

# United States Court of Appeals For the First Circuit

No. 14-2115

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IN RE: ALVARO M. PEREIRA,

Debtor.

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BANK OF AMERICA, N.A.,

Appellee,

v.

DEBORA A. CASEY, Chapter 7 Trustee for Alvaro M. Pereira,

Appellant.

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**Before**  
**Howard, Chief Judge,**  
**Lynch and Thompson Circuit Judges.**

## **ORDER OF COURT AND CERTIFICATION OF A QUESTION TO THE MASSACHUSETTS SUPREME JUDICIAL COURT**

**Entered: June 26, 2015**

This cause came on to be heard on appeal from the United States District Court for the District of Massachusetts and was argued by counsel. For the reasons stated in our opinion in this case, submitted with this order, we certify the following questions to the Massachusetts Supreme Judicial Court:

1. May an affidavit executed and recorded pursuant to Mass. Gen. Laws. ch. 183, § 5B, attesting to the proper acknowledgement of a recorded mortgage containing a Certificate of Acknowledgement that omits the name of the mortgagor, correct what the parties say is a material defect in the Certificate of Acknowledgement of that mortgage?

2. May an affidavit executed and recorded pursuant to Mass. Gen. Laws. ch. 183, § 5B, attesting to the proper acknowledgement of a recorded mortgage containing a Certificate of Acknowledgement that omits the name of the mortgagor, provide constructive notice of the existence of the mortgage to a bona fide purchaser, either independently or in combination with the mortgage?

The clerk of this court is instructed to transmit to the Massachusetts Supreme Judicial Court under the official seal of this court, a copy of the certified question and our opinion in this case, along with copies of the parties' briefs, appendix, and any supplemental filings under Rule 28(j) of the Federal Rules of Appellate Procedure. We retain jurisdiction over this appeal

By the Court:  
/s/ Margaret Carter, Clerk

cc: Hon. George A O'Toole, Mr. Robert M. Farrell, Clerk, United States District Court for the District of Massachusetts, Mr. Francis V. Kenneally, Clerk, Massachusetts Supreme Judicial Clerk, Mr. Foss, Ms. Heyer, Mr. Johnso & Ms. Ponte.