

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 03/08/2013

TIME: 02:00:00 PM

DEPT: C12

JUDICIAL OFFICER PRESIDING: Jamoa A. Moberly

CLERK: Gus Hernandez

REPORTER/ERM: Janice Arnold-PT CSR# 3307

BAILIFF/COURT ATTENDANT: Maria Concepcion

CASE NO: **30-2012-00560082-CU-OR-CJC** CASE INIT.DATE: 04/06/2012

CASE TITLE: **Suarez vs. Bank of New York Mellon, National Association, as Trustee**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other Real Property

EVENT ID/DOCUMENT ID: 71623761

EVENT TYPE: Motion for Summary Judgment and/or Adjudication

MOVING PARTY: Bank of New York Mellon, National Association, as Trustee for the Certificateholders of CWALT, Inc., Alternative Loan Trust 2006-OA16, Mortgage Pass-Through Certificates, Series 2006-OA16

CAUSAL DOCUMENT/DATE FILED: Motion for Summary Judgment/Adjudication, 12/20/2012

APPEARANCES

Amanda L Gray, from Bergman & Gutierrez, LLP, present for Plaintiff(s).

Sean D Muntz, from BRYAN CAVE LLP, present for Defendant(s).

1) Defendant Bank of New York Mellon's Motion for Summary Judgment or, in the alternative for Summary Adjudication against Plaintiff Pauline Suarez

Tentative Ruling posted on the Internet .

The Court hears oral argument and confirms the tentative ruling as follows:

Deny. The Motion for Summary Judgment and Summary Adjudication are DENIED.

Defendant failed to meet its burden to establish that the causes of action have no merit. Plaintiff has met her burden to show triable issue of material facts exists as to both causes of action. [C.C.P. § 437c (p) (2).]

The Triable Issues of Material Fact are Nos. 4, 5, 6, 14, 15 & 16. Defendant did not establish the foundational basis that MERS could assign the Deed of Trust.

Plaintiff's Request for Judicial Notice is GRANTED.

Plaintiff's Objections to Evidence is ruled upon as follows:

As to No. 3, 7 & 8, the objections are sustained for lack of foundation. As to the remainder, the objections are overruled.

Counsel stipulate to a continuance of the trial and mandatory settlement conference due to the fact that Loan Modification Proceedings are ongoing or will be initiated soon.

Jury Trial continued from 04/22/13 to 08/12/2013 at 09:00 AM in this department.

Mandatory Settlement Conference continued from 03/22/13 to 07/12/2013 at 09:00 AM in this department.

Parties waive notice.