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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane Shafer Goodstein, Circuit Court Judge

RECEIVED
SEP 25 2015
SC Court of Appeals

Case No. 2014-001683

Wells Fargo Bank, N.A.,

Respondent,

v.

Dorothy Sistrunk,

Appellant.

RECORD ON APPEAL
VOLUME I OF V - PART 2

July 17, 2015

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PREPARATION

VOLUME I OF V & THE MASTER INDEX TO VOLUMES I-V

A. My Record on Appeal has been prepared pursuant to the following rules of the Appellate Court – Rules 210(c) and (e)-(g), SCACR

1. Rule 210(c), SCACR clearly states in pertinent parts; “[T]he Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal. Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant. **Each page of the Record on Appeal shall be numbered consecutively beginning with the index.**” [Boldness added for emphasis]

2. Rule 210(e), SCACR, clearly states in pertinent parts; “[E]very Record on Appeal shall contain an index to the principal matters therein to include orders, judgments, decisions, pleadings, pretrial matters, opening statements, testimony, motions, closing arguments, jury charges, post-trial motions and exhibits.”

3. Rule 210(f), SCACR, Re: **Exhibits**. “[P]hotographs, plats and diagrams, and other paper exhibits shall be inserted in the Record on Appeal where they can reasonably be reduced or drawn to a size which permits them to be printed and inserted in the Record on Appeal, without folding more than one time.”

4. Rule 210(g), SCACR, Re: **Certificate of Counsel**. “[A]ppellant or his counsel shall certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.”

B. My financial situation was never substantial or even good and it has continued to deteriorate since Civil Action Case No. 2008-CP-38-1024 began in June of 2008. The cost associated with this case is a financial hardship that has gotten worst in 2014. I underestimated the cost of this appeal and cannot afford it financially. Therefore....

1. I cannot include all my Pleadings in the Record on Appeal because of insufficient financial resources.

2. I cannot include all my Exhibits in the Record on Appeal for the same reason – insufficient financial resources.

3. Many of my filed responses to Attorney James H. Burns’ and/or Elizabeth Scott Moise’s Case Status Updates during the Stay/TRO cannot be included; as well as Exhibits that verify my filed **Statements of Fact** and **Material Facts**.

4. Whatever happens – happens. I have done the best that I can do and the best that I can afford to do.

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Note: MMF means “Massive Filing Fraud” - RTFF means “Response to Filing Fraud”.

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2014	- Defendant Dorothy Sistrunk's Reasons for Opting Out of the Fladell Settlement and Filed with the United States District Court for the Southern District of Florida. Re: Case No. 0:13-cv-60721-(FAM), [70 pgs] - Filed: June 28, 2014	1441-1510

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Exhibit 2 - Not included. See SOTE

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Exhibit 5 - Description: Vol. V - Part 1, Index Aii, then go to 1520-1524

Exhibit 6 - Not included. See SOTE

Exhibit 7 - Not included. See SOTE

Exhibits 8-14 - Description: Vol. V - Part 1, Index Aii, then go to 1525-1531

Exhibit 15 - Not included. See SOTE

Exhibit 16 - Not included. See SOTE

Exhibit 17 - Not included. See SOTE

Exhibit 18 - Not included. See SOTE

Exhibit 21 - Not included. See SOTE

Exhibit 25 - Not included. The same as Wells Fargo's Exhibit. See WF00131.

Exhibit 26 - Description: Vol. V - Part 1, Index Aii, then go to 1532

Exhibit 27 - Not included. The same as Wells Fargo's Exhibits. See WF00127-28.

Exhibit 29 - Not included. See SOTE

Exhibit 30 - Not included. See SOTE

Exhibit 31 - Not included. See SOTE

Exhibit 32 - Not included. See SOTE

Exhibit 33 - Not included. See SOTE

Exhibit 34 - Not included. See SOTE

Exhibit 35 - Not included. See SOTE

Exhibit 36 - Description: Vol. V - Part 1, Index Aiii, then go to 1533-1534

Exhibit 37 - Description: Vol. V - Part 1, Index Aiii, then go to 1535

Exhibit 38 - Not included. The same as Wells Fargo's Exhibit. See WF00121.

Exhibit 40 - Not included. The same as Wells Fargo's Exhibit. See WF00130.

Exhibit 41 - Not included. The same as Wells Fargo's Exhibits. See WF00132-133.

Exhibit 42 - Not included. See SOTE

Exhibit 43 - Not included. See SOTE

Exhibit 44 - Not included. See SOTE

Exhibit 45 - Not included. The same as Wells Fargo's Exhibit. See WF00120.

Exhibit 46 - Not included. The same as Wells Fargo's Exhibit. See WF00124.

Exhibit 47 - Not included. The same as Wells Fargo's Exhibits. See WF00125-126.

Exhibit 48 - Not included. The same as Wells Fargo's Exhibit. See WF00129.

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Exhibit 297 - **Proof**: Defraud & Swindling; Vol. I - Part 2, Answer to Complaint, pg 68.

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Exhibit 329 - **Proof**: Based on misrepresented material facts. Vol. 1 - Part 1, pgs 39-46.

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Exhibit 331 - **Proof**: Description: Vol. V - Part 1, Index Ax, then go to 1589-1590

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- WF00002** - Not reviewed or discussed in Court. See description: Index pg, Bi.
- WF00003** - Not reviewed or discussed in Court. See description: Index pg, Bi.
- WF00004** - Not reviewed or discussed in Court. See description: Index pg, Bi.
- WF00005** - Not reviewed or discussed in Court. See description: Index pg, Bii.
- WF00006** - Not reviewed or discussed in Court. See description: Index pg, Bii
- WF00007** - Not reviewed or discussed in Court. See description: Index pgs, Bii-Biii.
- WF00008** - Not reviewed or discussed in Court. See description: Index pg, Biii.
- WF00009** - Not reviewed or discussed in Court. See description: Index pg, Biii.
- WF00010** - Not reviewed or discussed in Court. See description: Index pg, Biii.
- WF00011** - Not reviewed or discussed in Court. See description: Index pg, Biii.
- WF00012** - Not reviewed or discussed in Court. See description: Index pg, Biv.
- WF00013** - Not reviewed or discussed in Court. See description: Index pg, Biv.
- WF00014** - Not reviewed or discussed in Court. See description: Index pg, Bv.
- WF00015** - Not reviewed or discussed in Court. See description: Index pg, Bv.
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- WF00019** - Not reviewed or discussed in Court. See description: Index pg, Bvi.
- WF00020** - Not reviewed or discussed in Court. See description: Index pg, Bvi.
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THE RECORD ON APPEAL
5 VOLUMES

2008-2014

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
Wells Fargo Bank, N.A.,	)	Civil Action No. 2008-CP-38-1024
	)	
Plaintiff,	)	
	)	
vs.	)	<u>WELLS FARGO'S MOTION TO</u>
	)	<u>EXTEND TIME TO ANSWER</u>
Dorothy Sistrunk,	)	<u>COUNTERCLAIMS</u>
	)	
Defendant.	)	
	)	

Pursuant to Rule 6(b) of the South Carolina Rules of Civil Procedure, Defendant Wells Fargo Bank, N.A. ("Wells Fargo") moves this Court for an Order granting an extension of time up to and including September 25, 2008 to respond to Defendant's Amended Answer and Counterclaims.

On June 27, 2008, Wells Fargo filed a Complaint in this real estate foreclosure case. The pro se Defendant served an Answer by mail on July 18, 2008. The Answer did not contain any claims that were labeled counterclaims, but in an abundance of caution, Wells Fargo will reply to certain allegations asserted in the original Answer that may be construed to assert counterclaims. The deadline for answering the counterclaims in the first Answer was on or about August 25, 2008, with five mailing days added pursuant to Rule 6(e).

By separate motion filed with this Court, the undersigned counsel is moving to be substituted as counsel in this case. Therefore, counsel has just recently received the file and the Amended Answer.

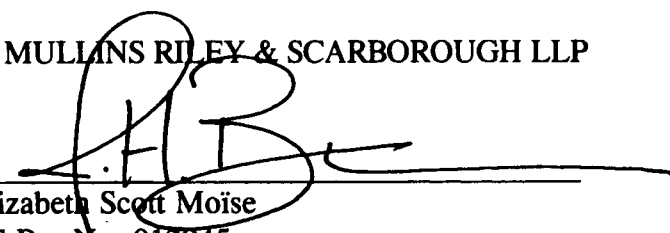
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Accordingly, good cause exists for entry of an Order extending time within which Wells Fargo and its counsel may serve the answers to Defendant's counterclaims, up to and including September 25, 2008.

Counsel did not consult with Defendant for consent to this motion, as allowed under Rule 11, because this is a real estate foreclosure case and because the Defendant is a pro se litigant.

WHEREFORE, Plaintiff Wells Fargo prays the Court for an Order extending the time within which it may serve its responsive pleadings to Defendant's counterclaims, up to and including September 25, 2008.

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Attorneys for Wells Fargo Bank, N.A.

Charleston, South Carolina

August 15, 2008

Exhibit 94

STATE OF SOUTH CAROLINA

THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

DOCKET NO

Wells Fargo Bank, N. A.

2008-CP-38-1024

Plaintiff,

**NOTICE OF MOTION AND
MOTION TO DISMISS WITH
PREJUDICE**

Vs.

Dorothy Sistrunk;

Defendant(s).

2011 AUG 15 A 11:38
FILED FOR RECORD
WINNIE B. CLARK
CLERK OF COURT
ORANGEBURG, SC

MOTION TO DISMISS WITH PREJUDICE

**DEFENDANT DOROTHY SISTRUNK RESERVES HER (THE DEFENDANT'S)
CONSTITUTIONAL RIGHT TO A JURY TRIAL**

With fees duly paid and entered into the record, comes now the Defendant, Dorothy Sistrunk, to file this NOTICE OF MOTION AND MOTION TO DISMISS WITH PREJUDICE and JUST and FAIR COMPENSATION in every manner and category allowed by law.

**TO: WELLS FARGO BANK, N.A., (PLAINTIFF) & NELSON MULLINS RILEY &
SCARBOROUGH COUNSEL TO THE PLAINTIFF:**

Pursuant to South Carolina Rules of Civil Procedure, Defendant, Dorothy Sistrunk, hereby MOVES the Court of Common Pleas to DISMISS the Plaintiff's Complaint with PREJUDICE and JUST and FAIR COMPENSATION in every manner and category allowed by law. The basis for this MOTION is set forth in the accompanying LEGAL MEMORANDUM IN SUPPORT OF NOTICE OF MOTION AND MOTION TO DISMISS WITH PREJUDICE.

ATTEST: TRUE COPY

Winnie B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

VERIFICATION

DATED: 8/13/11

Dorothy Sistrunk

Dorothy Sistrunk

NOTIFICATION

A copy of the NOTICE OF MOTION AND MOTION TO DISMISS WITH PREJUDICE and JUST and FAIR COMPENSATION that has been filed with the Clerk of Court will be mailed to the Plaintiff's Attorneys:

Nelson Mullins Riley & Scarborough, LLP
ATTN: James Burns @
1320 Main Street
17th Floor
Columbia, SC 29201

POB 11070
Columbia, SC 29211-1070

Tel: 803-799-2000
Fax: 803-256-7500

2011 AUG 15 A 11:38
FILED FOR RECORD
WINNIFER B. CLARK
CLERK OF COURT
ORANGEBURG, SC

ATTEST: TRUE COPY

Winnif B. Clark
CLERK OF COURT
ORANGEBURG, SC

Exhibit 98

Wells Fargo Bank, N.A.,)
) Civil Action No. 2008-CP-38-1024
)
 Plaintiff,)
)
 vs.) **MOTION FOR CONTINUANCE**
) **AND ENTRY OF SCHEDULING**
) **ORDER**
 Dorothy Sistrunk,)
)
 Defendant.)
)
)

Good cause for the continuance and entry of the proposed scheduling order exists for the following reasons:

1. Because this is a foreclosure action, activity in this case has been effectively stayed from June 24, 2009 to August 5, 2011 by three administrative orders entered by the South Carolina Supreme Court concerning the Home Affordable Modification Program and an order of this court issuing an indefinite stay for this case as of June 24, 2009.¹
2. Wells Fargo has recently filed a motion to compel discovery by deposition because Defendant and her spouse, George A. Sistrunk, filed improper objections and refused to attend depositions scheduled for them on October 7, 2011 at the Orangeburg County Courthouse. To this end, Defendant's dilatory and improper acts have prejudiced Wells Fargo's ability to adequately prepare for trial and have effectively prevented Wells Fargo from filing a motion for summary judgment in response to the counterclaims asserted by Defendant.

Exhibit 99

3. Defendant has pending motion to dismiss Wells Fargo's foreclosure complaint that has not been addressed by court hearing.

Pursuant to Rule 11, S.C.R.C.P., Wells Fargo certifies that consultation on the motion would serve no useful purpose because Defendant is *pro se*. Accordingly, based on the foregoing, Wells Fargo respectfully requests that trial for this matter be continued pursuant and that court enters the proposed scheduling order attached as **Exhibit A**.

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Attorneys for Wells Fargo Bank, N.A.

Charleston, South Carolina

October 14, 2011

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
Wells Fargo Bank, N.A.,	)	Civil Action No. 2008-CP-38-1024
	)	
Plaintiff,	)	
	)	MOTION TO COMPEL
vs.	)	DISCOVERY BY DEPOSITION OF
	)	DEFENDANT DOROTHY
Dorothy Sistrunk,	)	SISTRUNK AND THIRD-PARTY
	)	WITNESS GEORGE SISTRUNK
Defendant.	)	
	)	
	)	

Pursuant to Rules 26, 30, 37, and 45 of the South Carolina Rules of Civil Procedure ("S.C.R.C.P."), Plaintiff Wells Fargo Bank, N.A. ("Wells Fargo") hereby moves the Court for an Order compelling the *pro se* defendant, Dorothy Sistrunk ("Defendant"), and her spouse, George A. Sistrunk ("Sistrunk"), to attend and respond under oath to Wells Fargo's inquiries at depositions to be conducted at the Orangeburg County Circuit Court on a date scheduled by Wells Fargo. Furthermore, if the Court deems such relief appropriate, Wells Fargo request an award of the fees and costs for the preparation, filing, and litigation of this motion pursuant to the provisions of Rule 37(a)(4), S.C.R.C.P.

Pursuant to Rule 11, S.C.R.C.P., Wells Fargo certifies that consultation is not required because it would serve no useful purpose and because this is a foreclosure and Defendant is *pro se*.

Exhibit 100

BACKGROUND

1. On September 21, 2011, Wells Fargo served Defendant with a Notice of Deposition by certified mail return receipt requested.¹ The Notice required Defendant to appear and attend as a deponent at a deposition upon oral examination scheduled for October 7, 2011 at 1:00 p.m. at the Orangeburg County Courthouse.

2. Wells Fargo also served a subpoena² on Sistrunk. Under the subpoena, Sistrunk was commanded to produce documents related to this action to Wells Fargo for inspection and copying and to appear and attend as a deponent at a deposition upon oral examination scheduled for October 7, 2011 at 9:00 a.m. at the Orangeburg County Courthouse.

3. On September 30, 2011, Defendant and Sistrunk filed objections³ to the Notice of Deposition and subpoena, and they refused to attend the scheduled depositions.

4. In order to avoid incurring the costs of paying a court reporter for the depositions that Defendant and Sistrunk refused to attend, Wells Fargo notified the court and canceled the deposition.

5. Wells Fargo now respectfully asks the Court to compel Defendant's and Sistrunk's participation at re-scheduled depositions to be conducted at the Orangeburg County Courthouse on a new date scheduled by Wells Fargo.

ARGUMENT

The South Carolina Rules expressly permit Wells Fargo to obtain discovery by depositions upon oral examination. *See* S.C. R. Civ. P. 26(a); 30(a)(1). Furthermore, the

¹ *See* Ex. A., Service Package for Notice of Deposition and Subpoena.

² *See id.*

³ Ex. B., Def. & Sistrunk's Obj. to Depos.

Rules permit Wells Fargo through its counsel to command a person to whom a subpoena is directed to “attend and give testimony or produce and permit inspection and copying of designated books, documents, or tangible things in the possession, custody or control of that person.” S.C. R. Civ. P. 45(a). Accordingly, Wells Fargo is entitled to pursue discovery of Defendant and Sistrunk by deposition upon oral examination, and it may also seek Sistrunk’s production of documents by subpoena.

In their objections, Defendant and Sistrunk fail to articulate any valid legal grounds to be excused from attending the depositions noticed by Wells Fargo under Rules 30 and 45, S.C.R.C.P. Indeed, Defendant and Sistrunk base their objections to the depositions on the following frivolous grounds:

1. That Defendant’s pending motion to dismiss precludes Wells Fargo’s pursuit of discovery;⁴
2. That Wells Fargo’s failure to file a status report under the court’s stay order in this case precludes Wells Fargo’s pursuit of discovery;⁵ and
3. That no additional fact discovery is needed for the case because of the content of the documents produced by Wells Fargo, and thus, any further discovery by Wells Fargo is burdensome.⁶

None of these conclusory grounds asserted by Defendant and Sistrunk support their refusal to attend the depositions that Wells Fargo scheduled for October 7, 2011. To this end, pursuant to Rule 37, S.C.R.C.P, Wells Fargo requests that the Court award the fees and costs that it has incurred for filing and litigating this motion in response to the objections filed by Plaintiff and Sistrunk if the Court finds such relief appropriate in this instance.

⁴ *Id.* at 5.

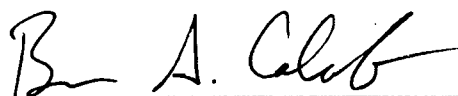
⁵ *Id.* at 2-3.

⁶ *Id.* at 6.

CONCLUSION

Based on the foregoing, Plaintiff Wells Fargo Bank, N.A. respectfully requests that the Court issue an order compelling the defendant, Dorothy Sistrunk, and her spouse, George A. Sistrunk, to attend any deposition that Wells Fargo schedules for them in the near future at the Orangeburg County Courthouse.

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Attorneys for Wells Fargo Bank, N.A.

Charleston, South Carolina

October 14, 2011

Exhibit 100

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
Wells Fargo Bank, N.A.,	)	Civil Action No. 2008-CP-38-1024
	)	
Plaintiff,	)	SECOND MOTION TO COMPEL
	)	DISCOVERY BY DEPOSITION OF
vs.	)	DEFENDANT DOROTHY
	)	SISTRUNK AND FOR SANCTIONS
Dorothy Sistrunk,	)	
	)	
Defendant.	)	

Pursuant to Rules 26, 30, 37, and 45 of the South Carolina Rules of Civil Procedure ("S.C.R.C.P."), Plaintiff Wells Fargo Bank, N.A. ("Wells Fargo") hereby moves the Court for an Order compelling the *pro se* defendant, Dorothy Sistrunk ("Defendant"), to answer under oath Wells Fargo's inquiries at a deposition to be conducted at the Orangeburg County Circuit Court on a date scheduled by Wells Fargo. Furthermore, if the Court deems such relief appropriate, Wells Fargo requests that the Defendant be held in contempt of court for her intentional refusal to participate in the deposition scheduled by Wells Fargo and that Wells Fargo be awarded fees and costs for preparing, filing, and litigating this motion pursuant to the provisions of Rule 37(a)(4), S.C.R.C.P.

Pursuant to Rule 11, S.C.R.C.P., Wells Fargo certifies that consultation is not required because it would serve no useful purpose and because Defendant is *pro se*.

Exhibit 316

BACKGROUND

1. On September 21, 2011, Wells Fargo served Defendant with a Notice of Deposition by certified mail return receipt requested. The Notice required Defendant to appear and be deposed at a deposition upon oral examination scheduled for October 7, 2011 at 1:00 p.m. at the Orangeburg County Courthouse.

2. Wells Fargo also served a subpoena on Defendant's spouse, George Sistrunk ("Sistrunk"). The subpoena required Sistrunk to produce documents related to this action to Wells Fargo for inspection and copying. The subpoena also required Sistrunk to appear and be deposed at a deposition upon oral examination scheduled for October 7, 2011 at 9:00 a.m. at the Orangeburg County Courthouse.

3. On September 30, 2011, Defendant and Sistrunk filed objections to the Notice of Deposition and subpoena, and they refused to attend the scheduled depositions.

4. To avoid incurring the costs of paying a court reporter for the depositions that Defendant and Sistrunk refused to attend, Wells Fargo canceled the depositions and filed a Motion to Compel Discovery by Deposition of Dorothy Sistrunk and Third-Party Witness George Sistrunk ("First Motion to Compel") on October 17, 2011.

5. Defendant and Sistrunk filed an objection to the First Motion to Compel on October 24, 2011.

6. The Court conducted a hearing on the First Motion to Compel on December 6, 2011, and the Court authorized the parties to pursue discovery of each other while Defendant was provided another opportunity to participate in any foreclosure intervention programs available from Wells Fargo.

7. On February 16, 2012, Wells Fargo served Defendant with a second Notice of Deposition by certified mail return receipt requested.¹ The second Notice required Defendant to appear and be deposed at a deposition upon oral examination scheduled for March 2, 2012 at 1:00 p.m. at the Orangeburg County Courthouse.

8. Wells Fargo also served a second subpoena² on Sistrunk. The second subpoena required Sistrunk to produce documents related to this action to Wells Fargo for inspection and copying. The second subpoena also required Sistrunk to appear and be deposed at a deposition upon oral examination scheduled for March 2, 2012 at 9:00 a.m. at the Orangeburg County Courthouse.

9. On February 24, 2012, Defendant and Sistrunk filed and served an Objection to Subpoenas and Notice of Taking Deposition of Defendant Dorothy Sistrunk and George M. Sistrunk.³

10. On March 2, 2012, Defendant appeared at the deposition scheduled by Wells Fargo. Defendant and Sistrunk requested that Defendant's deposition be conducted on about 9:45 a.m. Wells Fargo's granted the request, but Defendant refused to answer any questions once the deposition began. Instead, she advised Wells Fargo's counsel that she would only read her objection to the deposition into the record and do nothing else.

11. Defendant's written objection⁴ to the deposition was made an exhibit to Defendant's deposition transcript. In response, Wells Fargo's also noted its reply to

¹ See **Exhibit A**, Service Package for 2nd Notices of Deposition and 2nd Subpoena.

² See *id.*

³ See **Exhibit B**, 2nd Def.'s Objections to Depositions.

⁴ See **Exhibit C**, 3rd Def.'s Objections to Depositions.

Defendant's objection and its intent to file a motion to compel the deposition of Defendant on the deposition transcript.

12. The deposition of third-party witness, Sistrunk, proceeded on March 2, 2012.

13. Wells Fargo now respectfully asks the Court to compel Defendant's participation at a re-scheduled deposition to be conducted at the Orangeburg County Courthouse on a new date scheduled by Wells Fargo.

ARGUMENT

The South Carolina Rules expressly permit Wells Fargo to obtain discovery by depositions upon oral examination. *See* S.C. R. Civ. P. 26(a); 30(a)(1). Accordingly, Wells Fargo is entitled to pursue discovery of Defendant by deposition upon oral examination. Moreover, the Court addressed this issue at the hearing conducted for Wells Fargo's first motion to compel discovery by deposition and authorized both parties to pursue available discovery processes according to the South Carolina Rules of Civil Procedure.

In her objections, Defendant fails to articulate any valid legal grounds to be excused from attending the depositions noticed by Wells Fargo under Rules 30, S.C.R.C.P. Indeed, Defendant objects to the depositions on the following frivolous grounds:

1. That Wells Fargo's failure to file a status report under the court's stay order in this case precludes discovery by deposition;
2. That Wells Fargo's alleged non-compliance with the South Carolina Supreme Court's Administrative Order concerning foreclosure intervention precludes deposing Defendant and Sistrunk;

3. That Defendant's alleged motion to dismiss precludes discovery by deposition;
4. That Rule 26(b)(3), S.C.R.C.P., generally precludes discovery of Defendant and Witness by deposition;
5. That Defendant's lack of legal counsel precludes the depositions for Defendant and Sistrunk under Rule 30(b)(2), S.C.R.C.P.; and
6. That Wells Fargo failed to join purported indispensable parties to this case.

None of these conclusory grounds asserted by Defendant support her refusal to respond to Wells Fargo's inquiries at the deposition that Wells Fargo scheduled for her on March 2, 2012. To this end, pursuant to Rule 37(a) and (b), S.C.R.C.P, Wells Fargo requests that the Court award the fees and costs that it has incurred for filing and litigating this second motion to compel in response to the objection filed by Defendant and her intentional refusal to answer any of Wells Fargo's inquiries at her deposition.

CONCLUSION

Based on the foregoing, Plaintiff Wells Fargo Bank, N.A. respectfully requests that the Court issue an order compelling the defendant, Dorothy Sistrunk, to attend and answer Wells Fargo's inquiries at the deposition that Wells Fargo schedules for her in the near future at the Orangeburg County Courthouse. Furthermore, because of the improper objection to Wells Fargo's discovery by deposition, Wells Fargo also respectfully requests that Defendant be sanctioned for the attorney's fees and costs incurred to address Defendant's improper objection to Wells Fargo's legitimate request for discovery by deposition.

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Attorneys for Wells Fargo Bank, N.A.

Columbia, South Carolina
March 6, 2012

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG) FIRST JUDICIAL CIRCUIT

Wells Fargo Bank, N.A.,) Civil Action No. 2008-CP-38-1024

Plaintiff,) **PLAINTIFF'S MOTION FOR**
) **SANCTIONS**

vs.)

Dorothy Sistrunk,)

Defendant.)

Plaintiff, Wells Fargo Bank, N.A. ("Wells Fargo") submits this motion for sanctions—including striking Dorothy Sistrunk's ("Defendant") Answer and counterclaims—and for costs and fees for Defendant's failure to obey a court order, for refusing to answer questions at her properly noticed deposition scheduled for March 2, 2012, for refusing to attend and participate in a properly noticed deposition scheduled for May 4, 2012 and then re-scheduled to May 14, 2012, and for unduly delaying this litigation.

INTRODUCTION

Defendant borrowed \$75,000 on December 21, 2007, to finance the purchase of her home and executed a note and mortgage, agreeing to repay the loan. The loan fell into default on or about March 1, 2008, and on June 26, 2008, this foreclosure was filed. Defendant answered the complaint and asserted numerous defenses and counterclaims.

The defenses and counterclaims have primarily centered on what she alleges to be a "falsified appraisal" given to her by the seller of the property. *misrepresentation of a material fact. 5/23/2014 DS*

After initial written discovery, this action was stayed by the South Carolina Supreme Court's Administrative Order No. 2009-05-22-01, filed on May 22, 2009. The

Wing B. Clark
CLERK OF COURT

Exhibit 331

action has remained stayed since that time, until August 5, 2011, pursuant to Wells Fargo's compliance with that Administrative Order and a subsequent Administrative Order that the South Carolina Supreme Court entered on May 2, 2011 under No. 2011-05-02-01. Only the deposition of the Defendant's spouse, George Sistrunk, as a third-party witness has been completed.

ARGUMENT

Pursuant to South Carolina Rules of Civil Procedure 37(a), (b), and (d), Wells Fargo hereby moves for an order finding Defendant in contempt of this Court and striking Defendant's answer, dismissing all counterclaims, and awarding attorneys' fees and costs. Alternatively, Defendant requests an order compelling Defendant to attend her deposition and awarding costs and fees.

BACKGROUND

Defendant has made clear that she is not going to attend her deposition, that she has no respect for the Court, and that she does not intend to obey the Court's orders. A brief outline of Wells Fargo's attempts to take Defendant's deposition—and her deliberate refusal to cooperate and follow Court orders—is as follows:

- Following two stays of the foreclosure proceedings pursuant to the South Carolina Supreme Court's Administrative Order, Wells Fargo noticed Plaintiff's deposition to take place on September 21, 2011. (**Exhibit A**, 9/21/11 Notice of Deposition and cover letter.)
- Defendant filed objections, and Wells Fargo moved to compel the deposition.
- The Court held a hearing on December 6, 2011 and, from the bench, granted Wells Fargo's motion to compel the deposition. A written order was signed on

Exhibit 331

March 7, 2012, stating that Defendant “must submit to and attend her deposition.”

(**Exhibit B**, Order of the Honorable Diane Schafer Goodstein, 3/7/12.)

- Following the Court’s oral order, on February 16, 2012, Wells Fargo noticed Defendant’s deposition for the second time. (**Exhibit C**, 2/16/12 Deposition Notice, Subpoena, and cover letter.)
- Again, Defendant filed virtually the same objections and refused to be deposed. On the date of the depositions, March 2, 2012, she appeared but refused to answer any questions. (**Exhibit D**, 3/2/12 Tr. of Dep. of Dorothy Sistrunk.)
- Wells Fargo proceeded with the scheduled deposition of Defendant’s husband, George Sistrunk, on March 2, 2012.
- After entry of the Court’s Order on March 7, 2012, Wells Fargo served a second notice on Defendant on April 23, 2012 for a scheduled deposition of the Defendant on May 4, 2012. With the notice, Wells Fargo sent a check covering the Defendant’s witness fee for her appearance and mileage for the March 2, 2012 deposition even though Defendant refused to answer any questions at the deposition in bad faith and the witness fee and mileage costs for attending the May 4, 2012 deposition. On April 27, 2012, the Defendant again interposed a bad faith objection to the Wells Fargo’s deposition and advised that she refused to attend the deposition.
- Because of Defendant’s objection, Wells Fargo cancelled the May 4, 2012 deposition and served a third notice of deposition on the Defendant on May 2, 2012 to re-schedule the May 4, 2012 deposition for May 14, 2012. (**Exhibit E**, 5/3/12 Deposition Notice and cover letter.)

Exhibit 331

- In response to Wells Fargo's last deposition notice, Defendant again filed objections in bad faith on May 14, 2012, and this time her objections made clear that she had no respect for the Court's order and intended to ignore any order that she disagrees with, stating, *inter alia*, that "[t]he Court Order the Plaintiff presented is the same 03/07/2012 Court Order that triggered the Defendant's outrage at the Judicial process and the Petition for the Recusal and/or Removal of Judge Diane S. Goodstein. The March 7, 2012 Court Order is based on half-truths and lies. . . . [A]ny attempt by a Judge or Attorney to violate the Rules of Civil Procedure, ignore the Rules of Civil Procedure, abuse the Rules of Civil Procedure, render them of no effect or apply them with partiality and/or bias is a violation of a Judge's Oath of Office." (5/7/12 Objections at ¶¶ 22, 25.)
- On May 8, 2012, Wells Fargo sent Defendant letter warning her of the consequences for failing to attend her deposition in compliance with the Court's order. (**Exhibit F**, 5/8/12 Ltr. to Defendant.)
- On May 14, 2012, counsel for Wells Fargo appeared at location for the deposition at the time noticed. After waiting for Defendant for approximately 48 minutes, counsel put on the record that Defendant failed to appear and returned to his office in Columbia, SC.

ARGUMENT

Rule 30(a) states that a "party may take the testimony of any person, including a party, by deposition upon oral examination." Rule 37(b) calls for sanctions for contempt of Court for failure to obey a Court order:

(b) Failure to Comply With Order.

Exhibit 331

(1) *Sanctions by Court in Circuit Where Deposition Is Taken.* If a deponent fails to be sworn or to answer a question after being directed to do so by the court the failure may be considered a contempt of that court.

(2) *Sanctions by Court in Which Action Is Pending.* If a party . . . fails to obey an order to provide or permit discovery, including an order [compelling discovery], . . . the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination;

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

S.C. R. Civ. P. 37(b); *see also McNair v. Fairfield Cnty.*, 379 S.C. 462, 465, 665 S.E.2d 830, 832 (Ct. App. 2008); *Barnette v. Adams Bros. Logging, Inc.*, 355 S.C. 588, 593, 586 S.E.2d 572, 575 (2003). The South Carolina Court of Appeals has cautioned that “[o]verly lenient sanctions are to be avoided where they result in inadequate protection of

discovery.” *Samples v. Mitchell*, 329 S.C. 105, 114, 495 S.E.2d 213, 217-18 (Ct. App. 1997).

Dispositive sanctions require a showing of bad faith, willful disobedience, or gross indifference to discovery rights on the part of the violating party. *See QZO, Inc. v. Moyer*, 358 S.C. 246, 256, 594 S.E.2d 541, 547 (Ct. App. 2004); *Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co.*, 334 S.C. 193, 199, 511 S.E.2d 716, 719 (Ct. App. 1999). South Carolina courts frequently reiterate that when discovery rights are not afforded, “prejudice must be presumed.” *See, e.g., Conway v. Charleston Lincoln Mercury Inc.*, 363 S.C. 301, 308, 609 S.E.2d 838, 842 (Ct. App. 2005); *Samples*, 329 S.C. at 114, 495 S.E.2d at 217; *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987). The burden rests on the party opposing sanctions to demonstrate that its discovery violations did not prejudice the other party. *See Samples*, 329 S.C. at 114, 495 S.E.2d at 217. Finally, although pro se litigants are entitled to some deference from courts, “they as well as other litigants are subject to the time requirements and respect for court orders with which effective judicial administration would be impossible.” *Ballard v. Carlson*, 882 F.2d 93, 96 (4th Cir. 1989); *see also Pack v. South Carolina Wildlife & Marine Resources Dept.*, 92 F.R.D. 22, 25 (D.S.C. 1981) (recognizing that pro se litigants “must meet certain standards” which include “a good faith attempt to comply with the rules of discovery”); *State v. Burton*, 356 S.C. 259, 265 n. 5, 589 S.E.2d 6, 9 n.5 (2003) (“A pro se litigant who knowingly elects to represent himself [or herself] assumes full responsibility for complying with substantive and procedural requirements of the law.”).

Applying those rules to this case, the requested sanctions are fair, given Defendant’s knowing and deliberate contempt of this Court and awareness of the

Exhibit 331

consequences. Defendant undisputedly failed to participate in the March 2, 2012 deposition and refused to appear at the deposition scheduled for May 4, 2012 and re-scheduled for May 14, 2012. Defendant did not obtain a protective order from this Court excusing her attendance at any deposition, and in fact, she has no grounds for a protective order. Rather, Defendant has done exactly what the rules do not allow—she has ignored the Court, insulted Plaintiff's counsel, refused to comply with the notices, twice caused Wells Fargo's counsel to travel to Orangeburg and incur court reporter and travel costs, and put the burden on Wells Fargo to file a motion to compel. This intentional conduct is without justification, has brought the case to a complete halt, prejudiced Plaintiff, and has been for no good reason except for delay and to stop the judicial process. Defendant's disregard of the Court's orders and discovery abuse must end.

CONCLUSION

For all the foregoing reasons, this motion should be granted, and the Court should enter an Order striking Defendant's answer and counterclaims and assessing reasonable fees and costs. In the alternative, Wells Fargo respectfully requests that Defendant be required to pay reasonable fees and costs, that the Court order Defendant to attend a deposition scheduled for her by Wells Fargo, and that Defendant's failure to attend the next deposition scheduled for her constitutes grounds for dismissal of any and all counterclaims alleged in this action with prejudice.

Pursuant to Rule 11(a), counsel certifies that he has not communicated with the Defendant prior to filing this objection because the Defendant is *pro se*.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

Exhibit 331

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Wells Fargo Bank, N.A.

Columbia, South Carolina

May 15, 2012

Exhibit 331

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG) FIRST JUDICIAL CIRCUIT

Wells Fargo Bank, N.A.,) Civil Action No. 2008-CP-38-1024
)

Plaintiff,)
)

vs.)

Dorothy Sistrunk,)

Defendant.)
)
)
)

PLAINTIFF WELLS FARGO BANK,
N.A.'S MOTION FOR SUMMARY
JUDGMENT

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Plaintiff Wells Fargo Bank, N.A. ("Wells Fargo") moves for summary judgment on all claims and counterclaims in this matter.

INTRODUCTION

This case concerns a contested foreclosure action between a bank, Wells Fargo, and a borrower, Dorothy Sistrunk ("Defendant"). Defendant challenges the enforceability of her note and mortgage (sometimes collectively referred to as the "Mortgage Loan") to Wells Fargo. Defendant admits that she could afford to make the monthly payments required by the Mortgage Loan, but she refuses to repay that loan under its current terms because of purported bad acts by the seller and appraiser of her home. Critically, Defendant admits that she has no evidence

showing that Wells Fargo knew or participated in the alleged misrepresentations that were made by the seller and appraiser as alleged in her counterclaims.

*both sentences are
misrepresentation of fact
5/23/2014
WB*

Defendant believes that the seller and appraiser conspired to mislead her to believe that (a) certain repairs and other improvements would be made to her home before closing and (b) if such repairs were not completed, then the sale price for the home would be reduced at closing.

ATTEST: TRUE COPY
W. B. Clark

Exhibit 332

Defendant also alleges that the appraiser did not accurately describe the collateral for the Mortgage Loan, and therefore, the appraisal was fraudulent.

Thus, in response to Wells Fargo's foreclosure complaint, Defendant alleged the following counterclaims,¹ which are all based upon the allegation that the Mortgage Loan is unenforceable because of alleged malfeasance by the seller and appraiser:

- Violation of the Fair Credit Reporting Act ("FCRA");
- Unjust enrichment;
- Willful intent to participate in and perpetuate mortgage, bank, insurance, and securities fraud or a predatory lending scheme advanced through falsified documents;
- Gross negligence and inherent negligence;
- Failure to exercise due diligence;
- Concealment of a material fact and cover up;
- Failure to exercise a fiduciary responsibility as a bank;
- Unfair lending and banking practices;
- Failure to safeguard the financial interest of customers, clients, and investors by accepting, using, or basing decisions upon falsified documents after alleged facts are known;
- Infliction of emotional distress; and
- Rescission of the loan contract under the Truth-In-Lending Act ("TILA") and money damages.

Because Defendant has admitted that she has no evidence showing that the seller and appraiser are affiliated or employed by Wells Fargo or that Wells Fargo was directly involved with their acts, Wells Fargo is neither vicariously nor directly liable for any of the counterclaims alleged.

¹ Wells Fargo objects to Defendant's attempt to allege any other causes of action outside what she has pleaded in her First Amendment to Answer to Complaint with Counterclaims. Defendant has not amended her pleadings since she filed the First Amendment to Answer to Complaint with Counterclaims on July 31, 2008.

Consequently, Wells Fargo should be awarded summary judgment as to all counterclaims. Finally, because Defendant has admitted that she stopped paying amounts due under the Mortgage Loan and admits that she can afford to make those payments, Wells Fargo should also be awarded summary judgment for its foreclosure action.

UNDISPUTED FACTS

1. Defendant is a college graduate who is currently employed by the Orangeburg Area Mental Health Center as a professional counselor.²

2. Defendant has no specific training, experience, or knowledge in appraising real property.³

3. Around early October 2007, Defendant and her family needed new housing because they refused to be responsible for costs associated with yard work for a home that Defendant and her family rented at 574 Coburg Lane, Orangeburg, South Carolina.⁴ Defendant and her family also needed to move because their landlord was planning to sell the property that Defendant rented.⁵

4. In response to an advertisement in a local newspaper, Defendant's husband contacted Thomas Jacobs ("Jacobs" or sometimes "seller") to inquire about various properties that he had for sale.⁶

5. After Defendant's husband looked at several houses with Jacobs, her husband decided that the family needed to purchase a home located at 423 Bayne Street in Orangeburg, South Carolina ("423 Bayne Street").⁷

² **Exhibit 1**, Dep. of Dorothy Sistrunk at 10:5-25.

³ *Id.* at 109:16-19.

⁴ *Id.* at 53:19-54:13.

⁵ **Exhibit 2**, Dep. of George Sistrunk at 12:24-13:1.

⁶ *Id.* at 14:16-15:4.

6. Defendant alleges that during negotiations for purchasing 423 Bayne Street, Jacobs advised that he would make various repairs to 423 Bayne Street before closing, and if such repairs were not made, then the purchase price for that property would be lowered at closing.⁸

7. Defendant admits that neither she nor her husband advised Wells Fargo of any of the representations that Jacobs made to them.⁹ Further, Defendant has no evidence of Jacobs or Jim H. Austin, III ("Austin" or sometimes "appraiser") notifying Wells Fargo of Jacobs's representations to Defendant and her husband.¹⁰

8. Prior to closing, Defendant's husband began to clean and make repairs to 423 Bayne Street.¹¹

9. In the month prior to closing, Defendant and her family moved into 423 Bayne Street.¹²

10. Prior to closing, on November 26, 2007, Defendant signed a Notice of Right to Receive a Copy of Appraisal.¹³ Defendant also signed a contract for sale, as a buyer, for 423 Bayne Street.¹⁴ The contract of sale is countersigned by the seller, Thomas Jacobs.¹⁵

11. Prior to closing, Defendant and her husband believed 423 Bayne Street was worth anywhere from \$13,000 to \$32,000.¹⁶

⁷ **Exhibit 1**, Dep. of Dorothy Sistrunk at 58:15-20.

⁸ *Id.* at 212:23 to 213:12.

⁹ *Id.* at 213:13-23.

¹⁰ *Id.* at 214:11-21.

¹¹ **Exhibit 2**, Dep. of George Sistrunk at 28:9-23.

¹² **Exhibit 1**, Dep. of Dorothy Sistrunk at 53:5-10.

¹³ *Id.* at 28:8-20; *see also* **Exhibit 3**, a true and correct copy of Notice to Applicant of Right to Receive Copy of Appraisal Report, signed by Ms. Sistrunk and dated 11/26/07.

¹⁴ **Exhibit 1**, Dep. of Dorothy Sistrunk at 12:7-13:3.

¹⁵ *See* **Exhibit 4**, Contract of Sale.

¹⁶ **Exhibit 1**, Dep. of Dorothy Sistrunk at 108:5-109:7; 79:21-25; 80:5-9; *see also id.* at 65:12-21.

12. Austin authored an appraisal that list the value for 423 Bayne Street at \$75,000.¹⁷

13. Defendant did not rely on Austin's appraisal because she never saw it before closing.¹⁸ She also admits that she has no evidence that Well Fargo made or played any role in creating the appraisal authored by Austin.¹⁹

14. Defendant contests the sales price listed on the sales contract that she signed with the seller, and she believes that various alterations to the sales contract were made after she signed it.²⁰

15. Defendant admits that she does not know who altered the sales contract, and she does not accuse anyone at Wells Fargo for being responsible for any alterations.²¹

16. The loan closed on December 21, 2007.²² Deborah Galloway, Defendant's lawyer, attended the closing and answered questions from Defendant.²³

17. At the loan closing, Defendant signed a note in the principal sum of \$75,000.²⁴ In pertinent part, the Note states as follows:

In return for a loan that I have received, I promise to pay U.S. \$75,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is WELLS FARGO BANK, N.A.²⁵

18. Defendant secured her repayment obligations under the note by executing a 30-year fixed-rate mortgage that encumbers 423 Bayne Street.²⁶ The mortgage is properly recorded

¹⁷ See **Exhibit 5**, Austin Appraisal and Cert. of Completion.

¹⁸ **Exhibit 1**, Dep. of Dorothy Sistrunk at 110:7-111:11.

¹⁹ *Id.* at 97:4-6; 97:7-11; 98:13-25.

²⁰ *Id.* at 76:3-77:3.

²¹ *Id.*

²² *Id.* at 63:20-23.

²³ *Id.* at 83:4-24.

²⁴ *Id.* at 16:14-18:7; 51:4-17; 51:18-52:2; see also **Exhibit 6**, a true and correct copy of Fixed Rate Note, signed by Ms. Sistrunk and dated 12/21/07.

²⁵ See **Exhibit 6**, Fixed Rate Note, at 1.

with the Orangeburg County Register of Deeds and is a first lien encumbrance on 423 Bayne Street.²⁷

19. Although her husband negotiated all aspects of purchasing 423 Bayne Street with the seller, Defendant closed on December 21, 2007 without her husband's attendance at the closing because she trusted the seller.²⁸

20. Defendant admits that Wells Fargo is the owner and holder of the note and mortgage identified in Wells Fargo's foreclosure complaint.²⁹

21. On December 27, 2007, Defendant attempted to send a written facsimile to Wells Fargo that stated "Note This Is Not A Formal Request To Cancel Only A Notification and the Reasons Why."³⁰

22. On January 9, 2008, Defendant sent another written facsimile to her attorney, the seller, and a mortgage broker from Golden State Mortgage stating, "I have decided not to cancel loan with Wells Fargo."³¹

23. On January 9, 2008, Defendant requested a copy of the appraisal for 423 Bayne Street from both her closing attorney and mortgage broker David Terrell of Golden Gate Mortgage.³²

24. She received the appraisal on January 12, 2008.³³ When she saw the appraisal, she believed it was incorrect.³⁴

²⁶ **Exhibit 1**, Dep. of Dorothy Sistrunk at 19:21-22:12; *see also* **Exhibit 7**, a true and correct copy of Mortgage, signed by Ms. Sistrunk and dated 12/21/07.

²⁷ *See* **Exhibit 7**, Mortgage, at 1.

²⁸ **Exhibit 1**, Dep. of Dorothy Sistrunk at 81:22-25; 82:3-13.

²⁹ *See* **Exhibit 8**, Wells Fargo Affidavit.

³⁰ **Exhibit 9**, Fax Memo dated 12/27/07.

³¹ **Exhibit 10**, Fax Memo dated 01/09/08.

³² *Id.* at page 3, ¶ 3.

³³ *Id.*

25. When she received the appraisal, Defendant called Wells Fargo, but did not attempt to cancel the loan: “[M]y thing was to Wells Fargo at that time, I didn’t have a problem paying them. I told them the appraisal just did not match the house, okay?”³⁵

26. Defendant has made only two payments since entering into the loan and has made no mortgage payments since that time.³⁶ She and her husband have lived in 423 Bayne Street since closing without making any payments since February 2008.³⁷

27. Defendant has never paid the taxes and insurance on 423 Bayne Street, so Wells Fargo has paid them since her purchase.³⁸

28. Defendant’s claims of alleged fraud arose from the actions of the seller Thomas Jacobs or appraiser Jim Austin.³⁹

29. Defendant admits she has no evidence linking Wells Fargo to the actions of the seller or appraiser.⁴⁰

30. In fact, Defendant believes that Wells Fargo was also victimized by the seller and appraiser.⁴¹

31. Defendant felt that Wells Fargo “should have taken more of an interest” in her concerns and investigated her allegations of the seller’s and appraiser’s actions.⁴²

32. Defendant also bases her claims on Wells Fargo’s failure to cancel her loan under Regulation Z or stop payment on the check disbursed to the seller at closing.⁴³

³⁴ **Exhibit 1**, Dep. of Dorothy Sistrunk at 91:15-92:19.

³⁵ *Id.* at 92:16-19.

³⁶ *Id.* at 139:15-25; 141:18-25.

³⁷ **Exhibit 8**, Wells Fargo Aff.

³⁸ **Exhibit 1**, Dep. of Dorothy Sistrunk at 140:1-10; **Exhibit 8**, Wells Fargo Aff.

³⁹ **Exhibit 1**, Dep. of Dorothy Sistrunk at 99:3-10; 112:9-113:8; 114:14-25 to 117:8-118:1; 118:16-21.

⁴⁰ *Id.* at 101:23 to 102:11; 103:4-12; 104:10-12; 120:9-11.

⁴¹ *Id.* at 105:2-22.

⁴² *Id.* at 118:22-119:9; 119:21-25; 120:1-4; 125:17-22.

33. Defendant told Wells Fargo that she would repay the loan if Wells Fargo met the following two conditions that she imposed: (1) Wells Fargo could repair the house to match the appraisal or (2) reduce the amount she had to repay from the \$75,000 she borrowed to \$30,000.⁴⁴

34. Defendant admits that she has the financial ability to repay the Mortgage Loan under its existing terms, but she stopped making payments because the Defendant believed that Austin's appraisal failed to evaluate the existing condition of 423 Bayne Street.⁴⁵

35. Defendant still claims that she would repay the loan if Wells Fargo would "cancel the loan and restart it over" with a new appraisal because she is not going to "participate in a fraud."⁴⁶

STANDARD FOR DECISION

Summary judgment is warranted when no material facts are in contest and the movant is entitled to a judgment as a matter of law. *McNaughten-McKay Elec. v. Andrich*, 324 S.C. 275, 279, 482 S.E.2d 564, 566 (Ct. App. 1997). On summary judgment motions, evidence and factual inferences are viewed in a light most favorable to the non-movant. *Bankers Trust Co. v. Braten*, 317 S.C. 547, 551, 455 S.E.2d 199, 201 (Ct. App. 1995). The movant must initially assert the basis for the motion but is not required to negate his opponent's claim; the burden may be discharged by demonstrating a lack of evidence supporting a particular issue in the non-movant's case. *Richardson v. The State Record Co., Inc.*, 330 S.C. 562, 566, 499 S.E.2d 822, 824-25 (Ct. App. 1994). When a summary judgment motion is properly made and supported under Rule 56, S.C. R. Civ. P., the non-movant must demonstrate the existence of a triable issue of fact. *Peterson v. West American Ins. Co.*, 336 S.C. 89, 94, 518 S.E.2d 608, 610-11 (Ct. App. 1999). If

⁴³ *Id.* at 127:2-18.

⁴⁴ *Id.* at 122:20-123:24.

⁴⁵ *Id.* at 209:20-210:16.

⁴⁶ *Id.* at 128:13-20.

the evidence submitted by the non-movant is merely colorable, summary judgment should be granted. A trial, after all, is not an entitlement; it exists to resolve what “reasonable minds” recognize as real factual disputes. *Thompkins v. Festival Centre Grp.*, 306 S.C. 193, 194, 410 S.E.2d 593, 593-94 (Ct. App. 1991).

ARGUMENT

For the following reasons, Wells Fargo should be granted summary judgment for all of the counterclaims alleged by Defendant in her First Amendment to Answer to Complaint with Counterclaims:

I. ALL COUNTERCLAIMS MUST BE DISMISSED BECAUSE DEFENDANT CANNOT PROVE A FRAUD CLAIM AGAINST WELLS FARGO.

All of Defendant’s claims are based on an alleged “fraudulent appraisal” that Defendant admits Wells Fargo had no participation in drafting.

To prevail on a claim against Wells Fargo for actual fraud, Defendant must prove the following elements: (1) a representation by Wells Fargo; (2) its falsity; (3) its materiality; (4) Wells Fargo’s knowledge of its falsity or a reckless disregard for its truth or falsity; (5) Wells Fargo’s intent that Defendant act upon the representation; (6) Defendant’s ignorance of its falsity; (7) Defendant’s reliance on its truth; (8) Defendant’s right to rely thereon; and (9) Defendant’s consequent and proximate injury. *See McLaughlin v. Williams*, 379 S.C. 451, 456, 665 S.E.2d 667, 670 (Ct. App. 2008) (affirming summary judgment on fraud claim because no reliance). “Failure to prove any element of fraud is fatal to the action.” *Robertson v. First Union Nat’l Bank*, 350 S.C. 339, 348, 565 S.E.2d 309, 314 (Ct. App. 2002).

Critically, Defendant admits that before she closed her mortgage loan, she had no communications or dealings with Wells Fargo and that she only communicated with Wells Fargo *after* closing her loan. Because Wells Fargo never communicated anything to Defendant before

she closed her loan, she could not have relied on communications from Wells Fargo before closing her Mortgage Loan. Accordingly, all of Defendant's claims must fail in the absence of any evidence revealing misrepresentation by Wells Fargo upon which Defendant relied to close the Mortgage Loan at issue in this case.

A. Defendant cannot recover against Wells Fargo because it did not participate in the alleged fraud.

Even if Defendant had proved that the appraisal was fraudulent, no claim for fraud can be maintained against a party not involved in the fraud. *See Moseley v. All Things Possible*, 388 S.C. 31, 694 S.E.2d 43 (Ct. App. 2010) (reversing trial court's finding that seller of real property was guilty of fraud in sale based on falsified plat when there was no evidence that he personally committed fraud); *Herrod v. First Republic Mortg. Corp.*, 625 S.E.2d 373 (W. Va. 2005) (granting summary judgment to lender on fraud claim when allegations show only that the broker committed the allegedly fraudulent acts); *see also Gordon v. Busbee*, 397 S.C. 119, 723 S.E.2d 822 (Ct. App. 2012) (holding that directed verdict for certain defendants was proper when plaintiff presented no evidence of fraud by those defendants).

Here, the uncontroverted evidence shows that Wells Fargo was not a party to any alleged fraud. Defendant admitted that Wells Fargo has not committed any act of fraud. Instead, Defendant alleges that the seller and appraiser committed the acts. Moreover, Defendant admits that the seller and appraiser have no ties to Wells Fargo. In fact, Defendant believes that Wells Fargo was also victimized by the seller and appraiser.

B. Defendant cannot recover against Wells Fargo because she had actual knowledge of any alleged falsity in the appraisal and took no steps to protect herself.

If a plaintiff knows that a misrepresentation is false, she cannot recover for fraud. *See Moorhead v. First Piedmont Bank & Trust*, 273 S.C. 356, 359, 256 S.E.2d 414, 416 (1979). In

Moorhead, the South Carolina Supreme Court affirmed the trial court's directed verdict to a bank for alleged fraud concerning real property purchased by the plaintiff. The buyer could not prove falsity, among other things, because "the record is replete of [the buyer's] knowledge of the title and value of the real estate involved." *Id.*; see also *Lundy v. Palmetto State Life Ins. Co.*, 256 S.C. 506, 516, 183 S.E.2d 335, 340 (1971) (reversing trial court's denial of directed verdict because the plaintiff had actual knowledge of the falsity if the representation made).

Further, "one cannot rely upon misstatement of facts, if the truth is easily within his reach." *O'Shields v. Southern Fountain Mobile Homes, Inc.*, 262 S.C. 276, 204 S.E.2d 50 (1974). In *O'Shields* the court addressed a case in which the plaintiff sued for fraud when the seller delivered a mobile home that was a different model from that which was promised. Specifically, the seller promised several features in the home, but failed to deliver a home with those specific features. The court held that the record failed to show that the buyers were ignorant of the omitted features in the home or that they relied on the seller's representations; nevertheless, the buyers accepted delivery without objection. The South Carolina Supreme Court reversed the trial court's failure to direct a verdict in favor of the seller "because [the buyers] were fully aware of the falsity of the statements and had every opportunity to protect their interests." *Id.* at 282, 204 S.E.2d at 52.

In this case, Defendant admits she did not believe that the appraisal was accurate. Furthermore, she lived in the home prior to the closing, so she had first-hand observations of the condition of the house. Also, she could have had an appraisal done herself and discovered any misstatements made by others. Further, even taking her allegations as true, if the sales contract that she signed at closing was inaccurate, she could have refused to sign it or even refused to execute the note and mortgage, which obligate Defendant to repay Wells Fargo for the \$75,000

that funded her purchase of 423 Bayne Street. Wells Fargo was not at the closing and could not have been expected to protect her when she did not take any steps that she easily could have taken to protect herself by simply reading the loan documents that she signed.

C. Defendant cannot recover against Wells Fargo because she admits that she did not rely on the appraisal.

Summary judgment on a fraud claim is proper when the plaintiff did not rely on the alleged fraudulent representations. For example, in *Schnellmann v. Rottger*, 368 S.C. 17, 627 S.E.2d 742 (Ct. App. 2007), the court affirmed summary judgment in a case involving fraud claims involving a real estate agent's misstatements to the buyer about the square footage of the house. The trial court granted summary judgment to the real estate agent because any reliance by the buyers was unreasonable since they could have discovered the misstatement by requesting a copy of the appraisal or by having someone come measure the property at issue. Instead, the buyers viewed the property and proceeded without determining the exact square footage on their own. Therefore, any reliance was unreasonable. *Id.* at 21, 627 S.E.2d at 745.

Additionally, in *Robertson v. First Union National Bank*, 350 S.C. 339, 348, 565 S.E.2d 309, 314 (Ct. App. 2002), the Court of Appeals affirmed summary judgment in favor of a lender on claims based on an allegedly fraudulent appraisal. In that case, as here, the borrowers claimed that the property's value had been overestimated and caused them harm. The *Robertson* court, however, disagreed with plaintiffs and held that the borrowers did not meet the elements for fraud because the borrowers testified in their depositions that they did not rely on the appraisal. Further, the *Robertson* court stated that it was implausible that the bank would participate in a fraudulent scheme directly contrary to its own interests. ("We can think of no logical reason why Bank would make it a practice to intentionally make loans for an amount in excess of the

collateral's value and risk substantial losses in the event of default.”). *Id.* at 351, 565 S.E.2d at 315.

In this case, Defendant testified that she did not rely on the appraisal and that she never believed that the appraisal was accurate. Further, she did not see the appraisal until after the loan was closed, so she could not have relied on it before purchasing 423 Bayne Street and executing the note and mortgage. In summary, Defendant has failed to prove any element of fraud—or even that fraud occurred—and all her claims fail as a result.

II. FCRA CLAIMS MUST BE DISMISSED BECAUSE (A) THERE IS NO PRIVATE RIGHT OF ACTION UNDER THE FCRA FOR TRANSMISSION OF PURPORTED INACCURATE CREDIT INFORMATION AND (B) DEFENDANT CANNOT PROVE A PRIVATE ACTION UNDER 15 U.S.C. § 1681s-2(b) OF THE FCRA.

A. There is no private right of action for any alleged transmission of purported inaccurate credit information.

The FCRA counterclaim fails as matter of law because it is based in part upon the allegation that Wells Fargo furnished inaccurate credit information about Defendant to credit reporting agencies (“CRAs”).⁴⁷ 15 U.S.C. § 1681s-2(a) prohibits furnishers of credit information, such as Wells Fargo, from transmitting inaccurate credit information to CRAs. *See* 15 U.S.C. § 1681s-2(a)(1)(A) (“A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.”).

Congress, however, expressly limited a furnisher's liability under § 1681s-2(a) by prohibiting private suits under that portion of the FCRA. *See id.* 1681s-2-(c)(1) (“Except as provided in section 1681s(c)(1)(B)], sections 1681n and 1681o of this title do not apply to any violation of—(1) subsection (a) of this section, including any regulations issued thereunder....”);

⁴⁷ Def. First Am. Ans. to Compl. with Counterclaims at ¶ 56-III.

see also *Chiang v. Verizon New England, Inc.*, 595 F.3d 26, 35 (1st Cir. 2010) (“Congress expressly limited furnishers’ liability under § 1681s-2(a) by prohibiting private suits for violations of that portion of the statute.”). Consequently, Defendant has no private right of action for any alleged FCRA violation that arises from any purported transmission of inaccurate credit information to CRAs.

B. Defendant lacks any evidence to prove a private right of action under 15 U.S.C. § 1681s-2(b).

Although a private right of action has been recognized under the provisions of 15 U.S.C. § 1681s-2(b), Defendant fails to present any evidence to support such a claim under the FCRA. Section 1681s-2(b) “outlines a furnisher’s duties when a consumer disputes the completeness or accuracy of information in their credit report.” *Chiang*, 595 F.3d at 35. Section 1681s-2(b) requires a claimant to show a “*factual* inaccuracy, rather than the existence of disputed legal questions” because furnishers of credit information, such as Wells Fargo, are “neither qualified nor obligated to resolve matters that turn on questions that can only be resolved by a court of law.” *Id.* at 38 (quoting *DeAndrade v. Trans Union LLC*, 523 F.3d 61, 68 (1st Cir. 2008) (internal brackets omitted) (emphasis theirs)).

Defendant’s FCRA claim fails as a matter of law because Defendant cannot satisfy the requirements of § 1681s-2(b) by proving a factual credit report inaccuracy that a reasonable investigation might have uncovered. *Id.* at 41. In her FCRA counterclaim, Defendant alleges that Wells Fargo did not report that she suspended her mortgage payments because of “[s]uspected [m]ortgage [f]raud[,] [p]redatory [l]ending[, and] [p]otential [i]nsurance [f]raud.”⁴⁸ Such allegations are clearly “disputed legal questions” that “can only be resolved by a court of law” because they require a determination of liability for mortgage fraud, predatory lending, and

⁴⁸ See *id.* at ¶¶ 57-III & 59-III.

insurance fraud against the seller and appraiser. Thus, no reasonable investigation short of trial in a court of law could have resolved Defendant's allegations of inaccurate credit reporting.

Accordingly, the FCRA counterclaim fails, and Wells Fargo is entitled to summary judgment. *See id.* at 41 (affirming award of summary judgment because plaintiff's FCRA claim was nothing more than an argument "that any investigation that did not accept [plaintiff's] allegations as accurate was by definition unreasonable").

III. THE COUNTERCLAIM FOR UNJUST ENRICHMENT MUST BE DISMISSED BECAUSE WELLS FARGO IS ENTITLED TO COLLECT AMOUNTS OWED UNDER THE NOTE SIGNED BY DEFENDANT.

Defendant cannot prove a claim for unjust enrichment because she cannot prove that she conferred upon Wells Fargo a benefit that would be unjust for Wells Fargo to retain. A party may recover for unjust enrichment by proving "(1) a benefit conferred upon the defendant by plaintiff; (2) realization of that benefit by defendant; and (3) [that] retention by defendant of the benefit under conditions that make it unjust for him to retain it without paying its value." *See Pitts v. Jackson Nat'l Life Ins. Co.*, 352 S.C. 319, 337-40, 574 S.E.2d 502, 511-12 (Ct. App. 2002) (affirming grant of summary judgment for insurer on insured's claim of unjust enrichment).

The undisputed facts of this case prove that Defendant borrowed \$75,000.00 to purchase 423 Bayne Street pursuant to the note that she signed at closing. Defendant admits to making a few payments, but she stopped making payments owed under the note when she unilaterally decided that the price paid for 423 Bayne Street was too high. Defendant also admits that she has no evidence establishing that Wells Fargo played any role in setting the purchase price for 423 Bayne Street. These undisputed facts make clear that Defendant has not conferred any benefit upon Wells Fargo. Consequently, Wells Fargo should be awarded summary judgment for Defendant's unjust enrichment counterclaim.

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Moreover, there is nothing unjust about Wells Fargo's collection of payments from Defendant that were based on a written contract. *See Charleston County Sch. Dist. v. Laidlaw Transit, Inc.*, 348 S.C. 420, 529 S.E.2d 362 (Ct. App. 2001) (dismissing extra-contractual counterclaims where defendant's allegations established a written contract governing the parties rights and obligations to each other).

Here, Wells Fargo's collection of any payments pursuant to the note is a contractual right that Defendant expressly granted to Wells Fargo by signing the note. To this end, Defendant may not assert a claim for unjust enrichment under South Carolina law because her note to Wells Fargo establishes the right to collect amounts loaned to Defendant.

IV. THE COUNTERCLAIM FOR NEGLIGENCE AND GROSS NEGLIGENCE FAILS AS A MATTER OF LAW BECAUSE (A) WELLS FARGO OWES NO DUTY TO DEFENDANT AND (B) WELLS FARGO'S RELIANCE ON THE APPRAISAL DID NOT CAUSE ANY DAMAGES.

The elements of negligence are (1) duty, (2) breach, (3) proximate cause, and (4) injury. *Carolina Chloride, Inc. v. Richland County*, 394 S.C. 154, 163, 714 S.E.2d 869, 873 (2011). Defendant's claim for negligence fails because Wells Fargo owes no duty to Defendant and Wells Fargo's actions did not cause Defendant's alleged damages.

A. The negligence and gross negligence counterclaims fail because Wells Fargo owes no duty to Defendant.

To support a claim for negligence, a claimant must show a "special relationship" between the claimant and the alleged tortfeasor that gives rise to a duty. Absent a "special relationship" between a lender and a borrower, the lender owes no duty to the borrower. *See, e.g., Andrade v. Johnson*, 356 S.C. 238, 245, 588 S.E.2d 588, 592 (2003) (stating "[i]t is essential to liability for negligence that the parties have some relationship recognized by law to support the duty owed by the tortfeasor").

Courts in South Carolina and throughout the United States have consistently refused to impose a special duty of care between a borrower and lender in the context of a normal banking relationship. *See, e.g., Regions Bank v. Schmauch*, 354 S.C. 648, 670–71, 582 S.E.2d 432, 443 (Ct. App. 2003) (holding the borrower “was not in a vulnerable position, and the bank owed her no special duty of care”); *Nelson v. Production Credit Ass’n of the Midlands*, 930 F.2d 599, 605 (8th Cir. 1991) (“Court would not impose a duty on a lender to use reasonable care in making a loan.”); *Parker v. Columbia Bank*, 604 A.2d 521, 535 (Md. Ct. Spec. App. 1992) (“[A] lender owes no duty of care to its borrower”); *Baskin v. Mortgage & Trust, Inc.*, 837 S.W.2d 743, 747–48 (Tex. App. 1992) (“Regarding [lender’s] liability for its own negligence, if any, the relationship between a borrower and its lender generally does not create a fiduciary duty or impose a duty of good faith and fair dealing”); *Commercial Nat’l Bank v. Audubon Meadow P’ship*, 566 So. 2d 1136, 1140 (La. Ct. App. 1990) (“[W]e find no source of a duty in tort which would impose liability upon the bank.”).

Accordingly, because Wells Fargo owed no duty to Defendant, her negligence claim fails as a matter of law.

B. Any reliance on the appraisal for 423 Bayne Street cannot be the cause of any damages alleged.

To show the defendant was the proximate cause of the injury, the plaintiff must establish the defendant was both the cause-in-fact and the legal cause of the injury. *Mellen v. Lane*, 377 S.C. 261, 278, 659 S.E.2d 236, 245 (Ct. App. 2008). The cause-in-fact requirement is proved by showing the injury would not have occurred but for the defendant’s negligence. *Id.* The legal cause requirement is proved by establishing the plaintiff’s injury was foreseeable. *Id.* at 278–79, 659 S.E.2d at 245.

Defendant admitted that she would have paid her monthly mortgage payments of \$668.00 per month if the repairs and improvements had been paid:

Q. You wouldn't mind paying a little bit over that for the insurance and taxes, over \$300. You're talking principal and interest payment needs to be \$300.

A. Right. Because even though this was \$668, I paid, I think, the first two payments. As you can see, I paid those payments. I only suspended payments after I got the appraisal and I found out, wait a minute, this is not – something is wrong here. But if everything would have been according to the appraisal, I would have continued to pay that \$668, if everything was as that appraisal stated.

Q. With the deck repairs, whatever—

A. Yes.

Q. —the certificate of completion—

A. If all of that stuff was correct, Wells Fargo wouldn't have had any problem out of me paying them that \$668 a month. I would have continued to pay it. I didn't have a problem with paying that.⁴⁹

Here, Defendant's testimony establishes that the seller's failure to make the repairs to 423 Bayne Street as indicated in the appraisal that Wells Fargo used to underwrite her mortgage—rather than the appraisal itself—is the cause-in-fact of Defendant's alleged damages. To this end, the content of the appraisal cannot be the cause-in-fact of Defendant's damages because if the seller or anyone else made the improvements and repairs noted in the appraisal, Defendant admits that she would have made the monthly payments due on the note.

Additionally, Defendant admits that it was not until after closing on February 5, 2008 that Wells Fargo first became aware of her suspicions that the appraisal at issue was falsified.⁵⁰

⁴⁹ Exhibit 1, Dep. of Dorothy Sistrunk at 209:20-210:15.

⁵⁰ Def. First Am. Ans. to Compl. with Counterclaims at ¶ 83-VI (“After February 5, 2008, the Plaintiff's personnel handling the complaints and allegations knew this document was suspected of being falsified, but still insisted on using it, protecting it, and defending it.”).

Under this undisputed fact, Wells Fargo's reliance on the appraisal used to underwrite Defendant's mortgage cannot be the legal cause of any damages because Wells Fargo had no way of knowing that any of the disclosures in the appraisal were inaccurate or false *before* closing. Therefore, Wells Fargo could not have foreseen that reliance on the appraisal used to underwrite Defendant's loan could have caused any damages. Consequently, for the foregoing reasons, Wells Fargo is entitled to summary judgment on the negligence and gross negligence counterclaim.

V. COUNTERCLAIMS FOR (1) FAILURE TO EXERCISE DUE DILIGENCE, (2) FAILURE TO EXERCISE FIDUCIARY RESPONSIBILITY, AND (3) FAILURE TO SAFEGUARD FINANCIAL INTEREST OF CUSTOMERS MUST BE DISMISSED BECAUSE WELLS FARGO OWES NO FIDUCIARY DUTIES TO DEFENDANT.

Whether a fiduciary relationship should be imposed between two classes of people is a question for the court. *Hendricks v. Clemson University*, 353 S.C. 449, 459, 578 S.E.2d 711, 715 (2003). A fiduciary relationship "exists when one reposes special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one reposing confidence." *Id.* (quoting *O'Shea v. Lesser*, 308 S.C. 10, 15, 416 S.E.2d 629, 631 (1992)). It cannot be created unilaterally and the other party must "have actually accepted or induced the confidence placed in him." *Regions Bank v. Schmauch*, 354 S.C. 648, 670–71, 582 S.E.2d 432, 444 (Ct. App. 2003). Under South Carolina law, the normal relationship between a bank and its customer is not fiduciary in nature. *Id.* at 671, 582 S.E.2d at 444.

Several courts around the country have held that no fiduciary relationship exists between a mortgage debtor and mortgage lender or servicer. *See, e.g., Velasquez v. Chase Home Fin. LLC*, No. 10-01641, 2011 U.S. Dist. LEXIS 4097, at *9–10 (N.D. Cal. Jan. 10, 2011) (dismissing the plaintiff's fiduciary duty claim, with prejudice, noting there were no facts

Exhibit 332

showing defendants “stepped beyond the traditional role of a money lender or mortgage servicer and, thereby, created a special fiduciary duty to plaintiff”); *Kevelighan v. Trott & Trott, P.C.*, 771 F. Supp. 2d 763, 779 (E.D. Mich. 2010) (dismissing plaintiffs’ breach of fiduciary duty claims against several defendants, including the loan servicer, noting that there is “no reason to stray from the general rule that no fiduciary duties arise in the lender-borrower context”); *Cairns v. Ohio Sav. Bank*, 109 Ohio App. 3d 644, 649 (Ohio Ct. App. 1996) (holding the trial court “appropriately dismissed the appellants’ claim for breach of fiduciary duty” because the relationship is not one that is fiduciary in nature).

“South Carolina holds the normal relationship between a bank and its customer is one of creditor-debtor and not fiduciary in nature.” *Regions*, 354 S.C. at 671, 582 S.E.2d at 444. In the absence of any evidence that a bank provided the service of providing advice to a customer, there can be no fiduciary relationship between a bank and a customer. *See id.* (“a bank may be held to a fiduciary duty if it undertakes to advise a depositor as part of services the bank offers”).

By Defendant’s own admission, she only communicated with Wells Fargo *after* closing her loan.⁵¹ Accordingly, she never had an opportunity to seek advice from Wells Fargo about her purchase of 423 Bayne Street or the financing for it. Consequently, there is no evidence of a fiduciary relationship between Defendant and Wells Fargo, and therefore, any breach of fiduciary duty counterclaim alleged fails as a matter of law.

VI. DEFENDANT’S COUNTERCLAIM FOR EMOTIONAL DISTRESS FAILS AS A MATTER OF LAW BECAUSE SOUTH CAROLINA LAW DOES NOT ALLOW THE RECOVERY OF DAMAGES FOR EMOTIONAL DISTRESS FOR CASES THAT ONLY INVOLVE ECONOMIC LOSS.

All of Defendant’s counterclaims are based on the alleged fraudulent acts of the seller and appraiser. To this end, all of Defendant’s counterclaims are based on purported economic

⁵¹ Exhibit 1, Dep. of Dorothy Sistrunk at 69:12-17.

loss⁵² arising from the closing of her Mortgage Loan with Wells Fargo. The South Carolina appellate courts have rejected attempts by plaintiffs to recover emotional distress damages under tort causes of action involving only economic loss, including fraud claims and claims for breach of fiduciary duty. *See, e.g., Sparrow v. Toyota of Florence, Inc.*, 302 S.C. 418, 423, 396 S.E.2d 645, 648 (Ct. App. 1990) (“Mental suffering, emotional shock, inconvenience, or embarrassment are not elements of damage in a fraud case.”); *Carrigg v. Blue*, 283 S.C. 494, 497 n.1, 323 S.E.2d 787, 289 n.1 (Ct. App. 1984) (“[Plaintiff] also alleged he suffered great emotional shock, inconvenience, and embarrassment. Since these are not proper elements of damage in an action for fraud, we do not consider them.”); *Cf. Doe v. Howe*, 367 S.C. 432, 448 n.27, 626 S.E.2d 25, 33 n.27 (Ct. App. 2005) (recognizing the one possible ground for trial court’s grant of summary judgment to defendant on plaintiff’s breach of fiduciary duty claim was that “damages from emotional distress are not recoverable under a breach of fiduciary duty claim.”). Although South Carolina law recognizes a claim for negligent infliction of emotional distress, this claim is limited exclusively to bystander liability, which requires a physical injury to another person which is then observed by the plaintiff. *See Doe v. Greenville County School Dist.*, 375 S.C. 63, 651 S.E.2d 305 (S.C. 2007) (cause of action for negligent infliction of emotional distress limited to “bystander” liability and listing elements).

Defendant’s counterclaim for infliction of emotional distress is entirely based on the content of Austin’s appraisal for 423 Bayne Street and Wells Fargo’s use of it to underwrite Defendant’s Mortgage Loan.⁵³ More importantly, Defendant also bases her counterclaims for

⁵² Defendant has not proven any economic loss to date. Defendant unilaterally decided to stop remitting payments for the Mortgage Loan on or about February 2012. Since that time, Defendant and her family have lived in 423 Bayne Street rent-free despite Defendant’s admitted ability to repay under the terms of her note.

⁵³ Def. First Am. Answer to Compl. & Conterclaims at ¶¶ 197-200.

fraud, negligence, and breach of fiduciary duty on the same allegations.⁵⁴ Here, Defendant's counterclaim for infliction of emotional distress is simply aimed at pursuing economic relief in the form of reducing her repayment obligation to an amount that she can afford by striking and cancelling the Mortgage Loan.⁵⁵ Additionally, Defendant has not pleaded or presented any evidence of "bystander liability" under South Carolina law. Consequently, summary judgment should be awarded to Wells Fargo on Defendant's infliction of emotional distress counterclaim.

VII. DEFENDANT'S MORTGAGE LOAN AGREEMENT CANNOT BE RESCINDED BECAUSE DEFENDANT HAS NO RIGHT TO RESCIND UNDER TILA.

Pursuant to TILA, Defendant cannot rescind her purchase money mortgage transaction, which funded her purchase of her current residence. Under TILA, mortgage transactions used to purchase the acquisition or initial construction of a consumer's dwelling are called "residential mortgage transactions." *See* 15 U.S.C. § 1602(x) ("The term 'residential mortgage transaction' means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of such dwelling."). Congress, however, has expressly stated that TILA's rescission provisions do not apply to "residential mortgage transactions," such as Defendant's transaction with Wells Fargo, by expressly stating that the rescission provision of 15 U.S.C. § 1635 "does not apply to a residential mortgage transaction." 15 U.S.C. § 1635(e)(1). Further, Defendant did not attempt to rescind the loan within the statutory time deadline. Therefore, as a matter of law, Defendant cannot rescind her mortgage loan transaction with Wells Fargo pursuant to TILA.

⁵⁴ *Id.* at ¶¶ 72-V, 81-VI, 86-VII, and 89-VIII.

⁵⁵ *Id.* at ¶ 235 (seeking "judgment" in an appropriate dollar amount based on Defendant's ability to repay and a "finding" to strike and remove Wells Fargo's mortgage).

VIII. THE COUNTERCLAIM FOR UNFAIR LENDING AND BANKING PRACTICES MUST BE DISMISSED BECAUSE IT FAILS TO STATE ANY VIABLE CLAIM FOR RELIEF.

Defendant's counterclaim for unfair lending and banking practices is based on her attempt to blame Wells Fargo for alleged misrepresentations by the seller, Thomas Jacobs. Here, Defendant assumes that her allegations about Jacobs's failure to lower the sales price of 423 Bayne Street (or make purported improvements to it) require Wells Fargo to rescind the Mortgage Loan. They do not. First, Defendant admits that Wells Fargo is not directly responsible for Jacobs's alleged misrepresentations in any statements or negotiations about the price for 423 Bayne Street. Indeed, Defendant admits that Wells Fargo was never involved in any negotiations for the purchase of 423 Bayne Street before closing in the following testimony:

- Q. No one from Wells Fargo said they would fix the house and lower the price?
- A. No one. Truly, Wells Fargo probably didn't even know I existed, just like I did not know they existed, you know? And so the only time I spoke with someone from—my first encounter with Wells Fargo was on December the 24th '07.⁵⁶

Second, Defendant admits that she does not have any evidence demonstrating that Jacobs and the appraiser, Jim Austin, or the mortgage broker, David Terrell, are employees or agents of Wells Fargo as follows:

- Q. So with regard to what you know about Thomas Jacobs, Jim Austin and David Terrell, do you have any evidence linking those three individuals as employees of or people that work for Wells Fargo? Do you believe them to be agents of Wells Fargo at all?
- A. I can't say. I don't know.
- Q. You don't know?
- A. I don't know.

⁵⁶ Exhibit 1, Dep. of Dorothy Sistrunk at 69:9-17.

Q. You don't have any evidence indicating one way or the other.

A. I don't have any evidence one way or the other. I have nothing.⁵⁷

Defendant has no basis to prove that Wells Fargo should be responsible for any statements by Jacobs about the price for 423 Bayne Street or repairs to 423 Bayne Street before or at closing.

IX. DEFENDANT'S COUNTERCLAIMS FAIL AS A MATTER OF LAW BECAUSE SHE HAS FAILED TO JOIN INDISPENSIBLE PARTIES TO THIS ACTION.

Under Rule 12(b)(7) of the South Carolina Rules of Civil Procedure, a case may be dismissed for failure to join a party under Rule 19. Dismissal of all of Defendant's counterclaims is a proper remedy here because Defendant has failed to join two indispensable parties—Thomas Jacobs, the seller, and Jim H. Austin, III, the appraiser—to this action. *See Spanish Wells Property Ass'n v. Board of Adjustment of Town of Hilton Head*, 295 S.C. 67, 367 S.E.2d 160 (1988) (reversing Court of Appeals decision to overturn trial court's dismissal of action for failure to join indispensable party to lawsuit). Moreover, the absence of the seller and appraiser to this action would prejudice their ability to defend the claims made by Defendant in any subsequent action. *See* S.C. R. Civ. P. 19(a)(2).

Because Defendant has alleged that all of Wells Fargo's liability for her counterclaims is based upon the purported actions by the seller and appraiser, complete relief among the parties to this case on Defendant's counterclaims cannot be accorded to the parties. *See* S.C. R. Civ. P. 19(a)(1). Consequently, Wells Fargo should be awarded summary judgment for all counterclaims alleged by Defendant.

⁵⁷ *Id.* at 101:23-102:11.

X. WELLS FARGO SHOULD BE AWARDED SUMMARY JUDGMENT FOR ITS FORECLOSURE ACTION BECAUSE DEFENDANT HAS FAILED TO REPAY AMOUNTS OWED UNDER THE MORTGAGE LOAN.

The evidence for this case establishes that judgment in favor of Wells Fargo for its foreclosure action is appropriate. It is undisputed that Defendant executed a note and mortgage in favor of Wells Fargo at a closing on December 21, 2007,⁵⁸ and that Wells Fargo is the holder of her note and mortgage.⁵⁹ Under the terms of the note that Defendant signed, Defendant promised to repay a principal amount of \$75,000 that funded her purchase of 423 Bayne Street.⁶⁰ To secure her repayment obligations, Defendant also signed a mortgage that encumbers 423 Bayne Street.⁶¹

The undisputed record of this case shows that Defendant has not remitted any payments under the note since February 1, 2008 and that Wells Fargo has been paying taxes and insurance to protect its lien on 423 Bayne Street by advancing escrows.⁶² Because Defendant admits that she has stopped making her mortgage payments despite having the ability to afford her loan payments,⁶³ Wells Fargo should be awarded a summary judgment for the current outstanding balance due on the note plus all accrued interest and an order providing for the sale of 423 Bayne Street to satisfy any portion of outstanding balance owed.

⁵⁸ See **Exhibit 6**, a true and correct copy of Fixed Rate Note, signed by Defendant and dated 12/21/07; **Exhibit 7**, a true and correct copy of Mortgage, signed by Defendant and dated 12/21/07.

⁵⁹ **Exhibit 8**, Wells Fargo Aff.

⁶⁰ See **Exhibit 6**, a true and correct copy of Fixed Rate Note, signed by Defendant and dated 11/26/07.

⁶¹ See **Exhibit 7**, a true and correct copy of Mortgage, signed by Defendant and dated 12/21/07.

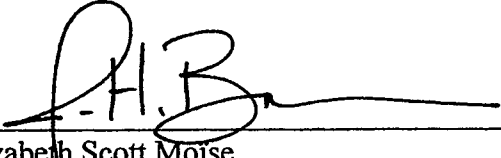
⁶² **Exhibit 8**, Wells Fargo Aff.

⁶³ **Exhibit 1**, Dep. of Dorothy Sistrunk at 209:20-210:15.

CONCLUSION

Based on the foregoing undisputed material facts, exhibits to this motion, law, and other evidence that may be presented by Wells Fargo prior to or at the hearing in this matter, Wells Fargo's Motion for Summary Judgment should be granted on its foreclosure complaint and against Defendant on all counterclaims.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Columbia, South Carolina

June 27, 2013

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT

Wells Fargo Bank, N.A.,	)	Civil Action No. 2008-CP-38-1024
	)	

Plaintiff,	)	PLAINTIFF'S MOTION FOR
	)	ORDER OF REFERENCE TO
vs.	)	MASTER IN EQUITY
	)	

Dorothy Sistrunk,	)	
	)	

Defendant.	)	
	)	

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, Plaintiff Wells Fargo Bank, N.A. ("Wells Fargo") hereby moves this Court to refer this matter to the Master in Equity for Orangeburg County. In this foreclosure, *pro se* Defendant asserted numerous counterclaims and requested a jury trial, and this case was placed on the jury trial roster. By letter dated March 13, 2014, the Honorable Dianne Schafer Goodstein notified the parties that she is granting summary judgment to Wells Fargo on all of Defendant's counterclaims. Therefore, the only remaining issue—the foreclosure itself—is proper to be referred to the Master in Equity.

Attached as **Exhibit A** is a proposed order for the Court's consideration.

[SIGNATURE ON THE FOLLOWING PAGE]

Exhibit 104

NELSON MULLINS RILEY & SCARBOROUGH LLP

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March 18, 2014

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Wells Fargo Bank, N.A.,

Plaintiff,

Vs.

Dorothy Sistrunk

Defendant,

) IN THE COURT OF COMMON PLEAS
) FIRST JUDICIAL CIRCUIT

) Civil Action Case No. 2008-CP-38-1024

) **DEFENDANT DOROTHY SISTRUNK'S**
) **NOTICE OF MOTION & MOTION TO**
) **ALTER OR AMEND THE PARTIAL**
) **SUMMARY JUDGMENT & RESCIND**
) **THE ORDER OF REFERENCE**
) **PURSUANT TO RULE 59(e), SCRPC.**

) **Today's Date: March 25, 2014**

Comes now the Defendant, Dorothy Sistrunk, to file her *Notice of Motion & Motion to Alter or Amend the Partial Summary Judgment Order and Rescind the Order of Reference*. Judge Goodstein's letter was retrieved from the mailbox at 423 Bayne Street in Orangeburg, South Carolina on Monday, March 17, 2014. The letter is dated March 13, 2014.

**DEFENDANT'S MOTION TO ALTER OR AMEND THE PARTIAL SUMMARY
JUDGMENT & RESCIND THE ORDER OF REFERENCE**

1. Defendant, Dorothy Sistrunk respectfully moves this court under *Rule 59(e), SCRPC* to alter or amend its judgment pursuant to Judge Goodstein's letter that was retrieved on March 17, 2014 and rescind the Order of Reference. In support of this motion, the Defendant relies on the accompanying Legal Memorandum that is being filed as a Verified Pleading. Pentecost v. Harward, 699 P.2d 696 (Utah 1985) (holding that a verified pleading that meets the requirements of Rule 56(e) can be considered the equivalent of an affidavit); cf. Willis v. Lauridson, 118 P. 530 (Cal. 1911) (holding that when seeking an injunction, a verified pleading is equivalent to an affidavit); Golden Canal Co. v. Bright, 6 P. 142 (Colo. 1884) (holding that under mandamus statute, a verified petition was equivalent to an affidavit); Iowa v. One Certain Automobile, 23 N.W.2d 847 (Iowa 1946) (noting the general rule that a verified pleading may be held to be an affidavit);

2. As will be explained in the accompanying Memorandum, the Court's decision was based on clear errors of fact. It is a well founded policy of law "[t]hat no person be

ATTEST: TRUE COPY

CLERK OF COURT

ORANGEBURG COUNTY, SC

EXHIBIT 108

acquire a right of action from their own unlawful act and one who participates in an unlawful act cannot recover damages for the consequence of that act.” 86 C.J.S. Torts § 12 (1954)

3. “[T]his rule applies at both law and in equity and whether the cause of action is in contract or in tort.” {See 1A C.J.S. Actions § 29 (1985) & Graham v. Graham, 276 S.C. 341, 278 S.E.2d 345 (1981); Nelson v. Bryant, 265 S.C. 558, 220 S.E.2d 647 (1975); Roundtree v. Ingle, 94 S.C. 231, 77 S.E. 931 (1913); Restatement (Second) of Torts § 774 (1977) and Jackson v. Bi-Lo Stores, Inc., 313 S.C. at 276, 437 S.E. 2d at 170.}

4. The illegality doctrine has also been recognized by the United States Supreme Court. {See McMullen v. Hoffman, 174 U.S. 639, 19 S.Ct. 839, 43 L.Ed. 1117 (1899), holding that illegality is a defense to a contract action: *The authorities from the earliest time to the present unanimously hold that no court will lend its assistance in any way towards carrying out the terms of an illegal contract. In case any action is brought which it is necessary to prove the illegal contract in order to maintain the action, courts will not enforce it, nor will they enforce any alleged rights directly springing from such contract. Id. at 654, 19 S.Ct. at 845.*}

5. South Carolina courts have reached similar conclusions refusing to aid plaintiffs who are themselves guilty of an illegal act. In Roundtree, the court concluded that “[his] whole transaction is without the pale of the law, and [he] cannot invoke the aid of the courts in enforcement of any claim depending on it.” *Id.* 77 S.E. at 932. See also, Berkebile v. Outen, S.C. 426 S.E.2d 760, 762 (1993) (holding that “an illegal contract has always been unenforceable ... South Carolina courts will not enforce a contract which is violative of public policy, statutory law or provisions of the Constitution.”).

6. There is no alleged fraud. The fraud is real, it is documented in the Plaintiff’s filed exhibits [e.g. WF00001-WF00026] and it is verifiable pursuant to the strictest and highest legal standard. In addition, since all the Defendant’s Court filings are “Verified Pleadings” that have

Exhibit 108

the probative force of affidavits, none have been refuted, denied, opposed or controverted by the Plaintiff in over 5 years. Therefore every statement based on personal knowledge, statutory law, the Plaintiff's exhibits or a verifiable source is admitted as an uncontested *Statement of Fact*. The verification of a pleading, like the verification of a complaint, is a statement that the contents of the Pleading are true; thus, in effect, an affidavit. Rekart v. Safeway Stores, 468 P.2d 892, 895 (N.M. Ct. App. 1970) ("The verification of the complaint is a statement that the contents of the complaint are true; thus, in effect, an affidavit."); Missouri ex rel. Burton v. City of Parsons, 95 P. 391 (Kan. 1908) (noting that a verified petition can be used as an affidavit and the allegations contained therein should be treated accordingly); Montana ex rel. Redle v. District Court In and For Missoula County, 59 P.2d 58 (Mont. 1936) (noting that under statutes requiring an affidavit, a verified petition is equivalent to, and can be used as, an affidavit); Renville State Bank v. Kinsberg, 166 N.W. 643, 644 (S.D. 1918) ("A written declaration, properly sworn to, may constitute an affidavit, even though in the form of an ordinary pleading."); Washington ex rel. Victor Boom Co. v. Peterson, 70 P. 71 (Wash. 1902) (holding that a verified pleading can constitute an affidavit) Hladczuk v. Epstein, 470 N.Y.S.2d 211 (App. Div. 1983) (stating that a verified pleading is the equivalent of an affidavit for purposes of summary judgment.

For this reason, the Defendant respectfully requests that this motion be granted and.....

- (a) The Plaintiff's Partial Summary Judgment be vacated, and the Order of Reference rescinded... and since no filed affidavit has been refuted or controverted in over 5 years...
- (b) Summary Judgment be granted to the Defendant in this matter in accordance with the Defendant's *Opposition to Plaintiff's Wells Fargo Bank, N.A.'s Motion for Summary Judgment and Demand for Jury Trial*, the Defendant's *Legal Memorandum Supporting Opposition to Plaintiff's Wells Fargo Bank, N.A.'s Motion for Summary Judgment* and the Defendant's *Rule 41(b), SCRCF Motion to Dismiss with Prejudice* that was filed on August 15, 2011.

7. Rule 41(b), SCRCF clearly states in pertinent parts.....

Exhibit 108

"After the plaintiff in an action tried by the court without a jury has completed the presentation of his evidence, [t]he defendant, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in Rule 52(a). Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction or for improper venue or for failure to join a party under Rule 19, operates as an adjudication upon the merits."

Respectfully Submitted as a Verified Notification due to referenced Pleadings, case law and South Carolina's Rules of Civil Procedure.

Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115
Ph: 803-268-0716 Fx: 803-534-6727

NOTIFICATION

A copy of the Defendant's *Notice of Motion & Motion to Alter or Amend the Partial Summary Judgment Order and Rescind the Order of Reference* that has been filed with the Clerk of Court will be mailed to the following:

Nelson Mullins Riley & Scarborough, LLP
Elizabeth Scott Moise
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803-853-5200

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Columbia, SC 29201
(803) 799-2000

The Honorable Judge Diane Shafer Goodstein
5200 East Jim Bilton Blvd.
POB 234
St. George, SC 29477

The Honorable Judge Edgar W. Dickson
POB 1949
Orangeburg, SC 29116-1949

ATTEST: TRUE COPY
The Honorable James B. Jackson, Jr.
PO Box 9000
Orangeburg, SC 29116-9000
CLERK OF COURT
ORANGEBURG COUNTY, SC

Exhibit 108

NOTARY VERIFICATION

IN WITNESS WHEREOF, The undersigned, being duly **SWORN**, and under the **PENALTY**

OF PERJURY has signed and sealed these attestations this 25th day of March

in the year 2014 in City of Orangeburg, State of South Carolina.

Affiant Signature: Dorothy Sistrunk

Notary's Signature as Witness (1): Julian D. Buck

Signed, sealed and delivered in the presence of:

**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On March 25th 2014 before me appeared Dorothy Sistrunk and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within document and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on this Notice presents this Notice to the Court.

WITNESS my hand and official seal.

Notary's Signature Julian D. Buck

Commission Expires My Commission Expires
July 24, 2022

ATTEST: TRUE COPY

Wingja B. Clark
CLERK OF COURT
ORANGEBURG COUNTY (Seal)

Exhibit 108

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Wells Fargo Bank, N.A.,	)	Civil Action Case No. 2008-CP-38-1024
	)	
Plaintiff,	)	NOTICE OF MOTION AND MOTION
	)	TO VACATE PLAINTIFF'S PARTIAL
Vs.	)	SUMMARY JUDGMENT ORDER
	)	PURSUANT TO RULE 60(b), SCRCF FOR
	)	EXTRINSIC FRAUD UPON THE COURT
Dorothy Sistrunk;	)	BY OFFICERS OF THE COURT IN
	)	CONJUNCTION WITH 28 U.S.C. § 455
Defendant,	)	& 42 U.S.C. § 1983.
	)	TODAY'S DATE: MAY 28, 2014

Comes now the Defendant, Dorothy Sistrunk, to file a *Notice of Motion and Motion to Vacate Plaintiff's Partial Summary Judgment Order Pursuant to Rule 60(b), SCRCF for Extrinsic Fraud Upon the Court by Officers of the Court in Conjunction with 28 U.S.C. § 455 & 42 U.S.C. § 1983*. Because of the constitutional violations, this is also a civil rights case.

DEFENDANT'S NOTICE OF MOTION AND MOTION TO VACATE JUDGMENT

1. Defendant, Dorothy Sistrunk, respectfully moves the Court pursuant to *Rule 60(b)*, *SCRCF* to vacate its Partial Summary Judgment Order due in part to Extrinsic Fraud Upon the Court by Officers of the Court. In support of this motion, I will rely heavily on the accompanying *Legal Memorandum of Law and Authorities* that is being filed as a "Verified Pleading". *Pentecost v. Harward*, 699 P.2d 696 (Utah 1985) (holding that a verified pleading that meets the requirements of Rule 56(e) can be considered the equivalent of an affidavit); *cf. Willis v. Lauridson*, 118 P. 530 (Cal. 1911) (holding that when seeking an injunction, a verified pleading is equivalent to an affidavit); *Golden Canal Co. v. Bright*, 6 P. 142 (Colo. 1884) (holding that under mandamus statute, a verified petition was equivalent to an affidavit).
2. As will be explained in the accompanying Legal Memorandum, the Court's decision was not only based on errors of fact and law, it was also based on biasness, partiality, Fraud upon the Court, violations of South Carolina's Rules of Civil Procedure, the Due Process Clauses in South Carolina's and the U. S. Constitution and attorneys lying on the Defendant during the TRO/Stay.

In addition to 42 U.S.C. § 1983, I also want Judge Goodstein's recusal from this case pursuant to 28 U.S.C. § 455(a).

3. Judge Goodstein's Partial Summary Judgment Order and Wells Fargo's Order of Reference violate South Carolina's well founded policy of law... "[t]hat no person be permitted to acquire a right of action from their own unlawful act and one who participates in an unlawful act cannot recover damages for the consequence of that act." 86 C.J.S. Torts § 12 (1954) The key words are: "one who participates in an unlawful act cannot recover damages for the consequences of that act." Wells Fargo has participated in unlawful acts.

4. "[T]his rule applies at both law and in equity and whether the cause of action is in contract or in tort." {See 1A C.J.S. Actions § 29 (1985) & Graham v. Graham, 276 S.C. 341, 278 S.E.2d 345 (1981); Nelson v. Bryant, 265 S.C. 558, 220 S.E.2d 647 (1975); Roundtree v. Ingle, 94 S.C. 231, 77 S.E. 931 (1913); Restatement (Second) of Torts § 774 (1977) and Jackson v. Bi-Lo Stores, Inc., 313 S.C. at 276, 437 S.E. 2d at 170.}

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7. There is no alleged violation of the *Uniform Recognition of Acknowledgements Act*. Contracts, agreements, mortgages and/or notes obtained in violation of a State and/or Federal Law cannot be enforced. False Certification prohibits any Equity action under *Sections 26-1-95, 30-5-30, 30-5-40 & 26-3-40 to 26-3-70*. It is documented as [WF00097] and it is verifiable to the highest standard. Stephanie Hammond was never in my presence before, during or after.

8. Judge Goodstein's Partial Summary Judgment Order and Wells Fargo's Order of Reference disregard the **Massive Filing Fraud** of Burns and/or Moise during the TRO/Stay. Extrinsic fraud, and/or Intrinsic Fraud by Officers of the Court, when proven by clear and convincing evidence can set aside a judgment; as well as recuse a Judge that has demonstrated biasness, partiality, a willingness to suppress evidence and/or has violated the due process clause.

9. The Judge's Partial Summary Judgment Order and the Plaintiff's Order of Reference are inconsistent with *FDIC Policy Statement 5000* that mandates fraudulent loans be charged off within 90 days of discovery. Wells Fargo has known about this loan since December 22, 2007. Attorneys Burns and Moise and Judge Goodstein have not filed any documents in this action that authorizes Judge Goodstein, attorneys Burns and/or Moise to create new policies for the FDIC. My loan is fraudulent as defined by *Blacks Law Dictionary* (Rev. 4th ed., 1968), pg 789.

"[B]ased on fraud; proceeding from or characterized by fraud; tainted by fraud; done, made, or effected with a purpose or design to carry out a fraud. For "False and Fraudulent" and "False or Fraudulent Claim,"

Blacks Law Dictionary (Rev. 4th ed., 1968), pgs 788-789 defines **Fraud** in pertinent parts as.. "[A]n intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury.. ... Any kind of artifice employed by one person to deceive another.... A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated." And includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech

10. Judge Goodstein's Partial Summary Judgment Order and the Plaintiff's Order of Reference are inconsistent with the Legal Doctrine of In Pari Delicto; "[t]he principle that a plaintiff who has participated in wrongdoing may not recover damages resulting from the wrongdoing." [the key word is **participate**] Wells Fargo is barred from recovery.

11. Judge Goodstein's Partial Summary Judgment Order and the Plaintiff's Order of Reference are inconsistent with the Rule of Law; "Just because you did not know the vehicle was stolen, does not change the fact..the vehicle you purchased is stolen." Wells Fargo claims it did not know, when in fact, the evidence shows Wells Fargo not only knew, but actively participated. Someone ordered the second appraisal – [WF00001-WF00013] and it wasn't Dorothy Sistrunk. Wells Fargo has presented no evidence relative to the second appraisal.

12. Wells Fargo's underwriters knew the loan was dead unless Dorothy Sistrunk appeared as the borrower on the appraisal. The appraisal I received from Golden Gate Mortgage on January 12, 2008 and from Wells Fargo on February 5, 2008 had [Jacobs] as the borrower and [Sistrunk] as the property owner on October 8th, 2007. [WF00014-WF00026] The [WF00001-13] Appraisal came from Wells Fargo..... not David Terrell / Golden Gate Mortgage.

13. It is not within a trial Judge's "sound discretion" to:

- (a) Fabricate evidence or suppress judicial and evidentiary admissions that are not favorable to Wells Fargo See Verified Pleadings & Attached Exhibits 255 & 329
- (b) Falsify testimony or allow false testimony and misrepresentations, From Burns, Calub, Moise, Hodgson, Galloway & Judge Goodstein
- (c) Deny me "Due Process of Law", 5th & 14th Amendments, SC Art. I, § 3 & § 14 - These are Also Civil Rights Violations Pursuant to 42 USC § 1983
- (d) Ignore South Carolina's Supreme Court Mandates, i.e., #2009-05-22-01
- (e) Encourage Fraud upon the Court by Officers of the Court, The Massive Filing Fraud of Burns & Moise & Misrepresentations in Filed Arguments
- (f) Ignore South Carolina's Code of Laws, 37-23-40(1)(2), 40-58-30-78, 34-3-110, 26-1-95, 26-3-40 & 30-5-30
- (g) Encourage misrepresentation of material facts Burns, Calub, Moise & Hodgson
- (h) Deny my Constitutionally protected rights, Trial by Jury Demand - Ignored - See Attached Exhibit 341 & Rule 38(d), SCRCF
- (i) Support Fraud upon the Court by attorneys, Hodgson's False/Scam Affidavit & Burns & Moise's Massive Filing Fraud
- (j) Not schedule hearings for me that might be detrimental to Wells Fargo, See Court's Public Index Record to Verify no Hearings Scheduled.
- (k) Mistreat me because I am a self represented litigant / or not "White", Threaten Contempt of Court & Denied Due Process by Silencing Witness
- (l) Encourage unjust enrichment based on false information and accusations, See Attached Exhibits WF00120 & WF00125
- (m) Suppress evidence and/or admissions that supports me, Verified Pleadings Sworn Statements of Fact were Never Used to Obtain Evidence.
- (n) Misrepresent material facts, that support my defense, Attached Exhibits 255 & 329, Deposition Could not be Used Against the Me Without Notice
- (o) Not read my Verified Pleadings or any pleading I filed, See Exhibit 329
- (p) Ignore my filed and uncontested affidavits, See Hearing Transcripts
- (q) Suppress any testimony that is detrimental to Wells Fargo, Not Allowing the Witness to Speak in 3 Hearings - See Hearing Transcripts for Verification
- (r) Strike my counterclaims without notice, explanation or reason, See Exhibit 329
- (s) Refuse any evidence that is detrimental to Wells Fargo, See Verified Pleadings
- (t) Sign Court Orders based on an ABSOLUTE LIE. See Exhibit 255
- (u) Violate South Carolina's Rules of Civil Procedure, See 30(b)(2), 32(b), 38(a)-(d), 56(e)-(c) & Filed Opposition to Amanda Weatherly's Affidavit
- (v) Engage in Dishonesty by omitting material facts that are detrimental to Wells Fargo, i.e., The Fraudulent Representations of the Broker, Appraiser, Janet Frotscher, Wells Fargo & the Unlicensed Seller
- (w) Encourage Banks to profit by violating South Carolina law, § 36-3-305(ii)-(iii)
- (x) Be partial and biased in favor of Wells Fargo by overlooking indiscretions & violations, WF00066-73 & Producing Documents Wells Fargo Already Had
- (y) Ignore his/her oath of office...and/or.. See Exhibit 303 That Unfairly Limited My Requests for Admissions to Determine the Truth and the Facts
- (z) Ignore judicial cannons and rules in order to benefit opposing counsel or Wells Fargo. See Exhibits 255, 329, WF00001-38 & 15 USC § 1681n(a)

13. For the above stated reasons in paragraphs 3-12 including subparts, and more, I respectfully requests; after reviewing the evidence and the supporting precedents, grant my request to vacate the Partial Summary Judgment Order. Wells Fargo's Order of Reference and the order approving it must be rescinded. They are without merit. Based upon the facts and the law, the Plaintiff's Complaint should have been Dismissed with Prejudice in accordance with my *Rule 41(b) Dismissal with Prejudice that was filed on August 15, 2012*. No hearing has ever been scheduled and the statement of facts have never been controverted pursuant to *Rule 56(e), SCRCF*.

14. *Rule 60(b), SCRCF* specifically states the following in pertinent parts...

"On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud, misrepresentation, or other misconduct of an adverse party;....."

"The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken...."

"This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court."

"Fraud upon the court is committed when a representative of the court – mediators, evaluators, administrators, special appointees, lawyers, judges, referees or guardian ad litem, fraudulently present facts to the court that interfere with a just and equitable decision making process. This is an extremely serious crime, and so in dire opposition to the definition of justice that this crime is not subject to any statute of limitations." {*SEO Law Firm, Tampa, FL*}

Respectfully Submitted;

Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115
Ph: 803-268-0716 Fx: 803-534-6727

NOTIFICATION

A copy of my *Notice of Motion and Motion to Vacate Judgment Pursuant to Rule 60(b), SCRCF for Extrinsic Fraud Upon the Court by Officers of the Court in Conjunction with U.S.C. §455(a) & 42 U.S.C. § 1983* that has been filed with the Clerk of Court will be mailed to others not listed; Re: Possible Civil Rights Violations pursuant to 42 U.S.C. § 1983 and to the following:

Nelson Mullins Riley & Scarborough, LLP

Elizabeth Scott Moise
SC Bar No. 012945
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401 -2239
(803) 853-5200

James H. Burns
SC Bar No. 70313
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

The Judges Affiliated with this Case,
The NAACP, CORE, Columbia Urban League, SCLC, Congressional Black Caucus,
American Civil Liberties Union,
American Center for Law and Justice,
Commission on Judicial Conduct,
Commission on Lawyer Conduct,
The United States Justice Department & Others to be Determined.

Signature: Dorothy D. Smith Date: 5/28/2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Wells Fargo Bank, N.A.,	)	Civil Action Case No. 2008-CP-38-1024
	)	
Plaintiff,	)	NOTICE OF MOTION AND MOTION
	)	FOR A NEW TRIAL WITH A JURY
Vs.	)	PURSUANT TO RULES 38(a)-(d), 59(a)(2)
	)	& 60(b)(1), SCRPC FOR EXTRINSIC
	)	FRAUD UPON THE COURT BY
Dorothy Sistrunk;	)	OFFICERS OF THE COURT IN
	)	CONJUNCTION WITH 28 U.S.C. § 455 &
Defendant,	)	42 U.S.C. § 1983.
	)	TODAY'S DATE: JUNE 9, 2014

Comes now the Defendant, Dorothy Sistrunk, to file a *Notice of Motion and Motion for a New Trial Pursuant to Rules 38(a)-(d), 59(a)(2) & 60(b)(1), SCRPC for Extrinsic Fraud Upon the Court by Officers of the Court in Conjunction with 28 U.S.C. § 455 & 42 U.S.C. § 1983.* Because of the constitutional violations, this case may have evolved into a civil rights matter.

DEFENDANT'S NOTICE OF MOTION AND MOTION FOR A NEW TRIAL

1. Defendant, Dorothy Sistrunk, respectfully moves the Court pursuant to *Rule 59(a)(2) & 60(b)(1), SCRPC* for a New Trial due in part to Extrinsic Fraud Upon the Court by Officers of the Court. In support of this motion, I will rely heavily on the accompanying *Legal Memorandum of Law and Authorities* that is being filed as a **"Verified Pleading"**. *Pentecost v. Harward*, 699 P.2d 696 (Utah 1985) (holding that a verified pleading that meets the requirements of Rule 56(e) can be considered the equivalent of an affidavit); cf. *Willis v. Lauridson*, 118 P. 530 (Cal. 1911) (holding that when seeking an injunction, a verified pleading is equivalent to an affidavit); *Golden Canal Co. v. Bright*, 6 P. 142 (Colo. 1884) (holding that under mandamus statute, a verified petition was equivalent to an affidavit).

2. As will be explained in the accompanying Legal Memorandum, the Court's decision was not only based on errors of fact and law, it was also based on biasness, partiality, Fraud upon the Court, violations of South Carolina's Rules of Civil Procedure, the Due Process Clauses in South Carolina's and the U. S. Constitution and attorneys lying on me during the TRO/Stay. In addi-

tion to 42 U.S.C. § 1983, I also want Judge Goodstein's recusal from this case pursuant to 28 U.S.C. § 455(a).

3. Judge Goodstein's Partial Summary Judgment Order and Wells Fargo's Order of Reference violate South Carolina's well founded policy of law... "[t]hat no person be permitted to acquire a right of action from their own unlawful act and one who participates in an unlawful act cannot recover damages for the consequence of that act." 86 C.J.S. Torts § 12 (1954) The key words are: "one who participates in an unlawful act cannot recover damages for the consequences of that act." Wells Fargo has participated in unlawful acts.

4. "[T]his rule applies at both law and in equity and whether the cause of action is in contract or in tort." {See 1A C.J.S. Actions § 29 (1985) & Graham v. Graham, 276 S.C. 341, 278 S.E.2d 345 (1981); Nelson v. Bryant, 265 S.C. 558, 220 S.E.2d 647 (1975); Roundtree v. Ingle, 94 S.C. 231, 77 S.E. 931 (1913); Restatement (Second) of Torts § 774 (1977) and Jackson v. Bi-Lo Stores, Inc., 313 S.C. at 276, 437 S.E. 2d at 170.}

5. Judge Goodstein's Partial Summary Judgment Order and Wells Fargo's Order of Reference violate the illegality doctrine that is recognized by the United States Supreme Court in McMullen v. Hoffman, 174 U.S. 639, 19 S.Ct. 839, 43 L.Ed. 1117 (1899), holding that "[i]llegality is a defense to a contract action: The authorities from the earliest time to the present unanimously hold that no court will lend its assistance in any way towards carrying out the terms of an illegal contract. In case any action is brought which it is necessary to prove the illegal contract in order to maintain the action, courts will not enforce it, nor will they enforce any alleged rights directly springing from such contract. *Id.* at 654, 19 S.Ct. at 845.} The key words are: "In case any action is brought which it is necessary to prove the illegal contract in order to maintain the action, courts will not enforce it, nor will they enforce any alleged rights directly springing from such contract."

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9. The Judge's Partial Summary Judgment Order and the Plaintiff's Order of Reference are inconsistent with *FDIC Policy Statement 5000* that mandates fraudulent loans be charged off within 90 days of discovery. Wells Fargo has known about this loan since December 22, 2007. Attorneys Burns and Moise and Judge Goodstein have not filed any documents in this action that authorizes Judge Goodstein, attorneys Burns and/or Moise to create new policies for the FDIC. My loan is fraudulent as defined by *Blacks Law Dictionary* (Rev. 4th ed., 1968), pg 789.

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- (b) Falsify testimony or allow false testimony and misrepresentations, From Burns, Calub, Moise, Hodgson, Galloway & Judge Goodstein
- (c) Deny me "Due Process of Law", 5th & 14th Amendments, SC Art. I, § 3 & § 14 - These are Also Civil Rights Violations Pursuant to 42 USC § 1983
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- (j) Not schedule hearings for me that might be detrimental to Wells Fargo, See Court's Public Index Record to Verify no Hearings Scheduled.
- (k) Mistreat me because I am a self represented litigant / or not "White", Threaten Contempt of Court & Denied Due Process by Silencing Witness
- (l) Encourage unjust enrichment based on false information and accusations, See Attached Exhibits WF00120 & WF00125
- (m) Suppress evidence and/or admissions that supports me, Verified Pleadings Sworn Statements of Fact were Never Used to Obtain Evidence.
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- (x) Be partial and biased in favor of Wells Fargo by overlooking indiscretions & violations, WF00066-73 & Producing Documents Wells Fargo Already Had
- (y) Ignore his/her oath of office...and/or.. See Exhibit 303 That Unfairly Limited My Requests for Admissions to Determine the Truth and the Facts
- (z) Ignore judicial cannons and rules in order to benefit opposing counsel or Wells Fargo. See Exhibits 255, 329, WF00001-38 & 15 USC § 1681n(a)

14. For the above stated reasons in paragraphs 3-12 including subparts, and more, I respectfully requests; after reviewing the evidence and the supporting precedents, grant my request to vacate the Partial Summary Judgment Order. Wells Fargo's Order of Reference and the order approving it must be rescinded. They are without merit. Based upon the facts and the law, the Plaintiff's Complaint should have been Dismissed with Prejudice in accordance with my *Rule 41(b) Dismissal with Prejudice that was filed on August 15, 2012*. No hearing has ever been scheduled and the statement of facts have never been controverted pursuant to *Rule 56(e)*, *SCRCP*.

ACTING ON AN ASSUMPTION NOT BASED OF FACTS

15. This motion may be late because I am a Pro Se litigant and I am filing this motion based on an assumption that is not necessarily based on facts. I have no idea what Judge Goodstein was conducting over the past 6 years - hearings without witnesses, trials without a jury - who knows. After weeks of research, I still cannot find any appeal that is based on a hearing. They all seemed to be based on a trial, either with or without a jury. Therefore, I am assuming Judge Goodstein at some point conducted a trial without a jury. If this is the case, then I am filing my motion pursuant to *Rules 59(a)(2) & 60(b)(1)*, *SCRCP* that clearly states in pertinent parts;

(a) "[i]n an action tried without a jury, for any of the reasons for which rehearings have heretofore been granted in the courts of the State. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment. (b) In non-jury actions the motion shall be made not later than 10 days after the receipt of written notice of the entry of judgment or of the filing of an order disposing of the action, if no judgment has been entered."

(b) *Rule 60(b)*, *SCRCP* specifically states the following in pertinent parts.. "[O]n motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud, misrepresentation, or other misconduct of an adverse party;....."

"The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken...."
"This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court."

(c) "Fraud upon the court is committed when a representative of the court – mediators, evaluators, administrators, special appointees, lawyers, judges, referees or guardian ad litem, fraudulently present facts to the court that interfere with a just and equitable decision making process. This is an extremely serious crime, and so in dire opposition to the definition of justice that this crime is not subject to any statute of limitations." {SEO Law Firm, Tampa, FL.}

Respectfully Submitted;

Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115
Ph: 803-268-0716 Fx: 803-534-6727

NOTIFICATION

A copy of my *Notice of Motion and Motion for a New Trial Pursuant to Rule 59(a)(2) & 60(b)(1), SCRPC for Extrinsic Fraud Upon the Court by Officers of the Court in Conjunction with 28 U.S.C. § 455 & 42 U.S.C. § 198*, that has been filed with the Clerk of Court will be mailed to others not listed; Re: Possible Civil Rights Violations pursuant to 42 U.S.C. § 1983 and to the following:

Nelson Mullins Riley & Scarborough, LLP

Elizabeth Scott Moise
SC Bar No. 012945
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401 -2239
(803) 853-5200

James H. Burns
SC Bar No. 70313
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Rogers Townsend, PC
Jason D. Wyman
POB 100200
Columbia, SC 29202
(803) 771-7900

The Judges affiliated with this case:

Signature: _____

Dorothy Sistrunk

Date: _____

6/19/2014

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Wells Fargo Bank, NA,

Civil Action No. 2008-CP-38-1024

Plaintiff,

vs.

Dorothy Sistrunk,

Defendants.

**AFFIDAVIT OF
WELLS FARGO BANK, N.A.**

FILED FOR RECORD
WINNIE B. CLARK
CLERK OF COURT
ORANGEBURG
MAY 18 4 12

PERSONALLY appeared before me Elizabeth S. Hodgson, who, being duly sworn, says that:

1. I am a(n) Senior Counsel with Wells Fargo Bank, NA (hereinafter "Plaintiff") and am familiar with the loan and mortgage that is the subject of the above-referenced foreclosure action.

2. The loan that is subject to Plaintiff's above-referenced action is subject to and possibly eligible for modification under Home Affordable Modification Program (HMP).

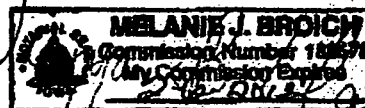
By: Elizabeth S. Hodgson
Its: Senior Counsel

SWORN to and subscribed before me

this 5th day of May, 2009

Melanie J. Broich (L.S.)

ATTEST: TRUE COPY



CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

Exhibit 235

STATE OF SOUTH CAROLINA

THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

DOCKET NO

Wells Fargo Bank, N. A.

2008-CP-38-1024

Plaintiff,

**RESPONSE TO PLAINTIFF'S
AFFIDAVIT**

v.

Dorothy Sistrunk;

Defendant(s).

Comes now the Defendant Dorothy Sistrunk to respond to the PLAINTIFF'S
AFFIDAVIT.

TO: PLAINTIFF WELLS FARGO BANK, N.A.

1. **Response to paragraph 1:** Elizabeth S. Hodgson states in her affidavit that she is a Senior Counsel with Wells Fargo Bank, NA (hereinafter "Plaintiff") and am familiar with the loan and mortgage that is the subject of the above-referenced foreclosure action. The Senior Counsel, Elizabeth S. Hodgson, has not and did not notify the Defendant that she was filing an affidavit with the Court relative to this case.

2. **Response to paragraph 2:** Elizabeth S. Hodgson states in her filed affidavit the loan that is subject to the Plaintiff's above-referenced action is subject to and possibly eligible for modification under Home Affordable Modification Program (HMP). The Senior Counsel with Wells Fargo Bank, NA (hereinafter "Plaintiff") is endeavoring to mislead the Court. At no time, prior to Wells Fargo's foreclosure action or during this

Wingia B. Clark
-1-
CLERK OF COURT
ORANGEBURG COUNTY, SOUTH CAROLINA

Exhibit 266

entire foreclosure proceeding, has the Plaintiff, the Senior Counsel for the Plaintiff, or Nelson Mullins Riley & Scarborough, LLP informed the Defendant about the Home Affordable Modification Program (HMP).

3. To further illustrate the deception of the Senior Counsel for the Plaintiff, if she were indeed familiar with the loan and mortgage that is the subject of the Plaintiff's foreclosure action, Elizabeth S. Hodgson would have and should have known, a loan suspected of being obtained by fraudulent means cannot be modified under any existing Wells Fargo Program. Loan 708-0174072777 cannot be modified because Wells Fargo's own Loss Mitigation Department, SUSPECTS THE LOAN WAS APPROVED BECAUSE OF FRAUD.

The Defendant refers the Court to Exhibit 39, page 2, paragraph 3, dated May 8, 2008 to the phone numbers (800) 569-4287 [TDD: (800) 877-8339] and [888-WISE-PLAN for consumer counseling services. This office address was as follows:

Wells Fargo Home Mortgage
Attn: Borrower Counseling Services
MAC X7801-03K
3476 Stateview Blvd.
Fort Mill, South Carolina 29715

The Defendant also refers the Court to Exhibit 61, page 1, paragraphs 1-3, dated June 24, 2008 and the phone number 1-866-488-2028. Wells Fargo's own representatives have stated repeatedly loan 708 – 0174072777 could not be modified because of SUSPECTED FRAUD.

4. Even after the national mortgage crisis began and HOPENOW was created, of which Wells Fargo is a member bank, representatives have repeatedly stated loan 708 – 0174072777 could not be modified under the HOPENOW program because of SUSPECTED FRAUD. The Defendant refers the Court to the phone numbers on Exhibits 27 & 28, dated June 16, 2008 and July 23, 2008 respectively.

All it takes to verify the Defendant's statements is to call the numbers listed or ask Wells Fargo's Loss Mitigation Department can a mortgage suspected of being obtained by fraud be modified under any existing Wells Fargo program?

5. As stated on pages 1-2, paragraph 2, Wells Fargo, nor Wells Fargo's lawyers have mentioned this Home Affordable Modification Program (HMP) prior to this affidavit. What this affidavit does is give the Court a false impression that the Defendant was notified or knew of this program and failed to act. This of course is not true. Therefore, the Defendant will Motion to have this affidavit stricken from the Court records under a separate filing.

NOTIFICATION

A copy of the RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES filed with the Clerk of Court will be mailed to the Plaintiff's Attorneys

Nelson Mullins Riley & Scarborough LLP @
1320 Main Street / 17th Floor / Columbia, SC 29201
POB 11070 / Columbia, SC 29211-1070
Tel: 803-799-2000 / Fax: 803-256-7500

Note: Any attorney, the entire staff or all the attorneys at Nelson Mullins Riley & Scarborough are free to inspect the property to verify all statements of fact concerning the property are true. They are free to drop in, stop by or drive by at anytime unannounced without calling ahead between the hours of 9 a.m. to 6 p.m. – Monday – Sunday or as long as there is sufficient daylight. They are free to bring their own appraisers, contractors and/or experts for additional factual verification if they desire to do so. This invitation also holds true for the Plaintiff and the Plaintiff's authorized officers, managers, staff, JFERT, or any authorized personnel. For safety reasons please do not send anyone that weighs more than 250 pounds because the floors are weak.

IN WITNESS WHEREOF, The undersigned has signed and sealed these attestations this 26th day of May in the year 2009 in City of Orangeburg, State of South Carolina.

Signed, sealed and delivered in the presence of:

Print Name: Dorothy Sistrunk

Signature: Dorothy Sistrunk

Notary Witness (1): Raul Sula
(Signature)

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

On 26th of May before me appeared Dorothy Sistrunk and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument presents this document. **WITNESS** my hand and official seal.

Notary Raul Sula
(Signature)

Notary Public South Carolina
My Commission Expires: July 17, 2013

Commission Expires _____

(Seal)

Exhibit 266

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Wells Fargo Bank, N. A.)

Plaintiff,)

Vs.)

Dorothy Sistrunk;

Exhibit 245

Defendant.)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Civil Action No. 2008-CP-38-1024

AFFIDAVIT OF
GEORGE M. SISTRUNK
BACKGROUND AND
THE SIGNED BROKER'S AGREEMENT

2011 AUG 11
FILED FOR RECORD
WINNIE CLARK
CLERK OF COURT
ORANGEBURG, SC
A 11:38

PERSONALLY, appeared before me Willie C. Harley, in the STATE OF SOUTH CAROLINA in the COUNTY OF ORANGEBURG and presented to me an acceptable picture identification in the form of a South Carolina driver's license with the number 008400216, being of full age, on his oath, being *SWORN*, and under the Penalty of Perjury, deposes and says the following:

1. I, George M. Sistrunk, was residing at 5074 Coburg Lane, in White Pines subdivision, a small community about 8 miles outside of the City of Orangeburg, in the County of Orangeburg, along with Dorothy Sistrunk and our son, George Alexander Sistrunk when we received a notice from the Postal Service on Friday, September 14, 2007 informing us that a Certified Letter had arrived from our landlord Tommy Mitchell. On Saturday September 15, 2007, I went to the post office in Orangeburg, South Carolina to sign for and get the letter.

SWORN to and subscribed before me;

Print Name

This 13 day of Aug. 2011

Signature

Willie C. Harley

George M. Sistrunk
George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

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Exhibit 245

TRUE COPY
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Exhibit 245

Opening the letter, we discovered we had a 30-day notice to move. We had to be out of 5074 Coburg Lane by October 8, 2007. Since we had to move on such short notice, I began looking for an apartment or house to rent on the same day, Saturday, September 15, 2007.

2. During the week of September 17, 2007, I got a copy of the Times and Democrat newspaper and began calling the phone numbers in the classified ad section under apartments to rent and houses to rent. If no one answered, I left a message to call me back. In addition to working the phones, I also passed out flyers to local churches to help me find a place for my family to stay. Sometimes around Wednesday or Thursday during the same week, I received a call from a man that identified himself as Thomas Jacobs.

3. Thomas Jacobs told me he had several houses for lease or sale in the Orangeburg area that I could lease if I were willing to fix one of them up. I told him I would be glad to look at his houses. Because, we lived in White Pines Subdivision, I asked Thomas Jacobs to meet me at the Huddle House Restaurant on Calhoun Drive. He agreed to the meeting place, so we decided to meet on Monday, September 24, 2007 at 10:00 a.m.

4. On Monday, September 24, 2007, I arrived at the Huddle House Restaurant around 9:45 a.m. My long time friend Earl was there, so I sat with him, ordered coffee and waited for Thomas Jacobs. I told Earl about Coburg Lane and meeting Thomas Jacobs. Thomas Jacobs arrived around 11:00 a.m. in a 2006 or 2007 Black Cadillac with a friend of his that stayed in the car. I introduced Thomas to Earl and Earl to Thomas. Earl had to leave, so Thomas Jacobs and I were alone. He apologized for being late. I offered to buy him coffee or a glass of ice tea, but he declined. He seemed to be in a hurry. Thomas Jacobs is a male, Caucasian, about 5' 9" tall. At that time, he weighed around 190 to 200 pounds, had black slightly thinning hair, brown eyes and regular features. He had on short pants, a polo type shirt and he had on socks with athletic shoes.

5. During our brief conversation in the Huddle House, I revealed to Thomas Jacobs that our landlord, Tommy Mitchell, wanted us out his house by October 8, 2007.

SWORN to and subscribed before me;

Print Name

This 13 day of Aug. 2011

Signature

William Clay Parker

George M. Sistrunk
George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

To me, Thomas Jacobs was a busy man because his cell phone never seemed to stop ringing. He asked me to follow him to the houses he had available. Out of the four houses I saw, I knew the former occupants of three. After leaving R.C. Gamble's former home on Goff Avenue, we arrived at 423 Bayne Street, the former home of Pastor-Evangelist Bond Ceal Dantzler. After walking around inside for a few minutes, I told Thomas Jacobs, this is the house. We entered into a verbal agreement that I would cleanup the house for a reasonable monthly rent. Thomas Jacobs accepted the terms and left.

6. I did not tell my family about the house right away because it was a mess. Trash and garbage and dirt and filth were in every room. The cabinet doors were unhinged, windows, doors and ceilings were busted, no light fixtures, the walls upstairs were warped, the floors were weak, there was major termite and water damage, mold and mildew and human feces was in the commodes. In addition, the house was infested with rats, roaches and spiders. However, I was confident I could make it livable. My objectives at Bayne Street were to clean it, secure it, get rid of the rats, roaches and spiders and make enough temporary repairs so we could move into it and live in it.

7. Since Dorothy was working the 6 - 2 shift at the Wolfe House, I took our son to school at Carver Middle, drove to Bayne Street and started working on the house. This was Tuesday, September 25, 2007. During the first week, I worked in the house everyday from 8:00 a.m. to 1:00 p.m. I didn't tell Dorothy officially about the house until Monday, October 8, 2007. I told her the house was in terrible condition inside, but I could fix it up. She didn't pay much attention to my remarks because our son was not feeling well, so she was focused on him and so was I.

8. On Monday, October 1, 2007, Dorothy had to rush George Alexander to The Regional Medical Center in Orangeburg, South Carolina because of a severe respiratory infection. The infection was so bad, it required 24 hour care.

SWORN to and subscribed before me;

This 13 day of Aug. 2011

Willie Clay Hasty

Print Name

George M. Sistrunk

Signature

George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

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ORANGEBURG COUNTY

Exhibit 245

Exhibit 245

Dorothy took a leave of absence from the Wolfe House in order to be with him at TRMC.

Dorothy called me at Coburg Lane and gave me an update on George's condition. I have to say Coburg Lane because it was no longer our home. I told her I would come by the hospital later. I still had to get boxes and other supplies in order to pack up our belongings. As previously stated, we had to be out the house by October 8, 2007.

9. While out looking for boxes, I decided to go by 423 Bayne Street, to determine how to speed up fixing and repairing the house. Shortly after I pulled into the driveway, our neighbor across the street was pulling into her driveway. Later, I discovered she is a registered nurse. I had seen huge green trash bins with wheels in everyone's yard and I was curious as to what kind of trash I could put in one. If I could put wood, glass, ceiling tile, wall board as well as the usual garbage it would speed Bayne Street's cleanup considerably. I hailed her and asked her what kind of trash can I put in these green trash bins? She told me any kind of trash that comes out the house. She also told me garbage is collected on Mondays. I thanked her and she went inside. That tiny bit of information from my neighbor made the cleanup at Bayne Street possible in a relatively short period of time. Before this discovery, I spent several days just piling trash in corners.

10. Since there was a big green trash bin at 423 Bayne, I could pull it inside and put the assorted garbage and trash into it. I could easily roll it from room to room and when it was full, roll it outside for dumping on Mondays. Shortly after 3:00 p.m., Thomas Jacobs arrived and asked me how things were going. I told him about my son's illness and how I had discovered a faster way to cleanup the house. At this time, Thomas Jacobs told me he had prepared a lease. I said great. When I saw the beginning date on the lease was October 9, 2007, I told him I could not sign it because the house would not be livable on that date. I told him, since I was working alone; it would take me another 6 to 8 weeks to cleanup the house to live in. At the rate I was going, I was looking at the middle of November to early December.

SWORN to and subscribed before me;

This 13 day of Aug 2011

William Clay Hamey

Print Name

George M. Sistrunk

Signature

George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

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CLERK OF
COBURG COUNTY

Exhibit 245

Exhibit 245

11. When Thomas Jacobs heard this; he suggested I buy the property. I told Thomas Jacobs I would not qualify for a loan. It had been quite awhile since I had steady employment. Plus, I had a severe groin injury that had limited my mobility for over 10 years, the injury was not severe enough for disability income or SSI and I just had an operation in June of 2007 and was still basically under a doctor's care.

12. I told Thomas Jacobs my wife, Dorothy might qualify. I gave him some basic information about my wife Dorothy's work history, income and how long we resided at 5074 Coburg Lane. Thomas Jacobs gave me his cell phone number, office phone number and fax number and told me to have Dorothy call his assistant at his office at 532 Knox Abbott Dr., Suite 3, in Cayce, SC 29033 and complete an application over the phone. Thomas Jacobs gave me some additional contact phone numbers and told me, based on the information I had given him, he was confident he could get Dorothy approved for a loan. Thomas Jacobs also told me if Dorothy were approved, he would get his contractor, Mr. Lambright to do major repairs at 423 Bayne Street including new windows, walls, floors, ceilings, floor coverings, fixtures, appliances and painting. Shortly after saying that, Thomas Jacobs left.

13. On the same night Monday, October 1, 2007 at approximately 7:30 p.m., I arrived at The Regional Medical Center to see my wife and son. I told Dorothy, Thomas Jacobs had brought me a Lease Agreement to sign, but I would not sign it because of the date. The house would not be ready to live in by October 9, 2007, because there was still too much work to do. I told her Thomas Jacobs offered to sell us the house if she qualified for a loan. I told her all she had to do to begin the process is call Thomas's office in Cayce, South Carolina. I gave her the phone number to Thomas's assistant and told her Thomas's assistant would complete the application over the phone. Dorothy did not know at the time that the unsigned lease was for 423 Bayne Street or that the loan she would be applying for was for 423 Bayne Street. She didn't realize at the time that Bayne Street was the same house I told her I had found that just needed fixing up.

SWORN to and subscribed before me;

This 13 day of Aug. 2011

Willie Clay Paul

Print Name

George M. Sistrunk

Signature

George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

14. I also told Dorothy if she were approved, Thomas Jacobs said he would get his contractor, Mr. Lambright, to do major repairs including new windows, walls, floors, ceilings, fixtures, floor covering, appliances and painting. Dorothy said she would call. Since George Alexander was sleep, I told Dorothy, I was going back home to pack up more of our stuff. I left the hospital around 10:30 p.m.

15. The next day, Tuesday, October 2, 2007, Dorothy called around 2:30 p.m. and told me how "G" was doing, (we also call our son "G"). During the call, she told me she had called Thomas's assistant and completed an application over the phone. She also gave me a toll free number to another person that was leasing houses in the Orangeburg area that she had seen in the paper. I told her I would check it out, and I did. It was a toll free number to Thomas's office in Cayce. The following day, Tommy Mitchell called to let us know a realtor was coming by to pickup the keys and asked us to stay on until the realtor came. That was the last time we heard from Tommy Mitchell.

16. During this time, Dorothy was staying at TRMC with our son, while I was at Coburg Lane packing and at Bayne Street cleaning up. On Sunday, October 7, 2007, George Alexander's condition worsened. TRMC transferred him to Palmetto Health, formerly Richland Memorial Hospital, in Columbia, South Carolina. Dorothy went with him by ambulance. Later that night, I called Dorothy to check on "G"'s condition. While on the phone, I told her I would stay at Coburg Lane and finish packing. When Tommy Mitchell's realtor came for the keys, I would ask for additional time to move out our belongings.

17. During this time I was packing in one location and cleaning up in another. On Monday, October 8, 2007, I got up early and put a note on the front and back door for Tommy Mitchell's realtor to meet me at 423 Bayne Street. I arrived at Bayne Street a few minutes before 6:00 a.m., and worked in the house until a little after 10:00 p.m.

SWORN to and subscribed before me;

This 13 day of Aug 2011

Willie Harvey

Print Name

George M. Sistrunk

Signature

George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

Electricity was provided by Lee Orr, a man I had recently met, that lived next door. No one came to 423 Bayne Street on this day to do an appraisal. This was also the day I stopped looking for another place to rent. We had looked for a place to stay from 09/15/2007 – 10/08/2007.

18. On Tuesday, October 9, 2007, no one came to 423 Bayne Street to do an appraisal. I was working there from approximately 5:45 a.m., until 10:30 p.m. After leaving Bayne Street and arriving at Coburg Lane, I called Dorothy to check on "G". Dorothy told me "G's" condition had improved and they might be going home tomorrow, Wednesday, October 10, 2007. Since Dorothy and "G" were coming home, I decided I might as well tell her about 423 Bayne Street.

19. On Wednesday, October 10, 2007, Dorothy called me and told me they would be leaving Palmetto Health around 1:00 p.m. I left Orangeburg around 11:30 p.m., and arrived at Palmetto Health at approximately 12:45 p.m. We did not leave Palmetto Health until a few minutes after 2:00 p.m. because of unexpected delays in obtaining prescriptions from the doctor.

20. After we arrived in Orangeburg, I decided to show Dorothy and "G" all the houses I had seen with Thomas Jacobs starting from first to last. I did this in an effort to help them understand why I selected 423 Bayne Street as our new home. At approximately 5:00 p.m., we arrived at Bayne Street. This was the first time Dorothy and "G" had seen the house. Even though considerable progress had been made, they were not impressed. We walked through the house and around it for about 90 minutes and then went to Walgreens Pharmacy to fill prescriptions.

21. By Thursday, October 11, 2007, Tommy Mitchell's realtor still had not arrived to get the keys to Coburg Lane and work at Bayne Street had slowed considerably. When I told Thomas Jacobs, the house would be livable by the middle of November or early December, I did not know "G" would become ill or Dorothy's work schedule would change to 2 - 10. This schedule change meant I had to pickup "G" from school and stay with him until Dorothy got home.

SWORN to and subscribed before me;

Print Name

George M. Sistrunk

This 13 day of Aug. 2011

Signature

George M. Sistrunk
GEORGE M. SISTRUNK

William Clay Bouff

My Commission Expires on 06-28-2012

22. On Friday, October 12, 2007, at approximately 7:30 a.m., Dorothy and I put notes on the front and back doors for Tommy Mitchell's realtor, took "G" to Carver Middle School, and drove to Bayne Street. At approximately 1:30 p.m., Thomas Jacobs came by unexpectedly. This was the first time Dorothy saw and met Thomas Jacobs.
23. Thomas Jacobs told us Golden Gate Mortgage Company had approved Dorothy's loan and was going to be the lender. Thomas Jacobs also made it a point to let Dorothy know the lender, Golden Gate Mortgage, was also a long time business associate. He told us he would be back in a few days with the paperwork. In the meantime, he was going to send Mr. Lambright over to begin the work of doing major repairs to Bayne Street. Shortly, after this meeting, Thomas Jacobs left. October 12, 2007 is also the day I had everything I needed to cleanup Bayne Street.
24. The cleanup was not as labor intensive with the green trash bin. On Monday, October 15, 2007, Mr. Lambright showed up, stayed for approximately 15 minutes and left. Mr. Lambright told me supplies for the house were at another location. He would get the key and return with the building supplies by Friday, October 19, 2007. Mr. Lambright did not show up on Friday.
25. On Monday, October 22, 2007, Dorothy's schedule changed to 6 - 2. This allowed me to spend more time at Bayne Street doing minor repairs, cleaning the ceilings, walls and carpets. Sometimes during this week, Thomas Jacobs's assistant came to Bayne Street, took some pictures of the house and left. Sometimes during this same week, Mr. Lambright came by. He asked me had his crew stopped by with the building supplies. I told him no. He thanked me, got in his truck and left. April Primrose, a new neighbor, also came by and told me bats were in the rafters..
26. On Tuesday, October 30, 2007 Mr. Lambright came by again, walked around the house for about 15 minutes and told me he still did not have the key to get the building supplies. As soon as he gets the key, I was assured supplies would be brought to Bayne Street and the work would begin. He left shortly after that.

SWORN to and subscribed before me;

This 13 day of Aug. 2011

Willie Clay Hanley

My Commission Expires on Dec 28-2012

Print Name

George M. Sistrunk

Signature

George M. Sistrunk
GEORGE M. SISTRUNK

27. On Thursday, November 1, 2007, Thomas Jacobs came by the house and told me he needed a copy of Dorothy's driver's license, W2 Form and her most recent check stub. Thomas Jacobs also told me we could start moving some of our belongings to the house from Coburg Lane if we wanted to. I thanked him for his kindness and told him Mr. Lambright had been by several times but did not have a key to get the building supplies for Bayne Street. I also told Thomas Jacobs his assistant had stopped by, took some pictures of the house and left. Thomas Jacobs told me he would make sure Mr. Lambright got the supplies to bring to Bayne Street. He also told me, Dorothy could fax the copies he needed to his office.

28. On Friday, November 2, 2007, we rented a U-Haul and began moving our belongings from Coburg Lane to Bayne Street. Tommy Mitchell's realtor still had not shown up to get the keys. Sometimes during the week of November 5, 2007, Mr. Lambright's work crew came to Bayne Street to begin repairs. They waited for Mr. Lambright for about 30 minutes and left. Several days passed, and then, during the week of November 12, 2007, Dorothy faxed her personnel documents to the fax number Thomas Jacobs gave us. On Saturday, November 17, 2007, Tommy Mitchell's realtor (Karen Atkinson) picked up the keys and we officially left Coburg Lane.

29. We changed our phone service to Bayne Street during the same week of November 12, 2007. During the week of November 19, 2007, Thomas Jacobs called and informed me the faxed documents he requested from Dorothy did not turn out well. He also told me that he would get copies when he got to Orangeburg, because he was coming to Orangeburg with the paperwork for the loan on Monday. Monday was November 26, 2007.

30. On Monday, November 26, 2007 Thomas Jacobs arrived at Bayne Street with the paperwork at approximately 12:45 p.m. Dorothy was not there. I told Thomas Jacobs I had called him several times to let him know Dorothy's schedule had changed from 2 - 10 to 6 - 2, but his mailbox was full.

SWORN to and subscribed before me;

This 13 day of Aug. 2011

Willie Clay Bondy

Print Name

George M. Sistrunk

Signature

George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

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31. Since Dorothy wasn't there, we went outside. I told Thomas Jacobs Mr. Lambright had not done any repairs to 423 Bayne Street and the house in its present condition was not worth \$75,000.00. Thomas Jacobs told me that it had appraised for \$90,000.00. I told Thomas Jacobs and these are my exact words: "I don't know what appraiser you're using, but, whoever he is, you need to have that guy checked out. No appraiser worth his weight in salt would appraise this house for more than \$30 - \$35,000.00 and that's stretching it. If you deduct, \$19,000.00 for the land, this house, in its present condition, would not be worth more than \$14-\$15,000.00." I also told him if he did the improvements he promised the house would be worth \$75,000.00.

32. Thomas Jacobs was getting impatient, so I decided to call Dorothy at the Wolfe House to see if she could come home early. I had to pick up "G" from school at 3:30 p.m., so I went inside and called the Wolfe House. Dorothy answered the phone. I asked her could she come home early because Thomas Jacobs was there with the paperwork for the loan. She said she would check and if she could, she would be home as soon as possible.

33. Thomas Jacobs was still standing in the driveway when I returned outside. I told him Dorothy would be home as soon as possible. Then I asked him again. "When are you are you going to lower the price of this house?" Thomas Jacobs replied: "I'll lower the price during the closing." Dorothy arrived at approximately 1:50 p.m. Shortly after going inside, she began completing the paperwork for the loan.

34. Thomas Jacobs told Dorothy that in addition to signing the Golden Gate Mortgage application, she had to complete and sign all the paperwork or Golden Gate Mortgage would not fund the loan. This included the Broker's Agreement from Golden Gate Mortgage, the Attorney/Insurance Preference Checklist, RESPA Servicing Disclosure, Good Faith Estimate, Fair Lending Notice, Disclosure Notice, Credit Authorization, Borrower's Certification & Authorization, Right to Receive Copy of the Appraisal and the Contract of Sale.

SWORN to and subscribed before me;

This 13 day of Aug. 2011

Willie Clay Henry

Print Name

Signature

George M. Sistrunk
George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

CLAY COUNTY, SOUTH CAROLINA
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35. While the Dorothy was signing the paperwork, Thomas Jacobs told her to give him her driver's license, W2 and check stub and he would get copies. By the time Thomas Jacobs returned to 423 Bayne Street, Dorothy had signed the paperwork. He handed Dorothy her driver's license and the remaining documents he had taken to copy. While gathering up the paperwork, Thomas Jacobs told Dorothy not to worry because her loan was being handled by his friends and business associates.

36. Thomas Jacobs was standing in the front doorway of 423 Bayne Street when he was asked again: "When are you going to lower the price of this house?" Thomas Jacobs replied, "During the closing. The price will be lowered during the closing." I told Dorothy the only way we are going to know whether or not Thomas Jacobs is telling the truth, you are going to have to go to the closing.

SUMMARY OF FACTS

A) From 9/24/2007 to 12/21/2007 Thomas Jacobs always represented and presented himself as the property owner.

B) Thomas Jacobs never said, mentioned or inferred Dorothy Sistrunk's loan was going to be brokered.

C) Thomas Jacobs never said, mentioned or inferred that he was a Loan Broker.

D) Thomas Jacobs never said, mentioned or inferred that he was a Loan Originator.

E) Thomas Jacobs never said, mentioned or inferred that Dorothy Sistrunk's loan needed or required a Loan Originator or Broker.

F) There was never a "Building Permit" at 423 Bayne Street, Orangeburg, SC.

G) Thomas Jacobs never said, mentioned or inferred that he needed a "Building Permit" to complete repairs at 423 Bayne Street, Orangeburg, SC.

H) All the work, i.e., exterminating, cleaning and minor repairs that made 423 Bayne Street livable was done by me, working alone from 09/25/2007 to 12/15/2007. Mr. Lambright did nothing nor did Thomas Jacobs.

This concludes George M. Sistrunk's deposition and sworn testimony and Summary of Facts relative to the Background and History of the Signed Broker's Agreement.

SWORN to and subscribed before me;

This 13 day of Aug. 2011

Willie Clay Bailey

Print Name

George M. Sistrunk

Signature

George M. Sistrunk
GEORGE M. SISTRUNK

My Commission Expires on 06-28-2012

CLERK OF COURT

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Exhibit 245

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Wells Fargo Bank, N. A.)

Civil Action No. 2008-CP-38-1024

Plaintiff,)

**DOROTHY SISTRUNK' S
AFFIDAVIT OF FACTS, MATERIAL
FACTS & TRUTH
TO REFUTE ALLEGATIONS BY
WELLS FARGO'S PERSONNEL
& ATTORNEY/S**

Vs.)

Dorothy Sistrunk;)

Defendant.)

May 25, 2012

FILED FOR RECORD
WILLIAM D. CLARK
CLERK OF COURT
ORANGEBURG, SC

2012 MAY 25 PM 4: 07

PERSONALLY, appeared before me Dorothy Sistrunk, in the STATE OF SOUTH CAROLINA, in the COUNTY OF ORANGEBURG, and presented to me an acceptable picture identification in the form of a STATE OF SOUTH CAROLINA driver's license with the number 008190196, being of full age, on her oath, being **DULY SWORN**, and under the **PENALTY OF PERJURY**, deposes and says the following:

MY KNOWLEDGE ABOUT THE PLAINTIFF

1. I, Dorothy Sistrunk, reside at 423 Bayne Street in Orangeburg, South Carolina. I do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that I am without sufficient knowledge and information relative to Wells Fargo Bank, N.A.'s corporate affiliations, business relationships or official designations and/or descriptions legal or otherwise. Therefore, all references to the Plaintiff in this Affidavit will include any and all of Wells Fargo Bank, N.A.'s corporate affiliations, business relationships, designations and/or descriptions legal or otherwise that may be in existence and relative to the Plaintiff's Complaint that was filed in the Court of Common Pleas in 2008. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I have such knowledge relative to Wells Fargo Bank, N.A.'s corporate affiliations, business relationships, designations and/or descriptions legal or otherwise, or puts same in writing or swears before an authorized Administer of Oaths that I

TRUE COPY
Billed
CLERK OF COURT
ORANGEBURG COUNTY, SC

Exhibit 92

have such knowledge, I declare any such person/s to be a liar/s. If any such signed document is ever presented any where at anytime with my name on it and/or signature indicating or stating that I have such knowledge relative to Wells Fargo Bank, N.A.'s corporate affiliations, business relations or official designations and/or descriptions legal or otherwise, I declare any such document to be a forgery by substitution or forgery by any other means, method technique or device known to man and any such statement to be an Absolute Lie..

THE \$75,000.00 LOAN

2. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that the Plaintiff never paid me or gave me \$75,000.00. If any actual money was paid, it was not paid to or given to me. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that the Plaintiff gave to me or paid to me \$75,000.00, or puts it in writing or swears before an authorized Administer of Oaths that the Plaintiff gave to me or paid to me \$75,000.00, I declare any such person/s to be a liar/s. If any such signed document is ever presented anywhere at anytime with my name on it and/or signature indicating that the Plaintiff gave to me or paid to me \$75,000.00, I declare any such document to be a forgery by substitution or forgery by any other means, method , technique or device known to man.

NOTIFICATION OF FRAUD, DECEIT & DECEPTION

3. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that on December 22, 2007, my husband, George M. Sistrunk, called the Plaintiff to notify the Plaintiff the loan was mired in fraud, deceit and deception, No one answered the phone. However, there was an answering machine at the Plaintiff's location in Raleigh, North Carolina. I was present when my husband left the message for someone at the Plaintiff's location in Raleigh, North Carolina to contact me about the loan. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that this message was not left on the Plaintiff's answering machine at a location in Raleigh, North Carolina, on December 22, 2007, or puts it in writing or swears before an authorized Administer of Oaths that this message was not left on the Plaintiff's answering machine at a location in Raleigh, North Carolina, I declare any such person/s to be a liar/s. If any such document or statement is ever presented anywhere at anytime that no message was left at the Plaintiff's location in Raleigh, North.

Carolina on December 22, 2007; I declare any such statement or document of denial to be an Absolute Lie.

KATHERINE R. PERKINSON

4. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that on December 24, 2007, Katherine R. Perkinson responded to the message left on 12/22/2007 and contacted me by phone. She advised me to work things out with the Seller [Thomas D. Jacobs aka Thomas Jacobs] and if this could not be done to fax the Plaintiff my written notification to cancel the loan. At no time during my conversation with Katherine R. Perkinson did she say, infer, allude to or make any statement that she would contact the Plaintiff about the fraud, deceit and deception associated with the loan. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that Katherine R. Perkinson, a representative from the Plaintiff, did not contact me on December 24, 2007, or puts it in writing or swears before an authorized Administer of Oaths that Katherine R. Perkinson did not contact me, I declare any such person/s to be a liar/s. If any such document or statement is ever presented anywhere at anytime that the Plaintiff's representative, Katherine R. Perkinson, did not contact me on December 24, 2007; I declare any such statement or document of denial to be an Absolute Lie. If Katherine R. Perkinson say/s, infer/s, allude/s to and/or indicate/s in any manner or form that she did not contact me on December 24, 2007, or puts it in writing or swears before an authorized Administer of Oaths that she did not contact me, I declare Katherine R. Perkinson to be a liar.

**THE CLOSING ATTORNEY/LAWYER
DEBRA C. GALLOWAY AT THE PLAYER LAW FIRM**

5. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that Debra C. Galloway, the closing attorney/lawyer, did not present to me a Satisfaction Completion Certificate, Contract of Sale or an Appraisal and she did not ask me or discuss any of these documents with me during the closing. She did tell me the bank would send me a copy of the Appraisal. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that Debra C. Galloway showed me a Satisfaction Completion Certificate or a Contract of Sale during the closing, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such document or statement is ever presented anywhere at anytime stating and/or indicating that Debra C. Galloway showed

me an Appraisal, Satisfaction Completion Certificate or a Contract of Sale; I declare any such statement or document confirming this was done during the closing to be an Absolute Lie. If Debra C. Galloway say/s, infer/s, allude/s to and/or indicate in any manner or form that she showed such documents to me, discussed such documents with me or asked me about such documents, I declare Debra C. Galloway to be a liar.

REASONS FOR GOING TO THE CLOSING

6. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that I went to the closing for two (2) reasons.

(A) My husband had invested a lot of time and energy to make 423 Bayne Street livable.

(B) The Seller – Thomas D. Jacobs aka Thomas Jacobs, said, in the presence of an eyewitness that the price of the house would be lowered during the closing. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I went to the closing for any other reason/s, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such document or statement is ever presented anywhere at anytime stating and/or indicating that I went to the closing for any other reason/s, I declare any such statement or document to be an Absolute Lie.

NEVER AGREED TO PAY THE \$75,000.00 LOAN WITHOUT CONDITIONS

7. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that I never agreed to repay the Plaintiff \$75,000.00 without conditions. The conditions were and still are fix the house as described in the 7-59 Appraisals or lower the price. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I agreed to pay the Plaintiff \$75,000.00 without the aforementioned conditions, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such document or statement is ever presented anywhere at anytime stating and/or indicating that I agreed to pay the Plaintiff \$75,000.00 without the aforementioned conditions; I declare any such statement or document to be an Absolute Lie.

THE 7-59 APPRAISALS, SATISFACTION COMPLETION CERTIFICATE & LOAN CANCELLATION

8. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under

the penalty of perjury that on January 14, 2008, I notified the Plaintiff to cancel the loan. I waited over 2 weeks for word from the Plaintiff about the cancellation and none came. Sometimes between February 5, 2008 and February 8, 2008, I faxed the Plaintiff documented evidence that the 7-59 Appraisals and the Satisfaction Completion Certificate were falsified. The Plaintiff's personnel still refused to cancel the loan. The Plaintiff's personnel responded to the documented evidence of falsification I sent them by inferring the broker – Golden Gate Mortgage, ordered the appraisal for me. To date, the Plaintiff's personnel have never produced any documentation proving the broker ordered the 7-59 Appraisals for me. The Plaintiff's personnel even accused me of meeting with the Appraiser and showing him invoices. To date, the Plaintiff's personnel have never produced any documentation that I met with the Appraiser and the Satisfaction Completion Certificate does not state I met with the Appraiser. It clearly states borrower. According to the Appraiser's – Jim H. Austin III's 7-59 Invoice, the borrower of record is the Seller – Thomas D. Jacobs aka Thomas Jacobs. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I did not fax the Plaintiff documented evidence that the 7-59 Appraisals and Satisfaction Completion Certificate are falsified; and/or that I met with the Appraiser and/or that Golden Gate Mortgage ordered the 7-59 Appraisals for me and/or the Appraiser's – Jim H. Austin III's, Invoice shows that I am the borrower instead of Thomas D. Jacobs aka Thomas Jacobs, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such document or statement is ever presented anywhere at anytime stating and/or indicating same, I declare such documents and/or statements are Absolute Lies.

THE EARLY DAYS

9. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that in the early days, I mistakenly believed I had a good relationship with the Plaintiff. I actually decided not to cancel the loan and to work with the Plaintiff to resolve the issues relative to the mortgage on 423 Bayne Street. I even contemplated filing a lawsuit against Golden Gate Mortgage, Jim H. Austin, III, Thomas D. Jacobs aka Thomas Jacobs and the Player Law Firm. Shortly after January 14, 2008, this changed for the following reasons:

(A) I became aware of the fact that the Seller - Thomas D. Jacobs aka Thomas Jacobs, did not have a building permit and could not have done any of the major home repairs identified in the 7-59 Satisfaction Completion Certificate and on the 7-59 Appraisals within the City of Orangeburg without a building permit.

(B) SCDCA made me aware of the fact that it was unlawful for Golden Gate Mortgage to process a loan from the Seller that SCDCA said was not a licensed loan originator.

(C) SCDCA made me aware of the fact that Thomas D. Jacobs aka Thomas Jacobs could not present loan paperwork to me with Golden Gate Mortgage's name on it without a license.

(D) Wells Fargo made me aware of the fact that Wells Fargo had approved a loan from Golden Gate Mortgage, even though Golden Gate Mortgage had never contacted me about a loan and never said or verified the Seller was a loan originator working for Golden Gate Mortgage.

(E) Wells Fargo made me aware of the fact that Wells Fargo was not a friend or business associate of Thomas D. Jacobs aka Thomas Jacobs or Golden Gate Mortgage.

(F) SCDCA made me aware of the fact that brokered loans are regulated by Federal and State laws and Wells Fargo's mortgage loan had to comply with the laws.

(G) SCDCA made me aware of the fact that because Golden Gate Mortgage never contacted me, under Federal and State guidelines, Golden Gate Mortgage could not legally be considered the loan's broker even with a signed broker's agreement.

(H) SCDCA made me aware of the fact that it is unlawful for an unlicensed person to broker a loan in the State of South Carolina.

(I) I became aware of the fact that the FBI characterized a mortgage loan based on a falsified appraisal with an inflated value as an illegal "Predatory Lending Scheme".

(J) I became aware of the fact that the Plaintiff has the responsibility to make sure the documents upon which a lending decision would rely are not fraudulent.

(K) I became aware of the fact that the Plaintiff has a legal obligation to investigate all allegations of suspected fraud.

(L) I became aware of the fact that using a falsified appraisal with an inflated value to obtain property insurance is "Insurance Fraud".

(M) I became aware of the fact that using a mortgage and/or note based on falsified and/or inflated values in a mortgage-backed security is "Securities Fraud".

(N) I became aware of the fact that the broker had a legal obligation to notify the Plaintiff of any irregularities relative to any submitted document/s for a brokered loan.

(O) I became aware of the fact that the Appraiser had a legal obligation not to falsify the value of property or misrepresent the property to potential lenders.

(P) I became aware of the fact it is the Plaintiff's responsibility to verify the validity of documents upon which a lending decision is made.

(Q) I became aware of the fact the Appraiser had a legal obligation to report the true condition of 423 Bayne Street to the Plaintiff and the Broker.

(R) I became aware of the fact that an illegally brokered loan must be cancelled.

(S) I became aware of the fact that, under South Carolina Law, I could not base my defense on any unwritten promise/s the Seller made to me.

(T) I became aware of the fact that my responsibility was to make sure any information I supplied to anyone could be verified.

(U) I became aware of the fact the Plaintiff's underwriters had a duty and responsibility to verify information before making lending decisions and not accept any information on face value.

(V) I became aware of the fact that the 7-59 Appraisals were falsified beyond any conceivable remedy and the loan had to be cancelled.

(W) I became aware of the fact the loan was an illegal transaction before I signed any documents.

(X) Since the Seller – Thomas D. Jacobs aka Thomas Jacobs brokered the loan by himself, by using Golden Gate Mortgage's brokering paperwork, I became aware of the fact that the broker had a legal obligation to notify the Plaintiff he processed mortgage loan paperwork from an unlicensed loan originator.

(Y) I became aware of the fact the Plaintiff believed Janet Frotscher's Executive Resolution Team's statements and false accusations without any verification.

(Z) I became aware of the fact that I had no responsibility for the 7-59 Appraisals because I did not do the Appraisals, I did not order them, did not know about them and the broker – Golden Gate Mortgage did not order any Appraisals for me.

(AA) I became aware of the fact that I had no duty, responsibility or obligation to pay the Plaintiff for an illegally brokered loan, a home improvement and mortgage fraud and an illegal predatory lending scheme after the Plaintiff was duly notified by telephone and in writing that the loan was based on falsified documents.

(BB) I became aware of the fact that I did not have any responsibility for the falsified Satisfaction Completion Certification the Plaintiff claims the Plaintiff relied upon in whole or in part for the Plaintiff's lending decision.

(CC) I became aware of the fact that I did not have any responsibility for the supporting documents the Plaintiff relied upon from the broker – Golden Gate Mortgage.

(DD) I became aware of the fact that I could not force the Plaintiff to believe the truth after I duly notified the Plaintiff and I was not responsible if the Plaintiff chose to ignore the truth after being duly notified.

(EE) I became aware of the fact that I had no verification or documentation the Plaintiff actually paid the Seller \$75,000.00.

(FF) I became aware of the fact that I was not responsible if the Plaintiff's failed to exercise due diligence or failed to verify information the Plaintiff received and relied upon from the Seller, Broker, Appraiser, the Player Law Firm or the Plaintiff's underwriting department.

(GG) I became aware of the fact that I personally did not send the Plaintiff any documents, materials or information and did not authorize Golden Gate Mortgage either.

(HH) I became aware of the fact that I could not force the Plaintiff to comply with lawful statutes or lawfully enacted rules and regulations governing depository institutions.

(II) I became aware of the fact that I did not broker the loan and I had no responsibility or legal authority to broker the loan.

(JJ) I became aware of the fact that I have a moral and legal obligation not to knowingly participate in an illegal scheme, practice or activity.

(KK) I became aware of the fact that if I paid the Plaintiff monthly payments, I would be perpetuating an illegally brokered loan, a home improvement and mortgage fraud and an illegal predatory lending scheme that involved the use of falsified, forged and altered documents.

(LL) I became aware of the fact that I had no control over who or what the Plaintiff chose to believe after being duly notified by phone and in writing that the supporting documents the Plaintiff relied upon from the broker are falsified, forged and altered.

(MM) I became aware of the fact that the loan the Plaintiff approved was not an "arms length transaction" between the Plaintiff and me. Therefore, the Plaintiff could not blame me for whatever falsified, forged or altered documents the Plaintiff received and chose to rely upon for the Plaintiff's lending decision.

(NN) I became aware that I am not responsible for any losses the Plaintiff incurs.

**HOW I KNOW THE 7-59 APPRAISALS &
THE SATISFACTION COMPLETION ARE FALSIFIED**

10. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that I know the 7-59 Appraisals and Satisfaction Completion Certificate are falsified documents because I live in the house known as 423 Bayne Street and I know the improvements identified on the documents never happened and could not happen because the Seller had no building permit. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I do not live at 423 Bayne and do not have personal knowledge that the 7-59 Appraisals and the Satisfaction Completion Certificate are falsified, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such document or statement is ever presented anywhere at anytime stating and/or indicating same, I declare any such statements to be an Absolute Lie.

THE SELLER – THOMAS JACOBS

11. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that the Seller of the property known as 423 Bayne Street in Orangeburg South Carolina – Thomas D. Jacobs aka Thomas Jacobs, never spoke to me about an appraisal, never told me I needed an appraisal or gave me an appraisal at any time. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that the Seller – Thomas Jacobs – gave me an appraisal; or puts it in writing or swears before an authorized Administer of Oaths that the Seller did any of the aforementioned acts described in this paragraph, I hereby declare any such person/s to be a liar/s. If any such signed documents are statements are ever presented anywhere at anytime stating and/or indicating same, I declare any such document/s and/or statement/s to be Absolute Lies.

12. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the Penalty of perjury, that the Seller – Thomas D. Jacobs aka Thomas Jacobs always represented himself as the Seller. At no time did the Seller tell me he was a licensed broker or a licensed loan originator. At no time did the Seller tell me he was going to broker a loan. The Seller told me, in the presence of an eyewitness, that Golden Gate Mortgage was going to be my lender and my loan was going to be handled by his friends and business associates. The Seller also told me, his contractor, Mr. Lambricht, was going to do major repairs to 423 Bayne Street. At no time did the Seller tell me he needed a building permit and no building permit was ever

posted at 423 Bayne Street. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form anything that contradicts what is written in this paragraph; or puts a contradiction to this paragraph in writing or swears to the contrary before an authorized Administer of Oaths that the Seller did any of the aforementioned acts described in this paragraph, I hereby declare any such person/s to be a liar/s. If any such signed documents or statements are ever presented anywhere at anytime stating and/or indicating a contraction to what is written in this paragraph relative to the Seller, I declare any such document/s and/or statement/s to be Absolute Lies. If Thomas D. Jacobs or any authorized personnel, agent, employee, representative, owner or anyone else that represents himself/herself/themselves as such as being from Thomas D. Jacobs aka Thomas Jacobs say/s, infer/s, allude/s to and/or indicate/s in any manner or form anything that contradicts what is written in this paragraph; or puts a contradiction to this paragraph in writing or swears to the contrary before an authorized Administer of Oaths, I declare Thomas D. Jacobs aka Thomas Jacobs has lied; just like he lied in his response to Complaint #08-00679-B that was filed against him with the South Carolina's Department of Consumer Affairs. I further declare that any authorized personnel, representative, agent, employee, owner or anyone else that represents himself/herself/themselves as such as being from Thomas D. Jacobs aka Thomas Jacobs contradicts anything written relative to the actions, activities and/or statements of the Seller that have been stated in this paragraph has lied.

THE APPRAISER – JIM H. AUSTIN III

13. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that I have never met with or said anything to the Appraiser – Jim H. Austin III – or any authorized personnel, representative, agent, employee, owner or anyone else that represented himself/herself/themselves as such as being from Jim H. Austin III at anytime and no where on this earth and I never showed Jim H. Austin III or any authorized personnel, representative, agent, employee, owner or anyone else that represented himself/herself/themselves as such as being from Jim H. Austin III anything at anytime anywhere on this earth including any invoices. Jim H. Austin III or any authorized personnel, representative, agent, employee, owner or anyone else that represented himself/herself/themselves as such as being from Jim H. Austin III has never spoken to me and has never shown me anything, at anytime anywhere on this earth and this includes the 7-59 Satisfaction Completion Certificate and/or the

person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that the Appraiser – Jim H. Austin III or any authorized personnel, representative, agent, employee, owner or anyone else that represented himself/herself/themselves as being from Jim H. Austin III – showed me something or spoke to me about anything or that I showed him something including invoices and such; or spoke to him about anything, or puts it in writing that I showed any such thing; including invoices and such to Jim H. Austin III, or swears the same or similar before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such Satisfaction Completion Certificate, Appraisal and/or Invoice with a 7-59 account number or any other designation and/or description is ever presented anywhere at anytime with my name on it and/or signature or by any method or means that might refer to me in any manner or form, I declare any such document to be a forgery by substitution or forgery by any other means, method, technique and/or device known to man. If Jim H. Austin III or any authorized personnel, representative, agent, employee, owner or anyone else that represents himself/herself/themselves as being from Jim H. Austin III say/s, infer/s, allude/s to and/or indicate/s in any manner or form anything that contradicts what is written in this paragraph; or puts a contradiction to this paragraph in writing or swears to the contrary before an authorized Administer of Oaths, I declare Jim H. Austin III and/or any authorized personnel, representative, agent, employee, owner or anyone else that represents himself/herself/themselves as being from Jim H. Austin III to be a liar/s.

**THE BROKER
DAVID TERRELL/GOLDEN GATE MORTGAGE**

14. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that I have never met with, called, wrote, contacted by any method or means or said anything to the Broker – Golden Gate Mortgage or David Terrell – at anytime and no where on this earth prior to January 9, 2008. The Broker never called me, wrote me, scheduled any appointment to meet me or contacted me by any means or method prior to my filing a Complaint against him with South Carolina's Department of Consumer Affairs in January of 2008. I have never met or spoken to any authorized personnel, representative, agent, employee, owner or anyone else from Golden Gate Mortgage that represented himself/herself/themselves as being from Golden Gate Mortgage or David Terrell at anytime. No authorized

personnel, representative, agent, employee, owner or anyone else from Golden Gate Mortgage that represented himself/ herself/themselves as being from Golden Gate Mortgage or David Terrell never brought me any loan paperwork, materials or any documents to sign for any loan or has ever called me, wrote me, scheduled any appointment to meet him/her/them or contacted me by any means or method. All the paperwork for the Plaintiff's loan were brought to me by the Seller – Thomas D. Jacobs aka Thomas Jacobs. I never authorized the Broker – Golden Gate Mortgage or David Terrell or any authorized personnel, representative, agent, employee, owner or anyone else that represented himself/herself/themselves as being from Golden Gate Mortgage to order any Appraisal for me or anything else at anytime for any reason or purpose. The credit report the Plaintiff has in the Plaintiff's document file as WF00067-WF00073 was not authorized by me on October 3, 2007 or any time prior to October 3, 2007. If any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form anything that contradicts what is written in this paragraph; or puts a contradiction to this paragraph in writing or swears to the contrary before an authorized Administer of Oaths that the Broker or any authorized personnel, representative, agent, employee, owner or anyone else that represents himself/herself/themselves as being from Golden Gate Mortgage or David Terrell, did any of the aforementioned described in this paragraph, I declare any such person/s to be a liar/s. If any such signed document or statements are ever presented anywhere at anytime stating and/or indicating a contradiction to what is written in this paragraph relative to the Broker or any authorized personnel, employee, representative, agent, owner or anyone else that represents himself/herself/themselves as being from the Broker/Golden Gate Mortgage/David Terrell, I declare any such document and/or statement/s to be Absolute Lies. If David Terrell or any authorized personnel, representative, agent, employee, owner or anyone else that represents himself/herself/themselves as being from Golden Gate Mortgage or David Terrell say/s, infer/s, allude/s to and/or indicate/s in any manner or form anything that contradicts what is written in this paragraph; or puts a contradiction to this paragraph in writing or swears to the contrary before an authorized Administer of Oaths, I declare David Terrell or any authorized personnel, representative, agent, employee, owner or anyone else that represents himself/herself/ themselves as being from Golden Gate Mortgage to be liars.

**JANET FROTSCHER &
HER EXECUTIVE RESOLUTION TEAM**

15. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that, neither Janet Frotscher nor any member of her Executive Resolution Team has ever verified that she or any team member has ever met me or seen me. Therefore, Janet Frotscher and/or any member of her Executive Resolution Team has never verified that she or any member of her Executive Resolution Team actually saw me show the Appraiser – Jim H. Austin III, invoices for the plumbing, electrical work and work that has been performed on the seals on September 14, 2007. Janet Frotscher has written in a letter dated June 2, 2008, the Plaintiff's document WF00125, inferring I showed the Appraiser – Jim H. Austin III, invoices for the plumbing, electrical work and work that has been performed on the seals on 09/14/2007. This work could not be done because the Seller had no Permit. Nowhere on the Satisfaction Completion Certificate does it state in writing that Dorothy Sistrunk showed the Appraiser anything; nor is my name on the Satisfaction Completion Certificate. Thus, Janet Frotscher's allegations cannot be substantiated, verified or qualified as a statement of fact or truth.

16. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that, neither Janet Frotscher nor any member of her Executive Resolution Team has presented any evidence that she or any team member was at 423 Bayne Street on September 14, 2007. Thus any statement Janet Frotscher has made about any meeting cannot be substantiated, verified or qualified as a statement of fact or truth. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I showed the Appraiser – Jim H. Austin III, invoices for the plumbing, electrical work and work that has been performed on the seals on September 14, 2007, or puts it in writing, or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document or statements are ever presented anywhere at anytime stating and/or indicating that I showed the Appraiser – Jim H. Austin III, invoices for the plumbing, electrical work and work that has been performed on the seals on September 14, 2007, I declare any such document and/or statement to be an Absolute Lie. If Janet Frotscher or any member of her Executive Resolution Team says, infers, alludes to and/or indicates in any manner or form anything that contradicts what is written in this paragraph; or puts a contradiction to this paragraph in writing or swears to the contrary before an authorized Administer of Oaths, I declare Janet Frotscher or any member of her Executive Resolution Team to be a liar/s.

THE BROKER'S AGREEMENT

17. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that I have not admitted to anyone at anytime or signed any statement at anytime verifying Golden Gate Mortgage was my broker and actually met the required Federal and State guidelines to be considered the legitimate broker for loan# 708-0174072777. Since the Plaintiff has not presented any evidence to me that the Seller – Thomas D. Jacobs aka Thomas Jacobs was a licensed loan originator for the Broker – Golden Gate Mortgage or David Terrell, the Plaintiff's signed broker's agreement might be a forgery. Neither Janet Frotscher, nor the Plaintiff has presented any evidence from the broker that he actually brokered a loan for me according to Federal and State guidelines. The Plaintiff has not presented any evidence to me that the broker's agreement in the Plaintiff's possession is the agreement I actually signed for Thomas D. Jacobs aka Thomas Jacobs. The Plaintiff has presented no evidence the agreement presented is the one that was given to me by the Seller - Thomas D. Jacobs aka Thomas Jacobs.

18. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that I did not submit any statement/s to Janet Frotscher or the Plaintiff verifying Golden Gate Mortgage was my broker. In fact, I have done the opposite. I have never stated anywhere in any document that Golden Gate Mortgage brokered any loan for me and I have no evidence Golden Gate Mortgage submitted the loan paperwork to the Plaintiff. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I verified Golden Gate Mortgage/David Terrell actually brokered a loan for me, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented any where at anytime with my name on it and/or signature indicating or stating that I verified Golden Gate Mortgage brokered a loan for me, I declare any such document to be a forgery by substitution or forgery by any other means, method, technique or device known to man and any such statement on such a document to be an Absolute lie.

19. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that the Seller – Thomas D. Jacobs aka Thomas Jacobs represented Golden Gate Mortgage as a lender. The Plaintiff's documents WF00001-WF00027 and WF00084-WF00085 also identifies Golden Gate Mortgage as a lender. Therefore, if any such

person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that Golden Gate Mortgage/David Terrell was not represented as a lender, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented at anytime and anywhere indicating or stating that Golden Gate Mortgage was not represented as a lender, I declare any such document or statement to be an Absolute Lie.

20. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that the Seller – Thomas D. Jacobs aka Thomas Jacobs told me I had to sign all the paperwork or Golden Gate Mortgage would not fund the loan. In the paperwork was a broker's agreement with Golden Gate Mortgage's name on it. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that the Seller did not tell me this, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented anywhere at anytime indicating or stating that the Seller did not tell me this, I declare any such statement to be an Absolute lie.

WELLS FARGO HOME MORTGAGE

21. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that Wells Fargo Home Mortgage never called me, wrote me, scheduled any appointment to meet me or a representative or contacted me by any means or method prior to December 21, 2007 to discuss the loan. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that Wells Fargo Home Mortgage contacted me prior to December 21, 2007 to discuss the loan, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented anywhere at anytime indicating or stating that Wells Fargo Home Mortgage contacted me, I declare any such document or statement to be an Absolute Lie.

WELLS FARGO BANK, N. A.

22. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that no one from Wells Fargo Bank, N.A., ever called me, wrote me, scheduled any appointment to meet me or a representative or contacted me by any means or method whatsoever prior to December 21, 2007 to discuss the loan. Therefore, if any such

person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that Wells Fargo Bank, N.A. contacted me prior to December 21, 2007, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented anywhere at anytime indicating or stating that Wells Fargo Bank, N.A., contacted me, I declare any such document or statement to be an Absolute Lie.

THE CONTRACT OF SALE

23. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths under the penalty of perjury that the Contract of Sale the Plaintiff has presented as documents WF00028-WF00029 have been altered and initialed. I know nothing about these alterations and changes and the initials are not mine. The initials are forgeries and I do not recognize the Plaintiff's Contract of Sale as the Contract of Sale I signed for the Seller – Thomas D. Jacobs aka Thomas Jacobs on 11/26/2007. I do not recall "PROPERTY SOLD "AS IS" - THERE ARE NO SPECIAL CLAUSES. being on the Contract of Sale I signed on 11/26/2007. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that the Plaintiff's Contract of Sale WF00028-WF00029 has not been altered or the initials on the altered parts belong to me, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented anywhere at anytime indicating or stating the Contract of Sale has not been altered and the initialed alterations belong to me, I declare any such document or statement to be an Absolute Lie.

THE STAY OR TRO (TEMPORARY RESTRAINING ORDER) ADMINISTRATIVE ORDER #2009-05-22-01

24. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that during the Stay or TRO (Temporary Restraining Order) or Administrative Order #2009-05-22-01, no one from the Plaintiff called me, wrote me, scheduled any appointment to meet me or a representative or contacted me by any means or method whatsoever relative to the HMP. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that the Plaintiff attempted to contacted me during the Stay/TRO, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such document or statement is ever presented anywhere at anytime indicating or stating that the Plaintiff attempted to contacted me during the

Stay/TRO but was not successful in those attempts, I declare any such document or statement to be an Absolute Lie.

**THE ATTORNEYS ELIZABETH S. HODGSON,
ELIZABETH SCOTT MOISE AND JAMES H. BURNS**

25. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury, that during the Stay or TRO or Administrative Order #2009-05-22-01, Attorneys Elizabeth Scott Moise and/or James H. Burns repeatedly filed false statements in their Case Status Updates. Therefore, if any attorney say/s, infer/s, allude/s to and/or indicate/s in any manner or form that there are not false statements in Burns and/or Moise's Case Status Updates, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such attorney has filed a false statement that cannot be supported by the facts or the evidence. Whatever contact with the Plaintiff that was initiated was initiated by George M. Sistrunk for the express purpose of finding out, whether or not, Wells Fargo's position on "Fraudulent" loans, notes and mortgages had changed since May of 2008. I learned through his, George M. Sistrunk's, efforts that Wells Fargo still did not have a policy, program or procedure that could modify a fraudulent loan, note and mortgage or a loan, note and mortgage that was suspected of being approved or obtained by fraudulent means. Therefore, my fraudulent loan, note and mortgage never qualified for the HMP. Elizabeth S. Hodgson's lied if she claimed familiarity. My complaint was and still is fraud.

THE HEARING THAT WAS HELD ON DECEMBER 6, 2011

26. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that during the hearing on 12/06/2011, Judge Diane Shafer Goodstein did not address any of my objections as stated in the March 07, 2012 Court Order. The transcript will verify Judge Goodstein did not address any of following issues during the hearing.

(A) There are too many unresolved issues of fact and law that must be decided by the Court before this case can proceed. The Law Firm of Nelson Mullins Riley & Scarborough, LLP, and/or certain attorney/s from Nelson Mullins Riley & Scarborough, LLP, have no authority to file any motions or enter any Case Management & Scheduling Order into the records of the Court. The Plaintiff no longer has any "Standing" the Court must recognize or consider. The Plaintiff failed to "Substantially Comply" with a Valid Supreme Court Order [Section (3) Administrative Order #2009-05-22-01] during the "Stay" and this matter of failed compliance must be decided by the Court before this case can proceed.

(B) Based on the evidence, the Plaintiff's Case Status Updates were not only not filed in a timely manner; the overwhelming majority of updates that were filed are misinformation

and outright lies. *Every 30 days means every 30 days.* Substantial compliance means notifying the Court every 30 days until the Order is rescinded or reversed. [Direct Quote] ***"If the action is stayed, the party seeking foreclosure will advise the court of the status of the matter every thirty (30) days; the failure to do so may result in dismissal of the action."*** [End Direct Quote] Any failure to comply with an Order of Court is a violation of the Order and the violations might be even more extensive than the Defendant is capable of reporting. Therefore, *the Plaintiff's request for continuance and any related assumption/s and/or filing/s must be summarily dismissed and denied until the Court has thoroughly investigated this matter.*

(C) Since the Plaintiff and the Law Firm have multiple compliance failures, the Defendant's case must be dismissed forthwith pursuant to Section (3) with or without prejudice and the Defendant must be compensated for the Defendant's legal defense and any other cost the Court deems is just, fair and proper. A Section (3) Dismissal has priority over a Rule 41(b) SCRCP Dismissal upon Motion because the violations occurred during the "Stay" and cannot be legally ignored or legally disputed by the Plaintiff.

(D) The Defendant's Uncontested Rule 41(b) Dismissal with Prejudice and Just and Fair Compensation preceded any Notice of Deposition filed by Wells Fargo and should be acted upon by the Court before any additional motions can be considered from the Plaintiff.

Stating you did something or said something that you did not do or say is a lie. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that Judge Goodstein addressed the preceding objections during the Hearing 12/06/2011, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented anywhere at anytime indicating or stating that the aforementioned objections were discussed and/or addressed during the Hearing Held on December 06, 2011, I declare any such document or statement to be an Absolute Lie.

27. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that during the hearing on 12/06/2011, Attorney Brian A. Calub admitted in Court, before Judge Goodstein, some Case Status Updates were not filed. Burns and/or Moise are the attorneys that filed case status updates with false information starting in June 2009 until.

28. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that during the hearing that was held on December 06, 2011, attorney Calub did not show Judge Goodstein any evidence (physical or otherwise), proof (physical or otherwise), an affidavit or any other information that verified the existence of, described or stated the nature of, or custody, condition and/or location of any books, documents, or other tangible things that are supposedly in my possession, lawful custody and under my control that are relevant to the subject matter of this case that required a subpoena to obtain.

29. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that during the hearing that was held on December 06, 2011, attorney Calub did not present Judge Diane Goodstein any affidavits, depositions or any other evidence to demonstrate a substantial need for Oral Only Depositions; and he did not present any evidence to verify I have the ability, legal capacity or authority to reproduce documents that are relevant to the subject matter of this case that belong to Wells Fargo and/or second and/or third parties.

30. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that at the hearing; that was held on December 06, 2011, attorney Calub did not state with any reasonable degree of particularity why he cannot submit written questions and must have an Oral ONLY Deposition from me. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that attorney did any of the aforementioned during the Hearing that was Held on December 06, 2011, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented anywhere at anytime indicating or stating that attorney Calub did any of the aforementioned during the Hearing Held on December 06, 2011, I declare any such document or statement to be an Absolute Lie.

AFFILIATIONS & ASSOCIATIONS

31. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that I am not an employee, representative, authorized personnel, independent contractor or in any way, manner or form affiliated with or associated with Wells Fargo Home Mortgage's underwriting department, the Player Law Firm, the Broker, the Seller, Janet Frotscher's Executive Resolution Team or the Appraiser and cannot produce any documents from them. Therefore, if any such person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I am in any way affiliated with or associated with any of the aforementioned or that I can produce relevant documents and/or information about their business or relationships or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s. If any such signed document is ever presented anywhere at anytime indicating or stating that I am or has been affiliated with or associated with Wells Fargo Home Mortgage's under writing department, the Player Law Firm, the Broker, the Seller, Janet Frotscher's Executive Resolution Team or the Appraiser, I declare any such document or statement to be an Absolute Lie.

DEFAULT ON LOAN

32. I, Dorothy Sistrunk, do solemnly swear before an authorized Administer of Oaths, under the penalty of perjury that I did not default on loan #708-0174072777. I wrote the Plaintiff in 2008, notifying the Plaintiff that I was suspending payments until the Plaintiff conducted an on site inspection of 423 Bayne Street so that the Plaintiff could determine the extent of the fraud associated with the mortgage. In other related correspondence, I also notified the Plaintiff that I was not going to participate in the Plaintiff's illegally brokered loan, illegal predatory scheme and home improvement and mortgage fraud. In addition, I notified the Plaintiff, payments would remain suspended until the irregularities associated with my loan were resolved. If I continued making payments, I would be supporting the Plaintiff in possible insurance fraud and investment fraud. Payments could have been resumed at any time if the Plaintiff had decided to cooperate with me to resolve the outstanding issues with the loan. The Plaintiff chose not to cooperate. Therefore, the Plaintiff has failed to state all the facts. If any person/s say/s, infer/s, allude/s to and/or indicate/s in any manner or form that I did not notify the Plaintiff that I was suspending payments, or puts same in writing or swears same before an authorized Administer of Oaths, I declare any such person/s to be a liar/s.

SUPPORTING DOCUMENTATION

This Affidavit is supported by the following documentation that is already filed in the Court of Common Pleas – Defendant Exhibits 1-98 & 113-259. Any missing Exhibit is available upon request.

Note: SCDCA means South Carolina Department of Consumer Affairs

Signature of Affiant: Dorothy Sistrunk Date: 5/25/12

SWORN to and subscribed before me;

This 25th day of May 2012

Notary Signature: Lillian D. Buck

My Commission Expires on My Commission Expires
September 30th, 2012

Seal

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Wells Fargo Bank, N.A.,)

Plaintiff,)

vs.)

Dorothy Sistrunk,)

Defendant.)

Civil Action No. 2008-CP-38-1024

AFFIDAVIT IN SUPPORT OF
WELLS FARGO'S MOTION FOR
SUMMARY JUDGMENT

*Verification of Wells Fargo maintaining
an illegal loan on the book
5/23/2014
ND*

PERSONALLY APPEARS BEFORE ME, Amanda Weatherly, the affiant, who
says as follows after first being duly sworn, states the following:

1. I am a Vice President Loan Documentation for Wells Fargo Bank, N.A.
(Wells Fargo), am over the age of eighteen years old, and am competent to submit this
affidavit. I submit this affidavit under penalties of perjury.

2. My job responsibilities with Wells Fargo include monitoring Wells
Fargo's outstanding, mortgage-loan accounts, including the account of the defendant,
Dorothy Sistrunk (Defendant).

3. Defendant's mortgage-loan account with Wells Fargo is the product of a
note (Note) and Mortgage (Mortgage) that Defendant signed on December 21, 2007.
Wells Fargo is the original payee of the Note.

4. A true and accurate copy of the Note, as maintained in Wells Fargo's
business records, is attached as **Exhibit 1**.

5. A true and accurate copy of the Mortgage, as maintained in Wells Fargo's
business records, is attached as **Exhibit 2**.

ATTEST, TRUE COPY
Wing B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

Wells Fargo is the holder of the Note and Mortgage

Exhibit 343

Page 1 of 3

7. Based upon my review of Wells Fargo's records for Defendant's mortgage-loan account, I am personally familiar with the payment history and outstanding balance due for the Note and Mortgage.

8. The Mortgage encumbers certain real property that is more fully described in the Mortgage and has a street address of 423 Bayne Street, Orangeburg, South Carolina (423 Bayne Street).

9. Elizabeth Scott Moïse and James H. Burns are attorneys of record for Wells Fargo and have authority to present the facts and evidence in the above-captioned case.

10. Wells Fargo's payment history records for the Note and Mortgage indicate that Defendant last remitted a payment on February 12, 2008 and that Defendant has not made any other payments since then.

11. Wells Fargo has had to pay escrow advances to cover amounts due for taxes and insurance for 423 Bayne Street.

12. Per the attached payoff statement, which is attached hereto as **Exhibit 3**, the outstanding balance for the Note and Mortgage, as of May 1, 2013 is One Hundred Sixteen Thousand Two Hundred Thirteen and 56/100 Dollars (\$116,213.56).

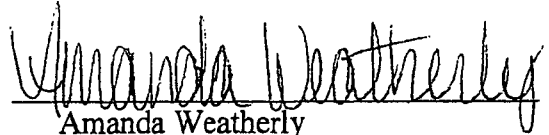
13. The outstanding balance is comprised of the following:

- (a) a principal amount of Seventy Four Thousand Nine Hundred Forty and 02/100 Dollars (\$74,940.02),
- (b) accrued interest in the amount of Twenty Eight Thousand Thirty-Two and 48/100 Dollars (\$28,032.48),

- (c) escrow advances, which includes amounts advanced for taxes and insurance, in the amount of Nine Thousand Nine Hundred Eighty-Seven and 16/100 Dollars (\$9,987.16);
- (d) recoverable corporate advances for inspection fees, attorney's fees and other recoverable amounts that total One Thousand Eight Hundred Thirty-Five and No/100 Dollars (\$1,835.00); and
- (e) pro rata mortgage insurance and other fees and charges, which include late charges, in the amount of One Thousand Four Hundred Eighteen and 90/100 Dollars (\$1,418.90).

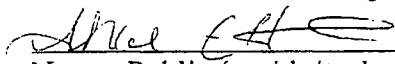
The applicable interest for the Note and Mortgage is 7.125%, and the per diem is Fourteen and 63/100 Dollars (\$14.63).

FURTHER AFFIANT SAYETH NAUGHT.


Amanda Weatherly
Vice President Loan Documentation
Wells Fargo Bank, N.A
06/04/2013

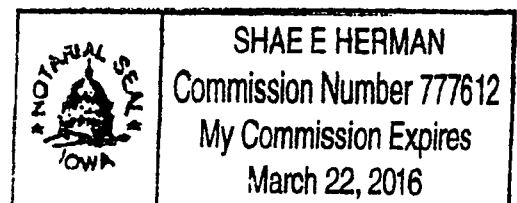
State of Iowa)
) ss.
County of Dallas)

Signed and sworn to (or affirmed) before me on June 4, 2013 (date)
by Amanda Weatherly (name[s] of person[s] making statement).

 (Signature)
Notary Public (or title/rank of other officer)

(Stamp or Seal)

Exhibit 343



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG	)	FIRST JUDICIAL CIRCUIT
	)	
Wells Fargo Bank, N. A.	)	Civil Action No. 2008-CP-38-1024
	)	
Plaintiff,	)	DOROTHY SISTRUNK' S REBUTTAL AND
	)	COUNTER AFFIDAVIT OF FACTS & TRUTH
	)	THAT REFUTES & OPPOSES THE
	)	AFFIDAVIT OF AMANDA WEATHERLY
	)	WELLS FARGO'S VICE PRESIDENT FOR
Vs.	)	LOAN DOCUMENTATION FOR WELLS
	)	FARGO'S BANK, N.A., IN SUPPORT OF
Dorothy Sistrunk;	)	WELLS FARGO'S MOTION FOR SUMMARY
	)	JUDGMENT.
Defendant.	)	
	)	July 17, 2013

PERSONALLY, appeared before me Dorothy H. Sistrunk, in the STATE OF SOUTH CAROLINA, in the COUNTY OF ORANGEBURG, and presented to me an acceptable picture identification in the form of a STATE OF SOUTH CAROLINA driver's license with the number 008190796, being of full age, on her oath, being **DULY SWORN**, and under the **PENALTY OF PERJURY**, deposes and says she swears to all that follows:

STATEMENT OF FACTS, TRUTH & A BRIEF HISTORY

1. I, Dorothy Sistrunk, currently reside at 423 Bayne Street in Orangeburg, South Carolina. I do solemnly swear before an authorized Administer of Oaths, a Notary Public and under the penalty of perjury, that I am familiar with 423 Bayne Street, by virtue of the undisputed fact that I currently reside at 423 Bayne Street in Orangeburg, South Carolina. **{Exhibit 113 – the Property}**

The Unauthorized Credit Report {WF00063-WF00073}

2. I know for a fact, Wells Fargo's mortgage loan account is the product of an unauthorized credit report that was done on October 3, 2007 – by the broker – Golden Gate Mortgage / David Terrell. **{See Pgs WF00066-WF00073} {For Verification See Pgs WF00063, WF00065 & WF00074}**

3. The Seller – Thomas Jacobs - never sent the authorizing paperwork for him (Thomas Jacobs) to do a credit report after discussing this with me on the phone. If Thomas Jacobs or David Terrell ever write or say that I gave him (Thomas Jacobs) or David Terrell verbal permission it is an ABSOLUTE LIE. I have never met or seen David Terrell. **{WF00080-WF00081}**

(a) The credit report verifies Wells Fargo's complicity in its use and continued use after notification and all the facts are known and verifiable. {WF00065}

(b) The credit report verifies Golden Gate Mortgage accessed my credit without authorization and supported and approved the illegal brokering activity of the Seller – Thomas Jacobs since October of 2007. {WF00063-WF00064 & WF00074}

3-A. I also know accessing my credit report without my written permission by an individual or business is a violation of a Federal law – 15 USC Section 1681n(a).

15 USC Section 1681n(a) states the following in pertinent parts., “Any person who willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of— (1)(A) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000; or (B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or \$1,000, whichever is greater; (2) such amount of punitive damages as the court may allow; and (3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court...”

4. I discovered Wells Fargo was complicit in using an unauthorized credit report in the documents I received from Nelson Mullins Riley & Scarborough, LLP, {WF00001-WF0137};

5. I notified Wells Fargo by phone and later in writing that they had to cancel the loan and remove any derogatory information from my credit report that they might have sent to Credit Reporting Agencies. Wells Fargo did absolutely nothing.

**Wells Fargo's Mortgage Loan Was Brokered Entirely
By Thomas Jacobs and not By David Terrell / Golden Gate Mortgage**

6. I also know for a fact that David Terrell / Golden Gate Mortgage lied to Wells Fargo on the Universal Residential Loan Application. {WF00032, WF00035 & WF00038} Neither David Terrell nor a staff member from Golden Gate Mortgage interviewed me for any loan.

7. Janet Frotscher, (from the Executive Resolution Team) [JFERT] confirmed in a letter dated February 21, 2008 and received on February 25, 2008, that Golden Gate Mortgage submitted [Thomas Jacobs]' loan paperwork as the broker. {WF00120} [Brackets Added]

8. Whatever brokering that was done...was done by Thomas Jacobs..... not David Terrell or anyone from Golden Gate Mortgage. {Affidavit of George Sistrunk, WF00120 & WF00121}

9. Janet Frotscher's letter dated February 21, 2008, {WF00120} confirmed David Terrell was not as innocent as he claimed to be in his fax letter dated February 6, 2008. {Exhibit 37}

10. Janet Frotscher's letter states in pertinent parts, "Your appraisal was ordered by your broker, Golden Gate Mortgage..." **{WF00120, Pg. 1, Paragraph #5}**

11. Naturally, I called Janet Frotscher and informed her...if any brokering was done it was done by Thomas Jacobs and not Golden Gate Mortgage / David Terrell.

12. All I knew at that point in time was Golden Gate Mortgage was suppose to be my lender, not my broker and I had never agreed to have a loan brokered by Thomas Jacobs, David Terrell or anyone else with Wells Fargo Bank. **{WF00001-WF00027, WF00076, WF00084-WF00085}**

13. This was all I knew until Nelson Mullins Riley & Scarborough, LLP, sent me... **{WF00001-WF00137. I have been referring to these documents in my pleadings and in this Affidavit}.**

14. When I received the documents from the law firm, that's when I saw the Broker Agreement that was included in the paperwork Thomas Jacobs had me sign so Golden Gate Mortgage could fund the loan. **{WF00080 – WF00081 & See Affidavit of George Sistrunk}**

15. Even to this day, I still believe Golden Gate Mortgage and Wells Fargo are business associates of Thomas Jacobs because that's what he told me. **{Affidavit of George Sistrunk}**

16. Thomas Jacobs told me my loan was going to be handled by his friends and business associates. **{See Filed Affidavits of George Sistrunk & Dorothy Sistrunk}**

17. Otherwise, why would Wells Fargo still represent Golden Gate Mortgage as the lender? **{WF00001-WF00027, WF00074, WF00076, WF00084-WF00085}**

18. I am no expert on loan brokering or banking.

19. All I know for a fact is South Carolina law says the following in pertinent parts in Section 40-58-20 – SC Code of Laws; As used in this chapter:

"(1) "Act as a mortgage broker" means to act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by: (i) soliciting, processing, placing, or negotiating a mortgage loan for a borrower from a mortgage lender or depository institution or offering to process, place, or negotiate a mortgage loan for a borrower from a mortgage lender or depository institution, (ii) engaging in tablefunding of a mortgage loan, or (iii) acting as a loan correspondent, as that term is defined in 24 C.F.R. Part 202 et seq., whether those acts are done by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers. "Act as a mortgage broker" also includes bringing a borrower and lender together to obtain mortgage loan or rendering a settlement service as described in 12 U.S.C. 2602(3) and 24 C.F.R. Part 3500. 2(b). (2) "Act as a mortgage lender" means to engage in the business of making or servicing mortgage loan for compensation or gain, or in the expectation of

compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan. (3) "Administrator" means the Administrator of the Department of Consumer Affairs (department) or the administrator's designees..."

20. Additional circumstantial evidence of a relationship, expressed, implied or simply not overtly stated is provided by Kathryn R. Perkinson.

21. Why did Kathryn R. Perkinson advise me to work things out with Seller – Thomas Jacobs and not report suspected fraud to her superiors immediately?

22. Unfortunately for me, I followed Ms. Perkinson's advice until March 1, 2008.

23. On March 1, 2008, I discovered the only remedy for Wells Fargo's illegally brokered loan, illegal Predatory Scheme and his Home Improvement and Mortgage Fraud is cancellation not cooperation. **{Exhibit 52, Plaintiff's Exhibit D}**

24. Additional circumstantial evidence of a relationship, expressed, implied or simply not overtly stated is the absence of a loan application from Wells Fargo.

25. The Universal Residential Loan Application I signed for Thomas Jacobs has Golden Gate Mortgage's name on it. **{WF00030-WF00038}**

Reason for the Closing on December 21, 2007

26. When Thomas Jacobs left 423 Bayne Street on November 26, 2007 with the loan paperwork, while standing in the doorway, my husband asked him, "When is the price of this house going to be reduced?" and Thomas Jacobs said, "At the closing...the price will be lowered at the closing." His exact words.

27. My husband then remarked, "The only way we are going to know if he is telling the truth is, we are going to have to go to the closing."

28. Due to a severe migraine headache, my husband could not go, so I went alone.

29. I went to the closing on December 21, 2007, to officially lower the price of 423 Bayne Street from the discussed price of \$75,000.00 that included new walls, floors, windows, fixtures, appliances and carpeting. **{Note: South Carolina law will not support fraud based on unfulfilled promises}**

30. My husband estimated that with all the work that had to be done, supplies, labor, trash removal and painting, Thomas Jacob's estimated sales price would be around \$75,000.00.

31. However, because of the situation with Mr. Lambright that is discussed in my pleadings and those pleadings are incorporated by reference as though fully set forth in this Affidavit

verbatim, the work was never completed. **{See filed pleadings from July of 2008 to present}**

32. After the closing, we discovered why Mr. Lambright could not do any major repairs.

33. Thomas Jacobs never applied for or received a "Building Permit" to do any repairs. **{Call the City of Orangeburg "Building Inspector" for verification.}**

34. On December 21, 2007, I met Thomas Jacobs outside the closing room, and gave him Ricky Padgett's estimate for repairing the lights and he said, "I will take care of it.." and put it in his pocket.

35. The estimate was \$10,000.00. **{Exhibit 80 & Contact Orangeburg Heating & Air}**

36. My husband told Ricky, if he could put back all the ceilings...and put back as many finished walls as possible for the \$10,000.00..., he could handle it from there.

37. Debra C. Galloway, (the closing attorney) asked me on December 21, 2007; "Is everything in agreement?" and, I said; "Yes". The verbal agreement was during the closing, the price was going to be reduced because no repairs were done, other than the minor repairs my husband did to make the place livable for a renting or lease agreement. **{Exhibit 30}**

38. After the introductions, Thomas Jacobs left the closing a few minutes later.

39. After Thomas Jacobs left, Debra C. Galloway said, "If all is in agreement.. sign here... and initial here", then she gave me more paperwork to sign and initial.

40. If I am recalling this accurately, because I was not looking at a clock and I do not wear a wrist watch, the closing was over in about 20 to 25 minutes.

41. When I got back to Orangeburg, I handed the unsigned copies of the mortgage documents to my husband and he was outraged.

42. He said, "You have been tricked; there is nothing in this paperwork that lowers the price of the house."

43. Then he asked, "How is this possible?" "These documents say Wells Fargo is the owner of the mortgage.... not Golden Gate."

44. He flipped through the paperwork for a name and number until he found a page with a number to call and he called it immediately.... but the line was busy.

45. Then he said, "There is no way Wells Fargo would have paid Thomas Jacobs \$75,000.00 for this dump, unless..... the appraisal....., we have got to get a copy of the appraisal."

46. Then he said. "Call the Player Law Firm and ask for Debra C. Galloway."

47. "She is the closing attorney; perhaps, she has a number to Wells Fargo. Ask her to call

Wells Fargo and tell them to put a stop payment on the check before this thing gets out of hand.”

48. My husband continued by saying, “Girl!! ...you have no idea how difficult... this is going to be... to get us out of this mess.... if we don’t stop this thing as quickly as possible.”

49. My husband called the number he had found every 30 minutes into evening and night and the line was still busy.

50. On Saturday morning, December 22, 2007, he said, “You know, when I was in the mortgage business, I always went in on Saturday mornings. Maybe someone works like I use to.... or maybe... an answering machine might be on.”

51. He called the number and an answering machine was left on. The message he left was, “Please call Dorothy Sistrunk right away, her loan is mired in fraud!...deceit!.. and deception!!

Aftermath – December 24, 2007 – January 12, 2008

52. During the morning of December 24, 2007, Kathryn R. Perkinson (**WF00042**) called, but I was not home.

53. My husband took the message and said to me, after returning home from work at the Wolf House, “Kathryn R. Perkinson called from Wells Fargo and she will call you back.”

54. Shortly after returning home, Kathryn R. Perkinson did call and I told her what had happened at the closing, Thomas Jacobs had lied and I wanted to cancel the loan immediately.

55. She said to me, “Try to work things out with the Seller - Thomas Jacobs... and if that cannot be done... fax any proof you have and a written notification to our office in Des Moines, Iowa that you want to cancel the loan.”

56. At no time during my conversation with Katherine R. Perkinson did she say, infer, allude to or make any statement that she would contact Wells Fargo in Iowa about the fraud, deceit and deception associated with the loan.

57. During the week of December 24, 2007, my husband called Thomas Jacobs’ cell phone everyday...but his mailbox was full.

58. Back in October of 2007, when my husband was cleaning up 423 Bayne Street to make it livable for renting, renting to own or leasing, **{Exhibit 30}** Thomas Jacobs had given him another number to a friend, that he (Thomas Jacobs) said, “Can always get in touch with me.”

59. Thomas Jacobs’ emergency number is 803-788-2880; if you look at Wells Fargo’s documents, this is the number to Golden Gate Mortgage. **{WF00080 & WF00083}**

60. My husband called the number and according to my husband, a man answered the phone

and identified himself as David Terrell.

61. According to my husband, David Terrell told him he would get in touch with Thomas and have this matter straightened out.

62. Thomas Jacobs never called or showed up.

63. During the same week of December 24, 2007, according to my husband, Mr. Trent Greene showed up to fix the roof. According to my husband, Mr. Greene told him he could wire the house and fix the plumbing for \$10,175.00. **{Exhibit 81 – Dated: 12/27/07}**

64. I also got in touch with Debra C. Galloway and told her to contact Wells Fargo so Wells Fargo can put a stop payment on the check because he lied, there is nothing in the closing papers that lowered the price of the house as agreed. **{WF00001-WF00137}**

65. Ms. Galloway said, “I cannot do that because of a conflict of interest.” **{Exhibit 70}**

66. During this same week; Kathryn R. Perkinson made a follow up call and gave my husband a phone number 1-866-879-1460 and a fax number 1-866-605-1447 to Wells Fargo in Des Moines, Iowa. **{Exhibit 81}**

67. Ms. Perkinson also gave him a new fax number – 1-919-784-9453 to reach her if we needed assistance with proper documentation.

68. On Thursday, December 27, 2007, I called Debra Galloway again about a copy of the appraisal and about finding a way to cancel the loan, however she still would not cooperate because of her supposed conflict of interest.

69. It was during this call on December 27, 2007 that my husband and Ms. Galloway got into a heated discussion about Regulation Z and loan Rescission.

70. My husband said, “If a loan can be cancelled for a violation under Regulation Z; surely a money purchase loan can be cancelled for fraud.” Ms. Galloway disagreed,

71. Following Ms. Perkinson advice, we continued contacting Thomas Jacobs with no success and my husband contacted Golden Gate Mortgage about the appraisal. On December 27, 2007, I faxed all concerned a memo, relative to Kathryn R. Perkinson’s advice about cancellation with the fax number 1-866-605-1447, just in case someone wanted to tell the truth. **{Exhibit 81}**

72. On Thursday, January 3, 2008, My husband called Golden Gate Mortgage again about a copy of the appraisal and I called Debra Galloway.

73. After hanging up with Debra Galloway, my husband said, “We should not be getting the run around about an appraisal that should have been at the closing or sent shortly after the

closing was over....there must be something wrong with that appraisal.”

74. On Monday, January 7, 2008, my husband said, “Use the number we got from Kathryn Perkinson 1-866-879-1460, call Wells Fargo, and see if they can fax us a copy of the appraisal.”

75. I called Wells Fargo Home Mortgage and asked them to fax me a copy of the appraisal and they did fax me a copy.

76. However, the appraisal was dark and virtually unreadable, because our fax machine needed a new drum; however, it was readable enough for me to see it was the wrong appraisal because my name was not on it as borrower. Thomas Jacobs was the borrower and Sistrunk was the property owner. **{WF00014-WF00026}**

77. After seeing the Appraisal, my husband said, “This is not only a fraud, it is an absolute scam.”

78. On Wednesday, January 9, 2008, I faxed a memo letter to Golden Gate Mortgage and Debra C. Galloway demanding the appraisal and the signed closing documents or I was going to sue. **{Plaintiff's Exhibit 10, Defendant's Exhibit 2}**

79. On Saturday, January 12, 2008 the closing documents arrived by UPS and FedEx, delivered an appraisal from Golden Gate Mortgage. **{WF00014-WF00026}**

Aftermath - January 14, 2008 – March 1, 2008

80. On Monday, January 14, 2008, I called Wells Fargo Home Mortgage (**WFHM**) and I said to the representative that answered the phone, “The appraisal you faxed me does not match the house and it is not even in my name. **{WF00014-WF00026}**

81. I said to the representative, “The appraisal has Jacobs as the borrower and Sistrunk as the property owner. I did not get the property until December 28, 2007.” **{Exhibit 236}**

82. I said, “The appraisal is falsified, filled with lies and it is a scam.” **{WF00014-WF00026}**

83. And I said, “The satisfaction completion certificate is an absolute lie.” **{WF00022}**

84. The representative told me someone would get back with me. However, no one did.

85. After hanging up the phone, my husband said, “No more phone calls...from now on... everything must be in writing....no one is going to believe you made phone calls unless they are taped..., and tapes can get lost..., erased... or doctored....everything from now on must be in writing.”

86. Then he said, “We are going to give David Terrell a little more time to contact Thomas

Jacobs, if the house is not fixed, we are cancelling this loan and getting out of this mess.”

87. Since Thomas Jacobs lied when he did not have to, my husband decided to investigate Thomas Jacobs; and after going to the City of Orangeburg’s Building Inspector, according to my husband, a building permit was issued a few years ago, but nothing since then.

88. According to my husband, he then asked about a building permit for Thomas Jacobs, and discovered no building permit was issued to Thomas Jacobs to do any repairs at 423 Bayne Street. **{Must call or visit City of Orangeburg Building Inspector for Verification}**

89. When he got back home, he said. “Not only did Thomas Jacobs lie and Lambright lied. The Appraiser lied too. We were scammed. No building material was ever at 423 Bayne Street and none could ever show up. Mr. Lambright could not legally do any major repairs without a building permit and Thomas Jacobs never had one.” **{See April Primrose - Neighbor}**

90. During the last week in January of 2008, I was home when my husband contacted South Carolina’s Department of Consumer Affairs (**SCDCA**) to see if Thomas Jacobs had a broker’s license or a loan originator’s license. **{Call for Verification}**

91. My husband said, “In South Carolina mortgage brokers and loan originators must be licensed... and if Thomas Jacobs did not have a license the loan was brokered illegally.”

92. SCDCA told my husband Thomas Jacobs was not a licensed broker or loan originator and if he is brokering home mortgage loans it is unlawful,.

93. All I know for a fact is the representative at SCDCA was telling us the truth because Section 40-58-20 – SC Code of Laws; subsections 23 and 40 says the following in pertinent

parts... (23) "Loan originator" means a natural person who, in exchange for compensation or gain or in the expectation of compensation or gain as an employee of a licensed mortgage broker, solicits, negotiates, accepts, or offers to accept applications for mortgage loans, including electronic applications, or includes direct contact with, or informing mortgage loan applicants of, the rates, terms, disclosures, and other aspects of the mortgage loan. The definition of "loan originator" does not include an exempt person described in item (16) of this section or a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in Section 101(53D) of Title 11, United States Code. The definition of loan originator does not apply to an individual servicing a mortgage loan as that term is defined in this chapter until July 31, 2011, unless the United States Department of Housing and Urban Development or a court of competent jurisdiction determines before that time that those individuals servicing mortgage loans are "loan originators" as that term is defined in the SAFE Act pursuant to Section 1508 of Title V of The Housing and Economic Recovery Act of 2008, Public Law

110-289. Solely acquiring and reviewing a credit report does not constitute acting as a loan originator.” 40) "Qualified loan originator" means a natural person who acts as a loan originator exclusively for a mortgage broker licensee and who is not an employee of the mortgage broker. Unless otherwise indicated, a qualified loan originator is subject to the requirements of a loan originator under this chapter.

94. On Monday February 4, 2008, when I returned from work, my husband said to me, “I called SCDCA again to see if Thomas Jacobs had a previous loan originator’s license with Golden Gate Mortgage. He was never employed as a loan originator with Golden Gate Mortgage.”

95. Based upon information and belief, All I can say is the unlawful activities of Thomas Jacobs, David Terrell, the apathy and the complicity of Wells Fargo’s representatives I was talking to on the phone were violating Federal regulations under RESPA and TILA because Section 40-58-20 subsections 35-36 and subsection 38 says the following in pertinent parts....

(35) "RESPA" means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and regulations adopted pursuant to it by the Department of Housing and Urban Development. (36) "Soliciting, processing, placing, or negotiating a mortgage loan" means, for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, or negotiating or offering to negotiate the terms or conditions of a mortgage loan. ----(38) "TILA" means the Truth in Lending Act, 15 U.S.C. Section 1601 et seq. and regulations adopted pursuant to it by the Board of Governors of the Federal Reserve System.”

96. On February 5, 2008 a fax came in from WFHM. It was another appraisal. This appraisal had me as borrower and Jacobs as the owner. **{WF00001-WF00013}** We now had two appraisals, both falsified **{WF00001-WF00026}** and both filled with lies... One **{WF00014-WF00026}** was not only falsified and filled with lies, it was also a forgery by substitution. The satisfaction completion certificates were absolute scams. **{WF00009 & WF00022}**

97. Based upon information obtained from Cornell University’s Online Law Library, David Terrell, Thomas Jacobs, Jim H. Austin, III and Wells Fargo’s personnel are complicit in violating 18 USC Sections 656, 1001, 1005, 1007, 1014 and 1344.

“(a) 18 USC § 656 clearly states in pertinent parts, “Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act, or a receiver of a

national bank, insured bank, branch, agency, or organization or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank, branch, agency, or organization or holding company or any moneys, funds, assets or securities intrusted to the custody or care of such bank, branch, agency, or organization, or holding company or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.”

(b) 18 USC § 1001(a) clearly states in pertinent parts, “Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully-- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both. If the matter relates to an offense under 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall not be more than 8 years.”

98. On the same day, February 5, 2008, my husband took key pages from the appraisal and itemized the fraud, **{Exhibits 8-14}** while I began composing a letter to all concerned, Thomas Jacobs, Golden Gate Mortgage, Player Law Firm and WFHM. **{Exhibit 4, the Plaintiff's Exhibit B}**

99. Cornell University's Online Law Library states the following about 18 USC 1005 in pertinent parts...

“Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, depository institution holding company national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a)(1) of the Federal Reserve Act, without authority from the directors of such bank, branch, agency, or organization or company, issues or puts in circulation any notes of such bank, branch, agency, or organization or company; or Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or Whoever makes any false entry in any book, report, or statement of such bank, company, branch, agency, or organization with intent to injure or defraud such bank, company, branch, agency, or organization, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, company, branch, agency, or organization, or the Comptroller of the

Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, company, branch, agency, or organization, or the Board of Governors of the Federal Reserve System;.....”

100. On February 6, 2008, I faxed my letter to all concerned. Since we were still following Kathryn R. Perkinson’s advice and giving David Terrell time to contact Thomas Jacobs, the letter was not as harsh as it could have been. **{Exhibit 4, the Plaintiff’s Exhibit B}**

101. Cornell University’s Online Law Library states the following about 18 USC 1007 in pertinent parts...

“Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.”

102. On February 7, 2008, I received a fax from Golden Gate Mortgage in response to my fax memo of February 6, 2008.

103. In the fax, he (David Terrell) stated he was sorry for what happened and he took responsibility for the mortgage, he stated that he was the person that put me in touch with Wells Fargo and he was confused as to why I wanted to sue him. **{Exhibit 37}**

104. Naturally, I did not believe him, because Thomas Jacobs had Golden Gate’s paperwork and was not employed or licensed by David Terrell / Golden Gate Mortgage. **{SCDCA}**

105. In addition, I had learned; from reading Section 40-58-30 – SC Code of Laws, the following information relative to mortgage brokers and loan originators.

“(A) A person may not act as a mortgage broker in this State without first being licensed with the administrator. A person, required to be licensed pursuant to this chapter, may not do business without a license under any name or title, or circulate or use advertising, including electronic means, or make a representation or give information to any person, which indicates or reasonably implies activity within the scope of this chapter unless that person has a license. (B) It is unlawful for a person to employ, to compensate, or to appoint as its agent a loan originator unless the loan originator is licensed pursuant to this chapter. The license of a loan originator is not effective during any period when that person is not employed by a mortgage broker licensed pursuant to this chapter. When a loan originator ceases to be employed by a licensed mortgage broker, the loan originator and the mortgage broker by whom that person was employed shall notify promptly the administrator in writing....”

106. On Friday, February 8, 2008, my husband faxed the documented evidence of the fraud to WFHM . We were certain with the documented evidence of fraud... the loan would be cancelled.

{Exhibits 8-14} That did not happen.

107. On Sunday, February 10, 2008, I went online to SCDCA's website and completed complaint forms against Debra C. Galloway, Jim H. Austin, III, David Terrell and Thomas Jacobs. **{Exhibits 133, 134, 135 & 136}**

108. On February 25, 2008, I received my first letter from Janet Frotscher dated, February 21, 2008 **{WF00120}** by this time I had documented evidence that David Terrell had submitted Thomas Jacobs' paperwork to Wells Fargo **{WF00120, Page 1, Paragraph #5}**; and Wells Fargo's personnel had full knowledge that Thomas Jacobs brokered the loan entirely by himself, and used the help of the broker and appraiser to defraud Wells Fargo Bank out of \$75,000.00 for a property that was not worth it...and Wells Fargo's personnel up to February 25, 2008 had done absolutely nothing . **{Exhibits 4, 8-14, 30, 37, 43, 51-64, 68-70, 81, WF00120 & WF00121}**

109. I called Wells Fargo immediately and put my husband on the phone. Contact the representative at WFHM that answered the phone on February 25, 2008 for more details. He said to the representative that answered the phone, "Golden Gate Mortgage did not broker any loan. If any brokering were done, it was done by Thomas Jacobs. We have not been to Millwood Avenue and no one from Golden Gate Mortgage has been to 423 Bayne Street. All I know...is Golden Gate Mortgage is suppose to be my wife's lender, and the company is a friend and business associate of Thomas Jacobs. **{See Sentence #59, Page 6 & WF00080}**

110. He continued by saying, "Thomas Jacobs gave my wife all the paperwork for the loan, not Golden Gate Mortgage. My wife went to the closing to have the price of 423 Bayne Street reduced because Thomas Jacobs did not do any repairs to 423 Bayne Street for a \$75,000.00" loan. In addition, he said, "Golden Gate Mortgage and Thomas Jacobs have scammed Wells Fargo and got us on the hook for \$75,000.00. We have to work together to stopped this thievery and put an end to this scam."

111. According to my husband, the representative said, "I cannot discuss the loan with you because your name is not on the contract. Someone will get in touch with her." No one did.

"18 U.S.C. 1014 clearly states in all pertinent parts..."Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of ----- a Federal Reserve bank ----, any institution the accounts of which are insured by the Federal Deposit Insurance Corporation, --- the Federal Deposit Insurance Corporation,---- ---, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, loan, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both ----."

112. On February 25, 2008, after my husband's conversation with Wells Fargo, that repeated the information they had already received; as well as, the documented evidence of fraud, I began to write a letter to Janet Frotscher that my husband finished and signed because I was running late for work. The letter had the visual impact of truth, that I hoped would help her understand the seriousness of what she was doing after all the facts were know. **{Exhibit 43}**

113. Signed broker's agreement or no signed broker's agreement, Wells Fargo's personnel now had full knowledge, verifiable documentation and access to information; that..

- (a) Thomas Jacobs brokered the mortgage loan all by himself in violation of State and Federal law, with help from the broker, appraiser and Wells Fargo's employees.
- (b) The appraisals were falsified and forged and the satisfaction completion certificates were documentary scams.
- (c) The seller used paperwork from Golden Gate Mortgage with David Terrell's permission, approval and support.
- (d) David Terrell lied on the Uniform Residential Mortgage application because he never interviewed me.
- (e) I am an innocent victim of this scam and I am still doing everything within reason to stop it.
- (f) The closing attorney, Debra C. Galloway violated her professional code of ethics by knowingly aiding and abetting a criminal act after the facts were known and her complicity in that act by failing to follow the closing guidelines of the Player Law Firm and notifying Wells Fargo that there were serious allegations of fraud.
- (g) The biggest obstacle to overcome was the apathy, negligence and complicity of Wells Fargo's personnel.
- (h) Because of the apathy, negligence and complicity of Wells Fargo's Executive Resolution Team headed by Janet Frotscher, Thomas Jacobs successfully; at least up to now, was allowed to defraud and scam Wells Fargo Bank out of \$75,000.00 and put me on the hook for Wells Fargo's mistake. The key word is "ALLOWED".

114. On February 29, 2008, my husband faxed all the information we had discovered and requested the loan be cancelled because continued payments would make us a party to Insurance Fraud and we were not going to support Wells Fargo's complicity in the illegal activity of the seller, the broker and the appraiser. **{Exhibit 51}**

115. March 1, 2008 came and no word from Thomas Jacobs. At this time I abandoned Kathryn R. Perkinson's advice and decided to stop payments altogether until this matter could be resolved satisfactorily.

116. My husband said, "As long as we continue to make payments on the mortgage loan, we would be helping Wells Fargo perpetuate Thomas Jacobs' illegally brokered loan, his home

improvement and mortgage fraud and his illegal predatory lending scheme.”

117. On March 6, I faxed a letter to all concerned informing all the characters in the scheme of my decision not to perpetuate a fraud by continued payments. **{Exhibit 52, Plaintiff's Exhibit D}**

118. On or about April 14, 2008, I received a letter from Janet Frotscher dated April 10, 2008. She never mentioned my 03/06/2008 letter **{WF00121}**. Even more history is in my pleadings. Those pleadings are incorporated by reference as though fully set forth herein verbatim.

119. Ms. Weatherly is claiming she is the Vice President for Loan Documentation and she is competent to submit this affidavit. **{See Support Affidavit Pg. 1, Sentence #1}**

120. If Ms Weatherly is claiming; as part of her job responsibilities with Wells Fargo, include monitoring Wells Fargo's outstanding, mortgage-loan accounts, including the account of the defendant, Dorothy Sistrunk (Defendant), then Ms. Weatherly should have some familiarity with the preceding history of this account that has been outlined from page 1 to the present page in this Affidavit; as well as, knowledge of the supporting documentation currently on file in the Court of Common Pleas.

121. If no familiarity with the documented history of this account is shown in Ms Weatherly's support Affidavit, then... Ms. Weatherly is not qualified to render the truth, the undisputed facts and/or the material facts relative to this case.

122. Without acknowledgment, Ms. Weatherly is continuing to victimize me by making me responsible for Wells Fargo's negligence, apathy, errors in judgment and the complicity of Wells Fargo's personnel in the illegal brokering activity of the seller, with help from the appraiser and the broker.

RESPONSES AND/OR OBJECTIONS TO STATEMENTS IN AMANDA WEATHERLY'S AFFIDAVIT

1. **Response to Sentence #1:** I do not have sufficient knowledge or information to object or dispute this statement that Amanda Weatherly is Vice President Loan Documentation and she is over the age of eighteen or that she is competent to submit this affidavit. I accept the statement that the affidavit is being submitted under the penalty of perjury.

2. **Response to Sentence #2:** I do not have sufficient knowledge or information to object to or dispute Amanda Weatherly's statement that her job responsibilities with Wells Fargo include monitoring Wells Fargo's outstanding, mortgage-loan accounts, including the account of the defendant, Dorothy Sistrunk.

3. **Objection to Sentence #3:** I respectfully object to Ms. Weatherly's claim that the Defendant's mortgage-loan account with Wells Fargo is the product of a note (Note) and Mortgage (Mortgage) that Defendant signed on December 21, 2007. I also object and refute Ms. Weatherly statement that Wells Fargo is the original payee of the note. There is no payee original or otherwise on a mortgage note that was obtained in violation of Federal and State law. Any such note and mortgage is unenforceable.

"The general rule is that contracts for performance of illegal conduct are unenforceable and void. The Minnesota Court of Appeals addressed this, stating "the application of the doctrine of *in pari delicto* is appropriate for (1) preventing enforcement of a contract the performance of which is illegal." Brubaker v. Hi-Banks Resort Corp., 415 N.W.2d 680, 684 (Minn. App. 1987). The Supreme Court of Minnesota has held "anyone who engages in a fraudulent scheme forfeits all right to protection, either at law or in equity." State by Head v. AAMCO Automatic Transmissions, Inc., 293 Minn. 342, 347 (1972)."

4. The loan documents are the consummation of an illegal Predatory Lending Scheme, a Home Improvement and Mortgage Fraud and the underpinning for Insurance Fraud, Bank Fraud and Securities Fraud....and... I will not knowingly participate in a criminal scheme in any manner or form. **{Amanda Weatherly's Exhibit 1 - WF00039-WF00060}**

See HUD-Treasury National Predatory Lending Task Force, Joint Report: "Curbing Predatory Home Mortgage Lending" (2000). According to this report, predatory lending involves providing a borrower a loan with limited or no benefit, often characterized by high fees, that erodes the borrower's equity through (1) deception or fraud, (2) manipulating the borrower through aggressive sale tactics, or (3) taking unfair advantage of a borrower's lack of understanding of loan terms."

5. No where is written in the Plaintiff's note **{WF00039}** you are obligated even if illegally obtained with an unauthorized credit report **{WF00066-WF00073}** Verification and documentation of the broker's unauthorized access and use **{WF00063-WF00064 & WF00074}** and Wells Fargo's complicity and continued complicity after being duly notified. **{WF00065}**.

6. No where on the Plaintiff's Fixed-Rate Note does it state, **"I Promise to Pay Even if Illegal** In fact governing law and precedent support and uphold the opposite view. **{UCC § 305(a)(1) & Section 36-3-305(a)(1) – SC Code of Laws}**

"Generally, South Carolina Courts will not enforce contracts that are illegal or violate public policy. See White v. J.M. Brown Amusement Co., Inc., 360 S.C. 366, 371, 601 S.E.2d 342, 345 (2004) ("The general rule, well established in South Carolina, is that courts will not enforce a contract when the subject matter of the contract or an act required for performance violates public policy as expressed in constitutional provisions, statutory law, or judicial decisions."); see

also Beach Co. v. Twillman, Ltd., 351 S.C. 56, 64, 566 S.E.2d 863, 866 (Ct. App. 2002) (holding that illegal contracts are void and unenforceable, such that actions for its breach may not be maintained).”

7. **Objection to Sentence #4:** I respectfully object to Ms. Weatherly’s claim that Exhibit 1 is a true and accurate copy of the note. Based on prevailing law, no true and accurate copy of a note that is void *ab initio* can exist as a reality, actuality or fact, can be maintained in Wells Fargo’s business records.

8. **Objection to Sentence #5:** I respectfully object to Ms. Weatherly’s claim that Exhibit 2 is a true and accurate copy of the note. Based on prevailing law, no true and accurate copy of a Mortgage that is void *ab initio* can exist as a reality actuality or fact.

9. **Objection to Sentence #6:** I respectfully object to Ms. Weatherly’s claim that Wells Fargo is the holder of the Note and Mortgage.

Section 36-3-305 – SC Code of Laws states in pertinent parts...”(a) Except as otherwise provided in this section, the right to enforce the obligation of a party to pay an instrument is subject to the following: (1) a defense of the obligor based on (ii) ----- illegality of the transaction which, under other law, nullifies the obligation of the obligor, (iii) fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms.....”

10. **Response to Sentence #7:** According to Ms. Weatherly’s claim that is based upon her review of Wells Fargo’s records for Defendant’s loan account, any outstanding balance is evidence of Wells Fargo’s complicity in the illegal brokering activity of the seller, with help from the broker and the appraiser.

11. **Objection to Sentence #8:** I respectfully object to Ms. Weatherly’s claim. An illegal loan transaction is unenforceable and cannot encumber real property. Guardian Agency v. Guardian Mut. Savings Bank, 227 Wis. 550, 279 NW 79 (1938). (Holding that, “The contract is void if it is only in part connected with the illegal transaction and the promise single or entire.”)

12. **Objection to Sentence #9:** I agree with Ms Weatherly’s statement that Elizabeth Scott Moise and James H. Burns are attorneys of record. However I object to the statement Burns and Moise are qualified to present facts and evidence in the above captioned case.

13. Neither Burns nor Moise is qualified to present any facts and/or evidence in the above captioned case because of their perpetration and perpetuation of the **Massive Filing Fraud** during the Stay/TRO, concealment of material facts, misrepresentation of material facts and filed outright lies about me in briefs filed in the Court of Common Pleas. (See Case Status Updates

from 2009 – 2011 & My Filed Responses}

14. Wells Fargo's loan #708-0174072777 never qualified for any modification . Wells Fargo never had a program, policy or procedure that can modify a fraudulent loan. This was admitted by Elizabeth Scott Moise. For almost two (2) years, Elizabeth Scott Moise and/or James H. Burns and/or Wells Fargo lied about this loan and they are still hiding the truth...now.

15. **I Reject Ms. Weatherly's Statement in Sentence #10:** No legitimate records can be kept or maintained on an illegal transaction that is void *ab initio*. Whatever records Wells Fargo is maintaining is in violation of Policy Statement 5000, that requires fraudulent loans to be charged off within 90 days of discovery. This verifies the complicity of Wells Fargo's employees in the illegal activities of the seller, with help from the broker and appraiser.

16. Ms. Weatherly has accurately described the two (2) payments I made as a "Good Will" gesture in order to encourage Wells Fargo to cancel the fraudulent mortgage and note and replace it with one that is based on accurate and verifiable information.

17. Wells Fargo refused to cooperate. Consequently, Wells Fargo's record accurately reflects that after the "Good Will" gesture, I cannot be accused of supporting Wells Fargo's illegally brokered loan that came into existence with an unauthorized credit report, a predatory lending scheme that is based upon the use and reliance on forged, altered and/or falsified documents and a home improvement and mortgage fraud that relies upon the same documents.

18. **I Reject Ms. Weatherly's Statement in Sentence #11:** Wells Fargo pays taxes because Wells Fargo's personnel told me to fax or mail all tax notices to Des Moines, Iowa and that is precisely what I have been doing. No escrow payments are required on an illegal loan transaction that should have been cancelled and charged off years ago. **{FDIC Policy Statement 5000}**

19. **I Reject Ms. Weatherly's Statement in Sentence #12:** There is no pay off due on an illegal loan obtained in violation of Federal and state law.

"Generally, South Carolina Courts will not enforce contracts that are illegal or violate public policy. See White v. J.M. Brown Amusement Co., Inc., 360 S.C. 366, 371, 601 S.E.2d 342, 345 (2004) ("The general rule, well established in South Carolina, is that courts will not enforce a contract when the subject matter of the contract or an act required for performance violates public policy as expressed in constitutional provisions, statutory law, or judicial decisions."); see also Beach Co. v. Twillman, Ltd., 351 S.C. 56, 64, 566 S.E.2d 863, 866 (Ct. App. 2002) (holding that illegal contracts are void and unenforceable, such that actions for its breach may not be maintained)."

20. **I Reject Ms. Weatherly's Statement in Sentence #13 and Subparts (a)–(e):** There is no principal amount due, accrued interest, escrow advances, recoverable corporate advances for inspection fees, or any other pro rata mortgage or any other charges or fees on a mortgage and note that was obtained in violation of State and Federal law. This is consistent with South Carolina law and precedent that clearly states without any ambiguity....

"no person is permitted to acquire a right of action from an unlawful act and that one who participates in an unlawful act cannot recover damages for the consequence of that act. See Jackson v. Bi-Lo Stores, Inc., 313 S.C. 272, 276-77, 437 S.E.2d 168, 170-71 (Ct. App. 1993) (applying this policy to a contract secured and maintained by bribery). "This rule applies at both law and in equity and whether the cause of action is in contract or in tort." Jackson, 313 S.C. at 276, 437 S.E.2d at 170.

21. **I Reject Ms. Weatherly's Statement in Sentence #13 and Subparts (a)–(e):** For the these additional reason based on my understanding of the precedent that was established and set forth in the following cases.

(a) "The contract is void if it is only in part connected with the illegal transaction and the promise single or entire." Guardian Agency v. Guardian Mut. Savings Bank, 227 Wis.550, 279 NW 79 (1938).

(b) "If any part of the consideration for a promise be illegal, or if there are several considerations for an un-severable promise one of which is illegal, the promise, whether written or oral, is wholly void, as it is impossible to say what part or which one of the considerations induced the promise." Menominee River Co. v. Augustus Spies L & C Co., 147 Wis. 559 at p. 572; 132 NW 1118 (1912).

(c)"Any conduct capable of being turned into a statement of fact is representation. There is no distinction between misrepresentations effected by words and misrepresentations effected by other acts." (The seller or lender) "He is liable, not upon any idea of benefit to himself, but because of his wrongful act and the consequent injury to the other party." Leonard v. Springer, 197 Ill 532. 64 NE 299 (1902).

(d) "It is not necessary for rescission of a contract that the party making the misrepresentation should have known that it was false, but recovery is allowed even though misrepresentation is innocently made, because it would be unjust to allow one who made false representations, even innocently, to retain the fruits of a bargain induced by such representations." Whipp v. Iverson, 43 Wis. 2d 166, 168 N.W.2d 201 (1969).

22. **I Reject Ms. Weatherly's Statement in Sentence #13 and Subparts (a)–(e):** for this reason, neither Janet Frotscher nor any other representative from Wells Fargo has ever revealed in any letter the subject matter of the correspondence or conversation they had with me or my

husband over the past five years. The subject matter of my conversations and correspondence should have been available to Ms. Weatherly. **{Exhibits 4, 8-14, 43 & 51-64}**.

23. Ms. Weatherly claims her job responsibilities with Wells Fargo include monitoring Wells Fargo's outstanding, mortgage-loan accounts, including the account of the defendant, Dorothy Sistrunk. **{Support Affidavit, Pg. 1, Sentence #2}**

24. If this were true, then Ms. Weatherly would have access to the representative that spoke with my husband on February 25, 2008. As well as access to any and all written correspondence. **{Exhibits 4, 8-14, 37, 43 & 51-64}**.

25. Therefore, Ms Weatherly, should know the customer – Dorothy Sistrunk says, “Golden Gate Mortgage did not broker the loan. Thomas Jacobs; an unlicensed individual, brokered the loan by himself and simply used Golden Gate Mortgage as a conduit **{February 25, 2008}**.”.

26. The customer also says, “David Terrell never interviewed her and he is a liar if he said he did **{WF00032, WF00035 & WF00038}**”.

27. The broker agreement was part of a funding package for Golden Gate Mortgage to fund the loan..... not Wells Fargo. Neither David Terrell nor Thomas Jacobs informed me the loan was being brokered.. not funded.” **{Affidavit of George Sistrunk & Conversation dated 02/25/2008}**

28. Furthermore, Ms Weatherly should know, David Terrell admits he was the individual that sent Thomas Jacobs mortgage paperwork to Wells Fargo **{Exhibit 37}**.

29. Janet Frotscher confirmed Golden Gate Mortgage submitted the paperwork in her letters dated February 21, 2008 and June 2, 2008. **{WF00120 & WF00125-WF00126}**

30. Ms. Weatherly should know the customer, Dorothy Sistrunk, notified Wells Fargo the loan was mired in fraud, deceit and deception on December 22, 2007. **{Taped on Answering Machine in Raleigh, North Carolina 12/22/2007}**

31. Ms Weatherly should know the closing attorney, Debra C. Galloway, refused to contact Wells Fargo to cancel the loan or to notify Wells Fargo of the fraudulent conduct of the Seller because of a supposed conflict of interest. **{Exhibits 68-70}**

33. Ms Weather should know the customer, Dorothy Sistrunk, has been telling Wells Fargo the appraisals are forged and falsified, **{WF00001-WF00026}** and the satisfaction completion certificates **{WF00009 & WF00022}** are absolute lies and documentary scams since January 14, 2008. **{Exhibits 4, 8-14, 37, 43 & 51-64}** Even my credit report was obtained without my knowledge or permission in violation of a Federal law. Wells Fargo has “Unclean Hands”.

34. If Ms. Weatherly has done the monitoring she claims, then Ms Weatherly should know, that her statements in her support affidavit is additional verification of Wells Fargo's continued complicity in the illegal brokering activities of the seller. Wells Fargo is still perpetuating Thomas Jacobs' illegal predatory lending scheme and his illegal home improvement and mortgage fraud with help from the broker, appraiser and Wells Fargo's own employees.

35. **I Reject Ms. Weatherly's Statement in Sentence #13 and Subparts (a)–(e):** for these additional reasons. Janet Frotscher admitted in her letters dated February 21, 2008 and June 2, 2008 that Golden Gate Mortgage submitted Thomas Jacob's loan paper to Wells Fargo.

36. Ms. Weatherly should know from her claimed monitoring activities that Wells Fargo has known since February of 2008 that Thomas Jacobs brokered the loan and not Golden Gate Mortgage. Wells Fargo has known since February of 2008, that David Terrell lied and the appraiser lied. Ms. Weatherly should know the loan is an absolutely illegal transaction that was even obtained by using an unauthorized credit report. **{WF00066-WF00073 & This can be verified by looking at WF00063-WF00064, WF00065 and WF00074}**

37. Janet Frotscher refers to my correspondence in all her replies and this includes telephone conversations. **{WF00120, WF00121, WF00125-WF00126 & WF00130}**

38. With the legal resources available at Wells Fargo, Ms. Weatherly show know loan # 708-0174072777 is an unenforceable loan under Federal law and under South Carolina's Code of laws; especially, Sections 16-13-10 and 34-3-110 – SC Code of Laws.

(a) Section 16-13-10 – SC Code of Laws states in relevant parts.... “(A) It is unlawful for a person to: (1) falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or wilfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing; (2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing; (3) falsely make, forge, counterfeit, alter, change, deface, or erase; or cause or procure to be falsely made, forged, counterfeited, altered, changed, defaced, or erased any record or plat of land; or (4) willingly act or assist in any of the premises, with an intention to defraud any person. (B) A person who violates the provisions of this section is guilty of a: (1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is ten thousand dollars or more;”

(b) Section 34-3-110 – SC Code of Laws clearly states in relevant parts “(A) A person knowingly may not execute, or attempt to execute, a scheme or artifice to: (1) defraud a federally chartered or insured financial institution; or (2) obtain monies, funds, credits, assets, securities, or other property owned by or under the custody or control of a

federally chartered or insured financial institution by means of false or fraudulent pretenses representations, or promises. (B) A person who violates the provisions of subsection (A) is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than five years, or both." A "Falsely Certified" mortgage is a fraudulent pretense, misrepresentation of fact and a false security interest, thus defrauding the bank.

39. **I Reject Ms. Weatherly's Statement in Sentence #13 and Subparts (a)-(e):** for these final reasons. Based on Ms. Weatherly claims that she is the Vice President for Loan Documentation, Ms. Weatherly should know or have access to Janet Frotscher's letters. If the attorneys have copies of these letters, surely Ms. Weatherly, would have access to the entire file for documentary purposes. {WF00120, WF00121, WF00125-WF00126 & WF00130}

40. If the loan is an illegal transaction or a fraudulent loan, there is no debt to validate and the loan must be charged off within 90 days of discovery. {FDIC Policy Statement 5000}

41. Ms. Weatherly should also know, Janet Frotscher admitted in her letters the broker submitted the paperwork. {Exhibit 37, WF00120 & WF00125-WF00126}

42. With the legal resources available at Wells Fargo, Ms. Weatherly should know based on the document file available from her attorneys, Moise and Burns, with respect to Janet Frotscher's letters to me, that documents can only be submitted by mail, carrier or electronic media, i.e., fax machine, scanner, etc. , therefore, Ms Weatherly should be aware of the following United States Code. Surely, if I can find it and her attorneys can find it, Ms. Weatherly can find it also or have it researched by Wells Fargo's in-house legal department.

(a) 18 U.S.C. 1341 clearly states in pertinent parts..."Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both."

43. Surely, Ms Weatherly realizes, that once the tether to the broker was severed, no

legitimate brokered loan existed in reality, actuality or fact for loan #708-0174072777. Once my sworn testimony was received and filed in a Court of Law, my statements were no longer mere allegations. They must be considered by law and under the Rules of Civil Procedure as statements of fact and they must be treated as such by law enforcement and the Court.

44. A sworn statement or affidavit and/or declaration becomes admissible evidence; and eyewitness testimony; especially if, those sworn statements are never denied, refuted or objected to. Wells Fargo has never denied or refuted any sworn statement in 5 years.

45. Any denial at this point in time by any Wells Fargo representative, agent, officer and/or executive must be considered by the Court as false testimony to discredit me. Which would be difficult to do, because the remaining eyewitnesses are still available for any trial for additional verification.

46. In addition, it is now a matter of public record that Wells Fargo has been repeatedly fined and penalized for the same actions and violations I have been testifying to in all my pleadings and filed affidavits for over 5 years.

47. Consequently, based upon the facts and the law Wells Fargo has no legitimate right to relief. Accordingly, any loss Wells Fargo incurs or has already incurred is due to Wells Fargo's unlawful conduct, concealment of material facts, misrepresentation of material facts, failure to "Substantially Comply" with lawfully enacted statutes and regulations, violation of State and Federal laws and/or regulations, failure to mitigate losses by taking appropriate steps and actions, poor judgment, questionable banking practices, substandard performance and the unacceptable conduct, behavior and complicity as demonstrated by Wells Fargo's personnel. Therefore, Summary Judgment is appropriately denied and this case Dismissed with Prejudice and Punitive and Statutory Damages awarded to Dorothy Sistrunk the Defendant.

Signature of Affiant: Dorothy Sistrunk

SWORN to and subscribed before me;

This 17th day of July 2013

Notary Signature: Lillian D. Buck

My Commission Expires on July 24, 2022

Seal

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Wells Fargo Bank, N. A.

Plaintiff,

Vs.

Dorothy Sistrunk;

Defendant.

) IN THE COURT OF COMMON PLEAS
) FIRST JUDICIAL CIRCUIT
)
) Civil Action No. 2008-CP-38-1024
)
) **NOTICE OF TYPO ERRORS IN DOROTHY**
) **SISTRUNK' S REBUTTAL AND COUNTER**
) **AFFIDAVIT OF FACTS & TRUTH THAT**
) **REFUTES & OPPOSES THE AFFIDAVIT**
) **OF AMANDA WEATHERLY WELLS**
) **FARGO'S VICE PRESIDENT FOR LOAN**
) **DOCUMENTATION FOR WELLS FARGO**
) **BANK, N.A., IN SUPPORT OF WELLS FARGO'S**
) **MOTION FOR SUMMARY JUDGMENT.**
)
) **Date Filed: July 17, 2013**
) **Today's Date: July 22, 2013**

[Page 1 of 23]

STATEMENT OF FACTS, TRUTH & A BRIEF HISTORY

The Unauthorized Credit Report {WF00063-WF00073}

Wells Fargo's Mortgage Loan Was Brokered Entirely
By Thomas Jacobs and not By David Terrell / Golden Gate Mortgage

[Page 4 of 23]

Reason for the Closing on December 21, 2007

Typo Error: Paragraph 25. Page 4 of 23: Change Universal to [Uniform]

Typo Error: Paragraph 26. Page 4 of 23: Change at to [during] in both phrases. **Note:** Even though Thomas Jacobs referenced the closing several times before leaving 423 Bayne Street, with phrases like; "Adjustments to the price will take place at the closing and/or "adjustments will be made during the closing", "the price will be lowered at the closing." His exact words while standing in the doorway were; "During the closing.....the price will be lowered during the closing." He said "at the closing" before standing in the doorway. While standing in the doorway, with the signed paperwork from Golden Gate Mortgage in his hand, Thomas Jacobs exact words were ; "During the closing... the price will be lowered during the closing." So please change the words "at" to [during]. {Please Attach to my Affidavit filed on 07/17/2013.}

-1-

Wingy B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

Exhibit 253

[Page 6 of 23]

Aftermath – December 24, 2007 – January 12, 2008

Typo Error: Paragraph 56. Page 6 of 23: Change Katherine to [Kathryn]

[Page 8 of 23]

Aftermath - January 14, 2008 – March 1, 2008

[Page 14 of 23]

Typo Error: Paragraph 112. Page 14 of 23: Sentence #2, change know. to [known].

[Page 15 of 23]

**RESPONSES AND/OR OBJECTIONS TO
STATEMENTS IN AMANDA WEATHERLY'S AFFIDAVIT**

[Page 17 of 23]

Typo Error: Paragraph 8: Page 17 of 23: **Objection to Sentence #5:** Sentence #1, change note to [mortgage].

Note: It is difficult for a document's writer to detect typographical errors. Far too often, the writer sees the text as it should be and not as it actually is. Therefore, it may take several readings to find all the errors. If any more significant typo errors are found that change the meaning of a sentence, I will notify the court and the Plaintiff at once.

NOTIFICATION

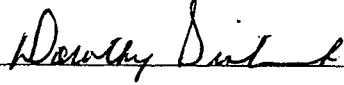
A copy of the Defendant's Notice of Typo Errors in Defendant Dorothy Sistrunk's Rebuttal and Counter Affidavit of Facts & Truth that Refutes & Opposes the Affidavit of Amanda Weatherly Wells Fargo's Vice President for Loan Documentation for Wells Fargo Bank, N.A., in Support of Wells Fargo's Motion for Summary Judgment that has been filed with the Clerk of Court will be mailed to the following:

Nelson Mullins Riley & Scarborough, LLP

Elizabeth Scott Moise
SC Bar No. 012945
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401 -2239
803-853-5200

James H. Burns
SC Bar No. 70313
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Attorneys for Wells Fargo Bank, N.A.

Signature of Affiant  Date: 7/22/13

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

) IN THE COURT OF COMMON PLEAS
) FIRST JUDICIAL CIRCUIT
)

Wells Fargo Bank, N.A.,

) Civil Action Case No. 2008-CP-38-1024
)

Plaintiff,

Vs.

) **DOROTHY SISTRUNK' S AFFIDAVIT**
) **OF FACTS & TRUTH REGARDING**
) **JUDGE DIANE SHAFER GOODSTEIN'S**
) **VIOLATION OF SOUTH CAROLINA'S**
) **AND THE UNITED STATES**
) **CONSTITUTION'S DUE PROCESS**
) **CLAUSES**
)

Dorothy Sistrunk;

Defendant,

) **TODAY'S DATE: MAY 28, 2014**
)

PERSONALLY, appeared before me

Dorothy Sistrunk

in the State of South Carolina, in the County of Orangeburg and in the City of Orangeburg, and presented to me an acceptable picture identification in the form of a State of South Carolina driver's license with the number 008190796, being of full age, on her oath, being **DULY SWORN**, and under the **PENALTY OF PERJURY**, deposes and swears the following statements that are base on her personal knowledge of the events are true..... and correct and as to matters based on information and/or belief, she believes them to be true. **To wit:**

1. I, Dorothy Sistrunk, who currently resides at 423 Bayne Street in Orangeburg, South Carolina; do solemnly swear before an authorized Administer of Oaths, and under the penalty of perjury all that will be stated herein is true and correct. As to matters based on my information or belief, I believe them to be true. I believe the following provisions in the United States Constitution and code are true based upon information and belief.

(a) UNITED STATES CONSTITUTION - AMENDMENT V: states in pertinent parts.. "[N]o person shall be..... deprived of life, liberty, or property, without due process of law....;"

(b) UNITED STATES CONSTITUTION - AMENDMENT XIV: states in pertinent parts.. "[A]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

(c) *Re: The Civil Rights Act. 42 U.S.C.A. § 1983:* "[E]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or causes to be subjected.....any citizen of the United States or other person within the juris-

-1 of 3-

ATTEST: TRUE COPY

Wingja B. *[Signature]*
CLERK OF COURT
ORANGEBURG COUNTY

Exhibit 377

diction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

2. Based upon my information and belief, I believe the following provisions in South Carolina's Constitution are true.

(a) STATE OF SOUTH CAROLINA CONSTITUTION – ARTICLE 1 - § 3: states in pertinent parts.. "[T]he privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

(b) STATE OF SOUTH CAROLINA CONSTITUTION – ARTICLE 1 - § 14: states in pertinent parts.. "[T]he right of trial by jury shall be preserved inviolate. Any person charged with an offense shall enjoy the right to a speedy and public trial by an impartial jury; to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to be fully heard in his defense by himself or by his counsel or by both."

3. On August 12, 2008, I filed a Verified Pleading demanding a Trial by Jury. No Jury Trial has ever been scheduled. [See Attached Exhibit 341]

4. On December 6, 2011 during the hearing for attorney Brian A. Calub's Motion for Continuance and Scheduling Order, Judge Diane Shafer Goodstein would not allow my witness to speak.

5. On September 6, 2012 during the hearing for attorney Brian A. Calub's Motion for Sanctions, my witness was not only not allowed to speak, he was ushered out the courtroom by the Security Guard for helping me remember the caption under which I had filed my Rule 41(b) Motion to Dismiss with Prejudice.

6. On September 6, 2012, during the same hearing, Judge Goodstein gave me 5 minutes to present my motion and I told her that was unreasonable.

7. On September 3, 2013, during attorney James H. Burns' Motion for Summary Judgment, Judge Goodstein would not allow my witness to speak.

8. My witness, that is also my husband, has information and evidence that are material to the matters before the court and he can give relevant testimony as to Wells Fargo's knowledge and participation in the illegal brokering activities of the unlicensed Seller – Thomas Jacobs.

After This, The Affiant Sayeth Naught

Affiant Signature: _____

Dorothy Sistrunk

Printed Name of Affiant: _____

Dorothy Sistrunk

SWORN to and personally subscribed before me;

This 28th day of May, 2014

Personally Known [] Produced Identification [☒]

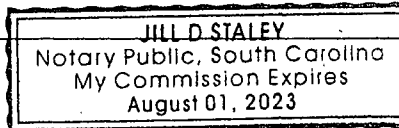
Type of Identification Produced: Driver's License

If Driver's License, State : South Carolina

Driver's License Number: 008190796

Notary Signature: Jill D Staley

My Commission Expires on: _____



Seal

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Wells Fargo Bank, N.A.,

Plaintiff,

Vs.

Dorothy Sistrunk;

Defendant,

) IN THE COURT OF COMMON PLEAS
) FIRST JUDICIAL CIRCUIT
)

) Civil Action Case No. 2008-CP-38-1024
)

) **DOROTHY SISTRUNK'S AFFIDAVIT**
) **OF FACTS & TRUTH REGARDING**
) **DEBRA C. GALLOWAY & STEPHANIE**
) **HAMMOND AT THE CLOSING ON**
) **DECEMBER 21, 2007 AT THE PLAYER**
) **LAW FIRM; 1415 BROAD RIVER RD**
) **COLUMBIA, SC 29210 & OTHER**
) **PERTINENT MATERIAL MATTERS**
) **TODAY'S DATE: MAY 28, 2014**

701 MAY 28 PM 4:22

PERSONALLY, appeared before me Dorothy Sistrunk,
in the State of South Carolina, in the County of Orangeburg and in the City of Orangeburg, and
presented to me an acceptable picture identification in the form of a State of South Carolina
driver's license with the number 008190796, being of full age, on
her oath, being **DULY SWORN**, and under the **PENALTY OF PERJURY**, deposes and swears
the following statements that are base on her personal knowledge of the events are true and.....
correct and as to matters based on information and/or belief, she believes them to be true. *To wit:*

DEBRA C. GALLOWAY a/k/a DEBRA GALLOWAY
WAS REPRESENTED AS AN ATTORNEY BY THOMAS
JACOBS a/k/a THOMAS D. JACOBS & DEBRA C. GALLOWAY a/k/a
DEBRA GALLOWAY REPRESENTED HERSELF AS AN ATTORNEY

1. I, Dorothy Sistrunk, who currently resides at 423 Bayne Street in Orangeburg, South Carolina; do solemnly swear before an authorized Administer of Oaths, and under the penalty of perjury all that will be stated herein is true and correct. As to matters based on my information or belief, I believe them to be true. On 12/21/07, Stephanie Hammond was never in my presence before or during the closing and did not witness me sign, certify or execute any documents.

2. **A Brief Historical Background:** Since no repairs were completed, I was not only led to believe... I was signing documents as a requirement so Golden Gate Mortgage could fund the loan, the signed documents would also have provisions to lower the price of 423 Bayne Street from \$75,000 to \$30,000. This provision is not in Wells Fargo's filed documents WF00001-137, that were received in October of 2008, or shortly thereafter.

3. You must ask my husband and Thomas Jacobs (*henceforth references to Thomas Jacobs will also mean a/k/a Thomas D. Jacobs*) how they arrived at the aforementioned sales price.

4. On December 21, 2007, since I did not know how much money Thomas Jacobs owed my husband for cleaning up and refurbishing 423 Bayne Street to make it livable and capable of being rented and/or sold, the closing price would also be reduced by this dollar amount.

5. The money he was owed covered the rent or lease [Filed Exhibit 30] or it could be used

-1 of 7-

Wingia B. Clark
CLERK OF COURT
ORANGEBURG

Exhibit 378

to pay any required down payment and/or any cash money needed to close. (Est. \$3,500 or more)

6. Since Debra C. Galloway (*henceforth references to Debra C. Galloway will also mean a/k/a Debra Galloway*) was in an office that was represented as belonging to the Player Law Firm, I had no reason not to believe she was, indeed, a licensed attorney.

7. Thomas Jacobs represented Debra C. Galloway as an attorney in his introduction. And..

8. Debra C. Galloway represented herself as an attorney.

9. Wells Fargo's attached Exhibits WF00089, WF00091, WF00093-WF00094, & WF00109 also represent Debra C. Galloway as an attorney with the Player Law Firm; as well as, my filed Exhibits 68-70.

10. I justifiably relied on and believed Debra C. Galloway was an attorney and followed her instructions. In addition, South Carolina's Supreme Court mandates all real estate closings must be supervised by an attorney.

State v. Buyers Serv. Co., 292 S.C. 426, 431-434, 357 S.E.2d 15, 18-19 (1987)(holding that a commercial title company's employment of attorneys to review mortgage loan closing documents did not save the company's preparation of those documents from constituting the unauthorized practice of law and that the closings should be conducted only under an attorney's supervision), modified by *Doe v. McMaster*, 355 S.C. 306, 585 S.E.2d 773 (2003); see also *Doe Law Firm v. Richardson*, 371 S.C. 14, 17, 636 S.E.2d 866, 868 (2006) (citing *Buyers and McMaster*) (clarifying that a lender may prepare legal documents for use in financing or refinancing a real property loan as long as an independent attorney reviews them and makes any corrections necessary to ensure their compliance with the law and reaffirming that mortgage loan closings should be conducted only under an attorney's supervision).

11. On December 21, 2007, after introductions; and a few minutes after the closing began, the Seller – Thomas Jacobs – got up and left without mentioning the loan was brokered.

12. After Thomas Jacobs left, attorney Galloway and I were the only people left in the room.

13. According to the **FBI's 2007 Financial Crime Report to the Public under Mortgage Fraud Indicators**; one of the features and indicators of a fraudulent mortgage scheme is.... **#6 - Requested to Sign Other Types of Blank Forms**. Attorney Debra C. Galloway had me sign and/or initial blank forms and/or pages. Since she was an attorney, I did as instructed.

14. Those December 21, 2007, signed blank and/or initialed forms and/or pages are now identified as Wells Fargo's documents WF00058, WF00060, WF00089, WF00091, WF00093-94, WF00097, & WF00101-102.

15. The December 21, 2007, blank documents Debra C. Galloway had me sign for the Player Law Firm are now identified as my filed Exhibits 68-69.

DEBRA C. GALLOWAY DID NOT REPRESENT HERSELF AS A NOTARY PUBLIC

16. On December 21, 2007, Debra C. Galloway did not represent herself as a Notary Public.

17. Thomas Jacobs did not represent Debra C. Galloway as a Notary Public.

18. Since December 21, 2007, Wells Fargo's attached documents WF00058, WF00060, WF00093, WF00097 & WF00101- 102 clearly represent Debra C. Galloway as a Notary Public.

19. Therefore, Debra C. Galloway's statement to the Commission on Lawyer Conduct that is dated February 14, 2008, [Exhibit 70] that she could not notify Wells Fargo about the misrepresentations of the Seller - Thomas Jacobs or Thomas Jacobs about his misrepresentations to me....because of a conflict of interest... is not entirely true. [See Attached Exhibit 348]

20. In her capacity as a Notary Public, Debra C. Galloway could have notified Wells Fargo to stop payment or cancel funding; as well as, notify Wells Fargo to contact me about the misrepresentations of the Seller - Thomas Jacobs. [See Attached Exhibit 348]

21. Debra C. Galloway's statement in Exhibit 70, in paragraph 1 on page 2, is also not entirely true. My husband actually said, "[I]f a loan can be rescinded under Regulation Z for violations, surely a money purchase loan can be rescinded for fraud." This is his entire statement, that she disagreed with. The possibility does exist that she did not hear the entire statement.

22. Debra C. Galloway's statement in Exhibit 70, in paragraph 2, on page 2, is another statement that is not entirely true. She left out a key part of what I actually said, "[T]he reason why you don't want to stop payment on the checks is because you will have to return the fee you were paid." The possibility does exist that she did not hear the entire statement.

23. Debra C. Galloway's remaining statements are self serving and protective and I cannot blame her for putting herself in the best possible light in her answers to the Commission on Lawyer Conduct.

24. Debra C. Galloway's statements in Exhibit 70, on page 3, are additional statements that are not entirely true. She knew my address was 423 Bayne Street because it is the property that was transferred.... and that is where I was staying at the time.....on... December 21, 2007.

25. The fax on February 6, 2008, to which she is referring in Exhibit 70, on page 3, was relative to the **in-your-face** falsifications on the #7-59 appraisal that I received from Golden Gate Mortgage on January 12, 2008 and from Wells Fargo on February 5, 2008 [WF00014-26] and the fraudulent misrepresentations that [Sistrunk] is the property owner on October 8th, 2007.... [The public records of Orangeburg County proves this is a LIE]....and the improvements that do not exist at 423 Bayne Street.... such as.. new kitchen appliances, security alarms, new fixtures, scuttle, patio, fresh paint, repairs, central air conditioning, working fireplace..... etc.

26. [Jacobs] is also the borrower on this 7-59 appraisal. [See attached Exhibits WF00015-16, WF00021-22 & WF00027 is the Proof this appraisal was ordered for Thomas Jacobs]

27. [WF00014-26] can be obtained from Wells Fargo, Nelson Mullins Riley & Scarborough, LLP or from the Clerk of Court in Orangeburg, South Carolina. [CA Case #2008-CP-38-1024]

28. Debra C. Galloway's statement in Exhibit 70, on page 3, verifies my statement of fact in my **Verified Pleadings** that no appraisal was at the closing for me to examine.

29. Debra C. Galloway's statement also verifies, the Seller's brokering documents were also not at the closing for me to review. Therefore, I could not have known the loan was brokered.

30. Not that it is legally required...., Debra C. Galloway did not mention or inform me that loan 0174072777 is brokered and not owner financed with his friends and business associates.

31. The only question Debra C. Galloway asked me was: "Is all in agreement?" and I said, "Yes." Then it was "Sign here."....."Initial here." Within 35 minutes or less...the closing was over.

32. In Exhibit 70, on page 3, is Debra C. Galloway's only true statement to the Commission on Lawyer Conduct. The final statement she refers to... is exactly what she did not do; as well as, violate the Player Law Firm's in-house procedures for closing residential mortgage loans. See the blank documents she had me sign, attached Exhibits 68-69 for verification and proof. Also notice, Debra C. Galloway did not provide me with a copy of her explanation to this accusation.

**STEPHANIE HAMMOND WAS NEVER IN MY PRESENCE AT THE
PLAYER LAWYER LAW FIRM, BEFORE, DURING OR AFTER THE CLOSING**

- 33. The Seller - Thomas Jacobs - did not introduce Stephanie Hammond to me on December 21, 2007.
- 34. The closing attorney - Debra C. Galloway - did not introduce Stephanie Hammond to me on December 21, 2007.
- 35. Stephanie Hammond did not introduce herself to me on December 21, 2007.
- 36. Stephanie Hammond was not in the room with Debra C. Galloway before, during or after the closing on December 21, 2007. She may have appeared after I left.
- 37. I do not recall any mirrors or two way mirrors in the office where the closing took place.
- 38. I do not recall any cameras in the office where the closing took place.
- 39. Debra C. Galloway did not request Stephanie Hammond's presence, before or during the closing while I was there.

**DEBRA C. GALLOWAY'S &
STEPHANIE HAMMOND'S FALSE CERTIFICATION**

- 40. South Carolina's Notary Public Reference Manual in chapter 2, on page 6, in paragraph #6, under **Notarize for absent people**; clearly states the following:

“[Y]our responsibility as a notary public is to verify that the signer of the document “personally appeared” before you and signed the document or acknowledged he / she signed the document.” [See Attached Exhibits 346-348]

- 41. Stephanie Hammond LIED relative to WF00058.
- 42. Stephanie Hammond did not witness me sign any document accepting and agreeing to the terms and covenants contained in Wells Fargo's Security Instrument. WF00058 was not signed, sealed and delivered in the presence of S. Hammond and Debra C. Galloway. WF00058 is one of the blank documents Debra C. Galloway had me sign and initial.
- 43. Stephanie Hammond LIED relative to WF00060.
- 44. Stephanie Hammond did not see me or witness me sign and/or seal as my act or deed and/or deliver any written Mortgage to Wells Fargo or anyone else. WF00060 was not signed, sealed and delivered in the presence of S. Hammond and Debra C. Galloway. WF00060 is another blank document Debra C. Galloway had me initial.
- 45. Stephanie Hammond LIED relative to WF00097.
- 46. Stephanie Hammond did not see me or witness me sign, seal and as my act and deed deliver any written Mortgage to Wells Fargo or anyone else. WF00060 was not signed, sealed and delivered in the presence of S. Hammond and Debra C. Galloway. WF00097 is another blank document Debra C. Galloway had me initial.
- 47. Stephanie Hammond LIED relative to WF00058, WF00060 & WF00097.
- 48. Debra C. Galloway LIED and misrepresented material facts by notarizing a document on which and in which Stephanie Hammond LIED and Debra C. Galloway knows Stephanie Hammond LIED and Stephanie Hammonds knows Debra C. Galloway LIED. Both Hammond and Galloway participated in a fraudulent representation in violation of State and Federal Law.

WHEN DID I DISCOVER THE LOAN IS BROKERED & NOT OWNER FINANCED?

49. I discovered loan #0174072777 is a brokered loan on February 25, 2008. This is the same date my husband told Wells Fargo's representatives in Des Moines, Iowa... Thomas Jacobs brokered the loan by himself with help from the Broker and Appraiser. Thomas Jacobs used the loan paperwork of Golden Gate Mortgage / David Terrell and the Appraisal of Jim H. Austin, III.
50. After receiving the documented evidence verifying the 7-59 appraisal and satisfaction completion certificate were falsified.... Janet Frotscher's February 21st, 2008 letter arrived on February 25th, 2008. [See Attached Exhibit WF00120, paragraphs 1 and 5. & Exhibits 8-14]

**WHEN DID I DISCOVER THE
CONTRACT OF SALE WAS FORGED AND ALTERED?**

51. I discovered the Contract of Sale was forged and altered shortly after June 2, 2008.
52. After receiving the documentation that loan #0174072777 was procured by fraudulent means or suspected fraudulent means, Janet Frotscher sent me a letter that is dated June 2, 2008.
53. Fraudulent procurement was the conclusion of the supervisor at Wells Fargo's Loss Mitigation Department in Fort Mill, South Carolina in May of 2008.
54. This was also after my letters to her on February 29th, March 6th, and May 15th, 2008.
55. I was instructed by Loss Mitigation to refax or resend my request to cancel the loan and its mortgage and note.... along with the evidence of fraud... or suspected fraud... to a Wells Fargo Executive Resolution Team in Des Moines, Iowa. I resent the documentation as I was instructed and...., for reasons...heretofore... unknown...., I was routed back to Janet Frotscher.
56. In her letter dated June 2, 2008, Janet Frotscher told the Ultimate LIES that are the foundation of this foreclosure and the misrepresentations of Judge Diane Shafer Goodstein; as well as, attorneys Brian A. Calub, James H. Burns and Elizabeth Scott Moise. [See Attached Exhibits WF00125-126, page 1, paragraph 4] Burns, Moise, Calub and Goodstein have also created LIES and misrepresentations of their own. [See Attached Exhibits 255-342]
57. In Exhibit WF00126, on page 2, is a description of the documents that were sent with the letter. The forged and altered contract of sale was included in the package. [See Attached Exhibit WF00028-29 & Filed Exhibits 140-141 for Proof of forgery and alteration]
58. Janet Frotscher not only told the Ultimate LIES, [WF00125]... she also identified the contract of sale, the satisfaction completion certificate and the 7-59 appraisals as the documents Wells Fargo is using to support its fraudulent loan, mortgage and note... and its falsified value. In addition to using falsified documents, Wells Fargo also used an unauthorized credit report. [See WF00066-73 for Proof]

**WHEN DID I DISCOVER THE
UNAUTHORIZED USE OF MY CREDIT REPORT?**

59. The unauthorized credit report was discovered after Nelson Mullins Riley & Scarborough sent me, I should say... sent us..... WF00001-WF00137.... during October of 2008.
60. Wells Fargo was notified by phone and fax shortly thereafter. However, Wells Fargo's response about using my unauthorized credit report was extremely hostile. Someone even used a fax machine that could not be traced. No fax number or transmission information appeared on the message. It could be my fax machine cut the top and bottom off.
61. Since I cannot prove it came from Wells Fargo's office, the message is not a numbered exhibit. Wells Fargo's attorneys and Judge Goodstein know about the unauthorized use because they have access to True Attested Copies of every Verified Pleading and document I file in court.
62. The message was simple. DO NOT SEND US ANY MORE CORRESPONDENCE

ABOUT THIS. ALL CORRESPONDENCE HAS BEEN DESTROYED. ANY FUTURE CORRESPONDENCE WILL BE DESTROYED. The message was not signed or dated.

DO I HAVE ANY PERSONAL EVIDENCE AGAINST WELLS FARGO?

(Moise & Burns Did Not Realize Wells Fargo's Document Files, When Combined With My Personal Knowledge Verified The Fraud)

63. No. I have the personal knowledge to convict Wells Fargo, after all the facts were known. My hard evidence comes from Wells Fargo and Burns & Moise. The hard evidence is in Wells Fargo's document files. The same.. WF00001-137 document file... that Burns & Moise sent me.
64. Invariably what happened to Wells Fargo, rather than cancel the unlicensed Seller's illegal loan transaction, Wells Fargo tried to foreclose based on Janet Frotscher's Ultimate LIES.
65. The documents Burns and Moise filed in court to hurt me... are the same documents that helped me prove with clear and convincing evidence....the highest known legal standard... Wells Fargo knew. [WF00120-133] is the evidence of Wells Fargo's fraudulent concealment of facts.
66. The documents Wells Fargo's attorneys sent me verify the Seller's... Appraiser's... and the Broker's **Conspiracy to Defraud**. Wells Fargo's filed documents identified Wells Fargo's perpetuation and participation in the Unlicensed Seller's illegally brokered loan, his home improvement and mortgage fraud and the falsified documents that support them. [WF00001-13, WF00066-73 & WF00125-26] is the evidence Wells Fargo knew, participated and covered up.
67. The only appraisal David Terrell sends me is [WF00014-26] still dated October 8th & 9th, 2007. This is the only appraisal he has ever sent me and he incriminates himself by sending it it is ordered for Thomas Jacobs. [WF00027] Why would he do that if he had WF00001-13?
68. WF00001-13 comes from Wells Fargo and Wells Fargo is the only person that has ever sent me WF00001-13. The Appraiser, Jim H. Austin, III is the only person of record.. that is associated with all this fraud.. that is licensed to have the software that can duplicate 7-59.
69. After my call on 01/14/08, Wells Fargo knew the loan was dead without an appraisal with my name on it. 3 weeks is more than enough time to order... and receive.. the second appraisal.
70. Since Thomas Jacobs and Jim H. Austin, III never sent me an appraisal and David Terrell only sends WF00014-26, the evidence points to Wells Fargo as the person that ordered the second 7-59 appraisal... that is...the forgery by substitution..... because of my call on 01/14/08.

ADDITIONAL FRAUDS ASSOCIATED WITH LOAN #0174072777

71. **Fraud upon the Court** – false/scam affidavit - attorney Elizabeth S. Hodgson. [Exhibits 218 & 235] Misrepresentations of fact. – attorneys James H. Burns, Elizabeth Scott Moise, Brian A. Calub and Judge Diane Shafer Goodstein [See Exhibits 255 & 329-342 for Proof]
72. **The Massive Filing Fraud** – all case status updates during the Stay/TRO – attorneys James H. Burns & Elizabeth Scott Moise. [See Sample Exhibits 334-340 for Proof]
73. **Bank Fraud** – Wells Fargo – loan #0174072777 is an illegal loan transaction, based on an inflated property value, supported by falsified documents. [See WF0001-WF00038 for Proof]
74. **Securities Fraud** – Wells Fargo – any mortgage backed security with loan #0174072777 or the security instrument - [WF00039-60]. [See Exhibit 113; the Property is the Proof]
75. **Insurance Fraud** – Wells Fargo - any property insurance that uses the inflated value of 423 Bayne Street. [See Exhibit 113 – the Property is the Proof]
76. **Home Improvement Fraud** – Wells Fargo – at 423 Bayne Street, none of the improvements exist in actuality or fact. [WF00001-26 & See Exhibit 113 – the Property is the Proof]
77. **Mortgage Fraud** – Wells Fargo - any home value based upon falsified documentation. [WF00001-38, Exhibit 113 the Property is the Proof] and the FBI's definition of mortgage fraud.
78. **Notary Fraud** – The false certification of a mortgage by Galloway & Hammond.

[See attached Exhibits WF00058, WF00060 & WF00097 for Proof]

79. Appraisal Fraud – [WF0001-WF00026 - See Exhibit 113 – the Property is the Proof]
80. Contract Fraud & Forgery – [See WF00028-29 & Filed Exhibits 140-141 for Proof]
81. Mortgage Loan Fraud – Wells Fargo – high cost consumer loans or predatory lending is illegal in South Carolina – [See Sections 37-23-40(1)-(2) to 37-23-60 & Filed Exhibit 66 for Proof Wells Fargo's illegally brokered loan exceeds 50% of my gross income.]

Blacks Law Dictionary (Rev. 4th ed., 1968), pgs 788-789 defines Fraud in pertinent parts as.. "[A]n intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury.. ... Any kind of artifice employed by one person to deceive another.... A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated." And includes anything calculated to deceive...."

CONSTITUTIONAL VIOLATIONS – ARE ALSO A 42 USC § 1983 LEGAL MATTER

82. On December 6, 2011, September 6, 2012 and on September 3, 2013, Judge Diane Shafer Goodstein refused to let my witness speak on my behalf. A Trial by Jury is necessary and needed to unravel all the fraud associated with Wells Fargo's loan...not a Partial Summary Judgment based on errors of fact and law...and... misrepresentations of material facts and law.
83. Judge Goodstein has ignored my demand for a Jury Trial since August 12, 2008. [See Attached Exhibit 341 for Proof] This also a Civil Rights matter pursuant to 42 USC § 1983.

After This, The Affiant Sayeth Naught

Affiant Signature: Dorothy Sistrunk

Printed Name of Affiant: Dorothy Sistrunk

SWORN to and personally subscribed before me;

This 28th day of May, 2014

Personally Known [] Produced Identification [☒]

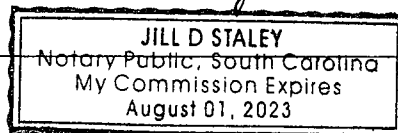
Type of Identification Produced: Driver License

If Driver's License, State : South Carolina

Driver's License Number: 008190796

Notary Signature: Jill D Staley

My Commission Expires on: _____



Seal

- 7 of 7 -

Exhibit 378

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Wells Fargo Bank, N.A.,

Plaintiff,

Vs.

Dorothy Sistrunk;

Defendant,

) IN THE COURT OF COMMON PLEAS
) FIRST JUDICIAL CIRCUIT
)

) Civil Action Case No. 2008-CP-38-1024
)

) **GEORGE M. SISTRUNK' S AFFIDAVIT**
) **REGARDING JUDGE DIANE SHAFER**
) **GOODSTEIN'S REFUSAL TO LET ME**
) **GIVE TESTIMONY & EVIDENCE THAT**
) **REFUTES HER STATEMENTS, THE**
) **STATEMENTS OF WELLS FARGO'S**
) **ATTORNEYS, PERSONNEL & THEIR**
) **MISREPRESENTATION OF FACTS**
) **TODAY'S DATE: MAY 28, 2014**

PERSONALLY, appeared before me George Melion Sistrunk
in the State of South Carolina, in the County of Orangeburg and in the City of Orangeburg, and
presented to me an acceptable picture identification in the form of a State of South Carolina
driver's license with the number 008400216, being of full age, on
his oath, being **DULY SWORN**, and under the **PENALTY OF PERJURY**, deposes and swears
the following statements that are base on his personal knowledge of the events are true..... and
correct and as to matters based on information and/or belief, he believes them to be true.. **To wit:**

1. I, George M. Sistrunk, who currently resides at 423 Bayne Street in Orangeburg, South
Carolina; do solemnly swear before an authorized Administer of Oaths, and under the penalty of
perjury that all that will be stated herein is true and correct. As to matters based on my
information or belief, I believe them to be true. Based upon what I have read, I believe the
following information relative to the United States Constitution and code is true:

(a) UNITED STATES CONSTITUTION - AMENDMENT V: states in pertinent
parts.. "[N]o person shall be..... deprived of life, liberty, or property, without due
process of law...;"

(b) UNITED STATES CONSTITUTION - AMENDMENT XIV: states in pertinent
parts.. "[A]ll persons born or naturalized in the United States, and subject to the
jurisdiction thereof, are citizens of the United States and of the state wherein they reside.
No state shall make or enforce any law which shall abridge the privileges or immunities
of citizens of the United States; nor shall any state deprive any person of life, liberty, or
property, without due process of law; nor deny to any person within its jurisdiction the
equal protection of the laws."

(c) *Re: The Civil Rights Act. 42 U.S.C.A. § 1983:* "[E]very person who, under color of
any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects or
causes to be subjected.....any citizen of the United States or other person within the juris-

-1-

CLERK OF COURT
ORANGEBURG COUNTY, SC

Exhibit 379

diction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

2. Based upon my information and belief, I believe the following provisions; in pertinent parts, in South Carolina's Constitution are true.

(a) STATE OF SOUTH CAROLINA CONSTITUTION – ARTICLE 1 - § 3: states in pertinent parts.. "[T]he privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

(b) STATE OF SOUTH CAROLINA CONSTITUTION – ARTICLE 1 - § 14: states in pertinent parts.. "[T]he right of trial by jury shall be preserved inviolate. Any person charged with an offense shall enjoy the right to a speedy and public trial by an impartial jury; to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both."

3. I have a right to give relevant testimony pursuant to *Rules 401, 402 & 601(a), SCRE*.

4. On December 6, 2011 during the hearing for attorney Brian A. Calub's Motion for Continuance and Scheduling Order, Judge Diane Shafer Goodstein would not allow me to give testimony that Wells Fargo and Nelson Mullins Riley & Scarborough, LLP did not substantially comply with Supreme Court Administrative Order 2009-05-22-01.

5. In addition to failed substantial compliance, attorneys Elizabeth Scott Moise and James H. Burns misrepresented material facts and just plain LIED through their teeth during the TRO.

BURNS & MOISE MASSIVE FILING FRAUD DURING THE STAY/TRO

6. At no time during the Stay/TRO...did any one at 423 Bayne Street refuse to speak with or to Wells Fargo or Wells Fargo's attorneys. I was home 24/7 recovering from an operation...that I am still recovering from after seven (7) years. [See Attached Exhibit 230]

7. At no time during the Stay/TRO was there any attempt by Wells Fargo or any attorney from Nelson Mullins Riley & Scarborough, LLP to contact my wife, (the Defendant) about modifying any loan, note or mortgage. This is an ABSOLUTE LIE, deliberately told.

8. The evidence that Wells Fargo and its attorneys James H. Burns and Elizabeth Scott Moise misrepresented facts that were material to complying with Administrative Order #2009-05-22-01 can easily be proven, by demanding the phone records, personnel name/s, date/s and time/s; as well as, documentation for methods, procedures, processes, qualifications and personnel responsible for determination and/or decisions relative to the HMP.

9. Judge Goodstein has never told us what she is really holding.. a hearing, a trial without a jury, who knows. Judge Goodstein has a duty and obligation to let us know the nature of her proceeding/s so we can rightly determine what she is deciding on and what we have do to prevent Wells Fargo and its attorneys from swindling and defrauding us out of money.

10. On September 6, 2012 during the hearing for attorney Brian A. Calub's Motion for Sanctions, Judge Diane Shafer Goodstein would not allow me to give testimony or present the evidence that clearly shows Wells Fargo not only knew loan #0174072777 was an illegally brokered loan, Wells Fargo actively participated in the Seller's, Appraiser's and Broker's **Conspiracy to Defraud**.

11. I was ushered out of the courtroom by the Security Guard for trying to help my wife, who is also the Defendant, remember the caption under which her Rule 41(b) Motion to Dismiss with Prejudice was filed. She never got the opportunity to introduce me to the Court as a witness because Judge Goodstein gave her 5 minutes to find her motion in her notebook.

12. The notebook was set up to object to attorney Calub's unreasonable subpoenas for document production Wells Fargo and Nelson Mullins Riley & Scarborough, LLP, already had, WF00001-WF00137. We got those documents from the law firm during late October or early November in 2008.

13. On September 3, 2013, during attorney James H. Burns' Motion for Summary Judgment, Judge Goodstein would not allow me to speak. I have testimony that not only refutes, it proves with documented evidence Wells Fargo and their attorneys Burns and Moise have LIED, misrepresented facts or however it is described in legal language.

THE EVIDENCE OF WELLS FARGO'S OWN SCHEME TO DEFRAUD

14. The evidence clearly shows, Wells Fargo ordered the second 7-59 appraisal, WF00001-WF00013, after my wife, (the Defendant) called them on January 14, 2008.

15. The first appraisal Wells Fargo sent us that is identified as WF00014-26, was too dark to read. However, you could still make out [Sistrunk] as the property owner and [Jacobs] as the [borrower] on October 8, 2007. [See Attached Exhibits WF00015-16, 21-22 & WF00027]

16. The 7-59 appraisal Golden Gate Mortgage / David Terrell sent us had the same information. On October 8, 2007 [Sistrunk is the property owner] and [Jacobs is the borrower].

17. The second 7-59 appraisal Wells Fargo sent us (replacing the 7-59 appraisal that was too dark to read because of a drum problem) also had the same information. [Sistrunk] is the property owner and [Jacobs] is the borrower on October 8, 2007.

18. We told no one else prior to February 5, 2008, about this. Wells Fargo was the only person or entity that knew. After my wife's (the Defendant's) call on 1/14/08, Wells Fargo sent us another 7-59 appraisal on February 5, 2008 that we still have. This appraisal is now identified as WF00001-13 and I sent it back to Wells Fargo as Exhibits 8-14 around 2/7 or 8/2008.

19. Wells Fargo's second 7-59 appraisal is a forgery by substitution. [WF00001-13]

20. Wells Fargo's personnel made a number of critical mistakes when they ordered it:

- (a) Wells Fargo's personnel forgot to change the falsified information on it.
- (b) Wells Fargo's personnel forgot to change the month, date and year.
- (c) Wells Fargo's personnel forgot to check with Orangeburg County's public records. Sistrunk was not the property owner on October 8, 2007.
- (d) Wells Fargo's own closing documents prove this is not true and a falsification.

(e) Wells Fargo's personnel forgot to get an invoice for it. And...

(f) Wells Fargo's personnel did not realize 7-59 is the file number Jim H. Austin, III assigned to Thomas Jacobs. [See Attached Exhibit WF00027]

21. Wells Fargo is this perpetrator of the forgery by substitution. The evidence also shows it was ordered directly or indirectly from the Appraiser, Jim H. Austin, III, as a replacement.

22. Jim H. Austin, III, is the only licensed appraiser affiliated with this fraud with the software that can duplicate Thomas Jacobs' 7-59 account number and file number.

23. A new or different appraisal would have to be performed for any new or different customer; along with a new invoice, a change in the month, date and year...and account number.

24. **Proof** -There is no invoice for WF00001-13 in Wells Fargo's filed documents.

25. David Terrell has never sent us WF00001-13.

26. Thomas Jacobs and Jim H. Austin, III, have never sent us an appraisal.... and have never given us one.

27. Wells Fargo's scheme to perpetuate the Seller's Broker's and Appraiser's original **Conspiracy to Defraud**, evolved into its own separate scheme to Defraud based on the use of its own falsified and forged documents. [WF00001-13 & WF00029]

THE HARD EVIDENCE WELLS FARGO FORGED THE SALES CONTRACT

28. No one has presented Thomas Jacobs' original sales contract that left 423 Bayne Street on November 26, 2007. The original does not have an "AS IS CLAUSE".

29. Any good copying machine can add an "AS IS CLAUSE" to an original document and the only person or people that would know it was added are the people that were present when it was signed.

30. Thomas Jacobs never returned to give us a copy of the Contract of Sale.

31. We did not see a Contract of Sale again until June of 2008, when Janet Frotscher sent us two. [See Attached Exhibits WF00028-29 & 140-141]

32. Nelson Mullins Riley & Scarborough, LLP and/or Burns and/or Moise also sent us attached exhibits 140-141. This is the proof that Wells Fargo altered and forged Thomas Jacobs bogus Contract of Sale.

33. Wells Fargo's Contract of Sale, WF00028-29 has an "AS IS CLAUSE" and so does attached exhibits 140-141 – proof Wells Fargo altered and forged the document.

34. Not only does Wells Fargo not have a copy of the original sales contract, Wells Fargo also altered and forged my wife's (the Defendant's) initials to its modification or alteration.

35. A Seller, Broker and Appraiser cannot market loans to Fannie Mae. Banks and lenders can do that. Wells Fargo altered the Contract of Sale to meet Fannie Mae's requirements for purchase and/or government backing.

36. Before my injury and operation [Attached Exhibit 230], both Fannie Mae and Freddie Mac offered a basic 5% down mortgage. The FHA's main product required just 3.5% down. And, via the VA and USDA, qualifying home buyers could buy with no down payment at all.

37. At the time, there was another low-down payment program that only a few lenders could

market. It was known as the Conventional 97.

38. The LTV (loan-to-value) Conventional 97 was a Fannie Mae-backed product that allowed for a 3 % down payment. [Note the 3% mark down on WF00029 that is absent on 141]

39. The 3 % down is based on the lower of the home's appraised value or purchase price.

40. Very few people; if any, outside of Banking and Finance, knew about this program and as stated in #37, only a few select banks could market it.

41. Before my injury, I was a mobile home salesman that specialized in land home packages. I learned about Conventional 97, while earning my loan originator's designation at Orangeburg Mortgage Services, Inc., as a sales and marketing consultant. [See Attached exhibit 350]

42. The evidence shows Wells Fargo's personnel forged my wife's initials, modified and altered the Sales Contract to meet Fannie Mae's purchasing guidelines or requirements.

WELLS FARGO'S KNOWINGLY PERPETUATED THE CONSPIRACY TO DEFRAUD BY USING THE UNAUTHORIZED CREDIT REPORT

43. Over the years, I have pulled hundreds of credit reports. Every credit report has to be signed either on the day of...or... no less than 30 days before... or I could not submit it to reputable lender. There are reasons for this.

44. Using an unauthorized report is a violation of *15 USC § 1681n(a)* and a report more than 30 days old has no real lendable value. Wells Fargo's underwriters know this as well as I do.

45. Wells Fargo's Exhibits WF00065-73, proves Wells Fargo's personnel knew the credit report was unauthorized and too old.. and they used it anyway on 12/04/07 [See Attached Exhibit WF00065 for Proof]. There is no signed authorization dated 10/03/2007...and no signed authorization dated less than 30 days before 10/03/2007. [See Wells Fargo's document files for Proof]

46. Any credit report with no signed authorization is a red flag that the report was done without authorization. [See Attached Exhibit WF00074 for Proof that 11/26/2007 is beyond 10/03/2007 and search Wells Fargo's document file for written authorization on 10/03/2007]

47. When I was in the industry, such a report could not be used and had to be destroyed. It does not meet the 30 days or less requirement for lendable value.

48. Nelson Mullins & Riley & Scarborough, LLP is a major law firm.... they can check my affidavit for proof that my knowledge might be dated, but it is accurate information based on industry usage and knowledge up until I left the industry in 2003.

49. Even if a customer had his/her own report, I still had to have a signed authorization from the customer dated the same day before I could send it to a lender...and the report could not be more than 30 days old from the day the loan paperwork was received by the lender. [See WF00030-31 for Proof that the report is more than 30 days old from the date received] October 3rd, 2007 [WF00066] is more than 30 days from December 4th, 2007 [WF00065]

50. Back in the day, when I was pulling and sending credit reports to lenders, a signed authorization had to accompany the report or the underwriter/s would not use it. Not only is Wells Fargo's report unauthorized, it has no lendable value for lending purposes by any Industry standard or any lendable value for any reputable residential mortgage lender.

51. Wells Fargo's underwriters deliberately ignored federal regulations and Golden Gate Mortgage's fraudulent representations and used the report anyway.

JUDGE GOODESTEIN'S FABRICATIONS ARE AN ABUSE OF HER IMMUNITY

52. You won't find my testimony in any of Judge Goodstein's transcripts. Call it what you will, intrinsic, extrinsic, or constructive fraud, misrepresentation of material facts, or whatever legal terminologies exist to describe tortious behavior and/or malfeasance, the bottom line is Judge Goodstein in plain and simple English ABSOLUTELY LIED on her Court Orders. Judicial immunity does not protect lying judges.

53. False assertions in court documents is defined as **perjury** by Blacks Law Dictionary . **Perjury** is a criminal act. Judicial immunity ends when a law is broken. Based upon information I have read, I believe the following information is true:

(a) *Blacks Law Dictionary (Rev. 4th ed. 1968), pg 1071*, defines **LIE**, as.. "[A]n untruth deliberately told; the uttering or acting of that which is false for the purpose of deceiving; [an] intentional misstatement. *Brothers v. Brothers*, 208 Ala. 258, 94 So. 175, 177." [Brackets added]

(b) § 16-9-10- *SC Code of Laws* clearly states in pertinent parts... "[A](1) It is unlawful for a person to wilfully give false, misleading, or incomplete testimony under oath in any court of record, judicial, administrative, or regulatory proceeding in this State. (2) It is unlawful for a person to wilfully give false, misleading, or incomplete information on a document, record, report, or form required by the laws of this State. (B)(1) A person who violates the provisions of subsection (A)(1) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both. (2) A person who violates the provisions of subsection (A)(2) is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not less than one hundred dollars, or both. (C) A person may be convicted under this section if he induces, procures, or persuades another person to commit perjury or if he commits perjury by his own act, consent, or agreement."

(c) *Black's Law Dictionary (2nd ed. 1910), pg 893*, defines **Perjury** in pertinent parts as follows: "[I]n criminal law. The willful assertion as to a matter of fact, opinion, belief, or knowledge, made by a witness in a judicial proceeding as part of his evidence, either upon oath or in any form allowed by law to be substituted for an oath, whether such evidence is given in open court, or in an affidavit, or otherwise, such assertion being known to such witness to be false, and being intended by him to mislead the court, jury, or person holding the proceeding."

54. Judge Goodstein is not only a state appointed witness and adjudicator to *C.A. Case # 2008-CP-38-1024*, she is also; by law, a "finder of fact" or trier of fact". When the "finder of fact" or "trier of fact" is the one telling the LIES and/or misrepresenting facts, (the judge) the judicial process has degenerated into a **Kangaroo Court**. This can easily be proven by having hidden and unknown cameras in Goodstein's courtroom relative to this case.

55. Having observers would put her on notice and thus, her behavior might improve during

sessions. However, this would not be a deterrence to her **Dishonesty** and/or misrepresenting facts, unless the observer is with her while she is writing up the court order. Based on information I have read, I believe the following information is true:

(a) *Blacks Law Dictionary* (Rev. 4th ed. 1968) pg 1152, defines **Misrepresentation** in pertinent parts as.. “[A]ny manifestation by words or other conduct by one person to another that, under the circumstances, amounts to an assertion not in accordance with the facts. *A. P. Landis, Inc., v. Mellinger*, 116 Pa.Super. 167, 175 A. 745, 746. An untrue statement of fact. An incorrect or false representation. That which, if accepted, leads the mind to an apprehension of a condition other and different from that which exists. Colloquially it is understood to mean a statement made to deceive or mislead. *Haigh v. White Way Laundry Co.*, 164 Iowa 143, 145 N.W. 473, 474, 50 L.R.A.,N.S., 1091; *Zackwik v. Hanover Fire Ins. Co.*, Mo. App., 225 S.W. 135, 138.

(b) “[A] fact is ‘material’ if a dispute over it might affect the outcome of a suit under the governing law;” *Holcomb v. Powell*, 433 F.3d at 895 (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. at 248). [A]n issue is “genuine” if the evidence is such that a reasonable factfinder could return a verdict for the nonmoving party. See *Anderson v. Liberty Lobby, Inc.*, 477 U.S. at 248; *Holcomb v. Powell*, 433 F.3d at 895. *Spence v. Wingate*, 395 S.C. 148, 156, 716 S.E.2d 920, 925 (2011) (“[I]n determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn therefrom in the light most favorable to the party opposing the motion.”) *Arnold v. Arnold*, 285 S.C. 296, 328 S.E.2d 924 (Ct. App. 1985) (“[w]herein the court of appeals accepted verified pleadings as evidence.”)

(c) *Black's Law Dictionary*, (2nd ed. 1910) pg 277, defines “**Corruption**” in pertinent parts as, “[I]llegality; a vicious and fraudulent intention to evade the prohibitions of the law. The act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to duty and the rights of others.

(d) *Black's Law Dictionary* (2nd ed. 1910), pg 1172, defines **Trial** in pertinent parts as the following; “[T]he examination before a competent tribunal, according to the law of the land, of the facts or law put in issue in a cause, for the purpose of determining such issue. A trial is the judicial examination of the Issues between the parties, whether they be issues of law or of fact.”

(e) *Black's Law Dictionary* (5th ed. 1979) pg 780, defines a **Kangaroo Court** as the following: “[T]erm descriptive of a sham legal proceeding in which a person's rights are totally disregarded and in which the result is a foregone conclusion because of the bias of the court..”

THE COURT'S ACCEPTANCE OF JANET FROTSCHER'S MISREPRESENTATIONS OF FACTS AND OUTRIGHT LIES

56. Judge Goodstein has dutifully ignored or prevented the presentation of my evidence or testimony that is detrimental to Wells Fargo and/or Burnis and Moise. Besides her misrepresentation of facts, Judge Goodstein has dutifully ignored Janet Frotscher's misrepresentations and OUTRIGHT LIES that are the foundation of this case.

57. By not allowing my testimony on the record, Wells Fargo's attorneys can continue with their misrepresentation of material facts that there is no evidence of fraud by Wells Fargo. [Review sentences #14-51] and.....Wells Fargo did not know and did not participate.

A. Wells Fargo knew from the beginning.....loan #0174072777 was mired in fraud, deceit....., and deception.

58. **Background:** I called Wells Fargo myself on December 22, 2007 and left a message on Wells Fargo's answering machine in Raleigh, North Carolina that my wife's (the Defendant's) loan is mired in fraud, deceit and deception.

59. Wells Fargo has never denied receiving this call. If they did, it would be a lie anyway, because the message was taped.

60. The taped message would verify my sworn statement of fact.

61. On Monday, December 24, 2007, Kathryn R. Perkinson returned the call and I told her the loan was mired in fraud, deceit and deception.

62. On the same day, my wife (the Defendant) also called Ms. Perkinson, but she was out.

63. Ms. Perkinson called back later in the day. Since I was standing there... in my wife's (the Defendant's) conversation with Kathryn R. Perkinson..... she was again told about the seller's misrepresentations.

64. Kathryn R. Perkinson advised my wife (the Defendant) to work things out with the seller; and if that could not be done, to fax or send her request to cancel the loan along with any evidence of the fraud to Wells Fargo.

65. Believe it or not, if Thomas Jacobs had fixed the plumbing and the lights, we would have been happy customers. But.... he did not.

66. On December 24, 2007, we did not have any physical or documentary evidence.

67. Let me also put this in the record. Thomas Jacobs never verbally agreed to lowering the price.. to the... \$30,000.00... we had discussed in the driveway on 11/26/2007. He only said, "[T]he price will be lowered during the closing".... when he was leaving.

68. If Thomas Jacobs had lowered the price from \$75,000.00 to \$74,999.99, we would not have a legitimate complaint. He only stated he would lower it, not by how much.

69. The \$30,000.00 comes from his verbal agreement that \$30,000.00 was a fair price, since no repairs were completed.

70. Since I had specialized in land home transactions as a mobile home salesman, out of habit, I instinctively separated the house from the land. The lot's value is approximately \$15,000.00 and the house's value in its condition on 11/26/2007 was approximately \$15,000.00. That's how I arrived at the \$30,000.00 price that Thomas Jacobs said was fair.

71. Thomas Jacobs had also verbally agreed, if I could clean up 423 Bayne Street and make it livable and rentable, it would cover 6 months of rent or lease payments. $\$595.00 \times 6 = \$3,570.00$. [See Attached Exhibit 30 for Proof that $6 \times \$595.00$ will equal \$3570.00]

72. Additional information relative to this incident from the end of September 2007 to December 21, 2007 can be found in my Affidavit, dated: August 15, 2012.

73. The evidence that I succeeded in cleaning up 423 Bayne Street and making it livable is

the undeniable fact 423 Bayne Street is where we have been staying since November of 2007.

74. On 12/21/2007, I realized the key to this entire debacle is the appraisal.

75. Being a land home specialist, I knew Wells Fargo would not have paid Thomas Jacobs \$75,000.00 for 423 Bayne Street without an appraisal.

76. On Monday, January 7, 2008, I told my wife (the Defendant) to use the number we had gotten from Kathryn R. Perkinson... 1-866-879-1460... and call Wells Fargo to see if they could fax us a copy of the appraisal.

77. Shortly after the call, Wells Fargo Home Mortgage faxed us a copy of a 7-59 appraisal.

78. The faxed appraisal was dark and virtually unreadable. Our fax machine needed a new drum at the time; however, it was readable enough for both of us to see some relevant information. This is the WF00014-26 appraisal I discussed in sentences #14-27; that has Thomas Jacobs as the [borrower] and [Sistrunk] as the property owner.

79. After seeing the Appraisal, I said, "This is not only a fraud, it is an absolute scam."

80. On Wednesday, January 9, 2008, my wife, (the Defendant) faxed a memo letter to Golden Gate Mortgage and Debra C. Galloway demanding the appraisal and the signed closing documents or she was going to sue. {See Filed Exhibit 2}

81. On Saturday, January 12, 2008 the closing documents arrived by UPS and..... FedEx, delivered an appraisal from Golden Gate Mortgage. On Monday, January 14, 2008, my wife (the Defendant) called Wells Fargo Home Mortgage (hereafter WFHM) and told the representative that answered the phone, "The appraisal you faxed me does not match the house and it is not even in my name."

82. My wife (the Defendant) told the representative, "The appraisal has [Jacobs] as the borrower and [Sistrunk] as the property owner. I did not get the property until December 28, 2007." She also said, "The appraisal is falsified, filled with lies and it is a scam."

83. And she said, "The satisfaction completion certificate is an absolute lie." [WF00022]

84. The representative told her someone would get back with her. However, no one did.

85. After hanging up the phone, I said, "No more phone calls...from now on... everything must be in writing....no one is going to believe you made phone calls unless they are taped..., and tapes can get lost..., erased... or doctored....everything from now on must be in writing."

86. After the call, I said, "We are going to give David Terrell a little more time to contact Thomas Jacobs, if the house is not fixed, we are cancelling this loan and getting out of this mess." On 12/21/2007... I also told her, "[y]ou have no idea how difficult it is going to be to get us out of this mess."

87. Since Thomas Jacobs lied when he did not have to, I decided to investigate Thomas Jacobs. After going to the City of Orangeburg's Building Inspector, I discovered no building permit was issued for any repairs. One was issued a few years ago, but nothing since then.

88. I asked the building inspector about a building permit for Thomas Jacobs, and discovered no building permit was issued to Thomas Jacobs to do any repairs at 423 Bayne Street.

89. When I got back home, I told my wife (the Defendant) "Not only did Thomas Jacobs lie and Lambright lied. The Appraiser lied too. We were scammed. No building material was ever at 423 Bayne Street and none could ever show up. Mr. Lambright could not legally do any major

repairs without a building permit and Thomas Jacobs never had one.”

90. During the last week in January of 2008, I contacted South Carolina’s Department of Consumer Affairs (hereafter SCDCA) to see if Thomas Jacobs had a broker’s license or a loan originator’s license.

91. I told my wife (the Defendant) “In South Carolina, mortgage brokers and loan originators must be licensed... and if Thomas Jacobs did not have a license the loan was brokered illegally.”

92. SCDCA told me “Thomas Jacobs is not a licensed broker or loan originator and if he is brokering home mortgage loans it is unlawful.”

93. Based upon what I have read, I believe the following information; in pertinent parts, relative to *Section 40-58-30(A) & (B) – SC Code of Laws* is true:

(a) *40-58-30(A)* – clearly states in pertinent parts.. “[A] person may not act as a mortgage broker in this State without first being licensed with the administrator. A person, required to be licensed pursuant to this chapter, may not do business without a license under any name or title, or circulate or use advertising, including electronic means, or make a representation or give information to any person, which indicates or reasonably implies activity within the scope of this chapter unless that person has a license.” **[Thomas Jacobs did not meet the requirements.]**

(b) *40-58-30(B)* – clearly states in pertinent parts .. “[I]t is unlawful for a person to employ, to compensate, or to appoint as its agent a loan originator unless the loan originator is licensed pursuant to this chapter. The license of a loan originator is not effective during any period when that person is not employed by a mortgage broker licensed pursuant to this chapter. When a loan originator ceases to be employed by a licensed mortgage broker, the loan originator and the mortgage broker by whom that person was employed shall notify promptly the administrator in writing. The mortgage broker's notice must include a statement of the specific reason or reasons for the termination of the loan originator's employment.”

94. On Monday February 4, 2008, when my wife (the Defendant) returned from work, I told her that.. “I called SCDCA again to see if Thomas Jacobs had a previous loan originator’s license with Golden Gate Mortgage. He was never employed as a loan originator with Golden Gate Mortgage.”

95. Based upon what I have read, I believe the following information relative to *Section 40-58-20 (35)-(36) and (38) – SC Code of Laws*; in pertinent parts, is true:

(35) "RESPA" means the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and regulations adopted pursuant to it by the Department of Housing and Urban Development. (36) "[S]oliciting, processing, placing, or negotiating a mortgage loan" means, for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, assisting or offering to assist in the processing of an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, or negotiating or offering to negotiate the terms or conditions of a mortgage loan. ----(38) "TILA" means the Truth in Lending Act, 15 U.S.C. Section 1601 et seq. and regulations adopted pursuant to it by the Board of Governors of the Federal Reserve System.”

96. On February 5, 2008 a fax came in from WFHM. It was another appraisal. This appraisal had my wife (the Defendant) [Sistrunk] as borrower and [Jacobs] as the owner. We now had two appraisals, both falsified and both filled with lies... One was not only falsified and filled with lies, it was also a forgery by substitution. Since no one else has ever sent us WF00001-13, this forgery by substitution was ordered for Wells Fargo...and by Wells Fargo. Wells Fargo's... WF00002... satisfaction completion certificate is still an absolute scam. This appraisal was ordered and sent to us after my wife's (the Defendant's) call on 01/14/2008.

B. Janet Frotscher's Misrepresentation of facts and Big Lie.

97. Based upon what I have read, I believe the following information; in pertinent parts, relative to *18 USC § 656* and *18 USC § 1001(a)* is true:

(a) *18 USC § 656* clearly states in pertinent parts, "Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act, or a receiver of a national bank, insured bank, branch, agency, or organization or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank, branch, agency, or organization or holding company or any moneys, funds, assets or securities intrusted to the custody or care of such bank, branch, agency, or organization, or holding company or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both."

(b) *18 USC § 1001(a)* clearly states in pertinent parts, "Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully-- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both. If the matter relates to an offense under 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall not be more than 8 years."

98. On the same day, February 5, 2008, I took key pages from the appraisal and itemized the fraud. [Filed Exhibits 8-14 – the Proof – this 7-59 appraisal is a forgery by substitution]

99. Based upon what I have read, I believe the following information, in pertinent parts, relative to *18 USC § 1005* and *18 USC § 1007* is true:

(a) *18 USC § 1005* "Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, depository institution holding company national

bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a)(1) of the Federal Reserve Act, without authority from the directors of such bank, branch, agency, or organization or company, issues or puts in circulation any notes of such bank, branch, agency, or organization or company; or Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or Whoever makes any false entry in any book, report, or statement of such bank, company, branch, agency, or organization with intent to injure or defraud such bank, company, branch, agency, or organization, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, company, branch, agency, or organization, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, company, branch, agency, or organization, or the Board of Governors of the Federal Reserve System;.....”

(b) *18 USC § 1007* “Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.”

100. On February 25, 2008, we received our first letter from Janet Frotscher dated, February 21, 2008 [See Attached Exhibit WF00120] By this time we had documented evidence that David Terrell had submitted Thomas Jacobs’ paperwork to Wells Fargo [WF00120, Page 1, Paragraph #5]; and Wells Fargo’s personnel had full knowledge that Thomas Jacobs brokered the loan entirely by himself, and used the help of the Broker and Appraiser to defraud Wells Fargo Bank out of \$75,000.00 for a property that was not worth it...and Wells Fargo’s personnel up to February 25, 2008 had done absolutely nothing about.

101. After receiving the letter, my wife (the Defendant) called Wells Fargo immediately and put me on the phone. Sometimes calls like the one made on 02/25/2008 are taped. I told the representative that answered the phone, “Golden Gate Mortgage did not broker any loan. If any brokering were done, it was done by Thomas Jacobs. We have not been to Millwood Avenue and no one from Golden Gate Mortgage has been to 423 Bayne Street. All I know...is Golden Gate Mortgage is suppose to be my wife’s lender, and the company is a friend and business associate of Thomas Jacobs.”

102. I continued by saying, “Thomas Jacobs gave my wife all the paperwork for the loan, not Golden Gate Mortgage. My wife went to the closing to have the price of 423 Bayne Street reduced because Thomas Jacobs did not do any repairs to 423 Bayne Street for a \$75,000.00 loan. Golden Gate Mortgage and Thomas Jacobs have scammed Wells Fargo and got us on the hook for \$75,000.00. We have to work together to stopped this thievery and put an end to this scam.”

103. The representative told me, “I cannot discuss the loan with you because your name is not on the contract. Someone will get in touch with her.” No one did.

104. Based upon what I have read, I believe the information, in pertinent parts, relative to *18 USC § 1014* is true:

18 USC § 1014, "Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of ----- a Federal Reserve bank ----, any institution the accounts of which are insured by the Federal Deposit Insurance Corporation, --- the Federal Deposit Insurance Corporation,-----, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, loan, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both ----."

105. By February 29, 2008, Wells Fargo's personnel had full knowledge, verifiable documentation and access to information; that..

- (a) Thomas Jacobs brokered the mortgage loan all by himself in violation of State and Federal law, with help from the broker, appraiser and Wells Fargo's employees.
- (b) The appraisals were falsified and forged and the satisfaction completion certificates were documentary scams.
- (c) The seller used paperwork from Golden Gate Mortgage with David Terrell's permission, approval and support; otherwise, the seller would not have them.
- (d) David Terrell lied on the Uniform Residential Mortgage Application because he did not interviewed my wife (the Defendant) on 11/26/2007.
- (e) My wife (the Defendant) and I are innocent victims of a scam and we have done everything within reason to stop it and bring the perpetrators to justice.
- (f) The closing attorney, Debra C. Galloway violated her professional code of ethics by knowingly aiding and abetting a criminal act after the facts were known and her **complicity** in that act by failing to follow the closing guidelines of the Player Law Firm, notifying Wells Fargo that there were serious allegations of fraud and Debra Galloway committed her own **Notary Fraud** with Stephanie Hammond.
- (g) The biggest obstacle to overcome was the apathy, negligence and **complicity** of Wells Fargo's personnel.
- (h) Because of the apathy, negligence and **complicity** of Wells Fargo's Executive Resolution Team headed by Janet Frotscher, Thomas Jacobs successfully; at least up to now, was allowed to defraud and scam Wells Fargo Bank out of \$75,000.00 and put us on the hook for Wells Fargo's mistake. The key word is **Allowed**."

106. I gave David Terrell until March 1, 2008 to have Thomas Jacobs straighten this mess out in accordance with Kathryn R. Perkinson's advice. I made the decision to stop payments altogether until Wells Fargo initiated meaningful action to resolve this matter satisfactorily.

107. As long as we continued making payments on the mortgage, we would be helping Wells Fargo perpetuate Thomas Jacobs' illegally brokered loan, his home improvement and mortgage fraud and his illegal predatory lending scheme that involved Wells Fargo's acceptance, approval, funding, using and relying upon falsified documents.

108. In May of 2008, Wells Fargo's Loss Mitigation Department in Fort Mill, South Carolina told my wife (the Defendant) to send or fax her request to cancel loan #0174072777 along with the evidence of fraud or suspected fraud back to Des Moines, Iowa to an Executive Resolution Team. Instead of closure and ending this fraud, fate sent us right back to Janet Frotscher.

109. Janet Frotscher's **Big Lie**...and she knows it is a **Big Lie** (because of all the letters, faxes correspondence, court pleadings and phone calls) is: Golden Mortgage is your broker.

(a) Neither Janet Frotscher, Burns and Moise, Brian A. Calub, Elizabeth S. Hodgson or anyone else has presented any evidence that David Terrell or an authorized representative from Golden Gate Mortgage offered the application for acceptance as required by RESPA and South Carolina law and not Thomas Jacobs...who did the offering and acceptance on 11/26/2007.

(b) Neither Janet Frotscher, Burns and Moise, Brian A. Calub Elizabeth S. Hodgson or anyone else has presented any evidence that David Terrell or an authorized representative from Golden Gate Mortgage has presented any evidence of phone conversations, letters, office visits, personal visits, emails or any other documentation that David Terrell is not a conduit for the illegal brokering activities of the seller -Thomas Jacobs - who used Golden Gate Mortgage's paperwork on 11/26/07.

(c) Neither Janet Frotscher, Burns and Moise, Brian A. Calub, Elizabeth S. Hodgson or anyone else has presented any evidence that Thomas Jacobs did not broker loan 0174072777 by himself with Golden Gate Mortgage's paperwork and Jim H. Austin, III's 7-59 appraisal.

(d) **The FBI says using an inflated appraisal is illegal.** Neither Janet Frotscher, Burns and Moise, Brian A. Calub, Elizabeth S. Hodgson or anyone else has presented any evidence that Wells Fargo appraisals, satisfaction completion certificates and/or any other supporting documents upon which value rely are not falsified.

(d) **The FBI says using falsified documents to support mortgages is illegal.** Neither Janet Frotscher, Burns and Moise, Brian A. Calub or Elizabeth S. Hodgson and/or anyone else has presented any evidence that Wells Fargo appraisals, satisfaction completion certificates are not falsified.

(e) **The FBI says intentional misstatements and misrepresentations by other interested parties relied upon by a lender or underwriter is indicative of Mortgage Fraud.** "[M]ortgage Fraud is defined as the intentional misstatement, misrepresentation, or omission by an applicant or other interested parties, relied on by a lender or underwriter to provide funding for, to purchase, or to insure a mortgage loan." **The Broker, Appraiser and the Seller meet the definition of other interested parties.**

(f) **18 USC § 1001(a) clearly states in pertinent parts,** "[w]hoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully--(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both." **Wells Fargo has been notified about its false writings for almost 6 years.**

(g) **18 USC § 1014, says...**"Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of ----- a Federal Reserve bank ----, any institution the accounts of which

are insured by the Federal Deposit Insurance Corporation, --- the Federal Deposit Insurance Corporation,-----, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, loan, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both ----.” **A falsified appraisal is a willful overvalue of property- Wells Fargo’s own forgery by substitution is WF00001-13.**

(h) 18 USC § 1007 says... “Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.” **Wells Fargo’s security instrument is a false statement based on falsified and inflated value.**

110. Therefore, Janet Frotscher’s assertions are a **Big Lie** because she was duly notified and had access to authorities and information that proves by clear and convincing evidence – the highest legal standard - an Unlicensed Seller – Thomas Jacobs brokered the loan.

111. Janet Frotscher’s **Big Lie** that Golden Gate Mortgage is the broker after all the facts were known is not supported and cannot be supported by the facts or the evidence. Simply ask the Broker / David Terrell....how did he get loan submission paperwork if he never knew of..., met..., contacted..., or interviewed... Dorothy Sistrunk?

112. In addition, since mortgage loan 0174072777 is not brokered pursuant to South Carolina or federal law, it is an illegal loan transaction and it is immaterial whether it is signed or not or Wells Fargo knew and participated or not. The falsified value, based on falsified documentation nullifies it.... pursuant to all known legal precedents; as well as, federal and state law.

113. There is no evidence in the records of South Carolina’s General Assembly, that Judge Goodstein and attorneys James H. Burns and Elizabeth Scott Moise have been authorized to misrepresent material facts, LIE with immunity and impunity, violate their oath of office, violate judicial and Lawyer Codes of Conduct, violate South Carolina’s and the United States Constitutional provisions for fair and impartial legal proceedings, suspend laws governing predatory lending, the licensing requirements for mortgage brokers and/or loan originators and suspend the reporting requirements for America’s Banks and the reporting requirements of the Securities and Exchange Commission, in order to foreclose on an old house on 423 Bayne St..

C. Janet Frotscher’s Ultimate Lies and misrepresentation of facts.

114. Janet Frotscher’s **Ultimate Lies** are on page 1, paragraph #4 in her letter dated June 2, 2008:

- (a)** My wife (the Defendant) met the appraiser on September 14, 2007.
- (b)** My wife (the Defendant) met the appraiser and showed him invoices for the plumbing, electrical and work that had been performed on the seals.
- (c)** The appraiser indicated that work covered by the invoices appear to have been completed.

115. Janet Frotscher made the statements identified in sentence #114 with absolutely no evidence or proof and without presenting any evidence that she was at 423 Bayne Street.

116. These are same **Ultimate Lies** that have sustained the Seller's, Broker's and Appraiser's **Conspiracy to Defraud** because not one word in paragraph #4 is true. The following is **Proof**.

(a) Find any document filed by Wells Fargo, Elizabeth Scott Moise, James H. Burns, Brian A. Calub and/or Elizabeth S. Hodgson; in which, Janet Frotscher specifically states..... she was present at 423 Bayne Street on September 14, 2007.

(b) Find any document filed by Wells Fargo, Elizabeth Scott Moise, James H. Burns, Brian A. Calub and/or Elizabeth S. Hodgson; in which, Janet Frotscher specifically states.... she knows my wife (the Defendant) personally and can identify her as the person showing invoices to the appraiser.

(c) Find any document filed by Wells Fargo or any attorney associated with this case, that presented the evidence of before and after pictures that verified the work was completed that Janet Frotscher referred to..as being completed in her June 2, 2008 letter.

(d) Find any report in the records of this case that has been filed that states Well Fargo's personnel are functionally illiterate and could not read my wife's (the Defendant's) faxes, letters and /or her Verified Pleadings that have been filed in this action for almost 6 years. Therefore, they can be exonerated for not knowing the value of their loan, note and mortgage is falsified and cannot be substantiated legally.

(e) Find any report in the records of this case that has been filed by any attorney and/or Wells Fargo's Executive Resolution Team that did the inspection to verify Janet Frotscher's statements are true and accurate.

(f) Janet Frotscher's **Ultimate Lies** and accusations that ware told deliberately and in spite of all the letters and documents she received and acknowledged receiving are the foundation of every LIE told in this legal proceeding, including the false affidavit of Elizabeth S. Hodgson and the Affidavit of Amanda Weatherly that verified Wells Fargo maintained an illegal loan transaction on its books, after all the facts were known.

D. Janet Frotscher's fraudulent concealment.

117. Janet Frotscher was legally and morally bound to disclose to SCDCA that she had received information from the customer that the supporting documents for loan #0174072777 were falsified and the Seller brokered the loan and not Golden Gate mortgage...and she did not.

118. Janet Frotscher was legally bound to report to her superiors that she had no evidence the Broker actually brokered the loan and the signed documents may have come into existence due to fraudulent inducements by the seller....and she did not.

119. Janet Frotscher was legally and morally bound to disclose to OCC that she had received information from the customer that the supporting documents for loan #0174072777 were falsified and the Seller brokered the loan and not Golden Gate mortgage.....and she did not.

120. Janet Frotscher was legally and morally bound to disclose to Elizabeth S. Hodgson and Amanda Weatherly that she had received information from the customer that the supporting documents for loan #0174072777 were falsified and the Seller brokered the loan and not Golden Gate mortgage.....and she did not.

121. My statements of fact have not been refuted in almost 6 years.

122. Janet Frotscher's tortious actions are defined by Black's Law Dictionary as **Fraudulent Concealment**. Therefore, based on what I have seen and read, I believe the following information is true.

Blacks Law Dictionary (5th ed. 1979) page 596, defines **Fraudulent Concealment** in pertinent parts, as the following: "[T]he hiding or suppression of a material fact or circumstance which the party is legally or morally bound to disclose. The employment of artifice planned to prevent inquiry or escape investigation and to mislead or hinder the acquisition of information disclosing a right of action; in acts relied on must be of an affirmative character and fraudulent. *Fundunburks v. Michigan Mut. Liability Co.*, 63 Mich.App. 405, 234 N.W.2d 545, 547. The test of whether failure to disclose material facts constitutes fraud is the existence of a duty, legal or equitable, arising from the relation of the parties; failure to disclose a material fact with intent to mislead or defraud under such circumstances being equivalent to an actual "fraudulent concealment." Fraudulent concealment justifying a rescission of a contract is the intentional concealment of some fact known to the party charged, which is material for the party injured to know to prevent being defrauded; the concealment of a fact which one is bound to disclose being the equivalent of an indirect misrepresentation that such fact does not exist.

OTHERS THAT HAVE ENGAGED IN FRAUDULENT CONCEALMENT

123. In addition to Janet Frotscher, the following individuals or entities have also engaged in fraudulent concealment that they are legally and/or morally bound to disclose.

- (a) The Seller – Thomas Jacobs did not tell us he was brokering a loan.
- (b) The Appraiser – Jim H. Austin, III, did not tell us the appraisal was falsified and his satisfaction completion certificate was a scam document.
- (c) The Broker – Golden Gate Mortgage /David Terrell did not tell us, he LIED on the Uniform Residential Loan Application to WFHM that he interviewed my wife (the Defendant) on 11/26/2007 to cover up the illegal brokering of the seller.
- (d) The closing attorney – Debra C. Galloway did not tell us she and Stephanie Hammond were going to falsely certify Wells Fargo's mortgage.
- (e) The Seller – Thomas Jacobs did not tell us he was going to LIE to SCDCA.
- (f) The Appraiser – Jim H. Austin, III, did not tell us about the second 7-59 appraisal WF00001-13 that was going to be a forgery by substitution and used by Wells Fargo as an appraisal that was ordered for my wife (the Defendant).
- (g) The Broker – Golden Gate Mortgage/David Terrell did not tell us he was going to LIE to SCDCA to cover up the illegal brokering of the seller.
- (h) The closing attorney – Debra C. Galloway did not tell us she was going to misrepresent facts to the Commission on Lawyer Conduct.
- (i) Judge Goodstein has not revealed what she is really conducting in Court, a hearing without witnesses or a trial without a jury.
- (j) Judge Goodstein has not told me why I cannot give my testimony in her courtroom under oath that verifies Wells Fargo participation in the seller's fraud.
- (k) Wells Fargo did not tell us they were going to use an unauthorized credit report.
- (l) Wells Fargo did not tell us they were going to forge my wife's (the Defendant's) initials in order to market a Conventional 97 to Fannie Mae. (**Note:** 3% forgery)

- (m) Thomas Jacobs did not tell us or Wells Fargo he did not have a building permit and no repairs were completed at 423 Bayne Street.
- (n) Jim H. Austin, III did not tell us or Wells Fargo the truth about 423 Bayne Street.
- (o) Thomas Jacobs did not tell us he was not a licensed loan originator.
- (p) Golden Gate Mortgage/David Terrell did not tell us he was brokering a loan.
- (q) Golden Gate Mortgage/David Terrell did not tell us he was going to use an unauthorized credit report from Thomas Jacobs on October 3, 2007.
- (r) Neither David Terrell, Thomas Jacobs nor Jim H. Austin, III, told us we were going to be maliciously used in their **Conspiracy to Defraud** Wells Fargo out of \$75,000.00 and be persecuted in South Carolina's judicial system for it.
- (s) Wells Fargo did not tell us they were going to use Thomas Jacobs, Jim H. Austin, III's and Golden Gate Mortgage's fraudulent representations as a legal mortgage.
- (t) Judge Goodstein has not explained why it is not necessary to verify Wells Fargo's supporting documents are falsified.
- (u) Judge Goodstein did not tell us why a Supreme Court Administrative Order was ignored in May of 2009.
- (v) Judge Goodstein did not tell us why she has ignored Verified Pleadings, sworn statements of fact, misrepresent material facts or violated Civil Procedure Rules.
- (w) Judge Goodstein did not tell us why she was overlooking Burns and Moise's **Massive Filing Fraud** during the TRO.
- (x) Judge Goodstein did not tell us why my wife (the Defendant) cannot have a Trial by Jury even though she demanded it on August 12, 2008.
- (z) Judge Goodstein has not told me why she does not want to hear the evidence that verifies Wells Fargo's perpetuation of an illegally brokered loan, a home improvement and mortgage fraud and an illegal predatory lending scheme based upon Wells Fargo's use and reliance upon the broker's, appraiser's and seller's fraudulent representations that support Wells Fargo's inflated mortgage and note.

After This, The Affiant Sayeth Naught

Affiant Signature: _____

Printed Name of Affiant: _____

SWORN to and personally subscribed before me;

This 28th day of May, 2014

Personally Known ☐ Produced Identification ☒

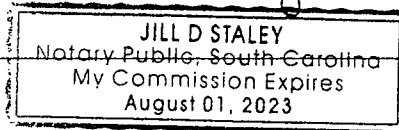
Type of Identification Produced: Driver License

If Driver's License, State: South Carolina

Driver's License Number: 008400216

Notary Signature: Jill D Staley

My Commission Expires on: _____



Seal

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

WELLS FARGO BANK, N.A.,

Plaintiff,

vs.

CASE NO. 2008-CP-38-1024

DOROTHY SISTRUNK,

Defendant.

DEPOSITION OF: DOROTHY H. SISTRUNK

DATE: MARCH 2, 2012

TIME: 9:17 a.m.

LOCATION: Orangeburg County Courthouse
151 Docket Street
3rd Floor Jury Room
Orangeburg, SC

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: Laura J. Bash, RPR

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR PLAINTIFF

WELLS FARGO BANK, N.A.:

3 NELSON, MULLINS, RILEY & SCARBOROUGH

4 BY: BRIAN A. CALUB

1320 Main Street, 17th Floor

5 Columbia, SC 29201

(803) 799-2000

6 brian.calub@nelsonmullins.com

7
8 FOR DEFENDANT

DOROTHY SISTRUNK:

9 DOROTHY H. SISTRUNK, PRO SE

10 423 Bayne Street

Orangeburg, Sc 29115

11 (803) 268-0716

12
13 ALSO PRESENT:

14 George Sistrunk

15
16
17 (INDEX AT REAR OF TRANSCRIPT)

1 STIPULATION

2 It is stipulated by Counsel that this
3 deposition is being taken in accordance with the
4 South Carolina Rules of Civil Procedure; that all
5 objections as to Notice of this deposition are
6 hereby waived; that all objections except as to
7 form are reserved until the time of trial.

8 * * * * *

9 MR. CALUB: We're on the record. My
10 name is Brian Calub and I'm with the law firm of
11 Nelson Mullins. And I represent the plaintiff in
12 this matter, Wells Fargo Bank, N. A. And the
13 deposition of Mr. George Sistrunk has been delayed
14 to later this afternoon, by agreement with
15 Mr. Sistrunk and Mrs. Sistrunk.

16 And the deposition of Mrs. Sistrunk was
17 to convene at 9:00 a.m. in the morning; however,
18 Mr. And Mrs. Sistrunk, the defendants, requested a
19 delay in the deposition of Mrs. Sistrunk for about
20 15 minutes or so. So we'll reconvene the
21 deposition on or about 9:45.

22 Off the record.

23 (A recess transpired.)

24 (Deposition reconvened at 9:42 a.m.)

25 (PLF. EXH. 1, Notice of Deposition, was

1 marked for identification.)

2 DOROTHY H. SISTRUNK,

3 being first duly sworn, testified as follows:

4 EXAMINATION

5 BY MR. CALUB:

6 Q. We're going on the record. It is
7 approximately 9:42 p.m. -- or a.m. I'm sorry.
8 Today is March the 2nd, 2012. We have been
9 convened here today for the deposition of
10 Ms. Sistrunk. And by agreement with Ms. Sistrunk,
11 and Third-Party Witness Mr. Sistrunk, Ms. Sistrunk
12 will be the first deponent today.

13 So we're on the record. And for the
14 record, my name is Brian Calub. I'm from the law
15 firm of Nelson Mullins, and I represent the
16 plaintiff in this matter, Wells Fargo Bank, N A.

17 Ms. Sistrunk, could you please state
18 your full name for the record.

19 A. Dorothy Harley Sistrunk.

20 Q. All right. Ms. Sistrunk, we are here
21 to take your deposition. And today, the process
22 will entail me asking you questions and -- about
23 your case. And basically, we'll have a discussion,
24 and the answers to the questions you provide for me
25 will create a record that the court reporter is

1 taking. So I ask that any questions that I ask,
2 that you answer them verbally. I know sometimes it
3 can be hard, you may shake your head or nod your
4 head, but because we have to create a written
5 record we have to answer verbally.

6 Is that fair?

7 MR. SISTRUNK: Well, she --

8 MR. CALUB: I'm sorry, Mr. Sistrunk. I
9 ask that you reserve any comment for testimony for
10 your deposition. And I ask that Ms. Sistrunk be
11 the only one speaking at this time. You'll have
12 your opportunity during your deposition to speak.

13 BY MR. CALUB:

14 Q. Now, Ms. Sistrunk, is that fair, that
15 any questions that I ask you you have to answer
16 audibly today?

17 A. That is fair. But before -- I wrote my
18 reasons out why I am objecting to this oral
19 deposition.

20 Q. I know you have filed that with the
21 court and it is of record. The process here,
22 today -- your objection has been preserved. If you
23 object to the procedure, it's been noted on the
24 record that you have something on file with the
25 court.

1 Today, you are here, we ask that we
2 just proceed. The court will order and address the
3 issues as to the validity of this deposition later
4 when it addresses your objection.

5 Today, you're here -- it's my
6 understanding you consented to this procedure and
7 you'll be answering my questions pursuant to the
8 deposition process we have served on you.

9 A. I came to read my objections to this
10 procedure.

11 Q. Will you be answering any of my
12 questions today?

13 A. No. I will be reading my objection.

14 Q. Ms. Sistrunk, for the record, are you
15 telling me that the questions I ask during the
16 process of this deposition, you refuse to answer
17 them? Am I correct in my understanding?

18 A. I will be reading my objection to this
19 oral deposition today.

20 Q. And that is all that you will be doing
21 today?

22 A. That's all I'm doing. I'll be reading
23 my objections as to why I object to this oral
24 deposition and the subpoena.

25 Q. Okay. And to that extent, you'll be

1 reading that into the record?

2 A. Yes, I will.

3 Q. And beyond that, you are not going to
4 permit me, or you are not going to answer any of my
5 questions today.

6 Is that correct?

7 A. That's because I do not have an
8 attorney present at this oral deposition.

9 Q. And because an attorney is not present
10 and for the reasons stated in your objection that
11 you filed with the court -- and let's -- for the
12 record, it is the objection that Ms. Sistrunk has
13 filed on March the 2, 2012. Is that correct?

14 A. Yes. This is the one I filed today.

15 Q. Okay. For the record, I have marked
16 this Notice of Deposition as Exhibit 1. And we're
17 just creating a record of your objection. Okay?

18 Is this the Notice of Deposition that
19 you are objecting to, that's been marked as
20 Plaintiff's Exhibit 1?

21 A. Yes..

22 Q. Okay. And let's create the record.
23 Because if you are going to object -- because it
24 would be a waste of time to argue over if it's a
25 judge issue. Does that make sense?

1 A. Yes. But I would like to read my
2 objection, for the record.

3 Q. It's already on the record; it has been
4 placed and filed with the court. But at any rate,
5 I will give you that opportunity shortly. But let
6 me build the record before then. Because I want to
7 make sure that we get all that you're objecting to
8 on the record, and then you can respond.

9 Does that make sense, Ms. Sistrunk?

10 A. Yes.

11 Q. All right. Okay. I'm going to mark
12 this as Plaintiff's Exhibit Number 2.

13 (PLF. EXH. 2, Subpoena, was marked for
14 identification.)

15 BY MR. CALUB:

16 Q. All right, Ms. Sistrunk, I'm going to
17 hand to you what has been marked as Plaintiff's
18 Exhibit Number 2. And for the record, this is a
19 copy of the subpoena that was served on the
20 Third-Party Witness George Sistrunk. The subpoena
21 requires a deposition and also the production of
22 documents related to this case. Also as part of
23 Exhibit Number 2, it is the notice of taking
24 deposition of Mr. George Sistrunk, is also
25 attached. And I just present that to you.

1 Is that subpoena to Mr. George Sistrunk
2 and the notice of deposition of Mr. George Sistrunk
3 the documents that you are also objecting to today?

4 A. I am objecting to me taking an oral
5 deposition. And I would like to read my objections
6 as to why I am objecting to this oral deposition.

7 Q. Are you also objecting to the subpoena
8 that is issued --

9 A. Yes.

10 Q. -- to Mr. George Sistrunk?

11 A. No.

12 Q. You are not?

13 A. I'm not.

14 Q. Is it my understanding that Mr. George
15 Sistrunk will place his objection on the record
16 when the opportunity provides itself for him to be
17 deposed?

18 A. When you get to Mr. George Sistrunk, he
19 will make his decision as to whether or not he will
20 take an oral deposition or not.

21 Q. But right now you are objecting and
22 refusing to --

23 A. Right now I am objection to me taking
24 an oral deposition.

25 Q. Okay.

1 MR. CALUB: Place Plaintiff's Exhibit
2 Number 2.

3 BY MR. CALUB:

4 Q. But for now it's my understanding that
5 you are not objecting to the subpoena and notice of
6 deposition to Third-Party Witness George Sistrunk.
7 Is that correct?

8 A. Uh-huh.

9 Q. Okay. And you're only objection to the
10 notice of deposition provided to you.

11 A. Uh-huh.

12 Q. And the objection that you want into
13 the record is the objection that was filed on March
14 the 2nd, 2012. Is that correct?

15 A. Yes. And that's the one I will be
16 reading today.

17 Q. Okay. Well, would you like to --
18 rather than -- to save time, would you like to
19 place your objection on the record, that way you
20 don't have to read it? Word-for-word, it will be
21 placed on the record, your objection.

22 A. Yes.

23 Q. Okay. We'll do that.

24 (PLF. EXH. 3, Objection to Subpoenas
25 and Taking of Deposition of Defendant Dorothy

1 Sistrunk, was marked for identification.)

2 MR. CALUB: For the record, we are
3 placing Plaintiff's Exhibit Number 3 into the
4 record of this deposition, which is the file -- a
5 copy of the filed objection that Ms. Sistrunk has
6 filed with the court. And it is a filed objection
7 to her notice of deposition today. And it is the
8 grounds for which she has decided to refuse
9 participation in the deposition process to answer
10 any questions by me as counsel for Wells Fargo
11 Bank, N.A.

12 Is that a fair description?

13 THE WITNESS: And because the defendant
14 does not have an attorney present.

15 MR. CALUB: Okay. For the record, I
16 have reviewed, prior to this deposition, the
17 objection to -- the formal name of Plaintiff's
18 Exhibit Number 3 is Objection To Subpoenas And
19 Notice Of Taking Deposition Of Defendant Dorothy
20 Sistrunk And To Demand The Protection Of This Court
21 Pursuant To Rules 26(c) & 45(c)(1) South Carolina
22 Rules of Civil Procedure From Further Harassment.
23 Subject To Rule 38(b) A Priority Matter. Dated
24 March 12, 2012.

25 For the record, as counsel for Wells

1 Fargo Bank, N.A., I have reviewed this objection.
2 I disagree with its content entirely. And I find
3 that the filing of this deposition (sic) and the
4 refusal of Ms. Sistrunk's -- the refusal of
5 Ms. Sistrunk to answer any questions during this
6 process is a bad faith attempt to delay and to
7 further the expense and cost of the litigation in
8 this matter.

9 Upon reviewing the content of the
10 objection, there are no good faith grounds to
11 refuse participation in this deposition process.
12 And therefore, we'll be filing a motion to compel,
13 and requesting sanctions to the court for the
14 attorney time and court reporter time spent here
15 for this process.

16 That is just my response for the
17 record. That is a matter we'll have to deal with
18 with the judge, but I have to place it on the
19 record. We do not agree with your grounds for
20 objection. But that's an argument for another day.

21 THE WITNESS: The defendant also has a
22 pending motion that has not been placed on the
23 motion calendar. And Wells Fargo did not object to
24 the motion that was placed on August the 15th of
25 2011.

1 MR. CALUB: And as Counsel for Wells
2 Fargo Bank, I move to strike as argumentative and
3 nonresponsive to any question interposed during
4 this deposition process -- the prior comments of
5 Ms. Sistrunk.

6 But we have a disagreement here,
7 Ms. Sistrunk, and I understand that. Your
8 objection has been placed on the record, and our
9 position has been stated for the record as well.
10 We'll be filing a motion to compel your deposition
11 testimony for you to participate in this process
12 and to provide testimony by answering questions
13 that we have during another deposition that we
14 schedule in the future.

15 But today, just for confirmation, you
16 stand on your objections and you refuse to answer
17 any questions that I would interpose during this
18 deposition process.

19 Is that correct?

20 THE WITNESS: I object to the subpoena
21 and the taking the oral deposition.

22 MR. CALUB: Correct. And in a nutshell
23 that basically means that you refuse to answer the
24 questions that I would ask of you today to develop
25 your testimony through this deposition.

1 Is that correct?

2 THE WITNESS: Also --

3 MR. CALUB: Is that correct? Please
4 answer my question, Ms. Sistrunk.

5 Is that correct?

6 THE WITNESS: I object to this. I
7 don't have to answer a question because I don't
8 have an attorney. Since I'm objecting, I do not
9 have to answer your questions.

10 MR. CALUB: I see where we're going
11 with this. I don't want to be argumentative. This
12 is an argument we can save for the judge.

13 THE WITNESS: It's not an argument.

14 MR. CALUB: And we will establish that.

15 Let the record reflect that
16 Ms. Sistrunk is being nonresponse to fairly asked
17 questions during this deposition process. Note
18 that for the record. And also for a motion to
19 compel. That is sufficient grounds in which we'll
20 also be seeking sanctions for attorney fee time and
21 the court reporter, for convening this produce.

22 THE WITNESS: Let the record show that
23 Ms. Sistrunk is not being argumentative. She just
24 objecting because she does not have an attorney
25 present at this time. And the rules state that in

1 order to take an oral deposition, the defendant
2 must have an attorney present. And I do not have
3 an attorney.

4 MR. CALUB: All right. And for the
5 record we -- the plaintiff's disagree with that
6 contention and we'll be filing the motion to
7 compel. We'll deal with a judge.

8 We will now convene and end this
9 deposition for the time being of Ms. Sistrunk
10 pending an order from the court compelling her
11 attendance and participation at a deposition
12 scheduled by the plaintiff.

13 We'll close the record on that.

14 (The deposition concluded at 9:54 a.m.)
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1 CERTIFICATE OF REPORTER

2
3 I, Laura J. Bash, Registered
4 Professional Reporter and Notary Public for the
5 State of South Carolina at Large, do hereby
6 certify that the foregoing transcript is a true,
7 accurate, and complete record.

8 I further certify that I am neither
9 related to nor counsel for any party to the cause
10 pending or interested in the events thereof.

11 Witness my hand, I have hereunto
12 affixed my official seal this 8th day of March,
13 2012, at Charleston, Charleston County, South
14 Carolina.

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Laura J. Bash, RPR
My Commission expires
October 5, 2015
25

I N D E X

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REQUESTED INFORMATION INDEX
(No Information Requested)

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STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

WELLS FARGO BANK, N.A.,
Plaintiff,

vs. CASE NO. 2008-CP-38-1024

DOROTHY SISTRUNK,
Defendant.

DEPOSITION OF: DOROTHY SISTRUNK
DATE: September 6, 2012
TIME: 11:24 a.m.
LOCATION: Orangeburg County Courthouse
Orangeburg, SC
TAKEN BY: Counsel for the Plaintiff
REPORTED BY: Susan M. Valsecchi, RPR, CRR
Certified Realtime Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES
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1 influence of any medication or a medical condition
2 that would prevent you from understanding my
3 questions today?

4 A. No.

5 Q. All right. Ms. Sistrunk, what is the
6 highest level of education that you have completed?

7 A. College.

8 Q. And where did you graduate from?

9 A. South Carolina State University.

10 Q. And what year did you graduate?

11 A. 2000.

12 Q. Now, tell me this. Going back to the
13 period of this note and mortgage loan that we're
14 talking about in this case, were you employed at
15 that time? Did you have a job at that time?

16 A. Yes.

17 Q. Okay. And where did you work?

18 A. Orangeburg Area Mental Health Center
19 here in Orangeburg County.

20 Q. And what were your duties?

21 A. Counselor.

22 Q. And what skills are required to perform
23 those duties?

24 A. Uh, bachelor's degree, being able to do
25 group counseling. That's basically it.

1 to you some documents that are going to go into the
2 record of your deposition and I'm going to ask you
3 some questions.

4 (PLF EXH. 1, Contract of Sale for 423
5 Bayne Street, was marked for identification.)

6 BY MR. CALUB:

7 Q. I'm going present to you what is going
8 to be marked in your deposition as Plaintiff's
9 Exhibit Number 1.

10 A. Okay.

11 Q. All right. Now, Ms. Sistrunk,
12 Plaintiff's Exhibit Number 1 is denominated with
13 page numbers at the bottom, and those page numbers
14 run from WF-28 through WF-38.

15 Do you see those pages?

16 A. Yes.

17 Q. All right. Now, the pages WF-28
18 through WF-29, the top of the document indicates
19 that it is a Contract of Sale.

20 Do you see that?

21 A. Yes.

22 Q. Now, on page WF-29, there's a signature
23 there indicating a buyer and it's date is November
24 26th, 2007. Do you see that?

25 A. Yes.

1 Q. As to that particular signature above
2 the word buyer, is that your signature on WF-29?

3 A. Yes. It's --

4 Q. All right. My next question is --

5 A. Excuse me, can we go back to Page 29?

6 Q. We'll get back to that. My next
7 question is on Golden Gate -- on WF-30 -- do you
8 see pages WF-30 through WF-38?

9 Do you see those pages in Plaintiff's
10 Exhibit Number 1?

11 A. Yes.

12 Q. All right. And are you familiar with
13 pages WF-30 through WF-38?

14 A. I have seen it before.

15 Q. Okay. At the top of page WF-30, do you
16 see a signature there above the word borrower on
17 the top left corner of the document? Do you see
18 that?

19 A. Yes.

20 Q. Is that your signature?

21 A. Yes.

22 Q. All right. And turning our attention
23 to page WF-32, do you see a box there with the X
24 marked borrower's signature?

25 A. Uh-huh.

1 number 8?

2 A. Yes.

3 Q. Do you see the initials DS there?

4 A. Yes.

5 Q. Are those your initials?

6 A. No. Also --

7 Q. But, however, the signature that
8 appears on buyer, with a date next to it 11/26/2007
9 on Page WF-29, that is your signature there; is
10 that correct?

11 A. It is mine.

12 Q. All right.

13 A. Can we go back to --

14 (PLF EXH. 2, Fixed Rate Note dated
15 December 21, 2007, for 423 Bayne Street, was marked
16 for identification.)

17 BY MR. CALUB:

18 Q. I'm going to move on to what's been
19 marked as Plaintiff's Exhibit Number 2.

20 A. I want to tell you that the date was
21 wrong on these pages.

22 Q. Let's talk about this other document
23 here I'm going to present to you that's been marked
24 as Plaintiff's Exhibit Number 2.

25 A. You're not going to suggest the date?

1 Q. I haven't asked you a question about
2 it.

3 This is Plaintiff's Exhibit Number 2.

4 Ms. Sistrunk, are you familiar with
5 Plaintiff's Exhibit Number 2 which says fixed rate
6 note at the top?

7 A. No, I'm not familiar with this page.
8 No, I'm not.

9 Q. Okay. Ms. Sistrunk, do you see the
10 initials DS at the bottom of Page -- on Plaintiff's
11 Exhibit Number 2 on the Page that's marked WF-39,
12 do you see the initials marked DS there at the
13 bottom?

14 A. Yes, I do.

15 Q. Are those your initials?

16 A. Yes, that's my initials.

17 Q. All right. I'm going to turn your
18 attention to Page WF-40 on Plaintiff's Exhibit
19 Number 2. Do you see your initials there at the
20 bottom of Page WF-40?

21 A. Yes.

22 Q. Are those your initials there?

23 A. Yes.

24 Q. I'm going to turn your attention to
25 Page WF-41 of Plaintiff's Exhibit Number 32.

1 Do you see the signature above the
2 borrower line there on Page WF-41?

3 A. Yes.

4 Q. Is that your signature appearing above
5 the borrower line on Page WF-41 of Plaintiff's
6 Exhibit Number 32?

7 A. Yes, it is.

8 Q. All right. Let's turn our attention to
9 Number 1, sentence or paragraph number 1 of
10 Plaintiff's Exhibit Number 2.

11 Do you see a line marked Number 1,
12 borrower's promise to pay?

13 A. Yes.

14 Q. Okay. Does the paragraph following
15 that heading clearly state the following: In
16 return for a loan that I have requested, I promise
17 to pay U.S. \$75,000 -- this amount is called
18 principal -- plus interest to the order of the
19 lender.

20 Do you see that?

21 A. I see that.

22 Q. And that clearly states that there on
23 Page WF-39 of Plaintiff's Exhibit Number 2; is that
24 correct?

25 A. That's plainly stated, yes.

1 Q. All right. And it identifies the
2 lender as Wells Fargo Bank N.A.; is that also
3 correct?

4 A. That is correct.

5 Q. And underneath where Wells Fargo Bank
6 N.A. is identified, does it not clearly
7 state -- Plaintiff's Exhibit Number 2 -- state
8 that, I will make all payments under this note in
9 the form of cash, check or money order; is that
10 correct?

11 A. That is correct.

12 Q. And that is what Page WF-39 clearly
13 states on Plaintiff's Exhibit Number 2; is that
14 right?

15 A. That's what it states, but in Question
16 Number 1, Paragraph Number 1, it says, in return
17 for a loan that I have received.

18 I did not receive a loan, nor did
19 I -- you used the word request -- nor did I request
20 a loan from Wells Fargo.

21 (PLF EXH. 3, Mortgage, was marked for
22 identification.)

23 BY MR. CALUB:

24 Q. Okay. I want to turn your attention to
25 what's going to be marked as Plaintiff's Exhibit

1 Number 3.

2 Ms. Sistrunk, do you have a copy -- or
3 do you have Plaintiff's Exhibit Number 3 before
4 you?

5 A. Yes, I do.

6 Q. Okay. Ms. Sistrunk, let's look at
7 Plaintiff's Exhibit Number 3 together.

8 Do you see on Page WF-42 of Plaintiff's
9 Exhibit Number 3 the initials DS?

10 A. Yes.

11 Q. Are those your initials?

12 A. Yes.

13 Q. And turning to Page WF-43 of
14 Plaintiff's Exhibit Number 3, do you see the
15 initials DS twice at the bottom of Page WF-43 for
16 Plaintiff's Exhibit Number 3?

17 A. Yes.

18 Q. Are those your initials?

19 A. Yes.

20 Q. Is that your signature of initials
21 there?

22 A. Yes.

23 Q. Turning your attention to Page WF-44 of
24 Plaintiff's Exhibit Number 3, do you see the
25 initials DS there?

1 A. Yes.

2 Q. Is that your signature of your initials
3 there?

4 A. Yes.

5 Q. Do you see Page WF-45 of Plaintiff's
6 Exhibit Number 3?

7 A. Yes.

8 Q. Do you see the initials DS at the
9 bottom of Page WF-45?

10 A. Yes.

11 Q. Is that your signature of initials
12 there on WF-45?

13 A. Yes.

14 Q. And let's look at pages WF-46 through
15 WF -- through WF-58.

16 Do you see those pages, WF-46 through
17 WF-58 of Plaintiff's Exhibit Number 3?

18 A. Yes.

19 Q. All right. Do you see the initials DS
20 marked there at the bottom of pages WF-46 --

21 A. Yes.

22 Q. -- through WF-58?

23 A. Yes.

24 Q. Are the initials DS at the bottom of
25 pages WF-46 through WF-58 your signature of

1 initials?

2 A. Yes.

3 Q. And turning our attention to Page
4 WF-58, do you see a borrower line there with the
5 word seal beside it?

6 A. Yes.

7 Q. Is that your signature appearing on the
8 borrower line with the seal beside it?

9 A. Yes.

10 Q. And that signature appears on WF-58; is
11 that correct?

12 A. That's correct.

13 Q. Are you familiar with Plaintiff's
14 Exhibit Number 3?

15 A. On this Page 59, I'm not familiar with
16 it.

17 Q. Are you familiar with all of the other
18 pages of Plaintiff's Exhibit Number 3?

19 A. Yes, except 59 and 60.

20 Q. Do you see Paragraph B there on Page
21 WF-42?

22 A. Which paragraph?

23 Q. Paragraph B, where it's marked
24 borrower. Do you see that?

25 A. Yes.

1 is that correct?

2 A. Correct, but I didn't date it. It's
3 not my signature on the date.

4 Q. And just for clarification, let's turn
5 our attention back to Plaintiff's Exhibit Number 2.
6 Do you have Plaintiff's Exhibit Number 2 in hand?

7 A. 2?

8 Q. Do you have it?

9 A. Yes.

10 Q. All right. Is this a copy of a
11 document that was presented to you during the
12 closing -- a closing conducted for you by the
13 Player Law Firm?

14 A. Yes.

15 Q. And that closing was done on or about
16 December 21, 2007; is that right?

17 A. Yes.

18 Q. Okay. And let's turn our attention to
19 Plaintiff's Exhibit Number 3. Let's turn our
20 attention back in time to Plaintiff's Exhibit
21 Number 3. Do you have that in hand?

22 A. Yes, sir, I do.

23 Q. All right. Was Plaintiff's Exhibit
24 Number 3 a document presented to you during a
25 closing conducted for you by the Player Law Firm on

1 December 21, 2007.

2 A. Yes.

3 Q. All right. Now, Ms. Sistrunk, let's go
4 back in time a little bit. Can you tell me the
5 addresses where you lived during the period of
6 January 1, 2006 to the present?

7 A. From 2006?

8 Q. Yes, where were you living January 1,
9 2006; do you recall?

10 A. 5074 [sic] Coberg Lane.

11 Q. And when did you move out of 50 -- what
12 is it?

13 A. 5074 -- 574 -- Coberg Lane.

14 Q. 574 --

15 A. C-o-b-e-r-g Lane, Coberg, Coberg Lane,
16 Orangeburg.

17 Q. So 574 Coberg Lane, Orangeburg, that's
18 where you were living as of January 1, 2006; is
19 that right?

20 A. Correct.

21 Q. Where did you move to after that?

22 A. 423 Bayne.

23 THE COURT REPORTER: Bayne?

24 THE WITNESS: Bayne, B-a-y-n-e, Street.

25 BY MR. CALUB:

1 Q. And is that also in Orangeburg, South
2 Carolina?

3 A. Orangeburg, South Carolina, yes. It's
4 Orangeburg.

5 Q. Tell me, when did you move from 574
6 Coberg Lane, Orangeburg, South Carolina, to 423
7 Bayne Street?

8 A. I think it was in November, the last
9 part of November of 2007. I think that's it. I'm
10 getting my -- I'm thinking it was 2007. It's been
11 so long now.

12 Q. All right. So on or about November,
13 somewhere during November of 2007, am I
14 understanding your testimony correctly you moved
15 from 574 Coberg Lane, Orangeburg, South Carolina,
16 to 423 Bayne Street, Orangeburg, South Carolina; is
17 that right?

18 A. Yes.

19 Q. Tell me, why did you move from Coberg
20 Lane to Bayne Street?

21 A. Why? Because the owner of Coberg Lane,
22 Mr. Tommy Mitchell -- we had to move out of
23 that -- we was renting. We had to move
24 because -- due to the fact that I called him and
25 let him know that my husband was having surgery and

1 that we couldn't no longer care for the yard and
2 that he would have to send someone in. And so he
3 said that, no, he could not do that.

4 So he wanted me to -- he sent me a new
5 rental agreement making me responsible for the yard
6 and all upkeep of the property as far as repairs
7 and everything. And I told him, as a tenant, as
8 renting, that I was not -- that is the owner's
9 responsibility. And because I did not sign the new
10 lease that he sent me, he asked us to move after
11 basically seven years of living there.

12 So that's why we had to move from our
13 Coberg Lane, and we looked for a place to stay.

14 Q. So Mr. Mitchell, the landlord of Coberg
15 Lane, asked y'all to undertake additional, I guess,
16 upkeep obligations?

17 A. Yes, but we was only renting.

18 Q. And you were renting at that time.

19 A. Yes.

20 Q. And you disagreed with that and then he
21 asked you to move out? Is that what happened?

22 A. Right, right, because the deal with
23 Mr. Mitchell was that we was doing a rent-to-buy.

24 And after the year was up and we got
25 ready to buy, we had our finances in order, we had

1 the 10th. That's when we went by -- that's when I
2 saw 423 Bayne Street. And the only reason we went
3 by there was because we had to go to the pharmacy
4 to pick up medications, so he swang us through
5 there to look at 423 Bayne Street. That was my
6 first time. I had not come into contact with
7 anyone, but my husband found 423 Bayne Street, not
8 me.

9 Q. So sometime in October of '07, I guess
10 during the period of time your son was in the
11 hospital, your husband, Mr. George Sistrunk,
12 identified 423 Bayne Street, or the opportunity to
13 move into there?

14 Is that what your testimony is saying?

15 A. Exactly. He saw it because he
16 looked -- he said he looked at several homes. As a
17 matter of fact, he met with Thomas Jacobs at the
18 Huddle House and Thomas showed him several homes.

19 And he said when he got to 423 Bayne
20 Street, that one seemed more appropriate. It
21 needed a lot of work. He did not realize it.

22 Because when my husband took me by
23 there after he picked us up from the hospital, my
24 response to him was, he had to be kidding.

25 I was like, You've got to be kidding.

1 Q. Okay.

2 A. And what Mr. Jacobs told my husband,
3 that if he could make it livable for us to move in,
4 he would use that -- instead of getting a
5 contractor company at that time just to clean up
6 the basic, he would use that as a down payment for
7 the house.

8 So the whole time, it was just me and
9 my husband -- my husband and Mr. Jacobs. There was
10 no Golden Gate Mortgage. There was no Wells Fargo.
11 I mean, I learned of Wells Fargo at the closing.

12 I never knew -- I guess that's because
13 Wells Fargo was not in this area, you know, and I
14 did not know Wells Fargo.

15 So when Thomas said that it was him,
16 his friends and his business associates, so when I
17 went to the closing and I saw Wells Fargo, so I
18 assumed that was his business associate, was Wells
19 Fargo.

20 Q. Okay. When you mentioned a closing,
21 you're talking about a closing that was done
22 December 21, 2007 with the Player Law Firm?

23 A. Right.

24 Q. Okay. So just to make sure I
25 understand, prior to the date of closing, December

1 A. No.

2 Q. Is it correct to say no one, as far as
3 you know, from Wells Fargo Bank N.A. or any former
4 Wells Fargo, was involved in these negotiations of
5 423 Bayne Street, the purchase price --

6 A. No one.

7 Q. -- and any work to be done?

8 A. No, no.

9 Q. No one from Wells Fargo said they would
10 fix the house and lower the price?

11 A. No one.

12 Truly, Wells Fargo probably didn't even
13 know I existed, just like I did not know they
14 existed, you know?

15 And so the only time I spoke with
16 someone from -- my first encounter with Wells Fargo
17 was on December the 24th '07.

18 Q. And that was after the closing.

19 A. That was after the closing. That was
20 Christmas Eve. That's how come I remember the
21 date. That was a Christmas Eve. Because after the
22 closing on the 21st and I came back home and I told
23 my husband what happened and whatnot, and he said,
24 something in this smells wrong.

25 So he got on the phone on the 22nd and

1 The as-is clause, which is not there. And, as you
2 can see, there's not a signature on number 8.

3 Q. Now, is it your testimony that the
4 price term in Paragraph 2 and then the number term
5 there on Paragraph 2C on Exhibit 140, those were
6 not there when you signed this document?

7 A. Exactly.

8 Q. Do you know who put that in there?

9 A. No, I don't know who put it in there.
10 I can only speculate, but I -- because I was not
11 there. The only thing I can say, when I signed
12 this form, it was not there. It got there later.
13 But I cannot accuse anyone, because I didn't
14 actually see anyone put it there, but I know it was
15 not there.

16 Q. Okay. So as far as you know, you don't
17 know if that's anybody from Wells Fargo that did
18 that? And when I say Wells Fargo, any iteration,
19 Wells Fargo Home Mortgage or Wells Fargo Bank
20 N.A. --

21 A. Right, right.

22 Q. You don't know?

23 A. I don't know.

24 Q. And you don't have any evidence
25 indicating them doing that; is that right?

1 A. No, I do not. So I'm not accusing
2 anyone of doing something. I'm not going to go
3 that route.

4 Q. I got you. I understand. I just want
5 to clarify that. And I will just take that back.

6 A. Okay.

7 Q. So at the very least, from your
8 testimony, you did visit 423 Bayne Street before
9 your closing on December 21, 2007, correct?

10 A. Yes.

11 Q. And I guess, because you moved there in
12 November, at the time of the closing you were
13 already living at 423 Bayne Street.

14 A. Right.

15 Q. Tell me about the negotiation for the
16 rent. Did you play a part in that? When you
17 discussed talking about your husband trying to rent
18 423 Bayne Street from Mr. Jacobs, did you
19 participate in those negotiations and talk about
20 that with Mr. Jacobs?

21 A. No, no, because that was during the
22 time I was at the hospital with my son, so, no, I
23 didn't. And I know my husband said that he would
24 not sign the rent paper, because Mr. Jacobs had the
25 paper backdated. And he told him, no, he was not

1 Like I said, that was my first time
2 going to a closing, so I did not know what to
3 expect.

4 Q. Do you remember the name of the lawyer
5 that did your closing?

6 A. Debra Galloway.

7 Q. And is Ms. Galloway a member of the
8 Player Law Firm?

9 A. Well, I'm assuming that she works
10 there. I have to say that she worked with the
11 Player Law Firm. That was my first time hearing
12 about the Player Law Firm too, so I'm assuming she
13 did work there, I mean, since she was there.

14 Q. Tell me, did you ask her any questions
15 during the closing process?

16 A. Yes, I did.

17 Q. Let's go through it.

18 Do you remember -- let's -- probably a
19 lot of questions -- but let's start with what you
20 can remember.

21 What was the first question you asked
22 Ms. Galloway during the closing?

23 A. I recall asking -- I asked to see the
24 appraisal.

25 And at that time, she told me that she

1 done, fax a cancellation of the loan to Wells
2 Fargo's home office in Des Moines, Iowa.

3 So when we could not contact Thomas
4 Jacobs, that's what our next step was. We faxed in
5 our cancellation asking them to cancel the loan,
6 because we had stated that we did not want it to
7 get to this point here. We was trying to prevent
8 everything.

9 We was trying to prevent foreclosure
10 and we were also trying to make sure that Wells
11 Fargo stopped the check, that they might have paid
12 Thomas a check.

13 But during that interim, we talked to
14 everyone.

15 When we got a copy of the appraisal
16 from Wells Fargo, and when we looked at it, we
17 called them. We sent copies.

18 And my thing to Wells Fargo at that
19 time was, I think y'all sent me the wrong
20 appraisal. And I was telling them why I had the
21 wrong appraisal.

22 My thing was, I was like, Either y'all
23 sent me the wrong appraisal, or either I'm in the
24 wrong house, because my house that I'm in does not
25 match up to the appraisal. The appraisal stated

1 that it had central air and heat. I have none. I
2 use a gas heater. I have a window air conditioning
3 unit that I purchased.

4 It states that I have a patio and a
5 deck. When I walk out my back -- on the back, when
6 I walk out my back door, I walk on the grass.
7 There is no patio, there is no deck.

8 It said that the house was fully
9 furnished with appliances. There was no appliances
10 there. My cousins bought me the stove. My
11 sister-in-law and brother gave me the refrigerator.

12 It said that new carpeting and the
13 floors was done. There was no new carpeting and
14 the floors are not done. The ceilings was not in.
15 Nothing on the appraisal matched up with the house.

16 I did not have -- my thing was to Wells
17 Fargo at that time, I didn't have a problem paying
18 them. I told them the appraisal just did not match
19 the house, okay?

20 And I told them that I had suspected
21 there was some fraud, and the value was inflated
22 due to things did not match up.

23 So Wells Fargo's loss-mitigation team,
24 they said that, if I suspected fraud, I need to
25 contact their executive resolution team, which was

1 from Wells Fargo. Do you know who made the
2 appraisal?

3 A. As far as who was the appraiser?

4 Q. Yeah, who was the appraiser? Who made
5 the appraisal?

6 A. It has on there Jim Austin.

7 Q. Is it your understanding -- do you know
8 of any relationship between Wells Fargo and Jim H.
9 Austin, III? Do you know him to be employed by
10 Wells Fargo?

11 A. No, I don't.

12 Q. And so as far as you know -- well, tell
13 me, what do you know about Jim H. Austin, III? Do
14 you know anything about him?

15 A. Nothing. I don't even know if Jim is
16 African-American. I don't know whether he's white.
17 I have never met him, never talked to him. I don't
18 even know whether or not he exists. I know
19 nothing.

20 Q. And is Jim H. Austin the appraiser
21 that's identified on the appraisal you received
22 from Wells Fargo?

23 A. Yes, he is. And, also, on that
24 appraisal, where they had borrower at, my name is
25 not there. The appraisal was for Thomas Jacobs.

1 My name was not even on that appraisal. The
2 borrower on the appraisal that I received from
3 Wells Fargo had the borrower as Thomas Jacobs.

4 Q. And as far as you know -- okay, well,
5 I'm going to ask you a question here, and this
6 might be a silly question, but I'm trying to figure
7 out what you understand, or at least what this case
8 is.

9 Okay, as far as you know, who created
10 this appraisal? Who wrote it up, drafted it up and
11 made it? Who do you think made it?

12 A. I have no idea.

13 Q. Do you have any evidence indicating
14 Wells Fargo did the appraisal?

15 A. No, not to my knowledge. I cannot say.
16 I don't know who made the appraisal. I don't know.

17 Q. So as far as you know, you don't have
18 any evidence or information indicating that Wells
19 Fargo was at all involved in the creation of the
20 appraisal that you received?

21 A. No.

22 Q. Is that right?

23 A. That's right. All I know is that Wells
24 Fargo was the one that sent it to me. Whether they
25 got someone to do it, I cannot say. I don't know.

1 All I know is I received it from Wells Fargo
2 through the mail.

3 Q. So it sounds like, from your testimony,
4 that really the issues that you have kind of
5 identified all arise from the actions and
6 statements of Thomas Jacobs; is that right?

7 A. That's right.

8 Q. And possibly the appraisal done by
9 Mr. Jim Austin; is that also right?

10 A. That's right.

11 Q. Okay. Tell me about David Terrell.
12 Who is he?

13 A. I have no idea. I have never met David
14 Terrell.

15 Q. Okay. Do you have a problem with him?

16 A. I have never talked with him. The only
17 time I talked with David Terrell was when I got
18 these documents, and some of them had Golden Gate
19 Mortgage. And I did not know who was Golden Gate
20 Mortgage.

21 And so when I was doing my visit, I
22 filed a complaint, because my name was on the
23 papers from Golden Gate Mortgage. And I knew no
24 one from Golden Gate Mortgage ever contacted me.

25 So I got a -- when I filed the

1 this place which was Golden Gate Mortgage. And so
2 that's why I called.

3 And so I told him that, I said, I'm
4 filing a complaint against Golden Gate Mortgage.

5 And that's when he told me that, I am
6 Golden Gate Mortgage.

7 And I was like, Oh, okay.

8 But other than besides that one phone
9 call, because he was being investigated due to a
10 complaint I filed, that's when he saw the need to
11 call me.

12 Relative to everything that was going
13 on, no one from Golden Gate -- I never met him.
14 And to this date, I still have not met David
15 Terrell.

16 Q. So, before, I guess January/February of
17 '08 -- and really even before the closing -- no
18 contact with David Terrell or anybody at Golden
19 Gate Mortgage as far as you can recall.

20 A. No.

21 Q. Is that right?

22 A. That's correct, just Thomas Jacobs.

23 Q. So with regard to what you know about
24 Thomas Jacobs, Jim Austin and David Terrell, do you
25 have any evidence linking those three individuals

1 as employees of or people that work for Wells
2 Fargo?

3 Do you believe them to be agents of
4 Wells Fargo at all?

5 A. I can't say. I don't know.

6 Q. You don't know?

7 A. I don't know.

8 Q. You don't have any evidence indicating
9 one way or the other.

10 A. I don't have any evidence one way or
11 the other. I have nothing.

12 Q. Nothing.

13 A. Because, like I said, the whole time,
14 Thomas Jacobs, he never mentioned Wells Fargo. He
15 never mentioned Golden Gate. It was just
16 strictly -- because Thomas Jacobs was the owner of
17 the house.

18 So I figured it was just like, you
19 know, if you're selling your house, you're the
20 owner. If you wasn't going through any real-estate
21 agent, you're trying to do this on your own. So
22 that's why he never mentioned Golden Gate. He
23 never mentioned Wells Fargo. It was just him. So
24 he was doing everything.

25 Q. And he never mentioned Jim Austin?

1 A. He never mentioned Jim Austin, no.

2 Q. He never mentioned David Terrell; is
3 that right?

4 A. He never mentioned David Terrell. I
5 didn't even know an appraisal was done until I went
6 to the person, because my husband said, There
7 should be an appraisal; we need to try to find it.

8 And so when I asked her, she said Wells
9 Fargo. So I'm assuming Wells Fargo did the
10 appraisal, since she said Wells Fargo would have to
11 send me the appraisal. Because, honestly, I don't
12 think they really knew anything about the appraisal
13 either. So how it got there, I don't know.

14 And I think that, from what I see,
15 there were two appraisals for the same file number
16 7-59, because Wells Fargo sent me two, the first
17 one -- and all of them are dated the same thing,
18 and the borrower on that appraisal was for Thomas
19 Jacobs.

20 The second one they sent me, that was
21 dated -- I think it was dated like 10/7 or
22 whatever, 10/9. Well, anyway...

23 And the second one they sent, they had
24 my name on it, but I never authorized -- I never
25 gave anyone authorization to do an appraisal. And

1 that's when Janet Frotscher, she kept saying that I
2 ordered the appraisal. I took the invoice to the
3 appraiser. I did not do any of that stuff.

4 Q. But that's what's reflected in the
5 appraisal that you got from Wells Fargo, is that
6 right, or one of them?

7 A. Yes.

8 Q. Okay.

9 A. Yes, I didn't do any of that.

10 Q. But as far as you know, Janet Frotscher
11 is relying on what's in that appraisal.

12 A. Exactly.

13 Q. Okay, I've got you.

14 A. That's what she said in one of her
15 letters that she sent me back. Because I sent
16 several. And she said that they rely upon the
17 appraisal to fund the loan.

18 I don't know whether there's any
19 relationship between Janet Frotscher and Thomas
20 Jacobs or Janet Frotscher and David Terrell or
21 Janet Frotscher and Jim Austin. I don't know
22 whether there is a connection or not. I don't
23 know. I can't say. I don't know.

24 Q. All right. Is it feasible or is it
25 possible that Wells Fargo -- you have these issues

1 with Thomas Jacobs.

2 Is it possible that Thomas Jacobs could
3 very well, through this transaction, have committed
4 a fraud on Wells Fargo?

5 A. I think so. And that was one of
6 the -- in one of my letters that I sent to Janet
7 Frotscher and to Wells Fargo, that was one of my
8 concerns, that I felt that Wells Fargo and myself
9 has been victimized by the seller and the
10 appraiser. That was my concern. And my concern
11 was that I wanted to cancel the loan as soon as
12 possible. And I figured that if the closing did
13 not go through until December the 21st, and if I'm
14 calling now, that was time to stop this. You know?
15 To stop it. Because I did not want Wells Fargo to
16 be out any money.

17 And in one of my letters to them, I
18 said that, We both have been the victim here. And
19 I was trying to do what I can to stop us -- you
20 know, I didn't want to get to the point where I was
21 in a foreclosure, and I didn't want Wells Fargo to
22 be out of \$75,000.

23 And I thought I was trying to help
24 Wells Fargo recover their money or have time to
25 stop payment. You know, that's what I was trying

1 Q. So based upon your review of some tax
2 records and your just eyeballs on the property,
3 before the closing, you kind of thought the value
4 of 423 Bayne Street was between 13 and 25,000; is
5 that right?

6 A. Correct. But we would have went with
7 30.

8 Q. Okay. And when you say we, that's you
9 and Mr. George Sistrunk; is that right?

10 A. Right.

11 Q. Now, that makes sense to me. I just
12 want to get an idea of what you thought about the
13 property at that time.

14 Now, just because I asked this of your
15 husband as well, I just want to clarify my record:

16 Do you have any specific training,
17 experience or knowledge for appraising pieces of
18 real property?

19 A. No. I really don't, no.

20 MR. CALUB: Okay. Now, let's do this:
21 We've been going for a pretty good -- about an hour
22 and a half. I'm going to take a quick break and
23 grab a bottle of water. We'll go off the record.
24 Can we take 15 minutes?

25 (A brief recess was held.)

1 BY MR. CALUB:

2 Q. All right. We're back on the record
3 here.

4 And we were kind of talking about the
5 events that transpired up until the closing, how
6 you valued the property.

7 One of the things I also wanted to
8 follow up with you on, with regard to
9 closing -- going to the closing and signing all of
10 the documents -- did you at all have an opportunity
11 to review the appraisal and rely on it to go
12 through the closing before you went through the
13 closing?

14 A. No, there was no appraisal presented.

15 Q. You never got an appraisal before
16 December 21, 2007 on the closing date?

17 A. No.

18 Q. So when you signed the documents that
19 the lawyer from the -- I guess it was Ms. Galloway;
20 is that right? Debra Galloway?

21 A. Yeah, yeah.

22 Q. So when you reviewed all of these loan
23 documents, or whatever Ms. Galloway put in front of
24 you for signature, is it correct, in my
25 understanding of your testimony, that you never had

1 an opportunity to review and rely on the appraisal
2 done by Mr. Austin?

3 A. No, I have not, no. The first
4 appraisal I ever saw was the one that -- after the
5 closing Wells Fargo mailed to me. That was the
6 first time I saw the appraisal.

7 Q. And that was sometime, I think -- do
8 you recall?

9 A. It was between January or February,
10 sometime in that -- of '08 -- but nothing before
11 then.

12 Q. So it's fair to say that you couldn't
13 have relied on anything inside the appraisal to go
14 through the closing on December 21, 2007; is that
15 right?

16 A. Right, yes.

17 Q. And the only representations that you
18 received with regard to the closing for 423 Bayne
19 Street is whatever Mr. Thomas Jacobs told you about
20 the closing.

21 A. Yes.

22 Q. Is that right?

23 A. That's correct.

24 Q. All right, all right. And there's
25 nothing else that you can recall --

1 A. There's nothing else.

2 Q. -- that was communicated to you. Is
3 there anything else you remember?

4 A. That was just what he said. That was
5 it.

6 Q. So nothing else from anybody? Wells
7 Fargo? Is that right?

8 A. That's right.

9 Q. Okay. All right. All right. Now,
10 let's talk about it. I have read in a lot of your
11 pleadings, you know, you have framed an argument or
12 you have stated that there's been some kind of -- a
13 series of acts that constituted a mortgage fraud;
14 is that right?

15 A. Correct.

16 Q. All right. Let's just break it down
17 just to make sure I understand. Can you go through
18 for me and describe who did what specific acts that
19 constitute the mortgage fraud?

20 A. All I have to say is that I saw the
21 fraud as being from the appraisal, whereas Jim H.
22 Austin did the appraisal.

23 And then I see the fraud of Thomas
24 Jacobs.

25 But, anyone else, I cannot say, but

1 those are the two people that I see, because of the
2 fact that Jim H. Austin is the one whose name is on
3 the appraisal. And at that time, the appraisal was
4 done for the borrower, who was Thomas Jacobs.

5 So I'm assuming -- I'm not going to say
6 that they did it; but if I had to name anyone,
7 those would be the two people that I would name,
8 because their name is on the documentation.

9 Q. The documentation you have issues
10 with --

11 A. The appraisal.

12 Q. -- the appraisal being number one?

13 A. Yes, yes.

14 Q. And then I guess the second document
15 being the Contract of Sale?

16 A. The Contract of Sale, yes.

17 Q. All right. And also --

18 A. And the certificate -- what is it --
19 certificate of completion, yeah, those three forms,
20 because there's Thomas Jacobs, and Jim Austin, III.

21 Q. Okay. And so those documents -- is it
22 my understanding the certificate of completion was
23 attached to the appraisal? Is that right?

24 A. Yes, yes, I think it was, yes. So that
25 was Jim Austin, III's name.

1 Q. Um, so just to make sure, Thomas Jacobs
2 committed acts constituting mortgage fraud because
3 he did what, again?

4 A. Because he was the one that borrowed
5 the money from Wells Fargo. He was the one
6 that -- because I did not know that Wells
7 Fargo -- I thought he was going to have the money.
8 So apparently he was the one that took out the loan
9 for Wells Fargo for the \$75,000. That's who Wells
10 Fargo paid. That's who received the money. I'm
11 assuming it was Thomas Jacobs. Because I didn't
12 receive any. You know, I just got stuck with the
13 mortgage.

14 Q. All right. And, then, after that, as
15 far as -- it's your understanding that Mr. Thomas
16 Jacobs did all of that by himself. He wasn't in
17 cahoots with Wells Fargo, as far as you know.

18 Do you have any evidence indicating
19 that?

20 A. I have no evidence whatsoever.

21 Q. So he was just committing those bad
22 acts by himself, as far as you know; is that right?

23 A. Exactly, as far as I know. As far as I
24 know, I have no evidence of anything.

25 Q. And then with regard to Mr. Austin,

1 what did he do?

2 A. Well, he signed his name on the
3 appraisal that is falsified. You know, based on
4 the house that I have and the appraisal that was
5 done, it is falsified. It's a falsified appraisal.
6 And I have to say, if Jim Austin, III, he signed
7 his name as the one that did the appraisal, so I
8 would have to say he falsified the appraisal.

9 Because, I mean, if he would have did
10 the -- if he would have come to Bayne Street and
11 done the appraisal, then he would have seen for
12 himself. So I don't know whether he came to 423
13 Bayne Street to do his appraisal or whether he sat
14 in the office and just marked some things on there.
15 I don't know, because I never met him, I didn't see
16 him. I didn't order the appraisal. So I can't
17 say. I don't know what they did or how they did
18 it. I have no clue. I guess I'm as clueless as
19 you are and as confused as you are about the whole
20 thing. I don't know. I don't know.

21 Q. And just for clarification, the
22 appraisal is falsified, or has false information,
23 in what respects? How did -- as far as we
24 understand, or your testimony in the case of Jim
25 Austin, what was the false information he put in

1 that appraisal and I guess appended to the
2 certificate of completion? What did he do?

3 A. In the appraisal he had -- he had that
4 the house has central air and heating, the house
5 was completely painted, the house has new
6 carpeting, new ceilings, the house had appliances
7 in it; and all of these things was on this
8 appraisal, the house has a patio and a deck. And
9 none of these -- the only thing I can say -- based
10 on the appraisal, I can honestly say the appraisal
11 does not match the house that I am living in, which
12 is considered to be 423 Bayne Street.

13 I myself, I have -- I'm living in the
14 physical evidence that this house and this
15 appraisal do not match.

16 Q. So effectively it's my understanding of
17 your testimony, what acts of fraud that Mr. Jim
18 Austin may very well have committed is, he
19 misrepresented the property on the appraisal, he's
20 appraising a different piece of property, from what
21 you understand.

22 A. From what I understand. And I have to
23 say it was him, because he signed it.

24 Q. And in that regard, with Mr. Austin
25 doing it -- and he did that by himself -- again,

1 you have no information indicating --

2 A. I have no --

3 Q. -- he did that at the request of Wells
4 Fargo or anyone else?

5 A. I cannot say that.

6 Q. Do you have any evidence indicating
7 that --

8 A. I have no evidence whatsoever.

9 Q. -- linking Mr. Jim H. Austin's
10 appraisal to any acts of Wells Fargo?

11 A. The only thing I can link to the
12 appraisal and Wells Fargo is that Wells Fargo was
13 the one that mailed me the appraisal.

14 Jim Austin, III, signed the appraisal
15 but Wells Fargo mailed it to me.

16 So whether or not they -- whether or
17 not he works for Wells Fargo -- or how did Wells
18 Fargo get it, I can't say.

19 Q. You don't know.

20 A. I don't know.

21 Q. And you don't have any evidence
22 indicating how it happened.

23 A. I have no evidence whatsoever. I just
24 know how I got it. And Wells Fargo was the one
25 that mailed it to me.

1 Q. All right. Any other acts by anyone
2 else that you think contributed to the mortgage
3 fraud you've described in your pleadings?

4 A. No, no more than the appraisal with Jim
5 Austin and Thomas Jacobs.

6 Q. What he did and said?

7 A. Uh, basically, yes, because I didn't
8 feel that he lived up to his end of the bargain and
9 whatnot. And he never told us that Wells Fargo was
10 going to be the lender, or he never told us that
11 Golden Gate Mortgage -- like I said, his only words
12 were his friends and business associates.

13 Who are his friends, who are his
14 business associates, I have no idea. I cannot say,
15 I don't know.

16 Q. And as far as you know, you have no
17 evidence or any knowledge or facts indicating that
18 Wells Fargo is some kind of friend or business
19 associate of Thomas Jacobs; is that right?

20 A. I have no knowledge of that. I have no
21 knowledge of that.

22 Q. All right. Anything else that comes to
23 mind with regard to your mortgage fraud and what
24 has happened here? Anything else you believe? Any
25 acts by someone constituting part of this mortgage

1 fraud you've described in your submissions to the
2 court?

3 A. Well, I believe that I somewhat -- I
4 cannot say who, or whatever, but I believe that
5 Wells Fargo is partly to blame, because I was told
6 by the FBI that the only thing I needed to do was
7 report it to my bank, which was Wells Fargo.

8 I don't feel that Wells Fargo took
9 action to investigate it when it was reported.

10 I mean, because I reported it not only
11 by a faxed copy, like I was told by Ms. Perkinson.
12 I also made phone contact and also reported it that
13 way. And I do not feel that Wells Fargo lived up
14 to their standard, whereas they should have
15 investigated more closely, especially after
16 everything that I had sent them, everything that I
17 said, all of the documentation that I sent, and
18 they saw it. Because I even sent them the letter
19 that I wrote to my congressman, the senators, this
20 OCC.

21 You know, I wrote -- everything that I
22 did, I sent to Wells Fargo, I faxed to Wells Fargo.
23 And I think that they should have taken more of an
24 interest and said, Okay, she's sent all of this
25 information, she is doing all of this.

1 You know, to me, it's just a red light
2 and they should have said, there has to be
3 something wrong here, let's investigate. I don't
4 feel that Wells Fargo investigated.

5 And I think that all -- but everything
6 went through the executive resolution team, which
7 was headed by Janet Frotscher so everything stopped
8 with Janet Frotscher.

9 So whether Janet Frotscher is connected
10 to Thomas Jacobs or James Austin, III, I have no
11 clue, but I just know that everything that I sent
12 -- and I had to send everything to the executive
13 resolution team, which was headed by Janet
14 Frotscher. And everything that I sent to her, she
15 replied that, We reviewed the appraisal and we
16 found that it was -- it was appropriate for lending
17 purpose.

18 And so she said she was sorry for my
19 distress, or whatever, but they found it was
20 appropriate, even though I'm telling her in my
21 memo, that, no, it does not match the house that
22 I'm living in. And to me, that would have set off
23 a red flag, let's look into this a little bit more.
24 I let her know that I had contacted the FBI, I had
25 contacted all of these people, trying to get this

1 because Wells Fargo, during the time I was in the
2 house, they paid the insurance, and they were
3 trying to get it through State Farm.

4 And State Farm wrote me a letter. I
5 think it's in one of my pleadings. I got a letter
6 from State Farm stating the reason why they would
7 not insure the property was because they was
8 missing documentation, or whatever. They did not
9 have enough information, or whatever.

10 State Farm would not insure the
11 property, for whatever reason. You know, I don't
12 know what all of that was about. I don't know how
13 that happened.

14 Q. So basically your issue with Wells
15 Fargo, just to make sure I understand your
16 testimony, is that after you presented them with
17 the information you had, with the problems of the
18 transaction, they just haven't done anything?

19 A. They haven't done anything.

20 Q. Is there anything else that you think
21 that Wells Fargo did wrong?

22 A. Basically, no, that's the only thing I
23 think they did. They did not do anything and they
24 didn't try to work with me.

25 Because I told them that, if you was

1 not going to come out and investigate and if you
2 was not going to repair the house to the respect
3 that you used the appraisal to say it was lending
4 for, if you was not going to come out and repair
5 the house, then at least reduce the price.

6 I don't have a problem -- my thing is,
7 I told Wells Fargo, I do not have a problem paying
8 you for this house if the house matches the
9 appraisal.

10 And if you was not going to make the
11 house match the appraisal, then at least reduce the
12 cost of the house. Those were my conditions, you
13 know.

14 Q. So that's what you want. You wanted
15 them to either do the repairs identified in the
16 certificate of completion -- is that what you
17 wanted --

18 A. Exactly, and the appraisal --

19 Q. -- and the appraisal --

20 A. -- or reduce --

21 Q. -- or reduce the balance owed to --

22 A. -- to an unfinished house.

23 Q. Which I guess you said was \$30,000, or
24 you indicated something like that.

25 A. Basically, yes. I got no cooperation

1 Q. So that reliance by Wells Fargo on
2 Mr. Austin's appraisal is what you have an issue
3 with. That's a problem.

4 A. That's a problem.

5 Q. And that's what you believe contributes
6 to this mortgage fraud; is that right?

7 A. Exactly.

8 Q. Is there anything else, any other
9 representations or acts by Wells Fargo, that you
10 believe contributes to the mortgage fraud that you
11 have alleged in your filings, or you have described
12 in your filings?

13 A. No, because, as I said, until I went to
14 the closing, I never knew about Wells Fargo, so I
15 can't say Wells Fargo did something, because I
16 didn't know about them.

17 Q. So a lot of the issues you had with
18 Wells Fargo was after the closing?

19 A. It was after the closing.

20 Q. All of it, practically, is my
21 understanding.

22 A. Right. All of it. Because after I
23 called them -- and I called them within a
24 reasonable time period. We took the time -- the
25 closing was on the 21st. When I went back and I

1 A. Yeah, yeah.

2 Q. After the closing after you present all
3 of this, that's your issue with Wells Fargo?

4 A. And I also state, based on Regulation
5 Z, if it's suspected of fraud, a loan can be
6 cancelled. And I put that in there, in my memo to
7 Wells Fargo, but no one cancelled the loan.

8 To this day, the loan is still -- well,
9 I guess you know that. But the loan still is not
10 cancelled. I wanted the loan cancelled. You know?
11 So I don't understand why they just didn't cancel
12 out the loan.

13 They could have either cancelled the
14 loan, suspended the loan or stopped payment on the
15 check. They could have -- they have authority --
16 if you don't want to cancel it, at least put stop
17 payment on the check. Suspend the check. Do
18 something until this matter is clear.

19 That's all I wanted Wells Fargo to do.
20 I wanted them to work with me so we could get to
21 the bottom -- so that we could get to the bottom of
22 this. You know? And I just felt that I did
23 everything to the best of my ability to try to stop
24 this matter before we got to this foreclosure and
25 before they was out of \$75,000.

1 Q. Anything else?

2 A. No, I just have a problem with trying
3 to help people and trying to tell the truth all the
4 time and then nobody pays me no attention.

5 Q. Well, no, not what you've done -- I'm
6 just saying anything else that Wells Fargo has
7 done. Sorry. Let me make sure I get my question
8 on the record right.

9 A. I know you're listening to me right
10 now.

11 Q. Is there anything else you can think
12 of?

13 A. No, there's nothing. But my bottom
14 line to this day is that if I can get Wells Fargo
15 to either cancel the loan and restart it over, come
16 send someone out to do an appraisal, I will still
17 pay them for the house, but I am not going to pay
18 them for a house that I do not have, based on the
19 appraisal. I'm not going to participate in a
20 fraud, and knowing it's a fraud, okay? And I say
21 fraud because of a falsified appraisal. Because
22 the appraisal is what Janet Frotscher used to say
23 that it was acceptable for lending purposes. And
24 I'm not going to participate in that fraud, not
25 knowingly. And I felt that if I would have

1 Was Wells Fargo unjustly enriched by
2 not paying for repairs made by your husband, or is
3 there anything else? Or what do you think?

4 A. Well, I think that -- that they had
5 insisted that I make monthly payments, even after
6 they had been told. I mean, they did not
7 do -- they continued to rely on the appraiser.
8 They failed to investigate. They failed to even
9 work with me.

10 Q. Um, tell me this. Let's talk about
11 this unjust enrichment claim a little bit more.

12 Did you make any payments on the note
13 and mortgage?

14 A. Yes, I did.

15 Q. Okay. How many payments did you make?
16 Do you remember?

17 A. One or two.

18 Q. One or two payments.

19 A. Yeah.

20 Q. Okay.

21 A. Yes, because I suspended payment in
22 March, I think it was, so I'm sure -- I made one or
23 two. I'm trying to think whether the first one was
24 made in January. I think I paid January and
25 February and I suspended it in March, I think.

1 Q. Okay. Tell me this: Did you make any
2 payments on your own to pay for taxes and insurance
3 for 423 Bayne Street?

4 A. No, because the fact was, based on what
5 the documentation from the -- the payment was over,
6 because the money was going into an escrow account
7 for taxes and whatnot, so that's why I was paying
8 \$690 -- I think it was six-something a month --
9 because they said that the excess would go into
10 escrow to cover the insurance and whatnot.

11 Q. Okay. Let's -- I just didn't
12 recollect. I think you're talking about one of
13 the exhibits. Check Plaintiff's Exhibit Number 17.
14 Is that why you didn't make any -- let's go look at
15 that together.

16 A. At that time, the taxes were not due.
17 By the time the taxes was due, we was already in
18 foreclosure.

19 Q. I've got you. So hazard insurance and
20 it looks to me that taxes -- let me give you an
21 opportunity to get to Plaintiff's Exhibit Number
22 17.

23 A. 17.

24 Q. There it is. Plaintiff's Exhibit 17.

25 A. I'm sorry.

1 Q. That's all right.

2 A. With the handwriting, I thought that
3 was 7. I'm sorry.

4 Q. Do you have Plaintiff's Exhibit Number
5 17 there?

6 A. Yes.

7 Q. Now, based on this, I just want to make
8 sure, you didn't make any payments yourself for
9 hazard insurance and taxes, because it was being
10 escrowed as part of the payments for the loan; is
11 that right?

12 A. Right, right. See, that's what you see
13 on here.

14 Q. Correct. And that's what reflected on
15 Plaintiff's Exhibit Number 17? Is that right?

16 A. Right, right. That's why I didn't pay
17 it.

18 Q. So beyond the two payments you
19 described in your prior testimony -- I think you
20 said January or February, maybe --

21 A. I think so, yes.

22 Q. -- you didn't make any other payments
23 for taxes or insurance outside of that; is that
24 right?

25 A. No.

1 But I do know, based on how the house
2 is now, it's not worth \$75,000. So if they would
3 reduce the price of the house, if they don't want
4 to fix it, reduce the price to where I feel
5 that -- but then I could fix it myself if the price
6 was reduced. But I'm not looking to get anything
7 free.

8 Q. What would you be willing to pay, like
9 what amount? What do you think is --

10 A. Whatever would keep me within that \$300
11 range for a monthly payment, as I stated earlier.

12 Q. But you might have to pay a little bit
13 more, just because you have to pay for insurance,
14 you've got to pay for escrow.

15 A. I know. And that was my whole thing.
16 That was my thing when I was looking for a house.
17 If I can get something with a payment that's \$300,
18 I will be responsible for the insurance and
19 everything else that I need to pay.

20 Q. You wouldn't mind paying a little bit
21 over that for the insurance and taxes, over \$300.
22 You're talking principal and interest payment needs
23 to be \$300.

24 A. Right. Because even though this was
25 \$668, I paid, I think, the first two payments. As

1 you can see, I paid those payments. I only
2 suspended payments after I got the appraisal and I
3 found out, wait a minute, this is not -- something
4 is wrong here. But if everything would have been
5 according to the appraisal, I would have continued
6 to pay that \$668, if everything was as that
7 appraisal stated.

8 Q. With the deck repairs, whatever --

9 A. Yes.

10 Q. -- the certificate of completion --

11 A. If all of that stuff was correct, Wells
12 Fargo wouldn't have had any problem out of me
13 paying them that \$668 a month. I would have
14 continued to pay it. I didn't have a problem with
15 paying that. But like I said, I suspended the
16 payments because it was not based on the appraisal.

17 Q. An accurate appraisal, is that what
18 you're saying?

19 A. An accurate appraisal. The appraisal
20 is falsified. But if everything would have been as
21 planned, we wouldn't have been here today. There
22 wouldn't have been a foreclosure, if everything was
23 above board.

24 Q. So if the appraisal -- if all of the
25 repairs were done in your house and you lived in

1 that. I started off paying it. I didn't have a --
2 I only had a problem when it didn't match up.

3 Q. Right, when you finally got the
4 appraisal and said --

5 A. Exactly.

6 Q. -- this is not right?

7 A. This is not right. And that's what I
8 told them. But if you make it right, you get your
9 money. I don't have a problem with that. That was
10 just my biggest thing. I don't have a problem with
11 making sure you get your money. I just needed to
12 make sure what I'm paying for is what I get. You
13 know, it's not like I have extra money just to give
14 for something that I don't have. I don't want to
15 drive a Ford and be paying for a Mercedes.

16 Q. Understood.

17 A. Yeah.

18 Q. Okay. Well, let me review my notes for
19 a moment. Let's go off record for about five
20 minutes. Let's go off the record.

21 (Off-the-record discussion.)

22 BY MR. CALUB:

23 Q. Just so we're clear -- and I just
24 wanted to make sure that I've got this covered, and
25 we might have -- but my -- one of my last questions

1 here is, when you discussed the terms of the
2 purchase price and sale transaction for 423 Bayne
3 Street with Mr. Thomas Jacobs, you know, it's my
4 understanding that he made some -- Mr. Jacobs is
5 the one that made some representations about fixing
6 up the house; is that right?

7 A. Yes.

8 Q. And he also advised you that he would
9 lower the price at closing; is that also right?

10 A. That is also right. He said the same
11 thing to me and my husband, that the price would be
12 adjusted at the closing.

13 Q. Okay. Did you, your husband or anyone
14 you know of communicate those additional sales
15 terms to Wells Fargo before closing?

16 A. Not that I know of, no. No, I don't
17 know of anyone that would have made that known to
18 Wells Fargo. No, I don't know.

19 Q. At the very least, is it your
20 understanding and is it your testimony that you and
21 your husband didn't communicate that to Wells
22 Fargo --

23 A. No, we didn't.

24 Q. -- those additional terms; is that
25 right?

1 A. That's correct, we did not. But like I
2 said, I learned about Wells Fargo at the closing.

3 Q. And then the only time you dealt with
4 them was then after closing; is that correct?

5 A. Correct.

6 Q. Okay.

7 A. No one from Wells Fargo ever contacted
8 me about anything about that house. They didn't
9 even contact me about doing an application or
10 anything.

11 Like I said, the house was owned by
12 Thomas Jacobs, and that was the only person that we
13 had contact with about the house. We did not know
14 anything about Wells Fargo. We were just as
15 surprised as --

16 Q. And you're not aware of Mr.
17 Jacobs -- you don't have any evidence or you don't
18 know if Mr. Jacobs, David Terrell or even Jim H.
19 Austin communicated those terms to Wells Fargo; you
20 don't have any evidence of that either, right?

21 A. I don't have any evidence of that.

22 Q. No evidence or knowledge?

23 A. No evidence or knowledge.

24 Q. All right. Those are all of my
25 questions. We're actually done with our deposition