

IN THE CIRCUIT COURT OF THE  
TWELFTH JUDICIAL CIRCUIT IN AND  
FOR MANATEE COUNTY, FLORIDA

CASE NO.:

BMO HARRIS BANK N.A., as successory  
by merger to M&I MARSHALL & ILSLEY  
BANK,

Plaintiff,

vs.

PAT COOK CONSTRUCTION, INC., a  
Florida corporation,

Defendant.

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**THIS COMMUNICATION, FROM A DEBT COLLECTOR,  
IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED WILL BE USED FOR THAT PURPOSE.**

**COMPLAINT**

Plaintiff, BMO HARRIS BANK N.A., as successory by merger to M&I MARSHALL & ILSLEY BANK, by and through its undersigned attorneys, sues Defendant, PAT COOK CONSTRUCTION, INC., a Florida corporation, and alleges:

**COUNT I – BREACH OF PROMISSORY NOTE**

1. This is an action against PAT COOK CONSTRUCTION, INC, a Florida corporation (“PAT COOK”), for damages that exceed \$15,000.00, exclusive of costs, interest and attorneys’ fees.
2. PAT COOK CONSTRUCTION, INC. is a Florida corporation authorized to and conducting business in Manatee County, Florida.

3. The Plaintiff, BMO HARRIS BANK N.A., as successor-by-merger to, M&I MARSHALL & ILSLEY BANK, is a national banking association (“PLAINTIFF”).
4. Effective on July 5, 2011, M&I Marshall & Ilsley Bank, a Wisconsin state banking corporation, FDIC Certificate No. 1020, together with other banks, merged with and into Harris National Association, with the resulting title “Harris National Association,” OCC Charter Number 14583. This merger is evidenced by that certain letter dated July 5, 2011, from Travis W. Wilbert, Director for District Licensing, Comptroller of the Currency, Administrator of National Banks, a true and correct copy which is attached hereto as **Exhibit “A,”** and incorporated herein by this reference (**hereinafter the “First OCC Letter”**); please see the first full paragraph of the First OCC Letter; and that certain Secretary’s Certification of Consummation of Merger Transactions and Change of Title, a true and correct copy of which is attached hereto as **Exhibit “B,”** and incorporated herein by this reference (**hereinafter referenced as the “Secretary’s Certification”**); please see paragraph (b) of the Secretary’s Certification.
5. Immediately after such bank merger, effective on July 5, 2011, the title Harris National Association was changed to “BMO Harris Bank National Association”, which is also known as “BMO Harris Bank N.A.” This name change is evidenced by that certain letter dated July 5, 2011, from Travis W. Wilbert, Director for District Licensing, Comptroller of the Currency, Administrator of National Bank, a true and correct copy which is attached hereto as **Exhibit “C,”** and incorporated herein by this reference (**the “Second OCC Letter”**); and paragraph (e) of the Secretary’s Certification.

6. The bank merger and name change occurred after the execution and delivery of the subject Note, as defined herein, to M&I Marshall & Ilsley Bank
7. Federal law provides that when national banks merge into each other, the resulting bank “shall be deemed to be the same corporation as each bank participating in the merger...and all rights, franchises, and interests of the individual merging banks or banking associations in and to every type of property (real, personal, and mixed) and choses in action shall be transferred to and vested in the receiving association by virtue of such merger without any deed or other transfer.” 12 U.S.C. §§ 215a(e) and 215a-1(a)(2011). “Upon merger and without any order or other action on the part of any court or otherwise”, the resulting bank shall hold all the legal and equitable rights held by each of the merging banks at the time of the merger. Id.
8. Florida Statutes are similar to federal law, and provide the resulting financial entity after a bank merger is deemed to be a continuation of the participating or converting financial institutions. Florida Statutes §655.417(1)(2011).
9. Based upon the foregoing, BMO HARRIS BANK N.A. is successor-by-merger to M&I Marshall & Ilsley Bank, and an assignment of the subject note and related loan documents is not necessary under federal or state law.
10. On May 20, 2008, Defendant, PAT COOK, executed and delivered a Promissory Note (the “Note”), a copy being attached as **Exhibit “D,”** to PLAINTIFF. To the extent the Note contains social security numbers, the social security numbers have been redacted for purposes of confidentiality.

11. Venue is proper in Manatee County pursuant to the choice of venue clause in the Note.
12. PLAINTIFF owns, holds and possesses the Note.
13. The Note is in default for failure to pay the balance due at maturity on May 20, 2013.
14. PLAINTIFF declares the full amount payable under the Note to be now due.
15. In order to satisfy the Note, Defendant, PAT COOK must pay PLAINTIFF the following:

Unpaid principal balance on Note	\$239,580.21
Unpaid interest through April 3, 2014	\$7,548.42
<b>TOTAL</b>	<b>\$247,128.63</b>

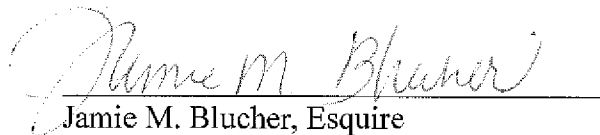
Plus interest accruing after April 3, 2014 at \$21.63 per diem (assuming no change in the underlying interest rate), and all costs associated with PAT COOK's default and with collection, including reasonable attorneys' fees.

16. PLAINTIFF has retained the undersigned and is obligated to pay its attorneys a reasonable fee for their services in this action. Defendant, PAT COOK, is liable to PLAINTIFF for those attorney fees pursuant to the terms of the Note.
17. The amount of the debt is stated in paragraph fifteen (15) hereof. The amount of the debt stated in this Complaint is believed to be due and owing by PAT COOK, as debtor. The PLAINTIFF is the creditor to whom the debt is owed. The debt described in this Complaint and evidenced by the attached Note will be assumed to be valid by the PLAINTIFF's attorneys unless the said debtors, within thirty days after the receipt of these suit papers, dispute the validity of the debt, or any portion thereof, in writing. If the debtors notify PLAINTIFF's attorneys, then said attorneys will obtain a verification of the debt and a copy

of the verification will be mailed to the debtors. The name of the original creditor is set forth in the Note attached. If the PLAINTIFF is an assignee of the Note, then upon request within thirty days from the receipt of this suit, the address of the original creditor will be mailed to the debtors. Written request should be mailed to the attorney's name and address shown at the end of this Complaint.

18. All conditions precedent have been performed, waived or otherwise have occurred.

WHEREFORE, PLAINTIFF demands judgment for damages, interest, costs and attorneys' fees against Defendant, PAT COOK CONSTRUCTION, INC., a Florida corporation.



Jamie M. Blucher, Esquire

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