

1.4.6 Interrogatories and Requests to Produce to MERS.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

[First Name] JACK,

Plaintiff,

v.

AMERICAN BROKERS CONDUIT, INC.,
GOLDEN FIRST MORTGAGE CORP., MICHAEL
GOLTSCHE, AMERICAN HOME MORTGAGE
SERVICING, INC., MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC., CITIBANK,
N.A., and DEUTSCHE BANK NATIONAL TRUST
CO.,

Defendants.

**Civil Action No.: 07-CV-3088
(NGG) (RML)**

**PLAINTIFF [First Name] JACK'S FIRST SET OF INTERROGATORIES AND
DOCUMENT REQUESTS TO DEFENDANT
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.**

PLEASE TAKE NOTICE that, pursuant to Rules 26, 33 and 34 of the Federal Rules of Civil Procedure, and Rule 26.3 of the Local Rules for the United States District Courts for the Southern and Eastern Districts of New York, plaintiff [First Name] Jack, through his attorneys, hereby requests and demands that defendant Mortgage Electronic Registration Systems, Inc. (i) answer in writing and under oath the following interrogatories in accordance with the instructions and definitions set forth herein; and (ii) produce all documents responsive to the requests set forth below for examination, inspection and copying in accordance with the definitions and instructions set forth herein, within 30 days of the date of service.

DEFINITIONS

1. The Uniform Definitions in Discovery Requests, as set forth in the Local Rules of the United States District Courts for the Southern and Eastern District of New York, are incorporated by reference into the discovery requests set forth below.

2. "MERS" means defendant Mortgage Electronic Registration Systems, Inc. and its officers, directors, employees, agents, independent contractors, partners, corporate parent, subsidiaries, or affiliates.

3. "Correspondence" shall include, without limitation, any transmission or transfer of information of any kind, whether orally, electronically, in writing, or in any other manner, at any time or place, and under any circumstances whatsoever.

4. "Defendant" or "defendants" means any of the defendants to this litigation and, where applicable, their officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates.

5. "Document" and "documents" shall have the full meaning ascribed to those terms under the Federal Rules of Civil Procedure and the Local Rules and shall include, without limitation, any and all drafts; communications; correspondence; memoranda; records; reports; books; records, reports and/or summaries of personal conversations or interviews; diaries; graphs; charts; diagrams; tables; photographs; recordings; tapes; microfilms; minutes, records, reports and/or summaries of meetings or conferences; records and reports of consultants; press releases; handwritten or any other notes; work papers; checks, front and back; check vouchers, check stubs or receipts; tape data sheets or data processing cards or discs or any other written, recorded, transcribed, taped, filmed, or graphic matter, however produced or reproduced; and any paper or writing of whatever description, including any computer database or information

contained in any computer although not yet printed out. "Document" or "documents" also means all non-identical copies of original documents and non-identical copies thereof.

6. "Including" means including, without limitation or in any way qualifying, limiting or restricting the foregoing.

7. "Plaintiff" means [First Name] Jack.

8. "You" or "your" means defendant MERS, as defined above.

9. The use of the singular form of any word shall include the plural and vice versa.

10. The present tense includes the past and vice versa.

11. "Subject property" means [address].

12. "Subject mortgage" means the mortgage in the principal amount of \$343,000, given by [First Name] Jack to American Brokers Conduit on or about July 26, 2006, and recorded with the New York City Department of Finance on or about August 21, 2006.

13. "Subject note" means the Adjustable Rate Note dated July 26, 2006 in the principal amount of \$343,000 and signed by Tilton Jack in favor of American Brokers Conduit.

INSTRUCTIONS

1. Answer each interrogatory separately. Whenever subsections are used in these interrogatories, you are to provide the information requested by each interrogatory as it applies to each subsection.

2. If you cannot give a complete answer, answer as much of the interrogatory as you can. In addition, state why you cannot give a complete answer. No part of an interrogatory should be left unanswered merely because an objection is interposed to another part of the interrogatory.

3. Documents covered by the document requests include all documents in the

possession, custody, or control of any defendant or any of its employees, officers, directors, agents, attorneys, or other persons purporting to act on behalf of the defendants.

4. Each document request requires production of all documents described therein and any attachments, appendices, or exhibits to such documents, and any file or other folders in which such documents are stored or filed, in the possession, custody, or control of each defendant or any of its attorneys, agents, or representatives, or which defendant or any of its attorneys, agents, or representatives has the legal right to obtain, or has the ability to obtain from sources under their respective control.

5. With respect to each document maintained in an electronic medium (i.e., a spreadsheet or an electronic mail message), produce the document on a CD-ROM, or ZIP cartridge (in each case in a format readable on a computer running the Microsoft Windows[®] operating system) and label the media appropriately. If it is impractical to copy the document onto electronic media as set forth in the preceding sentence, contact plaintiff's counsel in advance to arrange a solution to the technical issue.

6. If it is claimed that an answer to any interrogatory calls for information or an identification of documents that are privileged or otherwise protected from disclosure and such privilege or other claimed protection is asserted:

- a. identify the nature of the privilege (including work product) that is being claimed;
and
- b. provide the following information (unless divulgence of such information would cause disclosure of the allegedly privileged information):
 - i. for documents: (1) the type of document (e.g., letter, memorandum, etc.); (2) the general subject matter of the document; (3) the date of the document; and (4) such

other information as is sufficient to identify the document for a subpoena duces tecum, including, where appropriate, the author, addressee, and any other recipient of the document, and, where not apparent, the relationship of the author, addressee, and any other recipient to each other;

- ii. for oral communications: (1) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (2) the date and place of the communication; and (3) the general subject matter of the communication.

Any part of an answer to which defendant does not claim privilege or work product should be given in full.

7. If any document within the scope of this request has been lost, discarded, or destroyed, that document shall be identified, including identification of its author(s), intended or unintended recipient(s), addressee(s), intended or unintended recipient(s) of blind copies, date, and subject matter. The circumstances of its destruction shall be set forth, and any documents relating to such destruction shall be produced.

8. The fact that a document is produced by another party does not relieve the defendants of their obligation to produce their copy of the same document, even if the two documents are identical.

9. These interrogatories and document requests are continuing in character so as to require you to file prompt supplementary and amended answers or responses as required by the Federal Rules of Civil Procedure if you obtain further or different information relevant to any of these Interrogatories prior to trial herein.

INTERROGATORIES

1. State the name, address, title, employer, and job description of all persons who have any knowledge of the allegations in this case, including any person you may call as a witness.
2. State the name, address, title, and job description of each officer, director, employee, associate, agent, and independent contractor of MERS who was involved in the making, brokering, processing, origination, approval, authorization, underwriting, closing, settlement, sale, transfer(s), and/or assignment(s) of the subject note and mortgage, and explain his or her role in relation to the subject note and mortgage.
3. Identify the current owner of the subject note and mortgage.
4. If the subject note and mortgage have been sold, assigned, or otherwise transferred since origination, identify the following for each such sale, assignment, or transfer: (a) the specific terms of said sale, assignment, or transfer; (b) the pricing of said sale, assignment, or transfer; (c) the date of the transaction; (d) the names and roles of the parties to said sale, assignment, or transfer.
5. Identify the current servicer of the subject mortgage loan.
6. Describe all services that you provide or provided as nominee of American Brokers Conduit, Inc. in connection with the subject mortgage and note.
7. Identify any person or entity, other than American Brokers Conduit, Inc., for which you have acted as nominee in connection with the subject mortgage and note, and describe

all services that you have provided, currently provide, or have agreed or otherwise expect to provide for each such person or entity.

8. Identify and describe all interests that you have ever had, or claimed to have, in the subject mortgage and note, and for each such interest describe all rights and obligations incident thereto.

9. Describe your authority to sell, assign, transfer, or otherwise convey the subject mortgage and note, or any interest in therein.

10. Describe your authority to modify or enforce the terms of the subject mortgage and note.

11. Describe all services that you provide or provided in connection with the subject mortgage and note, including the following information: to whom you provided the service(s); all payments and compensation received in connection with the service(s); the date or time period during which the service(s) were provided.

12. Identify any communications or correspondence that you had with any other defendants regarding plaintiff, the subject mortgage, the subject note, or the subject property. For each such communication, identify the date and subject matter of the communication and the persons who provided or received the communication.

13. Describe all past and present agreements, relationships, and affiliations between or involving you and American Brokers Conduit, American Home Mortgage Corp., American Home Mortgage Servicing, Inc., Golden First Mortgage Corp., Citibank, N.A., and Deutsche Bank National Trust Co.

14. Describe your information and basis for believing that all necessary parties have not been joined, and describe all facts supporting this claim.

15. For the period July 1, 2006 to present, describe your document and/or information retention policies and procedures relating to: services you provide as nominee for mortgage lenders and servicers; your policies, procedures, and/or business practices; phone records, including voice mail records; electronic mail; contracts, agreements and correspondence with other businesses. If your policies or procedures have changed during this time period, please describe how such policies or procedures have changed.

DOCUMENT REQUESTS

1. All documents referred to in the interrogatories and in the answers thereto and not previously produced.
2. All documents relating to [First Name] Jack, the subject mortgage, the subject note, and/or the property at [address], including assignments, registrations, recordings, agreements, conveyances, encumbrances, canceled checks and filing fees.
3. All documents relating to any trust or pool that holds or otherwise contains the subject mortgage, the subject note, or the servicing rights for the subject loan.
4. All agreements and contracts relating to your status as nominee of American Broker's Conduit and/or the services you provide or provided as nominee.
5. All agreements and contracts relating to any services you provide or provided on behalf of any person or entity in connection with the subject mortgage and note, including contracts relating to any trust or pool that holds or otherwise contains the subject mortgage, note, or servicing rights for the loan.
6. All correspondence between you and any other party to this litigation, including electronic correspondence, relating to [First Name] Jack, the subject mortgage, note, or any trust

or pool that holds or otherwise contains the subject mortgage, note, or servicing rights for the loan.

DATED: December 20, 2007
Brooklyn, New York

Jennifer Sinton, Esq. (JS-1820)
Navid Vazire, Esq. (NV-1215)
Jessica Attie, Esq. (JA-1817)
SOUTH BROOKLYN LEGAL SERVICES
105 Court Street, 3rd Floor
Brooklyn, New York 11201
E-mail: jsinton@sbls.org
Tel: (718) 246-3268

Melissa Briggs, Esq., *pro hac vice*
Eric Halperin, Esq., *pro hac vice*
CENTER FOR RESPONSIBLE LENDING
910 17th Street NW
Suite 500
Washington, DC 20006
(202) 349-1872

Attorneys for Plaintiff [First Name] Jack

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

TILTON JACK,

Plaintiff,

v.

AMERICAN BROKERS CONDUIT, INC.,
GOLDEN FIRST MORTGAGE CORP., MICHAEL
GOLTSCHE, AMERICAN HOME MORTGAGE
SERVICING, INC., MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC., CITIBANK,
N.A., and DEUTSCHE BANK NATIONAL TRUST
CO.,

Defendants.

**Civil Action No.: 07-CV-3088
(NGG) (RML)**

CERTIFICATE OF SERVICE

I hereby certify that I have on this 20th day of December, 2007 caused the foregoing **Plaintiff's First Set of Interrogatories and Document Requests to Defendant Mortgage Electronic Registration Systems, Inc.** to be served upon the following persons by electronic mail at the e-mail addresses indicated below, pursuant to agreement among counsel.

Richard F. Harrison, Esq.
Westerman Ball Ederer Miller & Sharfstein, LLP
170 Old Country Road, Suite 400
Mineola, NY 11501
rharrison@westermanllp.com

Matin Emouna, Esq.
110 Old Country Road, Suite 3
Mineola, NY 11501
emounalaw@aol.com

Jessica Baker, Esq.
Hiscock & Barclay, LLP
1100 M&T Center
3 Fountain Plaza
Buffalo, NY 14203
jbaker@hiscockbarclay.com

Jennifer Sinton, Esq. (JS-1820)
South Brooklyn Legal Services
105 Court Street, 3rd Floor
Brooklyn, New York 11201

E-mail: jsinton@sbls.org
Tel: (718) 246-3268