

IN THE CIRCUIT COURT COURT FOR THE 15TH JUDICIAL
CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

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WELLS FARGO BANK, NA, :
Plaintiff, :
v. : Case No.
[REDACTED] et al. : 50 2010 CA018991XXXX MB
Defendants. :

-----x
WELLS FARGO BANK, NA, :
Plaintiff, :
v. : Case No.
[REDACTED] et al. : 50 2010 CA023143XXXXMB
Defendants. :

-----x
WELLS FARGO BANK, NA :
Plaintiff, :
v. : Case No.
[REDACTED] et al. : 50 2010 CA016671XXXXMB
Defendants. :

-----x

1 -----x
2 HSBC BANK USA, NATIONAL :
3 ASSOCIATION AS TRUSTEE FOR :
4 WELLS FARGO ASSET SECURITIES:
5 CORPORATION, MORTGAGE PASS- :
6 THROUGH CERTIFICATES SERIES :
7 2006-11, :
8 Plaintiff, :
9 v. :Case No.
10 [REDACTED] et al. :50 2010 CA021924XXXXMB
11 Defendant. :
12 -----x
13 -----x
14 HSBC BANK USA, NATIONAL :
15 ASSOCIATION, AS TRUSTEE FOR :
16 NOMURA ASSET ACCEPTANCE :
17 CORPORATION MORTGAGE PASS :
18 THROUGH CERTIFICATES SERIES :
19 2005-AR3, :
20 Plaintiff, :
21 v. :Case No.
22 [REDACTED] et al. :50 2010 CA013739XXXXMB
23 Defendants. :
24 -----x
25 December 7, 2010

1 Frederick, Maryland

2 DEPOSITION OF:

3 ALDEN BERNER,

4 a witness, called for examination by counsel for the
5 Defendants, pursuant to notice and agreement of the
6 parties, at Barclay Adams Court Reporting, 47 East
7 All Saints Street, Frederick, Maryland 21701,
8 beginning at approximately 10:00 a.m., before
9 Lisa R. Thomas, a Notary Public in and for the State
10 of Maryland, when were present on behalf of the
11 respective parties:

12 APPEARANCES OF COUNSEL:

13 For the Plaintiff:

14 CARLTON FIELDS

15 BY: Michael K. Winston, Esquire

16 City Place Tower

17 525 Okeechobee Boulevard, Suite 1200

18 West Palm Beach, Florida 33401-6149

19 561-659-7070

20 For the Defendants:

21 ICE LEGAL, PA

22 BY: James W. Flanagan, Esquire

23 1015 North State Road 7, Suite D

24 Royal Palm Beach, Florida 33411

25 561-729-0530

1 I N D E X

2 THE WITNESS: EXAMINATION BY:
3 Alden Berner Mr. Flanagan 6, 98
4 Mr. Winston 93

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8

9 E X H I B I T S

10 EXHIBIT NUMBER: MARKED ON PAGE:

11 1 69

12 2 73

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1 PROCEEDINGS

2 WHEREUPON,

3 ALDEN BERNER,

4 a witness, called for examination, having been first
5 duly sworn according to law, was examined, and
6 testified as follows:

7 EXAMINATION BY COUNSEL FOR THE DEFENDANTS:

8 BY MR. FLANAGAN:

9 Q. All right. We are here this morning
10 taking the deposition of Mr. Berner. Have I
11 pronounced your name correctly?

12 A. That's correct.

13 Q. We are here taking the deposition of
14 Alden Berner in five cases: Wells Fargo Bank versus
15 [REDACTED] Wells Fargo Bank versus [REDACTED] Wells Fargo
16 Bank versus [REDACTED] HSBC Bank USA versus Wells, and
17 HSBC Bank USA versus [REDACTED]

18 I'm Jim Flanagan on behalf of the defendants
19 that have appeared at least so far in these cases,
20 and Mike Winston is here on behalf of the
21 plaintiffs?

22 MR. WINSTON: Correct.

23 MR. FLANAGAN: And we have agreed that
24 these -- the depositions will be used in these five
25 cases, but subject to the rules of civil procedure

1 as far as any cross over goes between the cases.

2 MR. WINSTON: Yes, and further we've
3 agreed to produce Mr. Berner without the need for a
4 subpoena; and we are agreeing that his deposition
5 can be used in these five cases, notwithstanding
6 that there has been no commission issued, or
7 anything like this; but we're stipulating that that
8 was not necessary in these cases.

9 BY MR. FLANAGAN:

10 Q. Okay. Mrs. Berner, as I've mentioned
11 to you a minute ago my name is Jim Flanagan, I
12 represent several of the defendants in these cases.
13 I need to get some information from you with regard
14 to the cases. If I ask you a question, and you
15 don't understand it, please let me know. Okay?

16 A. Okay.

17 Q. And, I ask you to please answer out
18 loud so we can get an accurate transcript of the
19 testimony you're about to give, all right?

20 A. Yes.

21 Q. Okay. I take it you have never given a
22 deposition before?

23 A. I have not.

24 Q. Would you give me your name and your
25 residence address, please?

1 A. My name is Alden Berner. I live at 530
2 Lynnhaven Drive, Hagerstown, Maryland 70741 [sic].

3 Q. What's your age?

4 A. My age is thirty-three.

5 Q. And by whom are you currently employed?

6 A. I am employed by Wells Fargo Home
7 Mortgage.

8 Q. And where are they located here?

9 A. They're located at 8480 Stagecoach
10 Circle in Frederick, Maryland 70721 [sic].

11 Q. Okay. How long have you been employed
12 with Wells Fargo Home Mortgage?

13 A. Five years.

14 Q. And what is your position currently?

15 A. My current position is legal process
16 specialist.

17 Q. And how long have you held that
18 position?

19 A. I've held that position for the past
20 four -- around four -- about four years.

21 Q. Okay. And what did you do with Wells
22 Fargo Home Mortgage just before that -- this current
23 position?

24 A. Before this current position, or before
25 my title?

1 Q. Before this current position?

2 A. Before my current position -- my
3 current position as I stated is a legal process
4 specialist; I have been there for four years doing
5 different functions of a legal process specialist
6 with different departments; prior to that I started
7 off in originations.

8 Q. Also with Wells Fargo?

9 A. Also with Wells Fargo Home Mortgage,
10 yes.

11 Q. Before you're employment with Wells
12 Fargo where did you work?

13 A. Before I worked with Wells Fargo I
14 worked at Trout Liquors, Frederick, Maryland.

15 Q. Spell Trouts for us?

16 A. T R O U T S.

17 A. And at that same time I was also in
18 school.

19 Q. What did you do at Trouts Liquors?

20 A. I was a cashier, part-time manager.

21 Q. And you were in school where?

22 A. Lincoln University, Lincoln Tech; that
23 is here in Columbia, Maryland.

24 Q. Did you receive a degree, or
25 certificate at Lincoln Tech?

1 A. Yes.

2 Q. What?

3 A. It was an automotive certificate.

4 Q. You mean as far as mechanics?

5 A. Yes.

6 Q. And, before Trouts Liquors what was
7 your employment?

8 A. Bill Basey Kia.

9 Q. Spell Basey for me?

10 A. B A S E Y.

11 Q. I take it that's a car dealership?

12 A. Yes.

13 Q. Is that locally?

14 A. Yes, that is here in Frederick,
15 Maryland.

16 Q. And what was your position there?

17 A. I was an automotive technician.

18 Q. What is the extent of your formal
19 education?

20 A. I completed high school in Louisiana;
21 and I completed two years at the University of New
22 Orleans.

23 Q. When did you leave there?

24 A. New Orleans?

25 Q. Yes, sir, the University of New

1 Orleans?

2 A. I left there in 1998.

3 Q. To come up to this general area?

4 A. No. That's when I left. That's when I
5 was done with the University of New Orleans. I came
6 to Maryland in 2001.

7 Q. Before your employment with Wells Fargo
8 Home Mortgage had you been involved in the banking
9 or finance industry at all?

10 A. No.

11 Q. What are your job duties as legal
12 process specialist?

13 A. They vary. Job duties -- current job
14 duties would be -- my current job duties as of today
15 is I review bankruptcy affidavits.

16 Q. Okay. And, I guess that over time your
17 duties have changed or transitioned --

18 A. Yes.

19 Q. -- somewhat over the four years?

20 A. Yes.

21 Q. Generally in the first let's say three
22 years what were you doing?

23 A. In the first three years -- in the
24 first two I started out in originations, I
25 underwrote loans, I processed loans, and I closed

1 mortgages.

2 Q. For the consumer?

3 A. On the bank side, yes.

4 Q. So, just to get it down to laymen's
5 terms, were you sitting in a bank and actually doing
6 home mortgages for people that were looking for
7 them?

8 A. I was not sitting in a bank doing the
9 home mortgage, I was in the process center here in
10 Frederick, Maryland.

11 Q. Okay.

12 A. And those applications came to the
13 process center to be underwritten, reviewed, and
14 enclosed with whatever title company that particular
15 homeowner was choosing.

16 Q. Okay. And You did that for two years,
17 you said?

18 A. Yes, about two years.

19 Q. Okay. And then what took place next?

20 A. After leaving that role I took on a
21 different role at Wells Fargo which is my current
22 role, legal process specialist. The function that I
23 originally took I dealt with land transactions when
24 homeowners would want to sell property -- sell
25 pieces of their land, or local municipalities were

1 acquiring a portion of their land for right-of-way
2 projects.

3 Q. Okay. And you did that for how long?

4 A. I did that for about two and a half
5 years.

6 Q. What type of training did you get as
7 far as that goes for the -- when you first became
8 the legal process specialist and dealt with the land
9 transactions?

10 A. My training that I received when I
11 originally started with land transactions, I
12 received training on reviewing plat maps, legal
13 descriptions, titles, and the various investor
14 requirements for those loans that I reviewed.

15 Q. Okay. And, then when it came time to
16 change again and you became a legal process
17 specialist in the past year, what prompted that
18 change in your duties?

19 A. It was an opportunity with a different
20 department of Wells Fargo under the same job title
21 doing a different function, and I applied for that
22 position, and I was hired for that position.

23 Q. All right. And when did that start,
24 roughly?

25 A. About March of this year.

1 Q. March of 2010?

2 A. 2010, yes.

3 Q. Okay. And, you told me a minute ago
4 that your current duties involved review of
5 documents, affidavits for bankruptcy?

6 A. That is correct.

7 Q. Has that been the case since March?

8 A. No.

9 Q. Okay. So when you first started what
10 were you doing?

11 A. I reviewed foreclosure complaints.

12 Q. Okay. And, as you began this process
13 of reviewing the foreclosure complaints what type of
14 training did you receive, if any?

15 A. When I was initially hired, before I
16 reviewed anything, I received training with my
17 supervisor on Wells Fargo's current processes to
18 review those foreclosure complaints.

19 Q. Who is your supervisor?

20 A. Mark Kline.

21 Q. Is he still your supervisor?

22 A. Yes.

23 MR. WINSTON: That's K L I N E.

24 BY MR. FLANAGAN: (resumed)

25 Q. And is he also located in the same

1 office as you are, on Stage Coach Circle?

2 A. Yes.

3 Q. In your position as a legal process
4 specialist do you supervise any other individuals?

5 A. No.

6 Q. And their work?

7 A. No.

8 Q. Okay. Are there other employees that
9 are basically at the same level as you are?

10 A. Yes.

11 Q. Roughly how many?

12 A. Two at the current time.

13 Q. Has it been that way since March?

14 A. No.

15 Q. All right. How has it changed?

16 A. There were three and it has changed to
17 where one of the other co-workers of mine has taken
18 on a different jobs at Wells Fargo. So it's went
19 from three to two; and currently I know that my
20 supervisor, Mark, is in the early stages of hiring
21 another one to fill that position. Yes.

22 MR. WINSTON: Just so -- and I don't
23 think it's material -- but were you asking him
24 company-wide how many different people are legal
25 process specialists?

1 MR. FLANAGAN: No, no.

2 MR. WINSTON: That's what I thought.
3 You just want to know specifically how many people
4 were in his group doing that role?

5 MR. FLANAGAN: Exactly.

6 MR. WINSTON: Okay, great.

7 BY MR. FLANAGAN: (resumed)

8 Q. Now, when did you change from reviewing
9 the foreclosure materials to doing the bankruptcy?

10 A. About a month and a half ago.

11 Q. And what prompted that change?

12 A. The opportunity arose when people who
13 were doing the bankruptcy affidavits took on other
14 functions of Wells Fargo, and a position became
15 open. I applied to that position, and was hired.

16 Q. Okay. So, if I am doing my math right
17 then there is just one person left in your
18 department and in your office that's reviewing the
19 foreclosures?

20 A. No, there is two people. There is two
21 people currently there. When I was there there was
22 three. When I left that took it to two.

23 Q. I did my math wrong. Okay. Thank you.
24 Now, for reviewing the mortgage
25 forecloses when you began the process, what type of

1 an area did you -- were you responsible for
2 covering?

3 MR. WINSTON: I object to form.

4 BY MR. FLANAGAN: (resumed)

5 Q. You don't follow me?

6 A. No.

7 Q. Okay. How was it determined that you
8 would review a given mortgage foreclosure, was it by
9 geographical area, was it by name?

10 A. It was just we handled Florida -- the
11 entire state of Florida.

12 Q. "We," being who?

13 A. Myself and my team, my co-workers.

14 Q. Okay. So there was yourself and --

15 A. Two other co-workers.

16 Q. Who?

17 A. Deborah Blaney.

18 Q. Can you spell her last name?

19 A. B L A N E Y. And Craig, C R A I G,
20 Zecher, Z E C H E R.

21 Q. And yourself?

22 A. And myself, yes.

23 Q. All right. Up until roughly --

24 A. About a month and a half ago.

25 Q. September, October?

1 A. I would say the early part, mid-
2 October, somewhere around there.

3 Q. Okay. Did you have any states that you
4 were responsible for -- did the three of you have
5 any states that you were responsible for other than
6 Florida?

7 A. No.

8 Q. And were the three of you reviewing all
9 of the foreclosure complaints within the state of
10 Florida?

11 A. Yes.

12 Q. And you were doing that on -- for what
13 entity or entities?

14 A. I don't follow?

15 Q. Okay. You reviewed mortgage
16 foreclosure complaints that were filed on behalf of
17 who?

18 A. On behalf of several owners that Wells
19 Fargo services their loans.

20 Q. Okay. Do you recall the owners that
21 were involved?

22 A. I don't. I don't recall anyone in
23 particular.

24 Q. Roughly how many owners were there that
25 Wells Fargo was servicing?

1 A. I would not know that, I don't know.

2 Q. In Florida?

3 A. I don't know.

4 Q. Are we talking ten, or more?

5 A. Again, I don't know that. I don't
6 know. I did not keep count.

7 Q. Were the complaints that you reviewed
8 only Wells Fargo Bank, NA?

9 MR. WINSTON: I object to form.

10 THE WITNESS: No.

11 BY MR. FLANAGAN: (resumed)_

12 Q. There were other entities that were
13 involved?

14 A. Yes.

15 Q. And, Wells Fargo was servicing the
16 mortgages on behalf of those other entities?

17 A. Yes.

18 Q. So then did you see any service
19 agreement between Wells Fargo and any of these other
20 entities that may have been involved?

21 A. I did not see a service agreement, but
22 I did review our investor Matrix who shows who the
23 owner and the correct name to foreclose in for that
24 particular loan that I reviewed at that time.

25 Q. All right. You reviewed the --

1 A. Our Investor Matrix.

2 Q. And, if I had a name and was willing to
3 guess that's a computer program?

4 A. That's correct.

5 Q. Let me come back to that in a minute.
6 When you were reviewing the foreclosure complaints
7 in March through September of 2010, on a given day
8 how many complaints would you receive,
9 approximately?

10 A. I would not know, it varied from day to
11 day.

12 Q. Can you give me any estimate as to the
13 number of complaints you would review in a given day
14 on average?

15 A. Again, I would not know; I didn't keep
16 count. And, again, they varied day to day.

17 Q. By how much?

18 A. I did not keep count. I would not
19 know.

20 Q. Are we talking less than ten, more than
21 a hundred?

22 A. Again...

23 Q. Any estimate?

24 A. Again, I would not know. I didn't keep
25 count.

1 Q. How long would it take you to review a
2 complaint?

3 A. Again, I would say the necessary time
4 that it took to read the entire complaint and follow
5 our procedures. And --

6 Q. Okay. Go ahead, I didn't mean to
7 interrupt you.

8 A. That time I wouldn't -- the time frame
9 itself I would not know.

10 Q. Did you have to keep a log of any type
11 as far as the documents that you reviewed and
12 approved?

13 A. No, we did not keep a log of the
14 documents, no.

15 Q. How would you keep track of what had
16 been reviewed and cleared for approval?

17 A. Each attorney that we handled they had
18 their own portals, and we reviewed the documents
19 from their portals.

20 Q. And was this the same procedure that
21 were followed by the other members of your team?

22 A. Yes.

23 Q. And, you reported to Mr. Kline?

24 A. Yes.

25 Q. What's his title or position?

1 A. He is the supervisor.

2 Q. Of?

3 A. Of Wells Fargo Home Mortgage.

4 Q. Is he a supervisor just for the local
5 office that you're in?

6 A. Yes.

7 Q. Of your department so to speak?

8 A. Yes.

9 Q. And then as we move up the management
10 chain who is above him?

11 A. His boss would be Julianne Grove.

12 Q. What's her title or position?

13 A. She's a manager of Wells Fargo Home
14 Mortgage.

15 Q. Spell her last name for me.

16 A. G R O V E.

17 Q. And roughly how many people does she
18 manage, do you know?

19 A. I don't know.

20 Q. And above Ms. Grove is?

21 A. Her boss would be Jose Pinto.

22 Q. Spell his last name?

23 A. P I N T O.

24 Q. And what's his title or position?

25 A. He is the department manager.

1 Q. In the local office?

2 A. In the local Frederick office, yes
3 that's correct.

4 Q. You mentioned a moment ago that the
5 documents that you would review were through the
6 attorney portals. What did you mean by that?

7 A. It was a system that each attorney had
8 where they uploaded the documents for review into,
9 and gave us access to those portals.

10 Q. Okay. So, is this a computer program,
11 or network, that could be accessed by all of the
12 attorneys in Florida that were doing foreclosure
13 work on behalf of the entities that were being
14 serviced by Wells Fargo?

15 MR. WINSTON: I object to form.

16 THE WITNESS: Could you repeat your
17 question?

18 BY MR. FLANAGAN: (resumed)

19 Q. Sure. The portal that you're
20 describing, was that a computer system or network
21 that was set up so that Wells Fargo would share the
22 information with all the attorneys that were doing
23 the foreclosure work for the entities that were
24 serviced by Wells Fargo?

25 MR. WINSTON: I object to the form

1 again.

2 THE WITNESS: My understanding and
3 belief of how those portals worked was that those
4 portals were set up, maintained by the attorneys
5 themselves, and when I say, "attorneys," I'm saying
6 attorney offices --

7 BY MR. FLANAGAN: (resumed)

8 Q. Sure.

9 A. -- and they gave us access to those
10 portals. Anyone else that they gave access to I
11 would not know.

12 Q. Okay. And do you have any information
13 that was supplied to you as far as the
14 qualifications to get access to that portal or
15 system?

16 MR. WINSTON: I Object to form.

17 THE WITNESS: I don't...

18 MR. FLANAGAN: Who was able to access
19 that portal as far as you knew?

20 THE WITNESS: As far as I knew myself,
21 Deborah Blaney and Craig Zecher, the three that I
22 worked with -- the other two that I work with who
23 reviewed the foreclosure complaints.

24 BY MR. FLANAGAN: (resumed)

25 Q. And from the attorneys end who was able

1 to access it do you know?

2 A. I don't know. I have no idea who on
3 the attorneys side was able to access it.

4 Q. And, what type of security was involved
5 as far as accessing into that information, the
6 portal?

7 MR. WINSTON: Object to form.

8 MR. WINSTON: Each user had a user name
9 and password that was provided by the attorney; and
10 the password was maintained by us, ourselves, as an
11 individual. So it was our own password.

12 BY MR. FLANAGAN: (resumed)

13 Q. So that when you needed to get into a
14 given portal could you type in your name, your
15 password, and then get into the portal for a
16 specific office?

17 A. Yes.

18 Q. So if you wanted to get into, for
19 example, Florida Default Group -- that's one of the
20 law firms you guys worked with?

21 A. Yes.

22 Q. If you wanted to get into their portal
23 system did you have an user name and password that
24 would get you in there?

25 A. Yes, into their portal only.

1 Q. That's what my question was. And you
2 had a different one for another law firm?

3 A. That is correct.

4 Q. So for each law firm there was a
5 specified name and password that you had to use?

6 A. Yes.

7 Q. Now, do you know if the information
8 that the attorneys had as far as owners, notes, that
9 type of thing, where did that come from?

10 A. That information is generated from our
11 foreclosure process, referral process; that
12 information is provided to the attorneys prior to it
13 ever coming to me.

14 Q. Okay. Once you were in a given
15 attorneys portal could you then call up several
16 cases at a time?

17 A. One loan at a time.

18 Q. So, if you did -- for example you got
19 into Florida Default Group's portal, took a look at
20 the information, did you then have to sign out and
21 then log back in if you wanted to look at another
22 one?

23 A. No. When we access the portal it would
24 list everything that those attorneys -- FDLG in this
25 particular care -- uploaded in their portal. Then

1 from there you would review one at time, and you
2 would have to hit accept or reject depending on the
3 outcome of the review.

4 Q. Okay. So, as an example, you pull up
5 Florida Default Group and there is a list of loans
6 to be reviewed?

7 A. Yes.

8 Q. And, that list may be three or it may
9 be a hundred, or what?

10 A. It varied day to day.

11 Q. Okay. Well, when you review the loan
12 are you reviewing the information then that's -- you
13 click on loan X, you know, Mr. Smith, and you review
14 that loan?

15 MR. WINSTON: Object to form?

16 THE WITNESS: Yes.

17 MR. FLANAGAN: And then you make your
18 determination as to whatever work is going to be
19 done, you either approve it or disprove it, you
20 click off, and then you move to the next one?

21 MR. WINSTON: Object to form.

22 THE WITNESS: We would review it; after
23 we reviewed it there was an, "accept it," or
24 "reject it," button. If you accepted it you moved
25 on to the next loan, if you rejected it another box

1 appeared which we would type in the reason why we
2 rejected it. Then that would be relayed back to the
3 attorneys who input the information into the portal
4 to re-review their complaint, and whatever error we
5 said we verified on our system that was made.

6 Q. Okay. And then how was it determined
7 which ones you would review versus somebody else on
8 your team?

9 A. It was not determined -- there was no
10 set order of who would review what, it would just be
11 reviewed based on what came in that day, what the
12 attorneys uploaded into the portals that day.

13 Q. So when you came into work on a given
14 day -- it's Monday morning, you come into work, and
15 you turn on your computer, what do you do from there
16 to figure out what loans are going to be reviewed
17 and what ones aren't?

18 A. When I would come in on any given day I
19 would log into any particular -- randomly any given
20 attorney's portal; and if there was something in
21 there to be reviewed, it would be reviewed. If
22 there was nothing that particular day to be
23 reviewed, I would then log on into a different
24 attorneys portal to see if they had uploaded
25 anything at the time I got in in the morning.

1 Q. Are the attorneys forwarding it
2 specifically to you, or just to the legal process--

3 A. The attorneys are forwarding the
4 information to the portal, to their portals.

5 Q. Okay.

6 A. They're not forwarding them to us
7 directly, no.

8 Q. Okay. So then you, as well as the
9 other members of your team -- Deborah and Craig --
10 were essentially just going through attorneys names
11 to see what was there and what needed to be
12 reviewed?

13 A. Yes.

14 Q. And was it by attorney name versus firm
15 generally?

16 A. Not attorney name. When I say attorney
17 name I don't mean an individual person, I mean firm,
18 attorney firm.

19 Q. Yes. Okay.

20 A. Yes. Yes. Not an individual attorney.

21 Q. All right. And, so, when it first came
22 up were you -- was there an indication whether there
23 were -- the volume or the number that were there to
24 be reviewed?

25 MR. WINSTON: Object to form.

1 THE WITNESS: No.

2 BY MR. FLANAGAN: (resumed)

3 Q. Once work was approved, accepted, or
4 rejected, did the loan then disappear off the
5 portal?

6 A. When we approved it -- if we approved
7 it the loan would disappear off of the portal, and
8 later that day the verification would be auto
9 populated by their system and forwarded to the
10 approver's email.

11 Q. What do you mean the verification?

12 A. What I signed.

13 Q. The form?

14 A. Yes.

15 Q. Okay. Now, roughly how many law firms
16 were involved in this process?

17 A. In the portal process?

18 Q. Yes, sir?

19 A. I don't know how many.

20 Q. The Investor Matrix that you mentioned
21 a moment ago, how is that involved in this process?

22 A. The Investor Matrix would be what I
23 would use to verify the correct ownership of the
24 loan, or the correct name to foreclose in.

25 Q. All right. Now, is that an internal

1 computer program for only Wells Fargo?

2 A. Yes.

3 Q. So did the attorneys that are
4 performing the foreclosure work on behalf of Wells
5 Fargo, do they have access to the Investor Matrix as
6 well, or did they?

7 A. Not that I know of.

8 Q. How did the attorneys receive the
9 foreclosure information as far as who the owner was,
10 who the owner of the loan was, who the owner of the
11 property, and that type of thing?

12 MR. WINSTON: You're getting very close
13 to attorney/client communications that I'll have to
14 object on. If you're asking him the process by
15 which information is transmitted, that's okay.

16 MR. FLANAGAN: Right.

17 MR. WINSTON: But if you're asking
18 about the substantive communications --

19 MR. FLANAGAN: No, no, no.

20 MR. WINSTON: Okay. So in answering
21 the questions so that we don't get into privilege,
22 what you can say is you can tell him the physical
23 process by which information is transmitted, but not
24 the substance of the transmission. Does that make
25 sense?

1 THE WITNESS: Yes.

2 MR. WINSTON: Okay.

3 THE WITNESS: Can you repeat the
4 question?

5 BY MR. FLANAGAN: (resumed)

6 Q. Sure. How does the attorney learn the
7 information that's to go -- as far as the
8 foreclosure is concerned -- the information as to
9 who the note owner may be, who the property owner
10 is, who needs to be foreclosed upon, the amount?

11 A. A separate entity, separate department
12 of Wells Fargo handles that process. When the loan
13 is in default they generate the documents that are
14 needed to show the ownership of the loan, and they
15 send it to our referring attorney -- counsel.

16 Q. Okay. What department is involved in
17 that process?

18 A. The foreclosure department.

19 Q. Where is the foreclosure department
20 located? Where is their physical --

21 A. I don't know, they're spread out
22 throughout the country.

23 Q. Okay. Where is the one that dealt with
24 Florida?

25 A. I don't know.

1 Q. Would the foreclosure department input
2 into the computer system, the Investor Matrix, the
3 loans that are in default?

4 MR. WINSTON: Object to form.

5 THE WITNESS: Could you repeat that
6 again?

7 BY MR. FLANAGAN: (resumed)

8 Q. If I'm following you if a loan goes
9 into default it's handled through the foreclosure
10 department?

11 A. Yes.

12 Q. Okay. Somebody in the foreclosure
13 department enters information as far as who the
14 landowner is, who the loan owner is, and the amount
15 that's due, am I right?

16 MR. WINSTON: Object to form.

17 THE WITNESS: Yes.

18 BY MR. FLANAGAN: (resumed)

19 Q. Okay. And then --

20 MR. WINSTON: Can you clarify -- enters
21 where?

22 MR. FLANAGAN: Well, that's what I'm
23 getting to.

24 MR. WINSTON: If that's your next
25 question, because I don't think that he's answering

1 what you're asking.

2 BY MR. FLANAGAN: (resumed)

3 Q. They're putting this information into a
4 computer program, is that what's being done?

5 A. "They," being the foreclosure
6 department?

7 Q. Yes, sir.

8 A. I don't know who maintains the
9 information from the -- in the computer. We have IT
10 departments, and separate entities of Wells Fargo
11 who maintain -- who it is their job to maintain that
12 information and accurately input that information
13 into the system; and, that's what I relied on.

14 Q. The Investor Matrix that you mentioned,
15 is that accessible as well by the foreclosure
16 department?

17 A. Yes, as far as I know.

18 Q. And, what information is contained then
19 in the Investor Matrix?

20 A. The correct name or entity of who owns
21 the loan, and the name to foreclose in.

22 Q. What do you mean the name to foreclose
23 in?

24 A. Some loans are owned -- from my belief
25 are owned by -- from my belief are owned by Freddie

1 Mae and Fanny Mac [sic] but Wells Fargo services
2 those loans, and Wells Fargo forecloses in the name
3 of Wells Fargo on those loans.

4 Q. Personally do you play any role in
5 determining who does, or does not, own the loan?

6 A. No.

7 Q. Do you personally play any role in
8 determining who is or isn't the proper person or
9 entity for the name to foreclose in?

10 A. No.

11 Q. As far as that information is concerned
12 you're relying upon the information you get from the
13 Investor Matrix?

14 A. Yes.

15 Q. And that's computer information that's
16 generated where?

17 A. I don't know where it is generated, I
18 do know that it is generated by a department of
19 Wells Fargo who maintains the information that is in
20 that Matrix, and that Matrix is updated weekly.

21 Q. Who prepares that Matrix?

22 A. I don't know who prepares the Matrix.

23 Q. How does the information get into that
24 Matrix?

25 A. I am not exactly sure how that

1 information gets in the Matrix.

2 Q. Let's take just as an example the --
3 Ms. [REDACTED] is one of the homeowner's that I represent,
4 okay. Are you with me?

5 A. Yes, I'm with you.

6 Q. All right. She has a loan that you
7 have designated as Wells Fargo Bank as the owner?

8 A. As the name to foreclose in, not the
9 owner.

10 Q. Correct. Okay. Now, how do you know
11 that distinction, the owner versus the name to
12 foreclose in?

13 A. I look at our system, per our system it
14 gives us codes, which we need to then plug those
15 codes into the Investor Matrix; that Investor Matrix
16 is what we rely on to give us that information.

17 Q. All right. Then how do you verify that
18 information, if at all?

19 MR. WINSTON: Object to form.

20 THE WITNESS: Again, I take the
21 information from the loan, the codes from the loan,
22 and I plug those codes into our Investor Matrix; and
23 our Investor Matrix gives me what the correct -- who
24 the owner and the correct name to foreclose in, and
25 that's what I rely on.

1 Q. Okay. So, when you're reviewing the
2 information as far as who the proper name is for the
3 entity to own the loan and to bring the lawsuit in
4 you're relying on the information that's in that
5 computer system, the Investor Matrix?

6 A. Yes.

7 Q. Do you ever get a look at the actual
8 loan document itself, the note or the mortgage?

9 MR. WINSTON: Object to form.

10 THE WITNESS: No.

11 BY MR. FLANAGAN: (resumed)

12 Q. How about do you get a look at any
13 documents that actually transfer or assign ownership
14 of any note or mortgage?

15 A. No, I do not look at them, but I don't
16 need to look at them because I know what our
17 processes are that refer those loans to our
18 attorneys. And I rely that our attorneys do their
19 job and put the information in those complaints
20 accurately and correctly based on the information
21 that was provided to them in our referral process.

22 Q. The Investor Matrix, what's the general
23 information that's in that system that you need to
24 look at?

25 MR. WINSTON: Object to form.

1 THE WITNESS: Again, I look at the name
2 of the owner of the loan for the correct name to
3 foreclose in.

4 BY MR. FLANAGAN: (resumed)

5 Q. That's it?

6 A. That is what is contained in that
7 Investor Matrix.

8 Q. When you say, "the owner of the loan,"
9 tell me what you mean?

10 A. The entity who owns the loan.

11 Q. And how do you know that entity owns
12 the loan?

13 A. Based upon the information that I
14 reviewed in our Investor Matrix.

15 Q. All right. And, how do you know the
16 name to designate for the loan --

17 A. Again --

18 MR. WINSTON: Object to form.

19 Q. -- to bring the suit?

20 A. When you say, "the name," are you
21 talking the name of the individual, or the name of
22 the entity?

23 Q. The name of the entity.

24 A. Again, I rely on our Investor Matrix.

25 Q. The Investor Matrix, is there any other

1 information in the Investor Matrix other than the
2 owner of the loan, and the name by which to bring
3 the suit?

4 A. No.

5 Q. That's it?

6 A. Yes.

7 Q. Does it tell you who the debtor or the
8 mortgagee is?

9 A. No.

10 Q. Does it tell you who the property owner
11 is?

12 A. No.

13 Q. Does it have any information as far as
14 when a mortgage was executed or recorded?

15 A. No.

16 Q. If you get a complaint to review or
17 verify, and the complaint says that this piece of
18 the property is owned by Mr. Jones, is there
19 anything that you do to review or verify that
20 information?

21 A. To verify the owner -- the individual
22 owner, as you stated, Mr. Jones?

23 Q. Of the property, yes.

24 A. For that what we would do -- what I
25 would do, I would check our system and then again we

1 rely -- and then again I rely on the information
2 provided to our counsel, our referring counsel, and
3 the information that was provided to our referring
4 counsel, and that they accurately input that
5 information into the complaint.

6 Q. Who inputs the information into the
7 Investor Matrix, do you know?

8 A. No, I do not.

9 Q. And, do you have any idea as to how
10 many persons or entities have access to that Matrix?

11 A. No, I do not.

12 Q. Is it a company-wide Wells Fargo
13 Matrix?

14 A. Yes.

15 Q. So nationwide?

16 A. Yes.

17 Q. And for example, with HSBC Bank, I take
18 it that's one of the entities that Wells Fargo
19 serviced?

20 MR. WINSTON: Object to form?

21 THE WITNESS: Yes.

22 BY MR. FLANAGAN: (resumed)

23 Q. Do you know if there is any other
24 relationship between HSBC Bank and Wells Fargo
25 other than a servicing situation?

1 A. No.

2 MR. WINSTON: Object to form.

3 BY MR. FLANAGAN: (resumed)

4 Q. HSBC Bank is a separate entity from
5 Wells Fargo, correct?

6 A. Yes.

7 Q. And is Wells Fargo Home Mortgage also a
8 separate entity from Wells Fargo Bank?

9 MR. WINSTON: Object to form.

10 THE WITNESS: Yes. They operate on
11 different platforms as far as I know.

12 BY MR. FLANAGAN: (resumed)

13 Q. Okay. When you pull up the Investor
14 Matrix to confirm information tell me if you would
15 what comes up on your screen, what do you see?

16 A. I see -- it tells me the owner name,
17 and the correct name to foreclose in.

18 Q. The owner name being...?

19 A. The entity which owns the loan.

20 Q. And the correct name to foreclose in?

21 A. The entity's correct name to foreclose
22 in.

23 Q. Are they one and the same?

24 A. In some instances no.

25 Q. Why not?

1 A. In some instances Fanny Mae may own the
2 loan, and Wells Fargo is the servicer, and per the
3 servicing agreements and our Investor Matrix it will
4 show us that, and it will show that the correct name
5 to foreclose in would be Wells Fargo Bank, NA.

6 Q. Is that the only information that's on
7 that screen when you pull up, are those two entries?

8 A. Yes.

9 Q. All right. If that's what you're
10 looking on at the computer screen, that it comes up
11 the owner of the loan, when you're verifying that
12 then you're assuming that the information on that
13 computer screen is accurate?

14 A. My belief is that information is
15 accurate, because we have a department who maintains
16 that Investor Matrix and accurately reflects the
17 information based upon which loan.

18 Q. Okay. Did you do anything as far as
19 looking for any documents or back up to verify the
20 name of the entity that's designated as the owner of
21 the loan?

22 MR. WINSTON: Object to form.

23 THE WITNESS: No. Again I rely that
24 that information is accurately input into our
25 Investor Matrix by our department whose job it is to

1 maintain the information that's in that Investor
2 Matrix.

3 BY MR. FLANAGAN: (resumed)

4 Q. Okay. And for the name of the entity
5 that's to be designated to bring the suit, do you do
6 anything to verify or identify the accuracy of that
7 information?

8 MR. WINSTON: Object to the form.

9 THE WITNESS: No. Again, I rely on the
10 information that's imputed into the Investor Matrix.

11 BY MR. FLANAGAN: (resumed)

12 Q. Okay. So, when you go -- the attorney
13 that's bringing the suit uploads information into
14 the computer program, the portal that they want you
15 to review?

16 A. Yes.

17 Q. You pull it up -- you go into the
18 computer and you pull it up and there is Wells
19 Fargo, NA Bank versus Smith, and you're looking at
20 that loan just generally, right?

21 A. Yes.

22 Q. Are you with me?

23 A. Yes.

24 Q. Okay. And then are you looking to make
25 sure -- you pull up your investment portal to make

1 sure that the attorney has the correct owner
2 identified according to the portal, the investment
3 portal, and then the correct entity identified to
4 bring the suit?

5 MR. WINSTON: Object to the form.

6 THE WITNESS: Can you ask me one at a
7 time, please?

8 BY MR. FLANAGAN: (resumed)

9 Q. Sure. You go into the attorney portal,
10 and you have the new loan, Wells Fargo Bank, NA
11 versus Smith -- just as an example.

12 A. Right.

13 Q. And you're verifying through the
14 investor portal that the owner of the loan is
15 properly identified?

16 MR. WINSTON: Object to the form.

17 BY MR. FLANAGAN: (resumed)

18 Q. Right?

19 A. Yes.

20 Q. And that the suit's brought in the
21 proper name?

22 A. Yes.

23 Q. And, to that extent you're verifying or
24 confirming what you see on the computer screen from
25 the investor portal?

1 MR. WINSTON: Object to form.

2 THE WITNESS: From the Investor Matrix,
3 yes.

4 BY MR. FLANAGAN: (resumed)

5 Q. From the Investor Matrix, excuse me.
6 Okay. And then is that it as far as your
7 verification process goes?

8 MR. WINSTON: Object to the form.

9 THE WITNESS: No.

10 BY MR. FLANAGAN: (resumed)

11 Q. Okay. As far as the ownership of the
12 loan and the name to be designated for the
13 foreclosure you're simply confirming the information
14 that's in the Investor Matrix?

15 A. Yes.

16 Q. You don't do anything else as far as
17 investigating or confirming the accuracy of that
18 information that's in the Investor Matrix?

19 A. No, I do not; again I rely on the
20 information that was put in by our department whose
21 job it is to maintain that Investor Matrix.

22 Q. Okay. Now, as far as you're concerned
23 once you pull up the complaint -- strike that.

24 Let's go back to square one, and tell
25 me what you do as far as the verification process is

1 concerned -- or what you did?

2 A. As part of my review process?

3 Q. Yes, sir.

4 A. Again I would compare what was -- what
5 the attorney uploaded into their portal; I would
6 compare the correct name or ownership of the loan
7 versus our Investor Matrix; other information as far
8 as the amount due -- I would compare against what is
9 shown in our system; the due date I would compare
10 against what is shown in our system; the property
11 address I would compare with what is shown in our
12 system; and anything else that was in the complaint
13 as far as recording information. I relied on our
14 attorneys that they -- that were hired, that they
15 accurately input that information based upon their
16 review of that particular case.

17 Q. Okay. So basically when you received
18 information from the attorney with the complaint you
19 confirm the computer information you had available
20 as far as the Investor Matrix was concerned, right?

21 A. Yes.

22 Q. Which told you the ownership of the
23 loan and the name to bring the suit, correct?

24 A. Yes.

25 Q. And then you also confirmed the amount

1 due and the address of the property, and any
2 recorded information, and that was all via computer
3 information that was provided to you?

4 A. No.

5 MR. WINSTON: Object to form.

6 THE WITNESS: I did not review the
7 mortgage note and date, as you stated. I relied
8 on --

9 BY MR. FLANAGAN: (resumed)

10 Q. I'm sorry?

11 A. I relied for that information from our
12 attorneys who pulled title and searched public
13 records, that they accurately input that information
14 into the complaint. I had no reason to believe that
15 they didn't accurately put that in the complaint.

16 MR. WINSTON: In other words he didn't
17 run his own title search.

18 MR. FLANAGAN: Well, I thought of that,
19 but I am a little confused, so bear with me. I'm
20 older than you are, so you know I confuse easily.

21 First of all maybe I should get more
22 elemental. When you pull up the information on the
23 attorneys portal what comes up, what are you
24 reviewing?

1 THE WITNESS: I'm reviewing the
2 complaint.

3 BY MR. FLANAGAN: (resumed)

4 Q. Just the two or three page complaint,
5 or are there documents attached with it?

6 A. It's just the two or three page
7 complaint. No other documents were attached to it,
8 that information was sent to the attorneys and part
9 of our referral process, and there was no need for
10 the attorneys to send it back to us.

11 Q. Okay. So you're looking at what is
12 intended to be the pleading that is entitled
13 "Complaint," to be filed in the court?

14 A. Yes.

15 Q. Is the style of the case already there,
16 that is, "The Circuit Court," here's the name of the
17 Plaintiff, here's the name of the defendants?

18 A. Yes.

19 Q. And then it says, "Complaint," and
20 "comes now the bank..." --

21 A. Yes.

22 Q. And you review that usually two or
23 three pages, that's it, right?

24 A. Yeah.

25 Q. Customarily?

1 A. Two to three pages, yes.

2 Q. And that's all of the information that
3 is uploaded to you for review?

4 A. Yes.

5 Q. And for that you look at the Investor
6 Matrix to confirm that the attorney has properly
7 identified the owner of the note, per the Matrix,
8 right?

9 A. Yes.

10 MR. WINSTON: Object to form.

11 BY MR. FLANAGAN: (resumed)

12 Q. And that they have put in the proper
13 name of the entity to bring the suit?

14 A. Yes.

15 MR. WINSTON: I'm going to object more
16 specifically on what I'm objecting; which is, we've
17 already done this three or four times.

18 MR. FLANAGAN: Yeah, and I'm not trying
19 to beat a dead horse.

20 MR. WINSTON: I'm objecting asked and
21 answered, because we've already gone through it.

22 BY MR. FLANAGAN: (resumed)

23 Q. Okay. And then as far as the amount
24 due do you confirm that?

25 A. Yes.

1 Q. How?

2 A. Per our system.

3 Q. Meaning you look at what?

4 A. Our computerized system. I pull up the
5 loan number for that particular file that I'm
6 reviewing into our system, and from our system I
7 review the amount due based upon what is showing in
8 our system.

9 Q. Okay. What else do you review or
10 confirm?

11 MR. WINSTON: Object to form.

12 THE WITNESS: Again I review the
13 property address, based upon what is in our system.

14

15 BY MR. FLANAGAN: (resumed)

16 Q. Okay.

17 A. And the due date based upon what is in
18 our system.

19 Q. Okay. And is that it?

20 MR. WINSTON: Object to form.

21 BY MR. FLANAGAN: (resumed)

22 Q. Is that all of the information you
23 review on confirm?

24 A. Yes.

25 Q. Then do you ever get a look at the copy

1 of the note that is referenced in the complaints?

2 A. No. Again, that information is
3 provided to our attorney during our referral
4 process; and I rely that our attorneys accurately
5 input that information into the complaint; to the
6 best of my belief I believe they did that as it was
7 their job to do so.

8 Q. Okay. And I take it you never get a
9 look at a copy of the mortgage that's attached, or
10 referenced in the complaint, am I correct?

11 A. No I do not get a look at that again.
12 That's part of our referral process, the original is
13 sent to our attorneys; and I rely that they
14 accurately input that information into the
15 complaint, and there is no need that they send it
16 back to us, when we originally sent it to them.

17 Q. Now, once you verify the information
18 per your computer programs, the Investor Matrix and
19 the other information, is that where you either
20 approve or reject?

21 A. Yes.

22 Q. Okay. And if you accept it have I got
23 that right there, the choices you have, either
24 accept or reject?

25 A. Accept, reject, approve or disapprove.

1 Q. Roughly how long does it take you to
2 look at one of these complaints?

3 A. I don't know. I would say the adequate
4 time that it takes for me to check our system and
5 compare the information that's in the complaint.

6 Q. Five ten minutes?

7 A. I wouldn't know exactly on the time
8 frame. I never timed how long it took us. I just
9 did them based upon our processes, and what's in our
10 system, compared against what's on the complaint.

11 Q. Okay. If you accept and approve the
12 information that you have reviewed on the computer
13 screen -- if you click "accept" or "approve," then
14 what happens?

15 A. We get the verification to sign.

16 Q. The verification that was attached to
17 the complaints in the cases?

18 A. Yes.

19 Q. All right. What do you mean you get?

20 A. Meaning it's now available for us to
21 sign. If we reject it then it's not going to give
22 us the verification to sign.

23 Q. When you say it's available for you to
24 sign, does that come up on a computer screen?

25 A. It's in the same attorney portal.

1 Q. At the same time?

2 A. Yes.

3 Q. Does it pop up immediately after you
4 accept?

5 A. After you accept, yes, it would pop up
6 within a few seconds I guess.

7 Q. And then what do you do?

8 A. I would print it -- I would print that
9 verification. Again, I would bring that
10 verification to my desk, and again I would make sure
11 that the information on that verification matched
12 what I previously reviewed on the complaint. At
13 that time I would then sign it.

14 Q. So you received the verification form
15 on its own as a single document?

16 A. Yes.

17 Q. Printed it out. Did it have the style
18 of the case on it --

19 A. Yes.

20 Q. -- when you got it?

21 A. Yes.

22 Q. And, did you then sign it?

23 A. After I reviewed it to make sure that
24 it matched the complaint that I previously reviewed,
25 yes.

1 Q. And you signed it in pen as opposed to
2 electronically --

3 A. Yes.

4 Q. -- is what I'm getting at --

5 A. I signed it with my hand in pen.

6 Q. Okay. And then how do you transmit it
7 back to counsel?

8 A. Via overnight mail.

9 MR. WINSTON: A break?

10 (Whereupon, a break occurred.)

11 BY MR. FLANAGAN: (resumed)

12 Q. Now, what is the procedure if you find
13 an error in the information that has been uploaded
14 to you by counsel?

15 A. We would identify that error, and we
16 would electronically communicate back to the
17 attorneys, through their portals, what that error
18 was that we found. It may have been a -- it varied
19 in regards to what we sent back. But that's how we
20 would do it. We would identify the error,
21 electronically let them know what that error was,
22 and we would send it back to them, "them" being the
23 attorney.

24 Q. Okay. Well, the error would have to be
25 either in the owner of the loan?

1 A. Yes.

2 Q. The name of the entity to bring a suit?

3 A. Yes.

4 Q. Or then the property address?

5 A. Yes.

6 Q. The amount due?

7 A. Yes.

8 Q. Or the due date?

9 A. Yes.

10 Q. Or the default date?

11 A. Yes.

12 Q. And that's the -- is that all of the
13 information that you would worry about correcting?

14 MR. WINSTON: Object to form.

15 THE WITNESS: Yes.

16 BY MR. FLANAGAN: (resumed)

17 Q. Okay. And, if there was a correction
18 to be made in those areas then you would send that
19 back to the attorney. How would you know it was
20 coming back then for your review or correction?

21 A. They would come back -- whenever the
22 attorneys reviewed why we rejected them, and our
23 reason why we rejected them, they would then be
24 corrected by the attorneys, they would then be
25 uploaded back into their portal, but they would be

1 uploaded into a different color. So that way we
2 would know that that was one that was previously
3 rejected, that the attorneys have then since
4 corrected that error.

5 Q. Okay. And, if you sent the rejected or
6 disapproval would the verification form pop up?

7 A. No.

8 Q. Was this generally the same procedure
9 for all of the firms that you were working with?

10 A. Yes.

11 Q. When you were reviewing the complaints
12 then how did you know that they had the right copy
13 of the note to attach to the complaint?

14 MR. WINSTON: Object to form.

15 THE WITNESS: How would I know that
16 they -- could you repeat that?

17 BY MR. FLANAGAN: (resumed)

18 Q. How would you know that the attorneys
19 had the right copy of the correct note to attach to
20 the complaint?

21 MR. WINSTON: Objects to form.

22 THE WITNESS: Again, I would rely on
23 our referral process that that correct note was sent
24 out to our referring counsel. And I relied that
25 that information was accurate from our referral

1 process, and that the attorneys accurately put that
2 in there.

3 MR. FLANAGAN: The same with the
4 mortgage?

5 MR. WINSTON: Object to form.

6 THE WITNESS: Yes, the same.

7 BY MR. FLANAGAN: (resumed)

8 Q. Okay. Was there ever a time where you
9 actually saw the hard copy of either the note or the
10 mortgage that were attached to any complaint?

11 A. No.

12 Q. And, so, when in your verification
13 process you don't know if the attorneys attached the
14 actual document that was designated in the
15 complaint, do you?

16 MR. WINSTON: Object to form.

17 THE WITNESS: Could you repeat that?

18 BY MR. FLANAGAN: (resumed)

19 Q. Sure. For example, just as a sample,
20 you could say, "Wells Fargo Bank versus Smith," and
21 you review and verify the information, and approve
22 it. Okay?

23 A. Okay.

24 Q. Are you with me so far?

25 A. Yes.

1 Q. But then you don't know if the attorney
2 actually attached the proper note and mortgage that
3 was identified in that complaint, right?

4 MR. WINSTON: Object to form.

5 THE WITNESS: Attached it to what?

6 BY MR. FLANAGAN: (resumed)

7 Q. To the complaint. When it actually
8 came time to be filed with the court you don't know
9 if the note and mortgage that's actually the Smith's
10 was actually attached to the document that you
11 reviewed?

12 MR. WINSTON: Object to form.

13 THE WITNESS: I personally would not
14 know, but I believe that our referral process was
15 accurate.

16 BY MR. FLANAGAN: (resumed)

17 Q. Yeah. I mean, you're just relying that
18 somebody down the line at the attorney's office got
19 the right documents with the right complaint?

20 A. Yes.

21 Q. Okay. But my point being you didn't
22 see the final product before it was filed?

23 MR. WINSTON: Object to form.

24 THE WITNESS: No.

25 MR. FLANAGAN: Let me mark as Exhibit 1

1 a composite. Let me change my mind, and we'll do as
2 exhibit one -- let me have a document marked as
3 exhibit one.

4 MR. WINSTON: Would you tell me which
5 one you're marking as Exhibit 1?

6 MR. FLANAGAN: Yeah.

7 (Exhibit 1 marked for identification.)

8 BY MR. FLANAGAN: (resumed)

9 Q. Let me show you what we've marked as
10 Exhibit 1. This is the verification of mortgage
11 form in the HSBC Bank versus [REDACTED]

12 Do you recognize that document?

13 A. I don't recognize the particular home
14 owner, but I recognize the form.

15 Q. All right. Is that your signature
16 towards the bottom of the page where it says
17 Affiant?

18 A. Yes.

19 Q. And the title, "Alden Berner, legal
20 process specialist," --

21 A. Yes.

22 Q. -- did you handwrite that in?

23 A. Yes.

24 Q. Is this the verification of mortgage
25 form that you signed on behalf of HSBC Bank?

1 A. Yes.

2 Q. Okay. And, before you signed this did
3 you go through the review process generally that
4 you've just described for me over the past half
5 hour?

6 A. Yes.

7 Q. Okay. Paragraph number two of the
8 document states, "Plaintiff is entitled to enforce
9 the subject loan," do you see that?

10 A. Yes.

11 Q. What does that mean to you?

12 A. My belief is that that means that the
13 plaintiff, HSBC Bank, there at the top, is entitled
14 to enforce the loan based on the default.

15 Q. Okay. Now, did you see -- strike that.

16 I take it that you did not see actual
17 copies of the note or the mortgage between Rose
18 [REDACTED] and any entity, am I right?

19 A. Yes.

20 Q. And you relied upon the information
21 that was in the Investor Matrix computer
22 information, as well as the foreclosure information
23 from Wells Fargo?

24 A. Yes, as well as our attorney.

25 Q. Okay. And, you then say in the first

1 paragraph that you're personally familiar with the
2 loan, what does that mean?

3 A. That means I'm personally -- to me my
4 belief that means that I'm personally familiar based
5 on our business records.

6 Q. Okay. You didn't do any work on the
7 loan or the processing of the loan, or dealing with
8 them in -- with Ms. [REDACTED] on the foreclosure, or
9 anything like that?

10 A. No.

11 Q. I'm correct?

12 A. No, I did not.

13 Q. Okay. Paragraph three makes reference
14 to the note and mortgage were executed and delivered
15 on March 18th, 2005; is that information all
16 provided by the attorney in the case?

17 A. That's information that our foreclosure
18 department provides when they send our referral
19 process out to our referring counsel, when they
20 provide them with the note and mortgage. I relied
21 that our counsel accurately reflected that in the
22 complaint.

23 Q. But you didn't do anything as far as
24 checking the official records book, the property
25 records, or the property records for Palm Beach

1 County, or anything like that, right?

2 A. No.

3 Q. Am I correct?

4 A. Yes, you are correct.

5 Q. And, the statement in paragraph seven
6 that HSBC is obligated to pay David Stern PA a
7 reasonable fee, do you have any information as far
8 as that goes?

9 MR. WINSTON: Object to form.

10 THE WITNESS: My belief on that would
11 be that we hired an attorney, and we have to pay
12 him.

13 BY MR. FLANAGAN: (resumed)

14 Q. Okay. But you didn't see any -- did
15 you get privy to any of the attorney fee agreements
16 between Wells Fargo or any other banking entity?

17 A. No.

18 (Exhibit Number 2 marked for identification.)

19 Q. Okay. Let's look at document number
20 two, which is Wells Fargo versus [REDACTED] Take a look
21 at that document if you would?

22 A. Uh-huh.

23 Q. Do you recognize document number two?

24 A. I recognize the format.

25 Q. Okay. Again, your signature is roughly

1 in the middle of the page?

2 A. Yes.

3 Q. Is that your signature?

4 A. Yes.

5 Q. Okay. This is notarized and dated

6 August 26, 2010, correct?

7 A. Yes.

8 Q. Is that the day that you signed it?

9 A. Yes.

10 Q. Why is this form notarized, and the
11 first one was not?

12 MR. WINSTON: Objection -- well, I
13 guess you can go ahead and answer. It's sort of
14 privileged, but not material.

15 THE WITNESS: I don't exactly know why.
16 I do know that Exhibit 1 has changed to what we
17 currently use as Exhibit 2; and I don't know why
18 this particular attorney firm put the notary block
19 in there.

20 BY MR. FLANAGAN: (resumed)

21 Q. So that was something that was sent to
22 you versus something that you requested or
23 designated?

24 A. Yes.

25 Q. Okay. And, did you sign this in the

1 presence of Mr...is it Zecher?

2 A. Craig Zecher, yes.

3 Q. Okay. Are you a notary?

4 A. Yes.

5 Q. Is this a deal where you notarized for
6 him and he notarizes for you?

7 A. On occasion.

8 Q. Okay. In Exhibit Number 2, the
9 verification states, "Under penalties of perjury I
10 declare I have read the foregoing." What is that
11 referring to?

12 A. The complaint. My belief is it's the
13 complaint.

14 Q. Okay. Let's take a look at Exhibit
15 Number 3, which will be the
16 case?

17 MR. WINSTON: Can we go off the record
18 for one second.

19 MR. FLANAGAN: Sure.

20 (Discussion off the record.)

21 (Exhibit 3 marked for identification.)

22 BY MR. FLANAGAN: (resumed)

23 Q. All right. Exhibit Number 3, do you
24 recognize again the form?

25 A. I recognize the format, yes.

1 Q. Okay. And, is that your signature?

2 A. Yes.

3 Q. It's dated July 16th of 2010?

4 A. Yes.

5 Q. Okay. And, I take it this is a
6 document that you signed after you went through the
7 verification process that we discussed earlier?

8 A. Yes.

9 Q. Take a look at Exhibit Number 1 just
10 for a moment. That's not dated. Do you know when
11 it was you signed that?

12 A. I would not know when it was that I
13 signed it, no.

14 Q. All right. The next document which I
15 guess is four will be in the Wells case.

16 (Exhibit 4 marked for identification.)

17 Q. Take a look at document number four for
18 me, if you would, please. Again, do you recognize
19 the form?

20 A. I recognize the format, yes.

21 Q. Okay. And, again, is that your
22 signature at the bottom?

23 A. Yes.

24 Q. Do you see the number in the center of
25 the page towards the bottom with the bar code?

1 A. Yes.

2 Q. Can you tell me what that is?

3 A. I'm not exactly sure what that number
4 is. My belief is that is the number that is used by
5 the foreclosure firm as far as their filing records.

6 Q. Okay. So, there is also the bar code
7 at the bottom of Exhibit Number 3, is that your
8 understanding for that bar code number as well?

9 A. Yes.

10 Q. Okay. But that's not anything that you
11 had anything to do with?

12 A. No.

13 Q. And, again, paragraph number three in
14 Exhibit 4 references the note and mortgage being
15 executed and delivered on March 19th, and that's
16 information that was supplied by the attorney in the
17 case?

18 MR. WINSTON: I'm confused which
19 exhibit?

20 MR. FLANAGAN: Four.

21 MR. WINSTON: Do you know --

22 MR. FLANAGAN: I do Investor Matrix.
23 Wrong one. Okay. I apologize.

24 MR. WINSTON: So which one are we
25 looking at as Exhibit 4.

1 MR. FLANAGAN: Exhibit 4 is Wells,
2 right?

3 MR. WINSTON: Yes.

4 MR. FLANAGAN: Okay. And, last but not
5 least we have [REDACTED] Exhibit Number 5.

6 (Exhibit 5 marked for identification.)

7 Q. Take a look at Exhibit Number 5 if you
8 would, please Do you recognize the form?

9 A. Yes, I recognize the format.

10 Q. And that's your signature?

11 A. Yes.

12 Q. Do you know when you prepared this?

13 MR. WINSTON: Object to form.

14 THE WITNESS: I do not know when.

15 BY MR. FLANAGAN: (resumed)

16 Q. Paragraph three reference the note and
17 mortgage executed March 19, I take it that was
18 information that was supplied by the attorney in the
19 case?

20 A. That was information we supplied to the
21 attorney, and the attorney input it onto here.

22 Q. But as far as the form goes the
23 attorney supplied it to you for signature?

24 A. Yes.

25 Q. A couple of these documents make

1 reference to yet this one, Exhibit Number 5 and also
2 Exhibit Number 1, have paragraphs number five that
3 state, "all conditions precedent to the filing of
4 this action have been performed or have occurred."

5 What does that mean to you?

6 A. It's legal terminology, but my belief
7 is that that means that all of the things that had
8 to happen prior to the foreclosure referral have
9 taken place.

10 Q. Did you do anything as far as
11 investigating to confirm any of that information?

12 A. No, I didn't need to. Our system is
13 automated to where everything has been done prior to
14 this coming before me.

15 Q. Okay. And, so, is this information
16 that again was supplied by counsel that prepared the
17 form?

18 MR. WINSTON: Object to form.

19 THE WITNESS: Yes.

20 BY MR. FLANAGAN: (resumed)

21 Q. The forms for exhibits one and five are
22 different from the others. Why is that?

23 A. I am not sure why they're different. I
24 know that we use these forms, being Exhibit 1 and 5
25 in the past, and we currently use Exhibits 3 and 4.

1 And, again, that would mean Exhibit 2 was also one
2 that would be used in the past.

3 Q. Okay. And, were you involved at all in
4 deciding why the forms were being changed?

5 A. No.

6 Q. As far as these verification forms go,
7 when you received them they had the information for
8 example in number five Wells Fargo bank versus

9 [REDACTED]

10 A. Yes.

11 MR. WINSTON: Object to form.

12 BY MR. FLANAGAN: (resumed)

13 Q. Where the complaints in these cases
14 make reference to things such as payments have not
15 been made, notices have been sent, things like that,
16 did you make any effort to investigate those factual
17 allegations in those complaints?

18 MR. WINSTON: Object to form.

19 THE WITNESS: If I understand you right
20 you asked do I know if the complaint makes reference
21 to --

22 BY MR. FLANAGAN: (resumed)

23 Q. Not if you know. In a complaint --

24 A. Okay.

25 Q. -- it will state, "default occurred,

1 the last payment was June 1st?"

2 A. Okay.

3 Q. Did you make any effort to verify
4 whether or not that was accurate?

5 A. Yes.

6 Q. How?

7 A. I compared it against what is showing
8 in our system.

9 Q. In the computer information?

10 A. In our computer system, yes.

11 Q. And, as far as any notices that may
12 have been sent, default notices, did you attempt to
13 verify whether or not any default notices had been
14 sent to any of the defendants.

15 MR. WINSTON: Object to form.

16 THE WITNESS: No, I did not. No I
17 didn't. But, again, I know that our system is
18 automated, and those letters are automatically
19 generated, and I have no reason to believe that a
20 letter was not sent.

21 BY MR. FLANAGAN: (resumed)

22 Q. Some of these cases, for example take a
23 look at Exhibit Number 1, the HSBC Bank is
24 identified as trustee for Nomura Acceptance
25 Corporation, right?

1 A. Yes.

2 Q. Did you review any of the trust
3 documents at all?

4 A. No.

5 Q. How about any of the servicing
6 agreements?

7 A. No.

8 Q. Did you do anything to attempt to
9 verify whether or not the original note and mortgage
10 were actually in the custody of the trustee by the
11 time the closing date for the trust occurred?

12 MR. WINSTON: Object to form.

13 THE WITNESS: No.

14 BY MR. FLANAGAN: (resumed)

15 Q. Do you even get involved in that at
16 all?

17 A. No.

18 Q. Have you seen any documents that
19 establish what the relationship is between HSBC Bank
20 and Wells Fargo Home Mortgage?

21 MR. WINSTON: Object to form.

22 THE WITNESS: No.

23 BY MR. FLANAGAN: (resumed)

24 Q. Do you know how it is that Wells Fargo
25 Home Mortgage came to be selected to do the

1 verification for HSBC Bank in this particular case,
2 the [REDACTED] case?

3 MR. WINSTON: Object to form.

4 THE WITNESS: No.

5 BY MR. FLANAGAN: (resumed)

6 Q. Do you know if there is some document
7 that designates you to be the person to verify on
8 behalf of HSBC Bank.

9 MR. WINSTON: Object to form.

10 THE WITNESS: Me personally?

11 MR. FLANAGAN: Yes, sir.

12 THE WITNESS: No.

13 BY MR. FLANAGAN: (resumed)

14 Q. How about for Wells Fargo Bank, NA, is
15 there any document that you're aware of that
16 designates you to have the authority to sign these
17 verifications on behalf of Wells Fargo Bank, NA?

18 MR. WINSTON: Object to form.

19 THE WITNESS: No, but I don't need to,
20 because I'm an employee of Wells Fargo Home
21 Mortgage, which is owned by Wells Fargo Bank, N A.

22 BY MR. FLANAGAN: (resumed)

23 Q. Are they a subsidiary, as far as you
24 know?

25 A. Yes.

1 Q. Do you have any other signing ability
2 or authority on behalf of Wells Fargo Home Mortgage
3 other than for these verification forms?

4 MR. WINSTON: Object to form.

5 THE WITNESS: No.

6 BY MR. FLANAGAN: (resumed)

7 Q. How about for Wells Fargo Bank, do you
8 have any other signing or binding authority?

9 MR. WINSTON: Object to form.

10 THE WITNESS: No.

11 MR. WINSTON: Just to clarify Wells
12 Fargo -- because I don't want you to waste your time
13 -- Wells Fargo Home Mortgage isn't a separate
14 company, and hasn't been a separate company since
15 2004.

16 MR. FLANAGAN: Okay. Thank you.

17 BY MR. FLANAGAN: (resumed)

18 Q. Did you review any of the pooling
19 servicing agreement for any of these documents?

20 MR. WINSTON: On the form.

21 THE WITNESS: No.

22 BY MR. FLANAGAN: (resumed)

23 Q. Or for any of the loans, I should say?

24 A. No.

25 Q. Okay. You're familiar with the term

1 MERS, aren't you?

2 A. Yes.

3 Q. Did you get into MERS at all to track
4 any of the ownership of the loans?

5 MR. WINSTON: Object to form.

6 THE WITNESS: No.

7 BY MR. FLANAGAN: (resumed)

8 Q. Or the notes I should say?

9 A. No, our Investor Matrix would tell us
10 that.

11 Q. Okay. Do you know if there is anything
12 in MERS that designates Wells Fargo Home Mortgage to
13 have the authority to sign on their behalf for these
14 verifications?

15 MR. WINSTON: Object to form.

16 THE WITNESS: No.

17 BY MR. FLANAGAN: (resumed)

18 Q. For the [REDACTED] case the original
19 lender on the document is identified as Pinnacle
20 Direct Funding, do you know anything about them?

21 MR. WINSTON: Object to form.

22 THE WITNESS: No.

23 BY MR. FLANAGAN: (resumed)

24 Q. And, did you do anything as far as
25 following how the loan or the note went from

1 Pinnacle Funding to HSBC as trustee?

2 MR. WINSTON: Object to form.

3 THE WITNESS: No.

4 BY MR. FLANAGAN: (resumed)

5 Q. For the original notes for these five
6 cases do you know where those original note
7 documents are?

8 MR. WINSTON: Object to form?

9 THE WITNESS: Are currently?

10 BY MR. FLANAGAN: (resumed)

11 Q. Yes, sir.

12 A. No.

13 Q. Are the only foreclosure cases that
14 you were concerned with Florida, or did you have
15 other states as well?

16 A. Foreclosure case?

17 Q. Yes, sir.

18 A. Where we verified these?

19 Q. Yes, sir.

20 A. Only Florida.

21 Q. Was Florida the only state that you
22 were aware of that required the verification
23 process?

24 A. Yes.

25 Q. Are there -- but as far as reviewing

1 foreclosure documents are concerned, are you only
2 Florida --

3 A. Yes.

4 Q. -- foreclosure?

5 MR. WINSTON: Object to form.

6 BY MR. FLANAGAN: (resumed)

7 Q. Between March and September did your
8 daily duties involved anything other than this
9 verification process that we've been discussing?

10 A. Yes.

11 Q. What else were you doing?

12 A. I assisted with New York settlement
13 conference process.

14 Q. Generally what did that involve?

15 A. That involved providing referees in the
16 State of New York, all jurisdictions; our loss
17 mitigation efforts for any foreclosure cases we had
18 in New York.

19 Q. So, how much of your day was spent
20 working on the verification process for Florida
21 versus the loss mitigation stuff for New York?

22 MR. WINSTON: Objection, asked and
23 answered.

24 THE WITNESS: I don't know.

25 BY MR. FLANAGAN: (resumed)

1 Q. And when you say, "loss mitigation,"
2 what are you referring to?

3 A. What our loss mitigation team did to
4 assist homeowners with a modification in efforts to
5 not foreclose.

6 Q. Okay. And, was that statewide for New
7 York that you were involved?

8 A. Yes.

9 Q. Do you know how it came up that your
10 team was designated to do this verification process
11 -- your group?

12 A. For Florida?

13 Q. Yes, sir.

14 A. I don't know how our team came about,
15 no.

16 Q. Was there any written procedure,
17 manual, document, anything of that nature, that you
18 were given so that you could follow in doing the
19 verification process?

20 A. Yes, that's part of day one of my
21 training.

22 Q. All right. And what was the name of
23 that document or manual?

24 MR. WINSTON: I object, the procedures
25 are privileged. You can give him the name of it, go

1 ahead, if there was a name on it.

2 THE WITNESS: It was just our
3 verification procedures.

4 BY MR. FLANAGAN: (resumed)

5 Q. Okay. And that verification procedure
6 outlined the process that you followed for reviewing
7 these five?

8 A. Yes.

9 Q. These five cases?

10 A. Yes.

11 Q. Okay. Do you know where the manual or
12 procedure was generated, who prepared it?

13 A. Oh, it would have been my supervisor.

14 Q. Okay. Was there any document or
15 corporate resolution, anything along those lines
16 that you're aware of, that authorized you to sign on
17 behalf of Wells Fargo Bank?

18 MR. WINSTON: Object to form.

19 THE WITNESS: Again, no. But being an
20 employee of Wells Fargo Home Mortgage and being that
21 Wells Fargo Home Mortgage is a subsidiary of Wells
22 Fargo Bank I didn't need one.

23 BY MR. FLANAGAN: (resumed)

24 Q. When you would review the Investor
25 Matrix information for your verification process,

1 did you ever come across information in the Matrix
2 that was wrong?

3 A. I've never come across informing in
4 the Matrix that was wrong, no.

5 Q. I think I'm done.

6 MR. WINSTON: Okay. Let me ask --

7 MR. FLANAGAN: I believe I'm done.

8 MR. WINSTON: Let me ask a couple of
9 questions.

10 EXAMINATION BY COUNSEL FOR THE PLAINTIFF

11 BY MR. WINSTON:

12 Q. Mr. Berner, is Wells Fargo Home
13 Mortgage the servicer for each of the five mortgage
14 loans that we're dealing with today?

15 A. Yes.

16 Q. And, as servicer is Wells Fargo
17 authorized to prosecute foreclosure actions on
18 behalf of the investor or owner of the loan?

19 A. Yes.

20 Q. And as part of prosecuting the
21 foreclosure actions is Wells Fargo Home Mortgage or
22 Wells Fargo Bank, as it may be, authorized to
23 execute documents on behalf of the foreclosing
24 entity or the owner?

25 A. Yes.

1 Q. Okay. And you are as you've previously
2 stated an employee of Wells Fargo Bank?

3 A. Yes.

4 Q. If you could take a look at Exhibits 1
5 and 5 for me?

6 A. (Witness complies.)

7 Q. Actually, let me back up. Do you have
8 any reason to believe that you are not authorized to
9 execute these verifications?

10 A. No.

11 Q. And you reasonably believe that you
12 were authorized to execute the verifications?

13 A. Yes.

14 Q. You were previously asked questions
15 regarding paragraph five of Exhibit 1 and Exhibit 5,
16 is that correct?

17 A. Yes.

18 Q. Okay. Both of these paragraphs refer
19 to conditions precedent. Do you have an
20 understanding as to what needed to happen before a
21 foreclosure action was initiated, or before the
22 referral happened?

23 A. Yes. That our -- a thirty day notice
24 of default needed to be sent out to the homeowner.

25 Q. And, what's your understanding as to

1 the process by which that letter goes out?

2 A. That is an automated system that when
3 the homeowner's reach that default status those
4 letters are automatically generated.

5 Q. Do you have any reason to believe that
6 that automated process didn't happen in each of the
7 five cases we're dealing with?

8 A. I have no reason to believe it did not
9 happen.

10 Q. Now, also in paragraph three of Exhibit
11 1 and Exhibit 5, there is a reference to information
12 that would be contained in the note and the mortgage
13 is that correct?

14 A. Yes.

15 Q. Now, as I understand it you testified
16 that you didn't personally look at the information
17 that would have been contained in the note and
18 mortgage, is that correct?

19 A. Yes.

20 Q. Did you have a reason to look at that
21 information, or is there a reason you didn't need to
22 look at it?

23 A. I believe that I did not have a reason
24 to look at that information based on our referral
25 process.

1 Q. What would that referral process be?

2 A. That referral process would be that the
3 original -- once the loan is in default, and the
4 thirty day notice of default letters have been sent
5 out, that our foreclosure department refers these
6 loans to our counsel, and they provide our counsel
7 with that information, being the note and mortgage -
8 - the original note and mortgage.

9 Q. And is it the attorneys job to input
10 that information from the note and mortgage into the
11 complaint?

12 A. Yes.

13 Q. Do you have any reason to believe that
14 the attorneys wouldn't do their jobs?

15 A. No.

16 Q. Now, do you personally do any title
17 report work on any of the loans?

18 A. No.

19 Q. Who does the title report work?

20 A. Again that would be our attorney.

21 Q. And do you rely on the attorneys to
22 properly do the title report work?

23 A. Yes, I rely on our attorneys to do so.

24 Q. Do you have any reason to believe that
25 they did it incorrectly?

1 A. No.

2 Q. Okay. Is it your understanding that
3 based on what they determined from the title report
4 work that they input the information into the
5 complaint?

6 A. Yes.

7 Q. Do you have any reason to believe that
8 they're incorrectly imputing that information into
9 the complaints?

10 A. No.

11 MR. WINSTON: I don't have anything
12 else.

13 MR. FLANAGAN: Let me follow up with
14 you just a minute, Mr. Berner.

15 And with the questions I'm about to ask
16 you I want you to understand, and make it perfectly
17 clear, that I'm not referencing Carlton Fields,
18 Mr. Wilson, in any manner, shape, or form.

19 MR. WINSTON: Winston.

20 MR. FLANAGAN: Winston, I'm sorry.
21 What did I say, Wilson?

22 MR. WINSTON: Yes.

23 MR. FLANAGAN: I'm sorry.

24 MR. WINSTON: That's all right.

25 RE-EXAMINATION BY COUNSEL FOR THE DEFENDANTS

1 BY MR. FLANAGAN:

2 Q. When you were doing this verification
3 work did news filter back to you that there were
4 certain firms in Florida that were providing
5 inaccurate information to the courts in the
6 pleadings?

7 A. Yes, I followed the news.

8 Q. In particular did it get back to you
9 that the Stern firm was being criticized for
10 providing inaccurate information in some of the
11 foreclosure proceedings?

12 MR. WINSTON: I need to consult with
13 him about a privilege issue, first, before he
14 answers that.

15 MR. FLANAGAN: Sure.

16 MR. WINSTON: Off the record.

17 (Discussion off the record.)

18 MR. WINSTON: Just on the record I've
19 instructed Mr. Berner he can answer the question to
20 the extent that it's something he watched on the
21 news, read in the newspaper, or learned through
22 third-party sources; but to the extent that it was
23 something that was discussed that came to him
24 internally, through internal legal processes, that
25 those communications are privileged as work product

1 and attorney-client privilege.

2 So, with that in mind, to the extent he
3 knows about something because he saw it in the
4 newspaper, saw it in the news, or read an article,
5 he can answer the question.

6 BY MR. FLANAGAN: (resumed)

7 Q. All right. Answer that question as
8 you've been instructed first?

9 A. Yes, I have seen news articles about
10 Sterns office.

11 Q. All right. Did you receive any
12 information from any of your superiors in the bank
13 that the Stern firm was providing inaccurate
14 information to the court in any of its loan
15 documents?

16 MR. WINSTON: I'm going to object and
17 instruct the witness not to answer on the basis of
18 privilege.

19 MR. FLANAGAN: Okay.

20 MR. WINSTON: You're instructed not to
21 answer the question.

22 BY MR. FLANAGAN: (resumed)

23 Q. All right. Now, when you make -- you
24 say that you read the news, did that then cause you
25 concerns about whether or not the Stern firm was

1 forwarding accurate information to you?

2 A. No. I believe in our processes, and I
3 don't have any reason to believe that the
4 information that I reviewed that came from Sterns
5 office was incorrect, because I verified it.

6 Q. How about did you receive any
7 instructions from any of your superiors at Wells
8 Fargo Home Mortgage concerning any further
9 additional scrutiny, or review, of the information
10 that was being supplied through the Stern firm for
11 foreclosure verification?

12 MR. WINSTON: I'm going to object on
13 attorney-client and work product privilege, and
14 instruct the witness not to answer.

15 BY MR. FLANAGAN: (resumed)

16 Q. Is it your understanding that for the
17 foreclosure process with Wells Fargo Home Mortgage,
18 or any of the other entities that were serviced
19 through them, that the thirty day default notice was
20 to be given prior to the foreclosure proceedings
21 actually commencing?

22 MR. WINSTON: I object to form. Can
23 you clarify the question, I don't understand it.
24 You can answer if you understand it.

25 MR. FLANAGAN: Do you follow me?

1 THE WITNESS: Sort of, kind of. I
2 understood the first part, but in the second part I
3 didn't.

4 BY MR. FLANAGAN: (resumed)

5 Q. Usually the notes say that there will
6 be a thirty day -- a notice of default will be
7 given, or may be given, right?

8 A. Yes.

9 Q. And, so, would the banks customarily
10 send a default notice to the homeowner before the
11 foreclosure proceedings would commence?

12 A. Yes.

13 Q. And was it your understanding as far as
14 Wells Fargo Home Mortgage was concerned in the
15 servicing that it was doing, that the thirty day
16 default notice had been given to the homeowner
17 before the foreclosure proceedings started?

18 A. Yes.

19 Q. Was it your understanding that not only
20 had the notice been given, but that the thirty days
21 had passed before the foreclosure proceedings
22 started?

23 A. Yes.

24 Q. So when you're saying that the
25 conditions precedent had occurred are you assuming

1 that the default notice had been given, thirty days
2 had passed, before the foreclosing proceedings
3 begin?

4 A. Yes.

5 Q. The default notices were not forwarded
6 to you for review, am I right?

7 A. No they were not.

8 Q. You did not see any of them?

9 A. No.

10 Q. Okay. That's all I have. Thank you.

11 MR. FLANAGAN: Do you want to read or
12 waive?

13 MR. WINSTON: Let me explain it to him.
14 If they order it you have an opportunity to read it
15 to make sure that everything in there is accurate,
16 that it's been typed correctly by our court
17 reporter. I always recommended we want to read it
18 if it's ordered. So if you're ordering...

19 MR. FLANAGAN: I'm ordering.

20 MR. WINSTON: You can send it to me.

21 THE REPORTER: Are you ordering a copy?

22 MR. WINSTON: Yes, I'll order a copy.

23 (Whereupon, the witness having been
24 advised of the right to read and sign
25 the deposition transcript, did not

1 waive reading and signing.)
2 (Whereupon, the deposition concluded
3 at approximately 12:38 noon.)
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1 ERRATA SHEET

2 PAGE: LINE: ERROR: CORRECTION: REASON:

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20 PAGE ____ OF ____ _____

21 Signature

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1 CERTIFICATE OF DEPONENT

2 I hereby certify that I have read the
3 foregoing, my deposition testimony taken in this
4 proceeding and with the exception of changes and/or
5 corrections, if any, which appear on the Errata
6 Sheet attached hereto, find this to be a true and
7 correct transcription thereof.

8 Whereupon, I set my hand and seal this ___
9 day of _____, 2011.

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DEPONENT

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1 CERTIFICATE OF REPORTER

2 I, Lisa R. Thomas, the officer before whom the
3 foregoing proceeding occurred, do hereby certify
4 that the witness therein was duly sworn; that the
5 testimony of said witness was taken by me and
6 thereafter reduced to this typewritten transcript
7 under my supervision; that said transcript is a true
8 record of the testimony given by said witness; that
9 I am neither counsel for, related to, nor employed
10 by any of the parties to the proceeding; and,
11 further, that I am not a relative or an employee,
12 nor financially interested in the outcome of the
13 proceeding, or any action involved therewith.

14 Witness my Signature and Seal:

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Lisa R. Thomas, Notary Public

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State of Maryland

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