOWS Plf's motion to dismiss Defendant's appeal as untimely. Defendant appeals the denial of his rule 60(b) motion which occurred on March 22, 2017. His motion to reconsider that denial was denied on April 20, 2017. Defendant's appeal (of the original denial) was not filed until May 3, 2017: more than ten days aftr the denial of both motions. In addition, defendant has failed to pay the appeal filing fee.
- 06/29/2017 Notice sent to parties. A Notce to The Parties was generated and Sent to: Plaintiff: Justin Mark Fabella, Esq. Defendant: Christopher Dawson
- 07/19/2017 Motion for reconsideration of this Court's June 29, 2017 decision Allowing Plf's motion to Dismiss deft's appeal as untimely filed by Christopher Dawson. 24

08/03/2017	Motion for reconsideration denied. of this Court's June 29, 2017 decision allowing Plf's motion to dismiss deft's appeal as untimely	
08/03/2017	Notice sent to parties. A Notice to The Parties was generated and Sent to: Plaintiff: Justin Mark Fabella, Esq. Defendant: Christopher Dawson Defendant: Mike Margulis Defendant: And all other occupants	
08/07/2017	Appearance filed On this date Justin Mark Fabella, Esq. Dismissed/withdrawn as Private Counsel for Plaintiff Litton Loan Servicing, LP	25
08/07/2017	Appearance filed On this date Effie Gikas Tchobanian, Esq. added as Private Counsel for Plaintiff Litton Loan Servicing, LP	26
08/09/2017	Motion deft's motion for Reconsideration of this Court's June 29, 2017 decision allowing Plf's motion to dismiss defendant's appeal as untimely filed by Christopher Dawson.	27



- 08/17/2017 Motion defendant's motion for reconsideration of this Court's June 29, 2017 decision allowing Plf's motion to dismiss Defendant's appeal as untimely. denied.
- 08/17/2017 Notice sent to parties. A Notice to the Parties was generated and sent to: Plaintiff: Effie Gikas Tchobanian, Esq. Defendant: Christopher Dawson
- 09/15/2017 Transcript from 3/2/17 motion Hearing filed.

**Case Disposition**

**Disposition**

Pending

**APPENDIX B**

**COMMONWEALTH OF MASSACHUSETTS**

PLYMOUTH, SS: WAREHAM DISTRICT COURT  
CIVIL ACTION NO.  
1160-SU-0102

LITTON LOAN SERVICING, LP,

Plaintiff,

v.

CHRISTOPHER DAWSON

Defendant.

**PLAINTIFF LITTON LOAN SERVICING, LP'S  
OPPOSITION TO DEFENDANT'S MOTION FOR  
RELIEF PURSUANT TO MASS. R. CIV. P. 60(b)**

**I. INTRODUCTION**

The Plaintiff, Litton Loan Servicing, LP (“Litton”), opposes the motion of the Defendant, Christopher Dawson (“Defendant”), for relief pursuant to Mass. R. Civ. P. 60(b) from the judgment entered on or about December 20, 2012. The Defendant has failed to meet the requirements of Rule 60(b) for relief from judgment in several ways as his claim; (1) based on fraud has not been brought within one year; (2) based on fraud does not include “clear and convincing evidence;” (3) fails under the rule’s “catchall” provision because he does not present “extraordinary circumstances,” nor did he file his motion within “a reasonable time; and ( 4) fails under the Rule’s “savings clause” because he failed to file an independent action.

The Defendant's motion is also barred by res judicata, as he had previously brought an identical claim in another lawsuit. Additionally, the Defendant lacks standing to raise the challenges to the assignment of the mortgage at issue.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

### **A. The Mortgage Loan, Defendant's Default, and Subsequent Foreclosure Sale**

The Defendant became record owner of the property known as 12 North Drive, Marion, Massachusetts ("Property"), pursuant to a quitclaim deed recorded on October 18, 2002, at Book 23155, Page 65, with the Plymouth County Registry of Deeds ("Registry"). On November 6, 2006, the Defendant borrowed \$1,400,000.00 from Aegis Wholesale Corp. ("Lender"), and executed a note ("Note," attached hereto as *Exhibit A*) in favor of the Lender. To secure his obligations under the Note, the Defendant executed a mortgage dated November 6, 2006, in favor of Mortgage Electronic Registration Systems, Inc. ("MERS"), as mortgagee and nominee for the Lender in the original amount of \$1,400,000.00 ("Mortgage," attached hereto as *Exhibit B*). The Mortgage, recorded with the Registry on November 8, 2006, at Book 33645, Page 178, encumbered the Property, which was the collateral to the loan.

MERS assigned the Mortgage to Litton by assignment dated February 17, 2010 ("Assignment," attached hereto as *Exhibit C*), recorded with the Registry on March 29, 2010, at Book 38368, Page 32. Subsequent to the Defendant's default on the terms of the Note and Mortgage, Litton commenced foreclosure proceedings, resulting in a foreclosure pursuant to the statutory power of sale on August 27,

2010, in which Litton was the high bidder and took title to the Property. A foreclosure deed and affidavit (“Foreclosure Deed and Affidavit,” attached hereto as *Exhibit D*), was recorded with the Registry on December 31, 2010, at Book 39489, Page 143.

**B. Summary Process: The Present Action and Subsequent Sale of the Property**

Following the foreclosure, Litton served notices to quit and vacate on the Defendant and those residing at the Property. On September 19, 2011, Litton filed its Summary Process Summons and Complaint in this Court (“Summary Process Action,” Docket Sheet attached hereto as *Exhibit E*) seeking possession of the Property. After a trial, judgment entered for possession and use and occupancy in favor of Litton, and against the Defendant and the Property’s then-occupants.<sup>1</sup> *See Exhibit E*. Execution entered in favor of Litton on March 9, 2012. *See id.* A stay of the execution was also subsequently issued by the Court at the Defendant’s request on April 4, 2012. *See id.* However, the Property was thereafter vacated, assigned by Litton to another entity, and sold to a third-party purchaser.

**C. The Defendant’s Lawsuits Following the Foreclosure**

Although absent from his motion, the Defendant has filed several lawsuits related to the foreclosure, which are unquestionably relevant to the

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<sup>1</sup> The docket indicates motion practice by Mike Margulis, before and after the issuance of judgment and the execution. Mr. Margulis was an occupant of the Property at the time. As he is not a party to this motion and no longer resides in the Property, he is otherwise not referenced.

present motion as the issues have already been adjudicated.

**1. The Defendant's First Action: Plymouth Superior Court Case No. 1183CV00572**

The Defendant's first lawsuit was filed in Plymouth Superior Court on May 13, 2011, under docket number 1183CV00572 ("First Action," Complaint and Docket Sheet attached hereto as *Exhibits F and G*), Litton was the only defendant named. After the Defendant failed to appear for his deposition and subsequent a motion hearing to compel, the First Action was dismissed without prejudice on December 9, 2011 (see Judgment of Dismissal, attached hereto as *Exhibit H*).

**2. The Defendant's Second Action: Plymouth Superior Court Case No. 1283CV00541.**

The Defendant filed his second action on May 1, 2012, again in the Plymouth Superior Court against only Litton, as case number 1283CV00541 ("Second Action," Complaint and Docket Sheet attached hereto as *Exhibits I and J*). In the Second Action, the Defendant made four untitled claims for relief (the same he had made in the First Action). *See Exhibit I*. Of significance to the present motion, the second claim alleged that "Litton wrongfully acquired title to the property . . . through a pattern of intentional fraudulent conduct, including, but not limited to, the 'robo-signing' of the FORECLOSURE DEED AND AFFIDAVIT."<sup>2</sup> *See id.* The Defendant

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<sup>2</sup> The three other claims were (1) that Litton made material misrepresentations regarding a loan modification offer; (2) a violation of Mass. Gen. Laws c. 93A; and (3) a request for injunctive relief.

requested that the court set aside the final judgment of foreclosure pursuant to Rule 60(b)(3). *See id.*

After a hearing, the court denied the Defendant's request for an injunction on June 26, 2012. *See id.* Subsequently, the court allowed Litton's motion to dismiss the Defendant's complaint and entered judgment in its favor, with costs (see Memorandum of Decision and Order on Defendant's Motion to Dismiss, attached hereto as *Exhibit K*). The Defendant filed a notice of appeal on November 9, 2012, which was dismissed on March 20, 2013, following Litton's motion. *See Exhibit I.*

**3. The Defendant's Third Action: Plymouth Superior Court Case No. 1583CV00945, Transferred to U.S. District Court for the District of Massachusetts, Case No.16-cv-10069-WGY**

The Defendant filed his third action on September 25, 2015, in Plymouth Superior Court as case number 1583CV00945, against Litton, Ocwen Loan Servicing, LLC, and Ocwen Financial Corporation<sup>3</sup> ("Third Action," Complaint and Docket Sheet attached hereto as *Exhibits L and M*). Litton removed this matter to the United States District Court for the District of Massachusetts on January 15, 2016, under case number 16-cv-10069 (Docket Sheet attached hereto as *Exhibit N*).

In his complaint, the Defendant alleged breach of contract, breach of implied covenant of good faith and fair dealing, and a c. 93A violation. *See Exhibit*

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<sup>3</sup> Ocwen Loan Servicing, LLC, and Ocwen Financial Corporation (together, "Ocwen entities") had succeeded to the interests of Litton.

*L.* Like here, he claimed that new facts had been discovered, which Litton had not disclosed during the pendency of the prior actions. *See id.* In essence, these facts concerned a lawsuit and settlement between the Consumer Financial Protection Bureau, attorneys general in several states and the District of Columbia, and the Ocwen entities, related to past mortgage servicing and foreclosure activities. *See id.*, ¶¶17-18. The Defendant made conclusory allegations that the above-referenced lawsuit and settlement were demonstrative evidence of malfeasance committed by Litton in the actions previously filed by the Defendant and the Summary Process Action. *See id.* at ¶¶20-21. He specifically alleged that “Litton did not disclose it was required to withdraw any pending foreclosure action in which filed affidavits were Robo-signed or otherwise not accurate, as is the case here, specifically with respect to their foreclosure deed.” (sic) *See id.* at ¶¶18(a). The Defendant further alleged that Litton did not disclose the Assignment of his Mortgage to Litton had been “executed by a known robosigner, Marti Noriega.” *See id.* at ¶21(b).

Litton moved to dismiss the Defendant’s complaint on several grounds: (i) barred by res judicata; (ii) failure to state a claim for breach of contract and breach of good faith and fair dealing; (iii) lack of standing to challenge the Assignment of the Mortgage; (iv) failure to state claims with sufficient plausibility; (v) the c. 93A claim was time barred (Motion to Dismiss, attached hereto as *Exhibit O*).

Following a hearing, the court dismissed the Defendant’s complaint, finding that it was barred by res judicata in its entirety while making no decision on the merits. (Order of Dismissal, attached hereto as *Exhibit P*). The Defendant moved for reconsideration,

claiming that res judicata did not apply because the Defendant's complaint involved new issues. *See Exhibit N*. However, this motion was denied on April 7, 2016. *See id*. The Defendant did not notice an appeal within the required timeframe. *See id*.

### **III. ARGUMENT**

#### **A. The Defendant Does Not Meet the Standards for Relief Under Mass. R. Civ. P. 60(b)**

##### **1. The Defendant Failed to Bring This Motion Within One Year**

Although not explicit, the Defendant appears to bring his request for final judgment based upon fraud allegedly committed by Litton, Mass. R. Civ. P. 60(b)(3) enables the Court to provide relief from a final judgment for “fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party.” *See* Mass. R. Civ. P. (60)(b)(3). However, when bringing a motion pursuant to Rule 60(b)(3) on the basis of fraud, it shall be made “not more than one year after the judgment.” *Id*. In this case, final judgment for possession entered on October 27, 2011, and an order of execution entered on March 9, 2012. *See Exhibit E*. However, the Defendant filed the present motion on October 3, 2016, nearly four-and-a-half years after execution was issued. Accordingly, his motion is time-barred.

##### **2. The Defendant Has Not Proven Fraud by “Clear and Convincing Evidence”**

Even assuming this motion was brought timely under Rule 60(b)(3), the Defendant has not met the standard for proving fraud. The 1973 Reporters' Notes to Rule 60(b) indicate that “since neither the



fraud not misrepresentation is presumed the moving party has the burden of proving by clear and convincing evidence that the alleged fraud or misrepresentation exists and that he is entitled to relief.” The Defendant’s motion, however, contains no clear and convincing evidence of fraud by Litton, The Defendant relies entirely on attachments from unrelated litigation. Without explanation, the Defendant concludes that Litton’s representations in the Summary Process Action that the Assignment was valid were untruthful because of a lawsuit and settlement involving the Ocwen entities. However, a reading of the Defendant’s Exhibit C, the Consent Judgment, indicates that the Ocwen entities admitted no wrongdoing. The Defendant’s claim that the Assignment is invalid—and that Litton was not candid about it—is based entirely on one purported “expert’s” opinion that other unrelated documents executed by the same signatory as the Assignment were “robo-signed.” The documents authored by Ms. McDonnell in the Defendant’s Exhibits D and E are unqualified opinions and hearsay, and should not be considered by the Court. Regardless, even if the findings of Ms. McDonnell were accepted, they do not prove that the Assignment was also robo-signed. The Defendant’s argument is speculative and fails to meet the burden of “clear and convincing evidence.”

**3. The Catchall Clause of Rule 60(b)(6) Does Not Apply Because There are No “Extraordinary Circumstances” and the Defendant Did Not File His Motion Within a “Reasonable Time”**

Although unclear whether he is relying on it since he only refers to fraud, the Defendant also quotes the “catchall clause” of Rule 60(b)(6), for which

the one-year provision may not apply, Rule 60(b)(6) allows the Court to grant a motion for relief from judgment for “any other reason justifying relief from the operation of the judgment.” A motion pursuant to Rule 60(b)(6) must be made “within a reasonable time.” *See* Mass. R. Civ. P. 60(b).

Relief under Rule 60(b)(6) is limited to “extraordinary circumstances” and is made solely at the judge’s discretion. *Owens v. Mukendi*, 448 Mass. 66, 71 (2006) (internal citations omitted). Here, there are no such circumstances. The lawsuit and settlement were matters of public record, and no information has been hidden from the Defendant. Moreover, the Defendant’s argument is wholly speculative, as he assumes the Assignment is invalid based on Ms. McDonnell’s unacceptable opinion about unrelated documents. The Defendant has presented no facts affirmatively related to this case that would rise to “extraordinary circumstances.”

Nor can the Defendant’s delay of approximately three years be considered “a reasonable time.” “In determining whether a motion was filed within a reasonable time, a judge may consider the reasons for delay; the ability of the movant to learn of the grounds earlier; prejudice to the parties, if any; and the important interest of finality.” *Owens*, 448 Mass. at 74-75, *citing Ingram v. Merrill Lynch, Pierces, Fenner & Smith, Inc.*, 371 F.3d 950, 952 (7th Cir.2004).

The Defendant’s motion is based upon the lawsuit and settlement involving the government entities and Ocwen entities. The Consent Judgment in the Defendant’s Exhibit 3 is dated December 17, 2013. The execution for possession in favor of Litton

was issued on March 9, 2012. *See Exhibit E.* However, the motion was not filed until October 3, 2016. The Defendant has presented no explanation for this nearly three-year delay or why he could not have discovered the facts he alleges earlier. However, requiring Litton to re-litigate these issues after so many years would be extremely prejudicial. Finality is also critical here, as the Property has already been foreclosed and sold to a bona fide purchaser. The Defendant's continuous efforts to challenge title negatively affect several parties.

In *Owens*, the court found that a delay of approximately three-and-a-half years was not reasonable since the moving party had not demonstrated why he could not have discovered the alleged misconduct earlier. 448 Mass. at 75-77. The same is true here, as the Defendant is without an explanation as to why he could not have discovered lawsuit and settlement earlier.

**4. The Savings Clause of Rule 60(b) Does Not Apply to the Defendant Because He Failed to File an Independent Action**

The savings clause of Rule 60(b) “does not limit the power of the court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court.” *See* Mass. R. Civ. P. 60(b). Here, the Defendant has not filed an independent action but instead a motion within the Summary Process Action. As he has not properly utilized the mechanisms within Rule 60(b), his motion must be denied.

Furthermore, even if the Defendant's failure to file an independent action were ignored, he still has not presented sufficient justification for the Court to

provide relief from judgment, for the reasons stated above. He has presented a wholly unfounded, conclusory argument with no evidence applicable to this case. Accordingly, as the Defendant fails to meet any of the requirements for relief from judgment under Mass. R. Civ. P. 60(b), his motion should be denied.

**B. The Defendant’s Motion is Barred by Res Judicata**

**1. Elements of Res Judicata and Application to Rule 60(b)**

The Defendant’s motion is also barred by res judicata pursuant to the final judgment on the merits in the Second Action<sup>4</sup>, and should be dismissed. Three elements are required for res judicata: “(1) the identity or privity of the parties to the present and prior actions, (2) identity of the cause of action, and (3) prior final judgment on the merits.” *Kobrin v. Bd. of Registration in Med.*, 444 Mass. 837, 843 (2005), citing *Kobrin v. Gastfriend*, 443 Mass. 327 (2005).

The doctrine of res judicata applies to a motion for relief from judgment under Rule 60(b). The rule’s provisions “must be carefully interpreted to preserve the delicate balance between the sanctity of final judgments, expressed in the doctrine of res judicata, and the incessant command of the court’s conscience that justice be done in light of all the facts.” *Richey v. James F. Sullivan, Eugene C. Whitcomb, Joule Power, Inc.*, No. CIV.A. 91-1484, 1997 WL 282306, at

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<sup>4</sup> The First Action was dismissed without prejudice due to the Defendant’s failure to appear for a deposition, but he filed the same complaint in the Second Action.

\*4 (Mass. Super. May 16, 1997), *citing Banker's Mortgage Co. v. U.S.*, 423 F.2d 73, 77 (5th Cir. 1970).

## **2. The Elements of Res Judicata Are Satisfied**

All of the elements for res judicata are satisfied here. First, the parties in the First Action, Second Action and the Summary Process Action are either identical or in privity with each other. Litton was named as a defendant in both the First and Second Actions and is the plaintiff in the Summary Process Action. Second, the causes of action are identical. A claim is the same for purposes of res judicata if “it is derived from the same transaction or series of connected transactions.” *TLT Const. Corp. v. A. Anthony Tappe and Assoc., Inc.*, 48 Mass. App. Ct. 1, 8 (1999). “What factual grouping constitutes a ‘transaction’ is to be determined pragmatically, giving weight to such factors ‘as whether the facts are related in time, space and origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties’ expectations.” *Mancuso v. Kinchla*, 60 Mass. App. Ct. 558, 571 (2004). Here, the Defendant argues that the foreclosure of the Property is invalid because the Assignment was “robo-signed,” and that Litton withheld this information from the Court. This claim is the same as the Second Action’s complaint’s second cause of action, which alleged fraud and “robo-signing” in foreclosure documents. *See Exhibit I.*

Moreover, any claims that the Defendant could have asserted in his past lawsuits relating to the foreclosure are also now barred by res judicata. The specific claim asserted in the present motion could have been raised in all of the Defendant’s past suits,

as all the allegations of all three complaints arise out of the same transaction or occurrence--namely, the foreclosure.

Lastly, a prior judgment on the merits entered in the Second Action on the identical cause of action. When the court dismissed the Second Action, it noted that the Defendant's claim for "intentional fraudulent conduct," including "the 'robo-signing' of the foreclosure deed and affidavit . . . must be dismissed because [it fails] to state a claim upon which relief can be granted," and that the Defendant's complaint did "not contain factual allegations, which, if true, raise a right to relief above the speculative level" as to those counts. *See Exhibit K*. Under Massachusetts law, dismissal for failure to state a claim is given res judicata effect. Mass. R. Civ. P. 41(b)(3); *Mestek, Inc. v. United Pacific Ins. Co.*, 40 Mass. App. Ct. 729, 731 (1996).

All elements of res judicata are met here, due to the decision of the court in the Second Action dismissing the Defendant's complaint, As such, the Defendant's motion should be denied.

### **3. The Federal Court in the Third Action Already Determined the Defendant's Claim Is Barred by Res Judicata**

Supporting the argument for denial under res judicata, the Defendant's complaint in the Third Action contained the same allegations regarding the lawsuit and settlement between the government entities and the Ocwen entities, and most significantly, the claim that the Assignment was executed by a "robo-signer." *See Exhibit K*. When the federal court dismissed the Third Action's complaint on March 10, 2016, it did so on the grounds of res

judicata. *See Exhibit P.* Accordingly, just as the federal court found that the Defendant's claim regarding the Assignment was precluded in the Third Action, it must be precluded as to this motion.

**C. The Defendant Lacks Standing to Challenge the Assignment of Mortgage**

Furthermore, the Defendant has no standing to challenge the Assignment, as he attempts to do in his motion. In Massachusetts, a mortgagor only has standing to claim that a foreclosure was invalid based on a defect in the assignment rendering it void, not merely voidable. *See Bank of New York Mellon v. Wain*, 85 Mass. App. Ct. 498, 502 (2014), *citing Sullivan v. Kondaur Capital Corp.*, 85 Mass. App. Ct. 202, 206 n.7 (2014) (holding that “[a] deficiency in an assignment that makes it merely voidable at the election of one party or the other would not automatically invalidate the title of the foreclosing mortgagee, and accordingly would not render void a foreclosure sale conducted by the assignee or its successors in interest”); *Culhane v. Aurora Loan Servs. of Nebraska*, 708 F.3d 282, 291 (1st Cir. 2013). However, an assignment that complies with M.G.L. c. 183, § 54 cannot be shown to be void, and, as such cannot be challenged by a person or entity that/who is not a party to that assignment. *Wain*, 85 Mass. App. Ct. at 502.

The First Circuit further described the void versus voidable distinction in *Wilson v. HSBC Mortg. Servs., Inc.*, 744 F.3d 1, 9 (1st Cir. 2014), stating that “a Massachusetts mortgagor does not have standing to challenge shortcomings in an assignment that render it merely voidable at the election of one party but otherwise effective to pass legal title” (citation

and brackets omitted). As the court noted, a homeowner “lacks standing to claim the assignment is voidable because the assignee still would have received legal title vis-a-vis the homeowner,” and “[t]hus, even successfully proving that the assignment was voidable would not affect the rights as between those two parties or provide the homeowner with a defense to the foreclosure action.” *Id.*

Moreover, the Defendant has no basis in fact to assert that the Assignment was void and not merely voidable because the Assignment is valid as a matter of law. Pursuant to G.L. c. 183, § 54B, where a signatory represents that they are an authorized signatory of the mortgage holder and executes an assignment of mortgage before a notary public or other authorized officer, the assignment of mortgage is valid and binding. G.L. c. 183, § 54B; *Wilson*, 744 F.3d at 12. Here, the Assignment was executed by Marti Noriega, who is identified as an assistant vice president of MERS, and MERS was the holder of the Mortgage with authority to assign. The Assignment was notarized by Karen Quiller, who is identified as a notary public in the state of Texas. As the Assignment complies with the requirements of § 54B, the challenge made by the Defendant to the Assignment is voidable. The Appeals Court in *Wain* ruled that an “assignment comporting with the requirements of the governing statute [§ 54B] . . . was ‘otherwise effective to pass legal title’ and cannot be shown to be void.” *See id.* at \*3 (citing *Kondaur*, 85 Mass. App. Ct. at 212). Accordingly, if an assignment comports with § 54B (as the Assignment does here) it cannot be shown to be void, but instead merely voidable. The allegations of robo-signing in the Defendant’s motion



are speculative and without a legitimate supporting basis or any tie to the present case. The Defendant therefore lacks standing to challenge the Assignment, and his motion should be denied. The Defendant's challenge based on "robo-signing" would also make the Assignment voidable and not void because he does not challenge that Litton was the holder of the Mortgage at the time of the foreclosure. In *Wells Fargo Bank, N.A. v. Anderson*, a mortgagor argued an assignment was defective because of "robo-signing" but did not contest that the mortgagee held the mortgage. 89 Mass. App. Ct. 369, 372 (2016). Because the mortgagor held the subject assignment and it met the statutory requirements of c. 183, § 54B, the assignment was not void and the mortgagee "had neither standing to challenge it nor to seek further discovery regarding the validity of the documents effecting the assignment." *Id.* As the Defendant does not dispute that Litton held the Mortgage at the time of the foreclosure and the requirements of c. 183, § 54B are met, the Defendant cannot challenge the Assignment's validity. Accordingly, his motion should be denied.

#### **IV. CONCLUSION**

WHEREFORE, the Plaintiff, Litton Loan Servicing, LP, requests that this Court deny the Defendant's motion for relief from judgment, with other relief as it deems proper.

Respectfully submitted,

LITTON LOAN SERVICING, LP,

By Its Attorneys,

/s/ Justin M. Fabella

Justin M. Fabella, BBO #654859

Jordan S. O'Donnell, BBO #684001

Hinshaw & Culbertson LLP

28 State Street

24th Floor

Boston, MA 02109

617-213-7000

617-213-7001 (facsimile)

jfabella@hinshawlaw.com

jodonnell@hinshawlaw.com

Dated: November 7, 2016

#### **CERTIFICATE OF SERVICE**

I, Justin M. Fabella, hereby certify that on this 7th day of November 2016, I served a true and accurate copy of the foregoing document to counsel of record by U.S. Mail as follows:

Gregg S. Tarayan, Esq.

60 Island Street

Lawrence, MA 01840

/s/ Justin M. Fabella

Justin M. Fabella

## APPENDIX C

Commonwealth of Massachusetts  
SUPERIOR COURT  
Case Summary  
Civil Docket

Dawson v Litton Loan Servicing, LP

Details for Docket: PLCV2011-00572

### Case Information

Docket Number	PLCV2011-00572
Filing Date:	05/13/2011
Status Date:	12/09/2011
Lead Case:	NA
Caption:	Dawson v. Litton Loan Servicing LP
Case Status:	Dismissed
Session:	Civil A – CtRm5 (Brockton)
Case Type:	Complex

### Tracking Deadlines

TRK:	F
Service Date:	08/11/2011
Rule 15:	10/10/2011
Final PTC:	09/04/2012
Answer Date:	09/10/2011

### Case Information

Docket Number:	PLCV2011-00572
Discovery:	03/08/2012
Disposition:	03/03/2013
Rule 12/19/20:	10/10/2011
Rule 56:	05/07/2012
Jury Trial:	YES

Filing Date: 05/13/2011  
Status Date: 12/09/2011  
Lead Case: NA  
Case Status: Dismissed  
Session: Civil A – CtRm 5  
(Brockton)  
Case Type: Misc equitable remedy

Tracking Deadlines

TRK: F  
Service Date: 08/11/2011  
Rule 15: 10/10/2011  
Final PTC: 09/04.2012  
Answer Date: 09/10/2011  
Discovery: 03/08/2012  
Disposition: 03/03/2013  
Rule 12/19/20: 10/10/2011  
Rule 56: 05/07/2012  
Jury Trial YES

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Parties Involved

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2 Parties Involved in Docket: PLCV2011-00572

Party

Involved:

Last Name: Litton Loan Servicing, LP  
Role: Defendant  
Address: 84 State Street  
City: Boston  
State: MA  
Zip Code: 02109

Party

Involved:

Last Name: Dawson  
First Name: Christopher  
Role: Plaintiff

Address: 1900 SW Winners Drive  
City: Palm City  
State: FL  
Zip Code: 34990

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Attorneys Involved

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2 Attorneys Involved for Docket: PLCV2011-00572

Attorney

Involved:

Last Name: Manekas  
First Name: Jason A.  
Firm Name: BERN05  
Address: Two Seaport Lane, 9<sup>th</sup> Floor  
City: Boston  
State: MA  
Zip Code: 02210  
Telephone: 617-790-3000  
Facsimile: 617-790-3300  
Representing: Litton Loan Servicing, LP,  
(Defendant)

Attorney

Involved:

Last Name: Bombard  
First Name: Jeremy R.  
Firm Name: HOUS02  
Address: 45 School Street, Third Floor  
City: Boston  
State: MA  
Zip Code: 02108  
Telephone: 781-696-5062  
Facsimile: 949-679-1112  
Representing: Litton Loan Servicing, LP,  
(Defendant)

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**Calendar Events**

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2 Calendar Events for Docket: PLCV2011-00572

No. 1, **Event Date:** 11/28/2011; **Event Time:** 14:00;  
**Calendar Event:** Motion/Hearing: Compel; **SES:** A;  
**Event Status:** Event continues over Multiple Days

No. 2. **Event Date:** 12/05/2011; **Event Time:** 14:00;  
**Calendar Event:** Motion/Hearing Compel; **SES:** A;  
**Event Status:** Event held as scheduled

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**Full Docket Entries**

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41 Docket Entries for Docket: PLCV2011-00572

Entry Date:	Paper No:	Docket Entry:
05/13/2011	1	Complaint & civil action cover sheet filed (Chk \$280.00, 1 summons)
05/13/2011		Origin 1, Type D99, Track F.
05/19/2011		Case sent to Brockton
05/24/2011	2	Session assignment Civil A – CtRm 5 (Brockton) located at CtRm 5 (72
05/24/2011	2	Belmont Street, Brockton) for all future activity.
05/24/2011	4	Tracking Order sent
05/24/2011	3	Notice of 93A complaint sent to Attorney General
05/31/2011	4	Plaintiff, Christopher W Dawson filing his appearance pro se
05/31/2011	4	Amended complaint Christopher Dawson
06/02/2011	5	Atty Jason A Manekas’s notice of appearance for Litton Loan

06/02/2011	5	Servicing, LP
06/06/2011	6	Defendant Litton Loan Servicing, LP's Notice of intent to file motion
06/02/2011	6	to Dismiss complaint
06/17/2011	7	Complaint of Christopher Dawson; Aff 9A, mem in support, opp – NO
06/17/2011	7	ACTION – MOOT. Plaintiff has adopted the complaint as his own and
06/17/2011	7	entered his pro se appearance herein and filed an amended complaint
06/17/2011	7	(John B. Deady, Asst. Clerk)
		cc
07/11/2011	8	SERVICE RETURNED: Litton Loan Servicing, LP(Defendant)
07/11/2011	9	ANSWER: Litton Loan Servicing, LP(Defendant)
09/12/2011	10	Defendant Litton Loan Servicing, LP's MOTION to consolidate with
09/12/2011	10	PLCV2011-00737
		Talasazan, et al vs. Litton Loan Servicing, LP
09/14/2011		Motion (P#10) to consolidated with case 11-737A, ALLOWED (Robert C.
		C.
09/14/2011		Cosgrave, Justice) Notices mailed 9/15/2011

10/18/2011	11	Deft. Litton Loan Servicing, LP'S MOTION To Compel Deposition of
10/18/2011	11	Plaintiff and For Sanctions; Opp *To be heard on November 28, 2011 @ 2:00 In Brockton
10/18/2011	11	
10/24/2011	12	Atty Jeremy R. Bombard's notice of appearance for Litton Loan
10/24/2011	12	Servicing, LP
11/28/2011		After hearing – the matter is continued to December 5, 2011 @ 2:00 in
11/28/2011		Brockton for hearing. Failure of the plaintiffs to appear or have
11/28/2011		counsel present, the matter will be dismissed for failure to appear
11/28/2011		(Locke, J.) cc: 11/28/11
11/28/2011	13	Notice sent to appear on December 5, 2011 @ 2:00 In Brockton for a
11/28/2011	13	hearing on motions to compel
12/05/2011		Motion (P#11, to compel) After hearing and the plaintiffs not
12/05/2011		appearing – the matter is dismissed (Jeffrey A. Locke, Justice).
12/05/2011		Notices mailed 12/7/2011



12/09/2011	14	JUDGMENT of Dismissal –
		It is ORDERED and
12/09/2011	14	ADJUDGED; that the
		complaint of the plaintiff is
		hereby dismissed without
		prejudice
12/09/2011	14	(Locke,J.) cc: 12/9/11

**APPENDIX D**

Commonwealth of Massachusetts  
County of Plymouth  
The Superior Court

Plymouth, ss      CIVIL ACTION #PLCV2011-00572

Christopher Dawson,  
Plaintiff(s)

vs.

Litton Loan Servicing, LP,  
Defendant(s)

**JUDGMENT OF DISMISSAL**

This action came on before the Court, Jeffrey A. Locke, Justice, presiding, upon the marking of Defendant Litton's Motion to Compel the Deposition of Plaintiff's Christopher Dawson, and the plaintiff having been duly noticed by the Court that a hearing on said motion would take place on December 5, 2011, and the said plaintiffs having failed to appear for that hearing, and upon consideration thereof,

It is ORDERED and ADJUDGED:

That the complaint of the plaintiff is hereby dismissed without prejudice.

Dated at Brockton, Massachusetts this 9th day of December, 2011.

Robert S. Creedon, Jr.  
Clerk of the Courts

By: /s/ John C. Barr  
Assistant Clerk

Entered: 12/09/2011  
Copies mailed 12/09/2011  
cc: CD, JM, JB

**APPENDIX E**

Commonwealth of Massachusetts  
SUPERIOR COURT  
Case Summary  
Civil Docket

Dawson v Litton Loan Servicing, LP

Details for Docket: PLCV2012-00541

Case Information

Docket Number	PLCV2012-00541
Filing Date:	05/01/2012
Status Date:	03/20/2013
Lead Case:	NA
Caption:	Dawson v. Litton Loan Servicing, LP
Case Status:	Disposed
Session:	Civil B – 3 <sup>rd</sup> Floor Plymouth
Case Type:	Most

Tracking Deadlines

TRK:	A
Service Date:	07/30/2012
Rule 15:	07/25/2013
Final PTC:	10/18/2014
Answer Date:	08/29/2012

Case Information

Docket Number:	PLCV2012-00541
Discovery:	04/21/2014
Disposition:	04/16/2015
Rule 12/19/20:	09/28/2012
Rule 56:	06/20/2014
Jury Trial:	NO

Filing Date: 05/13/2011  
Status Date: 12/09/2011  
Lead Case: NA  
Case Status: Dismissed  
Session: Civil A – CtRm 5  
(Brockton)  
Case Type: Misc equitable remedy

Tracking Deadlines

TRK: A  
Service Date: 07/30/2012  
Rule 15: 07/25/2013  
Final PTC: 10/18/2014  
Answer Date: 08/29/2012  
Discovery: 04/21/2014  
Disposition: 04/16/2015  
Rule 12/19/20: 09/28/2012  
Rule 56: 06/20/2014  
Jury Trial NO

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Parties Involved

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3 Parties Involved in Docket: PLCV2012-00541

Party

Involved:

Last Name: Litton Loan Servicing, LP

Role: Defendant

Address:

City:

State:

Zip Code:

Party

Involved:

Last Name: Dawson

First Name: Christopher

Role: Other interested party

Address: 240 Valley Street  
City: Manchester  
State: NH  
Zip Code: 03103  
Telephone: 772-209-0455

Party

Involved:  
Last Name: Dawson  
First Name: Christopher  
Role: Plaintiff  
Address: 12 North Drive  
City: Marion  
State: MA  
Zip Code: 02738  
Telephone: 772-209-0455

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Attorneys Involved

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2 Attorneys Involved for Docket: PLCV2012-00541

Attorney

Involved:  
Last Name: Roche  
First Name: James P  
Firm Name: WRIG01  
Address: 130 Parker Street, Unit 30  
City: Lawrence  
State: MA  
Zip Code: 01843  
Telephone: 978-685-2400  
Facsimile: 978-794-2096  
Representing: Dawson, Christopher (Plaintiff)

Attorney

Involved:  
Last Name: Cornetta  
First Name: Christopher A.

Firm Name: HOUS02  
Address: 45 School Street, 3rd Floor  
City: Boston  
State: MA  
Zip Code: 02108  
Telephone: 617-371-0922  
Facsimile: 617-371-0923  
Representing: Litton Loan Servicing, LP,  
(Defendant)

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Calendar Events

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9 Calendar Events for Docket: PLCV2012-00541

No. 1, **Event Date:** 05/10/2012, **Event Time:** 14:00,  
**Calendar Event:** Motion/Hearing: prel inj, **SES:** B,  
**Event Status:** Event held as scheduled

No. 2, **Event Date:** 06/11/2012, **Event Time:** 14:00,  
**Calendar Event:** Motion/Hearing: prel inj, **SES:** B,  
**Event Status:** Event not reached by Court

No. 3, **Event Date:** 06/12/2012, **Event Time:** 14:00,  
**Calendar Event:** Motion/Hearing: prel inj, **SES:** B,  
**Event Status:** Event not held-joint request

No. 4, **Event Date:** 06/20/2012, **Event Time:** 14:00,  
**Calendar Event:** Motion/Hearing: prel inj, **SES:** B,  
**Event Status:** Event held as scheduled

No. 5, **Event Date:** 07/30/2012, **Event Time:** 16:00,  
**Calendar Event:** Status: Clerk Follow UP, **SES:** B,  
**Event Status:** Event held as scheduled

No. 6, **Event Date:** 08/29/2012, **Event Time:** 16:00,  
**Calendar Event:** Status: Clerk Follow UP, **SES:** B,  
**Event Status:** Event canceled not re-scheduled

No. 7, **Event Date:** 10/02/2012, **Event Time:** 14:00,  
**Calendar Event:** Motion/Hearing: Rule12 to Dismiss,  
**SES:** B, **Event Status:** Event not reached by Court

No. 8, **Event Date:** 10/04/2012, **Event Time:** 14:00,  
**Calendar Event:** Motion/Hearing: Rule12 to Dismiss,  
**SES:** B, **Event Status:** Event held as scheduled

No. 9, **Event Date:** 03/14/2013, **Event Time:** 14:00,  
**Calendar Event:** Motion/Hearing: post-judgment,  
**SES:** B, **Event Status:** Event canceled not re-  
scheduled

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Full Docket Entries

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72 Docket Entries for Docket: PLCV2012-00541

Entry Date:	Paper No:	Docket Entry:
05/01/2012	1	Complaint & civil action cover sheet filed (cash in the amt of
05/01/2012	1	\$280.00 rec'd) Track given in hand.
05/01/2012		Origin 1, Type D13, Track A.
05/01/2012	2	(P#1) In view of the length of time since foreclosure, and as the
05/01/2012	2	Plaintiff brought an equitable claim against the Defendant in May
05/01/2012	2	2011 (which was dismissed: see CA11-0572) Short Order of Notice to
05/01/2012	2	issue (Christopher J. Muse, Justice)
05/01/2012	3	Summons and order of notice issued; returnable 5/10/2012 at 2:00 p.m.
05/01/2012	3	in Plymouth

05/03/2012		ONE TRIAL review by Clerk, case to remain in Superior Court.
05/10/2012	4	Defendant's opposition to Plaintiff's application for P.I.
05/10/2012	5	(P#1) Matter continued to June 11, 2012 at Plaintiff's request
05/10/2012	5	(Christopher J. Muse, Justice). Notices mailed 5/11/2012
05/11/2012	6	Notice sent to appear on 6/11/2012 for a hearing on P.I.
05/11/2012	7	Notice of 93A complaint sent to Attorney General
05/15/2012	8	ANSWER: Litton Loan Servicing, LP(Defendant)
05/15/2012	9	SERVICE RETURNED (summons): Litton Loan Servicing, LP, service made
05/15/2012	9	on 5/18/2012 (agent in charge service)
06/11/2012	10	ASSENTED TO MOTION to continue hearing on plttf's motion for
06/11/2012	10	preliminary injunction
06/11/2012	11	Motion (P#10) Allowed, Hearing 6/20/12
06/11/2012	11	(Christopher J. Muse, Justice). Notices mailed 6/12/2012
06/12/2012		Notice sent to appear on 6/12/2012



06/26/2012	12	Complaint (P#1) After hearing, Plaintiff failed to establish a
06/26/2012	12	likelihood of success on the merits and also irreparable harm.
06/26/2012	12	Preliminary Injunction denied. (Christopher J. Muse, Justice).
10/24/2011	12	Notices mailed 6/26/2012
07/17/2012	13	Defendant Litton Loan Servicing, LP's MOTION to Dismiss (MRCP
07/17/2012	13	12(b)(9)) complaint of Christopher Dawson;
07/17/2012		opposition and Cross MOTION of Plaintiff Christopher Dawson for for
07/17/2012		[sic] leave to file motion to vacate judgment of dismissal in 2011-0572A;
07/17/2012		opposition;
07/23/2012		Copy of Tracking Order sent to all counsel
07/24/2012	14	Motion (P#13) Hearing on Motion to Dismiss, Cross-Motion for
07/24/2012	14	leave/Motion to vacate judgment of dismissal should be filed in
07/24/2012	14	2011-0737A (Richard J. Chin, Justice). Notices mailed 7/24/2012

07/27/2012	15	Notice sent to appear on 10/2/2012 for a hearing on Defendant Litton
07/27/2012	15	Loan Servicing, LP's MOTION to Dismiss (MRCP 12(b)(9)) complaint of Christopher Dawson
07/27/2012	15	
08/17/2012	16	Notice resent to appear on 10/2/2012 for a hearing on Motion to
08/17/2012	16	dismiss at 2:00 pm (not 9:00am)
10/04/2012		Hearing on (P#13) motion to dismiss held, matter taken under
10/04/2012		advisement. (Richard J. Chin, Justice)
10/12/2012	17	MEMORANDUM OF DECISION AND ORDER on Deft's Motion to Dismiss:
10/12/2012	17	"For the foregoing reasons, it is hereby ORDERED that defendant Litton
10/12/2012	17	Loan Servicing, LP'S Motion to Dismiss is ALLOWED, Plaintiff
10/12/2012	17	Christopher Dawson's Verified Complaint is DISMISSED." (Richard J. Chin, Justice). Dated: October 11, 2012. Copies mailed 10/12/12

10/12/2012	18	JUDGMENT on
		Defendant's, Litton Loan
		Servicing, LP's motion to
10/12/2012	18	dismiss (Richard J. Chin,
		Justice). Dated: 10/11/12.
		Copies mailed
10/12/2012	18	10/12/2012
10/22/2012	19	Notice of Appearance (Pro
		Se) by plttf. Christopher
		Dawson
10/22/2012	20	Atty James P. Roche's
		withdrawal of appearance
		filed re: Christopher
10/22/2012	20	Dawson
11/09/2012	21	Plaintiff Christopher
		Dawson's notice of appeal
11/19/2012	22	Notice of filing of appeal
		sent
12/21/2012	23	Deft's MOTION to dismiss
		appeal, affidavit of
		compliance with S.C.
12/21/2012	23	Rule 9A (No opposition)
12/28/2012	24	Notice sent to appear on
		3/14/2013 for a hearing on
		deft's motion to
12/28/2012	24	dismiss appeal
12/31/2012	24	Plaintiff's Certification no
		transcript on appeal
01/22/2013	25	Motion (P#23) Motion
		Denied, Hearing Cancelled,
		Plaintiff Dawson
01/22/2013	25	cured noncompliance.
		Appeal to be assembled
		forthwith) (Christopher

01/22/2013	25	J. Muse, Justice). Notices mailed 1/22/2013
01/28/2013	28	Statement of the Case on Appeal (Cover Sheet)
01/28/2013	26	Notice sent to clerk of Appeals Court that record is assembled
01/28/2013	27	Record assembled; notice (9d) to clerk of Appeals Court with 2
01/28/2013	27	certified copies of docket entries; notice mailed
03/14/2013	29	Defendant Litton Loan Servicing, LP's MOTION to dismiss Christopher
03/14/2013	29	Dawson's appeal; Plaintiff's Objection
03/20/2013	30	Motion (P#29) ALLOWED (Christopher J. Muse, Justice) Notices mailed
03/20/2013	30	3/21/2013

**APPENDIX F**

COMMONWEALTH OF MASSACHUSETTS  
PLYMOUTH COUNTY                      SUPERIOR COURT  
Case No. 12-541B

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CHRISTOPHER DAWSON  
Plaintiff

v.

LITTON LOAN SERVICING, LP  
Defendant

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**COMPLAINT TO VACATE FINAL JUDGMENT OF  
FORECLOSURE AND INJUNCTIVE RELIEF**

**Parties and Jurisdiction**

1. The Plaintiff Christopher Dawson is a natural person that resides at 12 North Drive, Marion, MA 02738.
2. The Defendant Litton Loan Servicing is a limited partnership business entity whose Massachusetts Registered Agent is Corporation Service Company, 84 State Street, Boston, MA 02109.

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In view of the length of time since foreclosure, and as the Plaintiff brought an equitable claim against the Defendant in May 2011 (which was dismissed: see CA-11-0572) SON to issue, 5-1-12 *Christopher J. Muse, Justice*

3. This action is properly brought before this Court as the real property which is the subject of this action is situated in Plymouth County, Massachusetts.
4. Plaintiff is subject to the jurisdiction of this Court as he is a resident of Massachusetts and has an interest in Massachusetts real property.
5. Defendant Litton Loan Servicing, LP (“Litton”) is subject to the jurisdiction of this Court pursuant to the Massachusetts long-arm statute M.G.L. c.223A sec. 3 as it transacted business deliberately by instituting a foreclosure proceeding in Massachusetts as to the Massachusetts real property.

#### **Facts**

6. A MORTGAGE dated November 6, 2006 on the property at 12 North Dr., Marion, MA was given by Christopher Dawson to Mortgage Electronic Registration Systems, Inc. as nominee for Aegis Wholesale Corporation to secure a note in the amount of \$1,400,000. The MORTGAGE was recorded 11/08/2006 at 10:30 AM at Book 33645 Pages 178 - 193 in the Plymouth County Registry of Deeds.
7. A MORTGAGE dated November 17, 2006 on the property at 12 North Dr., Marion, MA was given by Christopher Dawson to JP Morgan Chase, N.A. to secure a home equity credit line in the amount of \$300,000. The MORTGAGE was recorded on 11/22/2006 at 10:07 AM at Book 33715 Pages 343-350 in the Plymouth County Registry of Deeds.

8. A MORTGAGE dated February 1, 2008 on the property at 12 North Dr., Marion, MA was given by Christopher Dawson to Elyahou Talasazan and Helena Talasazan to secure a note in the amount of \$100,000. The MORTGAGE was recorded 02/07/2008 at 1:01 PM at Book 35581 Pages 5-7 in the Plymouth County Registry of Deeds.
9. An ASSIGNMENT OF MORTGAGE executed and dated February 17, 2010 (of the mortgage dated November 6, 2006 at Book 33645 Page 178) was recorded 03/29/2010 at 1:30 PM at Book 38368 Page 32 in the Plymouth County Registry of Deeds. The ASSIGNMENT OF MORTGAGE was by Mortgage Electronic Registration Systems, Inc. to Litton Loan Servicing LP at 60 Livingston Ave., St. Paul, MN 55701-2322 without recourse.
10. An ORDER OF NOTICE June 22, 2010 to Servicemen of the intent to foreclose the mortgage dated November 6, 2006 recorded at Book 33645 Page 178 was recorded 06/29/2010 at 1:58 PM at Book 38680 Page 167 in the Plymouth County Registry of Deeds.
11. A JUDGMENT issued August 24, 2010 to foreclose the mortgage dated November 6, 2006 at Book 33645 Page 178 was recorded 12/31/2010 at 10:26 AM at Book 39489 Page 138 in the Plymouth County Registry of Deeds; The judgment was not recorded until December 31, 2010 just before the CERTIFICATE OF ENTRY and FORECLOSURE DEED were recorded.

12. Defendant Litton foreclosed the first mortgage on the real property located at 12 North Drive, Marion, MA on or about August 27, 2010.
13. A POWER OF ATTORNEY given by Debra Lyman as Assistant Secretary of Litton et al to Kevin Morris or Mark Harmon for the specified purposes of making entry and foreclosing the property at 12 North Drive, Marion, MA): Recorded 12/31/2010 at 10:26 AM at Book 39489 Page 139 in the Plymouth County Registry of Deeds.
14. A CERTIFICATE OF ENTRY dated August 27, 2010 stating that Litton was allowed “peaceable and unopposed entry” to the property at 12 North Drive, Marion, MA on August 27, 2010 was Recorded at Book 39489 Page 141 at 10:26 AM on 12/31/2010 in the Plymouth County Registry of Deeds.
15. A FORECLOSURE DEED, dated 09/17/2010 (of mortgage dated November 6, 2006 at Book 33645 Page 178) was recorded at Book 39489 Page 143 in the Plymouth County Registry of Deeds. The FORECLOSURE DEED was executed on 09/17/2010. Both the Grantor and Grantee were Litton Loan Servicing, LP at 4828 Loop Central Drive, Houston, TX 77081. The amount paid by the Grantee was \$1,716,966.40. The Foreclosure Deed and Affidavit were executed by Debra Lyman, a recognized robo-signer. The FORECLOSURE DEED was recorded on 12/31/2010 at 10:26 AM at Book 39489 Book [sic] 143 in the Plymouth County Registry of Deeds.



16. The allonge attached to the subject \$1,400,000 note dated November 6, 2006 has BOTH a special endorsement and a blank endorsement made by the same person and, additionally, the endorsement stamps are “robo-signed.”
17. The subject complaint for foreclosure recorded with the registry of deeds shows the mortgage was given to “Mortgage Electronic Registration Systems, Inc.” and not the Defendant Litton.
18. The foreclosure deed itself, and its affidavit, were executed by a recognized robo-signer, Debra Lyman, who also is employed as an Assistant Secretary of Mortgage Electronic Registration Systems, Inc.
19. Furthermore, on or about December 31, 2010, the defendant recorded a foreclosure deed foreclosure deed [*sic*] naming itself as the buyer of the subject property at foreclosure.

**First Claim For Relief**

20. Plaintiff re-allege and reincorporated paragraphs 1 through 19 hereinabove as if set forth more fully herein below.
21. Defendant Litton made material representations to Plaintiff which Defendant Litton knew to be false when made and which were made deliberately and intentionally. The material misrepresentation included the defendant’s offer for a loan modification shortly before the foreclosure, the true identity of the actual mortgagee during the alleged mortgage modification offer, the true holder in due course of the subject first mortgage note, the amount allegedly owed on the first mortgage note, and

the representations made regarding the “peaceable and unopposed entry” as set forth in the CERTIFICATE OF ENTRY dated August 27, 2010.

22. Defendant Litton made the subject material misrepresentations to Plaintiffs with the specific intent that Plaintiff rely thereon.
23. Plaintiff did reasonably rely upon the affirmative representations of Defendant Litton to his detriment.
24. As a direct and proximate result of the material misrepresentations which were made by Defendant Litton, the Plaintiff has suffered damages.

#### **Second Claim For Relief**

25. Plaintiffs re-allege and reincorporate paragraphs 1 through 24 hereinabove as if set forth more fully herein below.
26. As set forth above, Defendant Litton wrongfully acquired title to the property the subject of this action through a pattern of intentional fraudulent conduct, including but not limited to, the “robo-signing” of the FORECLOSURE DEED and AFFIDAVIT filed therewith by the recognized robo-signer Debra Lyman and the intentional demand for monies to which it was not legally entitled as the basis for foreclosure.
27. Pursuant to Mass.R.Civ.P. 60(b)(3), Plaintiff is entitled to bring this action to request that the Court vacate and set aside the Final Judgment of Foreclosure which was procured by fraud.

28. Plaintiffs also request that the Final Judgment of Foreclosure be set aside pursuant to Mass.R.Civ.P. 60(b)(6), as to do so is appropriate to accomplish the ends of justice under the circumstances.

**Third Claim For Relief**

29. Plaintiff re-allege and reincorporate paragraphs 1 through 28 herein above as if set forth more fully herein below.

30. This is an action and claim for relief which is brought pursuant to M.G.L. 93A for damages and injunctive relief.

31. Plaintiffs are “persons” within the meaning of M.G.L. 93(A)(1)(a).

32. The actions of Defendant Litton constitute unfair and deceptive practices engaged in by a business within the course of trade or commerce within the meaning of G.L. 93(A)(1)(b).

33. The presuit notice provisions of M.G.L. 93(A)(9)(3) are not applicable as to Defendant Litton as said Defendant does not maintain a place of business or keep assets within the Commonwealth of Massachusetts.

34. Pursuant to M.G.L. 93(A)(9)(1), Plaintiff is entitled to seek remedies of damages and injunctive relief.

35. As a direct and proximate result of the unfair and deceptive practices of Defendant Litton as set forth above, Plaintiff has suffered and continues to suffer damages.

**Fourth Claim For Relief**

36. Plaintiffs re-allege and reincorporate paragraphs 1 through 35 hereinabove as if set forth more fully herein below.
37. Plaintiff has a likelihood of success on the merits of their claims against Defendant Litton that the foreclosure instituted thereby was fraudulent and subject to being vacated and set aside.
38. If the injunctive relief requested herein is not granted, Plaintiff will suffer irreparable harm in the form of the loss of his the [*sic*] profits and business opportunities to be derived from the ownership and development of the subject property; for which damages is an inadequate remedy as the property represented a unique future business opportunity for the Plaintiffs.
39. The granting of the injunctive relief requested herein is in the public interest.
40. Under the circumstances where Defendant Litton has only acquired title to the property through the fraudulent and unfair and deceptive conduct of Defendant Litton, Plaintiffs should not be required to post any bond as a condition of being granted injunctive relief.

WHEREFORE, the Plaintiffs request this court to award the following relief;

- A. As to their FIRST CLAIM FOR RELIEF, an award of money damages;
- B. As to their SECOND CLAIM FOR RELIEF, the entry of an Order of Judgment vacating and

setting aside the Final Judgment of Foreclosure previously entered in favor of Defendant Litton;

- C. As to their THIRD CLAIM FOR RELIEF, the entry of an injunction prohibiting any further post-foreclosure proceedings by any party and for an award of money damages including any multiple of damages as provided by M.G.L. 93A, costs, and attorneys' fees; and
- D. As to their FOURTH CLAIM FOR RELIEF, the entry of a temporary and permanent injunction prohibiting any further post-foreclosure proceedings including any eviction or other proceedings related to the property by the Housing Court or any other Court which command any action on the part of the Plaintiffs.

Dated this 27 day of April, 2012.

Respectfully Submitted,

/s/ Christopher Dawson

CHISTOPHER [*sic*] DAWSON

**VERIFICATION**

COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF PLYMOUTH

BEFORE ME, THE UNDERSIGNED AUTHORITY, personally appeared CHISTOPHER [*sic*] DAWSON who, after being either (personally known to me) or (who has produced MA Drivers License [type of identification]) executed the foregoing document and swore, under the penalties of pains of perjury, that the factual allegations of this Verified Complaint are true and correct.

/s/  
Notary Public  
Commonwealth of Massachusetts  
My commission expires: 10/04/2013

**CERTIFICATION**

I hereby certify that I have this day served the foregoing upon the Defendant by forwarding the same via First Class Mail; and this day to:

Litton Loan Servicing, LP,  
4828 Loop Central Dr.,  
Houston, TX 77081

And

Litton Loan Servicing, LP,  
C/o Corporation Service Company,  
Massachusetts Registered Agent  
84 State Street, Boston, MA 02109

Dated: 5/3/12      /s/ Christopher Dawson  
CHRISTOPHER DAWSON

APPENDIX G

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss.

SUPERIOR COURT  
PLCV2012-00541-B

CHRISTOPHER DAWSON

vs.

LITTON LOAN SERVICING, LP

**MEMORANDUM OF DECISION AND ORDER ON  
DEFENDANT'S MOTION TO DISMISS**

On May 1, 2012, the plaintiff, Christopher Dawson, brought this action against the defendant, Litton Loan Servicing, LP (LLS). Dawson brought four claims against LLS: “material misrepresentations” (Count I), fraud (Count II), a claim under G.L. c. 93A (Count III), and injunctive relief (Count IV). On July 17, 2012, LLS filed a motion to dismiss pursuant to Mass. R. Civ. P. 12(b)(9), pendency of a prior action in a court of the Commonwealth, and Mass. R. Civ. P. 12(b)(6), failure to state a claim upon which relief can be granted. Dawson filed a written opposition.

On October 4, 2012, this court held a hearing on LLS’s motion. Dawson now agrees that his claim under G.L. c. 93A in Count III should be dismissed and that his claim for injunctive relief in Count IV is moot, given the court’s ruling (Muse, J.) on June 26, 2012. Therefore, Dawson’s only remaining claims are Counts I and II. For the following reasons, LLS’s

motion to dismiss pursuant to Mass. R. Civ. P. 12(b)(6) is ALLOWED.

### BACKGROUND

The following facts are drawn from Dawson's verified complaint. On November 6, 2006, Dawson gave a mortgage on property at 12 North Drive, Marion, Massachusetts (property) to Mortgage Electronic Registration Systems, Inc. (MERS) as nominee for Aegis Wholesale Corporation to secure a note in the amount of \$1,400,000. On February 17, 2010, MERS assigned the mortgage to LLS. On June 22, 2010, the Massachusetts Land Court issued an order of notice of intent to foreclose, and on August 24, 2010, it issued a judgment of foreclosure on the property. On or about August 27, 2010, LLS foreclosed on the property. A certificate of entry dated August 27, 2010 allowing "peaceable and unopposed entry" was eventually recorded at the Plymouth County Registry of Deeds. LLS executed a foreclosure deed granting the property to itself for \$1,716,966.40 on September 17, 2010. Dawson alleges that the foreclosure deed and its affidavit were executed by a "recognized robo-signer, Debra Lyman" who also is an assistant secretary of MERS.

As to Count I alleging "material misrepresentations," Dawson alleges that LLS made material misrepresentations to him, including its "offer for a loan modification shortly before the foreclosure, the true identity of the actual mortgagee during the alleged mortgage modification offer, the true holder in due course of the subject first mortgage note, the amount allegedly owed on the first mortgage note, and the representations made regarding the



‘peaceable and unopposed entry’ as set forth in the CERTIFICATE OF ENTRY dated August 27, 2010.”

In Count II Dawson alleges “intentional fraudulent conduct.” He cites the “robo-signing” of the foreclosure deed and affidavit and the intentional demand for monies that he alleges that LLS was not legally entitled to in support of his claim.

### **DISCUSSION**

When evaluating the legal sufficiency of a complaint under Mass. R. Civ. P. 12(b)(6), this court will accept as true all of the well-pled factual allegations of the complaint and will draw all reasonable inferences from the complaint in favor of the plaintiff. Iannacchino v. Ford Motor Co., 451 Mass. 623, 636 (2008); Berish v. Bornstein, 437 Mass. 252, 267 (2002). To survive a motion to dismiss, a complaint must contain factual allegations which, if true, raise a right to relief above the speculative level. Iannacchino v. Ford Motor Co., 451 Mass. at 636. Dismissal under Mass. R. Civ. P. 12(b)(6) is proper where a reading of the complaint establishes beyond doubt that the acts alleged do not support a cause of action which the law recognizes, such that the plaintiff’s claim is legally insufficient. Nguyen v. William Joiner Center for the Study of War and Social Consequences, 450 Mass. 291, 294 (2007).

Upon review and after hearing, this court is satisfied that Dawson’s claims of “material misrepresentations” (Count I) and fraud (Count II) must be dismissed because they fail to state a claim upon which relief can be granted. See Mass. R. Civ. P. 12(b)(6). Dawson’s complaint does not contain factual allegations which, if true, raise a right to relief above the speculative level as to these two claims. See

Iannacchino v. Ford Motor Co., 451 Mass. at 636. As to Dawson's claim in Count I alleging "material misrepresentations," he provides no facts as to what misrepresentations were made to him concerning a loan modification, who made them, and when, or any specific factual allegations surrounding this claim. As to his claim of fraud in Count II, Dawson does not sufficiently state the factual circumstances surrounding his belief that the documents surrounding the foreclosure of the property were not properly executed by LLS. See Mass. Civ. P. 9(b) (requiring circumstances constituting fraud to be stated with particularity). See also Masingill v. EMC Corp., 449 Mass. 532, 545 (2007) (noting that averments of fraud and circumstances constituting that fraud must be stated with particularity in complaint). Accordingly, LLS's motion to dismiss pursuant to Mass. R. Civ. P. 12(b)(6) is allowed.<sup>1</sup>

### **ORDER**

For the foregoing reasons, it is hereby **ORDERED** that Defendant Litton Loan Servicing, LP's Motion to Dismiss is **ALLOWED**. Plaintiff Christopher Dawson's Verified Complaint is **DISMISSED**.

*/s/ Richard J. Chin*

Richard J. Chin

Justice of the Superior Court

Dated: October 11, 2012

Entered: 10/12/12

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<sup>1</sup> Since this court is dismissing Dawson's complaint under Mass. R. Civ. P. 12(b)(6), the court need not address whether the complaint should be dismissed under Mass. R. Civ. P. 12(b)(9).

## APPENDIX H

### 1583CV00945 Dawson, Christopher vs. Litton Loan Servicing, LP et al

Case Type Contract / Business Cases  
Case Status Open  
File Date 09/25/2015  
DCM Track: F - Fast Track  
Initiating Action: Other Contract Action  
Status Date: 09/25/2015  
Case Judge:  
Next Event:

All Information Party Tickler Docket Disposition

#### Party Information

Dawson, Christopher  
- Plaintiff

Alias

Party Attorney  
Attorney  
Tarayan, Esq., Gregg S  
Bar Code  
674885  
Address  
Attorney at Law  
60 Island St  
Lawrence, MA 01840  
Phone Number  
(978)566-9153

More Party Information

Litton Loan Servicing, LP  
- Defendant  
Alias

Party Attorney  
Attorney  
Abely, Esq., Christine Elizabeth  
Bar Code  
679700  
Address  
Middleton & Shrull, LLC  
100 TradeCenter  
Suite 660  
Woburn, MA 01801  
Phone Number  
(781)272-7966

Attorney  
Fabella, Esq., Justin Mark  
Bar Code  
654859  
Address  
Hinshaw & Culbertson LLP  
53 State St  
27th Floor  
Boston, MA 02109  
Phone Number  
(617)213-7000

Ocwen Financial Corporation  
- Defendant  
Alias  
Party Attorney  
Attorney  
Abely, Esq., Christine Elizabeth  
Bar Code

679700  
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Ocwen Loan Servicing, LLC  
- Defendant  
Alias

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 654859  
 Address  
 Hinshaw & Culbertson LLP  
 53 State St  
 27th Floor  
 Boston, MA 02109  
 Phone Number  
 (617)213-7000

**Ticklers**

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Day s Due</u>	<u>Comple ted Date</u>
Answer	09/25/2015	01/25/2016	122	01/04/2016
Discover y	09/25/2015	07/21/2016	300	01/26/2016
Final Pre-Trial Conferen ce	09/25/2015	01/17/2017	480	01/26/2016
Judgmen t	09/25/2015	09/25/2017	731	01/26/2016

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Day s Due</u>	<u>Comple ted Date</u>
Rule 12/19/20 Filed By	09/25/201 5	02/22/20 16	150	01/26/2016
Rule 12/19/20 Heard By	09/25/201 5	03/23/20 16	180	01/26/2016
Rule 12/19/20 Served By	09/25/201 5	01/25/20 16	122	01/26/2016
Rule 15 Filed By	09/25/201 5	02/22/20 16	150	01/26/2016
Rule 15 Heard By	09/25/201 5	03/23/20 16	180	01/26/2016
Rule 15 Served By	09/25/201 5	01/25/20 16	122	01/26/2016
Rule 56 Filed By	09/25/201 5	09/19/20 16	360	01/26/2016

<u>Tickler</u>	<u>Start Date</u>	<u>Due Date</u>	<u>Day s Due</u>	<u>Comple ted Date</u>
Rule 56 Served By	09/25/201 5	08/22/20 16	332	01/26/2016
Service	09/25/201 5	12/24/20 15	90	01/04/2016

Docket  
Information

09/25/2015	Original civil complaint filed.	1
09/25/2015	Civil action cover sheet filed.	2
09/25/2015	Demand for jury trial entered.	
09/25/2015	Case assigned to: DCM Track F - Fast Track was added on 09/25/2015	



09/25/2015	Appearance entered On this date Gregg S. Tarayan, Esq. added for Plaintiff Christopher Dawson	
09/25/2015	The following form was generated: Tracking Order Sent On: 09/25/2015 14:43:37	
09/29/2015	One Trial case reviewed by Clerk, case to remain in the Superior Court.	
12/14/2015	Plaintiff(s) Christopher Dawson's Motion for a special process server.	3
12/14/2015	Endorsement on Motion for special process server. (Kane, J.) (#3.1): ALLOWED	3.1
12/23/2015	Service Returned for Defendant Litton Loan Servicing, LP: Service via resident agent; on December 21,2015	4
12/23/2015	Service Returned for Defendant Ocwen Loan Servicing, LLC: Service via resident agent; service made on December 16,2015	5

12/23/2015	Service Returned for Defendant Ocwen Financial Corporation: Service through person in charge / agent; Laurie Stevenson on December 21,2015	6
01/04/2016	Party(s) file Stipulation deft's shall have to and including January 15, 2016 to respond to plttf's complaint Applies To: Dawson, Christopher (Plaintiff); Litton Loan Servicing, LP (Defendant); Ocwen Financial Corporation (Defendant); Ocwen Loan Servicing, LLC (Defendant)	7
01/04/2016	Appearance entered On this date Justin Mark Fabella, Esq. added for Defendant Ocwen Financial Corporation, Litton Loan Servicing, LP Ocwen Loan Servicing, LLC	8
01/04/2016	Appearance entered On this date Christine Elizabeth Abely, Esq. added for Defendant Litton Loan Servicing, LP, Ocwen financial Corporation, and Ocwen Loan Servicing, LLC	9

01/20/2016 Notice of Removal to the United States District Court filed by Applies To: Litton Loan Servicing, LP (Defendant); Ocwen Financial Corporation (Defendant); Ocwen Loan Servicing, LLC (Defendant) 10

01/26/2016 REMOVED to the U.S. District Court

01/26/2016 Case transferred to another court.

**APPENDIX I**

United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:16-cv-10069-WGY

Dawson v. Litton Loan Servicing, LP et al  
Assigned to: Judge William G. Young  
Case in other court: Plymouth Superior Court, 15-  
00945  
Cause: 28:1332 Diversity-Notice of Removal

Date Filed: 01/15/2016  
Date Terminated: 03/10/2016  
Jury Demand: Plaintiff  
Nature of Suit: 220 Real Property: Foreclosure  
Jurisdiction: Diversity

**Plaintiff**

**Christopher Dawson**  
represented by  
**Gregg S. Tarayan**  
Law Offices of Stephen W. Wight  
130 Parker Street  
Suite 30  
Lawrence, MA 01843  
978-685-2400  
Email: gtarayan@gmail.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Litton Loan Servicing, LP**  
represented by

**Christine E. Abely**  
Hinshaw & Culbertson LLP  
28 State Street  
24th Floor  
Boston, MA 02109  
617-213-7000  
Email: cabely@hinshawlaw.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Justin M. Fabella**  
Hinshaw & Culbertson LLP  
53 State Street  
27th Floor  
Boston, MA 02109  
617-213-7000  
Fax: 617-213-7001  
Email: jfabella@hinshawlaw.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**  
**Ocwen Financial Corporation**  
represented by

**Christine E. Abely**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Justin M. Fabella**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Ocwen Loan Servicing, LLC**

represented by

**Christine E. Abely**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Justin M. Fabella**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICE*

01/15/2016, Dkt. #1 - NOTICE OF REMOVAL by Litton Loan Servicing, LP, Ocwen Financial Corporation, Ocwen Loan Servicing, LLC ( Filing fee: \$ 400, receipt number 0101-5930923 Fee Status: Filing Fee paid) (Attachments: # 1 Exhibit 1, # 2 Category Form, # 3 Civil Cover Sheet)(Abely, Christine) (Entered: 01/15/2016)

01/15/2016, Dkt. #2 - NOTICE of Appearance by Christine E. Abely on behalf of Litton Loan Servicing, LP, Ocwen Financial Corporation, Ocwen Loan Servicing, LLC (Abely, Christine) (Entered: 01/15/2016)

01/15/2016, Dkt. #3 - CORPORATE DISCLOSURE STATEMENT by Litton Loan Servicing, LP, Ocwen Financial Corporation, Ocwen Loan Servicing, LLC identifying Other Affiliate Ocwen Financial Corporation for Ocwen Loan Servicing, LLC; Other Affiliate Ocwen Loan Servicing, LLC, Litton Loan Servicing, LP for Ocwen Financial Corporation; Other Affiliate Ocwen Capital Management LLC, Ocwen

Financial Corporation, Ocwen Loan Servicing, LLC for Litton Loan Servicing, LP.. (Abely, Christine) (Entered: 01/15/2016)

01/15/2016, Dkt. #4 - NOTICE of Appearance by Justin M. Fabella on behalf of Litton Loan Servicing, LP, Ocwen Financial Corporation, Ocwen Loan Servicing, LLC (Fabella, Justin) (Entered: 01/15/2016)

01/15/2016, Dkt. #5 - Certified Copy of Notice of Removal Provided to Defense Counsel by mail (Geraldino-Karasek, Clarilde) (Entered: 01/15/2016)

01/15/2016, Dkt. #6 - ELECTRONIC NOTICE of Case Assignment. Judge William G. Young assigned to case. If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Judith G. Dein. (Abaid, Kimberly) (Entered: 01/15/2016)

01/22/2016, Dkt. #7 - MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Litton Loan Servicing, LP, Ocwen Financial Corporation, Ocwen Loan Servicing, LLC.(Fabella, Justin) (Entered: 01/22/2016)

01/22/2016, Dkt. #8 - MEMORANDUM in Support re 7 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Litton Loan Servicing, LP, Ocwen Financial Corporation, Ocwen Loan Servicing, LLC. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7

Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J)(Fabella, Justin) (Entered: 01/22/2016)

01/25/2016, Dkt. #9 - ELECTRONIC NOTICE Setting Hearing on Motion 7 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM : Motion Hearing set for 3/9/2016 02:00 PM before Judge William G. Young. This hearing will take place at Suffolk Law School, 120 Tremont Street, 4th Floor, Boston, MA. (Gaudet, Jennifer) (Entered: 01/25/2016)

02/03/2016, Dkt. #10 - STATE COURT Record. (Abely, Christine) (Entered: 02/03/2016)

02/05/2016, Dkt. #11 - Opposition re 7 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Christopher Dawson. (Attachments: # 1 Exhibit CFPB Complaint v Ocwen)(Tarayan, Gregg) (Entered: 02/05/2016)

02/05/2016, Dkt. #12 - MEMORANDUM in Support re 7 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Christopher Dawson. (Tarayan, Gregg) (Entered: 02/05/2016)

03/09/2016, Dkt. #13 - Electronic Clerk's Notes for proceedings held before Judge William G. Young: Motion Hearing held on 3/9/2016 at Suffolk Law School re 7 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Litton Loan Servicing, LP, Ocwen Loan Servicing, LLC, Ocwen Financial Corporation. After hearing from counsel, the Court dismisses the case, not on the merits, but due to res judicata. (Court Reporter: Richard Romanow at bulldog@richromanow.com.) (Attorneys present:



Tarayan for the plaintiff, Abely for the defendants)  
(Gaudet, Jennifer) (Entered: 03/10/2016)

03/10/2016, Dkt. #14 - Judge William G. Young:  
ORDER entered. ORDER DISMISSING  
CASE.(Gaudet, Jennifer) (Entered: 03/10/2016)

04/06/2016, Dkt. #15 - MOTION for Reconsideration  
by Christopher Dawson. (Tarayan, Gregg) (Entered:  
04/06/2016)

04/06/2016, Dkt. #16 - MEMORANDUM in Support re  
15 MOTION for Reconsideration filed by Christopher  
Dawson. (Tarayan, Gregg) (Entered: 04/06/2016)

04/07/2016, Dkt. #17 - Judge William G. Young:  
ELECTRONIC ORDER entered denying 15 Motion  
for Reconsideration (Paine, Matthew) (Entered:  
04/07/2016)

**APPENDIX J**

COMMONWEALTH OF MASSACHUSETTS  
PLYMOUTH COUNTY                      SUPERIOR COURT  
Case No. \_\_\_\_\_

---

CHRISTOPHER DAWSON  
575 Wickenden Street, #207  
Providence, RI 02903

Plaintiff

v.

LITTON LOAN SERVICING, LP  
c/o its Registered Agent:  
Corporation Service Company  
84 State Street  
Boston, MA 02109

OCWEN FINANCIAL CORPORATION  
c/o Timothy M. Hayes, Executive Vice President,  
General Counsel and Secretary  
1661 Worthington Road, Suite 100  
P.O. Box 24737  
West Palm Beach, FL 33409

OCWEN LOAN SERVICING, LLC,  
c/o its Registered Agent:  
Corporation Service Company  
84 State Street  
Boston, MA 02109

Defendants

---

## COMPLAINT

### Parties and Jurisdiction

1. The Plaintiff Christopher Dawson (hereafter “Dawson”) is a natural person that resides at 575 Wickenden St., #207, Providence, RI 02903.
2. The Defendant Litton Loan Servicing LP (hereafter “Litton”) is a limited partnership business entity whose Massachusetts Registered Agent is Corporation Service Company, 84 State Street, Boston, MA 02109.
3. The Defendant Ocwen Financial Corporation is a business entity located at 1661 Worthington Road, Suite 100, P.O. Box 24737, West Palm Beach, FL 33409.
4. The Defendant Ocwen Loan Servicing LLC is a business entity whose Massachusetts Registered Agent is Corporation Service Company, 84 State Street, Boston, MA 02109.
5. The action is properly brought before this Court as the real property which is the subject of this action is situated in Plymouth County, Massachusetts.
6. Dawson is subject to the jurisdiction of this Court as he has an interest in Massachusetts real property.
7. Defendant Litton is subject to the jurisdiction of this Court pursuant to the Massachusetts long-arm statute M.G.L. c.223A sec. 3 as it transacted business deliberately by instituting a foreclosure proceeding in Massachusetts as to the Massachusetts real property and took title to the property it sold at foreclosure.
8. Defendants Ocwen Financial Corporation and Ocwen Loan Servicing LLC (collectively “Ocwen”) are the successors to Litton interests herein.

### Facts

9. A MORTGAGE dated November 6, 2006 on the property at 12 North Dr., Marion, MA (hereafter “Mortgage”) was given by Christopher Dawson to Mortgage Electronic Registration Systems, Inc. as nominee for Aegis Wholesale Corporation (hereafter “Aegis”) to secure a mortgage note of even date in the amount of \$1,400,000 (hereafter “Note”).

10. A JUDGMENT, issued August 24, 2010, to foreclose the MORTGAGE was recorded at Book 33645 Page 178 on December 31, 2010 at Book 39489 Page 138 in the Plymouth County Registry of Deeds.

11. A FORECLOSURE DEED (hereafter “Foreclosure Deed”), dated and executed on September 17, 2010, was recorded at Book 39489 Page 143 in the Plymouth County Registry of Deeds.

12. Beginning in November of 2010, Dawson began a series of unsuccessful lawsuits in attempt to expose and recover from the frauds and other wrongdoings of Litton that Dawson alleged with respect to the Litton’s ultimate foreclosure on Dawson’s home.

13. Additionally, Defendant Litton served a NOTICE TO QUIT AND VACATE PREMISES on Dawson’s tenant at the subject property on or about July 29, 2011.

14. EXECUTION FOR POSSESSION of the subject property was issued by the Wareham District Court in favor of defendant Litton on or about March 9, 2012.

15. Dawson unsuccessfully attempted to appeal of his loss of ownership and possession of the subject property in early 2013; but his appeal efforts were unsuccessful.

16. Dawson became resigned to the fact that he could not recover from the losses he sustained in connection with his purchase and ultimate loss of the subject property.

17. However, during the past several month's, Dawson learned about the following facts that did not exist at the time that Dawson attempted to recover the damages he alleges he has sustained as the proximate result of Litton's wrongful acts and conduct regarding the servicing, foreclosure, and summary process actions related to his former home.

(a) Along with authorities in 49 states, and the District of Columbia, the Consumer Financial Protection Bureau filed an order in December of 2013 (hereafter "Order") requiring Ocwen to pay for years of systemic misconduct in mortgage servicing;

(b) The misconduct included unfair shortcuts, unauthorized fees, deception, illegal foreclosures, and other illegal practices;

(c) The misconduct resulted in a settlement with Ocwen;

(d) The settlement involved Ocwen and two companies recently purchased by Ocwen; Litton Loan Servicing LP and Homeward Residential Holdings LLC;

(e) Dawson's loan was serviced by Litton and Dawson's home was lost to foreclosure between Jan. 1, 2009 and Dec. 31, 2012; and

(f) Dawson did not qualify for compensation under the settlement only because his loan was more than the threshold limit of \$729,705.

18. The Ocwen settlement exposed and evidenced facts and circumstances that Dawson could not have reasonably known at the times he sought relief for Litton's wrongdoing in connection with the foreclosure and loss of his home. Specific instances and practices that were operative in this case were the following:

(a) Litton did not disclose it was required to withdraw any pending foreclosure actions in which filed affidavits were Robo-signed or otherwise not accurate, as is the case here, specifically with respect to their foreclosure deed;

(b) Litton has not disclosed or identified the allocation of the foreclosure sale proceeds in the amount of \$1,716,966.40 that were received to satisfy the first mortgage obligation in the original principal amount of \$1,400,000.

(c) Litton had not disclosed that in part the settlement with the Federal Government addressed a systemic practice of charging unauthorized fees;

19. In fact, Dawson has discovered following facts and circumstances by and through information obtained and presented to Dawson by and through the state and federal governments' investigations and actions which precipitated the recent settlement agreement as referenced in the Order.

20. The deceptive, hidden, and elaborately omitted material facts and circumstances giving rise to this complaint include, but are not limited to, the following set of facts and circumstances which have surfaced as the proximate result of the aforementioned Order requiring Ocwen to pay for

years of the subject systemic misconduct in mortgage servicing by Litton.

21. Specific examples of the Litton fraud exposed by the settlement with Ocwen pursuant to the Order are:

(a) The subject Foreclosure Deed is based on a deceptively “naked” assignment by Mortgage Electronic Registration Systems which fails to identify or name a Lender or “nominee”; and bear signatures of known robo-signers;

(b) The assignment is executed by a known robo-signer, Marti Noreiga;

(c) Litton sold the subject property to itself at auction by and through a MEMORANDUM OF TERMS AND CONDITIONS OF SALE which (i) was executed by a Kevin Morris of undisclosed legal capacity to act on behalf of Litton, and (ii) was made without payment of the required \$50,000 deposit;

(d) The MORTGAGEE'S AFFIDAVIT filed by Litton with the Massachusetts Land Court on January 25, 2010 states that Litton is “one who is authorized to act by and on behalf of either the Mortgagee or one holding under the mortgage” but Litton does not designate whether Litton is the “Mortgagee of the Mortgage which is the subject of this proceeding”; or one “who holds under the mortgage”;

(e) The alleged copy of the subject Note, previously provided by Litton, bears no endorsements of any kind below the signature of Dawson, but has an ALLONGE TO NOTE affixed to it which is undated and bears both a special and blank endorsement by Aegis.

(f) Neither the defendants, nor any of the defendants agents or attorneys, have ever produced the original Note in this matter to verify its existence and/or it [*sic*] owner.

22. The Order does not immunize Ocwen or Litton from Dawson's rights to take further actions against Ocwen or Litton.

23. Dawson has not received any payment(s) from Ocwen pursuant to any settlement or the Order.

### **FIRST CLAIM FOR RELIEF**

#### **Breach of Contract**

24. Plaintiffs restate and incorporate by reference each of the above paragraphs as if fully set forth herein.

25. As set forth above, Defendant Litton has materially breached the terms of the subject Mortgage, specifically paragraph 22 governing invocation of the power of sale.

26. Defendant Litton has materially breached the terms of the subject Mortgage when it failed to comply with subparagraph c by failing to provide complete accounting of the \$316,000 excess over the underlying note amount of \$1.4 million dollars and disclosing application thereof.

27. Defendant Litton has materially breached the terms of the subject Mortgage by failing to charge reasonable fees to the financial detriment of the Plaintiff.

28. Litton's said acts and omissions have damaged Plaintiff.



## **SECOND CLAIM OF RELIEF**

### **Breach of Implied Covenant of Good Faith and Fair Dealing**

29. Plaintiff restate and incorporate by reference each of the above paragraphs as if fully set forth herein.

30. The defendants owed an implied covenant and duty to the plaintiff to exercise good faith and fair dealing in the conduct of their foreclosure and eviction actions against the plaintiff.

31. By way of their acts, conduct, omissions, and concealment of material facts detailed above, the defendants have breached this covenant and duty.

32. Said actions constitute wanton, malicious, and oppressive conduct warranting enhanced compensatory damages.

33. As a direct and proximate cause and result of the foregoing, the plaintiff has suffered, and continue to suffer, substantial harm and damages.

## **THIRD CLAIM OF RELIEF**

### **Violations of M.G.L. 93A**

34. Plaintiff restate and incorporate by reference each of the above paragraphs as if fully set forth herein.

35. This is an action and claim for relief which is brought pursuant to M.G.L. 93A for damages and injunctive relief.

36. Plaintiff is a “person” within the meaning of M.G.L. 93(A)(1)(a).

37. The actions of Defendant Litton constitute unfair and deceptive practices engaged in by a business within the course of trade or commerce within the meaning of G.L. 93(A)(1)(b).

38. The presuit notice provisions of M.G.L. 93(A)(9)(3) are not applicable as to Defendant Litton as said Defendant does not maintain a place of business or keep assets within the Commonwealth of Massachusetts.

39. Pursuant to M.G.L. 93(A)(9)(1), Plaintiff is entitled to seek remedies of damages and injunctive relief.

40. As a direct and proximate result of the unfair and deceptive practices of Defendant Litton as set forth above, specifically failure to provide accounting as to the \$316,000 excess over the underlying note amount of \$1.4 million, charging unreasonable fees in connection with the foreclosure sale of the subject property, and failure to disclose the investigation of their business practices by the federal government at all relevant times to this complaint. Plaintiff has suffered and continues to suffer damages.

WHEREFORE, the Plaintiffs request this court to award the following relief:

A: As to their FIRST CLAIM FOR RELIEF an award of money damages, including all direct, indirect, consequential, and foreseeable damages, disgorgement of past, present and future monies related to the defendants' dealings with the plaintiff, and costs, and attorneys' fees;

B. As to their SECOND CLAIM FOR RELIEF an award of money damages, including all direct, indirect, consequential, and foreseeable damages, disgorgement of past, present, and future monies related to the defendants' dealings with the plaintiff, and costs, and attorneys' fees; and

C. As to their THIRD CLAIM FOR RELIEF, the entry of an award of money damages including any multiple of damages as provided by M.G.L. 93A, costs, and attorneys' fees.

Dated this 23<sup>rd</sup> day of September, 2015.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury for all issues so triable.

Respectfully Submitted,  
Christopher Dawson,  
By his attorney,

/s/ Gregg S. Tarayan  
Gregg S. Tarayan, Esq.  
BBO# 674885  
60 Island Street  
Lawrence, MA 01840  
(978) 566-9153  
gtarayan@gmail.com

Date: September 23, 2015

**APPENDIX K**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

CHRISTOPHER DAWSON,  
Plaintiff,

v.

LITTON LOAN SERVICING, CIVIL ACTION  
LP, OCWEN FINANCIAL NO. 16-CV-10069-  
CORPORATION, and OCWEN WGY  
LOAN SERVICING, LLC,  
Defendants.

---

**DEFENDANT'S MOTION TO DISMISS**  
**PLAINTIFF'S COMPLAINT**

NOW COME the Defendants, Litton Loan Servicing, LP, Ocwen Financial Corporation, and Ocwen Loan Servicing, LLC, and move to dismiss the Complaint of the Plaintiff, Christopher Dawson, for failure to state a claim, upon grounds of res judicata, and because his claim made pursuant to M.G.L. c. 93A is time-barred. In support of this Motion to Dismiss, Defendants submit herewith a Memorandum of Law.

WHEREFORE, the Defendants, Litton Loan Servicing, LP, Ocwen Financial Corporation, and Ocwen Loan Servicing, LLC, respectfully request that this Court dismiss all counts of the Complaint of the Plaintiff, Christopher Dawson, with prejudice.

Respectfully submitted,

Attorneys for Defendants,

LITTON LOAN SERVICING, LP,  
OCWEN FINANCIAL CORPORATION,  
AND OCWEN LOAN SERVICING, LLC

/s/ Justin M. Fabella

Justin M. Fabella, BBO #654859  
Christine Abely, BBO #679700  
HINSAW & CULBERTSON LLP  
28 State Street, 24th Floor  
Boston, MA 02109  
617-213-7000  
617-213-7001 (facsimilie)  
Email: jfabella@hinshawlaw.com  
cabely@hinshawlaw.com

Dated: January 22, 2016

**LOCAL RULE 7.1 CERTIFICATION**

I, Justin M. Fabella, hereby certify that I attempted to confer with counsel for Plaintiff pursuant to the Local Rules.

/s/ Justin M. Fabella  
Justin M. Fabella

**CERTIFICATE OF SERVICE**

I, Justin Fabella, hereby certify that the documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on January 22, 2016.

/s/ Justin Fabella  
Justin Fabella

**APPENDIX L**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action  
No. 16-cv-10069-WGY

DAWSON  
Plaintiff

v.

LITTON LOAN SERVICING, LP et al  
Defendant

**ORDER OF DISMISSAL**

YOUNG, D.J.

After a ruling on March 9, 2016, this Court Orders that Defendants' Motion to Dismiss is Allowed based on res judicata, not on the merits and the above entitled action be and hereby is Dismissed.

Robert M. Farrell  
Clerk

By: /s/ Jennifer Gaudet  
Deputy Clerk

March 10, 2016

**APPENDIX M**

**COMMONWEALTH OF MASSACHUSETTS  
DISTRICT COURT DEPARTMENT**

**PLYMOUTH COUNTY    WAREHAM DIVISION  
Case No. 1160-SU-0102**

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**LITTON LOAN SERVICING, LP**

Plaintiff

v.

**CHRISTOPHER DAWSON**

Defendant

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**DEFENDANT’S MOTION  
FOR RECONSIDERATION**

The Defendant Christopher Dawson (hereafter “Dawson”) respectfully requests that this Court reconsider its March 16, 2017 decision to deny his 60(b) motion for relief from judgment in this matter and, in support thereof, states the following:

1. This Court’s decision stated, in its entirety, the following (shown here for the Court’s convenience):

*After hearing and upon review of the documents submitted by counsel, the Court finds that the Defendant, Christopher Dawson, has failed to meet the burden required under Mass.R.Civ.P. 60(b). Specifically, the Defendant has failed to present clear and convincing evidence of the nature of the alleged*



*fraud warranting relief from final judgment. The Defendant once again claims that the Plaintiff knowingly and intentionally misled this court by failing to disclose illegal practices associated with the assignment of a mortgage. However, the Plaintiff had at all times denied any such allegations made against it and eventually executed a Consent Agreement in which it denied any wrongdoing.*

*Moreover, the Defendant is precluded from relief under Rule 60(b) based on principles of res judicata as the causes of action alleged in this motion are identical to the issues raised in prior actions filed in Plymouth Superior Court. In said cases the Court entered a final judgment of dismissal of fraud and misrepresentation claims brought by this Defendant against this Plaintiff. In fact, subsequent to the second Plymouth Superior Court dismissal, a new action was filed in Plymouth Superior Court and removed to the federal court. This action was dismissed based on res judicata principles relying upon the second Plymouth Superior Court action. This case stands on the same ground and therefore denies the Defendant's Motion for Relief in this matter.*

2. Respectfully, Dawson acknowledges the preclusive of res judicata with respect to the adjudication of the first and second Plymouth Superior Court actions.

3. However, with respect to Dawson current action, none of the following facts were known by Dawson, nor could have been known by Dawson, when Dawson previously made and litigated his original claims against Litton in this action during 2011 and 2012:

(a) Along with authorities in 49 states, and the District of Columbia, the Consumer Financial

Protection Bureau filed an order in December of 2013 (hereafter “Order”) required Ocwen, as successor to defendant Litton Loan Servicing, LLP, to pay for years of systemic misconduct in mortgage servicing;

(b) The misconduct included unfair shortcuts, unauthorized fees, deception, illegal foreclosures, and other illegal practices;

(c) The misconduct resulted in a settlement with Ocwen;

(d) The settlement involved Ocwen and two companies recently purchases by Ocwen: Litton Loan Servicing LP and Homeward Residential Holdings LLC;

(e) My subject mortgage loan was serviced by Litton and my home that was lost to foreclosure occurred between Jan. 1, 2009 and Dec. 31, 2012; but I did not qualify for compensation under the settlement because my loan was more than the threshold limit of \$729,750 established by the settlement terms and conditions;

(f) The Ocwen settlement exposed and evidenced facts and circumstances that I did not know, and could not have known, because they were concealed from me by Ocwen at the times I sought relief for Litton’s wrongdoing in connection with the foreclosure and loss of my home;

(g) Dawson did not know that Litton did not disclose that it was required to withdraw any pending foreclosure actions in which filed affidavits were Robo-signed or otherwise not accurate, as is the case here, specifically with respect to the subject foreclosure deed;

(h) Dawson did not know that part of the settlement with the Federal Government addressed a systemic practice of charging unauthorized fees.

4. In fact, Dawson did not know about these facts and circumstances until June, July, and August of 2015.

5. The above facts and circumstances set forth above in paragraph 3 (a) through 3(h), when considered in a light most favorable to Dawson, result in a likelihood for Dawson to prevail on the merits of his current claims against Litton.

6. Rule 60(b) states: “On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59 (b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party . . . or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken . . . **This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court.**” (emphasis added).

7. Nowhere in the record of any previous proceeding in this entire matter does Litton “come clean” with any Court, and admit or inform any Court, of its ongoing investigation by the federal government.

8. As a result of circumstances such as these, Rule 60 sets forth a comprehensive framework for obtaining relief from a final judgment or order, balancing the competing needs for finality and flexibility to be certain that justice is done in light of all the facts. See Barry v. Barry, 409 Mass. 727, 732-733 (1991). See also Bankers Mtge. Co. v. United States, 423 F.2d 73, 77 (5th Cir.), cert. denied, 399 U.S. 927 (1970).

9. In this matter, the previous litigations of Dawson's claims were, through absolutely no fault or failure of Dawson, adjudicated without Dawson's access to the new facts and circumstances which did not, and could not, exist at the time of the previous litigations.

WHEREFORE, Dawson respectfully requests that the Court reconsider its decision to deny Dawson's relief under Rule 60(b) and allow this matter to proceed in a manner which permits Dawson to litigate his claims without the concealment of the material facts which support his case.

Respectfully submitted,

/s/ Christopher Dawson

Christopher Dawson

575 Wickenden Street, #207

Providence, RI 02903

Date: 3/31/2017

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing upon the Plaintiff by forwarding the same via First Class Mail; and this day to:

Justin M. Fabella, BBO #654859  
Christine Abely, BBO #679700  
HINSHAW & CULBERTSON LLP  
28 State Street, 24th Floor  
Boston, MA 02109

/s/ Christopher Dawson  
Christopher Dawson

3/31/2017  
Date

APPENDIX N

COMMONWEALTH OF MASSACHUSETTS  
DISTRICT COURT DEPARTMENT

PLYMOUTH COUNTY    WAREHAM DIVISION  
Case No. 1160-SU-0102

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LITTON LOAN SERVICING, LP

Plaintiff

v.

CHRISTOPHER DAWSON

Defendant

---

**PLAINTIFF LITTON LOAN SERVICING, LP'S  
OPPOSITION TO DEFENDANT'S MOTION FOR  
RECONSIDERATION**

**I. INTRODUCTION**

The Court should deny the Defendant, Christopher Dawson's ("Defendant"), motion for reconsideration of the denial of his Mass. R. Civ. P. 60(b) motion for relief from judgment because the Defendant fails to meet any of Rule 60(b)'s requirements for relief, both from the 2012 judgment and the Court's denial of his recent motion. Specifically, the Defendant simply reiterates the same reasons presented in his motion for relief and at the motion hearing, and has not provided any reason justifying reconsideration of the Court's order of March 16, 2017 ("Order," attached as **Exhibit 1**).

Moreover, as the Order states, the Defendant has failed to provide any clear and convincing evidence of the alleged fraud or that the Plaintiff, Litton Loan Servicing, LP (“Plaintiff”), knowingly misled the court. The Defendant’s arguments also remain barred by res judicata.

## **II. ARGUMENT**

### **A. Standard for Reconsideration Under Mass. R. Civ. P. 60(b)**

“Where there is no material change in circumstances, the Court is not bound to reconsider a case once decided.” *King v. Globe Newspaper Co.*, 400 Mass. 705, 707 (1987), *cert. den.*, 485 U.S. 940 (1988). However, when a party seeks reconsideration of a prior ruling, it “should specify (1) ‘changed circumstances’ such as (a) newly discovered evidence or information, or (b) a development of relevant law; or (2) a particular and demonstrable error in the original ruling or decision.” *See Peterson v. Hopson*, 306 Mass. 597, 600 (1940); *Barbosa v. Hopper Feeds, Inc.*, 404 Mass. 610, 622 (1989). However, “[a]fter the denial of one motion, a second motion based on the same grounds need not be entertained.” *See Peterson*, 306 Mass. at 600.

### **B. There Are No Grounds for Reconsideration or Relief From Judgment**

The Defendant has not met any of the aforementioned standards. He provides no newly discovered evidence or information, but rather a repetition of the allegations presented in his motion for relief from judgment and at the ensuing hearing. Specifically, the Defendant claims that the “facts” alleged in paragraph (a) - (h) about Plaintiffs “illegal

practices” were unknown to him, but disregards that the Court considered these “facts” in his motion for relief.<sup>1</sup> This is demonstrated by the Court’s Order, which specifically references these repetitive allegations:

Specifically, the Defendant has failed to present clear and convincing evidence of the nature of the alleged fraud warranting relief from judgment. The Defendant once again claims that the Plaintiff knowingly and intentionally misled this court by failing to disclose illegal practices associated with the assignment of a mortgage. However, the Plaintiff had at all times denied any such allegations made against it and eventually executed a Consent Agreement in which it denied any wrongdoing.

Accordingly, the Court already considered the allegations that the Defendant claims he could not have known before the 2012 judgment had entered in this matter, and determined that they did not warrant relief from judgment. The same applies to the identical allegations in the context of this motion for reconsideration.

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<sup>1</sup> The Defendant wants the Court to consider the settlement involving Ocwen Loan Servicing, Inc., as the successor servicer to Plaintiff, but he concedes that he “did not qualify for compensation under the settlement because [his] loan was more than the threshold limit of \$729,750 established by the settlement terms and conditions,” Para. 3(e-f). Although this is not a new “fact,” and was already considered by this Court, it has absolutely no impact on the Defendant’s claim because the Settlement was never intended to cover his loan.



**C. There Remains No Basis to Support the Defendant's Allegations of Fraud**

Furthermore, although the Defendant continues to pursue a theory of fraud on the court, both of his motions contain unsupported allegations regarding “robo-signing” and other wrongdoing that have never been connected to the foreclosure of the subject property and the Defendant’s eviction. The Order notes that at no point did Plaintiff admit to wrongdoing in the Consent Agreement. As stated by Judge Sharkansky at the hearing on the Defendant’s motion for relief from judgment, the Defendant’s theory assumes, without evidence, that Plaintiff or its counsel knew of the government investigation at the time of the 2012 judgment in this matter (the referenced Consent Agreement was signed in 2013).

**D. The Defendant's Argument Remains Barred by Res Judicata**

As referenced in both Plaintiffs opposition to the motion for relief from judgment and the Court’s Order, the Defendant’s argument is barred by res judicata. As the Order states:

[T]he Defendant is precluded from relief under Rule 60(b) based on principles of res judicata as the causes of the action alleged in this motion are identical to the issues raised in prior actions filed in Plymouth Superior Court. In said cases the Court entered a final judgment of dismissal of fraud and misrepresentation claims brought by this Defendant against the Plaintiff. In fact, subsequent to the second Plymouth Superior Court dismissal, a new action

was filed in Plymouth Superior Court and removed to federal court. This action was dismissed based on res judicata principles relying upon the second Plymouth Superior Court action. This case stands on the same ground and therefore denies the Defendant's Motion for Relief in this matter.

Nothing has changed to affect this finding, as the Defendant now proffers the identical argument made in his motion for relief from judgment and in the prior actions he had filed referenced above.

### III. CONCLUSION

WHEREFORE, the Plaintiff, Litton Loan Servicing, LP, requests that this Court deny the Defendant's motion for reconsideration, with other relief as it deems proper.

Respectfully submitted,

LITTON LOAN SERVICING, LP,

By Its Attorneys,

/s/ Jordan S. O'Donnell

Justin M. Fabella, BBO #654859

Jordan S. O'Donnell, BBO #684001

Hinshaw & Culbertson LLP

28 State Street

24th Floor

Boston, MA 02109

617-213-7000

617-213-7001 (facsimile)

jfabella@hinshawlaw.com

jodonnell@hinshawlaw.com

Dated: April 11, 2017

**CERTIFICATE OF SERVICE**

I, Jordan S. O'Donnell, hereby certify that on this 11th day of April 2017, I served a true and accurate copy of the foregoing document to counsel of record by U.S. Mail as follows:

Christopher Dawson  
575 Wickendon Street, #207  
Providence, RI 02903

/s/ Jordan S. O'Donnell  
Jordan S. O'Donnell

**APPENDIX O**

**NOTICE TO THE PARTIES**

DOCKET NUMBER  
1160SU000102

Trial Court of Massachusetts  
District Court Department

CASE NAME

Litton Loan Servicing, LP v. Christopher Dawson

ATTORNEY (OR PRO SE PARTY) TO WHICH THIS COPY OF  
NOTICE IS ISSUED

Justin Mark Fabella, Esq.  
Hinshaw & Culbertson LLP  
28 State Street  
24th Floor  
Boston, MA 02109

COURT NAME & ADDRESS

Wareham District Court  
2200 Cranberry Highway  
West Wareham, MA 02576

**TO THE PARTIES TO THIS CASE:**

The enclosed indicates the Court's action in this matter.

DEFENDANT'S MOTION FOR WAIVER OF PERSONAL APPEARANCE AND CONSENT TO RULING WITHOUT ORAL ARGUMENT WAS ALLOWED, DEFENDANT'S MOTION FOR RECONSIDERATION WAS DENIED. SHARKANSKY, JUSTICE.

DATE ISSUED April 20, 2017

CLERK-MAGISTRATE/ASST. CLERK Daryl Manchester

**APPENDIX P**

COMMONWEALTH OF MASSACHUSETTS  
DISTRICT COURT DEPARTMENT

PLYMOUTH COUNTY    WAREHAM DIVISION  
Case No. 1160-SU-0102

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LITTON LOAN SERVICING, LP

Plaintiff

v.

CHRISTOPHER DAWSON

Defendant

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**NOTICE OF APPEAL**

The Defendant Christopher Dawson gives notice that he appeals from the judgment entered against his 60(b) motion for relief from judgment on March 16, 2017.

Respectfully submitted,

*/s/ Christopher Dawson*

Christopher Dawson

575 Wickenden Street, #207

Providence, RI 02903

Date: May 1, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing upon the Plaintiff by forwarding the same via First Class Mail; and this day to:

Justin M. Fabella, BBO #654859  
HINSHAW & CULBERTSON LLP  
28 State Street, 24th Floor  
Boston, MA 02109

/s/ Christopher Dawson  
Christopher Dawson

May 1, 2017  
Date

**APPENDIX Q**

**COMMONWEALTH OF MASSACHUSETTS**

**PLYMOUTH, SS:  
WAREHAM DISTRICT COURT  
CIVIL ACTION NO. 1160-SU-0102**

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**LITTON LOAN SERVICING, LP,**

**Plaintiff,**

**v.**

**CHRISTOPHER DAWSON**

**Defendant.**

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**PLAINTIFF LITTON LOAN SERVICING, LP'S  
MOTION TO STRIKE/DISMISS DEFENDANT'S  
APPEAL**

**I. INTRODUCTION**

The Plaintiff/Appellee, Litton Loan Servicing, LP ("Plaintiff"), moves this Court to strike or dismiss the appeal of the Defendant/Appellant, Christopher Dawson ("Defendant"), for his failure to comply with the District/Municipal Courts Appellate Division Rules ("Dist./Mun. Cts. R.A.D.A."). Specifically, (1) the Defendant's notice of appeal is untimely as it was not filed within ten (10) days of the denial of the motion from which he seeks review, as required by Dist./Mun. Cts. R.A.D.A., Rule 4(a); (2) the Defendant failed to pay the requisite filing fee with his notice of

appeal, as required by Dist./Mun. Cts. R.A.D.A., Rule 3(a); (3) the Defendant's notice of appeal is fatally deficient as it does not contain all information required by Dist./Mun. Cts. R.A.D.A., Rule 3(c); and (4) the Defendant failed to select a method of appeal as required by Dist./Mun. Cts. R.A.D.A., Rules 8A, 8B and/or 8C. Furthermore, the Defendant's motion for reconsideration does not toll the deadline for him to have filed his appeal under Rule 4(a). These multiple deficiencies with regards to the notice of appeal should result in its dismissal, as the Defendant cannot demonstrate good cause for his failure to comply with multiple rules.

## **II. BACKGROUND**

### **A. Procedural Requirements for Appeal to Appellate Division**

A notice of appeal from an order of this Court to the Appellate Division must be filed with the clerk within ten (10) days of the order's entry, together with the required filing fee. *See* Dist./Mun. Cts. R.A.D.A., Rules 3(a) and 4(a). The notice of appeal must "limit the scope of the appeal and contain:

- (1) a designation of the party or parties taking the appeal;
- (2) a concise statement of the issues of law presented for review;
- (3) the judgment, ruling, finding, decision or part thereof being appealed; and
- (4) in the case of rulings, a copy of the motion, request for ruling or proof of evidence giving rise to such ruling, if any;



- (5) the notice of appeal may also include a request that the clerk order a cassette copy of the electronic recording of the proceedings, set forth the required form and accompanied by the required fee.”

*See* Dist./Mun. Cts. R.A.D.A., Rule 3(c). Thereafter, an appellant must select one of three methods for the appeal. Rule 8A permits an appellant to file an “Expedited Appeal” within twenty (20) days. *See* Dist./Mun. Cts. R.A.D.A., Rule 8A. Under Rule 8B, both the appellant and appellee may elect to submit an appeal with an agreed statement of the case within thirty (30) days. *See* Dist./Mun. Cts. R.A.D.A., Rule 8B(a) and (b). Lastly, an appellant can proceed under Rule 8C on the record of the proceedings by filing an “Appeal on the Record of the Proceedings” within thirty (30) days, *See* Dist./Mun. Cts. R.A.D.A., Rule 8C(a) and (b).

**B. Defendant’s Motions Filed in Trial Court and Notice of Appeal**

This is a summary process matter for possession, arising out of the Plaintiff’s foreclosure of the property located at 12 North Drive, Marion, Massachusetts (“Property”). This Court issued an execution for possession of the Property on March 9, 2012. *See* Docket, attached as **Exhibit A**. After filing multiple unsuccessful lawsuits in other venues, the Defendant filed a motion for relief from judgment pursuant to Mass. R. Civ. P. 60(b) (“Motion for Relief”) in this matter on or about October 3, 2016. The Plaintiff filed an opposition and after a hearing on March 2, 2017, the Court denied the Defendant’s motion on March 22, 2017. *See* Order Denying Motion for Relief, attached as **Exhibit B**; *see also* Exhibit A.

The Defendant then filed a motion for reconsideration (“Motion for Reconsideration”) on or about March 31, 2017, which the Plaintiff also opposed. The Court denied the Motion for Reconsideration on April 20, 2017. *See* Order Denying Motion for Reconsideration, attached as **Exhibit C**; *see also* Exhibit A.

On May 1, 2017, the Defendant filed a notice of appeal (“Notice of Appeal”). *See* Notice of Appeal, attached as **Exhibit D**. Notably, it states that the Defendant “appeals from the judgement (sic) entered against his 60(b) motion for relief from judgment on March 16, 2017.”<sup>2</sup> The Notice of Appeal was thus filed forty (40) days after the denial of the Motion for Relief. Moreover, no filing fee is referenced in the Notice of Appeal or on the Court’s docket. *See* Exhibits A and D. On May 16, 2017, the Defendant submitted a “Cassette Copy Order Form” for the March 2, 2017, hearing.

### III. ARGUMENT

#### THE APPEAL SHOULD BE DISMISSED FOR THE DEFENDANT’S FAILURE TO COMPLY WITH, AND BLATANT DISREGARD OF THE DIST./MUN. CTS. R.A.D.A.

Dismissal of the Defendant’s appeal is appropriate in this action. The Plaintiff was granted possession of the Property in 2012. The Defendant thereafter filed multiple unsuccessful lawsuits before filing his Motion for Relief in October 2016, more than four years after the execution of possession was issued. The Motion for Relief was denied for good and multiple reasons, including failure to meet the Mass.

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<sup>2</sup> The Motion for Relief was denied on March 22, 2017. This error does not alter the Plaintiff’s argument.

R. Civ. P. 60(b) standard and res judicata. The Defendant now purports to appeal the Court's denial of his Motion for Relief with a deficient and untimely Notice of Appeal.

“[T]he responsibility for expediting appeals is squarely on the appellant.” *Georgantis v. Star Market Co.*, 2000 Mass. App. Div. 77, 2000 WL 298917, at \*2 (Mar. 17, 2000) (quoting *McCarthy v. O'Connor*, 398 Mass. 193, 199 (1986)). Moreover, the trial court has the inherent power to dismiss an appeal for noncompliance with the procedural rules, certainly where an appeal has not yet transmitted to the Appellate Division. See *Signature Flight Support Corp. v. Global NAPs Realty, Inc.*, 2004 Mass. App. Div. 24, 2005 WL 6070813, at \*2 (Feb. 18, 2005) (citing *Maciuca v. Papit*, 31 Mass.App.Ct. 540, 544 (1991)). The trial court's adjudication of motions to dismiss appeals is “necessary to promote the finality of judgments.” *Id.*

The Defendant's failure to comply with the procedural requirements for his appeal should not be excused. His disregard of the applicable rules and procedures warrants its dismissal.

**A. The Untimely and Deficient Notice of Appeal Mandates Dismissal**

The Defendant's Notice of Appeal explicitly states that he appeals this Court's denial of his Motion for Relief, which was issued on March 22, 2017. See Exhibits A, B, and D. However, the Notice of Appeal is untimely, does not contain the required information, and is unaccompanied by payment of the required filing fee. The appeal should be dismissed.

1. **The Defendant Failed to File the Notice of Appeal Timely**

The District/Municipal Courts Appellate Division Rules specifically set a ten day deadline for an appellant to file a notice of appeal in order to seek appellate review. *See* Dist./Mun. Cts. R.A.D.A., Rule 3(a) and 4(a). Here, the Defendant filed his Notice of Appeal forty (40) days after the Court denied the Motion for Relief. *See* Exhibits A, B, and D.

2. **The Defendant's Motion for Reconsideration Did Not Toll the Defendant's Timeline to Notice the Appeal**

After the Motion for Relief was denied on March 22, 2017, the Defendant filed the Motion for Reconsideration on or about March 31, 2017. *See* Exhibit A, B, and C. However, the Appellate Division has held that filing a motion for reconsideration of a denial of a Mass. R. Civ. P. 60(b) motion for relief from judgment does not toll the ten-day deadline for filing a notice of appeal. *See Kirby v. Miami Systems Corp.*, 1999 Mass. App. Div. 197, n. 4, 1999 WL 788442 (Aug. 16, 1999) (*citing Selby Assoc. v. Boston Redevelop. Auth.*, 27 Mass.App.Ct. 1188, 1189 (1989)).

Dist./Mun. Cts. R.A.D.A., Rule 4(a) provides the circumstances for when the deadline to notice an appeal is tolled, which do not include those here. Rule 4(a)'s second paragraph states that if a post-judgment motion under Mass. R. Civ. P. 60 is filed within ten days of the entry of judgment, then "the ten-day time for appeal for all parties shall run from the entry of the order denying a new trial or granting or denying any other such motion." Here, the Motion for Reconsideration was filed more than five (5) years

after the original entry of judgment for possession. Only when a motion for reconsideration is “filed within ten days of judgment and calls into question the correctness of that judgment” may it be treated as a Mass. R. Civ. P. 59 motion that tolls the time for noticing an appeal. *See MacLeod v. Dizazzo*, 2001 Mass. App. Div. 128, 2001 WL 705658, at \*1 (June 13, 2001) (citing *Piedra v. Mercy Hosp., Inc.*, 39 Mass.App.Ct. 184, 187, n. 3 (1995)); *Altman v. Mesbahi*, 1999 Mass. App. Div. 130, 1999 WL 788630 (May 25, 1999). Accordingly, the Notice of Appeal was required to be filed within ten days of the denial of the Motion for Relief, not ten days of the denial of the Motion for Reconsideration.

**3. The Defendant Failed to Pay the Required Filing Fee**

Dist./Mun. Cts. R.A.D.A., Rule 3(a) and 4(a) also require an appellant to pay the required filing fee with the trial court within ten (10) days. There is no indication, however, that the Defendant paid the requisite filing fee when he filed the Notice of Appeal. *See* Exhibits A and D. In *Connolly v. Moore*, the Appeals Court affirmed an appeal’s dismissal when the appellant had failed to pay the requisite filing fee at the time the notice of appeal was filed. 55 Mass. App. Ct. 1115, 2002 WL 31012223, at \*2 (Sept. 9, 2002) (Rule 1:28 decision). According to the Appeals Court, “[t]he Appellate Division was correct to conclude the defendant did not preserve her right to appeal to the Appellate Division because of her failure to comply with fee provision. . . .” *Id.* Here, the Defendant’s failure to comply with this basic requirement also mandates dismissal of his appeal, as there is no good cause to excuse his failure.

4. **The Notice of Appeal Does Not Contain All the Required Information for Appellate Review**

The Notice of Appeal is also fatally deficient because the Defendant failed to include all information required under Rule 3(c). By its very terms, Rule 3(c) seeks to limit the scope of appeal and requires all notices of appeal to contain not only the designation of the parties taking the appeal, but a concise statement of the issues of law for review, as well as the judgment or decision being appealed. Additionally, in the case of rulings, a copy of the motion, request for ruling or proof of evidence is required. *See* Dist./Mun. Cts. R.A.D.A., Rule 3(c).

“Failure to include an issue in the notice of appeal as required by Rule 3(c) . . . forecloses [an] appellant’s right to obtain appellate review under Rule 8A [8B or 8C].” *Magni v. Patriot Home Improvement*, 2008 Mass. App. Div. 21, 2008 WL 130772, at \*1 (Jan. 11, 2008) (*citing East Coast Mech. v. O’Leary*, 1997 Mass. App. Div. 66, 1997 WL 282189, at \*1 (May 21, 1997)). In *East Coast Mech.*, the Appellate Division dismissed an appeal when the appellant simply stated he was aggrieved by the judgment entered and completely omitted any statement of issues raised on appeal. 1997 WL 282189, at \*1. Similarly, in *Magni*, the Appellate Division reversed the trial court when the notice of appeal filed under Rule 3(c) failed to identify a specific issue of law on appeal. 2008 WL 130772, at \*1 (noting the failure to comply with Rule 3(c) was fatal and precluded appellate review). In *Magni*, the notice of appeal “merely recite[d] an objection to a decision reached by the court . . .” *Id.*

In his Notice of Appeal, the Defendant provides no statement of the issues of law for review, and instead merely identifies the denial of the Motion for Relief, albeit with the wrong date. Copies of the motion and this Court's decision are also not included. *See* Exhibits A and D. As the Notice of Appeal fails to comply with Rule 3(c), the appeal must be dismissed.

5. **The Defendant's Failure to Select the Method of Appeal Mandates Dismissal**

Pursuant to the District/Municipal Courts Appellate Division Rules, after filing a notice of appeal, an appellant must select a method for proceeding for the appeal. An appellant can proceed: (i) on an expedited appeal under Rule 8A, filed within twenty (20) days of the filing of a notice of appeal; (ii) on an "agreed statement of the case" under Rule 8B to be submitted within thirty (30) days of filing a notice of appeal or the termination of an expedited appeal; or (iii) "based on the record of proceedings" under Rule 8C, which must be filed within thirty (30) days of filing the notice of appeal or the termination of procedures under Rules 8A and 8B. *See* Dist./Mun. Cts. R.A.D.A., Rules 8A, 8B, and 8C.

"The failure to file a timely appeal on the record of proceedings is a serious procedural misstep, the 'presumptive penalty' for which is dismissal of the appeal." *Godfrey v. Woburn Foreign Motors*, 2001 Mass. App. Div. 81, 2001 WL 575491, at \*2 (May 18, 2001) (*citing Georgantis*, 2000 Mass. App. Div. 77, 2000 WL 298917 (Mar. 17, 2000)); *Rothman v. Begley*, 2000 Mass. App. Div. 280, 2000 WL 1537994, at \*4 (Oct. 11, 2000). In *Georgantis*, the Appellate Division dismissed an appeal where the appellant failed to designate its Rule 8C appeal within the 30-day period,

instead filing its notice two months later, 2000 WL 298917, at \*2. Similarly, in *Rothman*, the cross-appellants did not file their Rule 8C notice until after the 30-day period had expired, resulting in dismissal of their appeal by the Appellate Division. 2000 WL 1537994, at \*4-5. There is no leeway when it comes to complying with the procedural rules governing appeals.

In appealing this Court's denial of the Motion for Relief, the Defendant has not timely selected a method of appeal. The Defendant filed his Notice of Appeal on May 1, 2017. Although thirty days have passed since that date, the Defendant has not contacted the Plaintiff to proceed on an agreed statement of the case. *See* Dist./Mun. Cts. R.A.D.A., Rule 8B. The Defendants also missed the deadline to file an expedited appeal under Rule 8A. *See* Dist./Mun. Cts. R.A.D.A., Rule 8A. The Defendant can thus only proceed under Rule 8C, but he has also missed its thirty-day deadline. *See* Dist./Mun. Cts. R.A.D.A., Rule 8C. Based on the strict case law cited above, the Defendant's failure to meet these deadlines warrants dismissal of his appeal.

**B. There is No Good Cause to Extend Any Procedural Deadlines**

This Court should also reject any subsequent attempts by the Defendant to resurrect his appeal or avoid its dismissal with enlarged deadlines to comply with the Rules. The District/Municipal Courts Appellate Division Rules allow for enlargements to file a notice of appeal or any other acts required. *See* Dist./Mun. Cts. R.A.D.A. Rule 4(c) and Rule 14(b). However, the Defendant cannot establish the "good cause" needed to support such a request, as it is the



equivalent of “excusable neglect,” which calls for unique or extraordinary circumstances. *Georgantis*, 2000 WL 298917, at \*2. “Good cause” cannot be established by claiming inadvertence or oversight in failing to timely select a method of appeal or claiming a misunderstanding of the procedural rules. *See Georgantis*, 2000 WL 298917, at \*2; *Rothman*, 2000 WL 1537994, at \*4. Moreover, “[u]nfamiliarity with or inattention to, governing rules of court does not constitute good cause for Rule 14(6) relief.” *Signature Flight Support Corp.*, 2004 Mass. App. Div. 24, 2005 WL 6070813 (Feb. 18, 2005) (quoting *Samia v. D’Annunzio*, 2001 Mass. App. Div. 31, 2001 WL 210096, at \*2 (Feb. 23, 2001)). *See also Goldstein v. Barron*, 382 Mass. 181, 186 (1980).

There is simply no excuse for the Defendant’s failure to comply with the basic procedural requirements for an appeal to the Appellate Division. His request for relief from judgment five years after it issued has burdened the Plaintiff, which has had to defend against several motions and now an appeal in a matter long ago decided. The Plaintiff has filed lawsuits in other venues seeking to challenge the foreclosure, all unsuccessful. His last lawsuit was dismissed on res judicata grounds, on which this Court also denied his Motion for Relief. *See* Exhibit B. The Plaintiff’s unending attempts to challenge a foreclosure already deemed valid should not entitle him to “good cause” to drag out a meritless and procedurally deficient appeal.

Regardless of his appeal’s lack of merits, the Defendant filed his Notice of Appeal untimely and defectively, and has failed to comply with multiple District/Municipal Courts Appellate Division Rules.

The Plaintiffs motion to dismiss the appeal should be granted.

**IV. CONCLUSION**

WHEREFORE, the Plaintiff/Appellee, Litton Loan Servicing, LP, moves this Court to dismiss the appeal of the Defendant/Appellant, Christopher Dawson.

Respectfully submitted,

LITTON LOAN SERVICING, LP,

By Its Attorneys,

/s/ Jordan S. O'Donnell

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Jordan S. O'Donnell, BBO #684001

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jodonnell@hinshawlaw.com

Dated: 6/2/17

**CERTIFICATE OF SERVICE**

I, Jordan S. O'Donnell, hereby certify that on this 2nd day of June 2017, I served a true and accurate copy of the foregoing document to counsel of record by U.S. Mail as follows:

Christopher Dawson  
575 Wickendon Street, #207  
Providence, RI 02903

/s/ Jordan S. O'Donnell

Jordan S. O'Donnell

**APPENDIX R**

**NOTICE TO THE PARTIES  
DOCKET NUMBER 1160SU000102  
Trial Court of Massachusetts  
District Court Department**

CASE NAME: Litton Loan Servicing, LP v. Christopher Dawson

ATTORNEY (OR PRO SE PARTY) TO WHOM THIS COPY OF NOTICE IS ISSUED

Justin Mark Fabella, Esq.  
Hinshaw & Culbertson LLP  
28 State St 24th Floor  
Boston, MA 02109

COURT NAME & ADDRESS

Wareham District Court  
2200 Cranberry Highway  
West Wareham, MA 02576

**TO THE PARTIES TO THIS CASE:**

The enclosed indicates the Court's action in this matter.

AFTER HEARING, (DEFENDANT NOT BEING PRESENT) THE COURT ALLOWED PLAINTIFF'S MOTION TO DISMISS DEFENDANT'S APPEAL AS UNTIMELY. DEFENDANT APPEALS THE DENIAL OF HIS RULE 60(B) MOTION WHICH OCCURED ON MARCH 22, 2017. HIS MOTION TO RECONSIDER THAT DENIAL WAS DENIED ON APRIL 2011, 2017. DEFENDANT'S APPEAL (OF

THE ORIGINAL DENIAL) WAS NOT FILED UNTIL  
MAY 31, 2017; MORE THAN 10 DAYS AFTER THE  
DENIAL OF BOTH MOTIONS IN ADDITION,  
DEFENDANT HAS FAILED TO PAY THE APPEAL  
FILING FEE. BARRETT, JUSTICE.

DATE ISSUED  
June 29, 2017

CLERK-MAGISTRATE/ASST. CLERK  
Daryl Manchester

**APPENDIX S**

**NOTICE TO THE PARTIES  
DOCKET NUMBER 1160SU000102  
Trial Court of Massachusetts  
District Court Department**

CASE NAME: Litton Loan Servicing, LP v. Christopher Dawson

ATTORNEY (OR PRO SE PARTY) TO WHOM THIS COPY OF NOTICE IS ISSUED

Justin Mark Fabella, Esq.  
Hinshaw & Culbertson LLP  
28 State St 24th Floor  
Boston, MA 02109

COURT NAME & ADDRESS

Wareham District Court  
2200 Cranberry Highway  
West Wareham, MA 02576

**TO THE PARTIES TO THIS CASE:**

On August 3, 2017 Judge Barrett denied the defendant's motion for reconsideration of this court's June 29, 2017 decision allowing plaintiff's motion to dismiss defendant's appeal as untimely.

DATE ISSUED  
August 3, 2017

CLERK-MAGISTRATE/ASST. CLERK  
Daryl Manchester