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MOUNTAIN STATE
JUSTICE, INC.

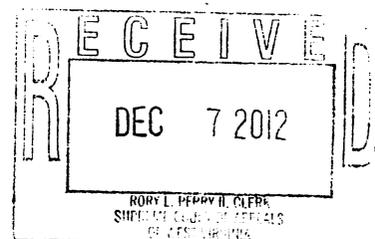
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December 5, 2012

Rory L. Perry II
Clerk of Court
State Capitol Rm E-317
1900 Kanawha Blvd., East
Charleston, WV 25305



**Re: Vanderbilt Mortgage and Finance v. Terri Cole
Appeal Nos. 11-1288 & 11-1604**

Dear Mr. Perry:

Terri L. Cole, the Respondent in the above-referenced matter, submits this letter to the Court pursuant to Rule 10(i) of the West Virginia Rules of Appellate Procedure.

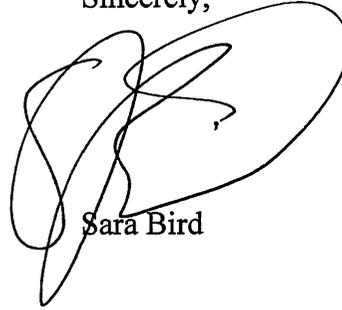
Recently, on November 8, 2012, Respondent submitted highly persuasive authority from the Fifth Circuit Court of Appeals in the matter of Vanderbilt Mortgage and Finance, Inc. v. Flores, 692 F.3d 358 (5th Cir. 2012). In Flores, the Fifth Circuit rejected Vanderbilt's same attempt to apply a due process ratio analysis articulated in State Farm Mutual Automobile Insurance Co. v. Campbell, 538 U.S. 408 (2003) to reduce an award of statutorily approved civil penalties.

Even if this Court were inclined to consider Vanderbilt's theory in this regard, the argument is now moot in light of this Court's new syllabus point in Quicken Loans, Inc. v. Brown, — S.E.2d— (2012). Syllabus point 11 states that "[a]ttorneys fees and costs awarded under West Virginia Code § 46A-5-104 (1994) of the West Virginia Consumer Credit and Protection Act shall be included in the compensatory to punitive damages ratio in cases where punitive damages are available." Id., Syl. pt. 11.

Here, the inclusion of the attorney fee and cost award on the compensatory damages side of the ratio results in a plainly acceptable 1.07 to 1 civil penalty to compensatory damages ratio. Accordingly, Vanderbilt's primary assignment of error is now moot under Quicken Loans.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'Sara Bird', enclosed within a large, loopy oval shape.

Sara Bird

cc: Matthew D. Patterson, Esq.
Jeremy C. Hodges, Esq.