IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

WILLIE MAE JACKSON, on behalf of herself and all others similarly situated, Plaintiff,	
v.	Case No. 06-2249
NOVASTAR MORTGAGE, INC.,	
Defendant.	

ORDER DENYING DEFENDANT'S MOTION TO DISMISS

Before the Court is the Defendant's motion to dismiss (D.E. #6) the complaint of Willie Mae Jackson (D.E. #1) pursuant to Fed. R. Civ. P. 12(b)(6). Dismissal under Fed. R. Civ. P. 12(b)(6) is appropriate when no set of facts exists which would entitle the plaintiff to recover. Hammond v. Baldwin, 866 F.2d 172, 175 (6th Cir. 1989). In reviewing a defendant's Rule 12(b)(6) motion to dismiss, a district court should construe the complaint in the light most favorable to the plaintiff and determine whether the plaintiff undoubtedly can prove no set of facts in support of her claims that would entitle her to relief. Meador v. Cabinet for Human Res., 902 F.2d 474, 475 (6th Cir. 1990), cert. denied, 498 U.S. 867 (1990). If an allegation is capable of more than one inference, it must be construed in the plaintiff's favor. Sinay v. Lamson & Sessions Co., 948 F.2d 1037, 1039-40 (6th Cir. 1991).

Upon careful review of the Plaintiff's complaint, the parties' responses, and the entirety of the record, the Court finds that the defendant's motion is not well grounded and DENIES dismissal of the Plaintiff's claim. A full memorandum opinion explaining the Court's findings

shall follow within twenty (20) days of this Order.

IT IS SO ORDERED this 27th day of September, 2007.

s/Bernice Bouie Donald
BERNICE BOUIE DONALD
UNITED STATES DISTRICT COURT JUDGE