

No. 70111-8-I

DIVISION I, COURT OF APPEALS
OF THE STATE OF WASHINGTON

FILED
COURT OF APPEALS DIVISION I
STATE OF WASHINGTON
2014 MAR 20 PM 3:143

THE BANK OF NEW YORK MELLON, FKA THE BANK OF NEW YORK AS SUCCESSOR IN INTEREST TO JP MORGAN CHASE BANK NA AS TRUSTEE FOR STRUCTURED ASSET MORTGAGE INVESTMENTS II INC. BEAR STERNS ATL-A TRUST 2005-5, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-5,

Plaintiff/Respondent

v.

DAVID MURESAN, MARIA MURESAN, and All Occupants of the Premises located at 1496 South Crestview Drive, Camano Island, WA 98282,

Defendants/Appellants

ON APPEAL FROM ISLAND COUNTY SUPERIOR COURT

SUPPLEMENTAL BRIEF OF RESPONDENT

Ronald E. Beard, WSBA No. 24014
David C. Spellman, WSBA No. 15884
Abraham K. Lorber, WSBA No. 40668
Attorneys for Plaintiff/Respondent The
Bank of New York Mellon

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Respondent The Bank of New York Mellon (BNY Mellon) reaffirms its motion for this Court to dismiss the appeals of appellant/defendant David Muresan on the merits. The motion to affirm was filed on June 20, 2013. No change in the law governing the case has occurred since BNY Mellon fully briefed the motion to affirm. BNY Mellon is submitting Respondent's Amended Motion to Affirm on the Merits, updating and adding citations, including a table of authorities, and using "BNY Mellon" as the identifier.

This is an appeal from an unlawful detainer suit that BNY Mellon brought against defendant/appellant David Muresan. BNY Mellon acquired the property in a nonjudicial foreclosure that eliminated Muresan's title to the property. The sale was completed in April 2012.

Muresan is pro se. He initially appealed from the trial court's order evicting him from the property. After BNY Mellon moved for the dismissal of that appeal in June 2013, Muresan brought a separate appeal from the trial court's order denying him a stay pending the appeal.

On February 27, 2014, this Court consolidated the appeals and granted Muresan a temporary stay. BNY Mellon responded to the motion for an appellate stay on March 2010. This Court denied the stay, vacating the temporary stay on March 19, 2014.

In conjunction with the motion for a stay, BNY Mellon filed an additional designation of trial court pleadings pertaining to the denial of a stay on March 14, 2014. This Court's ruling on February 27, 2014 noted that BNY Mellon had made a supplemental designation of clerks papers on June 10, 2013. The ruling observed that those papers had not been transmitted to this Court. The papers were not transmitted, because the June 10, 2013 amended designation merely corrected a typographical error in the caption of the May 9, 2013 designation. The appropriate papers were transmitted to this Court and received on June 5, 2014.

RESPECTFULLY SUBMITTED this 20th day of March, 2014.

LANE POWELL PC

By 

Ronald E. Beard, WSBA No. 24014

David C. Spellman, WSBA No. 15884

Abraham K. Lorber, WSBA No. 40668

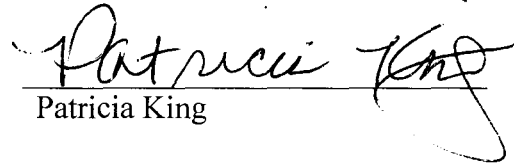
Attorneys for Plaintiff/Respondent The Bank of
New York Mellon

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury and the laws of the United States and the State of Washington that on March 20, 2014, I caused to be served a copy of the foregoing document on the following person(s) in the manner indicated below at the following address(es):

David Muresan
Maria Muresan
1496 South Crestview Drive
Camano Island, WA 98282

- by **CM/ECF**
- by **Electronic Mail**
- by **Facsimile Transmission**
- by **First Class Mail**
- by **Hand Delivery**
- by **Overnight Delivery**



Patricia King