

IN THE SUPREME COURT OF FLORIDA

Case No. SC17-954

2ND DCA Case No. 2D15-5198

Trial Court Case No.: 41 2014CA002512AX

**THE BANK OF NEW YORK MELLON
FKA THE BANK OF NEW YORK, as
successor trustee to JPMorgan Chase
Bank, N .A., as Trustee on behalf of the
Certificateholders of the CWHEQ, Inc.,
CWHEQ Revolving Home Equity Loan
Trust, Series 2006-D,**

Appellant,

v.

**DIANNE D. GLENVILLE A/KIA DIANE
D. GLENVILLE A/KIA DIANE
GLENVILLE and MARKS. GLENVILLE,**

Appellees.

_____/

RESPONSE TO MOTION TO DISMISS

Appellant The Bank of New York Mellon f/k/a the Bank of New York, as successor Trustee to JPMorgan Chase Bank, N.A., as Trustee on Behalf of the Certificateholders of the CWHEQ Inc., CWHEQ Revolving Home Equity Loan Trust, Series 2006-D (“Appellant”) responds to that Motion to Dismiss filed by Appellees Dianne D. Glenville a/k/a Diane D. Glenville a/k/a Dianne Glenville and Mark S. Glenville (“Appellees”) as follows:

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1. On May 18, 2017, Appellant timely filed its Notice to Invoke Discretionary Jurisdiction of this Court. The decision is within the discretionary jurisdiction of the Florida Supreme Court pursuant to Fla. R. App. P. 9.030(a)(2)(A)(vi) because the decision of the 2nd District Court of Appeals had been certified by that court to be in direct conflict with decisions of other district courts of appeal.
2. Given that discretionary jurisdiction was invoked pursuant to Fla. R. App. P. 9.030(a)(2)(A)(vi), briefs on jurisdiction are not to be filed. The Committee Notes to the 1980 Amendment to Fla. R. App. P. 9.120 explicitly provide that “No jurisdictional briefs are permitted if jurisdiction is based on certification of a question of great public importance **or certification that the decision is in direct conflict with a decision of another district court.**” (Emphasis added.)

WHEREFORE, Appellees’ Motion to Dismiss is due to be denied and Appellant seeks the recovery of fees and costs incurred in preparing this response as well as all other, further, and different relief to which it may be entitled.

Dated this 1st day of June, 2017.

/s/ Shaun K. Ramey

Anthony R. Smith (#0157147)

Shaun K. Ramey (#0117906)

Attorneys for Appellant

The Bank of New York Mellon fka
The Bank of New York, as Successor
Trustee to JPMorgan Chase Bank,
N.A., as Trustee on behalf of the
Certificateholders of the CWHEQ,
Inc., CWHEQ Revolving Home
Equity Loan Trust, Series 2006-D

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been sent via U.S. Mail, postage prepaid and E-Mail, to the following on this 1st day of June, 2017:

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this motion complies with Florida Rule of Appellate Procedure 9.100(1) and has been formatted in Times New Roman 14 point font.

/s/ Shaun K. Ramey