

SUPREME COURT
COUNTY OF _____: STATE OF NEW YORK

Plaintiff(s),

Index No.: _____

-vs-

Defendant(s).

**VERIFIED ANSWER TO
FORECLOSURE COMPLAINT**

Defendant, _____, answers the Complaint as follows:

General Denial: I deny the allegations in the Complaint.

I plead the following Defenses and Affirmative Defenses:

SERVICE (NY Civil Practice Law and Rules Section 308)

I did not receive a copy of the Summons and Complaint.

I received the Summons and Complaint, but service was not correct as required by law (See full explanation of proper service in HOW TO FILE AN ANSWER document)

DEFENSES

I am entitled to a loan modification under HAMP because [my loan is insured by FANNIE MAE or FREDDIE MAC](#) or my [lender has agreed to participate in the HAMP program](#), but I have not been reviewed for one. (HAMP Supplemental Directive 10-2)

I am in the trial phase of a HAMP modification which protects me against foreclosure until the completion of the trial period. (HAMP Supplemental Directive 10-2)

Lack of Standing to Sue: Plaintiff does not have standing to sue because it was not the legal owner of the Note and/or Mortgage at the time it commenced this foreclosure lawsuit. (See full explanation of legal principle of standing in HOW TO FILE AN ANSWER document)

I have no knowledge that Plaintiff was assigned my debt or there was no Affirmative Allegation of Standing in the Complaint: Plaintiff failed to allege in the Foreclosure Complaint that it is the legal owner and holder of the Note and/or Mortgage or has the authority to foreclose. (NY Real Property Actions and Proceedings Law Section 1302)

I did not receive the notice, “Help for Homeowners in Foreclosure” that was supposed to be served with the Foreclosure Summons and Complaint (NY Real Property Actions and Proceedings Law Section 1303)

90-Day Pre-Foreclosure Notices were inadequate because two copies were not delivered OR foreclosure lawsuit was filed within 90 days of Pre-Foreclosure Notices. (NY Real Property Actions and Proceedings Law Section 1304)

The Plaintiff (i.e. my lender, its assignee or the mortgage loan servicer) failed to file a pre-foreclosure information form with the Superintendent of Banks. (NY Real Property Actions and Proceedings Law Section 1306)

An active service member is an owner of the property and is on the mortgage and qualifies for Active Military Service protections under state or local law. [Servicemembers Civil Relief Act of 2003 (SCRA), 50 USC App sections 501-596]

Unclean hands: the lender cannot sue in a court of equity because it misled the borrower or engaged in unfair lending practices. (See full explanation of unclean hands doctrine in HOW TO FILE AN ANSWER document)

The lender violated the Federal Truth-in-Lending Act by failing to provide material disclosures, and less than three years have passed since the consummation of the transaction. [Truth in Lending Act (Regulation Z), 12 CFR section 226.23]

The lender violated the Federal Fair Housing Act by discriminating against me in the terms and conditions of my mortgage because of race, color, religion, sex, familial status, or national origin. [Fair Housing Act, 42 U.S.C. section 3604]

Complete tender of sum due – I no longer owe this debt because I paid the full sum due.

OTHER

I have filed for Bankruptcy and an automatic stay on all actions against me and my property is in effect. (11 USC section 362)

COUNTERCLAIMS

I was injured by deceptive business practices that the lender willfully or knowingly engaged in. (New York General Business Law section 349)

Other facts concerning your mortgage, your home or other defenses or counter claims:

Wherefore, the Defendant requests that the Complaint be dismissed, the relief requested by the Defendant be granted in its entirety, the costs associated with this defense and any other relief allowed by law and considered just by this Court.

Dated:

Defendant's Name: _____, appearing pro se

Defendant's Address:

Defendant's Telephone #:

VERIFICATION

State of New York, County of _____ ss:

Defendant, _____, being duly sworn, deposes and says: I have read the Answer in Writing and know the contents to be true from my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

Sworn to before me this ____ day of _____, 20____.

Signature of Defendant

Notary/Court Employee

Defendant's Address