

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<p>In the matter of the application of</p> <p>THE BANK OF NEW YORK MELLON (as Trustee under various Pooling and Servicing Agreements and Indenture Trustee under various Indentures), et al.</p> <p style="text-align: center;">Petitioners,</p> <p>for an order pursuant to CPLR § 7701 seeking judicial instructions and approval of a proposed settlement.</p>	<p>Civil Action No.: 11-civ-5988 (WHP)</p>
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NOTICE OF INTENTION TO APPEAR AND OBJECT TO SETTLEMENT

Waterfall Eden Master Fund, Ltd. (“Waterfall Eden”) hereby files this written notice of intention to appear and object to the Proposed Settlement between Bank of New York Mellon (the “Trustee”) and Bank of America Corporation, BAC Home Loan Servicing, LP f/k/a Countrywide Home Loans Servicing, LP, and Countrywide Financial Corporation and its affiliates (“Countrywide”), with respect to which the Trustee filed a petition in New York Supreme Court, New York County seeking judicial instructions and approval pursuant to Article 77 of the New York Civil Practice Law and Rules. The Proposed Settlement relates to 530 securitization trusts created by Countrywide (the “Covered Trusts”). Thereafter, the action was removed to the United States District Court for the Southern District of New York on August 26, 2011.

Waterfall Eden purchased certificates issued by certain of the Covered Trusts, including CWALT 2006-OA12, CWALT 2006 OA-17, CWALT 2006-OA21, CWALT 2007-OA-8, CWABS 2006-18, CWABS 2007-3 and CWABS 2007-BC1. Waterfall Eden has retained possession of these certificates through the present. For this reason, Waterfall Eden believes it may have an interest in the subject matter of the above-referenced Article 77 proceeding and Proposed Settlement.

Waterfall Eden does not have sufficient information at this time to fully evaluate the Proposed Settlement. By filing this written notice, Waterfall Eden preserves any and all rights it may have with respect to the above-referenced Article 77 proceeding and Proposed Settlement, including the right to seek discovery and to supplement this objection, and take any other appropriate actions, at the appropriate time.

In filing this notice, we note that the Trustee's novel use of Article 77 to resolve in a single proceeding claims concerning over hundreds of billions of dollars of mortgage-backed securities issued by the 530 Covered Trusts bears some analogy to a class action, and, given its recent removal to federal court, this proceeding may in fact be deemed to be such under the Class Action Fairness Act of 2005.

Thus we refer to the recent decision of the Second Circuit in *In Re: Literary Works In Electronic Databases Copyright Litigation*, Nos. 05-5943-cv (L), 06-0223 (CON), --- F.3d ----, 2011 WL 3606725 (2d Cir. Aug. 17, 2011), where the court overturned a proposed class settlement because certain members of the class were not adequately represented. In that proposed settlement, "Category C claims" bore 100% of the initial risk of the claims administration process and so were at significant risk of receiving nothing from the settlement. This unfairness was compounded by the proposed settlement providing a release to the defendants for future damages from continuing copyright infringement, including on works by Category C authors. In response, the Second Circuit directed the district court to require subclassing to address this unfairness.

Based on our current understanding of the Proposed Settlement, it would appear to compound the unfairness that was at issue in *Literary Works* as it would apply to Waterfall Eden and other similarly situated investors in the Covered Trusts. In light of *Literary*

Works, we would urge any court with jurisdiction over this proceeding to vigorously explore (i) how the "payment waterfall" should apply to the distribution of any settlement proceeds, if at all, (ii) the effects of servicing violations on past and future cash distributions to the various different tranche interests in the Covered Trusts, and (iii) the effects of the Proposed Settlement on other parallel proceedings, among other issues.

Dated: August 30, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that on this 30th day of August, 2011, a true and correct copy of the above and foregoing instrument was properly forwarded to the following counsel of record as indicated below:

Bank of New York Mellon
Attn: Matthew D. Ingber
Mayer Brown LLP
1675 Broadway
New York, New York 10019
Counsel for Petitioner

Via Regular Mail

/s/Lee Squitieri

Lee Squitieri