

Page 1

1 UNITED STATES DISTRICT COURT
 2 WESTERN DISTRICT OF WASHINGTON
 3 AT SEATTLE

4
 5 Kristin Bain,
 6 Plaintiff,
 7 vs. Case No. 09-CV-00149-JCC
 8 Metropolitan Mortgage Group,
 9 Inc.; IndyMac Bank, FSB; Mortgage
 10 Electronic Registration Systems;
 11 Regional Trustee Service;
 12 Lenders Processing Service, Inc.,
 13 inclusive,
 14 Defendants.

15
 16 DEPOSITION OF GREGORY N. ALLEN
 17 Taken January 13, 2010, 2010

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 19
 20
 21
 22
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 23 NOTE: The original transcript will be filed
 24 with Law Offices of Melissa A. Huelsman pursuant to the
 25 applicable Rules of Civil Procedure.

Page 2

1 The deposition of GREGORY N. ALLEN, taken on
 2 January 13, 2010, commencing at 1:49 a.m., taken at
 3 1400 Rand Tower, 527 Marquette Avenue, South,
 4 Minneapolis, Minnesota, before Cindy L. Schultz,
 5 Registered Merit Reporter, Certified Realtime Reporter,
 6 Certified LiveNote Reporter, and Notary Public of and
 7 for the State of Minnesota.

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 2 WITNESS: GREGORY N. ALLEN
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 4 EXAMINATION BY PAGE
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 6
 7 INSTRUCTIONS NOT TO ANSWER
 8 None
 9
 10 DOCUMENT REQUESTS
 11 None
 12
 13 PLAINTIFF EXHIBITS MARKED/REFERRED TO
 14 No. 1: Agreement for Signing Authority. . . .14
 15 LPS-BAIN 0005 - 0013
 16 No. 2: 8/26/08 Appointment of Successor Trustee.16
 17 LPS-BAIN 0003 - 0004
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 19 LPS-BAIN 0001 - 0002
 20 No. 17: First Addendum to Default Services
 21 Agreement. 14
 22 LPS WOOD 0823 - 0827
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Exhibit C

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1 GREGORY N. ALLEN,
 2 being first duly sworn, was examined and testified as
 3 follows:
 4 EXAMINATION
 5 BY MS. HUELSMAN:
 6 Q. Could you state your name for the record,
 7 please.
 8 A. Greg Allen.
 9 Q. Gregory or just Greg?
 10 A. I go by Greg; it is Gregory.
 11 Q. Okay. And is it A-L-L-E-N?
 12 A. Correct.
 13 Q. All right. Why don't you tell me your
 14 business address.
 15 A. 1270 Northland Drive, Suite 200,
 16 Mendota Heights, Minnesota.
 17 Q. All right. And you are an employee of LPS?
 18 A. Correct.
 19 Q. Can you tell me what your position is there?
 20 A. Assistant vice president of customer support.
 21 Q. Okay. Can you give me -- I'm sorry.
 22 You are here testifying today as an employee
 23 of LPS; do you understand that?
 24 A. Yes.
 25 Q. Okay. So when I ask you questions and I

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1 refer to "you," it's about your personal knowledge in
 2 your role as an employee of LPS. Okay?
 3 A. Okay.
 4 Q. All right. And I got started because I was
 5 trying to hurry, but I wanted to go over a few rules of
 6 depositions. Have you ever had your deposition taken
 7 before?
 8 A. No.
 9 Q. Okay. I assume Mr. Spoonemore went over the
 10 rules with you, but we need to make sure that we don't
 11 talk over each other, because this nice lady has to
 12 take down everything we're saying. And I talk very
 13 fast, so I'm already making her life miserable. You
 14 need to make certain that you say yes or no when you
 15 answer. Don't say mm-hmm or un-unh, because that's
 16 vague and ambiguous in the deposition transcript.
 17 If you don't know the answer to a question,
 18 it is perfectly acceptable to say "I don't know." I
 19 would rather have you say that than guess at an answer.
 20 This is important, also, because you're swearing to
 21 testify under oath under penalty of perjury, and if you
 22 guess and it turns out later you're wrong, then I can
 23 make something of the fact that you gave me a wrong
 24 answer. And so it's just best to not guess. But I can
 25 ask you for your best estimate of something or your

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1 best recollection, and then that's perfectly acceptable
 2 if you're truly providing me with your best estimate or
 3 your best recollection and not guessing. Okay?
 4 A. Okay.
 5 Q. And if any of my questions are unclear, you
 6 don't understand them, please let me know, because I
 7 will rephrase them. I want your best testimony. I'm
 8 not trying to trick you. I really want you to
 9 understand the question that I'm asking so you can
 10 provide me with an accurate response. Okay?
 11 A. Okay.
 12 Q. All right.
 13 Why don't you give me your education after
 14 high school.
 15 A. I received a BA in sociology from the
 16 University of Iowa.
 17 Q. And when did you receive that?
 18 A. It was '95.
 19 Q. Okay. And did you go to college straight out
 20 of high school?
 21 A. Yes.
 22 Q. Okay. So why don't you give me your work
 23 history after you left college.
 24 MS. HUELSMAN: Josh?
 25 MR. SPOONEMORE: Josh, are you there?

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1 MR. RATEZYK: I'm here. Ready.
 2 MS. HUELSMAN: Okay. Perfect. We're on
 3 Greg Allen --
 4 MR. RATEZYK: Okay.
 5 MS. HUELSMAN: -- who just told us a
 6 little bit of background information, and that's it.
 7 MR. SPOONEMORE: Assistant vice president
 8 of customer support.
 9 MR. RATEZYK: I'm sorry, what was that?
 10 MR. SPOONEMORE: Assistant vice president
 11 of customer support.
 12 MR. RATEZYK: Okay.
 13 A. And I believe my degree was '95, but it could
 14 have been '94 --
 15 Q. Okay.
 16 A. -- as far as when I got the degree --
 17 Q. Okay.
 18 A. -- to be specific.
 19 Q. I'm not going to check with the University of
 20 Iowa.
 21 Okay. So why don't you give me your work
 22 history, beginning after you graduated from college.
 23 A. And this will be to the best of my
 24 recollection --
 25 Q. Yes.

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1 A. -- for some of it.
 2 Q. Yes.
 3 A. I worked for Northwest Mortgage as a default
 4 loan counselor, then worked for Principal Residential
 5 Mortgage as a supervisor in customer service on the --
 6 for a call center, then I had a variety of interim
 7 jobs. It's around the time the that I relocated to the
 8 Twin City area. I'm trying to think.
 9 Q. He can't help you.
 10 A. I know.
 11 When I came to the Twin Cities, I worked for
 12 -- I had employment with Allied Interstate, a
 13 collection agency. I worked, at one time, as a
 14 Realtor; I worked, at one time, as a financial planner;
 15 and worked for LPS--or at that time it was different
 16 company name--as a representative, and it's during that
 17 time when I segued away from the company and tried to
 18 pursue a career as a Realtor, and then I rejoined the
 19 company as a supervisor for an audit team. And then I
 20 moved away from the company to pursue a career as a
 21 financial consultant, and then it was November of '08
 22 when I rejoined LPS. My role is as vice president of
 23 customer support. That's the -- the trail of
 24 employment to the best of my recollection.
 25 Q. Okay. And can you tell me what your job

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1 duties are in your current role?
 2 A. I'm the department manager over the document
 3 execution and referral functions -- support functions
 4 that we provide and, also, I liaison the bankruptcy
 5 mail processing with a third-party vendor.
 6 Q. Who is that third-party vendor?
 7 A. It is another division of LPS, and I believe
 8 they're going by the name of Aptitude Solutions.
 9 Q. That's Aptitude Solutions?
 10 A. I believe so.
 11 Q. Okay. And what role do they perform in
 12 bankruptcy cases?
 13 A. There's no role in the -- the cases. The
 14 mail that can get generated at times gets processed.
 15 Q. Does that mean that they process received
 16 mail or they process outgoing mail?
 17 A. They process received mail.
 18 Q. So mail that's received by Fidelity -- or,
 19 excuse me, LPS related to bankruptcy cases goes through
 20 this Aptitude company, is that what you're saying?
 21 A. The -- Could you repeat that?
 22 Q. Is Aptitude processing mail received by LPS
 23 that relates to bankruptcy cases?
 24 A. The mail that is received by -- that is sent
 25 to LPS is processed --

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1 Q. Okay.
 2 A. -- by this -- this third party, so part of my
 3 responsibilities is to liaison that relationship.
 4 Q. To make sure that LPS gets the mail?
 5 A. To make sure that if a client sends their
 6 mail to us, that it gets processed.
 7 Q. Okay. Does it manage outgoing mail for LPS?
 8 A. My understanding is they manage just general
 9 -- any packet -- outgoing packages that would need to
 10 be sent.
 11 Q. So when documents executed by LPS employees
 12 need to be sent out to attorneys within the attorney
 13 network -- or to servicers, is it done through this
 14 Aptitude company?
 15 A. Yes.
 16 Q. Can you explain that process to me?
 17 A. The -- the -- Well, I'll refer to it as the
 18 mailroom --
 19 Q. Okay.
 20 A. -- has packages that go out to the various
 21 firms, so the documents that get executed by LPS or
 22 clients are put into those packages and then sent back
 23 to the requester.
 24 Q. Okay. And Aptitude tracks the -- those
 25 packages?

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1 A. There is -- they retain tracking information
 2 that is sent through the mail service?
 3 Q. All right. So do you supervise Bethany Hood
 4 and Christina Allen?
 5 A. I supervise Bethany Hood. I do not supervise
 6 Christina Allen.
 7 Q. Okay. And what job title does Bethany Hood
 8 have?
 9 A. She's a manager.
 10 Q. Of what department?
 11 A. Within customer support.
 12 Q. Okay. And what is her job function?
 13 A. She manages the bankruptcy mail as well as
 14 the document execution.
 15 Q. And she actually signs documents herself,
 16 correct?
 17 A. Correct.
 18 Q. Do you execute documents on a regular basis,
 19 as well? And by that I mean Appointment of Successor
 20 Trustee, Appointment Assignment, those kind of
 21 documents.
 22 A. Yes.
 23 Q. So you are authorized by lenders and/or
 24 servicers to sign documents on their behalf?
 25 A. Yes.

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1 Q. Okay. Do you know which companies you have
 2 authorization to sign on behalf of?
 3 **A. Yes.**
 4 Q. Can you tell me what they are, please?
 5 **A. I know a number of them. I have a -- a list**
 6 **at my desk that I refer to because of the number of**
 7 **them, but I know that some of them are EverHome or**
 8 **EverBank, EMC, JPMorgan Chase, Wilshire. Some of them**
 9 **could also apply; potentially a MERS authority. Those**
 10 **are the ones that I can recall at this particular time,**
 11 **but there are more.**
 12 Q. Okay. And can you explain to me -- When you
 13 said the MERS in some particular cases, can you explain
 14 that to me, please?
 15 **A. Could you rephrase that question?**
 16 Q. Well, you said that in some relationships it
 17 can involve MERS. I can't remember the exact word you
 18 said, but can you explain?
 19 **A. It varies by client. In some cases MERS, as**
 20 **far as who is a potential authorized signer, because**
 21 **the clients grant the signing authority and MERS grants**
 22 **their signing authority.**
 23 Q. Okay. So, in other words, you don't have any
 24 authority to act on behalf of MERS independent of some
 25 other entity, correct? So, in other words, there's no

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1 document that says, "we, MERS, allow Greg Allen to sign
 2 documents on our behalf" without mention of any other
 3 entity; is that correct? It's in conjunction with a
 4 lender or a servicer?
 5 **A. Correct.**
 6 Q. Okay. I'm not trying to trick you.
 7 **A. No.**
 8 Q. All right. So, in other words -- well, let's
 9 use this one. I'm going to use Exhibit 1 as well as
 10 Exhibit 17 -- oops. Sorry. You have them. Would you
 11 pull out Exhibit 17 and Exhibit 1?
 12 **A. Exhibit 17, correct?**
 13 Q. Yeah, and Exhibit 1.
 14 **A. Okay.**
 15 Q. Take a look at these documents.
 16 **A. (Reviewing documents.)**
 17 Q. Okay?
 18 **A. Okay.**
 19 Q. All right. So we were just talking a minute
 20 ago about MERS giving signing authority. Is this --
 21 this is the kind of document we were talking about
 22 where MERS gives the authority in conjunction with
 23 another entity, in this case IndyMac Bank --
 24 **A. Okay.**
 25 Q. -- is that correct?

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1 **A. Yes, the agreement for signing authority**
 2 **references Mortgage Electronic Registration Systems,**
 3 **Inc., IndyMac Bank, and Fidelity National Foreclosure**
 4 **Solutions, Inc.**
 5 Q. Which is the predecessor to LPS, correct,
 6 Fidelity?
 7 **A. Correct.**
 8 Q. So you prepared -- excuse me. You signed
 9 declarations in several of the cases that we're here
 10 talking about. One is the case brought by Kristi Bain,
 11 the second is brought by Steve Bell, and the other has
 12 been brought by Edmund Wood in his capacity as trustee
 13 for the Batemans and for Mr. -- for Bateman and Lee.
 14 Is that your understanding?
 15 **A. Yes.**
 16 Q. And you signed these declarations based upon
 17 your personal knowledge, correct?
 18 **A. Correct.**
 19 Q. And in the declaration regarding Ms. Bain,
 20 you asserted that signatures which were made on an
 21 assignment and an Appointment of Successor Trustee by
 22 Ms. Hood and Christina Allen were done so under the
 23 authority granted in these documents that we're looking
 24 at here today; is that correct, Exhibit 1 at 17?
 25 **A. Yes, this looks to be the MERS authority**

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1 **and -- by IndyMac Bank.**
 2 Q. Okay. If you want to turn to Exhibits 2 and
 3 3, you can see the documents that I'm talking about.
 4 They're in your stack. 2 and 3, they're on the bottom.
 5 **A. Okay.**
 6 Q. So Ms. Hood and Ms. Allen when they signed
 7 these documents were doing so under their authority
 8 granted in the Exhibits 1 and 17 that we were looking
 9 at, correct?
 10 **A. Correct.**
 11 Q. I'm going to turn your attention to
 12 Exhibit 2, which is the Appointment of Successor
 13 Trustee, and you'll notice on the second page across
 14 from Ms. Allen's signature there's a handwritten
 15 notation that has an asterisk, and it says: "Effective
 16 9/3/08." Do you see that?
 17 **A. Yes.**
 18 Q. Do you know who inserted that handwritten
 19 notation?
 20 **A. No.**
 21 Q. Do you know for what purpose it was inserted?
 22 **A. No.**
 23 Q. Do you know if it was inserted on the
 24 original document?
 25 **A. No.**

<p style="text-align: right;">Page 17</p> <p>1 Q. Would there be any way to find out who out 2 added that to the document or why or when? 3 A. I don't know. 4 Q. You don't know if there's a way to find why 5 it was inserted or who did it? I want to make sure you 6 understood my question. 7 A. You're asking -- Your question is if there's 8 a way to find out why the "Effective 9/3/08" was put on 9 there? 10 Q. Yes. 11 A. I can -- I can speculate -- 12 Q. Okay. 13 A. -- what I -- I mean, the only thing, posing a 14 question to the firm that prepared the document. But I 15 -- I don't know why the "Effective 9/3/08" date was put 16 on there. 17 Q. And there's no way to know when it was put on 18 there, right? 19 A. Not that I'm aware of. 20 Q. Okay. So if an LPS employee alters a 21 document -- actually, do you know what, let me back up 22 a bit. I already have this testimony from Mr. Hymer 23 this morning, but I want to make sure that you have the 24 same understanding as I. It's my understanding that 25 these documents, when they're blank, as in unsigned,</p>	<p style="text-align: right;">Page 19</p> <p>1 attorney, they do that within Process Management, and 2 when they submit it, it prints -- 3 Q. Oh, okay. 4 A. -- in our office, the physical document. 5 Q. Okay. 6 A. And then there is a process that gets 7 launched in the -- within Process Management. 8 Q. Can you explain that to me, please. 9 A. The way the functionality is set up, the 10 firms can go into the individual file in the Desktop 11 and submit their document that needs to be executed, 12 and then there's a process with that -- that's used as 13 workflow that has events, and when those events become 14 due, that's how it's understood that a document has 15 been submitted. 16 Q. Okay. 17 A. So they're basically tracking steps for the 18 process along the way from submission to getting it 19 sent back to the requester. 20 Q. Okay. And then so how does the person, you 21 know, the employee, whether it's Ms. Hood or Ms. Allen, 22 actually sitting at LPS'S offices, how does she see 23 that and know what to do? 24 A. When the documents come off the printer, 25 there is staff that gets them to a team that does</p>
<p style="text-align: right;">Page 18</p> <p>1 are uploaded onto the system by the attorneys from the 2 attorney network; is that correct? 3 A. Correct. 4 Q. The assignment and appointment documents, 5 correct? 6 A. Correct. 7 Q. And then that essentially triggers -- or 8 sends a message to LPS that somebody needs to sign the 9 document, correct? 10 A. Correct. There's -- there's something that 11 becomes known to LPS that the document has been 12 submitted. 13 Q. Right. His -- his -- his explanation to me, 14 in general, was that it gets posted up to the system, 15 and that is what is seen on the screen, and that 16 without there being any accompanying message, indicates 17 that it needs to be signed; is that correct? 18 MR. SPOONEMORE: I'm going to object. I'm 19 not actually sure that that properly characterizes his 20 testimony, but . . . 21 MS. HUELSMAN: I'm not attempting to 22 mischaracterize it, so . . . 23 Q. What happens? Why don't you tell me what 24 happens? 25 A. Sure. When a document is submitted by an</p>	<p style="text-align: right;">Page 20</p> <p>1 perform a high-level review of the document to make 2 sure that it is, in fact, a document that's in the 3 Desktop, that it -- to verify the document type; if 4 they submitted an SOT, is it an SOT; and is it a 5 document based on our signing authority that gives us 6 the ability to execute it and to check for any type of 7 verbiage related to attesting to facts. 8 And if it passes that review, then it gets 9 directed to the authorized signer, who then executes 10 the document. It goes through an notarization process 11 and gets sent back to the attorney. 12 Q. So Ms. Hood or Ms. Allen would not be the 13 person who was actually scrutinizing the document 14 beforehand; is that right? 15 A. I can't speak to what they may have or have 16 not done -- 17 Q. Okay. 18 A. -- but I can share that there is a team that 19 does put the documents that come through through that 20 review process. 21 Q. Are they members of that team? 22 A. They are members of a customer support team. 23 Q. Okay. So it's a customer support team that 24 reviews the documents? 25 A. Correct, for -- for documents that LPS may be</p>

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1 able to execute.
 2 Q. Right. Okay.
 3 Does LPS undertake any steps at that review
 4 process to verify that the information contained on the
 5 document is accurate?
 6 A. The -- There's a review done of the -- to
 7 make sure that it's for the right file of the document
 8 type. But I'm not sure -- Could you elaborate on that
 9 question?
 10 Q. Sure. So, for example, the Appointment of
 11 Successor Trustee says that MERS, as nominee for
 12 successors or assigns of an undescribed entity, says
 13 that it wants to -- I'm sorry, then it says that it
 14 wants to appoint Regional Trustee as the trustee. So
 15 when it's in this review process, does anyone at MERS
 16 undertake to ascertain whether, in fact, IndyMac or
 17 MERS, or whoever, actually wants to appoint Regional
 18 Trustee as the trustee?
 19 MR. SPOONEMORE: Other than the fact that
 20 it's coming from the attorney?
 21 A. The need for the document is decided by the
 22 firm that's working the file. So that would be
 23 something that they would determine --
 24 Q. Okay.
 25 A. -- and if they needed to, they would draft it

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1 and submit it for execution.
 2 Q. So, in other words, in this case Regional
 3 Trustee is submitting the document to LPS for
 4 signature, telling -- that says, "We should be
 5 appointed as the trustee," but the fact that MERS and
 6 -- and/or IndyMac has -- has designated Regional
 7 Trustee as the intended trustee is indicated on LPS's
 8 system, correct?
 9 A. Could you rephrase the second part?
 10 Q. The document is coming from Regional Trustee
 11 to LPS, correct?
 12 A. Correct.
 13 Q. Okay. And I was asking if anybody at LPS
 14 undertakes verification to make certain that, in fact,
 15 MERS and/or IndyMac has actually made a decision to
 16 appoint Regional Trustee as the trustee?
 17 A. It seems that that need would fall in line
 18 with the signing authority that grants the list of --
 19 the list of approved signers' approval to sign
 20 documents related to the foreclosure process --
 21 Q. Okay.
 22 A. -- that are created by the attorneys.
 23 Q. Okay.
 24 Turning to the Assignment of Deed of Trust
 25 document, again, this document would have been received

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1 from Regional Trustee, correct?
 2 A. Correct.
 3 Q. Okay. And it says that MERS wants to assign
 4 its interest in the Deed of Trust to IndyMac Federal
 5 Bank, correct?
 6 A. Correct.
 7 Q. Does LPS employees -- or do LPS employees
 8 undertake any review or investigation to determine
 9 whether, in fact, that is what MERS wants to
 10 accomplish?
 11 A. There's not that type of review. The review
 12 is related to the signing authority that is granted
 13 from MERS to execute documents, if needed -- if that
 14 need was deemed by the attorney working the file as
 15 part of the foreclosure process.
 16 Q. Okay. So --
 17 A. So the review is, is this a document type
 18 that we can execute based off of our assignment
 19 authority we've been granted.
 20 Q. Okay. So the LPS employees are essentially
 21 relying upon the attorneys to have provided them with
 22 documents that contain accurate information?
 23 A. Yes.
 24 Q. Okay. So you testified a little bit ago that
 25 you said the LPS employees, the team makes a high-level

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1 review. Do you recall using that phrase?
 2 A. Yes.
 3 Q. Can you explain to me what you mean by a
 4 high-level review before it goes on to the document
 5 execution person?
 6 A. What I mean by the high-level review is -- is
 7 the record -- is the loan that the document is for one
 8 in the Desktop, is it the document type that's been
 9 submitted, is there any glaring verbiage reflected
 10 within the document about attesting to facts or
 11 something that requires attention by the client
 12 themselves for handling, and has it been prepared in a
 13 way that allows LPS to execute it based off of our
 14 signing authority.
 15 Q. Okay. So you -- you just said that the team
 16 is looking for facts that need -- might need to be
 17 looked into. You said attesting to the verbiage,
 18 correct?
 19 MS. HUELSMAN: Go ahead and read back his
 20 answer.
 21 (The record was read as requested.)
 22 A. Correct.
 23 Q. I was using that phrase, okay?
 24 A. Yes. Correct.
 25 Q. Okay. So what kind of verbiage would give

<p style="text-align: right;">Page 25</p> <p>1 rise to a need to talk to the servicer? 2 A. If the attorney noted it -- specifically 3 noted it within the request. Within the document, if 4 it reflected the verbiage that there was attesting to a 5 fact within the -- it would depend on any variation of 6 that. That's the -- the phrase, so to speak, that 7 would be looked for. 8 Q. But, for example, looking at this assignment, 9 document, isn't the signer, Bethany Hood, attesting to 10 the fact that MERS wants to assign the Deed of Trust to 11 IndyMac Federal Bank? 12 MR. SPOONEMORE: That's a 13 mischaracterization, I object. Bethany Hood isn't 14 representing; MERS is representing. That's a gross 15 misinterpretation of the document. 16 MS. HUELSMAN: No. Ms. Hood is signing on 17 behalf of MERS; therefore, she is making an affirmation 18 on behalf of MERS. 19 MR. SPOONEMORE: MERS is making the 20 affirmation. 21 MS. HUELSMAN: She's making it on their 22 behalf. 23 MR. SPOONEMORE: Yeah, as MERS is the one 24 making the affirmation. 25 Q. So could you please answer the question,</p>	<p style="text-align: right;">Page 27</p> <p>1 people sign documents in their capacity as alleged 2 officers of the company, they are, in fact, making a 3 representation. 4 If MERS can figure out how, as a corporation, 5 which doesn't exist except on paper, it can sign 6 documents itself, then, in fact, it can say that it's 7 doing so without the assistance of a person. 8 MR. SPOONEMORE: Legally it is MERS making 9 the representation. People are authorized to sign on 10 behalf of MERS. That doesn't make them making the 11 representation; it makes MERS making the 12 representation. 13 Q. Okay. So when did MERS tell Ms. Hood that 14 this is what it wanted to do? 15 A. I would think within the -- when granting the 16 signing authority. 17 Q. No. When did MERS specifically say to 18 Bethany Hood, We want to assign our interest in the 19 Deed of Trust referenced herein to IndyMac Federal 20 Bank? When did that occur? 21 MR. SPOONEMORE: Counsel knows very well 22 that MERS can operate through counsel, which is their 23 agent. Again, you're asking misleading questions of 24 this witness, and you know it. You know that MERS's 25 counsel made this request, and that's an agent of MERS.</p>
<p style="text-align: right;">Page 26</p> <p>1 Mr. Allen? 2 A. MERS is making the reaffirmation. 3 Q. Mr. Allen, you're not allowed to parrot your 4 attorney's response. Please -- 5 MR. SPOONEMORE: He's -- 6 MS. HUELSMAN: -- answer -- 7 MR. SPOONEMORE: -- answered your -- 8 MS. HUELSMAN: -- the question. 9 Are you coaching him, Mr. Spoonemore? 10 MR. SPOONEMORE: No. I'm saying the 11 premise of your question -- 12 MS. HUELSMAN: Well -- 13 MR. SPOONEMORE: -- is -- 14 MS. HUELSMAN: -- a speaking -- 15 MR. SPOONEMORE: -- misleading. 16 MS. HUELSMAN: -- objection is providing 17 your client with an answer -- your client with an 18 answer to a question, and that's improper. 19 MR. SPOONEMORE: Well, and a misleading 20 legal premise to your question is clearly 21 objectionable, because this client is not an attorney. 22 When you represent Mr. Hood is representing, that is a 23 gross legal mischaracterization of this document. I'm 24 allowed to correct that. 25 MS. HUELSMAN: Well, I disagree. When</p>	<p style="text-align: right;">Page 28</p> <p>1 MS. HUELSMAN: Well, then, you can explain 2 to Regional Trustee why they violated their duty to -- 3 to the Deed of Trust doc by acting on behalf and as an 4 agent for somebody when they're supposed to be acting 5 as a neutral in conjunction with a foreclosure sale. 6 Is that your representation, Counsel? 7 MR. SPOONEMORE: That's not us. You can 8 go after whoever you want, but as far as what we're 9 doing, you're way off base here. 10 Q. When did MERS give instruction to Bethany 11 Hood to assign this Deed of Trust? Whether it came 12 through Regional Trustee or Santa Claus, I don't care. 13 When did MERS give this instruction to Ms. Hood? 14 MR. SPOONEMORE: Objection; form. 15 Objection; badgering and argumentative. 16 A. When submitting assignments, the firms are 17 responsible for the entities within that. 18 Q. So your understanding is that Regional 19 Trustee communicated with MERS and received 20 instruction? 21 A. I don't know what Regional Trustee did or did 22 not do. 23 Q. So it's irrelevant what happened behind the 24 scenes? LPS has a document that came up through its 25 system, you have an assigning document, and so LPS's</p>

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1 employees signed; is that correct?

2 **A. If a document is submitted and it is a**

3 **document that we can execute based off a signing**

4 **authority that's been granted, yes, LPS would execute**

5 **it.**

6 Q. Can you explain to me how LPS's services help

7 lenders and mortgagees lower their costs and reduce

8 processing time associated with non-judicial

9 foreclosures?

10 **A. LPS's services can help provide workflow of**

11 **what needs to be done within the process that can then**

12 **help the efficiency that it's done, within which, then,**

13 **in turn, could benefit to a servicer or a client.**

14 Q. And can you explain to me how that occurs?

15 How does it help them lower their costs and reduce

16 processing time?

17 **A. It could help -- If the process is done more**

18 **efficiently, it could help to reduce attorney costs.**

19 Q. How?

20 **A. By it not taking as long. There isn't as**

21 **much -- if there is additional work that may need to be**

22 **done.**

23 Q. Because, for example, Regional Trustee can

24 send these documents for signature to LPS rather than

25 being required to send them to IndyMac or to the

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1 servicer, correct?

2 **A. Document execution is an example of a support**

3 **service that can help to streamline that function.**

4 Q. Okay. In your deposition you've asserted

5 that MERS acts as a nominee in county land records --

6 excuse me, I said "deposition," and I meant

7 declaration. I'm sorry. MERS acts as a nominee in

8 county land records for lenders and servicers. How do

9 you know that?

10 **A. I reviewed the information from the Web site**

11 **that was included within -- My understanding of MERS is**

12 **they act as the mortgagee nominee, and in the event**

13 **foreclosure proceedings are needed, then it's possible**

14 **that it would need to be assigned out of MERS, into the**

15 **name of the servicer in question.**

16 Q. So your understanding is that assignments are

17 transferring the Deeds of Trust to servicers, correct?

18 **A. Yes.**

19 Q. Does LPS ever undertake to find out -- in the

20 context of foreclosure or bankruptcy proceedings, does

21 it ever endeavor to find out who actually has the note?

22 **A. No.**

23 Q. Does it have access to the information

24 regarding who has the note?

25 **A. Not that I'm aware of.**

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1 Q. Okay. And you testified in your declaration

2 that once, for example, in this case the assignment and

3 the Appointment of Successor Trustee documents are

4 signed, that they were sent to Regional Trustee to be

5 recorded. Do you recall that?

6 **A. I recall the declaration reflecting that.**

7 Q. And that's your understanding of what

8 actually did happen here as regards the appointment and

9 the assignment document that we're looking at?

10 **A. Correct.**

11 Q. And then once they're sent out to Regional

12 Trustee for recording, does LPS obtain copies of those

13 recorded documents?

14 **A. No.**

15 Q. It doesn't? So Regional Trustee is not

16 required to send back copies to indicate they've been

17 recorded?

18 **A. Not to LPS.**

19 Q. Okay. Does it make a notation on the

20 platform?

21 **A. It could depend on the client. If that was**

22 **something that they wanted to track, then it's**

23 **possible.**

24 Q. Okay. But it's not necessarily standard

25 operating procedure?

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1 **A. Correct.**

2 Q. Okay.

3 And if they are, for some reason, sent back

4 to LPS, or copies, I would say, are they sent through

5 the electronic imaging system or are they mailed or

6 both?

7 **A. If it -- if a client's request was to have it**

8 **provided in the Desktop, then a firm could be asked to**

9 **image a recorded copy. In the event LPS received one,**

10 **we would automatically forward it on to the client.**

11 Q. And you talked a minute ago about the -- MERS

12 Web site that you looked at before you signed the

13 declaration. Do you remember that?

14 **A. Yes, I remember stating that I referred to**

15 **the information within the declaration --**

16 Q. Okay.

17 **A. -- that reflected that.**

18 Q. And when you looked at that information on

19 MERS's Web site before signing the declaration, was

20 that the first time you had looked at MERS's Web site?

21 **A. Can I see the -- the --**

22 Q. I don't have it, but I actually have it up

23 electronically if you wanted to see that.

24 **A. No.**

25 Q. I didn't think you'd need it.

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1 **A. What I meant was -- What I'm saying is, I**
2 **referred to, in the declaration --**
3 Q. Oh.
4 **A. -- there was an exhibit --**
5 Q. That's -- that's it.
6 **A. -- that reflected that. That's what I**
7 **referred to.**
8 Q. Okay. That's it. And, I'm sorry, I didn't
9 print it because I didn't think we'd need it for
10 deposition, but this (indicating) is it.
11 **A. Okay.**
12 Q. So this is what you were talking about, the
13 attachment to your exhibit?
14 **A. Do we -- Can I review a copy of it just to**
15 **confirm? But, yes, that's --**
16 Q. Will I have to print it?
17 MR. SPOONEMORE: Do you happen to have one
18 handy? I just didn't think we'd need it as an exhibit.
19 Thank you.
20 A. Correct. That looks to be the same.
21 Q. So was that the first time that you'd looked
22 at MERS's Web site?
23 **A. Yes.**
24 Q. Okay. And did you look at any other part of
25 MERS's Web site before signing that declaration?

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1 **A. No.**
2 Q. And do you ever have any -- In the context of
3 doing your business at LPS, do you ever have any
4 contact or communications directly with MERS?
5 **A. No.**
6 Q. Do you know if MERS has a client relationship
7 with LPS?
8 **A. My understanding is that MERS, if they chose**
9 **to, could grant signing authority, and that's the**
10 **extent of my knowledge on it related to document**
11 **execution.**
12 Q. Okay. Because my understanding is that
13 attorneys in the attorney network have agreements that
14 are called--I'm looking for them--Network Agreements,
15 and they also have Technology Agreements, correct?
16 **A. Correct.**
17 Q. And then servicers, lenders, or banks have
18 Default Servicing Agreements; is that correct?
19 **A. Correct.**
20 Q. Okay. Just one minute. I want to review my
21 notes.
22 No further questions.
23 MR. SPOONEMORE: I have no questions. We
24 will read and sign. Thank you.
25 (The deposition was terminated at 2:34 p.m.)

1 STATE OF MINNESOTA)

: ss CERTIFICATE

2 COUNTY OF HENNEPIN)

3

4 I, Cindy L. Schultz, RMR, CRR, CLR, a notary public in
5 and for the County of Hennepin, certify that I reported
6 the deposition of GREGORY N. ALLEN, who was first duly
7 sworn by me, having been taken on January 13, 2010, at
8 1400 Rand Tower, 527 Marquette Avenue, South,
9 Minneapolis, Minnesota;

10 I further certify that I am not a relative or employee
11 or attorney or counsel of any of the parties or a
12 relative or employee of such attorney or counsel;

13 That I am not financially interested in the action and
14 have no contract with the parties, attorneys, or
15 persons with an interest in the action that affects or
16 has a substantial tendency to affect my impartiality;
17 that all parties who ordered copies have been charged
18 at the same rate for such copies;

19 That the right to read and sign the deposition by the
20 Witness was not waived.

21 IN WITNESS WHEREOF, I have hereunto set my hand and
22 affixed my seal of office at Minneapolis, Minnesota,
23 this 20th day of January 2010.

24

25

Cindy L. Schultz, RMR, CRR, CLR
My commission expires 1/31/2010

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