

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT,
IN AND FOR MIAMI-DADE, FLORIDA**

U.S. BANK NATIONAL ASSOCIATION AS
TRUSTEE FOR SPECIALTY UNDERWRITING
AND RESIDENTIAL FINANCE TRUST
MORTGAGE LOAN ASSET-BACKED
CERTIFICATES SERIES 2006-BC2,

GENERAL JURISDICTION DIVISION

CASE NO.: 2014-032372-CA-01

Plaintiff,

vs.

RAUL ZAYAS AND UNKNOWN SPOUSE OF
RAUL ZAYAS K/N/A LUCIA ZAYAS, *et. al.*,

Defendant.

_____ /

ORDER TO SHOW CAUSE

Pursuant to Fla. R. Crim. Pro. 3.840, U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE FOR SPECIALTY UNDERWRITING AND RESIDENTIAL FINANCE TRUST MORTGAGE LOAN ASSET-BACKED CERTIFICATES SERIES 2006-BC2, is hereby ordered to appear before this Court to show cause why the Plaintiff should not be sanctioned under the Court's Inherent Contempt Powers for defying the discovery order of August 20, 2018, and as grounds for the Order to Show Cause, this Court makes the following findings of fact:

1. This is the second action¹ Plaintiff has filed seeking to foreclose on Mr. Zayas' homestead property.
2. For over seven months, it appears that Plaintiff has defied this Court's discovery order dated August 20, 2018. See attached as Exhibit B.
3. Plaintiff has not provided the additional documents ordered by this Court which has interfered with the orderly administration of justice in this five (5) year old foreclosure case.

¹ On February 11, 2013, the Honorable Judge Jennifer D. Bailey granted an "*ore tenus* motion to dismiss [the first foreclosure] for lack of following the Court's order dated October 24, 2012." See attached as Exhibit A.

4. For example, Plaintiff has still not turned over screenshots showing the dates original notes were uploaded into its system of record. Yet, on January 7, 2019, Plaintiff's counsel acknowledged "Yeah. We've already spoken to them and told them we would provide that." See hearing transcript pg. 27, lns. 6-7 attached as Exhibit C.

5. On January 7, 2019, this Court ordered Plaintiff to fully comply with that discovery order within 20 days and to pay \$300.00 per day to Jacobs Legal as a sanction with a deadline for full compliance of January 27, 2019. See Sanctions Order attached as Exhibit D.

6. On March 18, 2019, after a hearing on Plaintiff's motion to stay the sanctions order pending appeal and Defendant's motion to sanction Plaintiff's failure to comply with the sanctions order, the Court vacated that sanctions order in lieu of this order to show cause.

WHEREFORE, it is hereby ordered and adjudged that:

7. Plaintiff shall file a new response that identifies for each request all documents Plaintiff produced and when those documents were produced pursuant to the discovery order dated August 20, 2019 within five (5) days.

8. Plaintiff shall produce for deposition the Vice President in charge of Nationstar's loan boarding department who shall produce and testify about any policy and procedure manual for that department, including any manuals concerning Plaintiff's ability to obtain records from prior servicers and samples of any forms used to request such records within 45 days.

9. Plaintiff shall also produce for deposition a Vice President of the Master Document Custodian for this case who shall produce and testify about all electronic and paper records related to the paper and electronic versions of the collateral loan file for this case within 45 days.

10. Plaintiff shall also produce for deposition a corporate representative of Nationstar who shall testify about and produce copies of any agreements that relate to the right of the Plaintiff

to access records in the possession of any master servicer, sub servicer, prior servicer, or custodian, and all emails, request forms, and similar documents concerning the Plaintiff's efforts to comply with the Court's discovery order since August 20, 2018, within 45 days.

11. All documents for these depositions shall be produced at least five days before the deposition is scheduled to take place.

12. If the Plaintiff is found in Contempt of Court, because it is either direct and/or indirect criminal/civil contempt, the Plaintiff may be face monetary fines, injunctions, attorney's fees, a finding of unclean hands, and/or other sanctions under Fla. R. Civ. P. Rule 1.380.

WHEREFORE, the Plaintiff must/shall appear no sooner than sixty days before the Honorable Judge Beatrice Butchko, for an evidentiary hearing on the **30th day of July, 2019, at 1:30 pm at 73 West Flagler Street, Room 400, Miami, FL 33131**, to Show Cause why Plaintiff should not be sanctioned under the Court's inherent contempt powers for violating the discovery order of August 20, 2018.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 04/15/19.


BEATRICE BUTCHKO
CIRCUIT COURT JUDGE

**No Further Judicial Action Required on THIS
MOTION
CLERK TO RECLOSE CASE IF POST
JUDGMENT**

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed original order sent electronically to the Clerk of Courts for filing in the Court file.

Copies furnished to all counsel of record