

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
Docket No. RE-12-0354
TDW - CUM - 10/31/2013

ANDROSCOGGIN SAVINGS BANK,
Plaintiff

v.

JOHN R. HOYT,

Defendant

ORDER ON MOTION
FOR SUMMARY JUDGMENT

STATE OF MAINE
Cumberland County
Clerk's Office

OCT 31 2013

RECEIVED

Before the court is a motion by plaintiff Androscoggin Savings Bank for summary judgment in an action for foreclosure brought pursuant to 14 M.R.S. § 6321, et seq. No opposition to the motion has been filed.

The plaintiff's motion for summary judgment is subject to Rule 56(j), which imposes detailed requirements for granting summary judgment in foreclosure actions. M.R. Civ. P. 56(j).¹ The court is independently required to determine if those requirements have been met and is also required to determine whether the mortgage holder has set forth in its Statement of Material Facts the acts necessary for summary judgment in a residential mortgage foreclosure. *Chase Home Fin. LLC v. Higgins*, 2009 ME 136, ¶ 11, 985 A.2d 508.

After reviewing the file, the court concludes that the plaintiff has satisfied the substantive and procedural requirements for a summary judgment of foreclosure. *See* 14 M.R.S. § 6111, 6321; M.R. Civ. P. 56(j); *Chase Home Fin.*, 2009 ME 136, ¶ 11, 985 A.2d 508.

¹ Maine Rule of Civil Procedure 56(j) states, in part:


No summary judgment shall be entered in a foreclosure action filed pursuant to Title 14, Chapter 713 of the Maine Revised Statutes except after review by the court and determination that (i) the service and notice requirements of 14 M.R.S. § 6111 and these rules have been strictly performed; (ii) the plaintiff has properly certified proof of ownership of the mortgage note and produced evidence of the mortgage note, the mortgage, and all assignments and endorsements of the mortgage note and the mortgage; and (iii) mediation, when required, has been completed or has been waived or the defendant, after proper service and notice, has failed to appear or respond and has been defaulted or is subject to default.

A plaintiff in a foreclosure action must “certify proof of ownership of the mortgage note and produce evidence of the mortgage note, mortgage and all assignments and endorsements of the mortgage note and mortgage.” 14 M.R.S. § 6321. Additionally, to prevail on an action of foreclosure, a plaintiff must show that the notice requirements of 14 M.R.S. § 6111 have been strictly performed. *Id.* Here, the plaintiff has provided sufficient evidence of plaintiff’s ownership of the mortgage note, the mortgage note itself, the mortgage, and the notice of default. (Pl.’s S.M.F. 1-4.) Plaintiff has also shown that the parties did participate in mediation through the Foreclosure Mediation Program, although the parties were not able to reach an agreement. (Pl.’s S.M.F. ¶ 17); *see* 14 M.R.S. § 6322.

The entry shall be:

Plaintiff’s motion for summary judgment is granted. The Clerk is directed to incorporate this Order into the docket by reference pursuant to Maine Rule of Civil Procedure 79(a).

Dated: October 31, 2013



Thomas D. Warren
Justice, Superior Court

ANDROSCOGGIN SAVINGS BANK VS JOHN R HOYT
UTN:AOCSSr -2012-0095006

CASE #:PORSC-RE-2012-00354

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~~F JOHN R HOYT EST 12/07/2012~~

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F ANDROSCOGGIN SAVINGS BANK PL RTND 09/27/2012