

Instruction: This is a model letter. Adapt to fit your facts and circumstances.

D A T E

N A M E

A D D R E S S L I N E 1

A D D R E S S L I N E 2

C I T Y , S T A T E Z I P C O D E

Re: vs.
 Cause No. ; In the County Court of County,

Dear :

Pursuant to our telephone conversation of Date, I notified the County Court Administrator that you had agreed to a continuance of the above referenced matter and that the parties would not appear on Date. I also discussed with the Court Administrator a hearing early next week. She informed me that the matter must be heard on a Day. As I told you in our telephone conversation, I have a trial scheduled in the Circuit Court of County on Date and will not be available on that date. Therefore, I requested that the administrator set the matter for the next earliest possible date which was . I trust that in light of all the circumstances this will be satisfactory with you. However, if it is not, I will be willing to work with you to determine a mutually agreeable date, provided you can convince to hear the matter on a day other than a Friday.

With regard to the Complaint for unlawful entry and detainer, it is my client's position that they are not in default and if they are, not to the extent alleged in your Complaint. In order to establish this, I have requested that my client provide me with copies of all canceled checks paid to since the inception of the loan. While we have a significant number of the original checks, my client is unable to locate certain checks and we have requested that copies of these checks be retrieved from microfilm at . It is my understanding that these copies will be available on Day or Day of next week. However, in order to adequately prepare to contest your assertion that my clients are delinquent, I need an itemized payment history and breakdown of the amounts which alleges to be due from my client. Considering that this loan is only approximately four years old, such a detailed payment history and breakdown should be neither difficult nor burdensome for to provide.

In addition, I have serious questions regarding 's ability to maintain an action for unlawful entry and detainer against my clients. According to the documents which I have, the purchased the property pursuant to a contract which provided for the delivery of a Warranty Deed and Certificate of Title at closing. The documents which I have show that the made a \$ down payment and that financed the balance of \$ for years and took a Deed of Trust on the property. The Deed of Trust clearly provides that was the beneficiary

under the Deed of Trust and not the owner of the property. I note, however, that your Complaint alleges that [redacted] was only to give a Special Warranty Deed upon payment in full. As a result, there are some apparent discrepancies regarding the transaction. In order to adequately advise my clients regarding this matter, I need a copy of any and all documents which [redacted] has in its possession regarding this transaction. In particular, I need a copy of any Warranty Deed that was given and if a Warranty Deed was not given, then I need a copy of a Contract for Deed setting forth that the Deed will only be provided upon all payments being made. Also, I need copies of any demand letters, Notices of Right to Cure, Notices of Acceleration, Notices of Foreclosure, and/or any foreclosure documents regarding the transaction between [redacted] and the [redacted].

Please let me know if you are agreeable to providing these documents without the necessity of formal discovery requests. If you are not, I will have no alternative but to request that the Court continue any hearing on this matter until such time as we have had an opportunity to complete adequate discovery. While I realize that unlawful entry and retainer is merely a possessory action and does not determine title, I do not believe that we can go forward with the issue of possession until a determination has been made whether the agreement between the parties was a Contract for Deed or whether the agreement was a standard Deed of Trust situation which would require to conduct foreclosure proceedings before maintaining the unlawful entry and detainer action.

I look forward to working with you on this matter.

Sincerely,

By:

/
Enclosure
cc: