

No. 2013-209-Appeal.

V. :

The plaintiff, Lawrence R. O’Leary, Jr., appeals from an entry of summary judgment in favor of Mortgage Electronic Registration Systems, Inc. (MERS), Federal National Mortgage Association, and JPMorgan Chase Bank, N.A. This case came before the Supreme Court at a session in conference pursuant to Article I, Rule 12A(3)(b) of the Supreme Court Rules of Appellate Procedure. The plaintiff contends that the assignment of his mortgage and subsequent foreclosure on the mortgage were both invalid. At this time, we proceed to decide this case without further briefing and argument.

After careful review of the record in this case, we are convinced that the plaintiff has failed to submit competent evidence demonstrating a question of material fact in this case or demonstrating that the assignment was not properly authorized. See Mruk v. Mortgage Electronic Registration Systems, Inc., 82 A.3d 527, 532 (R.I. 2013) (party opposing summary judgment must submit evidence of substantial nature to dispute questions of material fact). The plaintiff's assertion that MERS could not hold the mortgage without the promissory note and had no authority to assign the mortgage in this case is also without merit. In Bucci v. Lehman Brothers Bank FSB, 68 A.3d 1069, 1085-89 (R.I. 2013), this Court established that MERS may

serve as a mortgagee without holding the promissory note. It is well settled that MERS has the authority under the terms of the mortgage in this case to assign it. See Ingram v. Mortgage Electronic Registration Systems, Inc., 94 A.3d 523, 528 (R.I. 2014).

Accordingly, the plaintiff's appeal is denied and dismissed.

Entered as an Order of this Court on this 25<sup>th</sup> day of September, 2014.

By Order,

\_\_\_\_\_/s/\_\_\_\_\_  
Clerk



## **RHODE ISLAND SUPREME COURT CLERK'S OFFICE**

### ***Clerk's Office Order/Opinion Cover Sheet***

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**TITLE OF CASE:** Lawrence R. O'Leary, Jr. v. Mortgage Electronic Registration Systems, Inc. et al.

**CASE NO:** No. 2013-209-Appeal.

**COURT:** Supreme Court

**DATE ORDER FILED:** September 25, 2014

**JUSTICES:** Suttell, C.J., Goldberg, Flaherty, Robinson, and Indeglia, JJ.

**WRITTEN BY:** N/A – Court Order

**SOURCE OF APPEAL:** Providence County Superior Court

**JUDGE FROM LOWER COURT:**

Associate Justice Bennett R. Gallo

**ATTORNEYS ON APPEAL:**

For Plaintiff: George E. Babcock, Esq.

For Defendants: Mark S. Adelman, Esq.  
Charles A. Lovell, Esq.