UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

IN RE:	)	
	)	Chapter 13
Nancy E. Patchell	)	Case No. 02-45551
Debtor	)	
v.	)	
	)	Adversary Proceeding 04-04460
Option One Mortgage Corporation	)	
And	)	
Wells Fargo Bank	)	
Defendants	)	
	)	
	)	

ORDER REGARDING PLAINTIFF'S MOTION FOR JUDICIAL NOTICE OF ADJUDICATIVE FACTS

This matter is before the Court on Nancy Patchell's (Plaintiff) Motion for Judicial Notice of Adjudicative Facts that the Plaintiff's loans qualify as HOPEA loans and Defendants' Objection thereto [Dockets # 84 and #94]. After reviewing the pleadings, the Court hereby cancels the hearing scheduled for June 28, 2005 with respect to the Motion [#84] and the Opposition [#94]. MLBR 9013-1 states in relevant part:

> The Court may act upon a motion without a hearing under appropriate circumstances…

Although MLBR 9013-1 (e) lists several example of when a hearing need not be scheduled and MLBR 9013-1 (f) addresses one instance in which hearings are typically canceled, neither limits the power of the Court to control its own docket when presented with a frivolous motion.

The Plaintiff incorrectly relies on Fed. R. Evid. § 201 as support for her motion. Fed. R. Evid. § 201 (b) reads, "A judicially noticed fact must be one not subject to reasonable dispute." Id. The issue upon which the Plaintiff seeks Judicial Notice on is not

only an issue for which there is much dispute between the parties but is also one that is central to this case. Therefore whether the loans are HOPEA loans is not a fact which the Court can determine by judicial notice and thus, for the reasons set forth above, the Plaintiff's Motion for Judicial Notice of Adjudicative Facts that Plaintiff's Loans are HOPEA Loans is DENIED.

Dated: June 13, 2005

Joel B. Rosenthal
United States Bankruptcy Judge