

STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

STEVENS & COOPER, LLC and)
FIDELITY NATIONAL TITLE)
INSURANCE CO.,)

Plaintiffs,)

v.)

Civil Action File

No. 05 VS 088745-F

DONALD MORELAND and)
MORELAND & LERMAN, PC,)

Defendants/Third-Party)
Plaintiffs,)

v.)

CHASE MANHATTAN MORTGAGE)
CORPORATION,)

Third-Party Defendant.)

STATEMENT OF UNCONTESTED MATERIAL FACTS AND
THEORIES OF RECOVERY IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT AGAINST PLAINTIFFS
STEVENS & COOPER, LLC AND FIDELITY NATIONAL TITLE
INSURANCE CO.

NOW COME Donald Moreland and Moreland & Lerman, PC, Defendants/Third-Party Plaintiffs in the above-styled action, and file this "Statement of Uncontested Material Facts and Theories of Recovery in Support of Defendants' Motion for Summary Judgment against Plaintiffs Stevens & Cooper, LLC and Fidelity National Title Insurance Co." pursuant

to Uniform Superior Court Rule 6.5,¹ and respectfully shows the Court as follows:

PARTIES:

1.

Defendant/Third-Party Plaintiff Donald Moreland ("Defendant Moreland") is a real-estate attorney and a resident of the State of Georgia, residing at 269 Red Gate Drive, Canton, Cherokee County, Georgia 30115.

2.

Defendant/Third-Party Plaintiff Moreland & Lerman, PC (Defendant Moreland & Lerman) is a corporation organized under the laws of the State of Georgia, having its principal place of business at 1195 North Park Place, Suite 100, Atlanta, Cobb County, Georgia 30339.

3.

Defendant Moreland and Lerman is a real estate law firm, which performs services that include closing real property sales transactions,

¹ Uniform Superior Court Rule 6.5 addresses the requirement of filing a statement of uncontested facts. In the instant case, Defendants' statement of uncontested facts is based in part on affidavits, depositions, and documentary evidence. For the Court's convenience, Defendants have filed relevant excerpts from the cited depositions as well as copies of the relevant documentary evidence and affidavits concurrently herewith in an "Appendix to Defendants' Statement of Uncontested Material Facts and Theories of Recovery in Support of Defendants' Motion For Summary Judgment Against Plaintiffs Stevens & Cooper, LLC and Fidelity National Title Insurance Co." ("Appendix to Defendants' Statement of Undisputed Material Facts").

examining title, and issuing title insurance policies. (See August 24, 2006 Deposition of Donald Moreland,² p. 14, hereinafter cited "Moreland Dep., p. '___'", at Appendix to Defendants' Statement of Undisputed Material Facts Tab A-6, hereinafter cited "Fact App. Tab '___'".)

4.

Plaintiff Stevens & Cooper, LLC ("Plaintiff Stevens & Cooper") is a limited liability company organized under the laws of the State of Georgia, having its principal place of business at 400 Perimeter Center Terrace #270, Atlanta, Georgia 30346.

5.

Plaintiff Stevens & Cooper is a real estate law firm that performs services which include closing investment loans for residential real property sales transactions, certifying title to real property, and issuing title insurance policies as an agent of Plaintiff Fidelity National Title Insurance Company. (See August 25, 2006 Deposition of Charles R. Burditt, Jr.,³ pp. 15-16, 122-23 at Fact App. Tabs B-1, B-23, hereinafter cited "Burditt Dep., p. '___' at Fact App. Tab '___'".)

² On about October 17, 2006, Third-Party Defendant Chase filed an original copy of this deposition transcript with the Court.

³ On about October 17, 2006, Third-Party Defendant Chase filed an original copy of this deposition transcript with the Court.

6.

Plaintiff Fidelity National Title Insurance Co. ("Plaintiff Fidelity") is a corporation organized under the laws of the State of California, having its principal place of business at 17911 Von Karman Avenue, Suite 300, Irvine, California 92614.

7.

Third-Party Defendant Chase Home Finance, LLC, successor by merger to Chase Manhattan Mortgage Corporation ("Third-Party Defendant Chase") is a corporation organized under the laws of the State of New Jersey, having its principal place of business at 194 Wood Avenue South, Iselin, New Jersey 08830, and transacting business in the State of Georgia.

STATEMENT OF UNCONTESTED FACTS:

8.

This case arises over an issue pertaining to the status of title to an improved residential lot located at 2270 Polar Rock Avenue, Atlanta, Georgia 30315 (the "Polar Rock Property").

9.

On February 28, 2005, New Hope Realty Investments, Inc. ("New Hope") purchased the Polar Rock Property. (*See* Moreland Dep., pp. 107-09 at Fact App. Tab A-7; Moreland Dep., Chase Ex. 9 at Fact App. Tab D.)

10.

On about March 1, 2005, New Hope executed a sales contract to convey the Polar Rock Property to Goldmine Properties, Inc., which is the same party as 2700 Polar Rock Trust, Mike Cherwenka trustee ("Polar Rock Trust"). (See Burditt Dep. pp. 123-24 at Fact App. Tab B-23; Burditt Dep., p. 75 at Fact App. Tab B-17 (stating that Goldmine Properties and the Polar Rock Trust are really the same party, *i.e.*, Mike Cherwenka); Burditt Dep., Def. Ex. 2 at Fact App. Tab M.)

11.

In early March 2005, Polar Rock Trust agreed to sell the Polar Rock property to Atlas Realty, Inc. (Burditt Dep., pp. 90, 160-61 at Fact App. Tabs B-19, B-30; *see also* Burditt Dep., Def. Ex. 10 at Fact App. Tab O.)

12.

In conjunction with Polar Rock Trust's purchase and subsequent sale, Polar Rock Trust hired Charles Burditt, Jr., an attorney at Plaintiff Stevens & Cooper, to certify title to the Polar Rock Property and close the sales. (Burditt Dep., p. 32 at Fact App. Tab B-3.)

13.

Burditt is a partner at Plaintiff Stevens & Cooper who practices real estate law. (Burditt Dep., pp. 122-23 at Fact App. Tab B-23.)

14.

Burditt is personally authorized to sign and issue title insurance policies on behalf of Plaintiff Fidelity. (Burditt Dep., pp. 122-23 at Fact App. Tab B-23.)

15.

Burditt has never been to any deed room to check title on behalf of a client. (Burditt Dep., pp. 122-23 at Fact App. Tab B-23.)

16.

The only time Burditt has ever been to the Fulton County deed room to inspect the deed books was as a first-year law student in 1987. (Burditt Dep., pp. 121-22 at Fact App. Tab B-22.)

17.

Burditt graduated law school in 1990, passed the Georgia Bar in 1991, and opened his own practice from 1991 through 1995, wherein he did no real estate work. (Burditt Dep., pp. 9-10 at Fact App. Tab B-1.)

18.

From 1995 to 1998, Burditt worked as a paralegal for a law firm in San Diego, California, reading deposition transcripts in a tort case against Jack in the Box, Inc. (Burditt Dep., pp. 9-10 at Fact App. Tab B-1.)

19.

Having never passed the California Bar exam, Burditt returned to Atlanta in 1998 and joined a firm called Bailey & Burditt, where he remained until 2000. (Burditt Dep., pp. 10-11 at Fact App. Tab B-1.)

20.

While at Bailey & Burditt, Burditt learned "the basics of clearing a title and entering HUD statements and closing loans" from a legal assistant to George L. Bailey. (Burditt Dep., pp. 10-11 at Fact App. Tab B-1.)

21.

During this time, Burditt never actually searched title himself. (Burditt Dep., pp. 11-12 at Fact App. Tab B-1.)

22.

From 2000 through March 2004, Burditt worked in-house for Omni National Bank, closing real estate loans but never searching title. (Burditt Dep., pp. 12-13, 122-23 at Fact App. Tabs B-1, B-23.)

23.

In March 2004, Burditt went to work for Plaintiff Stevens & Cooper, where he closes loans and certifies title but never actually searches title himself. (Burditt Dep., pp. 14-16, 122-23 at Fact App. Tabs B-1, B-23.)

24.

Burditt generally hires Traditional Title Company ("Traditional Title") to perform title searches. (Burditt Dep., pp. 16-17, 54 at Fact App. Tabs B-1, B-11.)

25.

Burditt does not know the steps Traditional Title takes to make a full title search. (Burditt Dep., pp. 16-17, 54 at Fact App. Tabs B-1, B-11.)

26.

Despite his lack of knowledge about Traditional Title's activities, Burditt relies on Traditional Title's work in certifying titles and issuing title insurance policies. (Burditt Dep., pp. 33, 54 at Fact App. Tabs B-4, B-11.)

27.

Consistent with his customary practice, Burditt hired Traditional Title to perform the title search when Polar Rock Trust hired him to close the sale of the Polar Rock Property in March 2005. (Burditt Dep., pp. 33, 54 at Fact App. Tabs B-4, B-11.)

28.

On about March 3, 2005, Traditional Title provided Burditt with a title abstract for the Polar Rock Property. (Burditt Dep., pp. 34, 55, 141 at Fact App. Tabs B-5, B-12, B-25.)

29.

A title abstract is a schedule of the documents within the chain of title for a piece of property such as any mortgage or deed to secure debt. (*Id.*)

30.

Traditional Title's title abstract contained attached copies of the actual documents from within the chain of title that could affect the ability to pass marketable title to the Polar Rock Property. (*Id.*)

31.

Defendant's Exhibit "8" to the Burditt Deposition is a true and correct copy of the title abstract Burditt received from Traditional Title. (Burditt Dep., p. 139 at Fact App. Tab B-24; Burditt Dep., Def. Ex. 8 at Fact App. Tab N.)

32.

When Burditt certified unencumbered title to the Polar Rock Property on March 9, 2005, he had read, understood, and relied upon the documents attached to Traditional Title's title abstract. (Burditt Dep., pp. 34-36, 143-46 at Fact App. Tabs B-5, B-26; Burditt Dep., Def. Ex. 8 at Fact App. Tab N.)

Relevant to the instant case, Traditional Title's title abstract disclosed the following specific exception to title of the Polar Rock Property as of March 2, 2005:

Mortgage Information			
Mortgagee:	Advanta National Bank		
Mortgagor:	Janet W. Williams		
Amount:	\$45,000.00	Revolving Credit Line:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Dated:	9/10/1998	Recorded:	10/1/1998
Deed Book:	25447	Page:	313
Open Ended:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Assigned to:	Emanuel Walker		
Dated:	5/20/2004	Recorded:	6/11/2004
Deed Book:	37769	Page:	101
Affidavit @	Book 37769, Page 92.		

(Burditt Dep., Def. Ex. 8 at Fact App. Tab N.) This exception notes the existence of an outstanding deed to secure debt (the "Security Deed"), originally held by Advanta National Bank and subsequently assigned to Emanuel Walker ("Walker") on May 20, 2004. (*Id.*) Burditt freely admits that Traditional Title's title abstract demonstrates the existence of the Security Deed encumbering title to the Polar Rock Property and its assignment to Walker. (Burditt Dep., pp. 34-36, 143-46 at Fact App. Tabs B-5, B-26.)

An actual copy of the original Security Deed encumbering title to the Polar Rock Property is attached to Traditional Title's title abstract along with certain other documents demonstrating the assignment of the Security Deed to Walker, including:

- (a) the original Security Deed, which is a deed to secure debt on the Polar Rock Property from Janet Williams to Advanta National Bank in the amount of \$45,000.00, filed in Fulton County Deed Book 25447, page 313;
- (2) a lost note affidavit filed by Third Party Defendant Chase in Fulton County Deed Book 37769, page 92, indicating that Chase had acquired the Security Deed from Advanta National Bank and desired to assign it to a third party; and
- (c) a "Corporate Assignment of Mortgage" filed in Fulton County Deed Book 37769, p. 101, by which Heath W. Williams, LLC assigned the Security Deed to Emanuel Walker on June 10, 2004.

(Burditt Dep., pp. 142-146 at Fact App. Tab B-26; Burditt Dep., Def. Ex. 8 at Fact App. Tab N.)

35.

Burditt freely admits that, before he certified title to the Polar Rock Property, he received and reviewed copies of the documents listed in paragraph 34 above. (Burditt Dep., pp. 142-148 at Fact App. Tab B-26; Burditt Dep., Def. Ex. 8 at Fact App. Tab N.)

36.

Burditt also admits that he understood before he certified title that "[a]s of June 2004, there was an assignment from Heath Williams to Emanuel Walker of the note". (Burditt Dep., pp. 36, 142-146 at Fact App. Tabs B-6, B-26.)

37.

Burditt admits that Traditional Title's title abstract stated Emanuel Walker's current address, 1550 Versailles Drive, S.W., Atlanta, Georgia 30331, as well as the current address for Walker's attorney, Heath Williams, 170 Mitchell Street, SW, Atlanta, Georgia 30303. (Burditt Dep., p. 36 at Fact App. Tab B-6; Burditt Dep., Chase Ex. 14 at Fact App. Tab F.)

38.

Despite having actual knowledge that the Fulton County records show that the Security Deed had been assigned to Walker, Burditt never asked Traditional Title to obtain a complete chain of title for the Security Deed. (Burditt Dep., pp. 149, 156 at Fact App. Tabs B-27, B-28.)

39.

At no point before the March 9, 2005 closings of the Polar Rock Property did Burditt or any other representative of Plaintiff Stevens & Cooper bother to contact Third-Party Defendant Chase, Emanuel Walker, or Heath W. Williams, all of whom were shown by the title abstract to have held the Security Deed at some point. (Burditt Dep., pp. 36-37, 40, 156-59 at Fact App. Tabs B-6, B-8, B-29.)

40.

Burditt admits that, in circumstances where there appears to be a mortgage on the title and the seller states that he does not have a mortgage and is not making payments, the proper procedure for a closing attorney would be to try to contact the last lender listed on the title abstract and get information about whether that loan was still open or paid off. (Burditt Dep., pp. 29-30 at Fact App. Tab B-2.)

41.

Burditt did not attempt to contact the last known holder of the Security Deed shown on Traditional Title's title abstract. (Burditt Dep., pp. 36-37 at Fact App. Tab B-6.)

42.

Instead, Burditt contacted Defendant Moreland (who had closed a prior, unrelated sale of the Polar Rock Property) to inquire how Defendant Moreland had dealt with the Security Deed. (Moreland Dep., p. 214 at Fact App. Tab A-5.)

43.

Burditt testified that he "might have had one" telephone conversation with Defendant Moreland before the March 9, 2005 sale of the Polar Rock Property. (Burditt Dep., pp. 38-39 at Fact App. Tab B-7.)

44.

Burditt could not recall the substance of any conversation with Defendant Moreland. (See Burditt Dep., pp. 38-39 at Fact App. Tab B-7 (testifying, "*I cannot recall any specific conversations with Mr. Moreland*") (emphasis added); Burditt Dep., pp. 149-50 at Fact App. Tab B-27 (testifying that Burditt cannot swear to a jury that he even spoke to Defendant Moreland, much less the substance of any such conversation).)

45.

Burditt cannot recall whether he spoke with any person in Defendant Moreland's office other than Defendant Moreland before closing the sales of the Polar Rock Property. (Burditt Dep., pp. 149-50 at Fact App. Tab B-27.)

46.

Unlike Burditt, Defendant Moreland recalls the substance of his conversations with Burditt. (See Moreland Dep. pp. 95, 184 at Fact App. Tabs A-2, A-4.)

47.

Burditt called Defendant Moreland to ask what steps Moreland had taken to certify title for the Polar Rock Property given the existence of the Security Deed. (Moreland Dep. pp. 95, 184, 214 at Fact App. Tab A-2, A-4,

A-5; *see also* Affidavit of Donald D. Moreland ¶ 6, filed January 8, 2007, hereinafter cited "Moreland Aff. ¶ ' ___", at Fact App. Tab R.)

48.

Burditt did not ask Moreland to represent from his personal knowledge whether the Security Deed had actually been cancelled. (Moreland Dep. pp. 95, 184, 214 at Fact App. Tab A-2, A-4, A-5; Moreland Aff. ¶ 8 at Fact App. Tab R.)

49.

Instead, Burditt asked what steps Defendant Moreland had taken to *satisfy himself* that the Security Deed had been cancelled. (Moreland Dep. pp. 95, 184, 214 at Fact App. Tab A-2, A-4, A-5; Moreland Aff. ¶ 6 at Fact App. Tab R.)

50.

In response to Burditt's questions, Defendant Moreland truthfully stated that he decided to certify title after a representative of Third-Party Defendant Chase had told him that the debt underlying the Security Deed had been paid off and that the Security Deed would be cancelled. (Moreland Aff. ¶ 7 at Fact App. Tab R.)

51.

The October 12, 2006 Affidavit of Thomas E. Reardon ("Reardon Affidavit"), Mortgage Officer and authorized representative of Third-Party Defendant Chase, confirms the occurrence and the substance of Defendant Moreland's conversation with the Chase representative about the Security Deed. (*See* Reardon Aff. ¶¶ 7, 9 at Fact App. Tab Q.)

52.

In particular, the Reardon Affidavit states, "[w]hen Chase operators were contacted by persons in February inquiring about the status of the loan, operators who reviewed the account saw that it showed a zero balance and assumed the Advanta note had been paid off". (*See* Reardon Aff. ¶ 7 at Fact App. Tab Q.)

53.

Further, the Reardon Affidavit states, "various [Chase] employees misread the account records believing that the reported zero balance on the Williams account indicated that the Advanta note and the Advanta Security Deed had been paid off rather than assigned". (*See* Reardon Aff. ¶ 9 at Fact App. Tab Q.)

54.

In fact, in April 2004, approximately nine months prior to Third-Party Defendant Chase's representation that the Security Deed was paid off and would be canceled, Chase had assigned the deed to a third party named Heath Williams in exchange for a payoff of the underlying note. (*See* Reardon Aff. ¶¶ 3-4 at Fact App. Tab Q.)

55.

Shortly after their initial conversation, Defendant Moreland and Burditt exchanged facsimiles. (Moreland Dep., p. 95 at Fact App. Tab A-2.)

56.

On March 9, 2005, Defendant Moreland sent Burditt a facsimile reiterating, "S/D [Security Deed] in favor of Avanta National Bank (25447/313) \$45,000.00 is paid off. They are to have it cancelled and send us confirmation but have not done so yet. Takes 90-120 days". (Moreland Dep., pp. 94-98 at Fact App. Tab A-2; *see also* Moreland Dep., Chase Ex. 7 at Fact App. Tab C.)

57.

Additionally, Defendant Moreland sent Burditt a facsimile containing a copy of his marked up title commitment, which also indicated Defendant Moreland's understanding that the Security Deed had been paid off. (Burditt

Dep., p. 45 at Fact App. Tab B-9; Moreland Dep., pp. 115-19 at Fact App. Tab A-3; Moreland Dep., Chase Ex. 12, p. 3 at Fact App. Tab E.)

58.

The handwritten notes on Defendant Moreland's title commitment concerning the Security Deed state, "Assigned to Chase; Paid Off 4-15-04; Request for release sent 2/28/05. 90-120 day turn around". (Moreland Dep., Chase Ex. 12, p. 3 at Fact App. Tab E.)

59.

Burditt testified that he recognized the contradiction between the information provided by Defendant Moreland and the information contained in Traditional Title's title abstract, but he did nothing to resolve it. (Burditt Dep., pp. 58-60 at Fact App. Tab B-13.)

60.

Burditt understood that Defendant Moreland was simply conveying information obtained from Third-Party Defendant Chase as opposed to information about which Defendant Moreland had personal knowledge. (Burditt Dep., pp. 67-68 at Fact App. Tab B-16.) Defendant Moreland never represented that he had personal knowledge about the status of the Security Deed other than the information he had been provided by the representative of Third-Party Defendant Chase. (Moreland Aff. ¶ 8 at Fact App. Tab R.)

Additionally, Burditt never engaged, retained, or offered to pay Defendant Moreland to provide a title opinion or legal research concerning the status of the Security Deed, and Defendant Moreland never stood to benefit in any way from Plaintiff Stevens & Cooper's closing of the sale of the Polar Rock Property. (Burditt Dep., p. 47 at Fact App. Tab B-10.)

61.

Burditt admitted that he took no steps to verify the accuracy of the information from Third-Party Defendant Chase, even though Burditt had no way of knowing whether this information was reliable. (Burditt Dep., pp. 67-69 at Fact App. Tab B-16.)

62.

Although Burditt admitted that he had no way to verify the accuracy of Third-Party Defendant Chase's representations, Burditt also testified that *there is no evidence Moreland intentionally misled him.* (Burditt Dep., pp. 111-12 at Fact App. Tab B-21.)

63.

Plaintiffs have no evidence to contradict Defendant Moreland's testimony that he personally called a representative of Third-Party Defendant Chase, who stated that the debt underlying the Security Deed had been paid

and that the Security Deed would be cancelled. (*See* Moreland Dep., pp. 82-83 at Fact App. Tab A-1; Burditt Dep., pp. 111-12 at Fact App. Tab B-21.)

64.

Thus, Defendant Moreland truthfully represented to Burditt that he had acted in reliance on Third-Party Defendant Chase's representation that the Security Deed would be canceled, and Defendant Moreland never suggested that he had personal knowledge concerning the status of the Security Deed other than what he had been told by Third-Party Defendant Chase. (Moreland Aff. ¶ 8 at Fact App. Tab R.)

65.

On March 9, 2005, relying on nothing more than the information received from Defendant Moreland (which Burditt admits to be unreliable hearsay), and ignoring the documents included with his own title searcher's report demonstrating that the Security Deed had been assigned to Emanuel Walker, Burditt closed the sale of the Polar Rock Property to 2700 Polar Rock Trust, Mike Cherwenka trustee ("Polar Rock Trust"); then, later the same day, Burditt closed the sale of the Polar Rock Property from Polar Rock Trust to Atlas Realty. (*See* Burditt Dep., pp. 46-49, 59, 65, 75-81, 89-92, 155-57 at Fact App. Tabs B-10, B-14, B-15, B-18, B-28; *see also* Burditt Dep., Chase

Exs. 29, 30, 31, 32, and 33 at Fact App. Tab G, Tab H, Tab I, Tab J, and Tab K.)

66.

Atlas Realty purchased the Polar Rock Property for \$64,000.00, and on March 9, 2005, an attorney from Plaintiff Stevens & Cooper issued a title insurance policy in the amount of \$64,000.00 to Atlas Realty. (Burditt Dep., pp. 92-95 at Fact App. Tab B-20; Burditt Dep., Chase Ex. 34 at Fact App. Tab L.)

67.

In May 2005, Emanuel Walker, acting through his attorney, Heath Williams, declared the debt underlying the Security Deed to be in default and advertised the Polar Rock property for foreclosure sale; thereafter, on June 7, 2005, Walker foreclosed on the property and sold it on the Fulton County Courthouse steps to Neighborhood Investment Group, LLC for \$63,500.00. (See Burditt Dep., pp. 161-62 at Fact App. Tab B-30; Burditt Dep., Def.'s Ex. 11 at Fact App. Tab P.)

68.

After this, Neighborhood Investment Group, LLC contacted Atlas Realty to demand that Atlas Realty turn over the Polar Rock Property. (Burditt Dep., p. 163 at Fact App. Tab B-30.)

69.

During his deposition, Burditt testified that he did not know Defendant Moreland or anyone at the law firm of Defendant Moreland & Lerman, PC. (Burditt Dep., p. 37 at Fact App. Tab B-6.) Burditt also did not know anything about the ability or skill of Defendant Moreland or anyone at Defendant Moreland & Lerman, PC. (*Id.*)

THEORIES OF RECOVERY:

70.

Plaintiff Stevens & Cooper and Plaintiff Fidelity have sued Defendant Moreland and Defendant Moreland & Lerman for negligent misrepresentation, alleging that Plaintiffs suffered money damages resulting from Defendant Moreland's representation that the debt underlying the Security Deed was paid off and that a cancellation of the Security Deed would be filed of record.

71.

Plaintiffs' negligent misrepresentation claim fails and summary judgment must be granted in Defendants' favor because the uncontested facts stated above show:

- (a) that Defendant Moreland never misrepresented any fact concerning either his conversation with Third-Party Defendant

Chase about the status of the Security Deed or his decision to rely on Third-Party Defendant Chase's representation concerning the Security Deed in order to certify title to the Polar Rock Property; and

- (b) that, as a matter of law, Plaintiff Stevens & Cooper did not reasonably rely on the representation of Third-Party Defendant Chase concerning the Security Deed (as relayed by Defendant Moreland), because Plaintiff Stevens & Cooper had actual knowledge and record notice that Third-Party Defendant Chase's representation was false.

Dated this 8th day of January, 2007.

Respectfully submitted,

By: 

JAMES L. PAUL

Georgia State Bar No. 567600

F. BEAU HOWARD

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served a true and correct copy of the within and foregoing "Statement of Uncontested Material Facts and Theories of Recovery in Support of Defendants' Motion for Summary Judgment against Plaintiffs Stevens & Cooper, LLC and Fidelity National Title Insurance Co.", upon the following parties by manner of service as indicated below, in properly addressed envelopes, addressed as follows:

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Dated this 8th day of January, 2007.

By: 

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