

# **EXHIBIT “A”**

U.S. BANK NATIONAL ASSOCIATION	:	IN THE COURT OF COMMON PLEAS
AS TRUSTEE FOR CVI LCF MORTGAGE	:	CHESTER COUNTY, PENNSYLVANIA
LOAN TRUST 1,	:	
Plaintiff	:	
	:	
v.	:	NO. 2018-04083-RC
	:	
JAMES VINCENT LIOTT a/k/a	:	
JAMES LIOTT,	:	
Defendant	:	CIVIL ACTION-IN EJECTMENT

**CONCISE STATEMENTS OF ERRORS COMPLAINED OF ON APPEAL**  
**Pursuant to, Pa. R.A.P. Rule No. 1925(b)**

Appellant, respectfully files these Concise Statements Of Errors Complained Of On Appeal Pursuant to, Pa. R.A.P., Rule No. 1925(b), and avers as follows:

**FIRST ERROR COMPLAINED OF ON APPEAL**

1. Plaintiff in this action had previously filed an action on April 30, 2014, against the Defendant docketed at No. 2014-04051.

**SECOND ERROR COMPLAINED OF ON APPEAL**

2. On July 2, 2015, Plaintiff in this action filed a Praecipe To Settle, Discontinue And End the action docketed at No. 2014-04051, because Plaintiff wrongfully sued Defendant on April 30, 2014, causing injury to the Defendant, for which legal action to recover damages may be made.

**THIRD ERROR COMPLAINED OF ON APPEAL**

3. Defendant in this action commenced a civil action on July 7, 2015, against Plaintiff in this action in this Court of Common Pleas of Chester County, Pennsylvania docketed at No. 2015-05897, of which was duly served by the County of Chester-Office of the

Sheriff.

**FOURTH ERROR COMPLAINED OF ON APPEAL**

4. Plaintiff in this action then commenced a civil action against the Defendant in this action on October 20, 2015, in the Court of Common Pleas of Chester County, Pennsylvania docketed at No. 2015-09793-RC despite the fact that Defendant's prior action docketed at No. 2015-05897 remained pending, awaiting a response to a discovery request.

**FIFTH ERROR COMPLAINED OF ON APPEAL**

5. In accordance with Pa. R.C.P., Rule No. 1028(a)(6), the Defendant's Preliminary Objection to Plaintiff's Complaint docketed at No. 2015-09793-RC, Raising Pendency of Prior Action of which was timely filed on May 11, 2016, should have been SUSTAINED and Defendant's prior Court of Common Pleas of Chester County, Pennsylvania action docketed at No. 2015-05897 alone should have proceeded and Plaintiff's action docketed at No. 2015-09793-RC should have been DISMISSED.

The underlying mortgage foreclosure in this matter is docket No. 2015-09793-RC and should have been DISMISSED.

**SIXTH ERROR COMPLAINED OF ON APPEAL**

6. Plaintiff's underlying mortgage foreclosure action docketed at No. 2015-09793-RC should have been barred by the Defendant's Court of Common Pleas of Chester County, Pennsylvania action docketed at No. 2015-05897, of which was filed on July 7, 2015, pursuant to Pa. R.C.P., Rule No. 1028(a)(6).

SEVENTH ERROR COMPLAINED OF ON APPEAL

7. This Court's order dated August 15, 2016, docketed at No. 2015-09793-RC of which overruled Defendant's Preliminary Objections was not based on the intrinsic merits of Defendant's Preliminary Objection.

EIGHTH ERROR COMPLAINED OF ON APPEAL

8. Defendant appealed the Order of August 15, 2016 of which overruled Defendant's Preliminary Objections to the Superior Court of Pennsylvania.

NINTH ERROR COMPLAINED OF ON APPEAL

9. The Honorable Jeffrey R. Sommer provided an Opinion pursuant to Pa. R.A.P. 1925(b) in which his honor asserted that the Order from which Appellant appealed was a non-appealable interlocutory order and that the appeal should be quashed, docketed at No. 2015-09793-RC.

The Superior Court agreed and quashed the appeal.

TENTH ERROR COMPLAINED OF ON APPEAL

10. Allowing Plaintiff in its action docketed at No. 2015-09793-RC to continue in its action when Plaintiff became in violation of the law on October 20, 2015, is not justice for the Plaintiff nor is it justice on the part of the Defendant.

justice- ... the administering of deserved reward or punishment. ... the maintainance or administration of what is just by law, as by judicial or other proceedings:

a court of justice. ... .

injury- ... Law. any wrong or violation of the rights, property, reputation, etc., of another for which legal action to recover damages may be made. ... .

**ELEVENTH ERROR COMPLAINED OF ON APPEAL**

11. This Honorable Court in its overruling of the Defendant's Preliminary Objections to Plaintiff's Complaint has rewarded the Plaintiff for its violation of the law and has punished the Defendant whom has not violated the law.

**TWELFTH ERROR COMPLAINED OF ON APPEAL**

12. The Honorable Jeffrey R. Sommer provided an Opinion pursuant to Pa. R.A.P. 1925(b) in which his honor asserted, ... "the August 15, 2016 Order, which is appealable now that a final order has been issued in this matter" [docketed at No. 2015-09793-RC] "and all claims have been terminated. The matter is ripe for determination." in the Superior Court of Pennsylvania.

**THIRTEENTH ERROR COMPLAINED OF ON APPEAL**

13. Justice demands that the Defendant's Preliminary Objections to Plaintiff's Complaint be SUSTAINED and that Plaintiff's Complaint docketed at No. 2015-09793-RC be DISMISSED and that the Court is to administer justice under the law.

**FOURTEENTH ERROR COMPLAINED OF ON APPEAL**

14. Preliminary objections are pleadings under the rules of civil procedure and are a proper initial pleading to a complaint in lieu of an answer. Pa. R.C.P. 1017(a).

**FIFTEENTH ERROR COMPLAINED OF ON APPEAL**

15. Preliminary objections are available to any party and may be filed to any pleading. Pa. R.C.P. 1028(a).

**SIXTEENTH ERROR COMPLAINED OF ON APPEAL**

16. Plaintiff commenced this illegal Complaint In Ejectment action on April 24, 2018, docketed at No. 2018-04083-RC.

**SEVENTEENTH ERROR COMPLAINED OF ON APPEAL**

17. The Complaint In Ejectment of which was filed on April 24, 2018, docketed at No. 2018-04083-RC is illegal because the underlying mortgage foreclosure docketed at No. 2015-09793-RC was pending on appeal when the Plaintiff illegally, and with scienter, filed its Complaint In Ejectment action on April 24, 2018, docketed at No. 2018-04083-RC.

**EIGHTEENTH ERROR COMPLAINED OF ON APPEAL**

18. The fact that the underlying mortgage foreclosure was pending on appeal when Plaintiff filed its Complaint In Ejectment action on April 24, 2018, docketed at No. 2018-04083-RC is unopposed by the Plaintiff and unopposed by the Court and in fact is clearly shown in this court's Case Summary Report at docket No. 2015-09793-RC and at docket No. 2018-04083-RC, therefore the Complaint In Ejectment should not have been filed.

**NINETEENTH ERROR COMPLAINED OF ON APPEAL**

19. The Plaintiff in this action lacks the capacity to sue because this Honorable Court has acknowledged that the underlying mortgage foreclosure docketed at No. 2015-09793-RC was pending on

appeal when the Plaintiff filed its Complaint In Ejectment action on April 24, 2018, docketed at No. 2018-04083-RC by this court's review of its Case Summary Reports on both cases docketed at No. 2018-04083-RC and No. 2015-09793-RC.

**TWENTIETH ERROR COMPLAINED OF ON APPEAL**

20. Defendant filed his Preliminary Objections to Plaintiff's Complaint In Ejectment more than ten [10] months ago.

**TWENTY FIRST ERROR COMPLAINED OF ON APPEAL**

21. Defendant also filed a Notice to Plead pursuant to Pa. R.C.P. 1026(a) along with the Preliminary Objections and with a Verification.

**TWENTY SECOND ERROR COMPLAINED OF ON APPEAL**

22. Plaintiff was required to file an Answer to Defendant's Preliminary Objections no later than June 3, 2018.

**TWENTY THIRD ERROR COMPLAINED OF ON APPEAL**

23. Plaintiff failed to timely file an Answer to Defendant's Preliminary Objections.

**TWENTY FOURTH ERROR COMPLAINED OF ON APPEAL**

24. Failure of the Plaintiff to timely answer the preliminary objections endorsed with a notice to plead constitutes an, admission of such facts. Pa. R.C.P. 1029(b); Pyle v. Pennsylvania Nat'l Ins. Co., 11 Pa. D. & C.3d 663 (Somerset County 1979); Standard Mach. & Equip. Co. v. Hartford Accident & Indem. Co., 70 Pa. D. & C.2d 110 (Fayette County 1974).

TWENTY FIFTH ERROR COMPLAINED OF ON APPEAL

25. Plaintiff's filing of its Answer to Defendant's Preliminary Objections is Invalid.

TWENTY SIXTH ERROR COMPLAINED OF ON APPEAL

26. Pa. R.C.P. 1028(c)(2) provides that the court "shall determine promptly all preliminary objections."

TWENTY SEVENTH ERROR COMPLAINED OF ON APPEAL

27. If this Honorable Court had determined promptly, ten [10] months ago, the Defendant's Preliminary Objections, this Court would have DISMISSED this Complaint In Ejectment as a matter of law in light that the underlying mortgage foreclosure docketed at No. 2015-09793-RC was pending on Appeal.

TWENTY EIGHTH ERROR COMPLAINED OF ON APPEAL

28. An overlooked and essential fact of this matter is that the Plaintiff did not file an answer to the Defendant's Preliminary Objections to Plaintiff's Complaint In Ejectment In Lieu of an Answer for at least eight [8] months because Plaintiff always had knowledge of the pending appeal of the underlying mortgage foreclosure docketed at No. 2015-09793-RC.

TWENTY NINTH ERROR COMPLAINED OF ON APPEAL

29. Plaintiff had knowledge of the pending appeal of the underlying mortgage foreclosure docketed at No. 2015-09793-RC, yet Plaintiff filed the Complaint In Ejectment on April 24, 2018, with scienter having knowledge of the pending appeal and that



this Court had no jurisdiction over the property matter.

THIRTIETH ERROR COMPLAINED OF ON APPEAL

30. An overlooked and essential fact of this matter is that when this Complaint In Ejectment action was filed on April 24, 2018, docketed at No. 2018-04083-RC, this Court had no jurisdiction in the underlying mortgage foreclosure due to the pending appeal.

THIRTY FIRST ERROR COMPLAINED OF ON APPEAL

31. An overlooked and essential fact of this matter is that the service of process was not only defective, but that the filing of the Complaint In Ejectment action was illegally filed on April 24, 2018, docketed at No. 2018-04083-RC because the underlying mortgage foreclosure action remained pending on appeal when the Plaintiff illegally filed its Complaint In Ejectment with scienter having knowledge of the pending appeal and that this Court had no jurisdiction over the property matter.

THIRTY SECOND ERROR COMPLAINED OF ON APPEAL

32. Defendant filed Petitions to Intervene, Stay and Set Aside the Sale of the subject property known as 778 Waterway Road, Oxford, PA 19363.

THIRTY THIRD ERROR COMPLAINED OF ON APPEAL

33. The Honorable Jeffrey R. Sommer responded to said Petitions to Intervene, Stay and Set Aside the Sale of the subject property known as 778 Waterway Road, Oxford, PA 19363 and clearly states in his Honor's foot notes that this court has no jurisdiction in

the 778 Waterway Road, Oxford, PA 19363 property matter because the subject property matter is on Appeal.

**THIRTY FOURTH ERROR COMPLAINED OF ON APPEAL**

34. See: The Honorable Jeffrey R. Sommer's foot notes of his Honor's orders, whereas his Honor clearly states that this court has no jurisdiction in the property matter known as 778 Waterway Road, Oxford, PA 19363.

**THIRTY FIFTH ERROR COMPLAINED OF ON APPEAL**

35. Plaintiff's Complaint In Ejectment erroneously asserts that Plaintiff is entitled to eject Defendant.

**THIRTY SIXTH ERROR COMPLAINED OF ON APPEAL**

36. The deed was obtained through and as a result of an improper and illegal sale.

**THIRTY SEVENTH ERROR COMPLAINED OF ON APPEAL**

37. The illegal sale was scheduled for October 19, 2017, of which was Stayed on October 11, 2017, with Notice given.

**THIRTY EIGHTH ERROR COMPLAINED OF ON APPEAL**

38. The sale was Stayed due to the pending appeal in the Superior Court of Pennsylvania, with Notice given to this Court.

**THIRTY NINTH ERROR COMPLAINED OF ON APPEAL**

39. The Superior Court of Pennsylvania notified this Court on October 11, 2017, that the Superior Court of Pennsylvania has jurisdiction in this property matter known as 778 Waterway Road,

Oxford, Pennsylvania 19363.

FOURTYETH ERROR COMPLAINED OF ON APPEAL

40. Defendant filed two Petitions to Intervene, Stay and Set Aside the sale of the subject property with Rule to Show Cause in November of 2017.

FOURTY FIRST ERROR COMPLAINED OF ON APPEAL

41. The Honorable Judge Jeffrey R. Sommer Denied both of the Defendant's Petitions to Intervene, Stay and Set Aside the sale of the subject property because as Judge Sommer states in his Honor's orders, that this Court has no jurisdiction to enter a Rule to Show Cause regarding the Petitions due to the pending appeal in the Superior Court of Pennsylvania.

FOURTY SECOND ERROR COMPLAINED OF ON APPEAL


42. See: This Court's Case Summary Report at docket No. 2015-09793-RC.

FOURTY THIRD ERROR COMPLAINED OF ON APPEAL

43. Because the sale and deed on which Plaintiff's Complaint In Ejectment is based was obtained illegally, Plaintiff's claim is barred by the doctrine of illegality.

FOURTY FOURTH ERROR COMPLAINED OF ON APPEAL

44. The Plaintiff has **unclean hands** in this property matter and Plaintiff has acted with **scienter**.

  
James Elliott  
Appellant