

STATE OF MICHIGAN
COURT OF APPEALS

CHASE MORTGAGE COMPANY,

Plaintiff/Counter-Defendant-
Appellee,

V

ARTHUR M. JACKSON,

Defendant/Counter-Plaintiff/Third-
Party Plaintiff-Appellant,

and

CHASE MANHATTAN MORTGAGE
COMPANY and FEDERAL NATIONAL
MORTGAGE ASSOCIATION,

Third-Party Defendants-Appellees.

UNPUBLISHED

January 11, 2007

No. 259627

Genesee Circuit Court

LC No. 03-077907-CH

Before: Borrello, P.J., and Saad and Wilder, JJ.

BORRELLO, J. (*concurring*).

In this opinion, my brother jurists have correctly stated the current status of the law regarding the application of the doctrine of equitable subrogation in this matter. I write separately only to express my profound disagreement with the cursory conclusions reached by this Court in *Washington Mut Bank, FA v ShoreBank Corp*, 267 Mich App 111; 703 NW2d 486 (2005), and the affirmance of that decision by the special panel convened by this Court and announced in *Ameriquest Mortgage Co v Alton*, ___ Mich App ___ NW2d ___ (2006). For the reasons set forth in my dissent in the special panel convened in *Ameriquest, supra*, I would not conclude that a new mortgage cannot take the priority of the original mortgage under the doctrine of equitable subrogation. Furthermore, it is my contention that the doctrine of equitable subrogation should be available to “sophisticated financial institutions,” such as plaintiff. It escapes me how a persuasive legal rationale can rest solely on the proposition that by labeling plaintiff a “sophisticated financial institution” this Court must therefore preclude such institutions from raising claims under the doctrine of equitable subrogation. Despite my disagreement with such a perfunctory legal assertion, I am nevertheless bound by precedent and therefore write solely to express my opinion that plaintiff should be allowed to proceed in this

matter under the doctrine of equitable subrogation.

/s/ Stephen L. Borrello