

No. 98932-0

SANDRA M. MERCERI,
Petitioner,

vs.

THE BANK OF NEW YORK
MELLON FKA THE BANK OF
NEW YORK, AS TRUSTEE FOR
THE CERTIFICATEHOLDERS
OF THE CWALT, INC.
ALTERNATIVE LOAN TRUST
2006-OA19, MORTGAGE
PASS-THROUGH
CERTIFICATES, SERIES
2006-OA19,

Respondent.

**PETITIONER
SANDRA MERCERI'S
MOTION TO CONTINUE
THE COURT'S PENDING
CONSIDERATION OF HER
PETITION FOR REVIEW

AND HER

MOTION TO
CONSOLIDATE**

1. IDENTITY OF MOVING PARTY

Sandra M. Merceri, petitioner, the foreclosed-upon octogenarian and former plaintiff in the underlying judicially dismissed case, asks for the relief designated in Part 2.

2. STATEMENT OF RELIEF SOUGHT

Continuance of the Court's pending consideration of the Petition for Review in this case, Number 98932-0, and consolidation of this petition with an appeal for direct review of a deficiency judgment entered on November 20, 2020, more than one year after the case was dismissed.

3. FACTS RELEVANT TO MOTION

Cases to be Consolidated

Case No. 98932-0, *Merceri v. Bank of New York Mellon.*

Mrs. Merceri's Petition for Review, seeking to correct the denial of her due process rights to a mandatory show cause order required by the Supreme Court's Civil Rule 60(e)(2), is pending before this Court. The Bank did not contest the Petition for Review. The Bank also did not file any answer to the Amicus Brief of the Northwest Consumer Law Center. Department One is scheduled to consider this Petition for Review on December 1, 2020.

Case No. TBD, *Merceri v. Bank of New York Mellon.*

The Bank, after obtaining its judgment of dismissal in April 2019 (Appendix 1), and after it nonjudicially foreclosed and obtained over half a million dollars of proceeds from the trustee's sale in October 2019, asked the trial court, which was without jurisdiction, to enter a deficiency judgment, notwithstanding the lack of jurisdiction and RCW 61.24.100, the anti-deficiency statute. On Friday, November 20, 2020, more than a year after the case had already been dismissed, a deficiency money judgment and judgment summary were entered at the Bank's request (Appendix 2). The Notice of Appeal to the Supreme Court regarding this

untimely deficiency judgment was filed on Monday, November 23, 2020 (Appendix 3).

4. GROUNDS FOR RELIEF AND ARGUMENT

Consolidation

RAP 3.3 provides that “[a] party should move to consolidate two or more cases if consolidation would save time and expense and provide for a fair review of the cases.” RAP 3.3(b). Under RAP 1.2(b), the word “should” requires Mrs. Merceri to bring this consolidation motion. Mrs. Merceri seeks to consolidate two cases arising from the same underlying matter, involving decisions made in violation of Washington law (statutes and court rules.)

This Court’s consideration of both cases will save time and expense and provide for a fairer review of the issues before the Court. The latest decision, to enter a deficiency judgment, comes more than a year after the Bank had nonjudicially foreclosed and obtained over half a million dollars in sale proceeds. It also comes more than a year after a judgment of dismissal had been entered and the trial court’s jurisdiction had been terminated.

Continuance

A continuance of Department One’s December 1, 2020 consideration of the Petition for Review should be granted under RAP

1.2(c) while the Court considers whether to consolidate both cases under RAP 3.3(b). The continuance is requested to enable the Court to consider whether consolidation would provide a more economical and fair review of the important issues presented.¹

5. CONCLUSION

This Court should grant the motion to continue Department One's consideration of the Petition for Review currently scheduled for December 1, 2010, and should consolidate both cases for an economical, fair review of the issues presented to the Court.

Respectfully presented this 23rd day of November 2020.

/s/ Gordon Arthur Woodley

Gordon Arthur Woodley, WSBA 7783
P.O. Box 53043
Bellevue, WA 98015
(425) 802-1400

/s/ Susan Lynne Fullmer

Susan Lynne Fullmer, WSBA 43747
6523 California Ave. SW #275
Seattle, WA 98136
(206) 567-2757

Attorneys for Petitioner

¹ The request for continuation is not a request of any obligation owed to the Court by Petitioner.

APPENDIX 1

HON. VERONICA ALICEA-GALVÁN

FILED
2019 APR 29
KING COUNTY
SUPERIOR COURT CLERK

CASE #: 16-2-24904-3 SEA

**SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

SANDRA M. MERCERI,

Plaintiff,

v.

THE BANK OF NEW YORK MELLON,
et al.,

Defendants.

Case No. 16-2-24904-3 SEA

ORDER GRANTING BANK OF NEW YORK
MELLON'S MOTION FOR ATTORNEY
FEES AND COSTS AFTER MANDATE AND
JUDGMENT OF DISMISSAL

This matter came before the Court upon Defendant The Bank of New York Mellon's Motion for Attorney Fees and Costs After Mandate and Judgment of Dismissal. Having read and considered all briefs and other matters presented to the Court, and good cause appearing, therefore,

IT IS HEREBY ORDERED that Defendant The Bank of New York Mellon's Motion for Attorney Fees and Costs After Mandate and Judgment of Dismissal is GRANTED.

DATED: 4-26-19


HON. VERONICA ALICEA-GALVÁN

17545013v1

FILED
KING COUNTY WASHINGTON

NOV 20 2020

SUPERIOR COURT CLERK
BY Molly Simon
DEPUTY

SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

SANDRA M. MERCERI,

Case No. 16-2-24904-3 SEA

Plaintiff,

**JUDGMENT SUMMARY PURSUANT TO
RCW 4.64.030**

v.

THE BANK OF NEW YORK MELLON,
et al.,

Defendants.

Pursuant to RCW 4.64.030, the court hereby orders that the clerk shall now enter the following judgment below in the execution docket:

Judgment Creditor: The Bank of New York Mellon, as trustee, on behalf of the holders of the Alternative Loan Trust 2006-0A19, Mortgage Pass Through Certificate Series 2006-0A19

Attorneys for Judgment Creditor: Anthony Soldato and Gregor Hensrude (Klinedinst PC)

Judgment Debtor: Sandra M. Merceri

Attorneys for Judgment Debtor: Gordon A. Woodley
Susan Lynne Fullmer

Principal Judgment Amount: \$0.00
Interest to date of Judgment: \$0.00
Attorneys' Fees: \$83,552.25
Total Costs: \$2,830.83

1 Judgment shall bear interest at a rate of 12% per annum.

2 GRAND TOTAL \$86,386.08

3
4 DATED: 11/20/2020


HON. VERÓNICA ALICEA-GALVÁN

5 **Presented by:**

6
7 KLINEDINST PC

8
9 /s/ Gregor A. Hensrude
10 Gregor A. Hensrude, WSBA #45918
11 Anthony C. Soldato, WSBA 46206
12 Attorneys for Defendant/Judgment Creditor
13 THE BANK OF NEW YORK MELLON
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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

SANDRA M. MERCERI, a single woman,
Plaintiff,

vs.

THE BANK OF NEW YORK MELLON, a national banking association, as trustee, on behalf of the holders of the Alternative Loan Trust 2006-OA19, Mortgage Pass Through Certificate Series 2006-OA19; and THE BANK OF NEW YORK, as trustee, on behalf of the holders of the Alternative Loan Trust 2006-OA19, Mortgage Pass Through Certificate Series 2006-OA19; and BANK OF NEW YORK MELLON f/k/a THE BANK OF NEW YORK, as trustee, on behalf of the holders of the Alternative Loan Trust 2006-OA19, Mortgage Pass Through Certificate Series 2006-OA19,
Defendants.

No. 16-2-24904-3 SEA

**NOTICE OF APPEAL
TO THE SUPREME COURT**

(Clerk’s Action Required)

TO: The Court Clerk and to Counsel of Record

Former Plaintiff and Foreclosed-Upon Homeowner Sandra M. Merceri seeks review by the Supreme Court of the following deficiency judgment and order:

**NOTICE OF APPEAL
TO THE SUPREME COURT - 1**

Susan L. Fullmer, Attorney at Law
6523 California Ave. SW #275
Seattle, WA 98136
205.567.2757

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1. “Judgment Summary Pursuant to RCW 4.64.030,” entered on November 20, 2020;

2. “Order Denying Plaintiff Sandra Merceri’s Objection to Entry of Form Judgment Summary and Denying Plaintiff Sandra Merceri’s Motion to Strike,” entered on November 23, 2020.

A copy of the “judgment summary” and the “order” are attached to this notice.

Respectfully submitted this November 23, 2020.

/s/ Gordon Arthur Woodley
Gordon Arthur Woodley, WSBA #7783
Box 53043
Bellevue, WA 98015
(425) 802-1400

/s/ Susan Lynne Fullmer
Susan Lynne Fullmer, WSBA #43747
6523 California Ave. SW, #275
Seattle, WA 98136
(206) 567-2757

Attorneys for Former Homeowner

CERTIFICATE OF SERVICE

I certify that on November 23, 2020, I caused a copy of the foregoing Notice of Appeal to the Supreme Court and this Certificate of Service to be served by:

Hand Delivery E-mail per agreement E-Service U.S. mail, postage paid

to the following:

Gregor Hensrude
Anthony Soldato
KLINEDINST PC
701 5th Ave. Ste. 1220
Seattle, WA 98104
asoldato@klinedinstlaw.com;
ghensrude@klinedinstlaw.com
Attorney for Def. The Bank of New York Mellon

Dates: November 23, 2020

/s/ Susan Lynne Fullmer
Susan Lynne Fullmer, WSBA #43747
6523 California Ave. SW, #275
Seattle, WA 98136
(206) 567-2757

FILED
KING COUNTY WASHINGTON

NOV 20 2020

SUPERIOR COURT CLERK
BY Molly Simon
DEPUTY

SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

SANDRA M. MERCERI,

Case No. 16-2-24904-3 SEA

Plaintiff,

**JUDGMENT SUMMARY PURSUANT TO
RCW 4.64.030**

v.

THE BANK OF NEW YORK MELLON,
et al.,

Defendants.

Pursuant to RCW 4.64.030, the court hereby orders that the clerk shall now enter the following judgment below in the execution docket:

Judgment Creditor: The Bank of New York Mellon, as trustee, on behalf of the holders of the Alternative Loan Trust 2006-0A19, Mortgage Pass Through Certificate Series 2006-0A19

Attorneys for Judgment Creditor: Anthony Soldato and Gregor Hensrude (Klinedinst PC)

Judgment Debtor: Sandra M. Merceri

Attorneys for Judgment Debtor: Gordon A. Woodley
Susan Lynne Fullmer

Principal Judgment Amount: \$0.00

Interest to date of Judgment: \$0.00

Attorneys' Fees: \$83,552.25

Total Costs: \$2,830.83

1 Judgment shall bear interest at a rate of 12% per annum.

2 GRAND TOTAL \$86,386.08

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4 DATED: 11/20/2020


HON. VERÓNICA ALICEA-GALVÁN

5 **Presented by:**

6
7 KLINEDINST PC

8
9 /s/ Gregor A. Hensrude
10 Gregor A. Hensrude, WSBA #45918
11 Anthony C. Soldato, WSBA 46206
12 Attorneys for Defendant/Judgment Creditor
13 THE BANK OF NEW YORK MELLON
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**SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING**

SANDRA M. MERCERI,

Plaintiff,

v.

THE BANK OF NEW YORK MELLON,
et al.,

Defendants.

Case No. 16-2-24904-3 SEA

~~PROPOSED~~ ORDER DENYING
PLAINTIFF SANDRA MERCERI'S
OBJECTION TO ENTRY OF FORM
JUDGMENT SUMMARY

AND

DENYING PLAINTIFF SANDRA
MERCERI'S MOTION TO STRIKE

This matter came before the undersigned Judge of the above-entitled court upon Plaintiff Sandra Merceri's "Special Objection To The Bank's Seeking Entry Of A Deficiency Judgment In This Dismissed Case," and "Motion To Strike The Bank's Attempt To Obtain A Deficiency Judgment," filed on November 9, 2020. The Court considered the pleadings, the arguments of counsel, the relevant evidence, and related pleadings and orders filed in this action. This order memorializes and incorporates the Court's oral ruling at the hearing.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. Plaintiff Sandra Merceri's objection to the entry of a form judgment summary is denied.
2. Plaintiff Sandra Merceri's motion to strike is denied.

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IT IS SO ORDERED.

DATED: 11/23/2020


HON. VERONICA ALICEA-GALVÁN

Presented by:

KLINEDINST PC

By/s/ Anthony C. Soldato
Gregor A. Hensrude, WSBA #45918
Anthony C. Soldato, WSBA 46206
Attorneys for Defendant/Judgment Creditor
The Bank of New York Mellon

18922008.1

SUSAN L. FULLMER, ATTORNEY AT LAW

November 23, 2020 - 4:00 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 98932-0
Appellate Court Case Title: Sandra Merceri v. Bank of New York Mellon, et al.

The following documents have been uploaded:

- 989320_Motion_20201123155055SC086769_2427.pdf
This File Contains:
Motion 1 - Continue
The Original File Name was 2020-11-23_Motion_to_Consolidate_Continue_Final w app.pdf

A copy of the uploaded files will be sent to:

- Amanda@nwclc.org
- asoldato@klinedinstlaw.com
- chenry@HDM-legal.com
- ghensrude@klinedinstlaw.com
- mwalsh@klinedinstlaw.com
- pray@klinedinstlaw.com
- susan@fullmerlaw.info
- woodley@gmail.com

Comments:

This motion also includes a motion to consolidate.

Sender Name: Susan Fullmer - Email: susan@fullmerlaw.info
Address:
6523 CALIFORNIA AVE SW, #275
SEATTLE, WA, 98136
Phone: 206-567-2757

Note: The Filing Id is 20201123155055SC086769