

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA**

**MORTGAGE ELECTRONIC REGISTRATIONS
SYSTEMS, INC.,**

Plaintiff,

v.

**NICKOLIS G. BLUMLING and
KATHLEEN BLUMLING,**

Defendants.

CIVIL DIVISION

No.: GD05-16795

MEMORANDUM ORDER

**FILED BY: THE HONORABLE
TIMOTHY PATRICK O'REILLY**
711 City-County Building
414 Grant Street
Pittsburgh, PA 15219

**Copies served by First Class
Mail upon:**

Counsel for Plaintiff:

Harlan S. Stone, Esquire
(Local Counsel)
STONE & STONE
437 Grant Street
Pittsburgh, PA 15219

Matthew S. Connor, Esquire
PHELAN HALLINAN & SCHMIEG
One Penn Center At Suburban Station
1617 J.F.K. Blvd. Suite 1400
Philadelphia, PA 19103-1814

Counsel for Defendants:

Clayton S. Morrow, Esquire
304 Ross Street
7th Floor Mitchell Building
Pittsburgh, PA 15219-2124

2005/05/11 10:00 AM
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Defendants.

MEMORANDUM ORDER

O'Reilly, J.

This case is a mortgage foreclosure action brought by the Plaintiff, Mortgage Electronic Registration Systems, Inc. ("MERS") against the Defendants, Nickolis G. Blumling and Kathleen Blumling (collectively "BLUMLING"). BLUMLING has filed a Preliminary Objections to MERS Amended Complaint, and I heard argument on April 24, 2006 while I was Motions' Judge. BLUMLING maintains that MERS is not a proper party in interest, and as such, could not bring this action. BLUMLING also asserts that MERS did not adhere to the Pennsylvania

Rules of Civil Procedure regarding the attachment of writings when such is relied upon in a Complaint. See, **Rule 1019(i)**.

This case represents a valiant and able effort by a skilled attorney to permit **BLUMLING** to evade their just obligation by focusing on the curious technique utilized by **MERS** designating itself as nominee. Counsel suggests **MERS** has no standing to bring this lawsuit under the basis that it is a “nominee”. I heard the same argument in another case, and I have been provided with a Florida case, *In Re: MERS*, involving various defendants/cases (i.e. *MERS v. Azize, # 05-001295CI-11, et al.*), authored by Judge Walt Logan, Circuit Judge for Pinellas County on August 18, 2005, for the proposition that a “nominee” is a word foreign to mortgage proceedings. It also appears to me that this nominee technique is used to avoid paying Recorder of Deeds’ fees for assigning mortgages.

The foregoing discussion is more theoretical than relevant to this case. Here, **BLUMLING** signed the Mortgage document which clearly identifies **MERS** as the mortgagee. (See, Exhibit “A” of **MERS**’ Response to **BLUMLING**’s Preliminary Objections and Brief). Specifically, **MERS**

is identified in the Mortgage document at paragraph (C), page 2 of 16 as follows:

(C) "**MERS**" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as nominee for Lender and Lender's successors and assigns. **MERS is the mortgagee under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(Emphasis in bold part of Mortgage document). (See, Exhibit "A" of **MERS'** Response to **BLUMLING's** Preliminary Objections and Brief).

Since the Mortgage document before me clearly defines **MERS** as the mortgagee, I do not find the Florida case controlling, although it is interesting. Accordingly, I find no merit to **BLUMLING's** argument that **MERS** is not a proper party or a real party in interest.

The Mortgage document was attached to **MERS'** response and brief. By doing so, I find that the argument that **MERS** should have attached the Mortgage document to the Complaint, pursuant to **Rule 1019(i)**, to be moot.

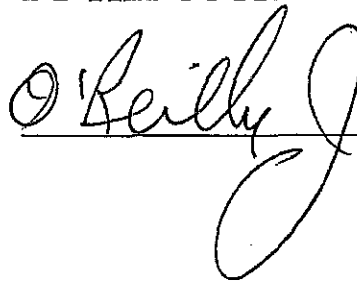
I also find no merit to **BLUMLING's** contention that the complaint fails to be specific about the Mortgage and the amount due as a result of the default in payments. They knew they had a Mortgage, as the document clearly shows their signatures, and they obviously made payments until they went into default.

Although Counsel for **BLUMLING** has made a yeoman's effort to defend them, the bottom line is that they have not paid their mortgage, and are indeed in serious default.

Accordingly, the Preliminary Objections are **OVERRULED** and **Defendants, Nickolis G. Blumling and Kathleen Blumling** are to Answer in thirty (30) days.

BY THE COURT:

Dated: 5-31-06

 J.