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VENUE : SUP CLERK COURT : GENL EQUIT DOCKET #: F 037465 08 CASE TITLE : BANK OF NEW YORK VS LAKS											
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<input type="radio"/>	06	22	2010	032	ORDER TO PAY	BANK	OF	NEW	STERN LAVINT	N	GR
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422 N.J.Super. 201
Superior Court of New Jersey,
Appellate Division.

BANK OF NEW YORK as trustee for the Certificate
Holders CWALT 2004 26T1, Plaintiff–Respondent,

v.

Sarah G. LAKS and Edward Einhorn, her husband, Defendants–Appellants,

and

PNC BANK, National Association, Defendant.

Submitted May 23, 2011. | Decided Aug. 8, 2011.

Synopsis

Background: In mortgage foreclosure action, after entry of judgment in favor of mortgagee, mortgagor filed motion to vacate judgment on grounds that mortgagee's pre-complaint written notice of intention to foreclose had failed to identify the lender as required by the Fair Foreclosure Act. The Superior Court, Chancery Division, Ocean County, denied the motion, and mortgagor appealed.

Holdings: The Superior Court, Appellate Division, [Grall](#), J.A.D., held that:

[1] mortgagee's notice failed to sufficiently identify the “lender”, and

[2] dismissal without prejudice was warranted as remedy.

Reversed and remanded.

West Headnotes (3)

[1] [Mortgages](#) [Conditions precedent](#)

[266](#) Mortgages

[266X](#) Foreclosure by Action

[266X\(B\)](#) Right to Foreclose and Defenses

[266k414](#) Conditions precedent

(Formerly 266k440)

Mortgagee's pre-complaint written notice of intention to foreclose failed to sufficiently identify the “lender,” as required under the Fair Foreclosure Act, where notice provided only the name and address of mortgagee's loan servicer, since servicer did not make the mortgage agreement with mortgagor and did not hold the mortgage. [N.J.S.A. 2A:50–56\(c\)\(11\)](#).

[2 Cases that cite this headnote](#)