

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

VITO J. FENELLO, JR.)	
and BEVERLY H. FENELLO)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION FILE
)	NO. 1:11-cv-04139-WSD
BANK OF AMERICA, N.A., and)	
THE BANK OF NEW YORK MELLON)	
(as Trustee for CWALT, Inc.),)	
)	
Defendants.)	
_____)	

MOTION FOR JUDICIAL DISCLOSURE AND RECUSAL

Pursuant to 28 U.S.C. §455 “(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned,” Plaintiffs hereby motion that any judge assigned to this case, now or hereafter, immediately disclose any of the following:

- They have spoken, been a panelist, moderated a panel, or in any way participated at any conference, seminar, trade show, think tank or other event attended by Mortgage Lenders, Mortgage Brokers, Loan Servicers, Loan Purchasers, Loan Securitizers, Investment Banks, or Attorneys serving these clients.
- The role that they played, the topics discussed, and with whom.
- Any payments received as speaking fees, consulting fees, travel expenses, entertainment, gifts, or for any other purpose.

Plaintiffs have recently become aware that the Honorable Judge Alan J. Baverman and the Honorable Judge William S. Duffey, Jr. have attended such events within the last year, with topics such as:

- Defending against new and emerging borrower and investor claims, including those arising from loan modifications and alleged foreclosure documentation errors
- How to mitigate the inherent compliance and fair lending risks associated with loan servicing
- Managing and defending against a new wave of residential mortgage class actions
- Examine the past, present and future of the subprime mortgage litigation crises
- Current trends in securities litigation, including the mortgage-backed securities cases

While the attendee list of these events are not public, it appears that the law firm representing the defendants was also a speaker for at least one of these events.

WHEREFORE, should the preceding public information be confirmed, the Plaintiffs would be reasonable in questioning the impartiality of said judges, who would therefore be obligated to recuse themselves from this case.

Respectfully submitted,

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