

TABLE OF CONTENTS

<u>Section of Brief</u>	<u>Page Number</u>
Table of Citations	17
Statement of the Case and Facts	1
Summary of the Argument	7
Argument for Jurisdiction	10
Conclusion	14
Certificate of Service	15

TABLE OF CITATIONS

<u>Case Law</u>	<u>Pages</u>
Justin Friedle v. The Bank of New York Mellon (Fla. 4 TH DCA 2017)...	2,3,4.
Miguel Tilus v. As Michai LLC 4D15-1750 (Fla. 4th DCA 2015).....	1,2
Terry A. Kelly v. Bank of New York Mellon (Fla 1 st DCA 2015).....	1,2,3
Manuel C Perez v. Deutsche Bank National Association (Fla 4 th DCA..	1,2,3.
Bank of New York Mellon v. Dennis M Coney (Fla 4DCA2016.....	1,2,3,4.

Jean W Chery v. Bank of America (Fla 4DCA 2016).....1,2,3

Diana JELIC v. Lasalle Bank National Association (Fla 4DCA 2015).....1,2,3,4.

Donna Murray v. HSBC BANK USA National (Fla 4DCA 2015).....1,2,3,4,5,6.

SUSAN LLOYD v. The Bank Of New York (Fla 4DCA 2015)1,2,3,4.

SHERMAN BALCH v. LASALLE BANK (Fla 4DCA 2015).....1,2,3.

MARLENE RATTIGAN v. CENTRAL MORTGAGE (Fla 4DCA 2016)..1,2.

The Bank of new York v. Fitzgerald (Fla 3DCA 2017)..1,2,3,4,5,6,7,8,9,10,11.

Rodriguez v. Wells Fargo Bank,N.A. nexis(Fla 4DCA 2015).....1,2,3,4,5,6.

Jeffrey M Powers v.HSBC BANK (Fla 2DCA 2016).....1,2,3,4.

Penny Mac v. Robert T Frost (Fla 4DCA 2017).....1,2,3,4.

Mara Powell v. Glenn Kemmeth Powell(Fla 4DCA 2017)....1,2,3,4.

Angelini v. HSBC BANK USA,N.A (Fla 4DCA 2016).....1,2,3.

Constitutional Provisions

Art. V, § 3(b)(4), Fla. Const..... 5,6,9

Florida Rules of Appellate Procedure

Fla. R. App. P. 9.030(f)..... 3

Fla. R. App. P. 9.130(a)(2)(A)(iv)..... 5,6,9

Florida Rules of Civil Procedure

Fla. R. Civ. P. 1.540(b)(4)..... 1,3

STATEMENT OF THE CASE AND FACTS

This lower court action by Appellant against Appellees, to recover damages and penalties arising from a scheme to knowingly make, use, or cause to be made or used, a false record in connection to a mortgage loan and foreclosure action regarding the property located at 6568 Cobia Circle, Boynton Beach, Florida 33437 with legal description of:

Lot74A. BOYNTON WATERS WEST I-A, according to the plat there of, as recorded in Plat thereof, as recorded in Plat Book 94, Page 110, of the Public Records of the Public Records of Palm Beach County, Florida.

On August 7, 2006, ARMANDO RIVAS executed and delivered a Promissory Note and ARMANDO RIVAS AND LUZ C. RIVAS executed and delivered a Mortgage securing payment of the Note to the Payee named thereon to AMNET MORTGAGE, INC., D/B/A AMERICAN MORTGAGE NETWORK, INC.. AN UNLICENSED LENDER WHOS LICENSE WAS TERMINATED MONTH'S PRIOR TO THE TRANSACTION BEEN MADE.

The Mortgage was recorded on August 10, 2006, in Official Records, Book 20715 Page 0610; said Mortgage was illegally assigned to The Bank Of New York Mellon The Bank Of New York, As Trustee For The Certificate holders Of The CWALT, Inc., Alternative Loan Trust 2006-33CB, Mortgage Pass-Through Certificates, Series 2006-33CB in Book 24782t Page 1766t of the Public Records of Palm Beach County, Florida.

On or about June 4, 2012, the Appellees filed a fraudulent foreclosure action in the Palm Beach County Circuit Court. Appellee knowingly and fraudulently presented false information in support of their foreclosure claim, filed fraudulent documents into Court records and Public Record knowing them to be fraudulent and intended to directly harm the Appellant by obtaining the foreclosure on Appellant's Property and the sale of said Property with no legal authority to do so as they lack standing.

MERS allegedly transferred its Note and the beneficial interest to BONYM.

MERS is not authorized to transfer a mortgage. Therefore, the Assignment of Mortgage dated September 27, 2011 is invalid and a Fraud upon the court and Appellant. see Roman Pino Vs. The Bank of new York mellon. And all other caselaw on the standing issue from the district court as the Appellee did not have standing at the inception of the case filed in 06/04/2012 and as is required by law see MIGUEL TILUS v. AS MICHA I LLC case 4D13-3616 AND 4D15-1750 IT ISN'T SUFFICIENT for the Appellee to file a forged copy of a note and mortgage with a blank undated endorsement this equals to no standing and this case must be reversed immediately and the Judgement vacated and the case dismissed with prejudice for unclean hands and fraud upon the court and Appellant and all attorneys disbarred and Jailed.

As shall fully be set forth below, Appellees knowingly and fraudulently presented false information in support of its foreclosure claim. Filed these fraudulent documents into Court record and Public Record knowing them to be fraudulent and intended to directly harm the Appellant by obtaining the foreclosure on Appellant's Property and the sale of said Property with no legal authority to do so.

As a result of this intentional fraud a justiciable issue now exists between Appellees and Appellant concerning the validity of the note and any legal transfer thereof and the unlawful sale of Appellant's Property through the named Appellees reliance on fraudulent documents and Robo Stamp documents to obtain the unlawful sale of Appellant's Property by fraud and forged documents and Appellee lack of standing as they never had standing from the inception of the dual tracked and illegal foreclosure lawsuit filed and illegally prosecuted by Akerman LLP a known robo signor and document forger law firm just as the notorious David Stern.

As a result of the fraud committed by the Appellees' the Appellant has suffered irreparable harms and financial losses as the Appellees are and always shall be liable to the Appellant for causing the Appellant irreparable financial harms as the Appellees are and always shall be the cause of the financial meltdown of 2008 which cause Appellant great financial losses and emotional distress, and health issues as the theft that occurred was designed this way by these notorious criminals and thieves white collar wall street banksters.

As a result of the fraud that was and always shall be a financial crime and theft to the Appellant to defraud the Appellant out of its assets and homestead property by Appellees in the worst financial criminal scheme ever to go unpunished as everything that occur was done and continues to be done maliciously by the Appellees as they are in the business to scam homeowners out of their property, equities and steal everything that they are allow to steal by fraud unclean hands and caused the Appellant to fight hard to protect its assets from this financial criminals who have no standing and have never invested a dollar in the Appellant but manufactured fraudulent documents and forged the appellant note and mortgage to defraud other financial institutions and manipulate computer programs to create fraudulent documents and hire the bottom of the barrels attorneys to appear legitimate businesses but are nothing but licensed criminals debt collectors who think they are above the law because they hold a license to steal and practice law in florida and these attorneys and appellee have violated rules of discoveries and deprived appellant of Due process with the assistance of corrupt Bias and prejudice Judges who are criminals in the Bench who are the tools that these criminals use to steal properties and wealth as it has been done to the Appellant in this case.

FACTS

On October 9, 2015 the lower tribunal dismissed the case Sua Sponte under florida rule of civil procedures form 1.999 and directed the clerk to close the case as FINAL DISPOSITION DISPOSED BY THE JUDGE.

On December 28, 2015, Appellee filed a Motion to vacate order of dismissal, close to ninety days after the case was dismissed Sua Sponte as final disposition on the courts own motion and was never timely appealed by the Appellee.

On February 10, 2016, the lower tribunal erroneously Granted Appellee Motion to vacate the courts order of dismissal dated October 9, 2015.

On February 10, 2016, the Appellant filed a timely notice of Appeal of a none final order vacating a dismissal on a fraudulent foreclosure that lack standing.

On February 12, 2016, the appellate court issued an order Sua Sponte order Appellant to file an initial brief and an appendix with in fifteen days of the order received under rule 9.130(a)(5) and rule 9.130(e)9.220.

On August 24th, 2017 the trial court forced trial upon appellant and forced him to defend it's interests in this illegal and wrongful foreclosure case without discoveries and preparations illegally and unequitable as the

court had already determined without evidence that the court would Grant Final judgment to the appellee as is accustomed by the prejudice presiding Judge Joseph Marx.

On August 25, 2017 the trial court issued an order of a final judgment of foreclosure against the appellant in violation of Due process and without standing.

On August 25, 2017 appellant filed the appeal in the 4DCA.

On August 28, 2017 appellant filed it's emergency motion requesting a stay with the trial court pending appeal and it was denied.

On September 25,2017 the trial court and the attorneys tried to do a forced sale on the property despite the court been warned of the lack of standing the Appellees have.

On November 02,2017 the 4DCA issues an order denying the third motion to stay pending appeal and threatened the Appellant with sanctions that it would dismiss the Appeal or impose other sanctions against the Appellant.

On November 03,2017 the 4DCA issued an order denying appellant fourth motion to stay pending appeal and motion for oral argument to argue the lack of standing matters.

On November 06,2017 the 4DCA issued an order striken the initial Brief and the initial Appendix with evidence.

On November 09,2017 the 4DCA denied and refused to issue an opinion

On November 13,2017 the tyrant and prejudice Judge Joseph Marx issued an order prohibiting the Appellant from proceeding PRO SE in the foreclosure case to make it easier for him and the Appellee to steal my property.

SUMMARY OF ARGUMENT

The orders of denials of the 4DCA on case 4D17-2704 are all frivolously and in bad faith denied all to block the appellant from the equal protection of the law as this lower court Judges have all come in to agreement with the Appellee and the law offices of Akerman,LLP and it's criminal attorneys Adam G Schwartz, William P Heller, Nancy m Wallace and all other attorneys in conspiracy with the trial Judge Joseph Marx to strip and steal the Appellant out of his homestead Property and of an end result death to be killed by the known criminals Palm Beach county sheriffs deputy as the appellant will not vacate his home and abandoned his property with out said end result as everything that has been done to the Appellant has been criminally and intentionally structured by all this judges at the instructions of Adam G Schwartz and this has all been Admitted by Nancy M Wallace in a letter to the 4DCA judges stating that they should deny the motion to stay as it is what they all

want the ultimate goal to steal the property. With all the evidence and denied orders and the illegal and criminal stand of the trial court Judge and the Judges from the 4DCA it is abundantly clear that this judges are all in conspiracy to commit the criminal acts they have been doing for the last decade stealing property from we the people and shifting our wealth to the white collar criminal corporations and twist the laws as they wish and only protect those who they fell like giving the equal protection of the law and this is wrong and it's criminal to do as the law has no color, race, or religion, and the law favors no ne better then the other, but this judges are not following the law but acting above the law.

As is perfectly outlined in all the case laws cited this case suffers from all the defects and as the Appellee legally lacks standing to foreclosed and enforce the note and mortgage and since the Appellee lacks standing it is of no legal arguments if the Appellant was forced to default on the mortgage by criminal servicers increasing and forcing forced placed insurance to illegally steal property as they have done to the Appellant and millions of others with the assistance of criminal prejudice Judges through out the state of florida as the mortgage companies most are notorious criminals stealing from the citizens as it has been done to the Appellant.

It is a well settled law that filing a supposedly original note and mortgage after filing suit an undated blank endorsement on the note is insufficient to prove standing at the time the initial complaint was filed. See Bristol v. wells Fargo bank, nat'l ass'n

137 so .3d 1130 .1132(Fla.4DCA2014) and Miguel Tilus v. AS MICHA,LLC (Fla.4DCA 2015) reaffirming the well settled law on standing, as it is admitted by the Appellee in it opposition to the motion to stay and in the records filed as well as admitted in the letter dated august 30,2017 by Nancy m Wallace filed with the 4DCA case number 4D17-2704 all this legal defects which are governed by the 4DCA case laws which are the case laws governing this Appeal which demand an immediate reversal and for the Judgement and the foreclosure case to be dismissed with prejudice as a matter of law as is ordered on all the case cited this Honorable Court must intervene as a matter of law.

As the 4DCA is not upholding its own laws on the standing issues as they are well written and explained on each case cited. The courts actions are contradicting all the 17 case laws cited which all point out all the defects and lack of standing that this case has.

Given the conflict between the circuits, this Court should exercise its discretion under Fla. R. App. P. 9.030(a)(2)(A)(iv), and eliminate uncertainty within the circuits by resolving the apparent conflict. *See also Art. V. §(b)(3), Fla.*

Const.

ARGUMENT FOR JURISDICTION

THE FOURTH DISTRICT COURT OF APPEAL AND THE FIRST DISTRICT COURT OF APPEAL ARE IN CONFLICT AND THIS COURT SHOULD EXERCISE ITS JURISDICTION UNDER ART. V §(b)(3), FLA. CONST., AND FLA. R. APP. P. 9.030(a)(2)(A)(iv)

Article V, Section 3 (b)(3) of the Florida Constitution states, in relevant part, that the Court, “[m]ay review any decision of a district court of appeal... ..that expressly and directly conflicts with another district court of appeal... ..on the same question of law.” Similarly, Fla. R. App. P. 9.030(a)(2)(A)(iv) provides the Court with the discretionary power to review “decisions of district courts of appeal that... expressly and directly conflict with a decision of another district court of appeal or of the supreme court on the same question of law.”

I. The Order on Appeal and the Trial Court’s Ruling

In the underlying Foreclosure Case, BONYM filed a foreclosure lawsuit against Rivas. With out standing never filed the original note and mortgage. on it’s foreclosure complaint dated 06/04/2012 states that they are the holder of the note and mortgage by virtue of an assignment of mortgage which lastly gives them the rights to enforce the note and mortgage based on the pooling and servicing agreement which governs this shell corporation as not the PSA or the assignment of mortgage legally gives the Appellee any standing to enforce the note and mortgage as the note is note and mortgage or the loan are listed in none of the 300 plus pages

in the certified PSA and the transaction listed on the fraudulent assignment of mortgage never occur this was all done and signed by ROBO SIGNERS to recreate a transaction that never took place all in bad faith and unclean hands to defraud the court and the Appellant as it has been done and applauded by the trial judge Joseph Marx and the judges from the 4DCA in conflict with all governing case laws cited.

Here, the trial court below ruled that the Appellee had standing to foreclose based on the fraudulent assignment of mortgage, robo stamp allonges on the note from well known robo signers, and accepted a three pages copy of the governing loan modification agreement unsigned by the BANK and what it seems like a forged copy of the note and mortgage as I was not permitted to inspect it's validity ever with an undated stamp and witnesses who had no knowledge of the transaction or when the note and mortgage were in possession of the trustee or attorneys as it was admitted in the bench trial and on the deposition taken on the notorious robo testifier Bryce Kolls a known perjurer in the industry as the so called corporate representative and other documents which are not certified and are all he said she said documents that can not be taken as series bank records or transaction records, all this defects aside from the final judgment of foreclosure which makes no legal finding of law and no memorandum of law was created to explain how the trial judge came to conclusion all this erroneous legal errors are made to defraud the Appellant homeowner out of it's home by all the criminal perpetrators involved in this case

which should be criminally investigated and prosecuted for said crimes and civil theft against a citizen.

II. Direct Conflict with the First, Second and fourth District Court of Appeal.

In stark contrast with the trial court rulings and the Orders on Appeal, the First, Second, and Third even the Fourth District Court of Appeal's reached the opposite conclusion which directly and expressly conflicts with the underlying courts' holdings below.

In Miguel Tilus v. AS MICHA,LLC (Fla.4th DCA 2015) the court said where the plaintiff files the original note after filing suit, an undated blank endorsement on the note is insufficient to prove standing at the time the initial complaint was filed. Bristol v. wells fargo Bank, nat'l ass'n 137 so. 3d 1130, 1132(Fla.4th DCA 2014) moreover, an assignment of mortgage, even if executed before the foreclosure action commenced, is insufficient to prove standing. In this case the Appellee never filed the original note and mortgage at the inception of the foreclosure case which was filed in June 04,2012 let alone the original or complete copies of the loan modification agreement which superseded the original agreement despite how the Appellee and it's attorneys wish to twist the case law and the actual errors on the case which give them no standing as they lack standing from inception they cannot remedy the fact with twisted arguments as the record talk for themselves. See Terry

a Kelly v. Bank of new York mellon (Fla. 1st DCA 2015) the court said “where the plaintiff files the original note after filing suit, an undated blank endorsement on the note is insufficient to prove standing at the time the initial complaint was filed. In Marlene Ratigan v. Central mortgage company (Fla. 4th DCA 2016) the court said “when the terms of an agreement are necessary for resolution of an issue Brought before a court, the failure to introduce the agreement itself into evidence violates the best evidence rule; without the agreement itself in evidence, testimony regarding the contents of the agreement is not permitted. West F.S.A. statute 90.952. in this case the appellee never filed the original note and mortgage let alone the original complete fully executed loan modification agreement which supersede the original contract violating the best evidence rule makes the final judgment of foreclosure VOID and unenforceable as the Appellee lacks standing and can not remedy this legal issue with twisted arguments and frivolous vague orders as is been done by the trial Judge Joseph Marx and the Appellate Judges from the 4thDCA this is all evident on the record and on the criminal evil act’s been committed by the Judges, the orders and docket speak of the evil wrong doing itself and what is been illegally done to the Appellant as a tort and wrongful foreclosure action with unclean hands.

All the actions of the 4th DCA appellate court and it’s orders are in contradiction to the case laws cited and are in direct conflict with all district court of appeals and it’s own case laws, wherefore this Honorable Supreme court must intervene on the evil

and criminal actions been committed against the Appellant and find all equitable remedy for the tort committed and been committed against the Appellants rights and any and relief it sees just and proper and equitable in the Appellants favor.

CONCLUSION

The Denial orders from the 4th DCA on the motion to stay pending Appeals and orders denying oral arguments for the purpose to argue all the points on the case laws cited on the standing issues conflict with all the district courts as is unconstitutional for the court to block a litigant from the equal protection of the law and for a court to discriminate against a citizen as it has been done against the Appellant to forcefully steal the Appellants home and transfer it to an unknown trustee who lack standing as a matter of law and where the record on appeal will talk for it self of the crimes committed against appellant by the appellee and the attorney Adam G Schwartz of Akerman LLP, as this appeal isn't frivolous and the judgment must be reversed as a matter of law there are seventeen case laws cited and there are hundreds if not thousands of case laws on the same issues

Given the conflict between the district courts on the same question of law, this Court should exercise its jurisdiction under Article V, § 3(b)(3), Fla. Const. and Fla. R. App. P. 9.030(a)(2)(A)(iv) to resolve the conflict and provide certainty to litigants in this State.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November, 2017, a true and correct copy of the foregoing Petitioner's Brief on Jurisdiction was filed through the Court's electronic filing portal, and served (i) via email to those parties registered to receive email notices in this proceeding, and (ii) via First Class U.S.

Mail to those parties listed below.

Armando Rivas
6568 Cobia Circle
Boynton Beach, FL 33437

Estates of Boynton Waters West
Homeowners' Association, Inc.
c/o John S. Kennelly, R.A.
6849 Cobia Circle
Boynton Beach, FL 33437

Mortgage Electronic Registration
Systems, Inc., as nominee for
Countrywide Bank, FSB
c/o CT Corporation System, R.A.
1200 S. Pine Island Road
Plantation, FL 33324

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that I have complied with the font requirements of the Court and used 14-point Times New Roman, with no less than 1 inch margins.

/e/signed Armando Rivas

6568 Cobia Circle
Boynton Beach, FL 33437
Direct Line: 561-734-9200
Direct Fax: 561-244-8875
Arivas@gmfgi.com