VERMONT SUPERIOR COURT WINDSOR UNIT, CIVIL DIVISION

BAR HARBOR BANK & TRUST,)	Docket # 142-4-18 Wrcv
Successor in Interest by Merger to)	
Lake Sunapee Bank, fsb,)	
Plaintiff,)	PLAINTIFF'S RESPONSE TO
)	DEFENDANTS' FILING
- VS)	OF OCTOBER 19, 2018
)	
VERMONT COUNTRY CORP., et al.)	
Defendants.)	
)	

The recent filing (dated October 19, 2018) by Defendant Battaglia is irrelevant to the resolution of this case. Vermont law governs this action to foreclose a mortgage on property located in Vermont and to collect a debt. See Statement of Undisputed Facts in Support of Plaintiff's Motion for Summary Judgment, Docketed Jul. 20, 2018, ¶ 1. The filing cites no law—and certainly no Vermont law—supporting relief. The motion filed in a criminal appeal pending in the U.S. Court of Appeals for the Sixth Circuit is inapplicable to this case.

Defendant once again asks for the court to "delay [the] proceedings in excess of 6 months to vacate the property... as funds will be become available to purchase back the property...." This request should be denied. Defendant Battaglia's request is on behalf of herself, and not the mortgagor, Defendant Vermont County Corporation. Defendant Battaglia is liable for the debt as a guarantor; as such, she has no possessory interest in the premises as a mortgagor.

In any event, further delay of the proceedings is unwarranted. Repayment of the note has been in default for more than a year. The principal due on the note is \$218,160.01, with \$34.14 per diem interest accruing (exclusive of costs and fees relative to the foreclosure). Defendant offers no support for her contention that "funds will become available to purchase back the property." Even if she could provide some evidence that she could repay some amount, the redemption period should be set at 30 days, pursuant to 12 V.S.A. § 4946(c).

¹ The Court has already ruled that Defendant Battaglia may not file documents on behalf of Vermont Country Corporation (VCC).

DATED at Rutland, Vermont, this 24th day of October, 2018.

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

By:

/s/ Elizabeth A. Glynn

Elizabeth A. Glynn, Esq.

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Its Attorney 802-786-1065

8913-124/865452

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 Plaintiff's Response to Defendants' Filing of October 19, 2018 and Certificate of Service, to all other parties to this case as follows:

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

Via:

⊠ First Class Mail;	Mail by depositing i	it in the US
☐ By persona his/her cour		or
Other. Exp	lain: EMAIL	

DATED at Rutland Vermont this 24th day of October, 2018.

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

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