

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

TRACI M. MITCHELL, as Personal	*	
Representative of the Estate of Martha	*	
Anderson,	*	
Plaintiff,	*	Case No. 2009 CA 4000 R(RP)
v.	*	Judge Laura A. Cordero
	*	
SAVITRIA MELTON, <i>et al.</i> ,	*	
Defendants.	*	

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

This matter came before the Court on October 31, 2011 for a non-jury trial. Present at trial were Defendant/Cross-Plaintiff, M & T Bank Officer Ken Krach, Defendant/Cross-Plaintiff's attorney, Morton Faller, and Defendant/Cross-Defendant Appollo Cameron. M & T Bank alleges that Appollo Cameron was negligent when he notarized two deeds on July 15, 2003 transferring property located at 124 U Street NE, Washington, DC 20002 ("the Property") from Plaintiff Martha Anderson to Defendant Charlene Wiggins, and from Defendant Charlene Wiggins to Defendant Savitria Melton. Specifically, M & T Bank contends that Defendant Cameron did not use reasonable care in ensuring that those deeds were properly executed to safeguard against any fraud in transferring the property, and that M & T Bank, a subsequent purchaser of that property, reasonably relied on Defendant Cameron in performing his duties as a notary.

At the non-jury trial, Appollo Cameron testified on his own behalf. Traci Mitchell, Savitria Melton, Antonio Savage, and M & T Bank Officer, Kenneth Frederick Krach also testified. The Court admitted into evidence the following: (1) Deed dated July 15, 2003 from Martha M. Anderson to Charlene Wiggins, (2) Deed dated July 15, 2003 from Charlene Wiggins to Savitria Melton, (3) Deed of Trust dated April 23, 2004 from Savitria Melton securing

Pinnacle Financial Corporation, (4) Deed of Trust dated August 4, 2005 from Savitria Melton securing Washington Mutual Bank, (5) Deed of Trust dated May 10, 2006 from Savitria Melton securing Provident Bank, (6) HUD-1, (7) Trustee's Deed, dated August 13, 2008, and (8) Appollo Cameron's letter to the Court, dated October 18, 2011. The Court took judicial notice of its Order Granting Motion for Partial Summary Judgment on Count III, dated October 19, 2011.

The Court, having considered all of the evidence, assessed the credibility of the witnesses, carefully listened to their testimony, and weighed the arguments of counsel and Defendant Cameron, finds that M & T Bank has proven by a preponderance of the evidence that Appollo Cameron was negligent in notarizing the two deeds on July 15, 2003.

#### **FINDINGS OF FACT**

Based on the testimony of the parties, and the exhibits presented to the Court at the non-jury trial, the Court makes the following findings of fact:

1. Martha Anderson, who is deceased, owned a parcel of property located at 124 U Street NE, Washington, DC 20002 ("the Property") for over 44 years. Order Gr. Mot. for Part. Summ. J., Oct. 19, 2011, at 1. As of 1991, Ms. Anderson owned the house unencumbered. *Id.*
2. Charlene Wiggins is Martha Anderson's daughter, and Savitria Melton is Charlene Wiggins' daughter. Traci Mitchell is also Charlene Wiggins' daughter. *Id.*
3. Savitria Melton and Antonio Savage both work at the District of Columbia Superior Court, and Mr. Cameron was also employed at the District of Columbia Superior Court, where he notarized documents as a notary public, including the two deeds at issue. *Id.* at 2, 5.
4. On July 15, 2003, Savitria Melton requested that Mr. Cameron notarize two forged deeds of trust at the District of Columbia Superior Court to transfer the Property from Ms. Anderson

to Ms. Wiggins, and then from Ms. Wiggins to Ms. Melton. *Id.* at 6. Mr. Cameron notarized both deeds of trust, which were witnessed by Mr. Savage. *Id.* at 2.

5. After the deeds were recorded, Ms. Melton obtained three loans that were secured by the property. *Id.* First, she obtained a loan from Pinnacle Financial Corporation for \$92,350 on April 23, 2004. *Id.* Ms. Melton paid off this loan when she refinanced it. *Id.* On August 4, 2005, Defendant Melton obtained a second loan from Washington Mutual Bank for \$125,000. *Id.* The third loan she obtained was on May 10, 2006 from Provident Bank for \$112,000. *Id.* On or about April 30, 2008, Ms. Melton defaulted on her loans, and subsequently, Washington Mutual Bank sold the Property at a foreclosure sale, where it was purchased by Provident Bank. *Id.*
6. The Court credits the testimony of Martha Anderson, whose testimony was submitted by deposition as she passed away before the trial. Ms. Anderson testified that she never went to the courthouse in the District of Columbia to get a document notarized. Tr. 62:9-14. Rather, she relied on the notary at her church or at a bank on Rhode Island Avenue for any documents that needed to be notarized. Tr. 59-60. Upon examination of the deed purporting to transfer her property to Ms. Wiggins, Ms. Anderson testified at her deposition that the signature on the deed bearing her name was not hers. Tr. 61:23-25. She knew it was not her signature because it was not her handwriting. Tr. 62:5-6.
7. The Court credits Traci Mitchell's testimony. Ms. Mitchell is the granddaughter of Martha Anderson and the personal representative of her Estate. Tr. 64:6-8. She is the daughter of Charlene Wiggins and the sister of Savitria Melton. Ms. Mitchell testified that in 2008, she discovered that Ms. Anderson no longer owned the house after Ms. Anderson received a utility bill that was addressed to the bank. Tr. 65:13-14. Ms. Anderson asked Ms. Mitchell

to find out her why her utility bill was mailed to her address, but did not bear her name. Tr. 65:20-22. Subsequently, Ms. Mitchell went online to ascertain why her grandmother was receiving the bill that was not in her name. Ms. Mitchell found the two deeds online that were signed on July 15, 2003. Tr. 66:1-4. When Ms. Mitchell showed Ms. Anderson the deed that purported to convey the Property from Ms. Anderson to Ms. Wiggins, Ms. Anderson confirmed that the signature on that deed was not hers. Tr. 66-67. Similarly, when Ms. Mitchell showed Ms. Wiggins the deed that purported to convey the Property from Ms. Wiggins to Ms. Melton, Ms. Wiggins confirmed that the signature on that deed was not hers. Tr. 67:12-23.

8. Subsequently, Ms. Mitchell requested a meeting with Ms. Melton, Ms. Anderson, and Ms. Wiggins, to confront Mr. Melton about the deeds. Tr. 68:5-20. All four attended the meeting, which occurred sometime in 2008 or 2009. Tr. 68:16-17. Ms. Anderson, Ms. Wiggins and Ms. Mitchell asked Ms. Melton about the deeds, but she denied knowing anything. Tr. 69: 4-7. Ms. Wiggins asked Ms. Melton if she knew who signed her name on the deed, and Ms. Melton said she did not know. Tr. 69:17-18. Ms. Mitchell testified that Ms. Melton signed those documents as she recognized the writing on those deeds as Ms. Melton's handwriting. Tr. 69-70.
9. Provident Bank filed a landlord tenant lawsuit against Ms. Melton. Tr. 70:14-17. Ms. Mitchell testified that she assisted her grandmother, Ms. Anderson, with the tenant lawsuit involving the Property. Tr. 70:7-13. Ms. Mitchell attended the landlord-hearing where Ms. Melton did not appear and subsequently, a default was entered against her. Tr. 71:7-11. During a second landlord tenant proceeding, Ms. Mitchell saw Ms. Melton. Tr. 71:17-19.

10. Ms. Mitchell testified that the last communication she received from Ms. Melton was regarding a notice that Ms. Melton received requiring all occupants to vacate the Property by a date certain. Tr. 72:1-2.
11. The Court credits the testimony of Appollo Cameron regarding the notarization of the deeds. Mr. Cameron testified that he was a notary public for ten years in the District of Columbia until he was terminated approximately one year ago as a result of this matter. Tr. 73:21-25. Mr. Cameron worked at the District of Columbia Superior Court for nineteen years. Tr. 99:15-17.
12. Mr. Cameron testified that he was aware of the strict guidelines for notaries. Tr. 117:17-19. For example, Mr. Cameron explained that he was trained to ask for photo identification before notarizing a document. Tr. 126:10-13. In notarizing documents, he first views the photo identification, then the person who presents the photo identification signs the document in front of him, and subsequently, he administers an oath in front of a witness. Tr. 75:13-21.
13. Mr. Cameron confirmed that the signatures on the two deeds dated July 15, 2003 bearing his name are actually his signatures, and that he signed the deeds as a notary public. Tr. 74-75. Mr. Cameron does not recall the specific circumstances surrounding the notarizations of the two deeds. Tr. 75:4-8. However, he confirmed that the two deeds dated July 15, 2003 were not signed by either Ms. Anderson or Ms. Wiggins, and are forged. Tr. 76:4-9. He also confirmed that when he placed his signature and notary seal on the deeds, he did not have any identification from either Ms. Anderson or Ms. Wiggins. Tr. 126:14-21. Only after the lawsuit was filed in 2009, did he start maintaining a notary log. Tr. 76:10-12.

14. Mr. Cameron first had contact with Ms. Melton when she asked him to notarize the two deeds. Tr. 76:17-20. While Mr. Cameron did not specifically recall what Ms. Melton said when she asked him to notarize the deeds, he testified that she was very emotional and told him that someone was in the hospital with tubes in her month. Tr. 113:10-12. Ms. Melton also informed Mr. Cameron that it would create a hardship for her family if the person in the hospital died without the deeds being notarized. Tr. 115-16. Mr. Cameron agreed to notarize the two deeds without the presence of Ms. Anderson or Ms. Wiggins because Ms. Melton was a court employee and, at Ms. Melton's request, Mr. Savage vouched for her credibility, telling Mr. Cameron that he knew Ms. Melton. Tr. 113:13-22. Mr. Cameron stated that he would never have notarized the deeds if Mr. Savage did not know Ms. Melton. Tr. 116:6-7. Mr. Cameron admits that he did not request to see any identification from Ms. Anderson or Ms. Wiggins before notarizing the deeds, although he knew how important the documents were that he notarized. However, because he firmly believed that Ms. Melton was involved in a "life and death situation," and she was his co-worker, he did not request identification. Tr. 116:8-15. According to Mr. Cameron, he accepted Mr. Savage's representations concerning Ms. Melton and did not think that they would "set him up." Tr. 116:11-14.
15. Mr. Cameron testified that while he knows what the guidelines require for notary publics, he claims that he was not negligent because his co-worker presented a life and death situation. At the same time, Mr. Cameron acknowledged that he knows that the notary manual does not have an exception for requiring photo identification and witnessing the signing of a notarized document for life and death situations or when the document is executed by a co-worker. Tr. 128-29. Mr. Cameron testified that he has previously exposed fraud and that he would not

engage in unethical conduct. Tr. 117:8-10. He said that he simply sought to help out a co-worker and did not derive any benefit from notarizing the deeds.

16. Mr. Cameron maintains that he was a victim who was duped by his co-workers whom he trusted. Tr. 98:10-11. He received no benefit from the fraudulent deeds, and was fired from his work as a result of the notarizations. Tr. 98:10.
17. Savitria Melton is the granddaughter of Martha Anderson and the daughter of Charlene Wiggins. Tr. 82-83. She asserted her Fifth Amendment privilege when asked about the following: (1) the signatures on the deeds; (2) the deeds of trusts obtaining loans from Pinnacle Financial Corporation, Washington Mutual Bank and Provident Bank; (3) whether she signed Ms. Anderson's name and Ms. Wiggin's name on the deeds of trust; (4) whether she knew how she came to own the Property; (5) whether she knew Mr. Cameron before the deeds were signed on July 15, 2003; (6) whether she knows Lisa Johnson; (7) whether she was involved in the signing of the deeds on July 15, 2003; (8) whether she was involved in any scheme to have the fraudulent deeds notarized. Tr. 84-93.
18. The Court does not credit the testimony of Antonio Savage concerning his inability to recall the events surrounding the notarization of the deeds. Mr. Savage was an employee of the court, working in the Information Office at the time that the two deeds were notarized by Mr. Cameron. Tr. 104-105. Mr. Savage testified that he has seen Mr. Cameron notarize documents. Tr.103:13-15. Mr. Savage testified that Lisa Johnson, another court employee, often asked Mr. Cameron to notarize documents when she did not want to notarize a document herself. Tr. 104:22-25. Ms. Johnson and Mr. Cameron would collect money when they notarized documents. Tr. 105:9-14.

19. The Court does not credit Mr. Savage's assertion that he did not recall any details concerning the signing of the two deeds. Tr. 110:3-11. Nor could he recall whether Mr. Cameron asked him to vouch for Ms. Melton when she asked Mr. Cameron to notarize the deeds. Tr. 109:14-18. Based on his demeanor, his long standing relationship with Ms. Melton, and Mr. Cameron's testimony regarding his statements about Ms. Melton on the day in question, his sudden bout of amnesia was palpably false.
20. The Court credits the testimony of Kenneth Frederick Krach, who is a bank officer with M & T Bank. He testified that Provident bank merged with M & T Bank in May 2009. Tr. 54:22-24. Through the merger, M & T Bank acquired all of the assets of Provident Bank, including the Property. Tr. 55:1-5. Mr. Krach testified that Provident Bank had acquired the Property through a successful bid at a foreclosure sale for \$180,000. Tr. 55:9-13. He explained that the HUD-1 is the settlement statement of Provident Bank's purchase of the foreclosed Property. Tr. 56: 1-5. At the time that Provident Bank acquired the Property at the foreclosure sale, the files reflect that Ms. Melton owned the Property, and there was no indication that the trustees under the deed of trust from Ms. Melton did not have authority to convey title to Provident Bank. Tr.56:12-23. Now, M & T Bank has no ownership interest in the property. Tr. 57:2-3.

### **CONCLUSIONS OF LAW**

Based on the credible evidence presented in the records and at trial, the Court finds that M & T Bank has established by a preponderance of the evidence Appollo Cameron was negligent when he notarized the forged deeds.



M & T Bank contends that Appollo Cameron was negligent in notarizing the fraudulent deeds without verifying that the deeds correctly bore the signatures of Ms. Anderson and Ms. Wiggins, and that consequently, M & T Bank suffered damages by losing ownership over the Property that it purchased for \$180,000. In the District of Columbia, “[t]he elements of a cause of action for negligence are a duty of care owed by the defendant to the plaintiff, a breach of that duty by the defendant, and damage to the interests of the plaintiff, proximately caused by the breach.” *Wash. Metro. Area Transit Auth. v. Ferguson*, 977 A.2d 375, 377 (D.C. 2009). Generally, “courts rely on the concept of ‘foreseeability’ to determine whether the defendant owed a duty to the claimant in a negligence action and examine whether the risk to the claimant was ‘reasonably foreseeable’ to the defendant.” *Hedgepeth v. Whitman Walker Clinic*, 22 A.3d 789, 792 (D.C. 2011). M & T Bank has established that it suffered damages when it lost its ownership interest in the Property after the Court found that the deeds were fraudulently signed and deemed void *ab initio*, thus invalidating any subsequent transfer of the Property. *See M.M. & G, Inc. v. Jackson*, 612 A.2d 186, 191 (D.C. 1992) (“It is well settled that a forged deed cannot validly transfer property and that even a bona fide purchaser takes nothing from that conveyance.”).

In the District of Columbia, the Uniform Notarial Acts provides that “[i]n taking an acknowledgment, the notarial officer shall determine from personal knowledge of satisfactory evidence that the person who appears before the officer and makes the acknowledgment is the person whose true signature is on the instrument.” D.C. Code § 42-142(a). “In taking a verification upon oath or affirmation, the notarial officer shall determine from personal knowledge or satisfactory evidence that the person who appears before the officer and makes the verification is the person whose true signature is on the statement verified,” and “[i]n witnessing

or attesting a signature, the notarial officer shall determine from personal knowledge or satisfactory evidence that the signature is the signature of the person who appears before the officer and is named in the instrument.” D.C. Code § 42-142(b) & (c). Evidence that “a person is the person whose true signature is on a document” is satisfactory “if the person is (1) Personally known to the notarial officer; (2) Identified upon the oath or affirmation of a credible witness personally known to the notarial officer; or (3) Identified on the basis of an identification document.” D.C. Code § 42-142(d). “By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by § 42-142.”

While the District of Columbia Court of Appeals has not reached the issue of whether a notary public is negligent when he or she notarizes a document without satisfactory evidence that the signatory is the person signing the document, other jurisdictions offer useful guidance in analyzing this issue. The Court of Appeals of California affirmed the trial court’s finding that a notary public proximately caused damage to the respondents when she notarized promissory notes that contained forged signatures and failed to ascertain the identification of the purported signatory because he never appeared before her. *Lewis v. Agric. Ins. Co.*, 2 Cal. App. 3d 285, 289-90 (1969). The court stated that “[t]he evidence is uncontradicted that respondents relied upon the notarial acts of Green in entering into the transaction in which the promissory notes and hold harmless agreement were delivered to them in exchange for the shares of stock in Wesmont company.” *Id.* It was enough for the Court to make a finding of negligence based on “[t]he proof that she signed and placed her notarial seal on the jurat of the hold harmless agreement, notwithstanding the undisputed fact that Kahan never appeared before her and never signed it.” *Id.* at 291. California law recognized that a notary public was “required to perform his duties with honesty, integrity, diligence and skill” and the Government Code expressly stated that “[f]or

the official misconduct or neglect of a notary public, he and the sureties on his official bond are liable to the persons injured thereby for all the damages sustained.” *Id.* at 292. Finally, the Court stated that “[t]he certificate of acknowledgment of a notary or consul is variously said to be conclusive or prima facie evidence of their official character and of the matters recited therein. In taking acknowledgments, an officer acts under the sanction of his official oath, and his certificate required by law to be made, should be regarded as high a grade of evidence as if given under oath.” *Id.*

Similarly, New Jersey has recognized a duty owed by notary publics in notarizing documents with respect to the identity of the signer. In *Immerman v. Ostertag*, the Superior Court of New Jersey stated that notary publics have duties “not only to persons with whom he has privity but also to any member of the public who, in reasonable contemplation, might rely on the officer’s certification.” 199 A.2d 869, 872-73 (N.J. 1964). The court further stated that “[a] notary is a public officer and, as such, he owes a duty to the public to discharge his functions with diligence.” *Id.* Finally, the court expressed that “[t]he only duty owed by a notary to the general public is to use ordinary or reasonable care in the performance of his functions.” *Id.* (“With respect to the identities of signers, the law requires nothing more of the notary than the use of a reasonable care to satisfy himself or, in other words, to become satisfied in his own conscience that the signers are the persons they purport to be.”).

Finally, Arizona courts have also recognized that notary publics can be negligent for breaching their duty to obtain satisfactory evidence of a document signer. In *City Consumer Services, Inc. v. Metcalf*, the Supreme Court of Arizona held that a notary public was negligent when he notarized a deed and “did not ask if the woman had signed the deed, did not request identification from her, and did not obtain an acknowledgment of her signature.” 772 P.2d 1065,

1066 (Ariz. 1989). The court cited to an Arizona statute, creating a statutory duty of care requiring that “the person whose signature is being acknowledged have ‘appeared’ before the notary and ‘acknowledged he executed the instrument.’” *Id.* at 1068. Similar to the D.C. Code, the statute mandates “that the notary either have ‘*known*’ the person whose signature is being acknowledged ‘or that the [notary have] *satisfactory evidence* that the person acknowledging was the person described in and who executed the instrument.’” *Id.* (emphasis added).

Accordingly, the Court concludes that as a notary public, Mr. Cameron owed a duty to ascertain the identities of the individuals whose signed documents he notarized with satisfactory evidence. D.C. Code § 42-142(d) provides three ways for Mr. Cameron to have obtained satisfactory evidence that Ms. Anderson or Ms. Wiggins appeared before him to sign the deed: (1) personal knowledge, (2) “oath or affirmation of a credible witness personally known to the notarial officer,” or (3) identification document. It is undisputed that Mr. Cameron was aware of this duty and the importance of the two deeds that he notarized. During his testimony, Mr. Cameron recited the requirements for a notary public in notarizing a document, indicating that he clearly understood that he was required to ask for photo identification, observe the signing of the documents as they occurred and administer an oath in the presence of a witness.

Yet Mr. Cameron admitted that he did not follow the requirements under the D.C. Code § 42-142. He acknowledged that Ms. Wiggins and Ms. Anderson did not sign the deeds and that the deeds were forged. In fact, Mr. Cameron admitted that that when he signed the deeds and affixed his notary seal on the deeds, neither Ms. Anderson nor Ms. Wiggins was present. Rather, he dispensed with the legal requirements after Ms. Melton represented the existence of a life and death situation. Thus, the Court concludes that Mr. Cameron breached his duty when he

notarized the two deeds after he failed to ascertain the identities of the signers of the two deeds, Ms. Anderson or Ms. Wiggins, with satisfactory evidence.

Similar to *Lewis*, where the Court of Appeals of California found that the notary public was negligent for failing to ascertain the identification of a purported signatory who never appeared before the notary public, here, Mr. Cameron himself admits that Ms. Anderson and Ms. Wiggins never appeared before him when he notarized the deeds containing their signatures. The Court also finds persuasive the New Jersey court's holding that the notary public's duty extends not only to individuals who he is in privity with, "but also to any member of the public who, in reasonable contemplation, might rely on the officer's certification," such as M & T Bank who purchased the Property trusting that Ms. Melton was the rightful owner as represented by the deeds of trust. *Immerman*, 199 A.2d at 972-73. Hence, M & T Bank has established that its injury should have been reasonably foreseeable to Mr. Cameron when he breached his duty to ascertain the identities of Ms. Anderson and Ms. Wiggins, and notarized the two deeds on July 15, 2003 without satisfactory evidence that they actually signed the deeds of trust.

Thus, the Court finds that M & T Bank has established by a preponderance of the evidence the Mr. Cameron was negligent, and that his negligence proximately caused damages to M & T Bank in the amount of \$180,000.

### **ORDER**


Accordingly, it is this 16<sup>th</sup> day of December 2011, hereby:

**ORDERED**, that Defendant/Third-Party Plaintiff M & T Bank has established by a preponderance of the evidence that Defendant/Third-Party Defendant Appollo Cameron was negligent, which proximately caused injury to M & T Bank; it is further

**ORDERED**, that Defendant/Third-Party Plaintiff M & T Bank is entitled to Judgment of \$180,000.00 (One Hundred and Eighty Thousand Dollars) against Defendant/Third-Party Defendant Appollo Cameron; and it is further

**ORDERED**, that the above-captioned case is **CLOSED**.

**SO ORDERED.**

  
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**Laura A. Cordero**  
Associate Judge  
(Signed in Chambers)

Copies to:

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