

Vermont Superior Court
Windsor Civil Division
12 The Green
Woodstock Vermont 05091
www.vermontjudiciary.org © (802) 457-2121

Marjorie M. Battaglia 3699 Woodstock road White River Junction VT 05001

October 29, 2018

Bar Harbor Bank & Trust, vs. Vermont Country Docket No. 142-4-18 Wrcv

STATE OF VERMONT

SUPERIOR COURT
Windsor Unit

CIVIL DIVISION
Docket No. 142-4-18 Wrcv

Bar Harbor Bank & Trust, vs. Vermont Country Corpo

ENTRY REGARDING MOTION

Count 1, Foreclosure (142-4-18 Wrcv)
Count 2, Foreclosure (142-4-18 Wrcv)
Count 3, Foreclosure (142-4-18 Wrcv)
Count 4, Foreclosure (142-4-18 Wrcv)
Count 5, Foreclosure (142-4-18 Wrcv)
Count 6, Foreclosure (142-4-18 Wrcv)
Count 7, Other (142-4-18 Wrcv)
Count 8, Foreclosure (142-4-18 Wrcv)

Title: Motion for Attorney Fees Fees (Motion 11)
Filer: Bar Harbor Bank & Trust,
Attorney: Elizabeth A. Glynn
Filed Date: September 13, 2018

Response filed on 09/17/2018 by Marjorie M. Battaglia, Defendant
Response filed on 10/01/2018 by Attorney Elizabeth A. Glynn for Plaintiff Bar Harbor Bank & Trust,

memo in support of motions to reduce redemption date & atty fees

The Clerk shall schedule a MOTION HEARING for 1 hour.

Given the size of the request, and the opposition, the court will set this matter for hearing. It must be established that the fees are reasonable, and it typically requires expert testimony from independent counsel when fees are in dispute. *Parker, Lamb, and Ankuda v. Krupinsky*, 146 VT 304, 308 (1985). Logs for specific attorneys are helpful.

Electronically signed on October 28, 2018 at 06:06 PM pursuant to V.R.E.F. 7(d).



Michael R. Kainen
Superior Court Judge

FILED

OCT 29 2018

VERMONT SUPERIOR COURT
WINDSOR UNIT

Notifications:

Elizabeth A. Glynn (ERN 1594), Attorney for Plaintiff Bar Harbor Bank & Trust,
Defendant Vermont Country Corporation

Party Dismissed from Case Beth H. Kelly

Party Dismissed from Case Vested Interests of New

Jeffrey P. White (ERN 2234), Attorney for Defendant Mark A. Benetatos

Party Dismissed from Case John J Kelly

Defendant Marjorie M. Battaglia

Party Dismissed from Case Bradford Oil Company, Inc.

FILED

OCT 29 2018

VERMONT SUPERIOR COURT
WINDSOR UNIT

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| Marjorie M. Battaglia |
| 3699 Woodstock road |
| White River Junction VT 05001 |

November 5, 2018

Bar Harbor Bank & Trust, vs. Vermont CountryDocket No. 142-4-18 Wrcv

Vermont Superior Court
Windsor Civil Division
12 The Green
Woodstock, Vermont 05091
www.VermontJudiciary.org - (802) 457-2121

N O T I C E O F H E A R I N G

Marjorie M. Battaglia
3699 Woodstock road
White River Junction VT 05001

November 5, 2018

Bar Harbor Bank & Trust,
vs.
Vermont Country Corporation et al

Docket No. 142-4-18 Wrcv

This is to notify you to appear at the Court named above in connection
with the above named case for the following:

Motion Hearing Regarding Motions(s):
11) Motion for Attorney Fees Fees

Thursday November 29, 2018 at 01:00 PM Hearing Length: 1 Hour(s) 0 Minute(s)

Civil Division Clerk

Any individual with a disability requiring assistance accessing the services,
programs, and/or activities at the Courthouse should contact the Clerk's office
at the above address for further assistance.

Notifications:

Elizabeth A. Glynn, Attorney for Plaintiff, Bar Harbor Bank & Trust,
Defendant, Vermont Country Corporation
Jeffrey P. White, Attorney for Defendant, Mark A. Benetatos
Defendant, Marjorie M. Battaglia
Court Case File

Vermont Superior Court
Windsor Civil Division
12 The Green
Woodstock Vermont 05091
www.vermontjudiciary.org (802) 457 2121

Vermont Country Corporation
3699 Woodstock Rd
White River Junction VT 05001

November 5, 2018

Bar Harbor Bank & Trust, vs. Vermont Country Docket No. 142-4-18 Wrcv

Vermont Superior Court
Windsor Civil Division
12 The Green
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N O T I C E O F H E A R I N G

Vermont Country Corporation
3699 Woodstock Rd
White River Junction VT 05001

November 5, 2018

Bar Harbor Bank & Trust,
vs.
Vermont Country Corporation et al

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Defendant, Vermont Country Corporation
Jeffrey P. White, Attorney for Defendant, Mark A. Benetatos
Defendant, Marjorie M. Battaglia
Court Case File

RYAN SMITH & CARBINE, LTD.

ATTORNEYS AT LAW

MEAD BUILDING
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RUTLAND, VERMONT 05702-0310

TELEPHONE (802) 786-1000
FACSIMILE (802) 786-1100

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GLENS FALLS, NEW YORK 12801

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FACSIMILE (518) 499-1273

PLEASE REPLY TO: ☒ VERMONT ☐ NEW YORK

(802) 786-1065
eag@rsclaw.com

October 30, 2018
VIA E-CABINET FILING

Carla Wright, COM
Vermont Superior Court
Windsor Unit, Civil Division
12 The Green
Woodstock, VT 05091

RE: Bar Harbor Bank & Trust, Successor in Interest by Merger to Lake Sunapee Bank, fsb v.
Vermont Country Corporation; Marjorie M. Battaglia; Mark A. Benetatos; and All
Unnamed Occupants of 3699 Woodstock Road, White River Junction (Hartford),
Vermont
Docket No. 142-4-18 Wrcv

Dear Carla:

Enclosed for filing with the Court is a Supplemental Affidavit of Amounts Due and
Certificate of Service.

Thank you.

Very truly yours,

/s/ Elizabeth A. Glynn

Elizabeth A. Glynn

cc: Meghan Douglas Hanson, AVP (via email)

8913/124-866931

R. JOSEPH O'ROURKE
JOHN J. ZAWISTOSKI
THOMAS M. DOWLING
ALLAN R. KEYES
HARRY R. RYAN
GLENN S. MORGAN
JAMES B. ANDERSON ▲
WILLIAM A. O'ROURKE, III
ELIZABETH A. GLYNN
ANDREW H. MAASS
JOHN A. SERAFINO
MARK F. WERLE ▲
ERIN J. GILMORE
TAMMY B. DENTON
FRANCESCA BOVE
STEPHANIE P. ROMEO
ERIC J. MORGAN
ANTONIN I.Z. ROBBASON ▲
STEPHEN C.H. CASSARINO
CHARLES A. ROMEO
BRIDGETTE L. REMINGTON
ELIJAH T. LACHANCE
▲ ALSO ADMITTED IN NEW YORK

STATE OF VERMONT

SUPERIOR COURT
Windsor Unit

CIVIL DIVISION
Docket No. 142-4-18 Wrcv

BAR HARBOR BANK & TRUST,
Successor in Interest by Merger to
Lake Sunapee Bank, fsb,
Plaintiff

vs.

VERMONT COUNTRY CORPORATION;
MARJORIE M. BATTAGLIA;
MARK A. BENETATOS;
AND ALL UNNAMED OCCUPANTS OF
3699 WOODSTOCK ROAD,
WHITE RIVER JUNCTION (HARTFORD), VERMONT,
Defendants

SUPPLEMENTAL
AFFIDAVIT OF AMOUNTS DUE

I, Meghan Douglas Hanson, being duly sworn, depose and say as follows:

1. I am employed by Plaintiff, Bar Harbor Bank & Trust, Successor in Interest by Merger to Lake Sunapee Bank ("Lender") as an Assistant Vice President in the Managed Assets Department. I have reviewed the Lender's business records in this case and am familiar with the facts of this case through my position with the Lender.

2. This Affidavit supplements the Affidavit dated September 12, 2018 filed with the Court as Lender paid real estate taxes to the Town of Hartford to avoid a tax sale in the amount of \$13,165.94 by checks dated October 25, 2018. A copy of the checks mailed for the delinquent real estate taxes are attached as Exhibit "A" and made a part hereto. The amounts due have been updated in this Affidavit to October 26, 2018.

3. In my capacity as a Managed Assets Officer for Lender I have access to, and use on a regular basis, Lender's computer system to access its business records regarding outstanding loans. The electronic information maintained on Lender's computer system with respect to outstanding credit agreements, including the information described below

and reflected in the loan documents referenced to herein, is part of the computer-based records kept by Lender in the ordinary course of its regularly conducted business activity and is a primary and key method of maintaining a historical record of the acts, events, or conditions recorded with respect to loans owed to Lender. Lender's computer system is regularly maintained to ensure the accuracy of its records, and Lender maintains backup copies of account data to prevent the loss of any data. Lender regularly relies on its computer-based records in conducting its business. Lender's computer-based records include information about the original balance, the history of payments and credits for payments, and the amount of late charges. Entries in these records ordinarily are made at or near the time of the described acts, events or conditions, by, or from information transmitted by, a person with personal knowledge and a business duty to report the recorded information. In addition, each of these records was kept in the course of a regularly conducted business activity, and it was the regular practice of that business activity to make these records. I have reviewed Lender's Complaint in the above-styled case, and I am familiar with the loan documents referenced below because I am the Loan Workout Officer assigned to collect the mortgage loan account of Vermont Country Corporation and Marjorie Battaglia.

4. The amount due under the provisions of the Note, exclusive of legal fees and costs for collection, is as follows:

1. Principal due on note		\$218,160.01
2. Interest at a rate of 5.25%		
From 9/4/17 to 3/4/18		
Interest at a rate of 5.50%		
From 3/4/18 to 9/4/18		
Interest at the rate of 6%		
From 9/4/18 to 10/26/18	\$13,144.67	
3. Late charges	\$ 610.55	
to acceleration-		
4. Taxes paid to the Town		\$ 13,165.94
5. Interest on Item No.4	\$	
6. Insurance Paid		\$
7. Interest on Item No. 6	\$	
8. Other Fees:		
- Appraisal		\$ 2,000.00
9. Interest on Item No. 10	\$	
10. Town Clerk Filing Fee for Complaint		\$ 110.00
as required by 12 VSA Section 4932(b)		

11. Total-Lines 1, 4, 6, 8, 10

\$233,435.95

12. Total Lines 2, 3, 5, 7, 9

\$13,755.22


Per Diem Interest on No. 1 \$ 32.87193

5. Pursuant to the terms of the Mortgage, Page 2, section captioned "LENDER'S EXPENDITURES", the real estate taxes paid by the Lender become part of the indebtedness owed by mortgagor.

6. Pursuant to the terms of the Note, Page 1, Section captioned *Late Charge*, Plaintiff is entitled to collect a late charge of 5% of the unpaid regularly scheduled payment if a payment is more than 15 days late.


7. Pursuant to the terms of the First and Second Mortgages, Page 4 respectively, under the Section captioned *Attorneys' Fees; Expenses*, Plaintiff is entitled to collect all reasonable expenses, which includes the appraisal.

Dated at Newport, New Hampshire, this 30th day of October, 2018.


Meghan Douglas Hanson
Assistant Vice President

STATE OF NEW HAMPSHIRE
SULLIVAN COUNTY, SS.

Subscribed and sworn to before me this 30th day of October, 2018.


Notary Public
My Commission Expires: _____

Jennifer Blaine
Notary Public • State of New Hampshire
My Commission Expires June 21, 2022

EXHIBIT A



1024666

REMITTER:

DATE 10/25/18

VERMONT COUNTRY CORP / PROPERTY TAXES
TOWN OF HARTFORD VT
EXACTLY **4,258 AND 32/100 DOLLARS

\$ 4,258.32

CUSTOMER - FILE COPY

CASHIERS CHECK

AUTHORIZED SIGNATURE
NOT NEGOTIABLE



1024722

REMITTER:

DATE 10/26/18

VERMONT COUNTRY / PROPERTY TAXES
TOWN OF HARTFORD VT
EXACTLY **8,907 AND 62/100 DOLLARS

\$ 8,907.62

CUSTOMER - FILE COPY

CASHIERS CHECK

AUTHORIZED SIGNATURE
NOT NEGOTIABLE

STATE OF VERMONT

SUPERIOR COURT
Windsor Unit

CIVIL DIVISION
Docket No. 142-4-18 Wrcv

BAR HARBOR BANK & TRUST,
Successor in Interest by Merger to
Lake Sunapee Bank, fsb,
Plaintiff

CERTIFICATE OF SERVICE

vs.

VERMONT COUNTRY CORPORATION;
MARJORIE M. BATTAGLIA;
MARK A. BENETATOS;
AND ALL UNNAMED OCCUPANTS OF
3699 WOODSTOCK ROAD,
WHITE RIVER JUNCTION (HARTFORD), VERMONT,
Defendants

I, Elizabeth A. Glynn, Esq., hereby certify that I served *a copy of Supplemental Affidavit of Amounts Due and Certificate of Service*, to all other parties to this case as follows:

Jeffrey P. White, Esq.
Pratt Vreeland Kennelly Martin & White, Ltd.
PO Box 280
Rutland, VT 05702-0280
jpw@vermontcounsel.com
pls@vermontcounsel.com
Attorney for Mark A. Benetatos

Marjorie M. Battaglia
3699 Woodstock Road
White River Jct., VT 05001
Defendant

Via:

- ☒ First Class Mail by depositing it in the US
Mail;
- ☐ By personal delivery to _____ or
his/her counsel;
- ☒ Other. Explain: EMAIL

DATED at Rutland Vermont this 30th day of October, 2018.

8913/124-866933

BY: /s/ Elizabeth A. Glynn
Elizabeth A. Glynn, Esq.
ERN #1594
Ryan Smith & Carbine, Ltd.
P.O. Box 310
Rutland, Vermont 05702
(802) 786-1000
eag@rsclaw.com