

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 2007-CA-6826

DIVISION: CV-A

COUNTRYWIDE HOME LOANS, INC.,

Plaintiff,

v.

LULA K. JONES, et al.,

Defendants.

**DEFENDANT'S MOTION FOR RELIEF FROM SUMMARY FINAL JUDGMENT IN
FORECLOSURE AND FOR SANCTIONS**

COMES NOW the Defendant, LULA K. JONES, by and through her undersigned counsel, pursuant to Rule 1.540, Florida Rules of Civil Procedure, and respectfully requests this Court relieve her from the Summary Final Judgment in Foreclosure entered by the Court March 31, 2009, and in support thereof, states as follows:

1. Plaintiff COUNTRYWIDE HOME LOANS, INC. (hereinafter "COUNTRYWIDE" or Plaintiff) filed the instant foreclosure action and associated Notice of Lis Pendens seeking to foreclose the mortgage on Defendant's property. The case was pending until March 31, 2009, when the Court entered Summary Final Judgment.

2. Prior to the hearing, Plaintiff had offered and Defendant had accepted a loan modification agreement. See, Exhibit A, attached hereto and incorporated by reference. Subsequent thereto, Defendant made the first payment under the agreement, in May 2009; the


June and July payments have now been returned and Defendant has been sued again, *by the same entity and same law firm*, for foreclosure in Case No. 2009-CA-9422, pending in Division CV-F.

3. Defendant is entitled to relief from the Final Summary Judgment, for the reasons set forth above, and Plaintiff should be sanctioned for seeking Summary Final Judgment in a matter in which it had approved a loan modification agreement prior to the hearing on the Motion for Summary Judgment. Defendant further seeks reasonable attorney's fees and costs.

WHEREFORE, Defendant respectfully requests this Honorable Court grant relief from the Summary Final Judgment, for the reasons set forth above.

DATED this 30 day of July 2009 at Jacksonville, Duval County, Florida.

**LAW OFFICES OF
JAMES A. KOWALSKI, JR., PL**


James A. Kowalski, Jr. (FBN: 852740)
12627 San Jose Boulevard, Suite 203
Jacksonville, Florida 32223
Telephone: (904) 268-1146
Facsimile: (904) 268-1342

Attorney for Defendant LULA K. JONES

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by First Class Mail, postage prepaid, this 30 day of July 2009, to Daphne B. Tako, Esquire, Law Offices of David J. Stern, P.A., 900 South Pine Island Road, Suite 400, Plantation, Florida 33324-3920.

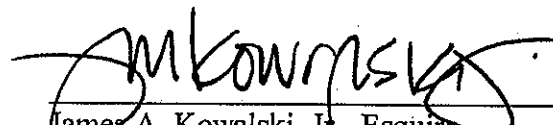

James A. Kowalski, Jr., Esquire

EXHIBIT A



Attn: Home Retention Division
Countrywide Modification
100 Beecham Drive Suite 104
Pittsburgh, PA 15205

Notice Date: March 9, 2009

Account No.: 5421437

ESTATE OF GLADYS KING
C/O LULA K JONES
9748 NORFOLK BLVD
Jacksonville, FL 32208

Property Address:
9748 NORFOLK BLVD, JACKSONVILLE,
FL 32208

IMPORTANT MESSAGE ABOUT YOUR LOAN

We are pleased to advise you that your loan modification has been approved. In order for the modification to be valid, the enclosed documents need to be signed and returned.

The following amounts will be added to your current principal balance, resulting in a modified principal balance of \$23,036.74 prior to your first payment date. The amount added to your loan is:

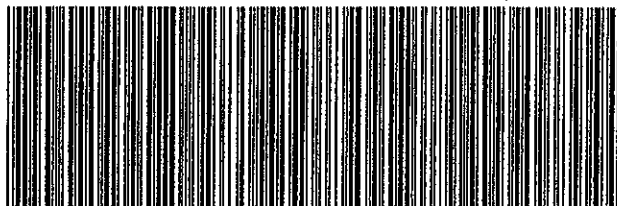
Interest :	\$2,106.46
Fees:	\$3,070.50
Escrow:	<u>\$1,785.20</u>
Total:	\$6,962.16

Your new modified monthly payment will be \$211.05, effective with your May 1, 2009 payment. This payment is subject to change if your escrow account is reanalyzed or if you have a step rate, interest only or adjustable rate loan type. Your current interest rate is 7.5%. Your new interest rate will be 6.5%. We are fixing this rate for a period of 480 months. This Agreement will bring your loan current; however, you are still required to pay back the entire unpaid principal by the maturity date for your loan.

Your new reduced interest rate will be effective as of April 1, 2009 and it will remain in effect until April 1, 2049.

A breakdown of your payment is as follows:

P&I Payment:	\$134.87
Escrow:	<u>\$76.18</u>
Total Payment:	\$211.05



WHAT YOU SHOULD DO

"FILE COPY"

Please sign, date and return one (1) complete set of enclosed documents to us in the re-usable Fed-Ex envelope. Please use the return label provided and mail no later than April 9, 2009 to the following address:



Countrywide Modification, 100 Beecham Drive Suite 104, Pittsburgh, PA 15205

If you have questions, Loan consultants are standing by from 8:00 AM until 9:00 PM CT Monday through Friday, and 8:00 AM until 3:00 PM CT on Saturday except holidays at 877-665-6866.

This offer is contingent upon Countrywide receiving relief from the Automatic Stay for any bankruptcy in which the property referred to in the Loan Modification Agreement is included at the time of the modification.

If any issues arise between the date of this commitment and the date on which all of the terms and conditions of this letter are finalized, including, but not limited to, deterioration in the condition of the property, lawsuits, liens, additional expenses and defaulted amount, then we may terminate this offer and pursue all collection action, including foreclosure.

This Letter does not stop, waive or postpone the collection actions, or credit reporting actions we have taken or contemplate taking against you and the property. In the event that you do not or cannot fulfill ALL of the terms and conditions of this letter no later than April 9, 2009, we will continue our collections actions without giving you additional notices or response periods.

The following documents have been enclosed:

Modification Agreement - Must be signed in the presence of a Notary. The notary acknowledgment must be in recordable form. All parties who own an interest in the property must sign the modification agreement as their name appears.

The following documents may have been included if applicable to your loan:

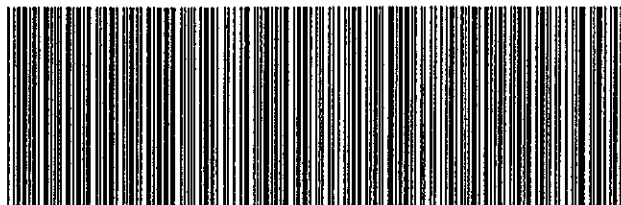
California All Purpose Acknowledgment - This document will only be used if the loan modification agreement is being executed in the state of California. It will be utilized by a notary of the state of California in place of the notary section contained in the Loan Modification Agreement.

Bankruptcy Disclosure - All parties who own an interest in the property must sign the Bankruptcy Disclosure as their name appears.

THANK YOU FOR YOUR BUSINESS

The HOPE Team

Countrywide is required by law to inform you that this communication is from a debt collector.



Borrower Name: Estate Of Gladys King
Account No.: 5421437
Property Address: 9748 Norfolk Blvd, Jacksonville, FL

SIMPLE ASSUMPTION AGREEMENT

This Agreement is executed as of _____ (the "Effective Date") by and among **Countrywide Home Loans ("Countrywide")** and _____ ("Owner")(Person being added), who has acquired an interest in the Property:

INTRODUCTORY PROVISIONS

The following introductory provisions are true and correct, form the basis of and are a part of this Agreement:

- A. Countrywide is the servicer of the Loan secured by the Property and has the authority to act for the mortgagee on the Loan in connection with this Agreement.
- B. Owner was not a borrower on the Loan when it was originated, but subsequently acquired an ownership interest in the Property.
- C. Owner has requested that Countrywide add Owner's name as a (co)borrower on the Loan.
- D. Countrywide has agreed to add Owner as a (co)borrower on the Loan.

Now therefore, in consideration of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. Beginning on the Effective Date,
 - a. Owner shall be deemed a (co)borrower on the Loan for all purposes;
 - b. Owner will be entitled to receive all notices required to be provided to a borrower on the Loan;
 - c. Owner assumes the obligation to make payments due, and to perform all obligations of a borrower or mortgagor under the terms of the Note and Security Instrument executed in connection with the Loan; and
 - d. The payment history on the Loan will be reported to credit reporting bureaus as an obligation of the Owner.
- 2. Countrywide, on behalf of the mortgagee waives its right under the Security Instrument to accelerate the Loan as a result of the transfer to Owner of an interest in the Property.

Executed as of the Effective Date

Owner (Person Being Added):

Signed Name: _____

Printed Name: _____

RECORDING REQUESTED BY:
Countrywide Home Loans Servicing LP
Attn. WORKOUT DEPARTMENT, LAN-70
177 COUNTRYWIDE WAY
LANCASTER, CA 93536

Loan #: 5421437

LOAN MODIFICATION AGREEMENT

(Fixed Interest Rate)

This Loan Modification Agreement ("Agreement"), made this 9th day of March, 2009, between ESTATE OF GLADYS KING, and Countrywide Home Loans Servicing LP (Lender), amends and supplements (1) the Mortgage, Deed of Trust or Deed to Secure Debt (the Security Instrument), dated the 13th day of July, 1998 and in the amount of \$28,800.00 and (2) the Note secured by, the Security Instrument, which covers the real and personal property described in the Security Instrument and defined therein as in the 'Property', located at 9748 NORFOLK BLVD, JACKSONVILLE, FL 32208.

The real property described being set forth as follows:

SAME AS IN SAID SECURITY INSTRUMENT

In consideration of the mutual promises and agreements exchanged, the parties hereto agree as follows (not withstanding anything to the contrary contained in the Note or Security Instrument):

1. As of the 1st day of April, 2009, the amount payable under the Note or Security Instrument (the "Unpaid Principal Balance") is U.S. \$23,036.74 consisting of the amount(s) loaned to the borrower by Lender and any interest capitalized to date.
2. The Borrower promises to pay the Unpaid Principal Balance, plus interest, to the order of the Lender. Interest will be charged on the Unpaid Principal Balance at the yearly rate of 6.5% from the 1st day of April, 2009. The Borrower promises to make monthly payment of principal and interest of U.S. \$134.87 beginning on the 1st day of May, 2009, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full. If on the 1st day of April, 2049 (the "Maturity Date"), the Borrower still owes amounts under the Note and Security Instrument, as amended by this agreement, the Borrower will pay these amounts in full on the Maturity Date.
3. The Borrower will make such payment at 450 American Street, Simi Valley, California 93065 or at such other place as the Lender may require.
4. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in the Borrower is sold or transferred and the Borrower is not a natural person) without the Lender's prior consent, the Lender may, at its option, require immediate payment in full of all sums secured by the Security Instrument.
5. The Borrower also will comply with all other covenants, agreements, and requirement of the Security Instrument, including without limitation, the Borrower's covenants and agreements to make all payments of taxes, insurance premiums, assessments, escrow items, impounds, and all other payments that the Borrower is obligated to make under the Security Instrument; however, if your original Note or Security Instrument was an Adjustable Rate, the following terms and provision are cancelled, null, and void, as of the date specified in paragraph No. 1 above:
 - (a) all terms and provisions of the original Note and Security Instrument (if any) providing for, implementing, or relating to, any adjustment, in the rate of interest payable under the Note; and
 - (b) all terms and provisions of any adjustable rate rider or other instrument or document that is affixed to, wholly or partially incorporated into, or is part of, the original Note or Security Instrument and that contains any such terms and provisions as those referred to in (a) above.
6. Nothing in this agreement shall be understood or construed to be a satisfaction or release in whole or in part of the Note and Security Instrument. Except as otherwise specifically provided in this Agreement, the Note and Security Instrument will remain unchanged, and the Borrower and Lender will be bound by, and comply with, all terms and provisions thereof, as amended by this Agreement.



7. In consideration of this Modification, Borrower agrees that if any document related to the Security Instrument, Note and/or Modification is lost, misplaced, misstated, inaccurately reflects the true and correct terms and conditions of the loan, or is otherwise missing upon the request of the Lender, Borrower(s) will comply with Lender's request to execute acknowledge, initial and deliver to Lender any documentation Lender deems necessary to replace or correct the lost misplaced, misstated, inaccurate or otherwise missing document(s). If the original promissory note is replaced the Lender hereby indemnifies the Borrower(s) against any loss associated with a demand on the original note. All documents Lender requests of borrower(s) shall be referred to as Documents. Borrower agrees to deliver the Documents within ten (10) days after receipt by Borrower(s) of a written request for such replacement.

As evidenced by their signatures below, the Borrower and the Lender agree to the foregoing.

Lula K. Jones
ESTATE OF GLADYS KING

Dated: March 28, 2009

STATE OF FLORIDA

COUNTY OF DUVAL

On 3/28/09 before me, SHARON F. LESESNE Notary Public, personally appeared

LULA K. JONES
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Sharon F. Lesesne
Signature

NOTARY PUBLIC-STATE OF FLORIDA
Sharon F. Lesesne
Commission #DD792169
Expires: JUNE 18, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

Countrywide Home Loans Servicing LP

By: _____ Dated: _____



FedEx Kinko's
Office and Print Center

221 W Forsyth St
JACKSONVILLE, FL 32202

Location: NIPK
Device ID: NIPK-POS01
Employee: 2031045

FEDEX Express Package - Dropped Off
408469366236

Total Pieces: 1

Subject to additional charges. See FedEx Service Guide
at fedex.com for details. All merchandise sales final.

Visit us at: fedex.com
Or call 1.800.GoFedEx
1.800.463.3339

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