



CASE STUDY – T. MOHANSINGH – BROOKLYN HOMEOWNER

Submitted to

New York State Black, Puerto Rican, Hispanic and Asian Legislative Caucus:

Ms. Mohansingh migrated to Brooklyn with her mother at 14 years old from Trinidad and Tobago. She attended high school in Brooklyn, and then CUNY Queens College. Ms. Mohansingh fiancé died when her son was an infant; she later lost her mother unexpectedly in 2010. At the same time, Ms. Monhansingh's subprime mortgage loan adjusted, and her monthly payments became unaffordable at the time (since her household income was reduced significantly [her mother was a New York State registered nurse]).

In 2010, Ms. Mohansingh endeavored to get a loan modification using the resources made available to borrowers by the federal government. She also shared with her mortgage servicing company that her deceased mother had left a college fund for her young son, which she was willing to apply to her mortgage payments to keep the loan current while she was applying for a loan modification.

✚ Tellingly, no loan modification was offered in 2010.

Ms. Mohansingh was referred to me (Yolande Nicholson) in late 2010 when the servicing company threatened to foreclose. A foreclosure action was commenced in 2011 by Aurora Loan Services LLC (which then became Nationstar, and is now known as Mr. Cooper). I embarked on the process with her to secure a loan modification in the Foreclosure Settlement Part of the Supreme Court, as is her right under CPLR 3408, and for which she qualified. However, nothing shy of brinkmanship and gamesmanship ensued by the attorneys representing Aurora and then Nationstar, until the matter was briefed for a ruling on the foreclosing plaintiff and its agent's lack of good faith in loan modification review and discussions.

In early 2016, her case was taken away from the assigned judge who presided over these proceedings and to whom papers submitted in support of her request for the Court to exert her authority under CPLR 3408 to determine whether the plaintiffs had acted with bad faith and whether interest should be tolled as a result.

✚ Ms. Mohansingh qualified all along for a loan modification under President Obama's HAMP program, but her application was continuously denied on bases that were nonsensical to the Court.

Following the time that Rocket Docket Proceedings were implemented, the case was reassigned to a special foreclosure part – which began to consider Ms. Mohansingh's application for an evidentiary hearing – but then was reassigned to Hon. Lawrence Knipel Foreclosure Resolution Part, while Ms. Mohansingh's requests for a ruling on Aurora/Nationstar's bad-faith in settlement conference proceedings fell deep down into the abyss of the Kings County Supreme Court.

Ms. Mohansingh was left no choice but to move to trying to restructure her loan in bankruptcy court, where again, the loan servicer Nationstar (now Mr. Cooper) came in and engaged in shenanigans, denying her loan modification under the newly adopted Standard or One Mod program. This new program adds all the past due payments to the principal and performs an analysis that will no doubt result in a payment higher than the one that the borrower was paying before—and that is the exact reason why the modification is denied.

- ✚ Ms. Mohansingh can in fact afford the modification payment, but affordability is not considered under this program.

It is no doubt easy to see how this non-conventional “Standard Mod” or “One Mod” program is designed to auction off homes trapped in the court system for umpteen years, during which years the mortgage servicers and banks were acting in bad faith -- all the while through this long foreclosure epidemic ordeal.

- ✚ This program should be outlawed in New York by the Legislature!
- ✚ It is being used to displace hard-working New York families!

It goes without saying that the bankruptcy process was frustrated and the stay of state court proceedings lifted. In the meantime, despite federal law which clearly states that foreclosure proceedings cannot be dual tracked while a borrower is applying for a loan modification, the foreclosing plaintiff’s counsel was permitted to file and submit a motion for judgment, and to request a decision on this motion.

Last week, Ms. Mohansingh was admitted to Methodist Hospital as a result of condition caused primarily by the stress of this all. Her son, who was in 7th grade when this all began is now a junior in college, and came home instead of going away with friends on his Spring Break to care for his mother while she recovers. She is only in her fifties (55 years old). She still has the same job at Girl Scouts of the United States of America and the same position that she has had throughout this entire ordeal, working for one of the leading national nonprofits in America. Ms. Mohansingh is a valued member of the Girls Scouts, where she has worked for 18 years; over the time of her ordeal with Aurora, Nationstar – now Mr. Cooper – she has received pay raises and recently received yet another promotion.

Needless to say, Ms. Mohansingh’s greatest accomplishments are being a dedicated and committed mother, and a valued member of our Brooklyn community. She is also an accomplished artist. Our courts should value her as an integral part of our Brooklyn community, but they do not. This is the epidemic facing our families that is being caused and exacerbated by the Courts’ policies.

DATED: MARCH 15, 2019
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