

22339

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane Shafer Goodstein, Circuit Court Judge

Case No. 2014-001683

Wells Fargo Bank, N.A.,

Respondent,

v.

Dorothy Sistrunk,

Appellant.

**RECORD ON APPEAL
VOLUME IV OF V - PART 1**

July 17, 2014

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SEP 25 2015

SC Court of Appeals

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

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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 1	- Not included. See SOTE	
Exhibit 2	- Not included. See SOTE	
Exhibit 4	- Description: Vol. V - Part 1, Index Aii, then go to	1511-1519
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	
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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	
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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 51 - Not included. See SOTE

Exhibit 52 - Not included. See SOTE

Exhibit 53 - Not included. See SOTE

Exhibit 54 - Not included. See SOTE

Exhibit 55 - Not included. See SOTE

Exhibit 56 - Not included. See SOTE

Exhibit 57 - Not included. See SOTE

Exhibit 58 - Not included. See SOTE

Exhibit 59 - Not included. See SOTE

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Exhibit 196 - Description: Vol. V - Part 1, Index Aviii, then go to	1569
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Exhibit 200 - Not included. See SOTE	
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Exhibit 204 - Not included. See SOTE

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Exhibit 255 - **Proof**: Vol. I - Part 1, pgs 42-43.

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

Exhibit 303 - **Proof**: Vol. I - Part 1, pg 28

Exhibit 326 - **Proof**: Description: Vol. V - Part 1, Index Aix, then go to 1585-1586

Exhibit 328 - Not included. See SOTE

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

Exhibit 330 - **Proof**: Description: Vol. V - Part 1, Index Ax, then go to 1587-1588

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

Exhibit 332 - **Proof**: of misrepresented and misstated facts. Vol. 1 - Part 2, pgs 198-223

Exhibit 333 - Not included. See SOTE

Exhibit 334 - **Proof**: **The Massive Filing Fraud**: Vol. V - Part 1,
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Exhibit 378 - Located in Vol. 1 - Part 2, See Depositions & Affidavits, pgs 312-318.	
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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.
- WF00016** - Not reviewed or discussed in Court. See description: Index pg, Bv.
- WF00017** - Not reviewed or discussed in Court. See description: Index pg, Bv.
- WF00018** - Not reviewed or discussed in Court. See description: Index pg, Bv.
- 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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2008-2014

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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**
) **LEGAL MEMORANDUM**

) **SUPPORTING NOTICE OF MOTION**
) **& MOTION TO ALTER OR AMEND**

) **THE PARTIAL SUMMARY**

) **JUDGMENT ORDER & RESCIND**

) **THE ORDER OF REFERENCE**
)

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

Comes now the Defendant, Dorothy Sistrunk, to file her *Legal Memorandum Supporting 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.

I. WHY THE DEFENDANT OBJECTS TO THE EVIDENCE CITED TO SUPPORT THE PARTIAL SUMMARY JUDGMENT & ORDER OF REFERENCE AND FILED A MOTION TO ALTER OR AMEND

1. The Defendant recognizes the manner in which a trial is conducted is within the trial judge's discretion. *Baber v. Greenville County*, 327 S.C. 31, 41, 488 S.E.2d 314, 319 (1997) (holding that "the conduct of a trial is largely within the trial judge's sound discretion, the exercise of which will not be disturbed on appeal absent an abuse of that discretion or the commission of a legal error that results in prejudice for appellant").

2. "[A] failure to exercise discretion amounts to an abuse of that discretion." *Samplers v. Mitchell*, 329 S.C. 105, 112, 495 S.E.2d 213, 216 (Ct. App. 1997).

3. "[W]hen a trial judge is vested with discretion; but his ruling reveals no discretion was in fact exercised, an error of law has occurred." *Ballon Plantation, Inc. v. Head Balloons, Inc.*, 303 S.C. 152, 155, 399 S.E.2d 439, 441 (1990).

4. In *Haines v. Kerner*, 404 U.S. 519-421, even though Haines was an inmate, the United States Supreme Court determined; "[p]ro se litigants are held to less stringent pleading standards

than admitted or licensed bar attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims.”

5. In Platsky v. C.I.A., 953 f.2d 25; *In re Platsky*: “[a] court errs if the court dismisses the pro se litigant without instruction of how pleadings are deficient and how to repair pleadings.” “[A] pro se petitioner’s pleadings should be liberally construed to do substantial justice.” United States v. Garth, 188 F.3d 99, 108 (3d Cir. 1999).

6. The United States Court of Appeals, Second Circuit determined; “[w]e hold that the better course would have been for the district court, in dismissing Platsky’s pro se complaints, to grant him leave to file amended pleadings. See Elliott v. Bronson, 872 F.2d at 22. We have instructed Platsky that his complaint must set out, with particularity and specificity, the actual harms he suffered as a result of the defendants’ clearly defined acts. Accordingly, we vacate the judgment and order below, and remand the case to the district court with instructions to allow the plaintiff to replead.”

7. Rule 8(f), SCRPC clearly states in pertinent parts.. “[A]ll pleadings shall be so construed as to do substantial justice to all parties.”

A. The precedent cited by the Court and the Plaintiff, *Moseley v. All Things Possible, Inc.*, does not apply to this case because it fails as relevant case law.

8. The Plaintiff and the Court argues *Moseley v. All Things Possible Inc.*, 388 S.C. 31, 694 S.E.2d 43 (Ct. App. 2010) as the precedent supporting a summary judgment order for the Plaintiff. *Moseley v. All Things Possible, Inc.*, does not apply to this case for several reasons. In addition to not finding Hamilton guilty of fraud, as the following excerpts reveal,

(a) “II. James H. Hampton”

“The Appellants also argue the circuit court erred in finding Hampton personally committed fraud by clear and convincing evidence. We agree. “An officer, director, or controlling person in a corporation is not, merely as a result of his or her status as such, personally liable for the torts of the corporation.” Rowe v. Hyatt, 321 S.C. 366, 369, 468 S.E.2d 649, 650 (1996). “To incur liability, the officer, director, or controlling person must ordinarily be shown to have in some way participated in or directed the tortious

act." Id. Here, there was no evidence Hampton personally committed fraud. Lot 45 was owned by All Things Possible, not Hampton. Whitehead, acting as an agent of All Things Possible, provided the Moseleys with the falsified plat. There was no evidence Hampton faxed the falsified plat to Whitehead. All representations made to the Moseleys concerning Lot 45 were made by Whitehead. Accordingly, we reverse the circuit court's determination that Hampton committed fraud."

(b) There were also issues that the truth was available in the public records.

"[I]n Slack v. James, 364 S.C. 609, 615, 614 S.E.2d 636, 639 (2005), our supreme court determined a question of fact existed as to whether a buyer's reliance on a seller's misrepresentation was reasonable although the falsity of the misrepresentation could have been discovered through an examination of the public record. Here, although the misrepresentation made to the Moseleys could have been discovered through an examination of the public records, we find evidence in the record supports the circuit court's determination that the Moseleys did everything reasonable to inspect and obtain information concerning the property. The Moseleys hired an attorney, conducted a title search, and obtained a plat from Whitehead. The Moseleys were also induced to purchase Lot 45 without obtaining an independent survey of the property after Whitehead, acting as an agent of All Things Possible, provided them with the falsified plat. While the circuit court determined Hampton was the seller of Lot 45 and that he personally provided the falsified plat to the Moseleys, Lot 45 was actually owned by All Things Possible. Additionally, the representations made concerning the property were made by Whitehead, not Hampton. Thus, we find there was evidence in the record to support the circuit court's determination that All Things Possible committed fraud, and we affirm the circuit court."

(c) "CONCLUSION"

"We affirm the circuit court's determination that All Things Possible committed fraud, and we reverse the circuit court's determination that James Hampton committed fraud. Accordingly, the circuit court's order is

AFFIRMED IN PART AND REVERSED IN PART.

WILLIAMS and PIEPER, J.J., concur.

9. As the Defendant stated in her *Opposition to Plaintiff's Wells Fargo Bank, N.A.'s Motion for Summary Judgment* that is incorporated by reference as though fully set forth herein verbatim that was filed on July 17, 2013, Moseley v. All Things Possible, Inc. is not an applicable case law reference for a summary judgment order relative to this case for the following reasons.....

- (a) *Moseley* is not a brokered loan,
- (b) An "Unlicensed Seller" was not involved in the transaction that was using the loan paperwork of a licensed broker,
- (c) There is no evidence in the Law of the Case, that *Moseley* was duly notified by a second or third party of misrepresentations, falsity, misstatements, deceit, deception,

errors, omissions and/or non disclosure of material facts, like Wells Fargo was notified.
(d) From reading the case file, no "Unauthorized Credit Report" [WF00066-WF00073] was used.

(e) There are no "False Accusations" by bank personnel falsely accusing the *Moseleys*; [WF00120 & WF00125-WF00126]

(f) No "Unlawful Brokering", outright lies [WF00009 & WF00030-WF00038] and the *Moseleys* still proceeded with the purchase anyway; demonstrating willful intent and **Complicity** to perpetuate the fraud of *Whitehead* and/or *All Things Possible, Inc.*, after all the facts were known.

(g) There is no "Forged and Altered" Contract of Sale. [WF00028-WF00029]

(h) There is no "Inflated and Falsified" Appraisal. [WF00001-WF00026] And.....

(i) There is no "Falsified" Satisfaction Completion Certificate. [WF00009]

10. All the above elements; (a)-(i), and more are present in this case that are absent in *Moseley*. *Wells Fargo Bank, N.A. v. Sistrunk* is a precedent setting case not a precedent following case. In addition, there is no mention in the case law files, that were reviewed by the appeals court, that the *Moseleys* argued **Complicity** after all the facts were known. Wells Fargo" was duly notified of all the foregoing facts and still would not cancel the loan. [See the *Defendant's Filed Exhibits 8-14*] Therefore, Wells Fargo is **Complicit** in the unlawful activities of the Broker, the Seller and the Appraiser after all the facts were known. *Moseley v. All Things Possible, Inc.*, fails as relevant case law. Relevant case law mandates having the same or essentially the same elements within the case file; as well as rulings on essentially the same cause/s of action and/or defenses that constitute the Law of the Case. The Plaintiff's summary judgment order should be vacated, the Order of Reference rescinded and this case sent to a jury or Dismissed with Prejudice and Punitive Damages awarded to the Defendant.

10. The Full Faith and Credit Clause of the United States Constitution requires the courts of one state give "such force and effect to a foreign judgment as the judgment would receive in its own state." {See *Taylor*, 326 S.C. at 532, 484 S.E.2d at 597; See also U.S. Const. Art. IV, § 1 ("Full Faith and Credit shall be given in each State to the public acts, records, and judicial proceedings of every other State."))}

11. Once Wells Fargo was duly notified by phone and in writing concerning the fraudulent nature of the loan and the unlawful conduct of the Broker, Appraiser and the Seller, Wells Fargo had a legal duty to cancel the loan, withdraw its support and notify authorities. This Wells Fargo failed to do. The Defendant finds the following case law files relative to **Complicity** as persuasive and relevant because Wells Fargo's personnel were aware and are still aware of the Seller's, the Broker's and the Appraiser's falsified documentation that is the underpinning of loan #708-0174072777 that may have been sold to others in a mortgage backed security/ies.

(a) In State v. Small, 272 SE 2d 128 - NC: Supreme Court 1980 "[E]veryone who does enter into a common purpose or design is equally deemed in law a party to every act which had been before done by the others, and a party to every act which may afterwards be done by any of the others, in furtherance of such common design." 1 Greenleaf on Evidence § 111 (1842). This principle was quoted verbatim in State v. Jackson, *supra*, 82 N.C. 565, 568 (1876), a conspiracy case in which the coconspirator rule was invoked to sustain the admission against defendant of evidence of the acts and declarations of his confederate. It was quoted again in State v. Ritter, 197 N.C. 113, 147 S.E. 733 (1929), a conspiracy case in which we find this additional paraphrase of the principle by Chief Justice Stacey: "One who enters into a criminal conspiracy ... forfeits his independence and jeopardizes his liberty, for, by agreeing with another or others to do an unlawful thing, he thereby places his safety and security in the hands of every member of the conspiracy." *Id.* at 115, 147 S.E. at 734. This statement, along with the original Greenleaf quote, then found a home in State v. Williams, 216 N.C. 446, 5 S.E.2d 314 (1939),"

(b) "[A] conspirator is criminally responsible for the acts of his co-conspirators which are committed in furtherance of the common design and follow incidentally as the natural and probable consequences of such design, even though he was not present when the acts were committed..." 15A C.J.S. Conspiracy § 74 (1967). "[I]f two or more persons enter into a conspiracy, any act done by any of them pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefore.... It makes no difference as to the liability of a conspirator that he was not physically present when the acts were committed by his fellow conspirators.... And this joint responsibility extends not only to what is done by any of the conspirators pursuant to the original agreement but also to collateral acts incident to and growing out of the original purpose." 16 Am.Jur.2d Conspiracy § 19 (1979)."

(c) "[I]t is a familiar rule that when several parties conspire or combine together to commit any unlawful act, each is criminally responsible for the acts of his associates or confederates committed in furtherance or in prosecution of the common design for which they combine"

(d) See also Nye & Nissen v. United States, 336 U.S. 613, 626 (1949) (*Frankfurter, J.*,

dissenting) "[W]e see therefore no reason to exculpate him as an aider and abettor. There was no inadequacy in the charge to the jury on that theory. Nor was the submission in conflict with *Pinkerton v. United States*, supra. The rule of that case does service where the conspiracy was one to commit offenses of the character described in the substantive counts. Aiding and abetting has a broader application. It makes a defendant a principal when he consciously shares in any criminal act whether or not there is a conspiracy. And if a conspiracy is also charged, it makes no difference so far as aiding and abetting is concerned whether the substantive offense is done pursuant to the conspiracy. *Pinkerton v. United States* is narrow in its scope. Aiding and abetting rests on a broader base; it states a rule of criminal responsibility for acts which one assists another in performing. The fact that a particular case might conceivably be submitted to the jury on either theory is irrelevant. It is sufficient if the proof adduced and the basis on which it was submitted were sufficient to support the verdict."

(e) See also *United States v. Rosenberg*, 888 F.2d 1406, 1426 (D.C. Cir. 1989) (Edwards, J., *dissenting in part and concurring in part*) "[p]olicies underlying *Pinkerton* and complicity "very similar')." "[T]he *Pinkerton* and the aider-and-abettor doctrines embody the same principle: a defendant who willingly enters into a confederacy of crime can legitimately be held accountable for all reasonably foreseeable offenses committed by his confederates." *Id.* at 1426 n.14.1991]

(f) Under *United States v. Peoni*, 100 F. 2d 401 - 1938, there is no contract. The act of affiliating with a criminal undertaking is implicit in conduct that is engaged for the purpose of supporting the affairs of such an undertaking. The factual predicate for this type of liability is more ambiguous, as it is possible to engage in conduct that promotes the goals of a criminal undertaking without meaning to do so. For that reason, this type of complicitous liability requires that one "associate" himself/herself/itself (corporate or legal entity) with a criminal venture *and* that he/she/it (corporate or legal entity), perform some affirmative act "in furtherance" of the goals of that venture as the predicate for liability. Wells Fargo is actively perpetuating the seller's illegal brokering activities.

12. The Plaintiff is **Complicitous** in the illegal activities of the Seller, the Broker and the Appraiser by using verifiably falsified documents as the foundation of a secured note. In all the case law cited by attorney Burns, not one case filed argued the bank's **Complicity** after the bank was duly notified, given verifiable documentation of falsity and after all the facts were known..... **Complicity** in criminal or civil law refers to a person/s or an entity/ies that are legally accountable, or liable for a criminal offense or tort, based upon the behavior of another. **Complicity** may arise in the following situations: --- (1) a person procures, induces or causes such other person to commit the offense; or (2) a person aids or abets such other person in committing the offense; or (3) having a legal duty to prevent the commission of the offense and

fails to make an effort he is legally required to make. This entire foreclosure proceeding is absolute proof and evidence that Wells Fargo is still aiding and abetting, supporting and defending the illegal brokering activities of the Seller with help from the Broker, the Appraiser and Wells Fargo's own employees. The Supreme Court of Minnesota has held "[a]nyone 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). {See also the Defendant's Filed Exhibit 43, page 3 of 4, paragraphs 6 - 7, dated February 25, 2008 and Exhibit 53, page 1 of 2, paragraph 5, dated May 15, 2008}

B. The second element that was used to support the Plaintiff's summary judgment order is the Defendant does not know who forged and altered the Contract of Sale and does not accuse Wells Fargo. This is a matter a Jury must decide.

13. How many people do you know that engage in forging documents run ads in a local newspaper, on the radio or on national television? Of course, the Defendant does not know who forged the Contract of Sale. This stands to reason and is one of the reasons why the Plaintiff's summary judgment order must be vacated and this case tried by a Jury or Dismissed with Prejudice. Finding a forger requires the skills of trained professional investigators.

14. In addition, this statement by the Plaintiff and the Court is a mischaracterization of the facts and a misstatement of the record. The Defendant does accuse Wells Fargo. The Defendant clearly states she does not know who the person is at Well Fargo and neither does anyone else. The Defendant accuses Wells Fargo's personnel because Wells Fargo has sent the Defendant 2 Contracts of Sale, One clearly "Altered" and "Forged" [WF00028-WF00029] and the other not "Forged", but also "Altered" [See the Defendant's Exhibit 140 that also came from Wells Fargo with a letter from Janet Frotscher dated June 02, 2008 [WF00125-WF00126]}.

15. The Plaintiff does not possess the Contract of Sale the Defendant signed for the Seller, and since the Seller never gave a copy to the Defendant, the Defendant does not have a copy

either. The Defendant's *Statements of Fact* relative to this matter can be found in the following Letter and Pleadings that are incorporated by reference as though fully set forth herein verbatim. {See the Defendant's Exhibit 58, Pages 1-4, dated June 10, 2008, Legal Memorandum Supporting the Defendant's Objections to Notice of Taking Deposition of Defendant Dorothy Sistrunk that was filed on October 10, 2011 on page 9, paragraph #11(B); Objections to the Plaintiff's Memorandum in Support of Motion to Compel and Motion for Continuance and Scheduling Order Subject to Rule 38(b) a Priority Matter that was filed on December 16, 2011 on page 9, paragraph #2(e)}

C. The third element that was used to support the Plaintiff's summary judgment order is the Defendant does not have evidence linking Wells Fargo to actions of the Seller or Appraiser. This is another matter a Jury must decide; especially if loan 708-0174072777 is packaged in a mortgage backed security.

16. The Defendant does have evidence linking Wells Fargo to actions of the Seller, with help from the Broker, the Appraiser and Wells Fargo's own employees; especially if loan 708-0174072777 is packaged in a mortgage backed security. The value of loan #708-0174072777 is based on documents that are verifiably falsified [WF00001-WF00026].

17. After receiving the package of documents from Nelson Mullins Riley & Scarborough, LLP with Exhibits Marked WF00001 – WF00138 in October of 2008, the Defendant saw her credit report for the first time [WF00066-WF00074]. The Defendant's husband faxed a letter to Wells Fargo notifying the Plaintiff that the October 3, 2007 credit report was not authorized and the loan should be cancelled immediately. Someone at Wells Fargo Home Mortgage faxed a letter back to the Defendant's husband telling him not to fax anything else to Wells Fargo relative to the loan and any future correspondence about it will be destroyed. {See e.g. *Kentucky, California and Ohio Penal Codes & United States v. Peoni*, 100 F. 2d 401 – (1938)}

18. After receiving the documented evidence of fraud, {Defendant's Exhibits 8-14} Janet

Frotscher acknowledged receiving it and according to Janet Frotscher's letter, dated February 21, 2008, the Broker – Golden Gate Mortgage, submitted the documents to Wells Fargo not the Seller. [WF00120, paragraph 5] Therefore, Wells Fargo had documented evidence of fraud in its possession of the illegal brokering activities of the Seller, {See Defendant's Exhibits 8-14} with help from the Broker, the Appraiser and Wells Fargo's own employees did absolutely nothing. {See Hyde v. United States, 225 US 347 - Supreme Court 1912}

19. Failure to take appropriate action to stop an illegal act, with full knowledge of its illegality when you have a legal obligation to do so is **Complicitous Liability** and a statutory violation in many states and under *Section 16-17-410 – SC Code of Laws* – a **conspiracy** is defined as “a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means. A person who commits the crime of conspiracy is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.”

D. The fourth element that was used to support the Plaintiff's summary judgment order is the Defendant believes Wells Fargo was also victimized by the Seller and appraiser.

20. On Saturday, December 22, 2007, the Defendant's husband left a message on Wells Fargo's answering machine at the Plaintiff's office in Raleigh, North Carolina that the Defendant's loan is mired in fraud, deceit and deception. On Monday, December 24, 2007, Wells Fargo's representative, Kathryn R. Perkinson, [WF00042] responded to the message. {See *Filed Affidavits of Dorothy Sistrunk*}

21. After the Defendant told Ms. Perkinson about the Seller's fraud, deceit and deception, Ms. Perkinson advised the Defendant to work things out with the Seller. The Defendant followed Ms. Perkinson's misguided advice until March of 2008. By March of 2008, the Defendant realized Wells Fargo is not an innocent victim but an active participant in the Seller's

illegal brokering activities with help from the Broker, the Appraiser and Wells Fargo's own employees; especially if loan #708-0174072777 is packaged in a mortgage backed security . {See the Defendant's Filed Exhibits 4-63 and every Verified Pleading filed in the Court of Common Pleas from July 18, 2008 to the present that are incorporated by reference as though fully set forth herein verbatim and see People v. Croy, 710 P.2d at 398 n.5 (Cal. 1985) (holding that an aider and abettor: need not have intended to encourage or facilitate the particular offense ultimately committed by the perpetrator. His knowledge that an act which is criminal was intended, and his action taken with the intent that the act be encouraged or facilitated, are sufficient to impose liability on him for any reasonably foreseeable offense committed as a consequence by the perpetrator. It is the intent to encourage and bring about conduct that is criminal, not the specific intent that is an element of the target offense, which Beeman holds must be found by the jury.) and People v. Luparello, 187 Cal. App. 3d 410,445,231 Cal. Rptr. 832,853 (1987) (holding that an accomplice is liable for the natural and reasonable or probable consequences of any act that the accomplice knowingly aided or encouraged); }

D. The fifth element that was used to support the Plaintiff's summary judgment order is the Defendant has no evidence linking Wells Fargo to this alleged act of fraud. The Defendant has no personal evidence. The evidence the Defendant has been using and continues to use comes from Wells Fargo's own documents.

22. First and foremost the Defendant's averments are not allegations. An allegation is a statement that is not supported by facts or evidence. A *Statement of Fact* can be proven by anyone that chooses to prove it, even Wells Fargo and Wells Fargo's attorneys or any John Q. Citizen off any street on planet earth that can read, write and understand the English language. Simply give John Q. Citizen copies of the 7-59 Appraisals and ask him to determine whether or not the 7-59 Appraisals match the property. Therefore, there is no alleged act of fraud, the fraud is real, it is documented and it can be easily proven by anyone – even a middle school student with reasonable intelligence. {See the Plaintiff's filed Exhibits WF00001-WF00026}

23. As the Defendant has repeatedly stated, the evidence and extent of Wells Fargo's participation, perpetuation and **Complicity** in the illegal brokering activities of the Seller, with help from the Broker, the Appraiser and Wells Fargo's own employees can be found in Wells Fargo's own documents. This is not the Defendant's evidence it belongs to the Plaintiff. Wells Fargo is currently perpetuating its own fraud upon the Defendant and Orangeburg County and defrauding every person and/or entity that invests in a mortgage back security in which loan #0174072777 is packaged because the loan's value is based on verifiable "Falsified" documents.

24. According to Janet Frotscher in her letter dated, June 2, 2008, [WF00125-WF00126] the loan was approved based on the Appraisal, the Satisfaction Completion Certificate and the Contract of Sale that were received on December 4, 2007. Wells Fargo's acceptance and perpetuation of falsified documents is so brazen and in your face that; as previously stated, even a child in middle school with reasonable intelligence can prove it with little or no effort. This is because with no real effort, anyone can clearly and convincingly establish whether or not this is an alleged fraud or an actual fraud being perpetuated by Wells Fargo on the Defendant, Investors and Orangeburg County.

- (a) The 7-59 Appraisals are verifiably forged and falsified. [WF00001-WF00026]
- (b) The Contract of Sale is verifiably forged and altered. [WF00028-WF00029]
- (c) The 7-59 Satisfaction Completion Certificate is also verifiably falsified. [WF00009]
- (d) The credit report is verifiably unauthorized [WF00066-WF00073] and Wells Fargo's unauthorized use is a violation of 15 USC § 1681n(a).

25. 15 USC § 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..."

26. According to Janet Frotscher, the above verifiably “Falsified” 7-59 Appraisals were reviewed and found acceptable for Wells Fargo’s lending purposes. [WF00120] The original 7-59 Appraisal was ordered for the Seller, Thomas Jacobs [WF00027]. Therefore, the Defendant does not have an issue with the appraisals, Wells Fargo has the issue because the 7-59 Appraisals were not ordered for the Defendant. [WF0001-WF00026] The same is true for Wells Fargo’s 7-59 Satisfaction Completion Certificate that was written for the Seller [WF00009 & WF00022], the “Forged” and “Altered” Contracts of Sale [WF00028-WF00029 & Defendant’s Exhibit 140] and Wells Fargo’s “Unauthorized” credit report [WF00066-WF00073].

27. In addition to Wells Fargo’s use and reliance on verifiably “Falsified” documents and a verifiably “Unauthorized” credit report that is so in your face until a child in middle school with reasonable intelligence can prove it is “Unauthorized”, Wells Fargo’s violations of *Section 37-23-40(1)&(2) – SC Code of Laws* are also verifiable without a Jury Trial.

28. *Section 37-23-40(1) & (2) – SC Code of Laws* clearly states in pertinent parts..

“The lender of a high-cost home loan may not:

(1) make a high-cost home loan without first receiving a written certification from a counselor approved by the State Housing Finance and Development Authority that the borrower has received counseling on the advisability of the loan transaction and the appropriate loan for the borrower. The Department of Consumer Affairs shall specify the information that must be provided by the lender and reviewed by the consumer credit counselor;

(2) make a high-cost home loan unless the lender reasonably believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, is able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources other than the borrower's equity in the dwelling that secures repayment of the loan. If the loan is an adjustable rate mortgage (ARM), the analysis of the obligor must include an evaluation of the ability to repay by final maturity at the fully indexed rate assuming a fully amortizing repayment schedule. An obligor is presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed pursuant to the loan including, but not limited to, principal, interest, current property taxes, and current insurance, do not exceed fifty percent of the obligor's monthly gross

income as verified by the credit application, a credit report, and information provided to a lender by a third party, including the Internal Revenue Service (IRS). A presumption of inability to make the scheduled payments to repay the obligation does not arise solely from the fact that, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed under the loan, exceed fifty percent of the obligor's monthly gross income;"

29. There is absolutely no evidence in Wells Fargo's filed documents that the Defendant received any counseling and the Defendant's debt obligations exceeded 50% of the Defendant's gross monthly income as verified by Wells Fargo's "Unauthorized" credit report [WF00066-WF00073]. It is not the Defendant's responsibility to know the requirements of this statute. It is Wells Fargo's responsibility to know and "Substantially Comply" with the requirements of South Carolina's statutory laws. Key provisions in *Section 37-23-50 – SC Code of Laws* clearly define a borrower's right in action for violations; penalties; statute of limitations; enforcement; costs, the application of the article and the court's responsibility.

30. *Section 37-23-50 – SC Code of Laws* clearly states in pertinent parts...

"(A) If a lender, or party charged with a violation, when making a high-cost home loan violates the provisions of this article, the borrower has a right in action, other than a class action, to recover from the lender or party charged with the violation actual damages and also a penalty in an amount determined by the court of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each loan transaction. No borrower may bring a class action for a violation of this article. No borrower may bring an action for a violation of this article more than six years after the violation occurred and after the original scheduled maturity date of the debt. This section does not bar a borrower from asserting a violation of this article in an action to collect a debt which was brought more than six years from the date of the occurrence of the violation and after the original scheduled maturity date of the debt as a matter of defense by recoupment or set-off in such action;

(B)(1) If the court finds as a matter of law that the agreement or transaction violates the provisions of this article at the time it was made, the court may, in an action other than a class action:

(a) refuse to enforce the agreement, or a term, or part of the agreement or transaction that the court determines to have been unlawful at the time it was made;

(b) enforce the remainder of the agreement without the unlawful term or part, or limit the application of the unlawful term or part to avoid an unlawful result;

- (c) rewrite or modify the agreement to eliminate an unlawful term, part, or result and enforce the new agreement; or
- (d) award either one of the following:

- (i) not more than the total amount of the loan finance charge and allow repayment of the unpaid balance of the loan without any finance charge; or
- (ii) not more than double the amount of excess loan finance charge or other charges or fees actually received by the creditor or paid by the debtor to a third party.

(2) An action pursuant to this subsection may not be brought after the original scheduled maturity date of the debt.

(C) In an action in which it is found that a lender or party charged with a violation has violated this chapter, the court shall award to the debtor the costs of the action and to his attorneys their reasonable fees. In determining attorney's fees, the amount of the recovery on behalf of the debtor is not controlling.

(D) This article establishes specific consumer protections in consumer home loans in addition to other consumer protections that may be otherwise available by law."

31. Because Wells Fargo's supporting documents are verifiably "Falsified". Wells Fargo's use of falsified documents to support any mortgage backed security is a securities violation, a violation of the SEC's disclosure requirements for securities and Wells Fargo is continuing the Seller's "Illegal Predatory Lending Scheme" that is aiding and abetting the Seller; with help from the Broker, the Appraiser and Wells Fargo's employees, to defraud others. {See Nye & Nissen v. United States, 336 U.S. 613, 626 (1949) (holding that, "[I]t makes a defendant a principal when he consciously shares in any criminal act whether or not there is a conspiracy. ")} }

32. Janet Frotscher received and Wells Fargo is using verifiably "Falsified" documents to support loan 708-0174072777 [WF00001-WF00138]; including the "Unauthorized" credit report [WF00066-WF00073]. The falsified nature of Wells Fargo's supporting loan documents can be proven in any court of law including the Court of Common Pleas in Orangeburg, South Carolina.

33. According to Janet Frotscher's letter, dated February 21, 2008, [WF00120] the value of the mortgage and fixed rate note or the loan's value is based on the 7-59 Appraisals. [WF00001-WF00026] The value of the 7-59 Appraisals are verifiably "Falsified". Therefore, Wells Fargo

wants the Defendant to support the illegal brokering activities of the Seller, with help from the Broker, the Appraiser and Wells Fargo's own employees, participate in their "Illegal Predatory Lending Scheme" as defined by the United States Justice Department, participate in their Illegal Home Improvement and Mortgage Fraud, their Securities Fraud and participate in their Insurance Fraud. Wells Fargo is actively engaged in promoting and perpetuating a fraud upon the Defendant, Orangeburg County and South Carolina's legal system by using the Courts to penalize the Defendant for not continuing to participate in Wells Fargo's illegal banking and security scheme that maintains the Seller's Home Improvement & Mortgage Fraud.

34. This is a matter for a Jury to decide. As a direct result of Wells Fargo's reliance and use of verifiably "Falsified" documents for lending purposes [*WF00120 (paragraph 5)*]. It is for a Jury to decide whether or not Wells Fargo has violated.....

(a) *Section 16-13-10 – SC Code of Laws* that 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 39-5-20 – SC Code of Laws* that clearly states in pertinent parts.. "An act is 'unfair' when it is offensive to public policy or when it is immoral, unethical, or oppressive; a practice is 'deceptive' when it has a tendency to deceive." *Johnson v. Collins Entm't Co., Inc.*, 349 S.C. 613, 636, 564 S.E.2d 653, 665 (2002). And..

35. Actual knowledge is not necessary to hold Wells Fargo liable, if misrepresentations are made by Wells Fargo's employees while acting within the scope of their agency/ies. See, *West v. Service Life & Health Insurance Co.*, 220 S.C. 198, 66 S.E. (2d) 816 (1951); see also, *Restatement (Second) of Agency § 261, comment a (1958)*. South Carolina's Unfair Trade Practices Act (SCUTPA) should not be construed to increase the Defendant's burden of proving

liability. “[I]ts purpose is to give additional protection to the victims of unfair trade practices, not to make a case harder to prove than it would be under common law principles. Consistent with this policy, the federal courts hold that actual knowledge of the principal is not necessary to hold him liable for the acts of his agent committed within the scope of authority.” {See Goodman v. Federal Trade Commission, 244 F. 2d 584 - Court of Appeals, 9th Circuit 1957}

36. Under Section 39-5-20(a) and (b), SC Code of Laws, the Defendant need not prove the elements of common law deceit in order to establish a violation of the *South Carolina's Unfair Trade Practices Act* since, under the statute, there is no need to show that a claim or representation was intended to deceive but only that it had the capacity, effect, or tendency to deceive. {See State Ex Rel. McLeod v. C & L CORP. INC., 313 SE 2d 334 - SC: Court of Appeals 1984}

37. In order to be actionable under SCUTPA, an unfair deceptive act or practice must have an impact upon the public interest and the act and practice must have the potential for repetition. Using falsified documents to secure notes has the potential for repetition. {See Noack Enterprises, Inc. v. Country Corner Interiors of Hilton Head Island, Inc., 290 S.C. 475, 351 S.E.2d 347 (Ct. App. 1986) (wherein the court held in an action brought by one corporation against another that the UTPA is not available to address a private wrong where the public interest is unaffected)}

38. In addition, asking the Defendant to make monthly payments on a known “Illegally Brokered Loan”, with known violations of Federal and State law, a known “Illegal Predatory Lending Scheme” as defined by the United States Justice Department, that is based on a verifiable “Forged” and “Altered” Contract of Sale, verifiably “Falsified” 7-59 Appraisals, a verifiably “Falsified” 7-59 Satisfaction Completion Certificate and a verifiable “Unauthorized” Credit Report is **Unconscionable**. The Plaintiff's falsely valued mortgage and note offers the

Defendant no legitimate choice. No sane and rational person would make payments on a mortgage loan under these conditions or be hounded by attorneys from Nelson Mullins Riley & Scarborough, LLP in a foreclosure proceeding to violate State and Federal law. It is for a Jury to decide whether or not Wells Fargo has violated *Section 37-5-108 – SC Code of Laws* that clearly states in pertinent parts.....

- (a) “(1) With respect to a transaction that is, gives rise to, or leads the debtor to believe will give rise to, a consumer credit transaction, if the court as a matter of law finds:
 - (a) the agreement or transaction to have been unconscionable at the time it was made, or to have been induced by unconscionable conduct, the court may refuse to enforce the agreement; or
 - (b) any term or part of the agreement or transaction to have been unconscionable at the time it was made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable term or part, or so limit the application of any unconscionable term or part as to avoid any unconscionable result and award the consumer any actual damages he has sustained.
- (2) With respect to a consumer credit transaction, if the court as a matter of law finds that a person has engaged in, is engaging in, or is likely to engage in unconscionable conduct in collecting a debt arising from that transaction, the court may grant an injunction. In addition, the consumer has a cause of action to recover actual damages and, in an action other than a class action, a right to recover from the person violating this section a penalty in the amount determined by the court of not less than one hundred dollars nor more than one thousand dollars....”
- (b) “Unconscionability has been recognized as the absence of meaningful choice on the part of one party due to one-sided contract provisions, together with terms that are so oppressive that no reasonable person would make them and no fair and honest person would accept them.” *Carolina Care Plan, Inc. v. United Health-Care Services, Inc.*, 361 S.C. 544, 554, 606 S.E.2d 752, 757 (2004).
- (c) Penal statutes must be strictly construed, *Bostic v. Am. Home Mortg. Servicing, Inc.*, 375 S.C. 143, 149, 650 S.E.2d 479, 482 (Ct. App. 2007) (“South Carolina has long recognized the principle that penal statutes are to be strictly construed.”). The Court of Appeals in *Rorrer v. P.J. Club, Inc.*, 347 S.C. 560, 567, 556 S.E.2d 726, 730 (Ct. App. 2001) clearly stated, “[W]hen a law imposes a punishment which acts upon the offender alone, and not as a reparation to the party injured, ...it is entirely within the discretion of the lawgiver.”

II. THE SUMMARY JUDGMENT ORDER MUST BE VACATED THE ORDER OF REFERENCE RESCINDED FOR THESE ADDITIONAL REASONS

A. Summary Judgment is a drastic remedy and should be based on all the facts.

- 39. Summary judgment is proper when there is no genuine issue as to any material fact and

the moving party is entitled to judgment as a matter of law. David v. McLeod Reg'l Med. Ctr., 367 S.C. 242, 247, 626 S.E.2d 1, 3 (2006); Miller v. Blumenthal Mills, Inc., 365 S.C. 204, 219, 616 S.E.2d 722, 729 (Ct. App. 2005). “[f]urther development of the facts is [often] necessary before [a] case can be decided.” Jensen v. Conrad, 297 S.C. 323, 334, 377 S.E.2d 102, 108 (Ct. App. 1988).

40. In determining whether any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. Law v. S.C. Dep't of Corrections, 368 S.C. 424, 434, 629 S.E.2d 642, 648 (2006); Eagle Container Co., LLC v. County of Newberry, 366 S.C. 611, 620, 622 S.E.2d 733, 737 (Ct. App. 2005).

41. **If triable issues exist, those issues must go to the jury.** Mulherin-Howell v. Cobb, 362 S.E.2d 588, 595, 608 S.E.2d 587, 591 (Ct. App. 2005).

42. Summary judgment is only appropriate if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Rule 56(c), SCRPC*; BPS, Inc. v. Worthy, 362 S.C. 319, 325, 608 S.E.2d 155, 159 (Ct.App. 2005).

43. Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Gadson v. Hembree, 364 S.C. 316, 320, 613 S.E.2d 533, 535 (2005); Miller, 365 S.C. at 220, 616 S.E.2d at 729; Montgomery v. CSX Transp., Inc., 362 S.C. 529, 608 S.E.2d 440 (Ct. App. 2004).

44. “[E]ven when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied.” Nelson v. Charleston County Parks & Recreation Comm’n, 362 S.C. 1, 5, 605 S.E.2d 744, 746 (Ct.App.2004).

45. **The Plaintiff has failed to clearly establish the absence of genuine issues of material**

fact and all it takes is one issue that is relevant to a material fact for a Jury Trial. Jones v. State Farm Mut. Auto. Ins. Co., 364 S.C. 222, 228, 612 S.E.2d 719, 722 (Ct. App. 2005).

46. **The Defendant has presented specific facts showing there are genuine issues for trial.** Rife, 363 S.C. at 214, 609 S.E.2d at 568. Because it is a drastic remedy, summary judgment should be cautiously invoked to ensure the Defendant, as a Pro se litigant, is not improperly deprived of a trial on disputed factual issues. Helena Chem. Co. v. Allianz Underwriters Ins. Co., 357 S.C. 631, 644, 594 S.E.2d 455, 462 (2004); Wogan, 366, S.C. at 592, 623, S.E.2d at 112 and B & B Liquors, Inc. v. O'Neil, 361 S.C. 267, 270, 603 S.E.2d 629, 631 (Ct. App. 2004).

47. “[A] fact is ‘material’ if a dispute over it might affect the outcome of a suit under the governing law; factual disputes that are ‘irrelevant or unnecessary’ do not affect the summary judgment determination.” 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. “[W]hen a motion for summary judgment is under consideration, the evidence of the non-movant[s] is to be believed, and all justifiable inferences are to be drawn in [their] favor.” Anderson v. Liberty Lobby, Inc., 477 U.S. at 255; See also Mastro v. Potomac Electric Power Co., 447 F.3d 843, 849-50 (D.C. Cir. 2006).

48. A Trial by Jury is absolutely necessary because the Defendant can prove by the preponderance of the evidence that the Plaintiff's loan is based on “Falsified” documents, the loan was a “Conspiracy to Defraud” before the Defendant arrived on December 21, 2007 and the Plaintiff has been **Complicit** in the acceptance, approval, maintaining and defending an illegal loan transaction in violation of South Carolina and Federal law after all the facts were known..

B. The Plaintiff's summary judgment order must be vacated in favor of a Trial by

Jury because this will allow the Defendant to utilize the Parole Evidence Rule and Verified Pleadings that have never been denied, refuted or controverted by the Plaintiff since July of 2008.

49. The *South Carolina Constitution* provides "[t]he right of trial by jury shall be preserved inviolate." *S.C. Const. art. I, § 14*. "The right to a trial by jury is guaranteed in every case in which the right to a jury was secured at the time of the adoption of the Constitution in 1868."

Mims Amusement Co., 366 S.C. at 149, 621 S.E.2d at 348.

50. The Defendant's Verified Pleadings have never been refuted, denied or controverted by the Plaintiff and are therefore admitted as *Statements of Fact*. Since all the Defendant's Pleadings have been Verified since 2008, every filed Pleading is incorporated by reference as though fully set forth herein verbatim. Every filed Pleading is the equivalent of an affidavit because they meet the requirements of *Rule 56(e)*, *SCRCP* that clearly states in pertinent parts..

"Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits..."

51. 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."); See also *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); 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); Moore v. Goldome Credit Corp., 370 S.E.2d 843 (Ga. 1988) (holding a properly verified pleading containing specific factual allegations must be considered in opposition to affidavits filed in support of a motion for summary judgment);

52. Fraud is misrepresentation of a material fact made with knowledge of its falsity or a reckless disregard of its truth, on which there was justifiable reliance causing damages. Brown v. Stewart, 348 S.C. 33, 42, 557 S.E.2d 676, 680-81 (Ct. App. 2001). Fraud is the civil action for lying. The common law maxim is that "fraud vitiates all transactions," so that nothing can hide fraud. If the contract is based on fraudulent documents Wells Fargo cannot sue on the contract or note which are now void for illegality (as that word is used in the law of contracts: void as a matter of public policy), and the court can award punitive damages, including attorney's fees. Parties to an illegal contract lose all rights to sue on any theory—because they are truly "outlaws" in the literal meaning of the word. "[F]raud must be shown by clear and convincing evidence." Ardis v. Cox, 314 S.C. 512, 515, 431 S.E.2d 267, 269 (Ct. App. 1993).

53. The Parol Evidence Rule is a long-established rule which upholds the integrity of

contracts. When parties enter into a final written contract, the terms of that contract should not be varied, contradicted, or supplemented by prior or contemporaneous oral agreements or prior written agreements unless that agreement is invalid due to fraud, duress, undue influence, incapacity, mistake, illegality or some other compelling reason.

54. “[T]he parol evidence rule was designed to prevent frauds, not to promote frauds by immunizing a party from claims arising out of his fraudulent misrepresentations.” Pinken, 704 – 41-F.2d at 1023. “[P]arol evidence is admissible to ascertain the true meaning of the contract and the intent of the parties.” Klutts Resort Realty, 268 S.C. at 89, 232 S.E.2d at 25.

55. “[P]arol evidence relating to circumstances surrounding the formation of the contract is admissible..” [Scott-Douglas Corp. v. Greyhound Corp., 304 A.2d 309, 315 (Del. Super. 1973). See also Glenn v. Tide Water Associated Oil Co., 101 A.2d 339, 342 (Del. Ch. 1953) (time, place and circumstances of execution of contract may be proved by parol evidence); Cochran v. Denton, C.A. No. 11826, slip op. at 5-6, Allen, C. (Del. Ch. Oct. 9, 1991), *aff’d mem.*, 612 A.2d 157 (Del. 1992) (parol evidence admissible to determine intent of parties to enter into a contract)]

56. “Thus, the parol evidence rule does not preclude evidence of fraud, duress, mutual mistake, misrepresentation or overreaching in the making of a contract..” Anglin v. Bergold, No. 185, 1988, slip op. at 4-5, Walsh, J. (Del. June 26, 1989) (ORDER), disposition reported at 565 A.2d 279 (Del. 1989) (TABLE); Esso Standard Oil Co. v. Cunningham, 114 A.2d 380, 383 (Del. Ch. 1955), *aff’d*, 118 A.2d 611 (Del.. 1955); Reeder v. Sanford School, Inc., 397 A.2d 139, 141 (Del. Super. 1979); Ed Fine Oldsmobile, Inc. v. Knisley, 319 A.2d 33, 36-37 (Del. Super. 1974); Scott-Douglas Corp. v. Greyhound Corp., 304 A.2d 309, 315 (Del. Super. 1973); New Castle County v. Crescenzo, C.A. No. 7087, slip op. at 7, Hartnett, V.C. (Del. Ch. Feb. 11, 1985), *aff’d mem.*, 505 A.2d 454 (Del. 1985); Ft. Howard Cup Corp. v. Quality Kitchen Corp., C.A. No. 89C-

DE-34, slip op. at 5, Steele, J. (Del. Super. Aug. 17, 1992).]

57. The US Supreme Court has ruled in 3 separate cases to uphold the common law maxim: Fraud Vitiates Everything. Nudd v. Burrows, 91 US 426 (1875), (holding that "Fraud destroys the validity of everything into which it enters") Boyce's Executors v. Grundy, 3 Pet. (28 US) 210 (1830), ("Fraud vitiates everything") and United States v. Throckmorton, 98 US 61, 70 (1878) ("Fraud vitiates the most solemn contracts, documents and even judgments")

58. "[T]he maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions." See Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929); In re Village of Willowbrook, 37 Ill.App.2d 393 (1962); Dunham v. Dunham, 57 Ill. App. 475 (1894), affirmed 162 Ill. 589 (1896); Skelly Oil Co. v. Universal Oil Products Co., 338 Ill. App. 79, 86 N.E.2d 875, 883-4 (1949); Thomas Stasel v. The American Home Security Corporation, 362 Ill. 350; 199 N.E. 798 (1935). 37 Am Jur 2d at section 8 states, in part: "Fraud vitiates every transaction and all contracts. Indeed, the principle is often stated, in broad and sweeping language, that fraud destroys the validity of everything into which it enters, and that it vitiates the most solemn contracts, documents, and even judgments."

B. The Court's Summary Judgment order in favor of the Plaintiff must be vacated in favor of a Trial by Jury because the order also violates Rule 56(c), SCRCP.

59. Rule 56(c), SCRCP clearly states in pertinent parts...

"[T]he judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.."

60. There is no mention of... or ruling on the Defendant's and the Witness' filed affidavits or the Defendant's Verified Pleading that was filed in *Opposition to the Plaintiff's Motion for Summary Judgment and supporting Memorandum* that contains over 40 material facts that are

relevant to this case and none have been disputed or denied by the Plaintiff. The Defendant's *Opposition and Legal Memorandum* were filed on July 17, 2013. {See the Defendant's and Witness's filed Affidavits and the Defendant's Verified Legal Memorandum and Opposition to Plaintiff's Wells Fargo Bank, N.A.'s Motion for Summary Judgment that are incorporated by reference as though fully set forth herein verbatim.}

61. According to the rule, the Defendant's Pleadings, Exhibits and Affidavits must be considered. When it comes to enforcing the Rules of Civil Procedure and their meaning, South Carolina's Appellate Court has clearly stated: "[I]n interpreting the meaning of the South Carolina Rules of Civil Procedure, the Court applies the same rules of construction used to interpret statutes." Maxwell v. Genez, 356 S.C. 617, 591 S.E.2d 26 (2003); Green v. Lewis Truck Lines, Inc., 314 S.C. 303, 443 S.E.2d 906 (1994). "[I]f a rule's language is plain, unambiguous, and conveys a clear meaning, interpretation is unnecessary and the stated meaning should be enforced." See Maxwell, 356 S.C. at 617, 591 S.E.2d at 26; Knotts v. S.C. Dep't of Natural Resources, 348 S.C. 1, 10, 558 S.E.2d 511, 516 (2002).

62. The summary judgment order did not mention the affidavits and the affidavit of the Defendant's Witness and the Witness' testimony must be included as well. "[C]ourts should consider not only the particular clause in which a word may be used, but the word and its meaning in conjunction with the purpose of the whole rule and the policy of the rule." S.C. Coastal Council v. S.C. State Ethics Comm'n, 306 S.C. 41, 44, 410 S.E.2d 245, 247 (1991) (applying this rule of construction to a statutory provision). In construing a rule, language in the rule must be read in a sense which harmonizes with its subject matter and accords with its general purpose. Mun. Ass'n of S.C. v. AT&T Communications of Southern States, Inc., 361 S.C. 576, 606 S.E.2d 468 (2004) (applying this rule of construction to a statutory provision).

III. THE PRACTICAL APPLICATION OF SOUTH CAROLINA AND FEDERAL LAW PROHIBITS ANY FAVORABLE RULING FOR THE PLAINTIFF AND CLEARLY MANDATES DISMISSAL OF THIS CASE WITH PREJUDICE AND AWARDED ANY AND ALL STATUTORY FINES AND/OR PENALTIES; AS WELL AS, ANY PUNITIVE DAMAGES TO THE DEFENDANT, INCLUDING COST OF SUIT AND DEFENSE..... AND ANY OTHER RELIEF THE COURT MAY DEEM AS PROPER

A. Wells Fargo's "Unclean Hands" prohibits any Court ordered relief of any kind.

63. It is for a Jury to decide whether or not Wells Fargo's acceptance, use and reliance upon documents that are verifiable "Falsified" after being duly notified by phone and in writing and Wells Fargo chose to participate in the promotion, furtherance and perpetuation of the Seller's "Illegal Brokering", his "Illegal Predatory Lending Scheme" and his "Home Improvement and Mortgage Fraud" with help from the Broker, the Appraiser and Wells Fargo's own employees after all the facts were known. The Plaintiff is equally guilty as the Seller, the Broker and the Appraiser under the legal Doctrines of "Unclean Hands" and "In Pari Delicto" that effectively bar any legitimate Court ordered relief for a summary judgment or foreclosure.

(a) "The expression 'clean hands' means a clean record with respect to the transaction with the Defendant and not with respect to others. *Arnold v. City of Spartanburg*, 201 S.C. 523, 532, 23 S.E.2d 735, 738 (1943). This is consistent with South Carolina precedent asserting that "no person be permitted to acquire a right of action from their own unlawful act and that one who participates in an unlawful act cannot recover damages for the consequence of that act." *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.

(b) The Doctrine of In Pari Delicto is "[t]he principle that a plaintiff who has participated in wrongdoing may not recover damages resulting from the wrongdoing." *Black's Law Dictionary* 794 (7th ed. 1999). The Doctrine of In Pari Delicto is "[t]he principle that a plaintiff who has participated in wrongdoing may not recover damages resulting from the wrongdoing." *Myatt v. RHBT Fin. Corp.*, 370 S.C. 391, 395, 635 S.E.2d 545, 547 (Ct. App. 2006) (quoting *Black's Law Dictionary* 794 (7th ed. 1999)).

64. Under the Doctrine of In Pari Delicto, the Plaintiff, the Broker, the Appraiser and the Seller are joint tortfeasors. Therefore, none can seek, receive or are entitled to any court ordered indemnity from each other or the Defendant. In South Carolina, this doctrine precludes one joint

tortfeasor from seeking indemnity from another. See Rock Hill Tel. Co. v. Globe Commc'ns, Inc., 363 S.C. 385, 389 n.2, 611 S.E.2d 235, 237 n.2 (2005) ("In general, there is no right to indemnity between joint tortfeasors."); Atlantic Coast Line R. Co. v. Whetstone, 243 S.C. 61, 68, 132 S.E.2d 172, 176 (1963) (holding that there generally is no right to indemnity between joint tortfeasors).

65. Wells Fargo has violated its own Compliance Agreement [WF00117]. Under Wells Fargo's Compliance Agreement, the Plaintiff has a [D]uty to adjust any all closing documents to **conform and be acceptable to the marketplace in the instance of transfer, sale or conveyance** to any entity. "[D]uty' is a question of whether the Plaintiff is under any obligation for the benefit of the Defendant; and in negligence cases, the [D]uty is always the same--to conform to the legal standard of reasonable conduct in the light of the apparent risk." Huggins v. Citibank, N.A., 355 S.C. 329, 333, 585 S.E.2d 275, 277 (2003). "What the Plaintiff must do, or must not do, is a question of the standard of conduct required to satisfy the [D]uty." *Id.* "An affirmative legal [D]uty to act exists only if created by statute, contract, relationship, status, property interest, or some other special circumstance." Carson v. Adgar, 326 S.C. 212, 217, 486 S.E.2d 3, 5 (1997)

66. Under the terms of Wells Fargo's Compliance Agreement, the Defendant must cooperate with anyone acting on behalf of Wells Fargo in order to assure the loan documentation that was executed **conforms and is acceptable** to the marketplace in the instance of transfer, sale or conveyance to any entity including but not limited to any investor, Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) Federal Home Loan Mortgage Corporation, Department of Housing and Urban Development, Veterans Administration or any Municipal Bonding Authority. The Burden of Proof and adjustments for errors and omissions is on the Plaintiff and anyone representing the Plaintiff or acting on behalf

of the Plaintiff. {See Wells Fargo's Filed Exhibit WF00117}

67. 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.")

68. In Nelson v. Production Credit Ass'n of the Midlands, 930 F.2d 599, 605 (8th Cir. 1991) (The Court held the following, "Court would not impose a duty on a lender to use reasonable care in making a loan.") Consequently, the Plaintiff's demands that the Defendant be held responsible for Wells Fargo's negligence and irresponsible lending behavior fails as a matter of law. There is no duty imposed on a bank and/or lender to use reasonable care in making loans. Any losses Wells Fargo has incurred, including any Punitive Damages, are due to its own negligence and errors in judgment. Accordingly, any summary judgment is appropriately denied, the Order of Reference rescinded and this case sent to a Jury or Dismissed with Prejudice and Punitive Damages awarded to the Defendant for Wells Fargo's **Complicity** in violating State and Federal law after being duly notified of the illegal brokering activities of the Seller, Broker and Appraiser....and after all the facts were known. {See Filed Exhibits 1, 4, 8-14, 37, 39, 43-66, 68-70, 81, 113 – the Property, 166-173 & WF00120-WF00130}

69. The Plaintiff's attempt to shift burden and blame to the Defendant fails as a matter of law because of the evidence and the facts. The Defendant is not responsible or has any liability for any proximate cause of injury to Wells Fargo. Wells Fargo's injuries are "Self-Inflicted" and are

the direct result of relying upon the representations and/or statements from the Broker, Seller and Appraiser and being **Complicit** in the illegal brokering activity of the Seller after all the facts were known.

70. In, Menominee River Co. v. Augustus Spies L & C Co., the court decided; "If any part of the consideration for a promise be illegal, or if there are several considerations for an unseverable 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).

71. In 1879, South Carolina's Supreme Court held, "There can be no doubt of the correctness of the legal proposition that, where money is paid under a mistake of fact, to a person who has no ground in conscience to claim it, the person paying it may recover it back. Glenn v. Shannon, 12 S.C. 570, 570 (1879); See also Pilot Life Ins. Co. v. Cudd, 208 S.C. 6, 36 S.E.2d 860 (1945) (holding the general rule is that money paid to another under a mistake of fact may be recovered because the money belongs, in equity and good conscience, to the person who paid it). See Castock Corp. v. Bailey, 492 N.Y.S.2d 921 (Sup. Ct. 1985) (the fact that recipient has parted with the money is an insufficient excuse to forgive repayment); 70 Am. Jur. 2d Payment § 114(c)(1987) (no defense where money has been paid to another or spent). Whipp v. Iverson, 43 Wis. 2d 166, 168 N.W.2d 201 (1969) (holding that, "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."); Leonard v. Springer, 197 Ill 532. 64 NE 299 (1902). (holding that "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.") 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.")

72. "Fraud in the Factum" has been described as the kind of fraud that arises when a party signs a document without full knowledge of the character, supporting documentation, representations or the essential elements that brought the agreement into existence. McLemore v. Landry, 898 F.2d 996, 1002 (5th Cir.), cert. denied sub no; River Villa Ptsp. v. Sun Belt Fed. Bank, F.S.B., 111 S.Ct. 428 (1990). "This kind of fraud renders any underlying agreement void." FDIC v. Gordy, 928 F.2d 1558, 1565 (11th Cir.1991).

73. In addition, *Section 36-3-305(a)(1)(ii)(iii) – 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) duress, lack of legal capacity, or 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....,"

74. South Carolina and Federal law prohibits prospering or benefiting as a direct or indirect result of an illegal act. It is a 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." See 86 C.J.S. Torts § 12 (1954)

75. "[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.}

76. 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.*}

77. 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.").

78. According to ***Curbing Predatory Home Mortgage Lending (2000)***, "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." . See *HUD-Treasury National Predatory Lending Task Force, Joint Report: Curbing Predatory Home Mortgage Lending (2000)*

79. As Justice Maynard explained in *Toppings v. Meritch Mtg. Servs., Inc.*, 212 W. Va. 73,

74, 569 S.E.2d 149, 150 (2002) (Maynard, J. concurring): "[S]ubprime lenders loan to those borrowers with past credit problems or low income at a higher cost than conventional mortgage loans. . . . The transformation from subprime lending to predatory lending occurs when lenders employ unethical and/or illegal tactics to secure the loans or offer subprime loans to those who qualify for prime loans." Herrod v. First Republic Mortg. Corp. 625 S.E.2d 373 (W. Va. 2005)

80. "Banking transactions -- cannot be permitted to avoid liability by those who are actually providing the funding and often controlling the transaction." See Kurt Eggert, Held up in Due Course: Predatory Lending, Securitization, and the Holder in Due Course Doctrine, 35 Creighton L. Rev. 503 (2002)." Herrod v. First Republic Mortg. Corp., 625 S.E.2d 373 (W. Va. 2005)"

81. In 6 Angels, Inc. v. Stuart-Wright Mortgage, Inc. (2001) 85 Cal.App.4th 1279 at 1286 where the Court stated: "It is the general rule that courts have power to vacate a foreclosure sale where there has been fraud in the procurement of the foreclosure decree or where the sale has been improperly, unfairly or unlawfully conducted, or is tainted by fraud, or where there has been such a mistake that to allow it to stand would be inequitable to purchaser and parties."

82. 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 also holds "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)."

IV. NO LEGITIMATE SUMMARY JUDGMENT OR FORECLOSURE CAN BE RENDERED IN FAVOR OF THE PLAINTIFF BECAUSE IT WOULD UNJUSTLY ENRICH THE PLAINTIFF FOR UNLAWFUL ACTS AND CONDUCT

83. The Plaintiff would be unjustly enriched if the Plaintiff were allowed to obtain benefits, money or property that were acquired by unlawful acts, conduct and violations of State and Federal law. Unjust enrichment is an equitable doctrine which permits the recovery of that amount the Plaintiff has been unjustly enriched or would be unjustly enriched at the expense of the Defendant. Ellis v. Smith Grading and Paving, Inc., 294 S.C. 470, 473, 366 S.E.2d 12, 14 (Ct. App. 1988). "[t]he legal issues are determined by a jury while equitable issues are for the judge." Floyd v. Floyd, 306 S.C. 376, 379, 412 S.E.2d 397, 398-99 (1991). In actions at equity, the Equity Court is empowered to find facts in accordance with its view of the preponderance of the evidence." {See White's Mill Colony, Inc. v. Williams, 363 S.C. 117, 124, 609 S.E.2d 811, 815 (Ct. App. 2005)}.

84. The Defendant does not seek any restitution or the return of any money/ies paid to and/or collected by the Plaintiff. Even though restitution is a remedy designed to prevent unjust enrichment, Sauner v. Pub. Serv. Auth. of S.C., 354 S.C. 397, 409, 581 S.E.2d 161, 167 (2003); and Ellis v. Smith Grading & Paving, Inc., 294 S.C. 470, 473, 366 S.E.2d 12, 14 (Ct. App. 1988), the Defendant only seeks that which is permitted under Federal and State law. Wells Fargo cannot acquire property or money by violating State or Federal laws. Any money or benefit obtained illegally by fraud, deceit, robbery or any other illegal means is "**Unjust Enrichment**". It would be inequitable for the Plaintiff to take the Defendant's money by violating South Carolina's Laws and Federal Regulations. The Seller lost the right of recovery by his illegal acts and Wells Fargo lost any right of recovery by its illegal acts.

SUMMATION & CONCLUSION

85. For all the reasons outlined and stated in this Pleading, *Dorothy Sistrunk's Legal Memorandum Supporting Opposition to Plaintiff Wells Fargo Bank, N.A.'s Motion for Summary Judgment*, *Dorothy Sistrunk's Opposition to Plaintiff Wells Fargo Bank, N.A.'s Motion for*

Summary Judgment, Dorothy Sistrunk Affidavit of Facts, Material Facts & Truth and Dorothy Sistrunk's Affidavit Opposing Wells Fargo Affidavit for Summary Judgment, the Court's Partial Summary Judgment and Order of Reference must be rescinded and this case Dismissed with Prejudice including Statutory and Punitive Damages for the Plaintiff's willing participation, promotion and perpetuation of an illegally Brokered Loan, a Home Improvement and Mortgage Fraud, Insurance Fraud, Bank Fraud, Securities Fraud and an illegal Predatory Lending Scheme all involving a "Security Instrument" that is based on Undeniable and Verifiable "Forgery" [WF00029] and/or Forgery by Substitution [WF00014-WF00026] OUTRIGHT LIES [WF00009, WF00022, WF00032, WF00035 & WF00012] Verifiable "Falsity", Verifiable "Misstatement of Material Facts", Verifiable "Misrepresentation of Material Facts", Verifiable "Omissions and Non disclosure of Material Facts", Wells Fargo's Verifiable "Violations of State and Federal laws" and the Verifiable **Massive Filing Fraud** of Attorneys Elizabeth Scott Moise and James H. Burns. The Defendant should be Justly and Fairly Compensated for time and expense; as well as, be awarded any and all Statutory Damages and any Punitive Damages the Court deems as appropriate and proper or this case sent to a Jury in its entirety.

RELIEF SOUGHT

86. Under the direction and by order of this Court.....
- (a) Vacate the Partial Summary Judgment Order & Rescind the Order of Reference
 - (b) Dismiss this foreclosure action with Prejudice,
 - (c) Award any and all Statutory Penalties to the Defendant,
 - (d) Award any Punitive Damages to the Defendant Based on Precedent,
 - (e) Remove any and all Derogatory Credit Information sent by Wells Fargo to CRA's.
 - (f) By Court Order no set-off or recoupment for Wells Fargo's tax payments. And...
 - (g) Let a Jury decided Ascertainable Loss, Defamation of Character & Negligent Infliction of Emotional Stress if the Plaintiff still wishes to pursue this matter.

Respectfully Submitted as a Verified Pleading / Affidavit,
Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115
Ph: 803-268-0716 Fx: 803-534-6727

2019 MAR 25 PM 7:42

NOTIFICATION

A copy of the Defendant's *Legal Memorandum Supporting 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
SC Bar No. 012945
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401 -2239
803-853-5200

Attorney 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 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

The Honorable James B. Jackson, Jr.
PO Box 9000
Orangeburg, SC 29116-9000
OFFICE: (803) 533-6286
FAX: (803) 533-5898
County: Orangeburg

TRUE COPY
James B. Jackson
CLERK OF COURT

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): Lillian 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 Pleading presents this Verified Pleading to the Court.

WITNESS my hand and official seal.

Notary's Signature Lillian D. Buck

Commission Expires _____ **my Commission Expires**
July 24, 2022

WILLIAM B. CLARK
CLERK OF COURT
ORANGEBURG COUNTY, SC

(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
)

) **THE DEFENDANT OBJECTS TO**
) **THE PLAINTIFF'S MOTION AND**
) **ORDER OF CONTINUANCE. A**
) **RULE 41(b), SCRPC DISMISSAL WAS**
) **FILED ON 08/15/2011 THAT HAS**
) **NEVER BEEN PROPERLY OPPOSED**
) **BY THE PLAINTIFF AND QUALIFIES**
) **FOR JUDGMENT PURSUANT TO**
) **RULE 56(c), SCRPC.**

) Today's Date: March 28, 2014
)

Comes now the Defendant, Dorothy Sistrunk, to file her *Objections to the Plaintiff's Motion and Order of Continuance*. The Plaintiff's letter is dated March 18, 2014 and was retrieved from the mailbox at 423 Bayne Street in Orangeburg, South Carolina on Friday, March 21, 2014.

**I. NOTICATION OF A VERIFIED PLEADING AND A FORMAL PROTEST AND
OBJECTION TO THE PLAINTIFF'S VIOLATION OF RULE 30(b)(2), SCRPC**

A. Notification of a verified pleading.

1. The Defendant hereby notifies the Court and the Plaintiff that this is a "**Verified Pleading**". The need for notification has risen, since the Court and the Plaintiff are seemingly unaware that all the Defendant's Pleadings; except 1, are "**Verified Pleadings**" that meet the requirements of *Rules 11(c) and 56(e), SCRPC*. This is evidenced by the Partial Summary Judgment and Order of Reference that was filed on March 18 & 19, 2014, by the Plaintiff, and the Order of the Court for a Partial Summary Judgment for Plaintiff; instead of the Court's Order to *Dismiss this action with Prejudice* and awarding all Statutory Damages and any Punitive Damages the Court deems as proper to the Defendant.

B. Formal Protest and Objection to Violating Rule 30(b)(2), SCRPC.

2. The Defendant objects to and formally protests the prejudicial treatment demonstrated by

the Plaintiff by using the Defendant's deposition to persuade Judge Goodstein in violation of *Rule 30(b)(2), SCRPC* that clearly states in pertinent parts.....

“If a party shows that when he was served with notice under this subdivision (b)(2) he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him.”

3. The Plaintiff's use of the Defendant's deposition would be a clear and verifiable violation of a Civil Procedure Rule. The Defendant's deposition could not be used for Summary Judgment purposes or against her in anyway. This is why the Defendant vigorously protested and opposed taking the deposition because it could not be used. Attorney Brian A. Calub insisted. Therefore, the Defendant's fear of prejudicial and unjustifiable use have now been verified.

4. Since Judge Goodstein referred to the Defendant's deposition in her letter dated March 13, 2014, a Civil Procedure Rule has been violated. The Plaintiff should have notified Judge Goodstein that no attorney was present when the Defendant was deposed, therefore, pursuant to *Rule 30(b)(2), SCRPC*, the deposition could not be used against her.

5. Any Court Order based on violating a Rule of Civil Procedure is null and void. Therefore, based on the hundreds of pages of "**Verified Pleadings**" that have been filed in the Court of Common Pleas that have never been controverted, refuted, denied or properly contested, this action must be *Dismissed with Prejudice* and the *Relief Sought* granted the Defendant forthwith because the *Relief Sought* has not been contested by the Plaintiff.

C. Qualifications for a verified pleading and affidavit pursuant to South Carolina's Rules of Civil Procedure.

6. The following are the requirements to qualify court filings as affidavits or verifications.

(a) *Rule 11(c), SCRPC* clearly states in pertinent parts..

“Affidavits or verifications authorized or permitted under these Rules shall be written statements or declarations by a party or his attorney of record or of a witness, sworn to or affirmed before an officer authorized to administer oaths, that the affiant knows the facts stated to be true of his own knowledge, except as to those matters stated on information and belief and as to those matters that he believes them to be true.”

(b) *Rule 56(e), SCRPC*, that clearly states in pertinent parts..

"Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him."

7. In addition to the use and undeniable violation of *Rule 30(b)(2), SCRPC* by using the Defendant's deposition for summary judgment purposes, the pleading that was filed on September 6, 2012 by the attorney Brian A. Calub to oppose the Defendant's *Rule 41(b), SCRPC Motion to Dismiss* is over a year late and is legally insufficient to defeat the Defendant's *Motion to Dismiss with Prejudice* and the awarding of all Statutory Violations and Punitive Damages to the Defendant. See *Sam's Riverside, Inc. v. Intercon Solutions, Inc.*, 790 F. Supp. 2d 965 (S.D. Iowa 2011)

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8. The Defendant's clearly stated and *Sworn Statements* that the plaintiff's note and mortgage are based on falsified documents cannot be opposed, refuted or denied by an attorney's factual allegations or presentation of documents that have not been authenticated by expert testimony, certification or by the sworn statements or affidavits of an individual with personal knowledge. With today's technological sophistication, anyone with access to the technology can make any forged document appear authentic. As the Defendant has stated in *Sworn Statements*, the documents the Plaintiff has presented in court are not the documents the Defendant signed for Seller. According to Janet Frotscher's letter, dated February 21, 2008, [WF00120] all the supporting paperwork that was used to approve and fund the Plaintiff's "Fraudulent" loan, note and mortgage were submitted by the Broker [WF00027] that never brokered any loan for the

Defendant. Whatever signed paperwork must have come from the "Unlicensed" Seller - Thomas Jacobs. The verification that the Seller was not a licensed broker or loan originator can be obtained from SCDCA's public records.

9. The Plaintiff's mortgage and note are an illegal loan transaction in violation of Federal and State law that has already been documented in previous "**Verified Pleadings**" that have never been denied, refuted, opposed by affidavit, testimony or any other legitimate means pursuant to Federal and/or State law and/or South Carolina's and/or the Federal Rules of Evidence and/or Civil Procedure and those "**Verified Pleadings**" are incorporated by reference as though fully set forth herein verbatim.

10. The Plaintiff was duly notified by phone on December 22, 2007, December 24, 2007, January 14, 2007, and the list goes on {*See Defendant's Filed Affidavits*} and in writing {*Defendant's Filed Exhibits 4-63*} about the fraudulent conduct of the Seller, Broker and Appraiser. And after having received verifiable documentation of the Seller's fraud, {*Defendant's Exhibits 8-14*} the verification of which is also available in the public records, the Plaintiff deliberately choose to perpetuate the illegal brokering activities of the "Unlicensed" Seller, that was helped by the Broker, the Appraiser and, by January 14, 2008, Wells Fargo's own employees. The Defendant's "*Sworn Statements of Fact*", relative to these matters have never been refuted, denied or controverted. And they cannot be in reality, actuality, by fact, or truth.

11. Therefore, attorney Calub's, "[m]ere conclusions and unsupported factual allegations are legally insufficient to defeat a summary judgment motion." Bald Mountain Park, Ltd. v. Oliver, 863 F.2d 1560, 1563 (11th Cir.1989). "Moreover, statements in affidavits that are based, in part, upon information and belief, cannot raise genuine issues of fact, and thus also cannot defeat a motion for summary judgment." Pace v. Capobianco, 283 F.3d 1275, 1278-79 (11th Cir.2002); *See also Fed.R.Civ.P. 56(e)*, "One of the principal purposes of the summary judgment rule is to

isolate and dispose of factually unsupported claims and defenses." Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548, 2553, 91 L.Ed.2d 265 (1986). "Accordingly, the nonmoving party is required to go beyond the pleadings, affidavits, depositions, answers to interrogatories and admissions on file to designate specific facts showing a genuine issue for trial." *Id.* 106 S.Ct. at 2553.

12. The Plaintiff has prejudicially abused the Defendant and the Rules of Civil Procedure by trying to take unfair advantage of the Defendant's Pro se status and unfamiliarity with court rules and procedures. *Rule 41(b)*, *SCRCP* clearly states in pertinent parts.....

"After the plaintiff in an action tried by the court without a jury has completed the presentation of his evidence, the 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."

13. **The Massive Filing Fraud** of Elizabeth Scott Moise and James H. Burns and missing a few filing days in violation of a Supreme Court Order were not the primary or secondary reason for the Defendant's *Motion to Dismiss*. The Defendant realized at the hearing that was held in Judge Goodstein's Courtroom on December 6, 2011, that the Plaintiff's entire cause of action was based on the misrepresentation, misinformation, misstatement of facts and/or the outright lies of Janet Frotscher. [WF00120, WF00121, WF00125-WF00126 & WF00132-WF00133]

14. The Plaintiff has no evidence, other than the uncertified signed note and mortgage [WF00039-WF00060] that are supported by falsified, altered and/or forged documents [WF00001-WF00026, Exhibit 140, WF0009, WF00022 & WF00028-WF00029] and an "Unauthorized " credit report [WF00066-WF00073]. And..... even these documents..... are the

undeniable evidence of Wells Fargo's **Complicity** in an illegal loan transaction [WF00122-WF00124, WF00129 & WF00131] and are the undeniable evidence of Wells Fargo's illegal collection activities on an illegal loan transaction after all the facts were known.

15. Wells Fargo filed exhibits combined with the Defendant's and Witness' personal knowledge have provided the court and the Defendant with the evidence to prove Wells Fargo's **Complicity** in violating State and Federal laws by accepting, approving, funding, promoting, perpetuating, protecting and defending the illegal brokering activities and support system of an "Unlicensed" Seller [WF00003, WF00016, WF00027, WF00029, & WF00088-WF00093] in violation of state and federal law, with help from the Broker [WF00001-WF00027, WF00030-WF00038, WF00066-WF00077 & WF00080-WF00089] in violation of state law, the Appraiser [WF00078] in violation of state law and Wells Fargo's own employees, most notably Janet Frotscher [WF00120, WF00121, WF00125-WF00126, WF00130 & WF00132-WF00133] in violation of state and federal law. *See also State v. Small*, 272 SE 2d 128 - NC: S. Ct. 1980; *State v. Williams*, 216 N.C. 446, 5 S.E.2d 314 (1939); *16 Am.Jur.2d Conspiracy* § 19 (1979); *Nye & Nissen v. United States*, 336 U.S. 613, 626 (1949); *United States v. Rosenberg*, 888 F.2d 1406, 1426 (D.C. Cir. 1989); *United States v. Peoni*, 100 F.2d 402 (1938); *Hyde v. United States*, 225 US 347 - Supreme Court 1912 & *Pinkerton v. United States*, 328 U.S. 640 (1946)

16. It has been over 5 years and the Plaintiff still has not refuted, controverted, denied or filed any evidence that contested any factual statements in the Defendant's "**Verified Pleadings**" that are incorporated by reference as though fully set forth herein verbatim. (The Plaintiff's September 6, 2012 opposition to the Defendant's August 15, 2011 *Motion to Dismiss with Prejudice* did not address any of the factual issues raised. All the Defendant has to prove is the Plaintiff violated a State law {e.g. Sections 16-13-10(A)(4), 37-23-40(1)-(2) & 40-58-70 - SC Code of Laws} or a Federal law {e.g. 15 USC § 1681n(a)} and the Plaintiff's action must be

Dismissed with Prejudice and the Defendant awarded Statutory Damages and any Punitive Damages the Court deems is proper for Wells Fargo's violation of a Federal and/or State law. This is why the Defendant filed the *Rule 41(b), SCRCP Motion to Dismiss with Prejudice*. Based upon the facts and the law, Wells Fargo is not entitled to any relief. {*Rule 41(b), SCRCP*}

17. *Section 1-13-30(d) – SC Code of laws* clearly defines a person as one of the following:

(d) "**Person**" means individuals, labor unions and organizations, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, other legal or commercial entities located in part or in whole in the State or doing business in the State, the State and any of its agencies and departments or local subdivisions of state agencies and departments; and municipalities, counties, pecial purpose districts, school districts and other local governments. This includes Wells Fargo. [Boldness added for emphasis]

18. *Section 16-17-410 – SC Code of Laws* clearly defines a conspiracy as the following:

"a combination between two or more **persons** for the purpose of accomplishing an unlawful object or lawful object by unlawful means. A person who commits the crime of conspiracy is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years." [Boldness added for emphasis]

19. Attorney Calub failed to file any opposing affidavit that is based on personal knowledge.

South Carolina's Appeals Court clearly states, "[T]his court ordinarily will not consider statements of fact presented only in an attorney's argument in determining whether a genuine issue of material fact exists sufficient to preclude summary judgment." *West v. Gladney*, 341 S.C. 127, 135, 533 S.E.2d 334, 338 (Ct. App. 2000). In addition *Rule 56(e), SCRCP* clearly states in pertinent parts...

"Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein."

20. In addition, if the Plaintiff disagreed with or disputed any of the facts in the Defendant's Legal Memorandum that is also a "**Verified Pleading**" filed on August 15, 2011, the Plaintiff or the Plaintiff's witness/es that has/have personal knowledge must complete and file a statement

opposing the Defendant's statements in the "**Verified Pleading**". Since the Plaintiff did not and has not controverted any statement in over 5 years, all the Defendant's "*Sworn Statements of Fact*" are admitted without contest or controversy because they are based on personal knowledge and eyewitness accounts and not information or belief. Therefore, the Court must grant *Summary Judgment* forthwith, *Dismiss* this case forthwith *with Prejudice* and the Court must award the Defendant any Statutory Damages and/or Punitive Damages, including compensation for cost of suit due to the Plaintiff's violation of any State and/or Federal law as the Court deems as proper and/or appropriate. The Defendant's "*Sworn Statements*" carry the full weight of the penalty for perjury that any false testimony does.

D. The Defendant's Verified Pleadings.

21. The same is true for "**Verified Pleadings**". This means the Defendant's Affidavits and "**Verified Pleadings**" can be used in any court of law; especially, the Pleadings that clearly document Wells Fargo's willing and knowing participation after all the facts were known. Therefore, they can be sent to.. and used in .. any legal proceeding by the United States Justice Department (FBI), the United States Senate and Congress, major news outlets, the Securities and Exchange Commission, International Courts, Orangeburg County's legal representatives and South Carolina's Attorney General's Office to prosecute Wells Fargo for Securities Fraud, Mortgage Fraud, Bank Fraud, Insurance Fraud and for Wells Fargo's **Complicity** in aiding and abetting unlawful acts with full knowledge of their illegality in violation of SCUTPA.

22. The Defendant's "**Verified Pleadings**" and Affidavits, together with the Witness' Affidavits, are based on personal knowledge not information or belief. The Defendant's and Witness' knowledge of the facts are admissible as evidence in any court of law and they show affirmatively that the Defendant and the Witness are competent to testify relative to the matters before any Court of Law because they are personally involved. In addition.....,

(a) *Rule 401, SCRE* states, "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."

(b) *Rule 402, SCRE* states the following, "All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of the State of South Carolina, statutes, these rules, or by other rules promulgated by the Supreme Court of South Carolina. Evidence which is not relevant is not admissible."

(c) *Rule 601(a), SCRE* clearly states... "Every person is competent to be a witness except as otherwise provided by statute or these rules."

(d) *Rule 602, SCRE* clearly states in pertinent parts..."A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony...."

(e) *Rule 701, SCRE* firmly states... "If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which (a) are rationally based on the perception of the witness, (b) are helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) do not require special knowledge, skill, experience or training." and.....

(f) *Rule 704, SCRE* clearly states,... "Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact."

23. The Defendant and Witness' "*Sworn Statements of Fact*" can be used to show not only did Wells Fargo's personnel know about the illegality supporting the loan, note and mortgage, they choose to ignore it and lie about it. Janet Frotscher never mentions the subject of her discussions with the Defendant or the Witness in any letter. She simply refers to it as correspondence. Correspondence can be about anything including Bank Fraud, Mortgage Fraud, Insurance Fraud and Securities Fraud. It was Janet Frotscher that falsely accused the Defendant and refused to cancel the loan despite having received [WF00120, *paragraph 1*] verifiable evidence of falsity {*Defendant's Exhibits 8-14*}. This entire foreclosure proceeding is based on Janet Frotscher's false accusations and misstatements of material facts. [WF00125-WF00126, *paragraph 4*].

24. Therefore, based on personal knowledge, when the Defendant states affirmatively that an

“Unlicensed” Seller brokered the loan by himself, with help from the Broker, the Appraiser and Wells Fargo’s own employees, most notably Janet Frotscher...., an “Unlicensed” Seller brokered the loan by himself, with help from the Broker, the Appraiser and Wells Fargo’s own employees, most notably, Janet Frotscher [WF00120]. These are *Sworn Statements* under the penalty of perjury for any false testimony.

25. The Plaintiff has consistently failed to controvert the Defendant’s *Sworn Statements of Fact* with hard evidence or any counter-affidavit, deposition, admission, testimony or interrogatory in over 5 years. The evidence the Plaintiff has provided [WF00120 & WF00125-WF00126] validates the Defendant’s *Sworn Statements of Fact* and verifies the Defendant’s statements are true and... Janet Frotscher has not only misrepresented or misstated the facts, Janet Frotscher has simply LIED. Wells Fargo’s exhibits [WF00001-WF00027] prove the Broker ordered the documents for the Seller and not.... the Defendant. This is evidenced by the 7-59 file number that the Appraiser [WF00078] assigned to the Seller – Thomas Jacobs [WF00027]

26. In addition to the Defendant’s “**Verified Pleadings**” and Affidavits, the Defendant’s exhibits cannot be ignored by the Court or the Plaintiff.

27. *Rule 10(c), SCRCF* clearly states in pertinent parts....

“Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any plat, photograph, diagram, document, or other paper which is an exhibit to a pleading is a part thereof for all purposes if a copy is attached to such pleading.”

28. Now that the Court and the Plaintiff are aware that all the Defendant’s filed Pleadings, except 1, are “**Verified Pleadings**” that meet the legal requirements of *Rule 56(e), SCRCF* for “**Verified Pleadings**” that have the probative force of affidavits, statements contained in the Defendants affidavits that are not conclusions of law can only be rebutted or controverted by an individual with personal knowledge and/or hard evidence. See *Empire Shoe Service, Inc v Gershenson*, (1975) 62 Mich.App. 221; 233 N.W.2d 237; *Shamie v. Grossman*, (1971) 34

Mich.App. 97; 190 N.W.2d 734. ("Although afforded ample opportunity by way of amendment and discovery, plaintiff did not rebut the allegations of payment contained in defendants' affidavit, and accelerated judgment in their favor entered. The trial judge was justified in accepting the facts stated in defendants' affidavit as true, People, ex rel. Thornton Construction Company, Inc., v. United States Fidelity & Guaranty Company (1967), 8 Mich App 540") (holding that the "Defendant failed to produce counter-affidavits or other evidence contradicting the affidavits of plaintiff. In the absence of such, the trial court was justified in accepting the facts stated by plaintiff as true. Dionne v. Pierson Contracting Company, (1965) 2 Mich.App.134, Beck v. Delta Recreation Corporation, (1966) 2 Mich.App. 518, Durant v. Stahlin, (1965) 375 Mich. 628 (Appeal in re Van Dusen, Elliott, Romney)"); Also see Winsett v. Donaldson, (1976) 69 Mich. App. 36; 244 N.W.2d 355.

29. 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, 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: 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); For the reason aforesaid, the Defendant is now notifying the Court and the Plaintiff that this response to the Plaintiff's motion and all past Responses are "Verified Pleadings" pursuant to Rule 56(e), SCRPC.

II. WELLS FARGO HAS BEEN PERPETUATING A FRAUD FOR OVER 5 YEARS

- A. For over 5 years, the Defendant's un rebutted "Verified Pleadings" documented Wells Fargo's Securities Fraud, Mortgage Fraud, Bank Fraud and Insurance Fraud and Wells Fargo's Complicity in the Seller's Illegal Brokering Activities, his Predatory Lending Scheme and his Home Improvement and Mortgage Fraud with help from the Broker [WF00030-WF00038, WF00074, WF00076-WF00077, WF00080-WF00081, WF00083-WF00085 & WF00089], Appraiser [WF00078] and Wells Fargo's own employees, most notably Janet Frotscher [WF00120, WF00121, WF00125-WF00126 & WF00132-WF00133].

30. Now that Court and the Plaintiff realize they have "Sworn Statements" based on personal knowledge, the Defendant's "Verified Pleadings" document the "Fraud" Wells Fargo has been perpetrating and perpetuating... and continues to perpetuate.. upon the Defendant, Orangeburg County, the State of South Carolina, the Federal National Mortgage Association (Fannie Mae) and/or the Federal Home Loan Mortgage Corporation (Freddie Mac) and every other person and/or entity that may have invested in a mortgage backed security in which loan #708-0174072777 is packaged because the loan's value and the secured note are based on documents that are verifiably "Falsified" and two documents are based on verifiable "Forgery" – one is "Forgery by Substitution" [WF00014-WF00026], the other is in your face "Forgery" [WF00029].

31. Fraud may include “anything calculated to deceive and may consist of a single act, a single suppression of truth, suggestion of falsity, or direct falsehood, innuendo, look or gesture.” Miller v. William Chevrolet/Geo, Inc., 762 N.E.2d 1, 7 (Ill. App. Ct. 2001)(citing Russow v. Bobola, 277 N.E.2d 769, 771 (Ill. App. Ct. 1972)); see also Stapleton v. Holt, 250 P.2d 451, 453-4 (Okla. 1952) and Delahanty v. First Pa. Bank, N.A., 464 A.2d 1243, 1251 (Pa. Super. Ct. 1983).

32. Golden Gate Mortgage did not broker any loan and has never seen the Defendant. The Broker simply LIED; [WF00032, WF00035 & WF00038], just like Janet Frotscher simply LIED [WF00125-WF00126]. The Defendant has never met the Appraiser [WF00078] {See the unrebutted and uncontested Affidavit of George M. Sistrunk that is date stamped August 15, 2011 on page 10 of 11, paragraph #34, resubmitted as Defendant's Exhibit 245 and it was given to attorney Brian A. Calub at the Deposition held for the Defendant and Witness on March 2, 2012}

33. The Seller obtained all the signatures; including the signature on Golden Gate Mortgage's Broker Agreement [WF00080-WF00081]. The Seller (Thomas Jacobs) told the Defendant all the paperwork had to be signed or Golden Gate Mortgage would not fund the loan. To date, the Plaintiff (Wells Fargo) has not provided any statements or documents that the Plaintiff is not affiliated with Golden Gate Mortgage or Thomas Jacobs. Instead of providing evidence, the Plaintiff's attorney; Brian A. Calub, has relied on trickery and leading questions to get the Defendant to admit she does not have any evidence of an agreement or affiliation. Of course the Defendant does not have any evidence of a secret, hidden and/or unpublished agreement between the Seller and/or the Broker and/or the Appraiser with Wells Fargo if such agreements did exist and were entered into off the record... nor would anyone else know. {See the Affidavit of George M. Sistrunk that is date stamped August 15, 2011 on page 10 of 11, paragraph #34, resubmitted

as Defendant's Exhibit 245 and it was given to attorney Brian A. Calub at the Deposition held for the Witness on March 2, 2012}

34. The Defendant's signed paperwork was for a home loan from Golden Gate Mortgage and/or the Seller's business associates. The Defendant had no way of knowing and still has no way of knowing whether or not Wells Fargo is..or is not.. a business associate of Thomas Jacobs. And to date, no one from Wells Fargo has filed any documents denying an association with the Seller, the Broker or the Appraiser. Golden Gate Mortgage was represented as a lender by the Seller, the Broker and Wells Fargo. Therefore, the Defendant was justified in believing and relying on the Seller's representations that Golden Gate Mortgage was a lender and his business associates were handling her home loan [See Wells Fargo's Filed Exhibits WF00003, WF00010-WF00013, WF00016, WF00023-WF00026, WF00074 & WF00076]

35. Based on Wells Fargo's documents, the Plaintiff is **Complicit** in misrepresenting the broker as a lender. Section 40-58-70 – says it is unlawful to present a broker in the guise of a lender. Section 40-58-70 – SC Code of Laws clearly states in pertinent parts...

“In addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person in the course of a mortgage loan transaction to:

- (1) misrepresent the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan. This includes presenting the broker in the guise of a lender or pursuing a course of misrepresentation through agents or otherwise;
- (2) intentionally misrepresent or conceal a material factor, term, or condition of a transaction to which he is a party, pertinent to an applicant for a mortgage loan or a mortgagor;

36. The Defendant's "**Verified Pleadings**" are available as a public record. 423 Bayne Street's physical condition, on the date the Appraiser [WF00078] signed the 7-59 Appraisal, 10/09/07 [WF00008 & WF00021], is recorded in the Defendant's *First Amendment to Answer to Complaint* on pages 27-31 in paragraphs 119-XIII – 122-XIII(A)-(VV) that was filed on July 31,

2008 and is incorporated by reference as though fully set forth herein verbatim. All anyone needs to do, including the Court, is compare the documented evidence of the actual physical condition of 423 Bayne Street with the Plaintiff's filed 7-59 Appraisals [WF00001-WF00026]. Compare the stated physical condition of 423 Bayne that is on file in the Court of Common Pleas with the Plaintiff's 7-59 Satisfaction Completion Certificate [WF00009 & WF00022]. As the Defendant has consistently stated there is no alleged "Fraud". **IT IS REAL & VERIFIABLE.**

37. Wells Fargo's **Complicity** in the acceptance, approval, promotion, reliance, perpetuation and defense of the illegal brokering activities of an "Unlicensed" Seller and the "Fraud" associated with it... is real, it is documented in the court's records, and as the Defendant has stated in a previous "**Verified Pleading**", Wells Fargo's "Fraud" is so in your face, until a middle school student or any John Q. Citizen possessing reasonable intelligence; as define by Black's Law Dictionary, can prove it with little or no effort. {See Black's Law Dictionary, 2nd Edition definition of reasonable and intelligence}

38. Wells Fargo's "Forged" and "Altered" Contract of Sale is also in your face "Forgery". Even if they are cut-and-paste copies or very good forgeries, compare the Defendant's signature and initials on Wells Fargo's documents and the Defendant's **Name Affidavit** [WF00101] with [WF00029] and compare [WF00029] with the Defendant's filed {Exhibit 140}, that also came from Wells Fargo. The same is true for the "Forgery by Substitution" on the 7-59 Appraisals. The evidence and proof can be easily determined by Comparing [WF00001-WF00013] with [WF00014-WF00026]. In addition to being "Forgeries by Substitution", these documents also belong to the Seller.... and were ordered for the Seller..... not the Defendant. [See WF00027] Janet Frotscher lied [WF00125-WF00126] – the Broker never ordered any Appraisal for the Defendant, nor did the Defendant meet with the Appraiser on September 14, 2007. Wells Fargo's documents show the borrower – Jacobs [WF00027] met with the Appraiser [WF00078].

39. The credit report [WF00066-WF00073] was never authorized in October of 2007. The evidence and proof that the report is "Unauthorized" is on the next page [WF00074]. Once the Plaintiff was duly notified by fax that the Defendant's credit report was unauthorized, the loan should have been cancelled because its use is a violation of a Federal law - 15 USC § 1681n(a).

15 USC § 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..."

40. The fact that the information and documentation came from Nelson Mullins Riley & Scarborough, LLP, in a litigated case, and the Defendant's husband was the person that faxed it to Wells Fargo Home Mortgage, is immaterial. The Defendant did not authorize any credit report by anyone in October of 2007. Even though page [WF00074] clearly proves the report had no written authorization on October 3, 2007, page [WF00066] clearly shows the credit report was done for Golden Gate Mortgage [WF00066-WF00073] and it was used by Wells Fargo on December 4, 2007 [WF00065].

41. According to Janet Frotscher in her letter dated, June 2, 2008, [WF00125-WF00126] the loan was approved based on the Appraisal, the Satisfaction Completion Certificate the Contract of Sale and information supplied by the Defendant that were received on December 4, 2007. The Defendant never sent any information to Wells Fargo. Wells Fargo's acceptance and use of falsified documents to secure a note is so brazen and in your face that it requires little or no real effort to prove. This is because with no real effort, anyone can clearly and convincingly

establish the actual fraud being perpetrated upon the Defendant, investors and the State of South Carolina because a mortgage that is supported by verifiably falsified documentation has been recorded in Orangeburg County in violation of South Carolina law. [WF00042-WF00060] Forgery is clearly fraudulent. Howell v. Midway Holdings, Inc., 362 F.Supp.2d 1158, 1165 (D. Ariz. 2005) (“[T]he conscious evil of such behavior [forgery and alteration of a car lease contract] is obvious.”); Walker Bank & Trust Co. v. Thorup, 317 P.2d 952, 953 (Utah 1957).

- (a) The 7-59 Appraisals are verifiably forged and falsified. [WF00001-WF00026]
- (b) The Contract of Sale is verifiably forged and altered. [WF00028-WF00029]
- (c) The 7-59 Satisfaction Completion Certificate is also verifiably falsified. [WF00009]
- (d) The credit report is verifiably unauthorized [WF00066-WF00073] and Wells Fargo’s unauthorized use is a violation of 15 USC § 1681n(a).

Based on the evidence in Wells Fargo’s document file, Golden Gate Mortgage and Wells Fargo are joint tortfeasors in their violation of 15 USC § 1681n(a).

42. In all fairness to Kathryn R. Perkinson [WF00042], even though her advice proved to be misguided, she did advise the Defendant to fax evidence of the “Fraud” and the Defendant’s written request to cancel to 1-866-234-8271, Wells Fargo Home Mortgage’s fax number in Des Moines, Iowa. She also offered to assist in filing the request to cancel the loan, in the event the Defendant could not work things out with the Seller. Because Kathryn R. Perkinson had agreed to assist, it was during this time period from December 24, 2007 to March of 2008, that the Defendant believed Wells Fargo was also a victim and was willing to work with her to end the “Fraud”.

43. By March of 2008, the Defendant realized Wells Fargo was not an innocent victim like the Defendant, but an actual participant, promoter, protector and defender of the Seller’s illegally brokered loan. Contrast Kathryn R. Perkinson [WF00042] with Janet Frotscher [WF00120, WF00121, WF00125-WF00126, WF00130, WF00132-WF00133] who resorted to falsely accusing the Defendant [WF00125-WF00126] after being notified by telephone on January 14, 2008

{See Defendant's Filed Affidavits} and..... after she received the evidence of "Fraud", "Forgery" and "Falsification" on "February 5, 2008 & February 7, 2008; that is noted in [paragraph 1 in WF00120] the evidence received was {Defendant's Exhibits 8-14} and information that Thomas Jacobs brokered the loan and not Golden Gate Mortgage in violation of Federal and State law relative to brokering mortgage loans.

44. It is a 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)

45. "[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.}

46. 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.}

47. 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.").

B. For 2 years the Defendant documented the Massive Filing Fraud of attorneys James H. Burns and Elizabeth Scott Moise and rebutted the Affidavit of Wells Fargo's attorney Elizabeth S. Hodgson

48. Elizabeth S. Hodgson's affidavit {Defendant's Exhibit 235} was rebutted, by the Defendant on May 26, 2009 {Defendant's Exhibit 266, page 1}. Elizabeth S. Hodgson's filed affidavit demonstrated she had no personal knowledge of the loan's history. In 2008 and 2009, Wells Fargo did not have a policy, process or procedure to modify a loan, note or mortgage based on falsified documents or that came into existence by fraudulent means.

49. According to the supervisor at Wells Fargo's Lost Mitigation Department, located on 3476 Stateview Blvd., in Fort Mill, South Carolina, [WF00122-WF00123], any mortgage and/or loan that is obtained by fraudulent means and/or supported by falsified documents must be cancelled. Based on the information the Defendant gave the supervisor during the telephone conversation, she also concluded fraud was involved. Since the documents supporting the loan were suspected of being falsified and the loan approved because of fraud, the Defendant was told to fax the evidence and any related information to an Executive Resolution Team in Des Moines, Iowa. This information has been included in many of the Defendant's "**Verified Pleadings**" since 2009.

50. This is basically the same information the Defendant received from Kathryn R. Perkinson [WF00042] on December 24, 2007. This information was also verified by Elizabeth Scott Moise. In June of 2011, in a letter, dated June 29, 2011 {Defendant's Exhibit 218, paragraph 1}, Elizabeth Scott Moise admitted Wells Fargo did not have a policy, process or procedure to modified a fraudulent loan, note and mortgage.

51. Attorneys Burns and Moise failure to “Substantially Comply” with **Section (3)** of the May 22, 2009 Supreme Court of South Carolina Order for Foreclosure Cases by failing to file Case Status Updates for the thirty (30) day periods beginning on October 15, 2010, on or about, to November 15, 2010 on or about..., December 15, 2010, on or about, to January 15, 2011 on or about..., and January 15, 2011, on or about, to February 15, 2011 on or about....., as required and pursuant to the May 22, 2009 Supreme Court of South Carolina Order for Foreclosure Cases is minor when compared to their **Massive Filing Fraud.** {Review filing record of Burns and/or Moise's Case Status Updates}

52. Based on the evidence and attorney's Brian A. Calub's admission in Judge Goodstein's courtroom at the hearing held on December 6, 2011, the Plaintiff did not “Substantially Comply” with Chief Justice Toal's Administrative Order. According to the Chief Justice's Administrative Order #2009-05-02-01...

“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.”

53. It is on the last sentence, “the **failure to do so may result in dismissal of the action**”, that triggered the filing of the Defendant's *Rule 41(b), SCRCF Dismissal with Prejudice*. After over 3 years, all the Defendant really wants to know is:... Does an Administrative Order from Chief Justice Toal mean anything? ...and..if the Chief Justice's Order has no real legal merit; except in deciding legal matters... then the Defendant can drop this matter and move on. The Defendant needs a ruling one way.... or the other... just to know.... one way or the other. Burns and Moise's **Massive Filing Fraud** is far more egregious than their missing a few Case Status Updates.

54. The attorneys actually filed OUTRIGHT LIES. These outright lies are documented in the Defendant's “**Verified Responses**” that are incorporated by reference as though fully set forth herein verbatim. The violations of Burns and Moise might be even more extensive than the

Defendant is capable of reporting and this does not include the recent violation of *Rule 30(b)(2)*, *SCRCP*. Judge Goodstein should have been notified that no attorney was present during the Defendant's deposition, and under *Rule 30(b)(2)*, *SCRCP*, the deposition could not be used against the Defendant. In addition, unlike the Defendant's "Verified Pleadings", the deposition does not have the probative force of an affidavit because it is not sworn testimony and no notary public or authorized administer of oaths was present.

55. The Court of Common Pleas failed to act when Elizabeth S. Hodgson, filed a *False/Scam Affidavit* and may have committed "*Fraud upon the Court*" by misleading and deceiving the Court. The attorney claimed she was familiar with the Defendant's case. *This was and still is the FIRST ABSOLUTE LIE in Hodgson's Affidavit.* If the attorney was familiar with the Defendant's case, Elizabeth S. Hodgson, should have known and would have known, the Defendant's complaint was and still is the Defendant's Loan, Note and Mortgage is "Fraudulent"; and was obtained by the "Fraud", "Deceit" and "Deception" of the Broker, the Appraiser and the Seller. {Refer to Filed Exhibit 235 and the Defendant's Affidavits}

56. *The second ABSOLUTE LIE in the False/Scam Affidavit*, filed by attorney, Elizabeth S. Hodgson, was and still is.. the Defendant's loan was subject to and possibly eligible for modification under the Home Affordable Modification Program, (HMP/HAMP). Wells Fargo never had any program, policy, process or procedure that can modify a "Fraudulent" Loan, Note and/or Mortgage.

57. In addition, under Wells Fargo's Compliance Agreement, the Plaintiff has a [D]uty to adjust any all closing documents to **conform** and be **acceptable to the marketplace in the instance of transfer, sale or conveyance** to any entity. "[D]uty' is a question of whether the Plaintiff is under any obligation for the benefit of the Defendant; and in negligence cases, the [D]uty is always the same--to conform to the legal standard of reasonable conduct in the light of

the apparent risk." *Huggins v. Citibank, N.A.*, 355 S.C. 329, 333, 585 S.E.2d 275, 277 (2003).

"What the Plaintiff must do, or must not do, is a question of the standard of conduct required to satisfy the [D]uty." *Id.* "An affirmative legal [D]uty to act exists only if created by statute, contract, relationship, status, property interest, or some other special circumstance." *Carson v. Adgar*, 326 S.C. 212, 217, 486 S.E.2d 3, 5 (1997)

58. Wells Fargo's Compliance Agreement [WF00117] does not specifically exclude attorneys as representatives in order to adjust any and all closing documents for errors and omission. Accordingly, Wells Fargo's attorneys; Burns and Moise, are "Misleading" the Plaintiff and the Court and "Defrauding" the Defendant by perpetuating the illegal brokering activities of the Seller, Appraiser and the Broker, after the facts are known.

59. Under the terms of Wells Fargo's Compliance Agreement, the Defendant must cooperate with anyone acting on behalf of Wells Fargo in order to assure the loan documentation that was executed **conforms and is acceptable** to the marketplace in the instance of transfer, sale or conveyance to any entity including but not limited to any investor, Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA) Federal Home Loan Mortgage Corporation, Department of Housing and Urban Development, Veterans Administration or any Municipal Bonding Authority. The Burden of Proof and adjustments for errors and omissions is on the Plaintiff and anyone representing the Plaintiff or acting on behalf of the Plaintiff. [WF00117]

60. Wells Fargo's attorneys; Burns and Moise, are violating the terms of the Compliance Agreement with the Defendant to assure **the loan documentation conform and be acceptable to the marketplace in the instance of transfer, sale or conveyance** to any entity. By not disclosing to Wells Fargo; that based on the Compliance Agreement, the information received from Dorothy Sistrunk, with whom, Wells Fargo has a written and signed Compliance

Agreement, the only legitimate adjustment for errors and omissions in the loan's documentation is Rescission or Cancellation. Otherwise, the Attorneys are **Complicit** in promoting, maintaining and protecting the illegal brokering activity of the Seller, that was helped by the Broker, the Appraiser and by Wells Fargo's own employees, most notably, Janet Frotscher [WF00120] after all the facts were known.

61. Neither Burns nor Moise has filed any documentation that they notified Wells Fargo that according to the information received from Dorothy Sistrunk by admissions, depositions, record production, sworn testimony and in sworn affidavits, loan #0174072777 was brokered entirely by Thomas Jacobs an unlicensed broker and an unlicensed loan originator pursuant to South Carolina law. Golden Gate Mortgage, based on your own documents, was a paperwork conduit for the illegal brokering activities of the Seller - Thomas Jacobs, who was helped by the Appraiser - Jim H. Austin, III and there is also evidence of **complicity** by your employees.

62. Neither Burns nor Moise has filed any documentation in the Court of Common Pleas that they notified Wells Fargo that based on verifiable information that can be obtained from local and state agencies, and the sworn statements from Dorothy Sistrunk, Thomas Jacobs had no "Building Permit" to do repairs at 423 Bayne Street. Jim H. Austin III, LIED, the broker, David Terrell LIED and Janet Frotscher LIED. The Satisfaction Completion Certification used by underwriters in whole or in part to approve the loan is a Scam. No repairs were completed, the appraisal is falsified and the property value inflated. The loan was void *ab initio*. In addition to being obtained in violation of state and federal law, it was also obtained with an unauthorized credit report.

63. If Burns or Moise fail to accurately disclose this information to Wells Fargo, Burns and Moise are knowingly perpetuating the fraud for financial gain at the expense of the Defendant and the Plaintiff... and are committing another fraud upon the litigants ; in addition to their

Massive Filing Fraud during the Stay/TRO.

64. According to Amanda Weatherly's Affidavit, dated June 4, 2013 and filed on June 27, 2013, attorneys, Elizabeth Scott Moise; along with James H. Burns are the attorneys of record. Therefore, Elizabeth Scott Moise, one of Wells Fargo's attorneys of record, completely corroborated the information the Defendant received from the Plaintiff's Loss Mitigation Department in 2008 and Kathryn R. Perkinson in 2007. Elizabeth Scott Moise's admission on June 29, 2011 proves Elizabeth S. Hodgson LIED, and deceived and misled the Court on May 19, 2009; the date attorney Hodgson's *False/Scam Affidavit* was filed. {Refer to Defendant's filed Exhibit 235} The Defendant's "Fraudulent" note and mortgage never qualified for the HMP.

65. The Court/Judge in the Defendant's case did not resolve the issue as required by the Supreme Court's Order. The Defendant received a copy of the Affidavit on May 20, 2009 and filed a Response on May 26, 2009. The Defendant notified the Court/Judge that Elizabeth S. Hodgson's Affidavit was misleading. The Defendant's notarized response was well within the Order's 10-day filing requirement for a "Counter Affidavit". [A notarized response is also a **"Verified Response and/or Verified Pleading"** if it complies with *Rule 56(e), SCRCF.*]

Under Administrative Order #2009-05-22-01, "The judge shall consider the affidavit and any counter affidavit that may be filed to determine if there is any contested issue that must be resolved regarding the eligibility of the loan for modification under the HMP or satisfaction of the requirements of the HMP if it applies. If so as to either, the judge shall resolve this issue like any other contested issue in a mortgage foreclosure action."

66. The Defendant's **"Verified Response"** informed the Court/Judge that Elizabeth S. Hodgson's Affidavit was misleading because Wells Fargo's Loss Mitigation Department suspected the Defendant's loan *WAS* approved because of "Fraud" in 2008. {See Defendant's Response to Plaintiff's Affidavit dated May 26, 2009}

67. Wells Fargo's Loss Mitigation Department advised the Defendant to contact Wells Fargo in Des Moines, Iowa to have the loan cancelled because of suspected fraud. When the Defendant

contacted Janet Frotscher's Executive Resolution Team in Des Moines, Iowa during May of 2008 and re-faxed the information as instructed on June 7 & 9, 2008 along with additional information relative to Wells Fargo's use of falsified documents and on July 10, 2008, a request to suspend foreclosure proceedings. Janet Frotscher not only did not cancel the loan, she transferred the loan to another department for foreclosure. Janet Frotscher acknowledged receiving the information {*Defendant's Exhibits 8-14 & 56-58*} in her letter dated June 17, 2008 [WF00130].

68. Both Kathryn R. Perkinson in 2007 and Wells Fargo's Loss Mitigation Department in 2008 recommended that the Defendant contact Wells Fargo in Des Moines, Iowa to have the loan cancelled. The problem in Iowa was Janet Frotscher's Executive Resolution Team. Janet Frotscher would not cancel the loan despite all the evidence of fraud that was sent to her. Janet Frotscher's Executive Resolution Team kept the Defendant's "Fraudulent" Loan, Note and Mortgage alive for reasons no one can understand... and she has kept it alive by falsely accusing the Defendant. [WF00125-WF00126]

69. During the Stay/TRO, the Court/Judge was also notified in the Defendant's "**Verified Pleadings**" that Burns and/or Moise were/was filing false and misleading statements relative to the HMP/HAMP from June of 2009 until the last legitimate update was filed in October of 2010. Wells Fargo did not make any attempt to contact the Defendant during the "Stay"/TRO. The attorneys' statements in their filed Case Status Updates are ABSOLUTE LIES.

(A) Administrative Order #2009-05-22-01 Subsection [4] states in pertinent parts... "To ensure that a borrower currently at risk of foreclosure has the opportunity to apply for the HMP, servicers should not proceed with a foreclosure sale until the borrower has been evaluated for the program and, if eligible, an offer to participate in the HMP has been made. Servicers must use reasonable efforts to contact borrowers facing foreclosure to determine their eligibility for the HMP, including in-person contacts at the servicer's discretion." Wells Fargo failed to "Substantially Comply" with the terms and conditions of the "Contact Requirements" of **Subsection [4]** as outlined and stated in the Supplemental Directive.

70. Wells Fargo failed to “Substantially Comply” with the “Every 30 Day” filing requirement of **Section (3)** and failed to “Substantially Comply” with the “Contact Requirements” of **Subsection [4]** of the Supplemental Directive. In addition to a *Dismissal* upon motion under *Rule 41(b) SCRCP*; and a dismissal *pursuant to Section (3)* that is supported by the Plaintiff’s failure to comply with **Subsection [4]**, the Defendant’s case can also be DISMISSED BY DEFAULT.

71. To prove the existence and perpetuation of a Massive Filing Fraud by Burns and/or Moise, and to prove the Defendant’s *Sworn Statements of Fact* are true, all the Court/Judge has to do is demand Burns and/or Moise verify their filed Case Status Update statements with hard evidence; i.e., phone records, dates, times, HMP/HAMP determination methods and the names of the personnel that contacted the Defendant during the dates and times in question and prove the Defendant refused to talk with Wells Fargo. If done so, the Court/Judge will discover these records do not exist.

III. REASONS FOR OBJECTING TO ANY CONTINUANCE AND REFILING THE DEFENDANT'S RULE 41(b), SCRCP MOTION TO DISMISS WITH PREJUDICE THAT WAS FILED ON AUGUST 15, 2011

A. The court is effectively barred from granting relief and the Plaintiff is effectively barred from receiving legitimate and can't prevail under any theory of law on any appeal, not even a million dollar or more award for punitive damages.

72. There is no way for the Court or the Defendant to know how many investors Wells Fargo may have defrauded in a Mortgage Backed Security if loan #708-0174072777 is included in the package. Wells Fargo has not provided any evidence the Defendant's loan was included in the settlement Wells Fargo and other major banks enter into with the Justice Department. In addition, there are few if any case law files with elements in the Defendant's case. As the Defendant has stated in a previously filed “Verified Pleading”, Wells Fargo vs. Sistrunk is a precedent setting case, not a precedent following case.

73. Unless South Carolina's Court's are absolutely corrupt and the all the judges at every level are absolutely corrupt and/or incompetent, Wells Fargo is effectively barred from any relief and South Carolina's courts and the Federal courts are effectively barred from granting relief under any theory of law, unless they are also absolutely corrupt and/or incompetent at every level. Based on the case law files the Defendant has cited in her "**Verified Pleadings**", there is absolutely no evidence this true. Nor will this ever be true. There will always be judges and juries and men and women that believe in truth, honesty, upholding the integrity of the law, administering true justice and doing what is right...simply because it is the right thing to do.

74. As the Defendant has stated in "**Verified Pleadings**" that have already been filed in the Court of Common Pleas, the Defendant is a victim of " Fraud in the Inducement" and "Fraud in Factum". The Defendant's *Sworn Statements* relative to this truth have never been refuted, denied, controverted or contested in over 5 years. After 5 years, this is an uncontested *Statement of Fact*. {Also see the Affidavit of George M. Sistrunk and the Defendant's Affidavits that have never been contested.}

75. The Defendant is victim of "Fraud in the Inducement," because the Defendant justifiably relied on the Seller's representations that the price of 423 Bayne Street would be lowered during the closing, Golden Gate Mortgage was the Lender, all the paperwork had to be signed including the Broker's Agreement or Golden Gate Mortgage would not fund the loan and the loan was being handled by his friends and business associates. The public records and Wells Fargo's documents verified Thomas Jacobs was the property owner. [WF00092-WF00093] The Defendant knows of no law, rule or regulation that prohibits a property from lowering the price of his house at closing.

76. The Defendant is also a victim of "Fraud in the Factum," sometimes called "real fraud,"

because the Seller misled the Defendant into signing a document that the Defendant believed was lowering the price of 423 Bayne Street. The agreement executed is entirely different from the Seller's representations. "[W]hen a contract is void, it is as if it never existed. See Operating Eng'rs Pension Trust v. Gilliam 737 F.2d 1501, 1505 (9th Cir.1984) (where employer's signature on CBA is procured by fraud in the execution, it is as though "no collective bargaining agreement exists").

77. "[W]here a person is fraudulently induced to sign or endorse a bill or note in the reasonable belief that he is signing something else, he cannot really be said to have made or indorsed the bill or note; hence the ancient plea of *non est factum* is applicable. He is in effect stating that this is not his contract; in fact, it is not a contract at all." 12 Williston on Contracts § 1488, at 333.

78. "[A] promisor's signature procured by fraud in the execution gives no more effect to a contract than a promisor's signature that has been forged. In either case the contract is void; it has never had any legal effect. See Andrews v. Tallman, 47 R.I. 111, 131 A. 50, 51 (R.I.1925) "[U]nder the plea of non est factum [a defendant] may be entitled to prove fraud in the execution of the bond whereby the instrument never had a legal existence as in cases of forgery...."; Crocker v. Bellangee, 6 Wis. 645, 1858 WL 2281, at 11 (Wis.1858)

79. "[A] void contract is null *ab initio*, and the subject of it may be bought, sold, or otherwise dealt with, in all respects precisely as though it had never been — for it never hath been of any force. Instance, a forged or stolen deed, or a deed obtained by fraud in the execution...." Laborers' Pension Fund v. A & C Envtl., Inc., 301 F.3d 768, 780 (7th Cir 2002).

80. Section 36-3-305(a)(1)(ii)(iii) - SC - Code of Laws clearly 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 (i) infancy of the obligor to the extent it is a defense to a simple contract, (ii) duress, lack of legal capacity, or 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...."

B. The evidence to verify the Defendant's Sworn Statements of Fact is available in the public records and in Wells Fargo's documents.

81. The evidence and documentation the Plaintiff needs to cancel the illegal loan transaction and its "Fraudulent" mortgage and note that is based on verifiable falsified documents and for the court's *Rule 41(b)*, *SCRCP* Dismissal of this case with Prejudice and award Statutory Damages and Punitive Damages to the Defendant for Wells Fargo's violation of Federal and State laws; while accepting, approving, promoting, protecting and defending an illegal loan transaction that may or may have been submitted by the broker.....is available in the public record.

82. Golden Gate Mortgage and/or David Terrell might be accepting responsibility for it because he got paid [WF00089]. Factually, no one really knows except the people involved.

83. The court and anyone else that chooses to... can prove factually that Thomas Jacobs was not a licensed broker or loan originator during the dates and times in question and he did not have a building permit to do any major repairs at 423 Bayne Street. Anyone that chooses to... can factually prove no major repairs were done at 423 Bayne Street as stated on the 7-59 Appraisals and 7-59 Satisfaction Completion Certificates. This information is available in the public records in South Carolina's Department of Consumer Affairs (SCDCA) and in the records that are available in the City of Orangeburg's Building Inspector's Office, respectively.

84. The disclosure requirements for securities can be obtained from the Securities and Exchange Commission, the definition of a Predatory Lending Scheme can be obtained from the FBI and the actual condition of 423 Bayne Street on October 9, 2007 can be obtained from the Defendant's *First Amendment to Answer to Complaint* that is also a matter of public record and it is incorporated by reference as though fully set forth herein verbatim.

85. You can also find the penalties and fines for statutory violations cited in the Defendant's "Verified Pleadings" that are incorporated by reference as though fully set forth herein verbatim. The actual value of 423 Bayne Street, before the Seller's Home Improvement & Mortgage Fraud and Predatory Lending Scheme; that are still being supported, protected and defended by Wells Fargo's personnel, after all the facts were known, was available at Orangeburg County's Tax Assessor's Office. {Defendant's Exhibit 115}

C. Summary Judgment under Rule 41(b), SCRPC is appropriate for the Defendant.

86. Based on the known facts, Wells Fargo's filed exhibits, affidavits, the Defendant's and Witness's unrebutted, uncontested, never refuted, never denied and never controverted "*Sworn Statements*", and after all the facts were known....and based upon those facts and the law, the Plaintiff's has shown no right to relief. (Wells Fargo Bank's) behavior is indicative of an **Accomplice** before, during and after the fact. The Plaintiff's actions would lead anyone to believe Wells Fargo is **Complicit** and is indeed a friend and business associate of the Seller - Thomas Jacobs, David Terrell – the Broker and Jim H. Austin, III – the Appraiser. {See Plaintiff's Filed Exhibits WF00120- WF00121, WF00125-WF00126, WF00130 & WF00132-WF00133}

87. The Defendant's Motion to Amend and Alter the Plaintiff's partial summary judgment order contains an additional option for the Court to render a Summary Judgment in favor of the Defendant. As stated, the Defendant only needs to prove illegality and/or the violation of any law, State or Federal. The rule does not state laws plural. In addition, "[T]he purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder." *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003); *Eagle Container*, 366 S.C. at 621, 622 S.E.2d at 738; *Rumpf v. Massachusetts Mut. Life Ins. Co.*, 357 S.C. 386, 393, 593 S.E.2d 183, 186 (Ct.App.2004).

89. It would not be premature for the trial court to grant summary judgment to the Defendant. Wells Fargo has had over 5 years to depose witness other than the Defendant and has had ample opportunity to develop the record for the Plaintiff's case. See George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 594, 545 S.E.2d 500, 506 (2001) (*finding summary judgment was not premature because defendant "had a full and fair opportunity to develop the record on this issue, but failed to do so."*); see also Bayle v. South Carolina Dep't of Transp., 344 S.C. 115, 128-29, 542 S.E.2d 736, 742-43 (Ct. App. 2001) (*stating it was not error to grant summary judgment because no further discovery would have contributed to the resolution of the case*).

90. Wells Fargo did not rely on any legitimate representations from the Defendant. Even the credit report is "Unauthorized". Wells Fargo has had ample time and Wells Fargo's attorneys have had ample time and opportunity to discover the truth in the public records, but chose to defend the illegal brokering activities of the Seller, that was helped by the Broker, the Appraiser and Wells Fargo's own employees, most notably, Janet Frotscher. National Republic Bank v. National Homes Construction Corp. (1978), 63 Ill. App.3d 920, 925, 21 Ill.Dec. 80, 84, 381 N.E.2d 15, 19.) (Central States Joint Board v. Continental Assurance Co. (1983), 117 Ill.App.3d 600, 606, 73 Ill. Dec. 107, 111, 453 N.E.2d 932, 936.) (*holding that "[I]f ample opportunity existed to discover the truth, then reliance is not justified.*)

91. Wells Fargo was duly notified and chose not to act. In Smith v. Ethell (1986), 144 Ill.App.3d 171, 98 Ill.Dec. 742, 494 N.E.2d 864, the following standard for investigating the status of real estate was set forth: "[W]hen an individual of ordinary prudence is on notice of a possible problem and that further investigation may be required, it is only where under the circumstances the facts should be apparent to one of his knowledge and intelligence from a cursory glance where he has discovered something which serves as a warning that he is being deceived, that he is required to make an investigation of his own."

92. Wells Fargo's personnel knowingly participated in the fraud of the "unlicensed Seller after being duly notified and extended the Seller's, Broker's, Appraiser's and their own employees conduct to others; especially the Defendant. See *Jackson v. S. Holland Dodge*, 755 N.E2d 462, 466 (2001); *Cumis Ins. Soc'y, Inc. v. Peters et al.*, 983 F. Supp. 787, 794 (N.D. Ill. 1997) (holding under Illinois law defendant is liable if he "either knowingly participated in the fraud or knowingly accepted the fruits of the fraudulent conduct"); *Hearthside Baking Co., Inc. v. Maurice Lenell Cookie Co.*, 402 B.R. 233, 251 (Feb. 27, 2009).

D. Relief Sought

93. For all the above stated reasons and the reasons that have been stated in every "Verified Pleading that has been filed in the Court of Common Pleas in the past 5 years that are incorporated by reference as though fully set forth herein the Defendant respectfully requests that the Defendant's Rule 41(b), SCRP 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.

Respectfully Submitted as a Verified Pleading.

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

NOTIFICATIONS

A copy of the Defendant's *Objections to the Plaintiff's Motion and Order of Continuance* 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

Attorney 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 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

The Honorable James B. Jackson, Jr.
PO Box 9000
Orangeburg, SC 29116-9000

ATTEST: TRUE COPY
Clerk of Court
Orangeburg County, SC

NOTARY VERIFICATION

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

OF PERJURY has signed and sealed these attestations this 28th day of March

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

Affiant Signature: Dorothy D. Sistrunk

Notary's Signature as Witness (1): Jill D. Staley

Signed, sealed and delivered in the presence of:

**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On 3/28/2014 before me appeared Dorothy H. 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 Jill D. Staley

Commission Expires _____

JILL D STALEY
Notary Public, South Carolina
My Commission Expires
August 01, 2023

ORANGEBURG COUNTY, SC
CLERK OF COURT
J. B. Clark
TEST. TRUE COPY

(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**
)

) **DEFENDANT DOROTHY SISTRUNK**
) **OBJECTS TO THE PLAINTIFF'S**
) **MOTION FOR ORDER OF**
) **REFERENCE. THERE IS NO VALID**
) **MORTGAGE ON 423 BAYNE STREET**
) **DUE TO FALSE CERTIFICATION**
)

) **Today's Date: March 31, 2014**
)

Comes now the Defendant, Dorothy Sistrunk, to *Object to the Plaintiff's Motion for Order of Reference. There is no valid mortgage on 423 Bayne Street due to False Certification.* The Plaintiff's Order was retrieved from the mailbox at 423 Bayne Street in Orangeburg, South Carolina on Friday, March 21, 2014. The Order is dated March 18, 2014.

NOTIFICATION OF A VERIFIED PLEADING

1. The Defendant hereby notifies the Court and the Plaintiff that this is a "**Verified Pleading**". The need for notification has risen, since the Court and the Plaintiff are seemingly unaware that all the Defendant's Pleadings; except 1, are "**Verified Pleadings**" that meet the requirements of *Rules 11(c) and 56(e), SCRPC*. This is evidenced by the Partial Summary Judgment and Order of Reference that was filed on March 18 & 19, 2014, by the Plaintiff, and the Order of the Court for a Partial Summary Judgment for the Plaintiff; instead of the Court's Order to *Dismiss this action with Prejudice* and awarding all Statutory Damages and any Punitive Damages the Court deems as proper to the Defendant.

ATTEST: TRUE COPY

Winnif B. Clark

CLERK OF COURT

ORANGEBURG COUNTY, SC

I. REASONS FOR OBJECTING TO THE PLAINTIFF'S MOTION

A. **There is no valid mortgage on 423 Bayne Street - the mortgage is invalid due to false certification by a notary - [WF00060]**

2. The illegality surrounding loan #708-0174072777 is simply staggering. Hollywood could not have written a better script for CA Case #2008-CP-38-1024. High Class attorneys from a

major and legendary law firm, Nelson Mullins Riley & Scarborough, LLP, involved in a **Massive Filing Fraud**, {See Burns & Moise's Case Status Updates From 2009 to 2011}

(a) A lying appraiser – Jim H. Austin, III [WF00001-WF00027&WF00078], a lying mortgage broker – David Terrell / Golden Gate Mortgage [WF00001-WF00027,WF00030-WF00038, WF00066-WF00077 & WF00080-WF00089, a lying “Unlicensed” Seller – Thomas Jacobs [WF00003, WF00016, WF00027, WF00029, & WF00088-WF00093] and a lying closing attorney – Debra C. Galloway {Defendant's Exhibits 69-70}.

(b) A lying Executive Coordinator from a major and legendary bank, Wells Fargo, falsely accusing an innocent person – Janet Frotscher [WF00125-WF00126]. Illegal loan brokering – Thomas Jacobs [WF00015 & WF00027], illegal paperwork conduit for an unlicensed seller – Golden Gate Mortgage [WF00030-WF00038], forgery [WF00001-WF00013 & WF00029], falsifications [WF00001-WF00026], document alterations [WF00029], and conspiracy as defined by Section 16-17-140 - SC Code of Laws, Thomas Jacobs, David Terrell, Jim H. Austin, III and Janet Frotscher [WF00015, WF00016, WF00078, WF00080-WF00081 & WF00120].

(c) Bank Fraud, Mortgage Fraud, Securities Fraud, Insurance Fraud, illegal Predatory Lending Schemes and Home Improvement Fraud [WF00001-WF00138] directly resulting from a mortgage and note that are based entirely on “Falsified”, “Forged” and “Altered” documents that inflated the loan's value [WF00001-WF00029]. Court rules are being violated [Rules 26(b)(1), 30(b)(2) {Defendant's Exhibit 326} & 34(a)(1), SCRCF]. State and federal law are violated {15 USC §1681n(a), 18 USC § 656, §1001, §1005, §1007, §1014, §1344 & UCC §305(a)(1) (ii)(iii); See Sections 16-13-10, 16-17-410, 34-3-110, 37-23-40(1) & (2), 39-5-20(a) & (b), 40-58-30, 40-58-50, 40-58-70, & 40-58-78 – SC Code of Laws}. All for a property with a last known recorded sales price of.... \$14,000.00 {Defendant's Filed Exhibit 115} that the seller obtained at a tax sale.

(d) An "Unauthorized" credit report has been used [WF00066-WF00073] and there is substantial evidence of racketeering or collecting money on an illegally brokered loan that is also an illegal loan transaction. There is evidence of money laundering or extortion [WF00120-WF00133] of an innocent victim of "Fraud in the Inducement" and "Fraud in Factum" – (*the price will be lowered during the closing*) [WF00061-WF00062 & WF00118]. And now.....

(e) Notary fraud and a "**Falsely Certified**" mortgage. [WF00060] WHO IS STEPHANIE HAMMOND? The Defendant does not know. On December 21, 2007, after the Seller – Thomas Jacobs - left, only Debra C. Galloway and the Defendant – Dorothy Sistrunk - were left in the room.

3. The Defendant recognizes the manner in which a trial is conducted is within the trial judge's discretion. *Baber v. Greenville County*, 327 S.C. 31, 41, 488 S.E.2d 314, 319 (1997) (*holding that "the conduct of a trial is largely within the trial judge's sound discretion, the exercise of which will not be disturbed on appeal absent an abuse of that discretion or the commission of a legal error that results in prejudice for appellant"*). A failure to exercise discretion amounts to an abuse of that discretion. *Samples v. Mitchell*, 329 S.C. 105, 112, 495 S.E.2d 213, 216 (Ct. App. 1997). When a trial judge is vested with discretion; but his ruling reveals no discretion was in fact exercised, an error of law has occurred. {See *Ballon Plantation, Inc. v. Head Balloons, Inc.*, 303 S.C. 152, 155, 399 S.E.2d 439, 441 (1990).}

4. Debra C. Galloway **Falsely Certifying** the Plaintiff's Mortgage and Note is another illegal act [WF00060]. The Plaintiff's Mortgage and its accompanying Note are "**Falsely Certified**". False certification is prohibited by *Section 26-1-95 SC Code of Laws*. "[I]t is a 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." See *86 C.J.S. Torts* § 12 (1954)

5. This 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). See also 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.}
6. 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.*}
7. 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. The Full Faith and Credit Clause of the United States Constitution requires the courts of one state give "such force and effect to a foreign judgment as the judgment would receive in its own state." {See Taylor, 326 S.C. at 532, 484 S.E.2d at 597; See also U.S. Const. Art. IV, § 1 ("Full Faith and Credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. ")}

7. In *United States Fidelity & Guaranty Co. v. State*, 211 Miss. 864 (Miss. 1951), the court stated that “[a] notary public is liable on his official bond, for wrongful official acts resulting in loss or injury. It is not necessary that the wrongful act of the notary shall be the sole cause of the loss. If it is a concurring cause and plays a part in bringing about the injury, the liability for the loss is fixed. A notary public engages in misconduct by affixing the notarial stamp and signature to an acknowledgment that the subscriber personally appeared on a specific date. A notary who knowingly purports to authenticate a document which, in fact, has not been properly authenticated, to the detrimental reliance of innocent third parties, is liable for fraud.”

8. “A public officer who negligently makes a defective or untrue certificate is liable, together with his surety, on his official bond for any damages resulting from such negligent act. where a notary is called on to perform an act which he is authorized by law to perform, and he does so carelessly or fraudulently, he and his surety are liable for any loss proximately resulting therefrom. A notary public is not an insurer, but he is under a duty to his clients to act honestly, skillfully and with reasonable diligence.”

9. On Saturday, March 29, 2014, while reviewing the Plaintiff’s exhibits [WF00001-WF00138] to write this Pleading to object to the Plaintiff’s motion for an Order of Reference to a Master-in-Equity, the Defendant and the Witness discovered Stephanie Hammond appeared before Debra Galloway, who is also a notary public, according to the seal, and certified the mortgage, not Dorothy Sistrunk [WF00060] and without the necessary two witnesses as required by *Section 30-5-30(B) – SC Code of Laws* that clearly states in pertinent parts....

“(B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath.”

10. *Section 26-1-95 – SC Code of Laws* clearly states in pertinent parts,

“A notary public who, in his official capacity, falsely certifies to affirming, swearing, or

acknowledging of a person or his signature to an instrument, affidavit, or writing is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. A notary public convicted under the provisions of this section shall forfeit his commission and shall not be issued another commission. The court in which the notary public is convicted shall notify the Secretary of State within ten days after conviction."

Debra C. Galloway's signed notary statement identifies Stephanie Hammond as the person that witnessed the signing and appeared before Debra Galloway [WF00060]

11. *Section 30-5-30 – SC Code of Laws* states in pertinent parts,

"Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State, it must be acknowledged or proved by the method described in (A) or (B): "(A)(1) the execution of the deed or other instrument must be first proved by the affidavit of a subscribing witness to the instrument, taken before some officer within this State competent to administer an oath.....," "(2) The Uniform Recognition of Acknowledgments Act must be complied with; or (3) the person executing it shall submit an affidavit subscribed to before a person authorized to perform notarial acts herein or by the Uniform Recognition of Acknowledgments Act that the signature on the deed or other instrument is his signature and that the instrument was executed for the uses and purposes stated in the instrument. (B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath." "(C) Where the instrument is acknowledged by the grantor or maker, the form of acknowledgement must be in substance as follows:

"South Carolina,
_____ County.

I (here give the name of the official and his official title), do hereby certify that (here give the name of the grantor or maker), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____ (year).

Signature of Officer"

12. No legitimate judgment or foreclosure can be rendered in favor of the Plaintiff because

the mortgage on 423 Bayne Street in Orangeburg, South Carolina does not comply with the recording requirements of *Section 30-5-30(A)(2) – SC Code of Laws*. As already stated, there is no reference in the acknowledgement section on the mortgage that Dorothy Sistrunk personally appeared with the two witnesses as mandated by Section 30-5-30(B) – SC Code of Laws. There is no reference in the acknowledgement section on the mortgage that Dorothy Sistrunk personally appeared before Debra Galloway as mandated by *Section 30-5-30(C) – SC Code of Laws*. The Plaintiff's filed document clearly identifies the "**Fraudulent Certification**", even though, Debra Galloway is the closing attorney.

13. The Secretary of State for the State of South Carolina established the procedures and requirements for commissioned Notaries. In the Secretary's *Notary Reference Manual*, it is clearly written in chapter 2, on page 6, #6,.....

"Your 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.

14. The Plaintiff's filed mortgage in M-BK 01914, from pages 221-239 [WF00042-WF00060] is "**Falsely Certified**" and is... therefore invalid. *Section 26-3-60 – SC Code of Laws*, in pertinent parts, defines "Acknowledged before me" as the following:

"[T]he words "acknowledged before me" mean:

- (1) That the person acknowledging appeared before the person taking the acknowledgment;
- (2) That he acknowledged he executed the instrument;
- (3) That, in the case of:
 - (a) A natural person, he executed the instrument for the purposes therein stated; "{See also *Ehlers v. United States Fid. & Guar. Co.*, 87 Wn. 662, 152 P. 518 (1915) (holding that "the notary must exercise reasonable care in ascertaining the identity of the parties described in and who execute the instrument, and the question of whether or not reasonable care has been exercised is usually a question of fact.); *United States Fidelity & Guaranty Co. v. State*, 211 Miss. 864 (Miss. 1951); *James, Inc. v. Carr*, 170 Wn. 29, 14 P.2d 1113 (1932); *Christensen v. Arant*, 358 N.W.2d 200 (Neb. 1984) (holding that "the

contract is unenforceable, since the wife had not actually been in the notary's presence.""); See also McWilliams v. Clem, 743 P.2d 577 (Mont. 1987); Iselin-Jefferson Financial v. United California Bank, 549 P.2d 142 (Cal. 1976) & Iowa State Bar Association v. West, 387 N.W.2d 338 (Iowa 1986)}

See Stubbs v. Chase Manhattan Mortgage Corp. (In re Stubbs), 330 B.R. 717, 726-30 (Bankr. N.D. Ind. 2005), *aff'd*, No. 2:05-CV-439, 2006 WL 2361814 (N.D. Ind. August 2006) (Ruling that the mortgage was defective because the mortgage did not include in the acknowledgment the name of the mortgagor as the person who personally appeared before the notary public.."); Rogan v. America's Wholesale Lender (In re Vance), 99 Fed. Appx. 25, 27-28 (6th Cir. 2004); Simon v. Chase Manhattan Bank (In re Zaptocky), 250 F.3d 1020, 1027-28 (6th Cir. 2001) (holding that, "the trustee may avoid mortgage that was improperly recorded under Ohio law.")

In re Vance, 99 F. App'x at 27; (the Sixth Circuit quoted the language of Kentucky's Revised Statute § 423.130 which is titled, "Certificate of person taking acknowledgment": The person taking an acknowledgment shall certify that: (1) The person acknowledging appeared before him and acknowledged he executed the instrument; and (2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument. The Sixth Circuit then stated, "[t]he notary failed to include this [§ 423.130] information in the certification.)

See also Gardner v. Chase Home Fin. (In re Patton), 2006 WL 3877755, 2 (Bankr. E.D. Ky. 2006); Miller v. Raisor (In re Raisor), 2006 WL 3885132, 2 (Bankr. E.D. Ky. 2006); Schlarman v. Suntrust Mortgage, Inc. (In re Helvey), 2006 WL 3877754, 2 (Bankr. E.D. Ky. 2006) & Baker v. CIT Group/Consumer Fin., Inc. (In re Hastings), 353 B.R. 513, 516-17 (Bankr. E.D. Ky. 2006) (the information required by Kentucky Revised Statute § 423.130 includes identifying the debtors) and see Dunlap v. Commonwealth Cmty. Bank (In re Phelps), 341 B.R. 848, 852-53 (Bankr. W.D. Ky. 2006).

15. No legitimate judgment or foreclosure can be rendered in favor of the Plaintiff because the Plaintiff's Mortgage and Note are notarized and recorded in violation of Section 30-5-40 -- SC Code of Laws that states in pertinent parts..

"(1) Any deed or other instrument purporting to convey an interest in or lien upon real estate executed after May 11, 1972 and prior to June 22, 1973, which in all other respects meets the requirements of law, whether executed within or without this State, and whether or not such instrument was executed in the presence of and subscribed by two or

more witnesses, as provided in *Section 27-7-10*, is hereby validated as to execution from the time of such execution and entitled to recordation if:

(a) The execution thereof was acknowledged in a form substantially identical to the forms set forth in *Section 26-3-70*, Uniform Recognition of Acknowledgments Act; or

(b) The execution thereof was acknowledged in a form conforming substantially to the provisions of *Section 30-5-30, subsection (3)*, as amended in 1972.

(2) The recordation of any such instrument is hereby validated and declared to have constituted legal notice from the time of such recordation, if such instrument complies with the recording of statutes of this State.”

16. The Plaintiff's Mortgage and Note do not “Substantially Comply” with the recording requirements of South Carolina law. Therefore, there is no valid debt to collect. Both are void *ab initio*.

17. No legitimate judgment or foreclosure can be rendered in favor of the Plaintiff because the Plaintiff's Mortgage and Note are notarized and recorded in violation of *Section 26-3-40(1)* & (2) – *SC Code of Laws* that states the following in pertinent parts....

“The person taking an acknowledgment shall certify that:

(1) The person acknowledging appeared before him and acknowledged he executed the instrument; and

(2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.”

18. No legitimate judgment or foreclosure can be rendered in favor of the Plaintiff because the Plaintiff's Mortgage and Note are notarized and recorded in violation of *Section 26-3-50* – *SC Code of Laws* that states in pertinent parts.....

“The form of a certificate of acknowledgment used by a person whose authority is recognized under *Section 26-3-20* shall be accepted in this State if:

(1) The certificate is in a form prescribed by the laws or regulations of this State;

(2) The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or

(3) The certificate contains the words "acknowledged before me," or their substantial equivalent.”

19. *Section 34-3-110 - SC Code of Laws* that clearly states in pertinent parts...

“(A) A person knowingly may not execute, or attempt to execute, a scheme or artifice to: defraud a federally chartered or insured financial institution; or 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.”

20. A “**Falsely Certified**” Mortgage and Note is a fraudulent pretense, a misrepresentation of material facts, and a false promise. Under *Section 30-5-30 - SC Code of Laws*, before any verified signing can take place, the Notary must require the personal appearance of the signer and evidence of identification. There are penalties and/or fines if a Notary is convicted of “**False Certification**”.

(a) **Civil Liability** - A Notary Public may be sued if his/her actions were negligent., e.g., Notarizing a signature of a signer who did not personally appear before the Notary which results in a fraudulent or an illegal loan transaction.

(b) **Criminal Penalty** - Misdemeanor: fined \$200.00 or not more than 30 days in jail and loss of commission.

(c) **Loss of Commission** - Upon notification by a Court of Law that a Notary has been convicted of “**False Certification**”, the Secretary of State will revoke the Notary’s commission.

21. Wells Fargo hands are not clean by virtue of its numerous violations of South Carolina and Federal law and its perpetuation of the illegally brokered loan of an “Unlicensed” Seller after all the facts were known. “[T]he doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant.” *First Union Nat’l Bank of S.C. v. Soden*, 333 S.C. 554, 568, 511 S.E.2d 372, 379 (Ct. App. 1998). “[T]he expression ‘clean hands’ means a clean record with respect to the transaction with the defendants themselves and not with respect to others.” *Arnold v. City of Spartanburg*,

201 S.C. 523, 532, 23 S.E.2d 735, 738 (1943). “[T]he rule must be understood to refer to some misconduct concerning the matter in litigation of which the opposing party can, in good conscience, complain in a court of equity. *Id.*”

22. “[I]f a party has unclean hands, it is precluded from recovering in equity. A party will be found to have unclean hands where the party behaves “unfairly in a matter that is the subject of the litigation to the prejudice of the defendant.” *Ingram v. Kasey's Assoc's*, 340 S.C. 98, 107, 531 S.E.2d 287, 292 (2000). “[T]his is consistent with South Carolina precedent asserting that no person be permitted to acquire a right of action from their own unlawful act and that one who participates in an unlawful act cannot recover damages for the consequence of that act.”

23. 18 U.S.C. § 1344 clearly states in pertinent parts;

“Whoever knowingly executes, or attempts to execute, a scheme or artifice to defraud a financial institution; or to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises; shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both”.

24. 18 U.S.C. § 1005 clearly states 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; 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; or Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution - Shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.”

25. A “**Falsely Certified**” Mortgage and Note is a false entry in any book, report or statement of Wells Fargo Bank, N.A.. The false entry of an illegal mortgage transaction deceives any agent or examiner appointed to examine the banking affairs of Wells Fargo Bank.
26. Debra Galloway’s verifiable compliance failure relative to South Carolina’s **Uniform Recognition of Acknowledgments Act** has rendered Wells Fargo’s Mortgage Null and Void.. Therefore, base upon the facts (*personal knowledge of what happened*) and the law (*rules*), the Court must Dismiss this case with Prejudice, cancel the Plaintiff’s mortgage and note and order an immediate investigation under *Rule 614(a) & (b), SCRE* to find the facts to determine the truth.
27. Cancelling the mortgage and note on 423 Bayne Street in Orangeburg, South Carolina, and awarding all proven statutory violations to the Defendant as well as Punitive Damages would be consistent with South Carolina legal precedent, “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.”
28. Even more evidence of the Plaintiff’s violation of a Federal law and **Complicity** in the illegal loan brokering activities of the “Unlicensed” Seller, that was helped by the Broker, Appraiser and Wells Fargo’s own employees most notably Janet Frotscher can be found in the Defendant’s *Object to the Order Granting Partial Summary Judgment, to Prejudicial Treatment & to the Violation of Rule 30(b)(2), SCRPC and Enters a Formal Protest into the Record* that is incorporated by reference as though fully set forth herein verbatim. As also stated in previous “**Verified Pleadings**”, Wells Fargo’s right to recovery is not with the Defendant, it is with the Seller, the Broker, the Appraiser and Wells Fargo’s own employees.
29. *Section 16-17-410 – SC Code of Laws* clearly defines a conspiracy as the following:

“a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means. A person who commits the crime of

conspiracy is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.”

30. *UCC ARTICLE 3 – § 3-305(a)(1)(ii)(iii) – SC Code of Laws Section 36-3-305(a)(1)(ii)*

(iii) effectively bars any claim by the Plaintiff or any ruling by an Equity Court in favor of the Plaintiff because *UCC ARTICLE 3 – § 3-305(a)(1)(ii)(iii)*

(a)(1)(ii) “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....” “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, or (iv) discharge of the obligor in insolvency proceedings;

B. Governing law (any rule that if broken subjects a party to criminal punishment or civil liability) and authorities (qualified or authorized to speak or act or a right coupled with the power to do an act or order others to act).

31. The doctrine of *in pari delicto* is a legal principle that states the following:

“[t]he principle that a plaintiff who has participated in wrongdoing may not recover damages resulting from the wrongdoing.” *Black’s Law Dictionary* 94 (7th ed. 1999). “[I]n South Carolina, this doctrine precludes one joint tortfeasor from seeking indemnity from another.” See *Rock Hill Tel. Co. v. Globe Commc’ns, Inc.*, 363 S.C. 385, 389 n.2, 611 S.E.2d 235, 237 n.2 (2005) (“In general, there is no right to indemnity between joint tortfeasors.”); *Atlantic Coast Line R. Co. v. Whetstone*, 243 S.C. 61, 68, 132 S.E.2d 172, 176 (1963) (holding that there generally is no right to indemnity between joint tortfeasors).

32. Based upon the facts (*the Defendant’s personal knowledge of the events*), the verifiable evidence [WF00065, WF00066-WF00073 & WF00074] Golden Gate Mortgage and Wells Fargo are joint tortfeasors in violating a Federal law - 15 USC § 1681n(a). In addition, brokering mortgage loans without a license is unlawful in South Carolina and Mortgage Fraud, Bank Fraud, Securities Fraud and Insurance Fraud is prohibited by State and Federal laws that include, but are not limited to the following: {15 USC §1681n(a), 18 USC § 656, §1001, §1005, §1007, §1014, §1344 & UCC §305(a)(1)(ii)(iii); See Sections 16-13-10, 16-17-410, 34-3-110, 37-23-40(1) & (2), 39-5-20(a) & (b), 40-58-30, 40-58-50, 40-58-70, and 40-58-78 – SC Cod of Laws}

33. It is a 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)

34. "[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.}

35. 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.*}

36. 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.").

37. Therefore, based upon the facts and the law, Wells Fargo is effectively barred from receiving relief. Accordingly, Summary Judgment is appropriate for the Defendant.

C. Relief Sought.

38. Since no "**Verified Pleading**" has been controverted, contested, rebutted, refuted and/or denied by anyone with personal knowledge in over 5 years.....Under the direction and by order of this Court.....

- (a) Vacate the Partial Summary Judgment for the Plaintiff, Rescind the Order of Reference and grant Summary Judgment to the Defendant 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), SCRCP Motion to Dismiss with Prejudice* that was filed on August 15, 2011 and never opposed with counter affidavits.
- (b) Dismiss this foreclosure action pursuant to *Rule 41(b), SCRCP with Prejudice*
- (c) Award any and all Statutory Penalties to the Defendant
- (d) Award Punitive Damages to the Defendant Based on Precedent
- (e) Remove any and all Derogatory Credit Information sent by Wells Fargo to CRA's.
- (f) By Court Order no set-off or recoupment for Wells Fargo's tax payments. There is a reason why the Defendant must send tax notices to Iowa.
- (g) Let a Jury decide Ascertainable Loss, Defamation of Character & Negligent Infliction of Emotional Stress if the Plaintiff still desires to pursue this matter.

"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. " *Rule 41(b), SCRCP*

Respectfully Submitted as a Verified Pleading.

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

NOTIFICATIONS

A copy of the Defendant's *Objections to the Plaintiff's Motion for Order of Reference*.
There is no valid mortgage on 423 Bayne Street due to False Certification 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

Attorney 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 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

The Honorable James B. Jackson, Jr.
PO Box 9000
Orangeburg, SC 29116-9000

The Honorable Maité Murphy
P.O. Box 802
5200 E. Jim Bilton Blvd.
St. George, SC 29477

NOTARY VERIFICATION

IN WITNESS WHEREOF, The undersigned, being duly **SWORN**, and under the **PENALTY OF PERJURY** has signed and sealed these attestations this 31 day of March

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

Affiant Signature: Wendy Siskant

Notary's Signature as Witness (1): April Ann Evans

Signed, sealed and delivered in the presence of:

**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On March 31, 2014 before me appeared Wendy Siskant
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 Pleading presents this Verified Pleading to the Court.

WITNESS my hand and official seal.

Notary's Signature Michelle H. Foxworth

Commission Expires 10-21-2014

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

(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**

) **DEFENDANT DOROTHY SISTRUNK**
) **OBJECTS TO ORDER GRANTING**
) **PARTIAL SUMMARY JUDGMENT,**
) **PREJUDICIAL TREATMENT & TO**
) **THE VIOLATION OF RULE 30(b)(2),**
) **SCRPC & ENTERS A FORMAL**
) **PROTEST INTO THE RECORD.**

) **Today's Date: March 31, 2014**

Comes now the Defendant, Dorothy Sistrunk, to *Object to the Order Granting Partial Summary Judgment, to Prejudicial Treatment & to the Violation of Rule 30(b)(2), SCRPC and Enters a Formal Protest into the Record.* The Plaintiff's Order was retrieved from the mailbox at 423 Bayne Street in Orangeburg, South Carolina on Friday, March 21, 2014. The Order is dated March 19, 2014.

NOTIFICATION OF A VERIFIED PLEADING

1. The Defendant hereby notifies the Court and the Plaintiff that this is a "**Verified Pleading**". The need for notification has risen, since the Court and the Plaintiff are seemingly unaware that all the Defendant's Pleadings; except 1, are "**Verified Pleadings**" that meet the requirements of *Rules 11(c) and 56(e), SCRPC*. This is evidenced by the Partial Summary Judgment and Order of Reference that was filed on March 18 & 19, 2014, by the Plaintiff, and the Order of the Court for a Partial Summary Judgment for the Plaintiff; instead of the Court's Order to *Dismiss this action with Prejudice* and awarding all Statutory Damages and any Punitive Damages the Court deems as proper to the Defendant.

2. Any advantage the Plaintiff, Wells Fargo, enjoys in this litigation is not because of the facts, the truth or the law. It is because of the following reasons:

- (a) The Prejudicial Treatment of the Defendant as a Pro se Litigant
- (b) The **Massive Filing Fraud** of Elizabeth Scott Moise and James H. Burns
- (c) Abuse, Misuse and Violations of the Rules of Civil Procedure

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

(d) Refusing to Let the Witness Speak and.....

(e) The Plaintiff's, Wells Fargo's, Preferential Treatment by the Court

I. THE DEFENDANT OBJECTS TO HER PREJUDICIAL TREATMENT

3. The Defendant's objections to "Prejudicial Treatment" will be addressed in the "**Verified Pleading**" that will accompany this Pleading. The Rules of Civil Procedure are the essence of American Jurisprudence. Prejudicial can be described and defined as biased, colored, damaging, damnosus, deleterious, destructive, detrimental, directed against, disadvantageous, disserviceable, harmful, hostile, hurtful, inimical, injurious, noxious, partisan, opinionated, pernicious, preconceived, preconceptual, predispositional, prepossessed, slanted, tending to impair, tending to obstruct, unfavorable and/or unjust.

II. THE DEFENDANT OBJECTS TO THE COURTS FAILURE TO ADDRESS THE ISSUE OF THE MASSIVE FILING FRAUD OF ELIZABETH SCOTT MOISE AND JAMES H. BURNS

4. During the Stay/TRO, the Court/Judge was also notified in the Defendant's "**Verified Pleadings**" that Burns and/or Moise were filing false and misleading statements relative to the HMP/HAMP from June of 2009 until the last legitimate update was filed in October of 2010. Wells Fargo did not make any attempt to contact the Defendant during the "Stay"/TRO. James H. Burns and/or Elizabeth Scott Moise's statements in their filed Case Status Updates are ABSOLUTE LIES. The Massive Filing Fraud of Burns and/or Moise has been documented since 2009, and has already been addressed in previous "**Verified Pleadings**" and has never been disputed or denied. Therefore, every "**Verified Pleadings**" in which Burns and/or Moise's Massive Filing Fraud is discussed is incorporated by reference as though fully set forth herein verbatim.

III. THE DEFENDANT OBJECTS TO THE PLAINTIFF'S MISUSE, ABUSE AND VIOLATIONS OF THE RULES OF CIVIL PROCEDURE

5. Violating a Rule of Civil Procedure is analogous to violating a law. If the Rules of Civil

Procedure are open to violations at will, then the Court of Common Pleas in Orangeburg, South Carolina is not a court of law. It is a court of lawlessness. In such a court, the outlaw with the deepest pockets wins, regardless of his/her crimes.

(a) The Plaintiff's violation of *Rule 30(b)(2), SCRPC* is much easier to prove than the violations and abuses of attorney Brian A. Calub that were so egregious until the Defendant was forced to file a complaint against him with Office of Disciplinary Counsel on November 15, 2011. The Plaintiff's current violation is just as egregious as evidenced by the reference in Judge Goodstein's letter dated March 13, 2014 to the Defendant's deposition. *{See Defendant's Exhibit 326, page 2, paragraph 2}*

(b) At the September 6, 2012, deposition conducted by attorney Brian A. Calub, no attorney was present to represent the Defendant. At the previous deposition held on March 2, 2012, the Defendant notified attorney Calub that she did not have an attorney for the deposition and objected to being deposed without an attorney. *{See the March 2, 2012, Deposition of Dorothy Sistrunk, pages 6-7 starting at index 1}*

(c) The Defendant's pockets are not deep; relative to financial and/or monetary capability, and the \$200.00 - \$300.00 hourly fees attorneys want to charge for filing pleadings and talking in court are a bit much for the Defendant; especially since the Defendant must save as much money as possible for present and future living expenses.

(d) *Rule 30(b)(2), SCRPC* clearly states in pertinent parts...."If a party shows that when he was served with notice under this subdivision (b)(2) he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him."

VI. THE DEFENDANT OBJECTS TO THE COURTS REFUSAL TO LET HER WITNESS TESTIFY UNDER OATH

6. Twice in Court hearings on September 6, 2012 and September 2, 2013, the Defendant's

Witness was not allowed to testify. The Defendant accepts some of the blame for this and some of the responsibility by addressing the Witness as her husband. However, the Defendant is Pro se, and Judge Goodstein should have explained why her husband was not allowed to speak. The Defendant merely assumes it is because he was not introduced to the court as the Witness. In reality, the Defendant does not know why her Witness/husband has not been allowed to testify.

7. In Bolling v. Sharpe, 347 U.S. 497 (1954), (the Supreme Court of the United States held that: "[T]he concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive.") South Carolina's Supreme Court has written: "[T]he constitutional guaranty of equal protection of the laws requires that all persons shall be treated alike under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed.... The equal protection guaranty is intended to secure equality of protection not only for all, but against all similarly situated." Thompson v. South Carolina Comm'n on Alcohol and Drug Abuse, 267 S.C. 463, 472, 229 S.E.2d 718, 722 (1976).

8. 42 U.S.C. § 1983 (1976) states the following in pertinent parts: "[E]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction 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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable." Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971). See also Carlson v. Green, 446 U.S. 14, 100 S.Ct. 1468, 64 L.Ed.2d 15 (1980); Davis v. Passman, 442 U.S. 228, 99 S.Ct. 2264, 60 L.Ed.2d

846 (1979); Butz v. Economou, 438 U.S. 478, 98 S.Ct. 2894, 57 L.Ed.2d 895 (1978).

9. In addition, the Supreme Court of South Carolina and South Carolina's Appeals Courts have stated repeatedly, "[m]atters not raised or ruled upon by the trial judge, are not preserved for review." See S.C. Dep't of Transp. v. First Carolina Corp. of S.C., 372 S.C. 295, 301-02, 641 S.E.2d 903, 907 (2007) (holding, to be preserved for appellate review, an issue must have been: (1) raised to and ruled upon by the trial court, (2) raised by the appellant, (3) raised in a timely manner, and (4) raised to the trial court with sufficient specificity); See also I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) (stating imposing preservation requirements on the appellant is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments, and noting that the purpose of an appeal is to determine whether the trial court erroneously acted or failed to act, and when appellant's contentions are not presented or passed upon by the trial court, such contentions will not be considered on appeal). See also Wachovia Bank, N.A. v. Coffey, 389 S.C. 68, 74 n. 1, 698 S.E.2d 244, 247 n. 1 (Ct. App. 2010) (finding appellant's argument on appeal, that respondent was barred from raising affirmative defense of unclean hands, was not preserved where master did not address the procedural issue when he ruled appellant had unclean hands, and appellant failed to raise the matter in a Rule 59(e) motion). "[P]reserving issues for appellate review is a fundamental component of appellate practice." Toal, Vafai, Muckenfuss Appellate Procedure in South Carolina (1999) 65.

10. According to South Carolina's Appeals Courts and Supreme Court's standard for review, failing to cite authorities can mean an issue is abandoned on appeal. See First Sav. Bank v. McLean, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting that when a party fails to cite supporting authority or when the argument is simply a conclusory statement, the party is deemed to have abandoned the issue on appeal); See Hunt v. Forestry Comm'n, 358 S.C. 564, 573, 595,

S.E.2d 846, 851 (Ct. App.2004) (holding that issues raised in a brief but not supported by authority are deemed abandoned and will not be considered on appeal)

11. In Haines v. Kerner, 404 U.S. 519-421, even though Haines was an inmate, the United States Supreme Court determined; “[p]ro se litigants are held to less stringent pleading standards than admitted or licensed bar attorneys. Regardless of the deficiencies in their pleadings, pro se litigants are entitled to the opportunity to submit evidence in support of their claims.”

12. In Platsky v. C.I.A., 953 f.2d. 25; In re Platsky: a court errs if the court dismisses the pro se litigant without instruction of how pleadings are deficient and how to repair pleadings. The United States Court of Appeals, Second Circuit determined; “[w]e hold that the better course would have been for the district court, in dismissing Platsky's pro se complaints, to grant him leave to file amended pleadings. See Elliott v. Bronson, 872 F.2d at 22. We have instructed Platsky that his complaint must set out, with particularity and specificity, the actual harms he suffered as a result of the defendants' clearly defined acts. Accordingly, we vacate the judgment and order below, and remand the case to the district court with instructions to allow the plaintiff to replead.”

13. Not only is it necessary to hear the facts in this case for the orderly administration of justice and Appellate review, the Witness needs to testify under oath for the following reasons.

(a) It is the Witness that first met the Seller at the Huddle House Restaurant on Calhoun Drive in Orangeburg, South Carolina in September of 2007.

(b) It is the Witness that made 423 Bayne Street livable. Therefore, the Witness' testimony proves beyond any reasonable doubt, the improvements stated in the Plaintiff's documents are falsifications and outright lies.

(c) The Witness was present on November 26, 2007 when the Seller told the Defendant she had to sign all the loan paperwork or Golden Gate Mortgage would not fund the loan and her

loan was going to be handled by his (Thomas Jacobs') friends and business associates. The paperwork included the Broker's Agreement [WF00080-WF00081].

(d) Along with April Primrose, the Witness can also verify, that it was Thomas Jacobs that was at 423 Bayne Street on 11/26/2007 and not David Terrell / Golden Gate Mortgage.

(e) Unless he drove by in a car, the Witness can also verify, no one came to 423 Bayne Street on October 8, 2007 or October 9, 2007, because he was there all day and into the late evening cleaning up the property. In addition to falsifying the 7-59 Appraisals, Jim H. Austin, III [WF00078], also LIED about being there on 10/8/2007 [WF00003 & WF00016].

(f) The Witness can also verify, Janet Frotscher LIED [WF00125-WF00126]. The Defendant never met the Appraiser and the Broker never ordered an Appraisal for the Defendant. The Witness can verify Thomas Jacobs LIED to SCDCA {*Defendant's Exhibits 35 & 36*} and Debra C. Galloway LIED to the Commission on Lawyer Conduct {*Defendant's Filed Exhibit 70*}. Deborah C. Galloway never faxed any messages to the Defendant and never left any messages on the Defendant's answering machine. The Defendant did not have an answering machine at the time. However, she may have given the message to someone else to fax for her.

(g) In addition, the Witness can verify Judge Goodstein LIED in her Court Order dated March 7, 2012. Judge Goodstein did not discuss or consider any of the Defendant's objections during the hearing held on December 6, 2011 {*See Transcripts of the December 6, 2011 Hearing*} and Judge Goodstein is a joint tortfeasor with the Plaintiff in violating *Rule 30(b)(2)*, SCRCF {*Defendant's Exhibit 326, page 2, paragraph 2*}.

(h) Finally, the Witness can verify Burns and Moise engaged in, perpetrated and perpetuated a **Massive Filing Fraud**. The Witness was home during the dates and times in question in addition to the Defendant's two answering machines. {*See Burns and Moise's Case Status Updates from June of 2009 – May of 2011*}

14. Additional information the Defendant's Witness can verify, in the courtroom, under oath can be found in the *Defendant's Response to Notice of Case Scheduling: Re: Roster ID: 71 and Notice of Consent to Scheduling Order with Conditions Pursuant to Rule 16, SCRCP*, on pages 1-12 that was filed on November 25, 2013 and is incorporated by reference as though fully set forth herein verbatim. Also see *Phillips v. Cnty. of Allegheny*, 515 F.3d 224, 230 (3d Cir. 2008) ("Few issues . . . are more significant than pleading standards, which are the key that opens access to courts."); *Faretta v. California*, 422 U.S. 806, 830 n.39 (1975) *Faretta*, Id. at 819 ("The Sixth Amendment does not provide merely that a defense shall be made for the accused; it grants to the accused personally the right to make his defense. . . . [T]he right to self-representation . . . is thus necessarily implied by the structure of the Amendment."). 28 U.S.C. § 1654 (2006) ("In all courts of the United States the parties may plead and conduct their own cases personally or by counsel . . ."). & See Section 40-5-80- SC Code of Laws.

15. At this point it is helpful to review the Defendant's ROGUES GALLERY OF VERIFIABLE LIARS and/or MALFEASORS associated with Civil Action Case #2008-CP-38-1024.

- (a) **The "Unlicensed Seller" and former property owner – Thomas Jacobs** – [WF00003, WF00016, WF00027, WF00029, & WF00088 - WF00093] – Involved in a massive Home Improvement and Mortgage Fraud, Predatory Lending Scheme and illegal loan brokering; as well as lying to the Defendant, the Witness and SCDCA.
- (b) **The Closing Attorney – Debra C. Galloway** [WF00058, WF00060, WF00089, WF00091, WF00093-WF00094, WF00097, WF00101-WF00102 & WF00109] – In addition to lying to the Commission on Lawyer Conduct {*Defendant's Filed Exhibit 70*}, Debra C. Galloway also violated the Player Law Firms in-house policy on closing home mortgages {*Defendant's Filed Exhibit 69*}
- (c) **The Broker – David Terrell / Golden Gate Mortgage** [WF00001-WF00027, WF00030-WF00038, WF00066-WF00077 & WF00080-WF00089] – Involved in a massive Home Improvement and Mortgage Fraud, Predatory Lending Scheme and illegal loan brokering; the paperwork conduit for the illegal brokering activities for the "Unlicensed" Seller and he LIED on the paperwork to Wells Fargo Home Mortgage,

and to SCDCA. He never brokered any loan for the Defendant. The evidence suggests he accepted responsibility for it for payment purposes [WF00089], legal reasons {Section 40-58-30(A)(B) – SC Code of Laws} and to protect the “Unlicensed” Seller {40-58-50(E)(1) – SC Code of Laws} Information relative to the “Unlicensed” Seller – Thomas Jacobs is also available in the public records from South Carolina’s Department of Consumer Affairs (SCDCA)

(d) **The Appraiser – Jim H. Austin III** – [WF00001-WF00027 & WF00078] – He may have driven by the property or sat in his car, but he never came inside on the dates and times in question. October 8th & 9th, 2007. The Witness was there on both days from early morning to late evening. He LIED on the 7-59 Appraisals and falsified the Appraisals in violation of 18 USC 1001 that is written right on the page at #25 [WF00008 & WF00021]; He also falsified and LIED on the 7-59 Satisfaction Completion Certificate [WF00009 & WF00022]. No major repairs were completed at 423 Bayne Street on or during the dates and times in question. This information is also available in the public records at the City of Orangeburg’s Building Inspector’s Office.

(e) **Wells Fargo Home Mortgage & Wells Fargo Bank, N.A.** – Currently involved in perpetrating and perpetuating a Home Improvement and Mortgage Fraud, Bank Fraud, Securities Fraud, Insurance Fraud and an Illegal Predatory Scheme involving the acceptance, approval, funding, promoting, perpetuating, protecting and defending the falsified documents of the Seller, Broker and the Appraiser and the Inflated Value of 423 Bayne St.. According to the FBI, a falsified appraisal with an inflated value is an indication of an Illegal Predatory Lending Scheme. {Compare Wells Fargo’s “Fraudulent” note and mortgage with the Defendant’s Filed Exhibit 115} – the last recorded sales value of 423 Bayne Street before Wells Fargo’s mortgage was filed. Wells Fargo is also actively involved in defrauding every person and/or entity that has invested in a mortgage backed security in which loan number 708-0174072777 is packaged after being duly notified {Defendant’s Filed Exhibits 4-63} and after all the facts were known that supporting loan documents for [WF00001-WF00138] are falsified; especially, the property’s value and mortgage value [WF00043-WF00060]. The extent of this Securities Fraud is currently unknown.

(1) Wells Fargo is also actively involved in trying to collect on the illegal loan

transaction and illegally brokered loan of the “Unlicensed” Seller The evidence of which is this foreclosure proceeding and [WF00120-WF00133].

- (2) Wells Fargo is actively involved and engaged in defrauding the Defendant with the falsified and forged documents of the “Unlicensed” Seller, Broker and the Appraiser with help from Wells Fargo’s own employees most notably, Janet Frotscher. [WF00120, WF00121, WF00125-126, WF00130 & WF00132-WF00133]
- (f) **Janet Frotscher – Executive Communications Coordinator** – LIED on the Defendant [WF00125-WF00126] and misrepresented and misstated material facts after being duly notified {*Defendant’s Filed Exhibits 4-63*} and after receiving the documented evidence of “Falsification, “Forgery”, “Alteration” and “Fraud” {*Defendant’s Filed Exhibits 8-14*}
- (g) **Elizabeth S. Hodgson – Senior Counsel – Wells Fargo** – Filed a Sham Affidavit, falsely claiming familiarity with the Defendant’s loan and mortgage {*Defendant’s Filed Exhibit 235*} Participated in misrepresenting the facts relative to CA Case #2008-CP-38-1024 by claiming the Defendant’s “Fraudulent” loan, note and mortgage qualified for the HMP/HAMP; when Wells Fargo never had a process, policy or procedure for modifying a “Fraudulent” loan, note and mortgage. [See *Contact Information on WF00123*] This was verified by Elizabeth Scott Moise in her letter dated June 29, 2011 {*Defendant’s Filed Exhibit 218*} that verified Elizabeth S. Hodgson filed a misleading affidavit.
- (h) **Brian A. Calub – Attorney – Nelson Mullins Riley & Scarborough, LLP** – misrepresented facts or outright lied in his filed pleading that claimed the Seller gave the Defendant the Appraisal and harassed the Defendant and the Witness for documents Wells Fargo already had [WF00001-WF00138] and were never in the custody of or under the Defendant’s control. A violation of *Rules 26(b)(1)* and *34(a)(1)*, *SCRCP*.
- (i) **James H. Burns – Attorney – Nelson Mullins Riley & Scarborough, LLP** – misrepresented the facts by stating the Defendant claimed the Seller and the Appraiser conspired to mislead her.
- (j) **Elizabeth Scott Moise – Attorney – Nelson Mullins Riley & Scarborough, LLP** – Together with James H. Burns, attorneys of record for Wells Fargo, participated in

The Massive Filing Fraud during the Stay/TRO.

- (k) **Judge Diane Shafer Goodstein** - As stated, LIED in her Court Order dated March 7, 2012. Judge Goodstein did not discuss or consider any of the Defendant's objections during the hearing held on December 6, 2011. {See *Transcripts of the December 6, 2011 Hearing*} and Judge Goodstein is a joint tortfeasor with the Plaintiff in violating *Rule 30(b)(2), SCRPC* {See *Defendant's Exhibit 326, pg 2, ¶ 2*}

16. The Defendant is not afraid of speaking the truth, not even when it comes to an Officer of the Court. The evidence for paragraph 14(a)-(k) can be found in the court records of filed pleadings, the public records, transcripts of hearings, the Defendant's exhibits and in the Plaintiff's filed exhibits [WF00001-WF00138]. The personal knowledge of the Witness and the Defendant simply combined with Wells Fargo's Exhibits and Documents to reveal the truth. In essence, Wells Fargo proved Wells Fargo is a willing and knowing participant in the illegal brokering activities of an "Unlicensed" Seller [WF00001- WF00029], the Broker [WF00001-WF00027], the Appraiser [WF00001-WF00027] and Wells Fargo's own employees, most notably Janet Frotscher [WF00120&WF00125-WF00126] and a willing participant in defrauding others including the Defendant, Orangeburg County, the State of South Carolina, the United Government and its Agencies, the Federal Reserve Bank, the FDIC and Investors after all the facts were known... with the "Forged", "Altered" and "Falsified" supporting documents that belong to Thomas Jacobs [WF00001-WF00029], David Terrell/Golden Gate Mortgage [WF00001-WF00027] and Jim H. Austin, III, [WF00001- WF00027] with help from Janet Frotscher [WF00120 & WF00125-WF00126] {*Defendant's Exhibits 4-63 and every "Verified Pleading" that has been filed in the Court of Common Pleas since July of 2008.....and none..... have been.... controverted....refuted... denied or contested... by anyone with personal knowledge in over 5 years.*}

17. Wells Fargo's filed Exhibits and Documents simply combined with the Defendant's

and Witness' personal knowledge to also prove Wells Fargo has violated South Carolina's Unfair Trade Practices Act, SEC, FTC and Federal Reserve Banking Regulations.

V. THE DEFENDANT OBJECTS TO THE PREFERENTIAL TREATMENT THE COURT HAS SHOWN THE PLAINTIFF TO THE DETRIMENT OF THE DEFENDANT

18. The Defendant objects to the preferential treatment of the Plaintiff to the detriment of the Defendant. The Defendant is not a great speaker and suffers from nervousness when called upon to speak in public. This is because the Defendant is a private person and values her privacy. In 5 years, no judge has ever called a hearing for the Defendant in this case. All hearings have been called to benefit the Plaintiff or to protect the Plaintiff from the Defendant.

VI. THE DEFENDANT OBJECTS TO THE PARTIAL SUMMARY JUDGMENT GRANTED THE PLAINTIFF INSTEAD OF DISMISSAL WITH PREJUDICE PURSUANT TO HER RULE 41(b), SCRCP MOTION FILED ON 8/15/2011

19. *Rule 41(b), SCRCP* clearly states in pertinent parts..... "on the ground that upon the facts and the law the plaintiff has shown no right to relief." Well.. What are facts [*What actually occurred based on personal knowledge*]... and..... what law? [*Any State or Federal rule*] (Note: Law is singular not plural) *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009), *Iqbal* at 1950 ("When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief."). In addition....

20. The Defendant's Pleadings must be construed to do substantial justice.

"[A]ll pleadings shall be so construed as to do substantial justice to all parties." *Rule 8(f), SCRCP*; *see also Russell v. City of Columbia*, 305 S.C. 86, 89, 406 S.E.2d 338, 340 (1991) (holding to ensure substantial justice to the parties, the pleadings must be liberally construed). "[T]echnical, restrictive or outmoded requirements of Code Pleading are not necessarily required [under the SCRCP]." *Gaskins v. S. Farm Bureau Cas. Ins. Co.*, 343 S.C. 666, 671, 541 S.E.2d 269, 271 (Ct. App. 2000) (quoting Harry M. Lightsey, Jr. & James F. Flanagan, *South Carolina Civil Procedure* 93-94 (2nd ed. 1996)).

21. There is no reference in *Rule 41(b)* to material facts and there is no requirement in the language of *Rule 41(b)* that the facts must be material. Personal knowledge of events is material.

“[A] fact is ‘material’ if a dispute over it might affect the outcome of a suit under the governing law; factual disputes that are ‘irrelevant or unnecessary’ do not affect the summary judgment determination.” *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. “[W]hen a motion for summary judgment is under consideration, ‘the evidence of the non-movant[s] is to be believed,’ and all justifiable inferences are to be drawn in [their] favor.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. at 255; See also *Mastro v. Potomac Electric Power Co.*, 447 F.3d 843, 849-50 (D.C. Cir. 2006). [W]here the record taken as a whole could not lead a rational trier of fact to find for the non-moving [parties], there is ‘no genuine issue for trial.’” *Scott v. Harris*, 550 U.S. 372, 380 (2007) (quoting *Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 1986)). “[A]s noted, in this case defendants have provided no affidavits, declarations or other competent evidence, setting forth specific facts showing that there is a genuine issue for trial.” *FED. R. CIV. P. 56(e)*; *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986) (“[I]n fact, the defendants largely agree with plaintiff on the facts. The question is whether on the uncontested facts plaintiff is entitled to judgment as a matter of law.”

22. A fact is defined as “[A] thing done; an action performed or an incident transpiring; an event or circumstance; an actual occurrence. A fact is either a state of things, that is, an existence, or... a motion, that is.... an event.” *Black’s Law Dictionary 2nd Edition*. In the *Law of Evidence*, 1 *Benth. Jud. Ev.* 48A, “[A] fact is a circumstance, event or occurrence as it actually takes or took place; a physical object or the appearance, as it actually exists or existed. An actual and absolute reality, as distinguished.... from mere.... supposition or opinion. A fact is a truth, as distinguished from..... fiction or..... error.”

23. “[L]aw is a principle; Fact is an event. Law is conceived. A fact is what actually happened. Law is a rule of duty. A fact is that, which has been according to.. or in contravention of the rule. Law operates as an obligatory rule which judges must recognize and enforce.” *The Online Law Dictionary*. Hence, “upon the facts [*what actually happened according to personal knowledge - Rules 11c and 56(e), SCRPC*] and the law [*the Federal and/or State Rules*]” Wells Fargo has shown no right to relief. *Rule 41(b), SCRPC*

24. Wells Fargo filed a Complaint in the Court of Common Pleas in Orangeburg, South

Carolina with "Falsified", "Forged" and "Altered" supporting documents [WF00001-WF00038] that Wells Fargo's exhibits clearly and convincing show, belong to the "Unlicensed" Seller [WF00014 - WF00026] and were ordered for the "Unlicensed" Seller [WF00027]. Wells Fargo's Complaint is not supported by anyone's personal knowledge of the actual events. Wells Fargo relied on uncertified copies that may be cut and pasted onto documents, verifiably "Altered", "Forged" and "Falsified" documents [WF00001-WF00029] and on the LIES and/or unsupported misstatements, misinformation and false accusations of Janet Frotscher who is also operating under information and/or belief that is not even verified as being accurate or true [WF00120 & WF00125-WF00126]. No legitimate court can act on such unsubstantiated information or someone's belief that is not based on personal knowledge and/or verifiable and accurate information.

25. Wells Fargo's "Fraudulent" loan, note and mortgage [WF00001-WF00138] is not an arms lengths transaction between the Defendant and Wells Fargo. Wells Fargo dealt exclusively with second and/or third parties and justifiably relied upon their representations and not the Defendant's. Therefore, the Defendant has no liability to Wells Fargo for the representations and information Wells Fargo relied upon from the Broker [WF00001-WF00027 & WF00066-WF00073], the "Unlicensed" Seller [WF00001-WF00029], the Appraiser [WF00001-WF00027] and Janet Frotscher [WF00120 & WF00125-WF00126]. Wells Fargo did not and has not supported its Complaint with affidavits, testimony, depositions, admissions, interrogatories or anything else from anyone with personal knowledge of the events.

26. Wells Fargo's attorneys of record, Elizabeth Scott Moise and James H. Burns have not and did not file any affidavits in the Court of Common Pleas that they have personal knowledge of the events relative to loan #708-0174072777 or its mortgage and note. As attorneys, they are also operating on information or belief and on the uncertified and unverified copies they received

from Wells Fargo. Not even Judge Diane Shafer Goodstein has any personal knowledge of the events because the Defendant or the Witness can verify she was not present on 11/26/2007.

27. Consequently, the only personal knowledge Judge Diane Shafer Goodstein can rely upon; especially, when it is supported by hard evidence, is the personal knowledge of the Defendant and Witness who were actually there, personally involved and know of the facts (*what actually happened*) first hand. Regardless of how well an attorney's brief is written and/or presented, the Defendant knows for a fact that Wells Fargo's supporting documents are based on "Forgery", "Falsification", "Omissions" and/or "Alterations" and in some instances "Outright Lies".

28. Unknown to Nelson Mullins Riley & Scarborough, LLP and their attorneys of record, Burns and Moise, when they took over the case, they did not realize Wells Fargo's exhibits contradicted Janet Frotscher's statements and Wells Fargo's documents contradict and do not accurately describe the actual physical condition of 423 Bayne Street that is the court's records.

29. Wells Fargo's attorneys in their pursuit of the case, continued to prove Wells Fargo is a willing and active participant in the illegal brokering activities of an "Unlicensed" Seller and is perpetuating a massive Home Improvement and Mortgage Fraud, Bank Fraud, Securities Fraud and Insurance Fraud [WF00001-WF00138] on unsuspecting others... that only serves to further the illegal Predatory Lending Scheme of the "Unlicensed" Seller - Thomas Jacobs [WF00001-WF00029], who was helped by the Broker / David Terrell / Golden Gate Mortgage [WF00001-WF00027], the Appraiser - Jim H. Austin, III [WF00001-WF00027 & WF00078] and Janet Frotscher [WF00120 & WF00125-WF00126].

30. Every document Burns and Moise presented, including affidavits, verified Wells Fargo's active participation in illegal loan brokering and the collection of money from an illegal loan transaction or what is commonly referred to as racketeering, money laundering from illegal schemes or extortion.....and this is after... all the facts were known {*Defendant's Exhibits 4-63*}.

31. Because of Judge Goodstein's Court Orders, when considering the Defendant's "Verified Pleadings", that have never been contested, refuted, controverted or denied and the hard evidence in Wells Fargo's exhibits, she has now entered the conspiracy to further the illegal loan brokering activities of the "Unlicensed" Seller and the Massive Home Improvement and Mortgage Fraud, Bank Fraud, Securities Fraud and Insurance Fraud that Wells Fargo is actively perpetrating on unsuspecting others. According to Janet Frotscher in her letter, dated February 21, 2008 [WF00120, paragraph 4], the mortgage and note's value is based on the value of the verifiably, "Forged" and "Falsified" 7-59 Appraisals with an inflated value. [Compare Defendant's Filed Exhibit 115 to WF00003 & WF00016]. Compare the actual condition of the property as it has existed unchanged in the Court's records since July 31, 2008 with [WF00001 – WF00026] {See the Defendant's First Amendment to Answer to Complaint on pages 27-31, that are incorporated by reference as though fully set forth herein verbatim.}

32. Section 16-17-410 – SC Code of Laws clearly defines a conspiracy as the following:

"a combination between two or more **persons** for the purpose of accomplishing an unlawful object or lawful object by unlawful means. A person who commits the crime of conspiracy is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years." [Boldness added for emphasis]

33. Section 16-17-140 - SC Code of Laws does state an agreement must exist, they must know each other before hand or must have some kind of relationship by contract or by some other means. The law's language is very plain and unambiguous... "a combination between two or more **persons** for the purpose of accomplishing an unlawful object or lawful object by unlawful means." This includes attorneys and judges and anyone else that has knowledge of an unlawful act being committed and/or perpetuated and under the penal statutes of many states in which Wells Fargo operates, have a legal obligation to take action to stop it... and if they fail to take the appropriate action to stop it, they are equally as guilty for the consequences that come

into existence as a result of that act/s. Attorneys and judges are not immune and their code of ethics prohibits the furtherance of criminal activity if they become aware of it during a court proceeding.

A. Governing law (any rule that if broken subjects a party to criminal punishment or civil liability) and authorities (qualified or authorized to speak or act or a right coupled with the power to do an act or order others to act).

34. Therefore, based upon the Defendant's and Witness' personal knowledge of the events (the facts) and the rules (law), Wells Fargo has shown no right to relief and cannot expect the Court of Common Pleas or any Federal Court to rule in Wells Fargo favor for its *Complicity* in furthering the criminal activities of the "Unlicensed" Seller, the Broker, the Appraiser and Wells Fargo's employees on unsuspecting others; especially, after all the facts (*what actually happened based on the uncontested personal knowledge of the Defendant and the Witness*) are known.

"[I]n interpreting the meaning of the South Carolina Rules of Civil Procedure, the Court applies the same rules of construction used to interpret statutes." *Maxwell v. Genez*, 356 S.C. 617, 591 S.E.2d 26 (2003); *Green v. Lewis Truck Lines, Inc.*, 314 S.C. 303, 443 S.E.2d 906 (1994). "[I]f a rule's language is plain, unambiguous, and conveys a clear meaning, interpretation is unnecessary and the stated meaning should be enforced. See *Maxwell*, 356 S.C. at 617, 591 S.E.2d at 26; *Knotts v. S.C. Dep't of Natural Resources*, 348 S.C. 1, 10, 558 S.E.2d 511, 516 (2002). Courts should consider not only the particular clause in which a word may be used, but the word and its meaning in conjunction with the purpose of the whole rule and the policy of the rule. *S.C. Coastal Council v. S.C. State Ethics Comm'n*, 306 S.C. 41, 44, 410 S.E.2d 245, 247 (1991) (*applying this rule of construction to a statutory provision*). In construing a rule, language in the rule must be read in a sense which harmonizes with its subject matter and accords with its general purpose. *Mun. Ass'n of S.C. v. AT&T Communications of Southern States, Inc.*, 361 S.C. 576, 606 S.E.2d 468 (2004) (*applying this rule of construction to a statutory provision*). The Rules of Civil Procedure "shall be construed to secure the just, speedy, and inexpensive determination of every action." *Rule 1, SCRPC*.

35. The doctrine of in pari delicto is "[t]he principle that a plaintiff who has participated in wrongdoing may not recover damages resulting from the wrongdoing." *Black's Law Dictionary* 94 (7th ed. 1999). "[I]n South Carolina, this doctrine precludes one joint tortfeasor from seeking

indemnity from another.” See Rock Hill Tel. Co. v. Globe Commc’ns, Inc., 363 S.C. 385, 389 n.2, 611 S.E.2d 235, 237 n.2 (2005) (“In general, there is no right to indemnity between joint tortfeasors.”); Atlantic Coast Line R. Co. v. Whetstone, 243 S.C. 61, 68, 132 S.E.2d 172, 176 (1963) (holding that there generally is no right to indemnity between joint tortfeasors). Based upon the facts (*the Defendant's personal knowledge of the events*), the verifiable evidence [WF00065, WF00066-WF00073 & WF00074] Golden Gate Mortgage and Wells Fargo are joint tortfeasors in violating a Federal law - 15 USC § 1681n(a).

15 USC § 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...”

36. The truth verifying the Seller - Thomas Jacobs [WF00001-WF00029] was not licensed and Golden Gate Mortgage [WF00001-WF00027] was actively engaged in unlawful loan brokering activities is in the public records... and Wells Fargo’s personnel choose to LIE, rather than investigate the Defendant’s facts (*what actually happened based on personal knowledge that is supported by Wells Fargo’s filed exhibits and documents*). Brokering mortgage loans without a license is unlawful in South Carolina and Mortgage Fraud, Bank Fraud, Securities Fraud and Insurance Fraud is prohibited by State and Federal laws that include, but are not limited to the following: {15 USC §1681n(a), 18 USC § 656, §1001, §1005, §1007, §1014, §1344 & UCC §305(a)(1)(ii)(iii); See Sections 16-13-10, 16-17-410, 34-3-110, 37-23-40(1) & (2), 39-5-20(a) & (b), 40-58-30, 40-58-50, 40-58-70, and 40-58-78 – SC Cod of Laws}

37. In Regions Bank v. Schmuck, 354 S.C. 648, 672, 582 S.E.2d 432, 444-45 (Ct. App. 2003). “[T]he right to rely must be determined in light of the plaintiff’s duty to use reasonable prudence and diligence under the circumstances in identifying the truth with respect to the representations made to him.” *Id.* at 672, 582 S.E.2d at 445. “[F]raud must be shown by clear and convincing evidence. Ardis v. Cox, 314 S.C. 512, 515, 431 S.E.2d 267, 269 (Ct. App. 1993). “[A] party may not rely upon a misstatement of fact when the truth is easily within his reach.” King v. Oxford, 282 S.C. 307, 312, 318 S.E.2d 125, 128 (Ct. App. 1984). “[I]t is the policy of the courts not only to discourage fraud, but also to discourage negligence and inattention to one’s own interests.” *Id.* “[H]owever, a party may rely on representations without making further inquiry when a fiduciary or confidential relationship exists between the parties. Epstein v. Howell, 308 S.C. 528, 530-31, 419 S.E.2d 379, 380-82 (Ct. App. 1992).

38. It is a 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)

39. “[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.}

40. 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.}

41. 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. ").

B. Relief Sought.

42. Since no "**Verified Pleading**" has been controverted, contested, rebutted, refuted and/or denied by anyone with personal knowledge in over 5 years.....Under the direction and by order of this Court.....

- (a) Vacate the Partial Summary Judgment for the Plaintiff, Rescind the Order of Reference and grant Summary Judgment to the Defendant 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 and never opposed with counter affidavits.
- (b) Dismiss this foreclosure action pursuant to *Rule 41(b), SCRCF with Prejudice*
- (c) Award any and all Statutory Penalties to the Defendant
- (d) Award Punitive Damages to the Defendant Based on Precedent
- (e) Remove any and all Derogatory Credit Information sent by Wells Fargo to CRA's.
- (f) By Court Order no set-off or recoupment for Wells Fargo's tax payments. There is a reason why the Defendant must send tax notices to Iowa.
- (g) Let a Jury decide Ascertainable Loss, Defamation of Character & Negligent Infliction of Emotional Stress if the Plaintiff still desires to pursue this matter.

"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. " *Rule 41(b), SCRPC*

Respectfully Submitted as a Verified Pleading.

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

NOTIFICATIONS

A copy of the Defendant's *Objections to the Order Granting Partial Summary Judgment, to Prejudicial Treatment & to the Violation of Rule 30(b)(2), SCRPC and Enters a Formal Protest into the Record* 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

Attorney 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 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

The Honorable James B. Jackson, Jr.
PO Box 9000
Orangeburg, SC 29116-9000

The Honorable Maité Murphy
P.O. Box 802
5200 E. Jim Bilton Blvd.
St. George, SC 29477

NOTARY VERIFICATION

IN WITNESS WHEREOF, The undersigned, being duly **SWORN**, and under the **PENALTY OF PERJURY** has signed and sealed these attestations this 31 day of March

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

Affiant Signature: Dorothy Sistunk

Notary's Signature as Witness (1): Cynthia Evans

Signed, sealed and delivered in the presence of:

**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On March 31, 2014 before me appeared Dorothy Sistunk
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 Pleading presents this Verified Pleading to the Court.

WITNESS my hand and official seal.

Notary's Signature Michelle H. Jewell

Commission Expires 10-21-2014

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

(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**
)

) **DEFENDANT DOROTHY SISTRUNK,**
) **OBJECTS TO ORDER GRANTING**
) **PARTIAL SUMMARY JUDGMENT,**
) **DUE TO THE PLAINTIFF'S**
) **MISSTATEMENT OF FACTS,**
) **MISCHARACTERIZATION OF FACTS**
) **AND IN SOME INSTANCES**
) **OUTRIGHT LIES.**
)

) **THIS IS A VERIFIED PLEADING**
)

) **Today's Date: April 7, 2014**
)

Comes now the Defendant, Dorothy Sistrunk, to *Object to the Order Granting Partial Summary Judgment Due to Misstatement of Facts, Mischaracterization Facts and in Some Instances Outright Lies*. The Plaintiff's signed Order was retrieved from the mailbox at 423 Bayne Street in Orangeburg, South Carolina on Wednesday, April 2, 2014. The Order is dated March 31, 2014. Burns & Moise's brief does not require a response because it is not verified, however in the abundance of caution, the Defendant will respond..

I. UNDERSTANDING THE PROBATIVE FORCE OF VERIFIED PLEADINGS

A. What is the significance of a Verified Pleading?

1. Before responding to the Plaintiff's order, the Defendant feels it would be helpful for the Plaintiff and the Court to increased their understanding of Verified Pleadings. The court and the Plaintiff by their words, actions and deeds have demonstrated that they have little or no competence and/or understanding when it comes to **Verified Pleadings....** and/or... little or no experience in drafting a response or court orders relative to a **Verified Pleading**. Therefore, in this **Verified Pleading**, the Defendant will thoroughly explain the significance and difference of a **Verified Pleading**.

2. A **Verified Pleading** is a written sworn statement or declaration that meets the legal requirements of *Rules 11(c) and 56(e), SCRPC* and the Federal Rules of Civil Procedure, Rule

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

11(b), FRCP. The Defendant's pleadings are based on her own knowledge and not belief.

(a) Rule 11(c), SCRCF clearly states in pertinent parts....

"Affidavits or verifications authorized or permitted under these Rules shall be written statements or declarations by a party or his attorney of record or of a witness, sworn to or affirmed before an officer authorized to administer oaths, that the affiant knows the facts stated to be true of his own knowledge, except as to those matters stated on information and belief and as to those matters that he believes them to be true."

(b) Rule 56(e), SCRCF clearly states in pertinent parts...

"Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein...."

(c) Rule 11(b), FRCP clearly state in pertinent parts...

"By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

3. Except for conclusions of law, a **Verified Pleading** is admissible when submitted to the court as statements of fact and cannot be summarily dismissed or ignored by a sitting Judge or the Plaintiff. Unverified responses to **Verified Pleadings** in any court of competent jurisdiction are dismissed; and if no response, the court is forced to act on all the statements in a **Verified Pleading** as uncontested facts and must grant judgment accordingly. *Charter Bank v. Eckert*, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law).

"Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See Pinnacle Corp., 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." Winnetka Bank v. Mandas, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

4. "[W]hen a pleading is verified, every subsequent pleading must also be verified unless the trial court excuses the verification. Pinnacle Corp. v. Village of Lake in the Hills, 258 Ill.App.3d 205, 209, 196 Ill.Dec. 567, 630 N.E.2d 502 (1994). Once a pleading has been verified, facts contained within it are judicial admissions that remain part of the record and are admissible against the pleading party, even if the pleading is subsequently amended. *Id.*"

Controlling Authority:

Fidelity Financial Services, Inc. v. Hicks, 214 Ill.App.3d 398, 574 N.E.2d 15, 158 Ill.Dec. 221 (1st Dist. 1991) (admissions in verified pleading that are not product of mistake or inadvertence become binding judicial admissions),

5. 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.

Controlling Authorities:

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. U.S. Bank National Ass'n v. Clark, 216 Ill.2d 334, 837 N.E.2d 74, 297 Ill.Dec. 294 (2005). Winnetka Bank v. Mandas, 202 Ill.App.3d 373, 559 N.E.2d 961, 147 Ill.Dec. 621 (1st Dist. 1990) (provision that verified allegations constitute evidence by way of admission refers to admissions of fact, not legal conclusions or admissions of law). "[I]n addition, when a verified complaint is filed, a prove-up of facts may be avoided in the event of a default. Verified complaints should be used with care because facts contained in a verified complaint are admissible against the plaintiff even if the complaint is subsequently amended. See Tyler v. Gibbons, 368

Ill.App.3d 126, 857 N.E.2d 885, 306 Ill.Dec. 486 (3d Dist. 2006); In re Marriage of Osborn, 206 Ill.App.3d 588, 564 N.E.2d 1325, 151 Ill.Dec. 663 (5th Dist. 1990); Robins v. Lasky, 123 Ill.App.3d 194, 462 N.E.2d 774, 78 Ill.Dec. 655 (1st Dist. 1984).

6. The Full Faith and Credit Clause of the United States Constitution requires the courts of one state give "[s]uch force and effect to a foreign judgment as the judgment would receive in its own state." {See Taylor, 326 S.C. at 532, 484 S.E.2d at 597; See also U.S. Const. Art. IV, § 1 ("Full Faith and Credit shall be given in each State to the public acts, records, and judicial proceedings of every other State.")}

B. Unlike Burns & Moise, perpetrators of the Massive Filing Fraud, who are relying on unverified and/or uncertified information and their belief, the Defendant's Statements are based on personal knowledge about the events, circumstances and documentation relative to 423 Bayne Street.

7. The Defendant's statements are based on personal knowledge and not information or belief. Therefore, even if the Defendant failed to state: "except as to the matters which are therein stated on his or her information or belief, and as to those matters that he or she believes it to be true"; the pleading is still verified because the Defendant's **Verified Pleadings** are not based on information or belief or what she believes to be true, they are based on personal knowledge of what she knows to be true during the dates and times in question, precedent; as evidence by this **Verified Pleading**, South Carolina's Code of Laws, Court Records and Federal Laws and/or Regulations and carry the full weight of perjury just like any other sworn testimony.

Controlling Authorities:

Pinnacle Corp. v. Village of Lake in the Hills, 258 Ill.App.3rd 205, 209, 196 Ill.Dec. 567, 630 N.E.2d 502 (1994) "[w]hen a pleading is verified, every subsequent pleading must also be verified unless verification is excused by the court. There is no allegation that verification was excused by the court. When a subsequent pleading is not verified, it is as if the unverified pleading was never filed; it must be disregarded." (Charter Bank v. Eckert (1992), 223 Ill.App.3d 918, 924, 166 Ill.Dec. 282, 585 N.E.2d 1304; Florsheim v. Travelers Indemnity Co. (1979), 75 Ill.App.3d 298, 308, 30 Ill.Dec. 876, 393 N.E.2d 1223.) "[C]onsequently, we must ignore the allegations in Crystal Lake's unverified answer. Moreover, a failure to file an answer results in well-pleaded facts being deemed admitted. (Florsheim, 75 Ill.App.3d at 309, 30 Ill.Dec. 876, 393 N.E.2d 1223.)

8. As already stated, unlike an attorney's brief or a responsive pleading, a **Verified Pleading** has the probative force of an affidavit. Because it is based on personal knowledge and not information or belief, it can only be countered by another affidavit based on personal knowledge, a sworn deposition based on personal knowledge and/or certified hard evidence to the contrary. Uncertified copies are legally insufficient and an attorney's brief that is not supported by an affidavit based on personal knowledge, certification or another **Verified Pleading** are dismissed because an unverified pleading is legally insufficient to challenge sworn statements in a **Verified Pleading**. *Charter Bank v. Eckert*, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law).

C. The Defendant's Verified Pleadings constitute Judicial Admissions and cannot be ignored by the Judge, the Plaintiff, Burns & Moise, perpetrators of The Massive Filing Fraud or a Jury.

9. The Defendant's **Verified Pleadings** also constitute judicial admissions and cannot be ignored by the Judge, the Plaintiff, Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, or a jury. *Rynn v. Owens*, 181 Ill.App.3d 232, 235, 536 N.E.2d 959, 962 (1st Dist. 1989). A judicial admission is a deliberate, clear, unequivocal statement by the Defendant about a concrete fact that is based on the Defendant's personal knowledge and not information or belief. Once made, a judicial admission binds the Defendant to the statement and the Defendant cannot change or contradict the statement later.

Estate of Rennick, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) "[A] judicial admission binds the party who made the admission. If the admission is merely an evidentiary admission (instead of a judicial admission), the party may contradict or explain it. *Williams Nationalease, Ltd. v. Motter*, 271 Ill.App.3d 594, 597, 207 Ill.Dec. 914, 648 N.E.2d 614, 616-17 (1995). "[W]hether an admission is a judicial admission or an evidentiary admission is a question of law, which we decide de novo." *Elliott v. Industrial Comm'n*, 303 Ill.App.3d 185, 187, 236 Ill.Dec. 383, 707 N.E.2d 228, 230 (1999).

10. A judicial admission cannot be contradicted in a motion for summary judgment. A judicial admission cannot be contradicted at trial. *Dayan v. McDonald's Corp.*, 125 Ill.App.3d 972, 983, 466 N.E.2d 958, 967 (1st Dist. 1984). Thus, the Defendant cannot introduce an affidavit or testify contrary to a prior judicial admission. *Tom Olesker's Exciting World of Fashion, Inc. v. Dun & Bradstreet, Inc.* 71 Ill.App.3d 562, 568, 390 N.E.2d 60 (1979) The Defendant may not offer contrary testimony from other witnesses or experts. *Caponi v. Larry's* 66, 236 Ill.App.3d 660, 671, 601 N.E.2d 1347, 1355 (2nd Dist 1992) Formal admissions in open court, admissions pursuant to requests to admit and stipulations also constitute judicial admissions. Now that the Court and the Plaintiff understand the Defendant's **Verified Pleadings** are entered as statements of fact when submitted, only **Verified Pleadings**, Affidavits based on personal knowledge and/or certified hard evidence can contradict the facts that will be stated in this pleading. *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990) ("*[A]llegations contained in verified pleadings are deemed to be admissions of fact.*")

D. Based on the rules, precedent and the law governing Verified Pleadings, Burns & Moise, perpetrators of The Massive Filing Fraud, have not filed a legitimate and/or acceptable response since the Defendant filed her First Amendment to Answers to Complaint with Counterclaims in July of 2008.

11. Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, or the Plaintiff has not filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, the Defendant objects to the Plaintiff's mischaracterization of the facts on page 1, in footnote 1. The Defendant's statement that the mortgage loan is unenforceable because of Wells Fargo's verified **Complicity** in perpetuating the illegal brokering activities of the "Unlicensed" Seller, that was helped by the Broker, the Appraiser and Wells Fargo's own

employees, most notably Janet Frotscher is supported by the evidence and the facts. Wells Fargo's Chairman, John Stumpf, was also duly notified by certified mail. Charter Bank v. Eckert, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (*unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law*).

12. Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of The Massive Filing Fraud during the Stay/TRO, the Court, or the Plaintiff has filed an acceptable and/or legitimate response or court order since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, Wells Fargo is actively involved and engaged in defrauding the Defendant and everyone else that invests in a mortgage backed security if loan #0174072777 is included.

(a) The supporting documents upon which the loan, note and mortgage are based are verifiably, forged, altered and/or falsified and were ordered for and belong to the "Unlicensed" Seller who was helped by the Broker, the Appraiser and Wells Fargo's own employees most notably, Janet Frotscher. [WF00120, WF00121, WF00125-126, WF00130 & WF00132-WF00133] Wells Fargo's Chairman, John Stumpf, was also duly notified by certified mail.

(b) The current Chairman of Wells Fargo, John Stumpf, was also duly notified by certified mail and took no action. This is additional evidence of Wells Fargo's knowing and willful **Complicity** in the illegal brokering activities of the "Unlicensed" Seller and furtherance of the Seller's scheme to Defraud the Defendant, Orangeburg County, the State of South Carolina, Fannie Mae, Freddie Mac, the United State Government and its agencies and Wells Fargo's **Complicity** in Bank Fraud, Mortgage Fraud, Insurance Fraud, Securities Fraud and Wells Fargo's violation of South Carolina's Code of Laws and the Rules and Regulations of the

Federal Reserve Bank, SEC, FTC and the Uniform Commercial Code. Wells Fargo's **Complicity** in the "Unlicensed" Seller's illegal loan brokering activities is also a violation of South Carolina's Unfair Trade Practices Act. Charter Bank v. Eckert, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law).

II. OBJECTIONS TO BACKGROUND

A. Based on Judge Goodstein's signed Court Orders, Judge Goodstein either has not read the Defendant's Verified Pleadings or has not flipped to the back of the Pleadings to check for a Verified Pleading, therefore in the abundance of caution.....

13. Sentence #1: The Defendant objects to sentence #1: Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of The Massive Filing Fraud during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, This statement by the Plaintiff's attorney is not just a deliberate mischaracterization of the facts, after 5 years and hundreds of pages of **Verified Pleadings**, this statement is an outright lie. The Defendant's answers are in **Verified Pleadings** that are binding that are incorporated by reference as though fully set forth herein verbatim. Yard work had nothing to do with the Defendant's need for new housing. Tommy Mitchell, the owner, wanted to sell the property that's it. Estate of Rennick, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") "[A]llegations contained in verified pleadings are deemed to be admissions of fact." Winnetka Bank v. Mandas, 202 Ill. App. 3d 373, 397 (1st Dist. 1990). Charter Bank v. Eckert, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law).

14. **Sentence #2:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of *The Massive Filing Fraud* during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, the Defendant does not object to sentence #2. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990). *Charter Bank v. Eckert*, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law).

15. **Sentence #3: The Defendant objects to sentence #3:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of *The Massive Filing Fraud* during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, this statement by the Plaintiff's attorney is not just a deliberate mischaracterization of the facts, after 5 years and hundreds of pages of **Verified Pleadings**, this statement is an outright lie. The Defendant's answers are in **Verified Pleadings** that are binding that are incorporated by reference as though fully set forth herein verbatim. The Defendant's husband never decided to purchase any house after looking at houses with Thomas Jacobs. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990). *Charter Bank v. Eckert*, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (unverified answer has same effect as if no answer was filed; all

well-pleaded facts are deemed admitted but not conclusions of law).

16. **Sentence #4: The Defendant objects to sentence #4:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, this statement by the Plaintiff's attorney is not just a deliberate mischaracterization of the facts, after 5 years and hundreds of pages of **Verified Pleadings**, this statement is an outright lie. The Defendant's answers are in **Verified Pleadings** that are binding that are incorporated by reference as though fully set forth herein verbatim. The Defendant's husband began cleaning and making repairs during the last week of September 2007. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("*[A] judicial admission binds the party who made the admission.*") "*[A]llegations contained in verified pleadings are deemed to be admissions of fact.*" *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990). *Charter Bank v. Eckert*, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (*unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law*).

17. **Sentence #5: The Defendant objects to sentence #5:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, this statement by the Plaintiff's attorney is a deliberate mischaracterization of the facts. The Defendant's answers are in **Verified Pleadings** that are binding that are incorporated by reference as though fully set forth herein verbatim. Except for conclusions of law, **Verified Pleadings** are accepted as statements of fact when

submitted. The Defendant does not allege anything. It is a statement of fact that has never been denied or refuted. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990). *Charter Bank v. Eckert*, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law).

18. **Sentence #6: The Defendant objects to sentence #6:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, this statement by the Plaintiff's attorney is an outright lie. The Defendant's answers are in **Verified Pleadings** that are binding that are incorporated by reference as though fully set forth herein verbatim. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990). *Charter Bank v. Eckert*, 223 Ill.App.3d 918, 585 N.E.2d 1304, 166 Ill.Dec. 282 (5th Dist. 1992) (unverified answer has same effect as if no answer was filed; all well-pleaded facts are deemed admitted but not conclusions of law).

(a) On December 22, 2007, the Defendant's husband called Wells Fargo's office in Raleigh, North Carolina and left a message on the answering machine that the Defendant's loan was mired in fraud, deceit and deception. {See the Defendant's Filed Affidavits that are also Verified Pursuant to Rule 10(c), SCRPC.}

(b) Kathryn R. Perkinson, Wells Fargo's representative, was told the same thing on December 24, 2007. Wells Fargo has known since December 22, 2007 about the Seller's

unlawful conduct. Wells Fargo has known since January 14, 2008 that one of the 7-59 Appraisals [WF00001-WF00013] is not only falsified, it is also a forgery by substitution and the Satisfaction Completion Certificate [WF00009 & WF00022] are falsified documents as well. The Defendant's answers relative to these matters have never been denied or refuted by Wells Fargo in any Affidavit, Deposition or Admission in 5 years. {See the Defendant's Filed Affidavits that are also Verified Pursuant to Rule 10(c), SCRCP.}

19. The Defendant has no knowledge of what private off-the-book deal/s Wells Fargo might or might not have with the Broker, the Appraiser, the Player Law Firm, Nelson Mullins Riley & Scarborough, LLP, the Judges in this Court or the Seller. The Defendant is not a principal of Wells Fargo. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.) Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502.

20. **Sentence #7: Explanation of sentence #7:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, all documents signed were signed for the "Unlicensed" Seller for a loan from Golden Gate Mortgage. This statement of fact has never been denied or refuted in 5 years. Neither Wells Fargo nor the Defendant has a copy of the original Contract of Sale the Defendant signed for the Seller. The Contract of Sale did not have an "AS IS CLAUSE" and there were no alterations, modification are initials. The Defendant's answers relative to Wells Fargo's Contract of Sales that have never been disputed or denied by Wells Fargo and are in **Verified Pleadings** that are

binding that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

21. **Sentence #8: Explanation for sentence #8:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of ***The Massive Filing Fraud*** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, the Defendant did not witness Austin author any Appraisal. {See the Defendant's Filed Affidavits that are also Verified Pursuant to Rule 10(c), SCRCP.}

(a) The information that the Defendant has relative to the Appraisals comes from Wells Fargo's documents [WF00001-WF00027 & WF00078] The Defendant's Witness knows for a fact no one came to 423 Bayne Street on October 8th or 9th, 2007, because he was there from early morning to late evening, cleaning up the property. Wells Fargo has not filed a single Affidavit, Verified Interrogatory, Deposition or Admissions that has or can refute, controvert, or deny this fact. Any documents admitted after this **Verified Pleading** is filed must be considered by the Court as an ABSOLUTE LIE.

(b) The Defendant's answers are in **Verified Pleadings** that are binding that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the

admission.) ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

22. **Sentence #9: Explanation for sentence #9:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, the Defendant dealt with the Seller and not the Appraiser or Broker.

(a) In addition, Wells Fargo has not filed any affidavit denying Wells Fargo did not need an appraisal to establish value for the loan from the Broker. Janet Frotscher admitted in her letter dated February 21, 2008, [WF00120] that Austin's Appraisal was used to establish value for loan. Someone authorized the Appraisal and it was not the Defendant. {See WF00027}

(b) The Defendant's answers are in **Verified Pleadings** that are binding that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.) ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product

of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

23. **Sentence #10: Explanation for sentence #10:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, the Defendant does not believe various alterations were made, the Defendant knows this for a fact. {See Defendant's Exhibit 140 & Wells Fargo's WF00029} Both Contract of Sales came from Wells Fargo. The Defendant's answers are in **Verified Pleadings** that are binding that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) ("where the original pleading is verified, it remains part of the record.") "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

24. **Sentence #11: Explanation for sentence #11:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing**

Fraud during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, of course the Defendant does not know who forged the Contract of Sale. Forgers do not advertise their deeds in newspapers. The Defendant does accuse Wells Fargo because Wells Fargo sent the Defendant 2 Contracts of Sale, one verifiable forged and altered and the other altered. [*Compare Defendant's Exhibit 140 and WF00029*] The Defendant's answers are in **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

25. **Sentence #12: Explanation for sentence #12:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however in the abundance of caution, this statement is an absolute lie. The Defendant does not have a lawyer and no lawyer went to the closing with the Defendant. The Player Law Firm was chosen by the Seller. The Defendant has

no idea when the loan actually closed. The Defendant knows for a fact that she signed documents on December 21, 2007 to lower the price of 423 Bayne Street and the price was not lowered and still not lowered. The Defendant's answers are in **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

26. **Sentence #13: Explanation for sentence #13:** The Defendant never received any money from Wells Fargo. According to Wells Fargo's documents [WF00088-WF00089] Wells Fargo paid the Seller \$75,000.00. Since, I personally never received any money, Wells Fargo is in breach of contract and I have no responsibility to repay Wells Fargo for money, I did not personally receive. Wells Fargo's cause of action is with the "Unlicensed" Seller, not the Defendant. The Defendant's answers are in **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions."

(American National Bank & Trust Co. v. Erickson (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.)
"Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

27. **Sentence #14: Explanation for sentence #14:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution...

(a) The Defendant is a victim of "**Fraud in the Inducement**" and "**Fraud in Factum**" ("all the paperwork must be signed or Golden Gate Mortgage [WF00001-WF00027, WF00030-WF00038, WF00063-WF00064, WF00066-WF00074, WF00077, WF00080-WF00086 & WF00089] will not fund the loan and the price will lowered during the closing.") [WF00001-WF00029, WF00042-WF00057]}}

(b) Wells Fargo has not filed a single Affidavit, Verified or Sworn Interrogatory, Admission and/or Deposition in 5 years that has or can refute the Defendant's sworn statements of fact in 5 years. {See the Defendant's Filed Affidavits that are also Verified pursuant to Rule 10(c), SCRCF.} *McLemore v. Landry*, 898 F.2d 996, 1002 (5th Cir.), cert. denied sub no; *River Villa Pts. v. Sun Belt Fed. Bank, F.S. B.*, 111 S.Ct. 428 (1990). "This kind of fraud renders any underlying agreement void." *FDIC v. Gordy*, 928 F.2d 1558, 1565 (11th Cir.1991).

(c) "[W]hen a contract is void, it is as if it never existed. See *Operating Eng's Pension Trust v. Gilliam* 737 F.2d 1501, 1505 (9th Cir.1984) (where employer's signature on CBA is procured by fraud in the execution, it is as though "no collective bargaining agreement exists").

(d) "[W]here a person is fraudulently induced to sign or endorse a bill or note in the reasonable belief that he is signing something else, he cannot really be said to have made or indorsed the bill or note; hence the ancient plea of *non est factum* is applicable. He is in effect stating that this is not his contract; in fact, it is not a contract at all." 12 Williston on Contracts § 1488, at 333.

(e) "[A] promisor's signature procured by fraud in the execution gives no more effect to a contract than a promisor's signature that has been forged. In either case the contract is void; it has never had any legal effect. See Andrews v. Tallman, 47 R.I. 111, 131 A. 50, 51 (R.I.1925) "[U]nder the plea of non est factum [a defendant] may be entitled to prove fraud in the execution of the bond whereby the instrument never had a legal existence as in cases of forgery...."; Crocker v. Bellangee, 6 Wis. 645, 1858 WL 2281, at 11 (Wis.1858)

(f) "[A] void contract is null *ab initio*, and the subject of it may be bought, sold, or otherwise dealt with, in all respects precisely as though it had never been — for it never hath been of any force. Instance, a forged or stolen deed, or a deed obtained by fraud in the execution...." Laborers' Pension Fund v. A & C Envtl., Inc., 301 F.3d 768, 780 (7th Cir 2002).

(g) Section 36-3-305(a)(1)(ii)(iii) - SC - Code of Laws clearly 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 (i) infancy of the obligor to the extent it is a defense to a simple contract, (ii) duress, lack of legal capacity, or 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...."

(h) In addition, no where on Wells Fargo's 30 year mortgage does it state ("*repay even if supported by falsified documents or repay if Wells Fargo does not give you any money. A valid mortgage cannot be supported by falsified documents.*") **Wells Fargo is technically in breach of contract to the Defendant and is Wells Fargo and Burns & Moise are violating of its**

Compliance Agreement [WF00117] and this is in addition to Burns & Moise's Massive Filing Fraud during the Stay/TRO. Wells Fargo is endeavoring to extort money from the Defendant in an **illegal Predatory Lending Scheme, a Home Improvement and Mortgage Fraud, Securities Fraud and Insurance Fraud** with the falsified and/or forged documents of the "Unlicensed" Seller, the Broker and the Appraiser. [WF00001-WF00038]

(i) According to Janet Frotscher, Wells Fargo's loan supporting documents came from the Broker, Golden Gate Mortgage [WF00120 & WF00125-WF00126] that did not broker any loan for the Defendant. This question is also answered in the Defendant's **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

28. **Sentence #15: Explanation for sentence #15:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution... the Defendant justifiable trusted and relied upon the Seller's representations because he (Thomas

Jacobs), the "Unlicensed" Seller was the property owner. [WF00088 & WF00092-WF00093]

The Defendant's answers are in **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

29. **Sentence #16:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution... the Defendant does not object to sentence #16.

30. **Sentence #17: The Defendant objects to sentence #17:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution... the Defendant does not believe anything. The Defendant knows for a fact the 7-59 Appraisals are forged and/or falsified and were ordered for the "Unlicensed" Seller. [WF00027]

The Defendant's answers are in **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) .) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

31. **Sentence #18: Explanation for sentence #18:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution... the Defendant did not default on anything. The Defendant told the Plaintiff to fix the house according to the 7-59 Appraisals or lower the price to the unfinished house.

(a) The Defendant was not going to participate in an illegal Predatory Lending Scheme with Wells Fargo, that was obtained by lies, deceit and deception. The Defendant was not going to participate in Wells Fargo's **illegal Home Improvement Fraud, Mortgage, Bank Fraud, Securities Fraud and Insurance Fraud with Wells Fargo**; as well as be a party to Wells Fargo defrauding everyone else that invests in a mortgage backed security if loan #0174072777 is packaged. [WF00001-WF00138]

(b) Loan #0174072777 has an inflated value that is based entirely on falsified, forged and/or altered documents. [WF00001-WF00038] In addition, in June of 2008, Wells Fargo Home Mortgage told the Defendant to send all tax notifications to them while the mortgage, loan and note are in litigation. Wells Fargo has not denied or refuted this in 5 years. {Refer to Wells Fargo's filed Court documents}

(c) Verification that tax notices were... and are still being sent to Wells Fargo as requested.... have been faxed and/or mailed to Nelson Mullins Riley & Scarborough, LLP as the evidence and proof the Defendant has complied with Wells Fargo's request. The Defendant's answers are in **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

32. **Sentence #19: Explanation for sentence #19:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution...the

Defendant does not know anything about Wells Fargo's Lis pendens. "*Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted.*" See *Pinnacle Corp.*, 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

33. **Sentence #20:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution...the only disagreement the Defendant has with sentence #20 is there is no alleged fraud. The fraud is real and it is documented in Wells Fargo's Exhibits [WF00001- WF00138]. The Defendant's answers are in **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. *Estate of Rennick*, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (*Robins v. Lasky* (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (*American National Bank & Trust Co. v. Erickson* (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.)

34. **Sentence #21: The Defendant objects to sentence #21:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of

caution...the Defendant does not have any personal evidence. The evidence the Defendant has comes from Wells Fargo. [WF00001-WF00138] Wells Fargo is perpetuating the “Unlicensed” Seller’s Home Improvement and Mortgage Fraud and his Predatory Lending Scheme.

(a) Wells Fargo’s, Burns & Moise’s and the Court’s actions are indicative of accomplices i.e. friends and business associates of the “Unlicensed” Seller, before, during and after the fact. {Section 16-17-410 – SC Code of Laws}

(b) Because of Elizabeth S. Hodgson’s misleading affidavit {Defendant’s Exhibits 235, 266, page 1 and 218} and Burns and Moise’s pursuit of this case, including **The Massive Filing Fraud** during the Stay/TRO {See Burns & Moise’s Filed Case Status Updates that are **ABSOLUTE LIES**}. Their actions have extended Wells Fargo’s ability to “Defraud” others with the Seller’s, Broker’s and Appraiser’s falsified, forged and altered documents that belong to and were ordered for the “Unlicensed” Seller [WF00027] [WF00001-WF00038] and not the Defendant.

(c) By Wells Fargo actively defending the “Unlicensed” Seller’s illegal brokering activities that will “Defraud” thousands of others with the Appraiser’s inflated mortgage, that is supported entirely by falsified, forged and/or altered documents that has been filed in Orangeburg County, in the State of South Carolina in Mortgage Book 01914 from pages 221-239, Wells Fargo’s legal actions is the work of an accomplice and co-conspirator or a friend and/or business associate of the “Unlicensed” Seller, the Broker and the Appraiser. {Section 16-17-410 – SC Code of Laws & the Pinkerton Liability Rule}

(d) Evidence verifying the Seller was not licensed and not an employee or loan originator with Golden Gate Mortgage during the dates and times in question is available in the public records of SCDCA. The Defendant has no idea of knowing how many people and institutions, including South Carolina’s government employees that might be impacted by this scheme if loan

#708-0174072777 is included in a mortgage backed security. State v. Small, 272 SE 2d 128 - NC: S. Ct. 1980; State v. Williams, 216 N.C. 446, 5 S.E.2d 314 (1939); 16 Am.Jur.2d Conspiracy § 19 (1979); Nye & Nissen v. United States, 336 U.S. 613, 626 (1949); United States v. Rosenberg, 888 F.2d 1406, 1426 (D.C. Cir. 1989); United States v. Peoni, 100 F.2d 402 (1938); Hyde v. United States, 225 US 347 - Supreme Court 1912 & Pinkerton v. United States, 328 U.S. 640 (1946)

(e) Wells Fargo's Chairman John G. Stumpf is not immune because he was duly notified by certified mail, {Defendant's Exhibit 327} Wells Fargo's legal department and Elizabeth S. Hodgson, Wells Fargo's Senior Counsel were also notified. Wells Fargo's Legal Department was put on notice in the Defendant's search for Elizabeth S. Hodgson's mailing address. {See Defendant's Exhibit 328} The Defendant's answers are in **Verified Pleadings** that are incorporated by reference as though fully set forth herein verbatim. Estate of Rennick, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) ("[A] judicial admission binds the party who made the admission.") ("where the original pleading is verified, it remains part of the record. (Robins v. Lasky (1984), 123 Ill.App.3d 194, 462 N.E.2d 774.) "Any admissions which are not the product of mistake or inadvertence, contained in the original verified pleading, are binding judicial admissions." (American National Bank & Trust Co. v. Erickson (1983), 115 Ill.App.3d 1026, 452 N.E.2d 3.) "Allegations in a plaintiff's unverified answer are dismissed, and the defendants' well-pleaded facts are deemed admitted." See Pinnacle Corp., 258 Ill.App.3d at 209, 196 Ill.Dec. 567, 630 N.E.2d 502. "[A]llegations contained in verified pleadings are deemed to be admissions of fact." Winnetka Bank v. Mandas, 202 Ill. App. 3d 373, 397 (1st Dist. 1990).

35. Since the Defendant's Pleadings are **Verified Pleadings**, that have not been refuted they can be used in any court of law, by Attorney Generals in all 50 states, the FBI, SEC, FTC, the Federal Reserve Bank, Institutional Investors, International Courts and foreign governments.

54. The Defendant's "Verified Pleadings" are available as a public record. 423 Bayne Street's physical condition, on the date the Appraiser [WF00078] signed the 7-59 Appraisal, 10/09/07 [WF00008 & WF00021], is recorded in the Defendant's *First Amendment to Answer to Complaint* on pages 27-31 in paragraphs 119-XIII – 122-XIII(A)-(VV) that was filed on July 31, 2008 and is incorporated by reference as though fully set forth herein verbatim. All anyone needs to do, including the Court, is compare the documented evidence of the actual physical condition of 423 Bayne Street with the Plaintiff's filed 7-59 Appraisals [WF00001-WF00026]. Compare the stated physical condition of 423 Bayne that is on file in the Court of Common Pleas with the Plaintiff's 7-59 Satisfaction Completion Certificate [WF00009 & WF00022]. As the Defendant has consistently stated there is no alleged "Fraud". **IT IS REAL & VERIFIABLE.**

55. Wells Fargo's filed Mortgage is clearly False **Certified** by Debra C. Galloway. STEPHANIE HAMMOND was not in the room at the closing. Therefore, STEPHANIE HAMMOND could not have witnessed the Defendant sign any documents. There is no reference on the filed mortgage; that at the time of execution, the Defendant was in the presence of Debra C. Galloway. The Defendant's initials on the document clearly indicate the document was blank and filed out or completed later with STEPHANIE HAMMOND. This is a violation of South Carolina Uniform Recognition and Acknowledgement Act and the recording requirements of South Carolina's Code of Laws.

56. False certification is prohibited by *Section 26-1-95 SC Code of Laws*. "[I]t is a 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." See 86 C.J.S. Torts § 12 (1954)

57. This 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). See also 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.}

58. 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.}

59. 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.").

60. In *United States Fidelity & Guaranty Co. v. State*, 211 Miss. 864 (Miss. 1951), the court stated that "[a] notary public is liable on his official bond, for wrongful official acts resulting in loss or injury. It is not necessary that the wrongful act of the notary shall be the sole cause of the loss. If it is a concurring cause and plays a part in bringing about the injury, the liability for the loss is fixed. A notary public engages in misconduct by affixing the notarial stamp and signature to an acknowledgment that the subscriber personally appeared on a specific date. A notary who knowingly purports to authenticate a document which, in fact, has not been properly authentic-

cated, to the detrimental reliance of innocent third parties, is liable for fraud.”

61. “A public officer who negligently makes a defective or untrue certificate is liable, together with his surety, on his official bond for any damages resulting from such negligent act. where a notary is called on to perform an act which he is authorized by law to perform, and he does so carelessly or fraudulently, he and his surety are liable for any loss proximately resulting therefrom. A notary public is not an insurer, but he is under a duty to his clients to act honestly, skillfully and with reasonable diligence.” United States Fidelity & Guaranty Co. v. State, 211 Miss. 864 (Miss. 1951)

62. *Section 30-5-30(B) – SC Code of Laws* that clearly states in pertinent parts....

“(B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath.”

63. *Section 26-1-95 – SC Code of Laws* clearly states in pertinent parts,

“A notary public who, in his official capacity, falsely certifies to affirming, swearing, or acknowledging of a person or his signature to an instrument, affidavit, or writing is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. A notary public convicted under the provisions of this section shall forfeit his commission and shall not be issued another commission. The court in which the notary public is convicted shall notify the Secretary of State within ten days after conviction.”

64. Debra C. Galloway’s signed notary statement identifies STEPHANIE HAMMOND as the person that witnessed the signing and appeared before Debra Galloway [WF00060]

65. *Section 30-5-30 – SC Code of Laws* states in pertinent parts,

“Except as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State, it must be acknowledged or proved by the method described in (A) or (B): “(A)(1) the execution of the deed or other instrument must be first proved by the affidavit of a subscribing witness to the instrument, taken before some officer within this State competent to administer an oath.....,” “(2) The Uniform Recognition of Acknowledgments Act must be complied with; or (3) the person executing it shall submit an affidavit subscribed to before a person authorized to perform notarial acts herein or by the Uniform Recognition of Acknowledgments Act that the signature on the

deed or other instrument is his signature and that the instrument was executed for the uses and purposes stated in the instrument. (B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath.” “(C) Where the instrument is acknowledged by the grantor or maker, the form of acknowledgement must be in substance as follows:

"South Carolina,
_____ County.

I (here give the name of the official and his official title), do hereby certify that (here give the name of the grantor or maker), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____ (year).

Signature of Officer"

66. No legitimate judgment or foreclosure can be rendered in favor of the Plaintiff because the mortgage on 423 Bayne Street in Orangeburg, South Carolina does not comply with the recording requirements of *Section 30-5-30(A)(2) – SC Code of Laws*. As already stated, there is no reference in the acknowledgement section on the mortgage that Dorothy Sistrunk personally appeared with the two witnesses as mandated by Section 30-5-30(B) – SC Code of Laws. There is no reference in the acknowledgement section on the mortgage that Dorothy Sistrunk personally appeared before Debra Galloway as mandated by *Section 30-5-30(C) – SC Code of Laws*. The Plaintiff's filed document clearly identifies the "**Fraudulent Certification**", even though, Debra Galloway is the closing attorney. [WF00060]

67. The Secretary of State for the State of South Carolina established the procedures and requirements for commissioned Notaries. In the Secretary's *Notary Reference Manual*, it is clearly written in chapter 2, on page 6, #6,.....

"Your 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."

68. The Plaintiff's filed mortgage in M-BK 01914, from pages 221-239 [WF00042-WF00060] is "**Falsely Certified**" and is... therefore invalid. *Section 26-3-60 – SC Code of Laws*, in pertinent parts, defines "Acknowledged before me" as the following:

"[T]he words "acknowledged before me" mean:

- (1) That the person acknowledging appeared before the person taking the acknowledgment;
- (2) That he acknowledged he executed the instrument;
- (3) That, in the case of:
 - (a) A natural person, he executed the instrument for the purposes therein stated; "{See also Ehlers v. United States Fid. & Guar. Co., 87 Wn. 662, 152 P. 518 (1915) (holding that "the notary must exercise reasonable care in ascertaining the identity of the parties described in and who execute the instrument, and the question of whether or not reasonable care has been exercised is usually a question of fact.); United States Fidelity & Guaranty Co. v. State, 211 Miss. 864 (Miss. 1951); James, Inc. v. Carr, 170 Wn. 29, 14 P.2d 1113 (1932); Christensen v. Arant, 358 N.W.2d 200 (Neb. 1984) (holding that "the contract is unenforceable, since the wife had not actually been in the notary's presence. "); See also McWilliams v. Clem, 743 P.2d 577 (Mont. 1987); Iselin-Jefferson Financial v. United California Bank, 549 P.2d 142 (Cal. 1976) & Iowa State Bar Association v. West, 387 N.W.2d 338 (Iowa 1986)}
 - (a) In re Vance, 99 F. App'x at 27; (the Sixth Circuit quoted the language of Kentucky's Revised Statute § 423.130 which is titled, "Certificate of person taking acknowledgment": The person taking an acknowledgment shall certify that: (1) The person acknowledging appeared before him and acknowledged he executed the instrument; and (2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument. The Sixth Circuit then stated, "[t]he notary failed to include this [§ 423.130] information in the certification.)
 - (b) See also Gardner v. Chase Home Fin. (In re Patton), 2006 WL 3877755, 2 (Bankr. E.D. Ky. 2006); Miller v. Raisor (In re Raisor), 2006 WL 3885132, 2 (Bankr. E.D. Ky. 2006); Schlarman v. Suntrust Mortgage, Inc. (In re Helvey), 2006 WL 3877754, 2 (Bankr. E.D. Ky. 2006) & Baker v. CIT Group/Consumer Fin., Inc. (In re Hastings), 353 B.R. 513, 516-17 (Bankr. E.D. Ky. 2006) (the information required by Kentucky Revised Statute § 423.130 includes identifying the debtors) and see Dunlap v. Commonwealth Cmty. Bank (In re Phelps), 341 B.R. 848, 852-53 (Bankr. W.D. Ky. 2006).

69. No legitimate judgment or foreclosure can be rendered in favor of the Plaintiff because the Plaintiff's Mortgage and Note are notarized and recorded in violation of *Section 30-5-40 –*

SC Code of Laws that states in pertinent parts..

“(1) Any deed or other instrument purporting to convey an interest in or lien upon real estate executed after May 11, 1972 and prior to June 22, 1973, which in all other respects meets the requirements of law, whether executed within or without this State, and whether or not such instrument was executed in the presence of and subscribed by two or more witnesses, as provided in *Section 27-7-10*, is hereby validated as to execution from the time of such execution and entitled to recordation if:

(a) The execution thereof was acknowledged in a form substantially identical to the forms set forth in *Section 26-3-70*, Uniform Recognition of Acknowledgments Act; or

(b) The execution thereof was acknowledged in a form conforming substantially to the provisions of *Section 30-5-30, subsection (3)*, as amended in 1972.

(2) The recordation of any such instrument is hereby validated and declared to have constituted legal notice from the time of such recordation, if such instrument complies with the recording of statutes of this State.”

70. The Plaintiff's Mortgage and Note do not “Substantially Comply” with the recording requirements of South Carolina law. Therefore, there is no valid debt to collect. Both are void *ab initio*.

71. No legitimate judgment or foreclosure can be rendered in favor of the Plaintiff because the Plaintiff's Mortgage and Note are notarized and recorded in violation of *Section 26-3-40(1)*

& (2) – *SC Code of Laws* that states the following in pertinent parts....

“The person taking an acknowledgment shall certify that:

(1) The person acknowledging appeared before him and acknowledged he executed the instrument; and

(2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.”

72. No legitimate judgment or foreclosure can be rendered in favor of the Plaintiff because the Plaintiff's Mortgage and Note are notarized and recorded in violation of *Section 26-3-50* – *SC Code of Laws* that states in pertinent parts.....

“The form of a certificate of acknowledgment used by a person whose authority is recognized under *Section 26-3-20* shall be accepted in this State if:

- (1) The certificate is in a form prescribed by the laws or regulations of this State;
- (2) The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or
- (3) The certificate contains the words "acknowledged before me," or their substantial equivalent."

73. *Section 34-3-110 - SC Code of Laws* that clearly states in pertinent parts...

"(A) A person knowingly may not execute, or attempt to execute, a scheme or artifice to: defraud a federally chartered or insured financial institution; or 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."

74. A **"Falsely Certified"** Mortgage and Note is a fraudulent pretense, a misrepresentation of material facts, and a false promise. Under *Section 30-5-30 - SC Code of Laws*, before any verified signing can take place, the Notary must require the personal appearance of the signer and evidence of identification. There are penalties and/or fines if a Notary is convicted of **"False Certification"**.

(a) **Civil Liability** - A Notary Public may be sued if his/her actions were negligent., e.g., Notarizing a signature of a signer who did not personally appear before the Notary which results in a fraudulent or an illegal loan transaction.

(b) **Criminal Penalty** - Misdemeanor: fined \$200.00 or not more than 30 days in jail and loss of commission.

(c) **Loss of Commission** - Upon notification by a Court of Law that a Notary has been convicted of **"False Certification"**, the Secretary of State will revoke the Notary's commission.

75. Wells Fargo hands are not clean by virtue of its numerous violations of South Carolina and Federal law and its perpetuation of the illegally brokered loan of an "Unlicensed" Seller after all the facts were known. *Arnold v. City of Spartanburg*, 201 S.C. 523, 532, 23 S.E.2d 735, 738 (1943). *Ingram v. Kasey's Assoc's.*, 340 S.C. 98, 107, 531 S.E.2d 287, 292 (2000). "[T]his is consistent with South Carolina precedent asserting that no person be permitted to acquire a right of action from their own unlawful act and that one who participates in an unlawful act

cannot recover damages for the consequence of that act.”

76. 18 U.S.C. § 1344 clearly states in pertinent parts;

“ Whoever knowingly executes, or attempts to execute, a scheme or artifice to defraud a financial institution; or to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises; shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both”.

77. **Sentence #25: The Defendant Objects to the Statement in Sentence #25:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution... As the Defendant stated in her **Verified Pleading** that was filed as *Opposition to Plaintiff's Wells Fargo Bank, N.A.'s Motion for Summary Judgment* that is incorporated by reference as though fully set forth herein verbatim that was filed on July 17, 2013, *Moseley v. All Things Possible, Inc. Moseley vs. All Things Possible*, 388 S.C. 31, 47, 694 S.E2d 43, 46, (Ct. App. 2010) is not an applicable case law this case for the following reasons.....

- (a) *Moseley* is not a brokered loan,
- (b) An “Unlicensed Seller” was not involved in the transaction that was using the loan paperwork of a licensed broker,
- (c) There is no evidence in the Law of the Case, that *Moseley* was duly notified by a second or third party of misrepresentations, falsity, misstatements, deceit, deception, errors, omissions and/or non disclosure of material facts, like Wells Fargo was notified.
- (d) From reading the case file, no “Unauthorized Credit Report” [WF00066-WF00073] was used.
- (e) There are no “False Accusations” by bank personnel falsely accusing the *Moseleys*; [WF00120 & WF00125-WF00126]
- (f) No “Unlawful Brokering”, outright lies [WF0009 & WF00030-WF00038] and the *Moseleys* still proceeded with the purchase anyway; demonstrating willful intent and **Complicity** to perpetuate the fraud of *Whitehead* and/or *All Things Possible, Inc.*, after all the facts were known.
- (g) There is no “Forged and Altered” Contract of Sale. [WF00028-WF00029]
- (h) There is no “Inflated and Falsified” Appraisal. [WF00001-WF00026] And.....
- (i) There is no “Falsified” Satisfaction Completion Certificate. [WF00009]

78. All the above elements; (a)-(i), and more are present in this case that are absent in *Moseley*. The Defendant will state it a gain, *Wells Fargo Bank, N.A. v. Sistrunk* is a precedent setting case not a precedent following case.

(a) As already stated in previous filings relative to this matter of the probative value and/or dispositive value of *All Things Possible* as relevant case law, the Courts and the Plaintiff's reliance on *All Things Possible* is misguided and misplaced. There is no mention in the case law files, that were reviewed by the appeals court, that the *Moseleys* argued **Complicity** after all the facts were known.

(b) Wells Fargo" was duly notified of all the foregoing facts and still would not cancel the loan. [See the Defendant's Filed Exhibits 8-14] Therefore, Wells Fargo is **Complicit** in the unlawful activities of the Broker, the Seller and the Appraiser after all the facts were known. *Moseley v. All Things Possible, Inc.*, consistently fails and has no persuasive value relative to Wells Fargo's **Complicity** in supporting or ignoring and actively defending illegality. *Jackson v. S. Holland Dodge*, 755 N.E2d 462, 466 (2001); *Cumis Ins. Soc'y, Inc. v. Peters et al.*, 983 F. Supp. 787, 794 (N.D. Ill. 1997) (holding under Illinois law defendant is liable if he "either knowingly participated in the fraud or knowingly accepted the fruits of the fraudulent conduct"); *State v. Small*, 272 SE 2d 128 - NC: S. Ct. 1980; *State v. Williams*, 216 N.C. 446, 5 S.E.2d 314 (1939); *16 Am. Jur.2d Conspiracy* § 19 (1979); *Nye & Nissen v. United States*, 336 U.S. 613, 626 (1949); *United States v. Rosenberg*, 888 F.2d 1406, 1426 (D.C. Cir. 1989); *United States v. Peoni*, 100 F.2d 402 (1938); *Hyde v. United States*, 225 US 347 - Supreme Court 1912; *Pinkerton v. United States*, 328 U.S. 640 (1946); *Section 16-17-410 – SC Code of Laws*

79. "[I]t is a familiar rule that when several parties conspire or combine together to commit any unlawful act, each is criminally responsible for the acts of his associates or confederates"

State v. Small, 272 SE 2d 128 - NC: Supreme Court 1980

80. In Gordon V. Busbee, 397 S.C. 119, 134-135, 723 S.E.2d 822, 831 (Ct. App. 2012).

According to ruling, the Gordons relied upon Fender v. Fender, 285 S.C. 260, 329 S.E.2d 430 (1985), in making their motion.

(a) In Fender, the attorney in fact for the decedent transferred to himself 37.4 acres of land, a car, and the proceeds of two bank accounts prior to the decedent's death. Id. at 262, 329 S.E.2d at 431. "The elements for a cause of action of aiding and abetting a breach of fiduciary duty are: (1) a breach of a fiduciary duty owed to the plaintiff; (2) the defendant's knowing participation in the breach; and (3) damages." Vortex Sports & Entm't, Inc. v. Ware, 378 S.C. 197, 204, 662 S.E.2d 444, 448 (2008).

(b) "The gravamen of the claim is the defendant's knowing participation in the fiduciary's breach." Future Group, II v. Nationsbank, 324 S.C. 89, 99, 478 S.E.2d 45, 50 (1996). The Gordons presented no evidence Busbee had actual knowledge of the transfers George made prior to his making them or at the time he made them. George acted as attorney-in-fact for Clara prior to her death and as PR for her estate until his own death in 2003."

(c) Gordon vs. Busbee, is not relevant case law either. Wells Fargo and Wells Fargo's Chairman have been duly notified of the illegal brokering activities of the "Unlicensed" Seller and the falsified, forged and fraudulent documents upon which the loan is based that belong to the "Unlicensed" Seller, that was helped by the Broker, the Appraiser and Wells Fargo's own employees and they have taken no action except the continued protection and defense of the "Unlicensed" seller, while Wells Fargo continues to Defraud others with them; especially, the Defendant.

81. Relevant case law mandates having the same or essentially the same elements within the case file; as well as rulings on essentially the same cause/s of action and/or defenses that constitute the Law of the Case. The United States Court of Appeals for the District of Columbia explains the concept of "matter properly provable" as follows:

(a) "The initial step in determining relevancy is therefore to identify the "matter properly provable." As Professor James explained in a highly-regarded article, "[t]o discover the relevancy of an offered item of evidence one must first discover to what proposition it is supposed to be relevant." United States v. Foster, 986 F.2d 541 (D.C. Cir. 1993) citing James, Relevancy, Probability and the Law, 29 Cal. L. Rev. 689, 696 n. 15 (1941)."

(b) Section 16-13-10(A)(2)&(4) – SC Code of Laws states in relevant parts... "(A) It is unlawful for a person to:(2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing; (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;"

82. **Sentence #26: The Defendant Objects to the Statement in Sentence #26:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution... this sentence has the evidence and proof that *Rule 30(b)(2)*, *SCRCP* has been violated. {See Defendant's Exhibit 329, Page 6, #26}

(a) As the Defendant suspected.. Judge Goodstein, was not even notified. Therefore, she (Judge Goodstein) is innocent of knowingly violating. However, since the Deposition was used and referred to.... it is still a violation. Though innocently done, it still violates *Rule 30(b)(2)*.

(b) After the Defendant told Ms. Perkinson about the Seller's fraud, deceit and deception, Ms. Perkinson advised the Defendant to work things out with the Seller. The Defendant followed Ms. Perkinson's misguided advice until March of 2008. By March of 2008, the Defendant realized Wells Fargo is not an innocent victim but an active participant in the Seller's illegal brokering activities with help from the Broker, the Appraiser and Wells Fargo's own employees; especially if loan #708-0174072777 is packaged in a mortgage backed security . {See the Defendant's Filed Exhibits 4-63 and every Verified Pleading filed in the Court of Common Pleas from July 18, 2008 to the present that are incorporated by reference as though fully set forth herein verbatim and see *People v. Croy*, 710 P.2d at 398 n.5 (Cal. 1985) (holding that an aider and abettor: need not have intended to encourage or facilitate the particular offense ultimately committed by the perpetrator. His knowledge that an act which is criminal was intended, and his action taken with the intent that the act be encouraged or facilitated, are sufficient to impose liability on him for any reasonably foreseeable offense committed as a consequence by the perpetrator. It is the intent to encourage and bring about conduct that is

criminal, not the specific intent that is an element of the target offense, which Beeman holds must be found by the jury.) and People v. Luparello, 187 Cal. App. 3d 410,445,231 Cal. Rptr. 832,853 (1987) (holding that an accomplice is liable for the natural and reasonable or probable consequences of any act that the accomplice knowingly aided or encouraged); }

83. **Sentence #27: The Defendant Objects to the Statement in Sentence #27:** Based on the rules, precedent and the law governing **Verified Pleadings**, neither Burns and Moise, perpetrators of **The Massive Filing Fraud** during the Stay/TRO, the Court, nor the Plaintiff has filed an acceptable and/or legitimate response since the Defendant filed her *First Amendment to Answers to Complaint with Counterclaims* that was filed in July of 2008, however, in the abundance of caution... this sentence has the evidence and proof that *Rule 30(b)(2), SCRCF* has been violated. *{Defendant's Exhibit 329, page 6}*

(a) As the Defendant has repeatedly stated, first and foremost the Defendant's averments are not allegations. An allegation is a statement that is not supported by facts or evidence. A *Statement of Fact* can be proven by anyone that chooses to prove it, even Wells Fargo and Wells Fargo's attorneys or any John Q. Citizen off any street on planet earth that can read, write and understand the English language. Simply give John Q. Citizen copies of the 7-59 Appraisals and ask him to determine whether or not the 7-59 Appraisals match the property. Therefore, there is no alleged act of fraud, the fraud is real, it is documented and it can be easily proven by anyone – even a middle school student with reasonable intelligence. *{See the Plaintiff's filed Exhibits WF00001-WF00026 and Black's Law Dictionary 2nd Edition, Definition of Reasonable and Intelligence}*

(b) As the Defendant has repeatedly stated, the evidence and extent of Wells Fargo's participation, perpetuation and **Complicity** in the illegal brokering activities of the Seller, with help from the Broker, the Appraiser and Wells Fargo's own employees can be found in Wells

Fargo's own documents. This is not the Defendant's evidence it belongs to the Plaintiff. Wells Fargo is currently perpetuating its own fraud upon the Defendant and Orangeburg County and defrauding every person and/or entity that invests in a mortgage back security in which loan #0174072777 is packaged because the loan's value is based on verifiable "Falsified" documents.

84. According to Janet Frotscher in her letter dated, June 2, 2008, [WF00125-WF00126] the loan was approved based on the Appraisal, the Satisfaction Completion Certificate and the Contract of Sale that were received on December 4, 2007. Wells Fargo's acceptance, use and perpetuation of falsified documents is so brazen and in your face that; as previously stated, even a child in middle school with reasonable intelligence can prove it with little or no effort. This is because with no real effort, anyone can clearly and convincingly establish whether or not this is an alleged fraud or an actual fraud being perpetuated by Wells Fargo on the Defendant, Investors and Orangeburg County.

- (a) The 7-59 Appraisals are verifiably forged and falsified. [WF00001-WF00026]
- (b) The Contract of Sale is verifiably forged and altered. [WF00028-WF00029]
- (c) The 7-59 Satisfaction Completion Certificate is also verifiably falsified. [WF00009]
- (d) The credit report is verifiably unauthorized [WF00066-WF00073] and Wells Fargo's unauthorized use is a violation of 15 USC § 1681n(a).

C. In addition to Defrauding others with the falsified, forged and altered documents of the "Unlicensed Seller, Broker and Appraiser, Wells Fargo is barred from any court order because of its own verifiable violations of Federal and State Laws.

85. Section 39-5-20 – SC Code of Laws that clearly states in pertinent parts..“An act is ‘unfair’ when it is offensive to public policy or when it is immoral, unethical, or oppressive; a practice is ‘deceptive’ when it has a tendency to deceive.” *Johnson v. Collins Entm't Co., Inc.*, 349 S.C. 613, 636, 564 S.E.2d 653, 665 (2002). And..

86. Actual knowledge is not necessary to hold Wells Fargo liable, if misrepresentations are made by Wells Fargo's employees while acting within the scope of their agency/ies. See, *West v. Service Life & Health Co.*, 220 S.C. 198, 66 S.E. (2) 816 (1951); see also, *Restatement (Second)*

of Agency § 261, comment a (1958). South Carolina's Unfair Trade Practices Act (SCUTPA) should not be construed to increase the Defendant's burden of proving liability. "[I]ts purpose is to give additional protection to the victims of unfair trade practices, not to make a case harder to prove than it would be under common law principles. Consistent with this policy, the federal courts hold that actual knowledge of the principal is not necessary to hold him liable for the acts of his agent committed within the scope of authority." {See Goodman v. Federal Trade Commission, 244 F. 2d 584 - Court of Appeals, 9th Circuit 1957}

87. Under Section 39-5-20(a) and (b), SC Code of Laws, the Defendant need not prove the elements of common law deceit in order to establish a violation of the *South Carolina's Unfair Trade Practices Act* since, under the statute, there is no need to show that a claim or representation was intended to deceive but only that it had the capacity, effect, or tendency to deceive. {See State Ex Rel. McLeod v. C & L CORP. INC., 313 SE 2d 334 - SC: Court of Appeals 1984}

88. In order to be actionable under SCUTPA, an unfair deceptive act or practice must have an impact upon the public interest and the act and practice must have the potential for repetition. Using falsified documents to secure notes has the potential for repetition. {See Noack Enterprises, Inc. v. Country Corner Interiors of Hilton Head Island, Inc., 290 S.C. 475, 351 S.E.2d 347 (Ct. App. 1986) (wherein the court held in an action brought by one corporation against another that the UTPA is not available to address a private wrong where the public interest is unaffected)}

89. In addition, asking the Defendant to make monthly payments on a known "Illegally Brokered Loan", with known violations of Federal and State law, a known "Illegal Predatory Lending Scheme" as defined by the United States Justice Department, that is based on a verifiable "Forged" and "Altered" Contract of Sale, verifiably "Falsified" 7-59 Appraisals, a

verifiably “Falsified” 7-59 Satisfaction Completion Certificate and a verifiable “Unauthorized” Credit Report is **Unconscionable**. The Plaintiff’s falsely valued mortgage and note offers the Defendant no legitimate choice. No sane and rational person would make payments on a mortgage loan under these conditions or be hounded by attorneys from Nelson Mullins Riley & Scarborough, LLP in a foreclosure proceeding to violate State and Federal law. It is for a Jury to decide whether or not Wells Fargo has violated *Section 37-5-108 – SC Code of Laws* that clearly states in pertinent parts.....

- (a) “(1) With respect to a transaction that is, gives rise to, or leads the debtor to believe will give rise to, a consumer credit transaction, if the court as a matter of law finds:
- (a) the agreement or transaction to have been unconscionable at the time it was made, or to have been induced by unconscionable conduct, the court may refuse to enforce the agreement; or
 - (b) any term or part of the agreement or transaction to have been unconscionable at the time it was made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable term or part, or so limit the application of any unconscionable term or part as to avoid any unconscionable result and award the consumer any actual damages he has sustained.

(2) With respect to a consumer credit transaction, if the court as a matter of law finds that a person has engaged in, is engaging in, or is likely to engage in unconscionable conduct in collecting a debt arising from that transaction, the court may grant an injunction. In addition, the consumer has a cause of action to recover actual damages and, in an action other than a class action, a right to recover from the person violating this section a penalty in the amount determined by the court of not less than one hundred dollars nor more than one thousand dollars....”

(b) “[U]nconscionability has been recognized as the absence of meaningful choice on the part of one party due to one-sided contract provisions, together with terms that are so oppressive that no reasonable person would make them and no fair and honest person would accept them.” *Carolina Care Plan, Inc. v. United Health-Care Services, Inc.*, 361 S.C. 544, 554, 606 S.E.2d 752, 757 (2004).

(c) “[P]enal statutes must be strictly construed”, *Bostic v. Am. Home Mortg. Servicing, Inc.*, 375 S.C. 143, 149, 650 S.E.2d 479, 482 (Ct. App. 2007) (“South Carolina has long recognized the principle that penal statutes are to be strictly construed.”). The Court of Appeals in *Rorrer v. P.J. Club, Inc.*, 347 S.C. 560, 567, 556 S.E.2d 726, 730 (Ct. App. 2001) clearly stated, “[W]hen a law imposes a punishment which acts upon the offender alone, and not as a reparation to the party injured, ...it is entirely within the discretion of the lawgiver.”

90. In addition to Wells Fargo's use and reliance on verifiably "Falsified" documents and a verifiably "Unauthorized" credit report that is so in your face until a child in middle school with reasonable intelligence can prove it is "Unauthorized", Wells Fargo's violations of *Section 37-23-40(1)&(2) – SC Code of Laws* are also verifiable without a Jury Trial.

91. *Section 37-23-40(1) & (2) – SC Code of Laws* clearly states in pertinent parts..

(2) make a high- cost home loan unless the lender reasonably believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, is able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources other than the borrower's equity in the dwelling that secures repayment of the loan. If the loan is an adjustable rate mortgage (ARM), the analysis of the obligor must include an evaluation of the ability to repay by final maturity at the fully indexed rate assuming a fully amortizing repayment schedule. An obligor is presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed pursuant to the loan including, but not limited to, principal, interest, current property taxes, and current insurance, do not exceed fifty percent of the obligor's monthly gross income as verified by the credit application, a credit report, and information provided to a lender by a third party, including the Internal Revenue Service (IRS). A presumption of inability to make the scheduled payments to repay the obligation does not arise solely from the fact that, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed under the loan, exceed fifty percent of the obligor's monthly gross income;"

92. There is absolutely no evidence in Wells Fargo's filed documents that the Defendant received any counseling and the Defendant's debt obligations exceeded 50% of the Defendant's gross monthly income as verified by Wells Fargo's "Unauthorized" credit report [WF00066-WF00073]. It was not the Defendant's responsibility to know the requirements of this statute. It is Wells Fargo's responsibility to know and "Substantially Comply" with the requirements of South Carolina's statutory laws. Key provisions in *Section 37-23-50 – SC Code of Laws* clearly define a borrower's right in action for violations; penalties; statute of limitations; enforcement; costs, the application of the article and the court's responsibility.

93. *Section 37-23-50 – SC Code of Laws* clearly states in pertinent parts...

"(A) If a lender, or party charged with a violation, when making a high- cost home loan

violates the provisions of this article, the borrower has a right in action, other than a class action, to recover from the lender or party charged with the violation actual damages and also a penalty in an amount determined by the court of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each loan transaction. No borrower may bring a class action for a violation of this article. No borrower may bring an action for a violation of this article more than six years after the violation occurred and after the original scheduled maturity date of the debt. This section does not bar a borrower from asserting a violation of this article in an action to collect a debt which was brought more than six years from the date of the occurrence of the violation and after the original scheduled maturity date of the debt as a matter of defense by recoupment or set-off in such action;

(B)(1) If the court finds as a matter of law that the agreement or transaction violates the provisions of this article at the time it was made, the court may, in an action other than a class action:

- (a) refuse to enforce the agreement, or a term, or part of the agreement or transaction that the court determines to have been unlawful at the time it was made;
- (b) enforce the remainder of the agreement without the unlawful term or part, or limit the application of the unlawful term or part to avoid an unlawful result;
- (c) rewrite or modify the agreement to eliminate an unlawful term, part, or result and enforce the new agreement; or
- (d) award either one of the following:
 - (i) not more than the total amount of the loan finance charge and allow repayment of the unpaid balance of the loan without any finance charge;
 - or
 - (ii) not more than double the amount of excess loan finance charge or other charges or fees actually received by the creditor or paid by the debtor to a third party.

(2) An action pursuant to this subsection may not be brought after the original scheduled maturity date of the debt.

(C) In an action in which it is found that a lender or party charged with a violation has violated this chapter, the court shall award to the debtor the costs of the action and to his attorneys their reasonable fees. In determining attorney's fees, the amount of the recovery on behalf of the debtor is not controlling.

(D) This article establishes specific consumer protections in consumer home loans in addition to other consumer protections that may be otherwise available by law."

94. Because Wells Fargo's supporting documents are verifiably falsified. Wells Fargo's use of falsified documents to support any mortgage backed security is a securities violation, a violation of the SEC's disclosure requirements for securities and Wells Fargo continues the Seller's "Illegal Predatory Lending Scheme" that is aiding and abetting the Seller; with help from the Broker, the Appraiser and Wells Fargo's employees, to defraud others. {See Nye & Nissen v.

United States, 336 U.S. 613, 626 (1949) (holding that, “[I]t makes a defendant a principal when he consciously shares in any criminal act whether or not there is a conspiracy.”)}

95. The evidence linking Wells Fargo to the “Unlicensed” and **Complicity** in and with his unlawful deeds is not only overwhelming based on Wells Fargo’ own documentation, Wells Fargo’s **Complicity** in illegality is overwhelming based on the entirety of the transaction and how it was obtained in violation of State law, Federal law and the applicable provisions of the Uniform Commercial Code. See *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.”); See also Sections 16-13-10, 16-17-410, 34-3-110, 36-3-305(a)(1)(ii)(iii), 37-23-40(1)&(2), 39-5-20(a)& (b), 40-58-30, 40-58-50, 40-58-70, 40-58-78 – SC Code of Laws, 15 USC §1681n(a), 18 USC § 656, §1001, §1005, §1007, §1014, §1344 and the Uniform Commercial Code ARTICLE III §305(a)(1)(ii)(iii)} It is for all the above reasons and more that the Plaintiff, has shown no right to relief and the Plaintiff’s motion for summary judgment should have been denied and the Summary judgment granted to the Defendant on her *Rule 41(b)*, *SCRCP Motion to Dismiss with Prejudice* that was filed on August 15, 2011 and cannot be opposed based on the information and belief of attorneys.

III. THE DEFENDANT AGREES SUMMARY JUDGMENT SHOULD HAVE BEEN DENIED ON THE UNDERLYING COMPLAINT OF FORECLOSURE, HOWEVER, SUMMARY JUDGMENT SHOULD HAVE BEEN GRANTED ON THE DEFENDANT’S RULE 41(b), SCRP MOTION TO DISMISS WITH PREJUDICE THAT WAS FILED ON AUGUST 15, 2011

A. The reason for the Motion to Amend and/or Alter the Partial Summary Judgment Motion and Rescind the Plaintiff’s Order of Reference. Based solely upon the facts and the law, Wells Fargo has shown no right to relief.

96. **Sentences #28 : The Defendant Agrees with the Statements in Sentences #28 :** Wells Fargo has presented no evidence of compliance with South Carolina’s Supreme

Court Orders. In deed, Wells Fargo has not complied and resisted any effort by the Defendant and/or the Defendant's husband to comply. {See Defendant's Filed Exhibits 165-173} In addition to failed compliance under *Administrative Order #2011-05-02-01*, **The Massive Filing Fraud** of Burns & Moise covered up the truth relative to Wells Fargo's failed compliance during the Stay/TRO pursuant to *Administrative Order #2009-05-22-01*.

97. The Defendant suspects that this is the real reason why Wells Fargo Home Mortgage (WFHM) told the Defendant to send or fax the tax notices to WFHM. The Defendant suspects Wells Fargo's management really believed the misstatement of facts and/or the outright lies of Janet Frotscher, [WF00120 & WF00125-WF00126]. Just like Burns and Moise, Janet Frotscher was acting on information and/or belief and not accurate and/or verifiable information and not personal knowledge. *Rule 11(c), SCRCF*

98. The Defendant suspects, WFHM was expecting a speedy foreclosure, so there was no need to comply with the terms, conditions and/or the requirements of the TRO/Stay. The Defendant suspects, WFHM's personnel did not foresee the Stay/TRO lasting for almost 2 years and/or it's ensuing legal entanglements and/or delays. Since June of 2008, no one from WFHM or Wells Fargo Bank has changed the initial instructions to the Defendant to send tax notices to WFHM. {See Defendant's Filed Exhibits 183-184, 192-193, 196, 199-200, 202-211 & 214-216}

99. To prove the existence and perpetuation of the **Massive Filing Fraud** by Burns and/or Moise, and to prove the Defendant's *Sworn Statements of Fact* are true, all the Court/Judge has to do is demand Burns and/or Moise verify their filed Case Status Update statements with hard evidence; i.e., phone records, dates, times, HMP/HAMP determination methods and the names of the personnel that contacted the Defendant during the dates and times in question and prove the Defendant refused to talk with Wells Fargo. If done so, the Court/Judge will discover these records do not exist.

100. Sentences #30 & #31: The Defendant Partially Agrees with the Statements in Sentences #30 & 31: There is only partial agreement, because, at this point in time, Wells Fargo cannot present any evidence that the Seller was licensed, that he was a loan originator with Golden Gate Mortgage or was authorized to supply all the paperwork and all the signatures on Golden Gate Mortgages loan paperwork, additional "Fraud in the Inducement" and "Fraud in Factum" by the "Unlicensed Seller for loan #708-0174072777 and its ensuing mortgage and note. [WF00001-WF00138]

101. Regardless of who Wells Fargo pays to do an appraisal, it will be revealed by due diligence that Austin's 7-59 Appraisals are falsified and the value inflated. Therefore, it is immaterial that the Defendant signed loan documents on December 21, 2007 or on November 26, 2007 for the "Unlicensed" Seller. Wells Fargo never had a legal loan, mortgage or note. Wells Fargo's note and mortgage began in fraud and it ended in fraud.

102. STEPHANIE HAMMOND was not in the room with Debra C. Galloway and the Defendant on 12/21/2007. Therefore, she could not have witnessed the Defendant sign any documents or execute any mortgage. The mortgage is falsely certified due to a Notary's constructive fraud.

103. Wells Fargo's mortgage fails the legal requirements of South Carolina's Uniform Recognition and Acknowledgment Act because the Defendant is not identified as appearing before Debra C. Galloway on the mortgage instrument as required by South Carolina law. The Defendant does even know STEPHANIE HAMMOND and like, the Appraiser and the Broker has never met her or seen her. Therefore Wells Fargo's mortgage was void on 12/21/2007 and do require an Order of Reference for what can be easily be determined by looking at the document [WF00060] and reading *Sections 29-1-95, 30-5-30(A)-(B) – SC Code of Laws*.

104. *Rule 1, SCRCF and Rule 41(b), SCRCF* effectively ends this matter. The only remaining

element of the case that needs a decision is how much compensation for the Defendant for cost of suit and legal defense of an illegal loan transaction and any punitive damages that is required as a deterrence for Wells Fargo's **Complicity** in violating State and Federal laws.

B. Summary Judgment under Rule 41(b), SCRPC is appropriate for the Defendant.

105. Based on the known facts, Wells Fargo's filed exhibits, affidavits, the Defendant's and Witness's un rebutted, uncontested, never refuted, never denied and never controverted "*Sworn Statements*", and after all the facts were known....and based upon those facts and the law, the Plaintiff's has shown no right to relief. (Wells Fargo Bank's) behavior is indicative of an **Accomplice** before, during and after the fact. The Plaintiff's actions would lead anyone to believe Wells Fargo is **Complicit** and is indeed a friend and business associate of the Seller - Thomas Jacobs, David Terrell – the Broker and Jim H. Austin, III – the Appraiser. {*See Plaintiff's Filed Exhibits WF00120- WF00121, WF00125-WF00126, WF00130 & WF00132-WF00133*}

106. The Defendant's Motion to Amend and Alter the Plaintiff's partial summary judgment order contains an additional option for the Court to render a Summary Judgment in favor of the Defendant. As stated, the Defendant only needs to prove illegality and/or the violation of any law, State or Federal. The rule does not state laws plural. In addition, "[T]he purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder." *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003); *Eagle Container*, 366 S.C. at 621, 622 S.E.2d at 738; *Rumpf v. Massachusetts Mut. Life Ins. Co.*, 357 S.C. 386, 393, 593 S.E.2d 183, 186 (Ct.App.2004).

107. It would not be premature for the trial court to grant summary judgment to the Defendant. Wells Fargo has had over 5 years to depose witness other than the Defendant and has had ample

opportunity to develop the record for the Plaintiff's case. See George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 594, 545 S.E.2d 500, 506 (2001) (finding summary judgment was not premature because defendant "had a full and fair opportunity to develop the record on this issue, but failed to do so."); see also Bayle v. South Carolina Dep't of Transp., 344 S.C. 115, 128-29, 542 S.E.2d 736, 742-43 (Ct. App. 2001) (stating it was not error to grant summary judgment because no further discovery would have contributed to the resolution of the case).

108. Wells Fargo did not rely on any legitimate representations from the Defendant. Even the credit report is "Unauthorized" [WF00066-WF00073]. Wells Fargo has had ample time and Wells Fargo's attorneys have had ample time and opportunity to discover the truth in the public records, but chose to defend the illegal brokering activities of the Seller, that was helped by the Broker, the Appraiser and Wells Fargo's own employees, most notably, Janet Frotscher. National Republic Bank v. National Homes Construction Corp. (1978), 63 Ill. App.3d 920, 925, 21 Ill.Dec. 80, 84, 381 N.E.2d 15, 19.) (Central States Joint Board v. Continental Assurance Co. (1983), 117 Ill.App.3d 600, 606, 73 Ill. Dec. 107, 111, 453 N.E.2d 932, 936.) (holding that "[I]f ample opportunity existed to discover the truth, then reliance is not justified.)

109. Wells Fargo's Chairman and Wells Fargo legal department {Defendant's Exhibits 327 & 328} were duly notified and chose not to act. In Smith v. Ethell (1986), 144 Ill.App.3d 171, 98 Ill.Dec. 742, 494 N.E.2d 864, the following standard for investigating the status of real estate was set forth:

"[W]hen an individual of ordinary prudence is on notice of a possible problem and that further investigation may be required, it is only where under the circumstances the facts should be apparent to one of his knowledge and intelligence from a cursory glance where he has discovered something which serves as a warning that he is being deceived, that he is required to make an investigation of his own."

110. Wells Fargo's personnel knowingly participated in the fraud of the "Unlicensed" Seller after being duly notified and extended the Seller's, Broker's, Appraiser's and it's own employees'

fraudulent conduct to others; especially the Defendant. See Jackson v. S. Holland Dodge, 755 N.E2d 462, 466 (2001); Cumis Ins. Soc'y, Inc. v. Peters et al., 983 F. Supp. 787, 794 (N.D. Ill. 1997) (holding under Illinois law defendant is liable if he "either knowingly participated in the fraud or knowingly accepted the fruits of the fraudulent conduct"); Hearthside Baking Co., Inc. v. Maurice Lenell Cookie Co., 402 B.R. 233, 251 (Feb. 27, 2009).

111. Rule 41(b), SCRCP clearly states in pertinent parts..... "on the ground that upon the facts and the law the plaintiff has shown no right to relief." Well.. What are facts [*What actually occurred based on personal knowledge*]... and..... what law? [*Any State or Federal rule*] (**Note: Law is singular not plural**) Ashcroft v. Iqbal, 129 S. Ct. 1937 (2009), Iqbal at 1950 ("When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief."). In addition....

112. The Defendant's Pleadings must be construed to do substantial justice. Rule 8(f), SCRCP.

"[A]ll pleadings shall be so construed as to do substantial justice to all parties." *see also Russell v. City of Columbia*, 305 S.C. 86, 89, 406 S.E.2d 338, 340 (1991) (holding to ensure substantial justice to the parties, the pleadings must be liberally construed). "[T]echnical, restrictive or outmoded requirements of Code Pleading are not necessarily required [under the SCRCP]." Gaskins v. S. Farm Bureau Cas. Ins. Co., 343 S.C. 666, 671, 541 S.E.2d 269, 271 (Ct. App. 2000) (quoting Harry M. Lightsey, Jr. & James F. Flanagan, South Carolina Civil Procedure 93-94 (2nd ed. 1996)).

113. There is no reference in Rule 41(b) to material facts and there is no requirement in the language of Rule 41(b) that the facts must be material. Personal knowledge of events is material.

"[A] fact is 'material' if a dispute over it might affect the outcome of a suit under the governing law; factual disputes that are 'irrelevant or unnecessary' do not affect the summary judgment determination." 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. "[W]hen a motion for summary judgment is under consideration, 'the evidence of the non-movant[s] is to be believed,' and all justifiable inferences are to be drawn in [their] favor." Anderson v. Liberty Lobby, Inc., 477 U.S. at 255; See also Mastro v. Potomac Electric Power Co., 447 F.3d 843, 849-50 (D.C. Cir. 2006). [W]here the record taken as a whole could not lead a rational trier of fact to find for the non-moving [parties], there is 'no genuine issue for trial.'" Scott v. Harris, 550 U.S. 372, 380

(2007) (quoting Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)). “[A]s noted, in this case defendants have provided no affidavits, declarations or other competent evidence, setting forth specific facts showing that there is a genuine issue for trial.” *FED. R. CIV. P. 56(e)*; Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986) (“[I]n fact, the defendants largely agree with plaintiff on the facts. The question is whether on the uncontested facts plaintiff is entitled to judgment as a matter of law.”)

114. A fact is defined as “[A] thing done; an action performed or an incident transpiring; an event or circumstance; an actual occurrence. A fact is either a state of things, that is, an existence, or... a motion, that is.... an event.” *Black’s Law Dictionary 2nd Edition*. In the Law of Evidence, 1 *Benth. Jud. Ev.* 48A, “[A] fact is a circumstance, event or occurrence as it actually takes or took place; a physical object or the appearance, as it actually exists or existed. An actual and absolute reality, as distinguished.... from mere.... supposition or opinion. A fact is a truth, as distinguished from..... fiction or..... error.”

115. “[L]aw is a principle; Fact is an event. Law is conceived. A fact is what actually happened. Law is a rule of duty. A fact is that, which has been according to.. or in contravention of the rule. Law operates as an obligatory rule which judges must recognize and enforce.” *The Online Law Dictionary*. Hence, “upon the facts [*what actually happened according to personal knowledge - Rules 11c and 56(e), SCRPC*] and the law [*the Federal and/or State Rules*]”

Wells Fargo has shown no right to relief. *Rule 41(b), SCRPC*

“[I]n interpreting the meaning of the South Carolina Rules of Civil Procedure, the Court applies the same rules of construction used to interpret statutes.” Maxwell v. Genez, 356 S.C. 617, 591 S.E.2d 26 (2003); Green v. Lewis Truck Lines, Inc., 314 S.C. 303, 443 S.E.2d 906 (1994). “[I]f a rule’s language is plain, unambiguous, and conveys a clear meaning, interpretation is unnecessary and the stated meaning should be enforced. See Maxwell, 356 S.C. at 617, 591 S.E.2d at 26; Knotts v. S.C. Dep’t of Natural Resources, 348 S.C. 1, 10, 558 S.E.2d 511, 516 (2002). “[C]ourts should consider not only the particular clause in which a word may be used, but the word and its meaning in conjunction with the purpose of the whole rule and the policy of the rule. S.C. Coastal Council v. S.C. State Ethics Comm’n, 306 S.C. 41, 44, 410 S.E.2d 245, 247 (1991) (applying this rule of construction to a statutory provision). “[I]n construing a rule, language in the rule must be read in a sense which harmonizes with its subject matter and accords with its general purpose. Mun. Ass’n of S.C. v. AT&T Communications of Southern States, Inc., 361 S.C. 576, 606 S.E.2d 468 (2004) (applying this rule of construction to a statutory provision). “[T]he Rules of Civil Procedure “shall be

construed to secure the just, speedy, and inexpensive determination of every action.”
Rule 1, SCRPC.

116. In *Regions Bank v. Schmuck*, 354 S.C. 648, 672, 582 S.E.2d 432, 444-45 (Ct. App. 2003). “[T]he right to rely must be determined in light of the plaintiff’s duty to use reasonable prudence and diligence under the circumstances in identifying the truth with respect to the representations made to him.” *Id.* at 672, 582 S.E.2d at 445. “[A] party may not rely upon a misstatement of fact when the truth is easily within his reach.” *King v. Oxford*, 282 S.C. 307, 312, 318 S.E.2d 125, 128 (Ct. App. 1984). “[I]t is the policy of the courts not only to discourage fraud, but also to discourage negligence and inattention to one’s own interests.” *Id.* “[H]owever, a party may rely on representations without making further inquiry when a fiduciary or confidential relationship exists between the parties. *Epstein v. Howell*, 308 S.C. 528, 530-31, 419 S.E.2d 379, 380-82 (Ct. App. 1992).

117. In *Regions*, 354 S.C. at 671, 582 S.E.2d at 444, “[a] bank may be held to a fiduciary duty if it undertakes to advise a depositor as part of the services the bank offers.” It has already been firmly established in *Nelson v. Production Credit Ass’n of the Midlands*, 930 F.2d 599, 605 (8th Cir. 1991) and by “Stare Decisis” that courts cannot impose a duty on banks or any other lender to use reasonable care when making a loan. Therefore, Wells Fargo’s employees, staff, officers and/or executives are liable and responsible for any losses they incur if their lending behavior becomes reckless and/or inappropriate.

118. Neither the Defendant nor the Courts can make a bank lend responsibly. Nor can the Courts impose a duty on the Defendant to make a bank or lender act responsibly. The Seller lost the right to recovery for his illegal acts and Wells Fargo lost the right to recovery for its illegal acts. Rule 41(b), SCRPC allows the Defendant to file a motion and for the court to act upon a motion based on the Plaintiff’s failure to show a right to relief.

119 *Rule 41(b), SCRCP* clearly states in pertinent parts...

“After the plaintiff in an action tried by the court without a jury has completed the presentation of his evidence, the 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).”

C. Relief Sought

120. Since no "**Verified Pleading**" has been controverted, contested, rebutted, refuted and/or denied by anyone with personal knowledge in over 5 years.....Under the direction and by order of this Court.....

- (a) Vacate the Partial Summary Judgment for the Plaintiff, Rescind the Order of Reference and grant Summary Judgment to the Defendant 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), SCRCP Motion to Dismiss with Prejudice* that was filed on August 15, 2011 and never opposed with counter affidavits.
- (b) Dismiss this foreclosure action pursuant to *Rule 41(b), SCRCP with Prejudice*
- (c) Award any and all Statutory Penalties to the Defendant
- (d) Award Punitive Damages to the Defendant Based on Precedent
- (e) Remove any and all Derogatory Credit Information sent by Wells Fargo to CRA's.
- (f) By Court Order no set-off or recoupment for Wells Fargo's tax payments. There is a reason why the Defendant must send tax notices to Iowa.
- (g) Let a Jury decide Ascertainable Loss, Defamation of Character & Negligent Infliction of Emotional Stress if the Plaintiff still desires to pursue this matter.

Respectfully Submitted as a Verified Pleading.

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

NOTIFICATIONS

A copy of the Defendant's Verified Pleading that has been filed as Defendant Dorothy Sistrunk *Objects to the Order Granting Partial Summary Judgment Due to Misstatement of Facts, Mischaracterization Facts and in Some Instances Outright Lies* 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

Attorney 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 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

The Honorable James B. Jackson, Jr.
PO Box 9000
Orangeburg, SC 29116-9000

The Honorable Maité Murphy
P.O. Box 802
5200 E. Jim Bilton Blvd.
St. George, SC 29477

2016 APR -7 PM 3:12
FILED
CLERK OF COURT
ORANGEBURG COUNTY, SC

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

NOTARY VERIFICATION

IN WITNESS WHEREOF, The undersigned, being duly **SWORN**, and under the **PENALTY**
OF PERJURY has signed and sealed these attestations this 7th day of April
in the year 2014 in City of Orangeburg, State of South Carolina.

Affiant Signature: Dorothy Sistrunk

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

Signed, sealed and delivered in the presence of:

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

On 4/7/2014 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 Pleading presents this Verified Pleading to the Court.

WITNESS my hand and official seal.

Notary's Signature Lillian D. Buck

Commission Expires _____ My Commission Expires
July 24, 2022

ATTEST: TRUE COPY
Wingie B. Clark
CLERK OF COURT
ORANGEBURG COUNTY

(Seal)

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

Wells Fargo Bank, N.A.,

Plaintiff,

Vs.

Dorothy Sistrunk;

Defendants,

) IN THE COURT OF COMMON PLEAS
) FIRST JUDICIAL CIRCUIT
)

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

) **STATEMENT OF UNCONTESTED**
) **FACTS AND MATERIAL FACTS IN**
) **SUPPORT OF MOTION AND LEGAL**
) **MEMORANDUM OF LAW AND**
) **AUTHORITIES TO VACATE THE**
) **PLAINTIFF'S PARTIAL SUMMARY**
) **JUDGMENT ORDER PURSUANT**
) **TO RULE 60(b), SCRCP FOR EXTRINSIC**
) **FRAUD UPON THE COURT BY**
) **OFFICERS OF THE COURT IN**
) **CONJUNCTION WITH 28 U.S.C. § 455**
) **& 42 U.S.C. § 1983**
) **THIS IS A VERIFIED PLEADING AND**
) **MY OFFICIAL COMPLAINT**
) **TODAY'S DATE: MAY 28, 2014**

Comes now the Defendant, Dorothy Sistrunk, to file her *Statement of Uncontested Facts and Material Facts in Support of Motion and Legal Memorandum of Law and Authorities to Vacate the Plaintiff's Judgment Order Pursuant to Rule 60(b), SCRCP for Extrinsic Fraud Upon the Court by Officers of the Court in Conjunction with 28 U.S.C. § 455 & 42 U.S.C. § 1983.*

STATEMENT OF UNCONTESTED FACTS AND MATERIAL FACTS

In conjunction with 28 U.S.C. § 455, 42 U.S.C. § 1983 and my *Motion and Legal Memorandum of Law and Authorities to Vacate Judgment Pursuant to Rule 60(b), SCRCP for Extrinsic Fraud upon the Court by Officers of the Court...*; I contend that there are no genuine issues as to the following uncontested facts and material facts that would delay or impede vacating the Court's Partial Summary Judgment Order, Rescinding the Plaintiff's Order of Reference, Dismissing this Case with Prejudice as soon as legally possible and for Judge Goodstein to recuse herself. Because of constitutional violations, this is now a civil rights case also.

- I. **THE BACKGROUND AS TO HOW JUDGE GOODSTEIN, ELIZABETH SCOTT MOISE AND JAMES H. BURNS COMMITTED FRAUD UPON THE COURT FOR OVER 5 YEARS AND THE CORRUPTION OF SO-CALLED OFFICERS OF THE COURT, INCLUDING DEBRA C. GALLOWAY AND ELIZABETH S. HODGSON – [All attached exhibits only have the necessary pages for evidence or proof]**

A. **The distortion of the truth and the misrepresentation of my defense and primary counterclaims against Wells Fargo by James H. Burns, Elizabeth Scott Moise and Brian A. Calub who falsely portrayed material facts, in layman's language; LIED.**

1. First, I must set the facts and record straight. Wells Fargo's attorneys have been misrepresenting facts and material facts for years, in Layman's language...Lying. *{See Attached Exhibits and Consult the Court's Records for Evidence of Their Fraud upon the Court}*...and Judge Goodstein.... *{Review all of Her Court Orders and Hearing Transcripts, if Available to Verify Her Fraud Upon the Court by Violating the Due Process Clause}* has been ignoring my sworn statements for years.... *{See my Filed Exhibits, Affidavits and Verified Pleadings That Have Been Filed from 2008 to the Present That are Incorporated by Reference as Though Fully Set Forth Herein Verbatim}* and acting on misrepresentations of fact, and in many cases OUTRIGHT LIES.; as well as, the misrepresentations of Wells Fargo's Executive Coordinator, Janet Frotscher, and in many cases, her... OUTRIGHT LIES. She has not and cannot present any evidence to support false accusations and lies on me or about me. *[Attached Exhibit WF00125]*

2. All that has ever been presented in this proceeding by Wells Fargo and/or Wells Fargo's attorneys is the undeniable evidence of an Illegally Brokered Loan, a Home Improvement and Mortgage Fraud, a **Conspiracy to Defraud**, Wells Fargo's **Complicity** in that Fraud and an Illegal Predatory Lending Scheme that are all based on the fraudulent misrepresentations and representations of the Broker, Appraiser, the Unlicensed Seller and Wells Fargo's own employees. During the course of this **Verified Pleading** to present the factual background, history and the clear and convincing evidence of this miscarriage of justice that came into existence due to unthinkable **Fraud upon the Court**, by a sitting judge; Diane Shafer Goodstein and license attorneys, James H. Burns, Elizabeth Scott Moise, Brian A. Calub, Elizabeth S. Hodgson and Debra C. Galloway. I will begin with Brian A. Calub.

(a) Brian A. Calub's filed misrepresentation – Pg 1, under **INTRODUCTION**, ¶ 1, in his

Plaintiff's Memorandum in Support of Motion for Continuance and Scheduling Order that is dated December 5, 2011. "[D]efendant answered complaint and asserted numerous affirmative defenses. *The defenses have primarily centered on what she alleges are "falsified appraisals" given to her by the seller of the property.*" [Italics added] {See Attached Exhibit 330} Attorney Calub repeated the same intentional misstatement of fact in his *Plaintiff's Motion for Sanctions*, on pg. 1, in ¶ 1, under **INTRODUCTION**, in a filed argument dated, May 15, 2012. {See Attached Exhibit 331} [Note: All Exhibits only have the necessary pages for evidence and proof.]

(1) Attorney Calub's statement is a misrepresentation of a material fact and a fact. My affirmative defenses are not centered on any appraisals that were given to me by the seller of the property. **The seller never gave me any appraisals.** You will not find this statement anywhere because it never happened and it is patently false and an intentional misstatement of fact. **Proof:** Wells Fargo's attorneys receive an **Attested True Copy** of every **Verified Pleading**, Notice and any other material and/or information I have file in Court. My filed court papers and/or pleadings are stamped and dated by the Clerk of Court.

(A) *Dawkins v. Fields*, 580 S.E.2d 433 (S.C. 2003) ("...a verified pleading is equivalent to an affidavit, provided it meets the requirements of Rule 56(e). Under Rule 56(e), an affidavit or verified complaint must meet three criteria to be considered by the court: (1) it must be made upon personal knowledge; (2) it must set forth facts admissible in evidence; (3) it must show that the affiant is competent to testify to the matters stated therein.")

(B) "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.}

(C) *Blacks Law Dictionary* (Rev. 4th ed. 1968), on pg 1071, defines **LIE**, n., 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]

(2) Attorney Calub's statement is patently false because in addition to Wells Fargo's fraudulently misrepresented 7-59 appraisals, there is Wells Fargo's forged an altered Contract of Sale, the falsified Satisfaction Completion Certificate, the Unauthorized use of my credit report, the **Fraudulent Representations** of Janet Frotscher and many others.

(3) I challenge any Judge, law clerk or any legal authority that must review and examine this pleading for **Fraud upon the Court** to search my **Verified Pleadings** line by line from 2008 to the present. Find any statement resembling attorney Calub's filed misrepresentation that the seller gave me an appraisal.

(b) James H. Burns' filed misrepresentation #1 – Pgs 1-2, under **BACKGROUND**, starting at ¶ 2 on pg 1, and continuing to the last ¶ on pg 2, in his *Well's Fargo's Motion for Protective Order* that is dated October 31, 2008. {See Attached Exhibit 228} **Proof:** Wells Fargo's attorneys receive an **Attested True Copy** of every **Verified Pleading**, Notice and any other material and/or information I have file in Court. My filed court papers and/or pleadings are stamped and dated by the Clerk of Court that keeps the original written and sworn pleading.

(1) At the time attorney Burns filed his *Protective Order*, he did not realize Wells Fargo has known since February 25, 2008 that Golden Gate Mortgage did not broker any loan for me. Wells Fargo already knew the loan was an unlawful transaction brokered by the Unlicensed Seller – Thomas Jacobs. Therefore, I will not call his first sentence a filed lie, just a gross misstatement of fact.

(2) However, his second sentence is an absolute lie. **I could not have had a dispute with the seller after the closing.** Thomas Jacobs, the Seller, left the closing shortly after introducing me to Debra C. Galloway. I have not seen or heard from Thomas Jacobs – the Unlicensed Seller - since December 21, 2007.

(3) Attorney Burns grossly misrepresented my answer or created his own. The reference that the price will be lowered during the closing occurred on 11/26/07. This fact has never been refuted, denied, controverted or contested by Thomas Jacobs or anyone else. If Thomas Jacobs says otherwise, he would be telling an absolute lie because of witnesses. {See My Filed Affidavits & Filed Exhibit 245}

(4) My letter to David Terrell was not to him as any broker of mine. The letter was to a friend and business associate of Thomas Jacobs. Thomas Jacobs gave my husband a number to a friend of his that he (Thomas Jacobs) said could reach him at any time. If you look at the number to Thomas Jacobs' friend and business associate; 803-788-2880, you can plainly see it is the number to Golden Gate Mortgage. [WF00080 & WF00083]

(5) In addition, the first appraisal with the 7-59 file [#] that was received from Golden Gate Mortgage on January 12, 2008 and the second appraisal that was received from Wells Fargo on February 5, 2008 with the same 7-59 file number... were done for Thomas Jacobs. [WF00014-26] Also see [WF00027 for Proof].

(6) Both 7-59 appraisals are scams and forgeries by substitution [WF00014-26]. Both clearly listed [Sistrunk] as being the property owner on October 8, 2007. I

had nothing to do with 423 Bayne Street in October of 2007 nor did my husband. We were still at Coburn Lane waiting for Tommy Mitchell's real estate agent to show up so we could give her the keys. My husband began cleaning up 423 Bayne Street as part of a rental agreement [My Filed Exhibit 30]. Buying the property was Thomas Jacobs' suggestion. {Refer to My Filed Exhibit 245}

(7) I challenge any Judge, law clerk or any legal authority that must review and examine this pleading for **Fraud upon the Court** to search my **Verified Pleadings** line by line from 2008 to the present. Find any statement resembling attorney Burns' misrepresentation that I had a dispute with the seller after the closing.

(c) James H. Burns' filed misrepresentation #2 – Pg 1, under **INTRODUCTION**, last sentence ¶ 1, and first sentence in ¶ 2, in his *Plaintiff Wells Fargo Bank, N.A.'s Motion for Summary Judgment* that is dated June 27, 2013. “[C]ritically, 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. Defendant believes that the seller and the 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 sale price for the home would be reduced at closing.” [Italics added] {See Attached Exhibit 332}

(1) **I never ever said the Seller and Appraiser conspired to mislead me.** I will restate, repeat and emphasize for the umpteenth time, on December 22, 2007 my husband left a message on the answering machine at the Plaintiff's office in Raleigh, North Carolina notifying WFHM / Kathryn R. Perkinson that my loan is mired in fraud, deceit and deception. Wells Fargo knew from that moment loan #0174072777 was mired in fraud, deceit and deception.

(2) On December 24, 2007, I told Kathryn R. Perkinson about the Seller's misrepresentations. According to Debra C. Galloway [Filed Exhibit 70], she also notified Wells Fargo the loan was in dispute on December 27, 2007.

(3) On January 14, 2008, I told Wells Fargo's personnel in Des Moines, Iowa about the misrepresentations of the Seller, the Broker and the Appraiser.

(4) I challenge any Judge, law clerk, or any administrative panel that must review and examine this pleading for Fraud upon the Court to search my **Verified Pleadings** line by line from 2008 to the present. Find any statement that even remotely resembles attorney Burns' lie that I admitted in Court that I have no evidence showing Wells Fargo “[k]new or participated.....”

(5) The lie the attorneys and Judge Goodstein repeats is a deliberate misrepresentation of "I have no personal evidence." My evidence comes from Wells Fargo. [WF00001-137] The earliest hard evidence Wells Fargo knew is filed Exhibit 70.

(d) Elizabeth Scott Moise's filed misrepresentation #1 – Pg 3, in her *Wells Fargo Bank, N.A.'s Responses to Request for Discovery*, under #10. (A) in her **RESPONSE**, that is dated October 15, 2008. Cis Ferguson, verified service . "[W]ells Fargo does not currently have in its possession any documents other than the Satisfactory Completion Certificate, dated September 14, 2007, which was provided to Wells Fargo by you or your mortgage broker in support of your loan application." [Italics added] {See Attached Exhibit 226, Pg. 3} **Proof:** Wells Fargo's attorneys receive an **Attested True Copy** of every **Verified Pleading**, Notice and any other material and/or information I have file in Court. My filed court papers and/or pleadings are stamped and dated by the Clerk of Court that keeps the original copy.

(1) **I never sent any documents to Wells Fargo.** Janet Frotscher clearly states the documents were submitted by Golden Gate Mortgage. This proves Wells Fargo's loan is brokered illegally. I am not a broker and I am not an appraiser. Therefore, I could not have possibly sent Wells Fargo any documents without a request from Wells Fargo and there is no evidence of such a request in the Court's records. Whatever documents Wells Fargo has and used.....came from the Seller.

(2) Attorney Moise has also repeated the **ULTIMATE LIES** that were told by Janet Frotscher [WF00120 & WF00125]. And those lies are: Golden Mortgage is my broker and I met with the Appraiser and showed him invoices. Golden Gate Mortgage brokered a loan for the Seller. All of Wells Fargo's supporting documents belong to the Seller, came from the Seller and were ordered for the Seller.

(3) The Seller - Thomas Jacobs – is the Borrower - that purportedly met the Appraiser on 9/14/2007.... not me. This is proven by the Appraiser's invoice [WF00027] that identifies Thomas Jacobs as the borrower. I don't have a file number. No file number was assigned to me by the Broker, Appraiser or the Seller and neither Burns, Moise or Calub has filed one identifying me.

(4) Janet Frotscher's **ULTIMATE LIE** came into existence after WFHM received the documented evidence that the appraisal and satisfaction completion certificate were falsified. {See My Filed Exhibits 8-14}

(5) Janet Frotscher acknowledged receiving the evidence in her letter dated February 21, 2008 [WF00120, page 1, paragraph 1] The letter came to 423 Bayne Street on February 25, 2008. I called WFHM and gave the phone to my husband on the same day. {See My Filed Affidavits}

(6) On February 25, 2008, my husband told WFHM's representatives that Golden Gate Mortgage did not broker any loan. All the loan paperwork came from the Seller -Thomas Jacobs..and if any brokering were done....it was done by Thomas Jacobs..... not Golden Gate Mortgage. {See Filed Exhibit 245}

(7) After the letters I sent Janet Frotscher on February 25th, 29th, March 6th, and May 15th, 2008 [Filed Exhibits 43 & 51-53], Janet Frotscher told the ULTIMATE LIES that are the foundation of this case. [WF00125 page 1, paragraph 4]

(8) I challenge any Judge, law clerk, or any administrative panel that must review and examine this pleading for **Fraud upon the Court** to search my **Verified Pleadings** line by line from 2008 to the present and find any statement where I ever stated, hinted or even alluded to Golden Gate Mortgage being my broker.

(e) Elizabeth Scott Moise's filed misrepresentation #2 – Pg 15, in her *Wells Fargo's Reply to Defendant's First Amendment to Answer to Complaint with Counterclaims*, reply to my ¶ #119-XIII, that is dated October 15, 2008 with service verified by Cis Ferguson: "[W]ells Fargo further admits the Satisfaction Completion Certificate, dated September 14, 2007, and an Appraisal dated October 7, 2007, were sent to Wells Fargo by Defendant." [Italics added] {See attached Exhibit 229} Wells Fargo fraudulently concealed the truth from the Court and from its own attorneys....., unless they also knew the truth and also concealed it.... since June of 2008.

(1) The effective dates and signed dates of; October 8th, 2007 and October 9th, 2007 are the only appraisals Wells Fargo and Golden Gate Mortgage sent me. I have never seen the appraisal that is dated October 7, 2007. This could be a bona fide error. If such an appraisal does exist with a 7-59 file number, it is additional verification, evidence and proof that any appraisal with my name on it..... is a forgery by substitution..... just like [WF00001-13]. #7-59 identifies the Seller.

(2) As already stated, I don't have a file number, because no file number was assigned to me by the Broker, the Appraiser or the Seller and none.... can be filed.

(3) Attorney Moise cannot be excused for these misrepresentations. As I have already stated, Wells Fargo's loan is an illegally brokered loan by an Unlicensed Seller. I did not broker it or appraise it. Therefore, I could not have possibly sent Wells Fargo any documents without a request from Wells Fargo and there is no request in the Court's records. Wells Fargo paid the Seller - \$75,000.00...not me.

(4) As already stated, Janet Frotscher clearly states the documents came from the Broker that she misstates as "your" broker. [WF00120, paragraph #5] Neither Wells Fargo nor any attorney from Nelson Mullins Riley & Scarborough, LLP has filed any statements from Golden Gate Mortgage that an appraisal was ordered for me or a loan was brokered for me. What David Terrell does clearly state is;

"[I] am the person that put you with Wells Fargo." {*Filed Exhibit 37, paragraph #2*}

(5) I challenge any Judge, law clerk, or any administrative panel that must review and examine this pleading for **Fraud upon the Court** to search my **Verified Pleadings** line by line from 2008 to the present and find any statement where I ever stated, hinted or even alluded to Golden Gate Mortgage being my broker.

(A) Simply ask the Broker....how did he get loan submission paperwork if he never knew of..., met..., contacted..., or interviewed... Dorothy Sistrunk?

(B) Find any document filed by Wells Fargo, Elizabeth Scott Moise, James H. Burns or Brian A. Calub; in which, Janet Frotscher specifically states..... she was present at 423 Bayne Street on September 14, 2007.

(C) Find any document filed by Wells Fargo, Elizabeth Scott Moise, James H. Burns or Brian A. Calub; in which, Janet Frotscher specifically states.... she knows me personally and can identify me as the person showing invoices to the appraiser. [*WF00125, paragraph #4*]

(D) Find any document filed by Wells Fargo or an attorney, that evidences Golden Gate Mortgage met the requirements of brokering a loan besides the agreement that might be a cut & paste forgery. The Broker has no evidence of contact, no visitation records and no phone records of contact to refute my admissions that the Broker Agreement was part of the lending package for Golden Gate Mortgage provided by the Seller. [*WF00064*]

(f) Judge Goodstein's first misrepresentation or OUTRIGHT LIE – Pg 1, ¶ 2, sentence #1, in her *Order Granting Plaintiff's Motion to Compel Discovery, Issuing Stay, and Granting Motion for Continuance* that is dated March 7, 2012. "[T]he Court conducted a hearing on December 6, 2011 to address and consider Wells Fargo's motions and the objections filed by the Defendant and Witness. Counsel for Wells Fargo and the pro se Defendant appeared. *After hearing the arguments and considering the filings and arguments made by the parties, the Court hereby grants Wells Fargo's motion to compel discovery and motion for continuance, for good cause shown.*" [The witness is not even mentioned, though present - *See Filed Exhibit 255, ¶ 2, sentence #2*] The evidence of this misrepresentation or OUTRIGHT LIE can be found in the Transcript of the Hearings, if still available.

(1) Judge Goodstein did not consider any arguments I filed. The witness was not even allowed to speak and Attorney Calub knows this is true. In addition, Judge

Diane Goodstein signed an Order to Compel Discovery for documents Nelson Mullins Riley & Scarborough already had [WF00001-137]. The law firm sent them to me at approximately the same time Elizabeth Scott Moise filed her ***Response to Request for Discovery*** that is dated October 15, 2008.

(2) Attorney Calub did not show any Good Cause and even admitted Wells Fargo did not substantially comply with Administrative Order #2009-05-22-01 in her Courtroom. Thus...verifying my statement of fact relative to Wells Fargo's failure to substantially comply with the Administrative Order. {See the Transcript of the Hearing Held on 12/6/2011 & See My Filed ***Verified Pleadings*** from 2009-2012}

3. It is not within a trial Judge's "sound discretion" to base Court Orders on ABSOLUTE

LIES. Judge Goodstein's misrepresentations were so brazen until I filed a Petition for her re-

cusals on March 23, 2012 . {See Attached Exhibit 333 & § 16-9-10(2)- SC Code of Laws}

(a) *Black's Law Dictionary* (5th ed. 1979), pg 831, defines a **LIE** as, "[A]s an untruth deliberately told; the uttering or acting of that which is false for the purpose of deceiving; [an] intentional misstatement."

(b) The U. S. Supreme Court made it clear that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with "rudimentary demands of justice." *Mooney v. Holohan*, 294 U.S. 103, 112 (1935). In *Napue v. Illinois*, 360 U.S. 264 (1959), the Supreme Court reiterated that a conviction obtained through use of false testimony, known to be such by representatives of the State, is a denial of due process. The Court further ruled that there is also a denial of due process when the State, though not soliciting false evidence, allows it to go uncorrected when it appears. In cases involving false or misleading testimony, a new trial is required if "the false testimony could . . . in any reasonable likelihood have affected the judgment of the jury" *Napue*, 360 U.S. at 271.

4. On 09/06/2012, at the hearing for attorney Calub's Motion, my witness was not only.... not allowed to speak...., he was ushered out of the Courtroom by the Security Guard for trying to assist me.... and not allowed back in. Attorney Calub knows this is also true. This is the same date of his deposition. I was nervous because Judge Goodstein gave me 5 minutes; in a crowded Courtroom, to find my *Rule 41(b) Motion* and present it and threaten me with contempt of Court, if I did not agree to the deposition. {I was so upset over the incident, I don't even remember what I said or answered during the deposition. Attorney Calub took advantage of me & the incident.}

5. On September 6, 2012, I was totally unprepared to present my Motion. I had forgotten the Caption I had filed it under and its place in my notebook. The witness came forward to help me

find it and reminded me of the Caption title, for this he was ushered out of Court. I came to the hearing to object to a motion and subpoenas for documents Nelson Mullins Riley & Scarborough, LLP already had [WF00001-137], not to discuss my *Rule 41(b) Motion to Dismiss*. {If attorney Calub refuses to admit the truth, there are others that can verify it. The Transcripts might not be too helpful....unless. the Court Recorder, actually described the incident in writing.}

6. On 09/03/2013, at attorney Burns' hearing for Summary Judgment, Judge Goodstein silenced my witness again and would not allow him to speak. Attorney Burns knows this is true.

(a) "[j]udicial independence is predicated on "good faith" decision-making. It was never intended to include "bad-faith" decision-making, where a judge knowingly and deliberately disregards the facts and law of a case. This is properly the subject of disciplinary review, irrespective of whether it is correctable on appeal." {*The Long Term View, Massachusetts School of Law, Vol. 4, No. 1, 1997, pp. 90-97*}

(b) 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...;"

(c) 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."

(d) 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."

(e) 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." [My *Verified Pleading for a Jury Trial* was filed on August 12, 2008.]

(f) *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-

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."

(g) *Anderson v. Creighton*, 483 U.S. 635 (1987) "[t]he right to due process of law is quite clearly established by the Due Process Clause, and thus there is a sense in which any action that violates that Clause (no matter how unclear it may be that the particular action is a violation) violates a clearly established right. Much the same could be said of any other constitutional or statutory violation." [Boldness added for emphasis]

7. Judge Goodstein's second series of misrepresentations and/or distortions or total disregard for my sworn statements; relative to my defenses and counterclaims, can be found in Judge Goodstein's Partial Summary Judgment Order dated March 27, 2014. {See Attached Exhibit 329} I have no idea where Judge Goodstein found yard work as the reason for leaving Coburn Lane. That is a complete fabrication or misunderstanding that comes from somewhere. {See Attached Exhibit 329, page 2, paragraph #1} I will restate, for the record, my defense and counterclaims against Wells Fargo.

(a) **My Defense:** Contrary to Judge Goodstein's misrepresentations and fabrications that are primarily based on Wells Fargo's misrepresentations and distortions of fact, my defense has never been based on the malfeasance of the Seller, Appraiser and the Broker. {See Attached Exhibit 329, page 1, footnote 1 & page 6, paragraph 26} My repeated reference to the Broker, Appraiser and the Seller is based on common sense reasoning. Documents do not create themselves and Wells Fargo's document file clearly identifies the source/s. [WF00001-38]

Proof: Judge Goodstein can consult my original **Verified Pleadings** at anytime.

(1) Wells Fargo's attorneys and I, receive **Attested True Copies** of every **Verified Pleading**, Notice and any other material and/or information I have file in Court. My filed court papers and/or pleadings are stamped and dated by the Clerk of Court. Therefore, there is no justification to fabricate testimony, misrepresent facts or act upon a misunderstanding, when original **Verified Pleadings** are available for review. Hearings can be called to clarify any misunderstanding. Therefore, Judge Goodstein has no excuse for her fabrications.

(2) Based on Judge Goodstein's misrepresentations and Orders, she has not read

or has ignored my filed **Verified Pleadings**. Wells Fargo's attorneys Elizabeth Scott Moise, James H. Burns and Brian A. Calub have misrepresented my defense. My defense is based on Wells Fargo's acceptance, approval, funding, using, relying upon and defending an illegal loan transaction under South Carolina and Federal law after all the facts were known. *{Filed Exhibits 4-64, My Filed Affidavits & the Filed Affidavit of the Witness – See Filed Exhibit 245}*

(3) The Seller was not a licensed loan broker or loan originator during the dates and times in question [*Contact SC Department of Consumer Affairs*] and never had a building permit to do any repairs. [*Contact City of Orangeburg Building Inspector's Office*] Since the Seller used the loan paperwork of the Broker – Golden Gate Mortgage and the Appraisal of Jim H. Austin, III, this is indicative of a willful and knowing **Conspiracy to Defraud** Wells Fargo Bank out of \$75,000.00. [WF00001-38 & WF00065-83] I reported this fraud to Wells Fargo.

(b) **My Primary Counterclaim**: I have submitted over 500 pages of **Verified Pleadings** over the past 5 years. Judge Goodstein and Burns and Moise will not find on any page a direct accusation of fraud, its **Defraud** or **Swindle** and **Perpetuating a Fraud**. Judge Goodstein based her Partial Summary Judgment Order on a complete fabrication of my defense by Wells Fargo's Attorneys or her own fabrication. In layman's language, they simply LIED. Rather than consult the Court's records, Judge Goodstein either LIED or repeated a LIE. *{Re: Attached Exhibit 329}*

(c) Attorneys Burns and Moise have demonstrated a consistent pattern of **Corruption** and **Dishonesty**..... and Judge Goodstein..... has demonstrated a consistent pattern of **Dishonesty**, **Partiality**, **Biasness** and **Prejudice** in supporting Burns and Moise's **Corruption** and **Dishonesty**. On page 1 of my *Answer to Complaint* that was filed on July 18, 2008, that is incorporated by reference as though fully set forth herein verbatim is the following statement of fact. Judge Goodstein seems to forget I live at 423 Bayne Street. *{Exhibit 113 – the Property}*

(1) “[T]hat this action for the foreclosure of a mortgage upon certain real estate in Orangeburg County, South Carolina is an attempt by the Plaintiff to perpetuate a Predatory Lending Scheme in which a falsified appraisal was used to inflate the value of the real estate identified in this complaint. I have refused to participate in this scheme. Therefore, the Plaintiff has filed a foreclosure proceeding in an attempt to coerce or force me to participate in this scheme by accepting terms that will only extend the scheme and in due course defraud or swindle me out of \$75,000.00 plus interest one month at a time, one payment at a time. Either I accept the terms or lose my home by foreclosure.” *{See Attached Exhibit 297}*

(2) “**Dishonesty**” as defined by *Wikipedia*, “[i]s to act without honesty. It is used to describe a lack of probity, cheating, lying or being deliberately deceptive or a lack in integrity, knavishness,.... corruption or treacherousness. Dishonesty is the fundamental component of a majority of offences relating to the acquisition, conversion and disposal of property..... defined in criminal law..... as..... fraud.”

(3) *Black's Law Dictionary* (5th ed. 1979), pg 421, defines **Dishonesty** as “[A] disposition to lie, cheat or defraud; [a] lack of integrity.”

(4) *Blacks Law Dictionary* (Revised 4th ed. 1968) pg. 414, defines **Corruption** in pertinent parts as the following:. “[I]llegality; a vicious and fraudulent intention to evade the prohibitions of the law; something against or forbidden by law; moral turpitude or exactly opposite of honesty involving intentional disregard of law from improper motives. *State v. Barnett*, 60 Okl.Cr. 355, 69 P.2d 77, 87. An act done with an intent to give some advantage inconsistent with official duty and the rights of others. *Johnson v. U. S.*, C.C.A.Alaska, 260 F. 783, 786. 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. *U. S. v. Johnson*, C.C.Ga., 26 F. 682; *Worsham v. Murchison*, 66 Ga. 719; *U. S. v. Edwards*, C.C.Ala., 43 F. 67.”

B. Supporting authorities for my Counterclaim of Wells Fargo is Perpetuating an Illegally Brokered Loan, a Predatory Lending Scheme that involves the use of falsified documents, and a Home Improvement & Mortgage Fraud based on the use and reliance upon the same falsified documents are below:

8. My defense and counterclaim against Wells Fargo are not based on wishful thinking. They are based on the solid authority of the FBI, FDIC Policies, U.S. Codes, Federal Regulations and Laws, FinCEN, SCDCA, the U.S. and SC Constitutions, SC Code of Laws and Precedent.

(a) *FBI Mortgage Report 2006*: “[E]ach Mortgage Fraud scheme contains some type of “material misstatement, misrepresentation, or omission relating to the property or potential mortgage relied on by an underwriter or lender to fund, purchase or insure a loan.” [WF00001-38, WF00058, WF00060, WF00065-73, WF00078-89 & WF00097]

(b) *FBI 2007 Mortgage Fraud Report*: “[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.” [WF00001-WF00137- *Is a Funded Loan based on Falsified Documents*]

(c) THE FBI'S STATEMENT OF COMMON MORTGAGE FRAUD SCHEMES

(1) **Property Flipping** “Property is purchased, falsely appraised at a higher value and then quickly sold. What makes property flipping illegal is that the appraisal information is fraudulent. The schemes typically involve one or more of the following: fraudulent appraisals, doctored loan documentation.....,” [WF00001-38]

(2) **Inflated Appraisals** “An appraiser acts in collusion with a borrower and provides a misleading appraisal report to the lender. The report inaccurately states an inflated property value.” *FBI 2007 Mortgage Fraud Report*: [WF00014-27]

(d) In pertinent parts... “[T]he defrauding of mortgage lenders should not be compared to predatory lending practices which primarily affect borrowers. Predatory lending typically effects senior citizens, lower income and challenged credit borrowers. Predatory lending forces borrowers to pay exorbitant loan origination/settlement fees, sub-prime or higher interest rates... These practices often result in the borrower defaulting on his mortgage payment and undergoing foreclosure or forced refinancing.” *FBI Mortgage Fraud Report 2007 – Wells Fargo’s violation of Section 37-23-40(1) – SC Code of Laws*

(e) In pertinent parts... “[F]raud for Profit is sometimes referred to as “Industry Insider Fraud” and the motive is to revolve equity, falsely inflate the value of the property, or issue loans based on fictitious properties. Based on existing investigations and Mortgage Fraud reporting, 80 percent of all reported fraud losses involve collaboration or collusion by.... insiders.” [TJ, GGM, JHA, III] *FBI Financial Crime Report to the Public 2007*

(f) FBI Financial Crime Report to the Public 2007 - Mortgage Fraud Indicators:

1. **Inflated Appraisals** - [WF00001-26] (JHA, III – Jim H. Austin, III)
2. **Commissions/Bonuses to Brokers and Appraisers** [WF00027, WF00078 & WF00089] (GGM – Golden Gate Mortgage / David Terrell)
3. **Falsifications on Loan Applications** – [WF00032, WF00035 & WF00038]
Golden Gate Mortgage never interviewed me for any loan.
4. **Requested to Sign Blank Application, Requested to Sign Blank Bank Forms** - “[Y]ou must sign all the paperwork or Golden Gate Mortgage will not fund the loan.” (TJ) *Thomas Jacobs 11/26/2007* (Included the Loan Broker Agreement from GGM) [WF00030-38, WF00064, WF00080-87]
5. **Fake Supporting Loan Documentation** – [WF00009, WF00022 & WF00028-WF00029 – the Altered & Forged Contract of Sale]
6. **Requested to Sign Other Types of Blank Forms** – Attorney Debra C. Galloway – [WF00058, 60 & 97] (Initialed & signed) and *Filed Exhibits 68- 69*

(g) In pertinent parts... “[F]raud for profit is often committed with the **Complicity** of industry insiders such as mortgage brokers, real estate agents, property appraisers, and settlement agents (attorneys and title examiners). Typical fraudulent activities associated with this category in the SAR filing sampling are: appraisal fraud; fraudulent flipping; straw buyers;....” *Crimes Enforcement Network (FinCEN) Mortgage Loan Fraud Report 11/ 2006 – e.g. Jim H. Austin, III, David Terrell, Janet Frotscher & Thomas Jacobs*

(h) In pertinent parts... “[f]inance-related occupations, including accountants, mortgage brokers, and lenders were the most common suspect occupations associated with reported mortgage fraud. Perpetrators in mortgage industry occupations are familiar with the mortgage loan process and therefore know how to exploit vulnerabilities in the system. Victims of mortgage fraud may include borrowers....” *FBI Mortgage Fraud Report 2007*

9. Until this foreclosure action, in addition to perpetuating an Illegally Brokered Loan by an

Unlicensed Seller, a Home Improvement and Mortgage Fraud and an Illegal Predatory Lending Scheme, that are based on the acceptance, [WF00030 & 32], approval [WF00120, ¶ 5], funding [WF00088-89], using [WF00001-137], defending [CA Case #2008-CP-38-1024] and reliance upon falsified documents [WF00001-38, WF00058, WF00060 & WF00097,..... Stephanie Hammond was never in my presence before, during or after the closing.], Wells Fargo actively expanded the Seller, Broker and Appraiser's **Conspiracy to Defraud** into Securities Fraud [WF00039-60], Insurance Fraud [WF00001-26, WF00028-29 & Exhibit 113- the Property] and Bank Fraud by maintaining an illegal loan transaction #0174072777 as an active account on its books with an inflated value after all the facts were known. {See Amanda Weatherly's Filed Affidavit Supporting Motion for Summary Judgment – Attached Exhibit 343}

"[I]n their careless and hasty stampede to securitize loans, the banks moved at their own peril. They should bear the brunt and the cost of the remedy." *Massachusetts AG Martha Coakley*

10. I never received any counseling as required by *Section 37-23-40(1) – SC Code of Laws* and Wells Fargo has not filed any documents in the Court of Common Pleas that counseling services were rendered. {See Wells Fargo's Filed Documents} Without the required certification, Judge Goodstein's Court Orders are inconsistent with *Section 37-23-40(1) – SC Code of Laws*.

(a) Predatory Lending Statement From SC's Department Of Consumer Affairs

"[T]here was strong evidence in South Carolina that there were some subprime lenders routinely targeting families who could least afford high cost home loans. A number of these homeowners were elderly, poor, or uneducated. These lenders were promising loans that were "too good to be true" and pressuring borrowers to sign contracts they did not understand. On June 3, 2003, Governor Mark Sanford signed the South Carolina High Cost and Consumer Home Loan Act, which protects consumers from unconscionable lenders and loan practices. The law takes effect January 1, 2004." *S.C. Department of Consumer Affairs Website: <http://www.consumer.sc.gov/Pages/PREDATORYLENDING.aspx>*. Judge Goodstein's Judgment Order opposes South Carolina Law.

(b) South Carolina High Cost and Consumer Home Loan Act From SCDCA

"[i]f a lender makes a high cost home loan, the borrower must first receive counseling from a HUD/South Carolina Housing Finance Agency approved counselor. The borrower must receive counseling "on the advisability of the loan transaction" and the appropriateness of the loan for the borrower. The counselor must certify to the lender that the coun-

seling services have been rendered. **The purpose of counseling is to ensure that the borrower fully understands the material terms of the loan, and the amount of fees and costs the borrower will be required to pay.**" *South Carolina Department of Consumer Affairs* [Note: **Boldness** added by SC's Department of Consumer Affairs]

11. Title 40, Chapter 58, is the LICENSING OF MORTGAGE BROKERS ACT. This act governs the activities of lenders, mortgage brokers and loan originators that have met the legal requirements to operate in South Carolina. Therefore pursuant to *SC Code of Laws Sections...*

(1) 40-58-20(1) – in pertinent parts defines to.. "[A]ct 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) 40-58-20(2) – in pertinent parts defines to.. "[A]ct 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) 40-58-20(6) – in pertinent parts defines.. "Borrower" means a natural person in whose dwelling a security interest is or is intended to be retained or acquired if that person's ownership interest in the dwelling is or is to be subject to the security interest.

(4) 40-58-20(23) – in pertinent parts defines... "[L]oan 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....."

(5) 40-58-20(28) – in pertinent parts defines... "[M]ortgage loan" means a loan made to a natural person primarily for personal, family, or household use, primarily secured by a mortgage, deed of trust, or other security interest on residential real property or security interest arising under an installment sales contract or equivalent security interest against the borrower's dwelling and: (i) located in South Carolina, (ii) negotiated, offered, or otherwise transacted within this State, in whole or in part, or (iii) made or extended within this State.

(6) 40-58-20(31) – in pertinent parts defines... "[P]erson" means a natural person, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.

(7) 40-58-20(34) – in pertinent parts defines... "[R]esidential real property" means real property located in the State of South Carolina upon which there is located or is to be located one or more single-family dwellings or dwelling units that are to be occupied as the owner's dwelling, and includes real estate and residential manufactured home (land/home) transactions.

(8) 40-58-20(35) – in pertinent parts defines... "[R]ESPA" 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. **[David Terrell never met the requirements of RESPA's definition.]**

(9) 40-58-20(36) – in pertinent parts defines.. "[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." **[David Terrell never met the requirements of this subsection.]**

(10) 40-58-20(40) – in pertinent parts defines.. "[Q]ualified 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."

(11) 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.]**

(12) 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."

(13) 40-58-30(D) – clearly states in pertinent parts .. "[I]ndependent contractors, including processors and underwriters, must be separately licensed."

(14) 40-58-70 – clearly states in pertinent parts .. "[I]n addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person in

the course of a mortgage loan transaction to:

- (1) misrepresent the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan. This includes presenting the broker in the guise of a lender or pursuing a course of misrepresentation through agents or otherwise; [**Wells Fargo's filed documents represent GGM as a lender**]
- (2) intentionally misrepresent or conceal a material factor, term, or condition of a transaction to which he is a party, pertinent to an applicant for a mortgage loan or a mortgagor; [**Concealment from OCC & SCDCA**]
- (3) engage in a transaction, practice, or course of business which is unconscionable, as provided in Section 37-5-108, or which operates a fraud upon a person in connection with the making of or purchase or sale of a mortgage loan; [**An illegal loan cannot be legalized by paying on it**]
- (4) fail to use due diligence and make reasonable efforts in procuring a mortgage loan on behalf of a borrower; [**Not for me...for Thomas Jacobs**]
- (5) collect any allowable third party fees excluding appraisals or credit reports before a conditional mortgage loan commitment is obtained by the mortgage broker;
- (6) influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. This item does not prohibit a mortgage broker or mortgage lender from asking the appraiser to do one or more of the following:
 - (a) consider additional appropriate property information;
 - (b) provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
 - (c) correct errors in the appraisal report;
- (7) fail to pay reasonable fees within a reasonable time to a licensed third party for services that are:
 - (a) requested from the third party in writing by the mortgage broker or an employee of the mortgage broker; and
 - (b) performed by the third party in connection with the origination or closing of a mortgage loan for a customer or mortgage lender;

(15) 40-58-78 clearly states in pertinent parts.. "[A](1) A mortgage broker fee agreement with a mortgage broker or loan originator must contain an explicit statement that:

- (1) the mortgage broker or loan originator is acting as the agent of the borrower in providing brokerage services to the borrower;
- (2) when acting as agent for the borrower, it owes to that borrower a duty of utmost care, honesty, and loyalty in the transaction, including the duty of full disclosure of all material facts. If the mortgage broker or loan originator is authorized to act as an agent for any other person, the mortgage broker fee agreement must contain a statement of that fact and identification of that person;
- (3) a detailed description of the services the mortgage broker or loan originator agrees to perform for the borrower, and a good faith estimate of

any fees the mortgage broker or loan originator will receive for those services, whether paid by the borrower, the institutional lender, or both; and.....

(4) a clear and conspicuous statement of the conditions under which the borrower is obligated to pay for the services rendered under the agreement.

(B) If a mortgage broker or loan originator violates the provisions of subsection (A), the borrower may recover from the mortgage broker or loan originator charged with the violation:

- (1) a penalty in an amount determined by the court of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each loan transaction;
- (2) fees paid by the borrower to the mortgage broker or loan originator for services rendered by the agreement; and
- (3) actual costs, including attorney's fees, for enforcing the borrower's rights under the agreement.

(C) A mortgage broker or loan originator charged with the violation must not be held liable in an action brought under this section for a violation if the mortgage broker or loan originator charged with the violation shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error."

(16) 34-3-110 clearly states in pertinent 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.

(C) As used in this section, "federally chartered or insured financial institution" means: **[The evidence shows its the Broker, Seller & Appraiser]**

- (1) a bank with deposits insured by the Federal Deposit Insurance Corporation; **[Wells Fargo paid the Seller \$75,000...not me]**
- (2) an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;
- (3) a credit union with accounts insured by the National Credit Union Administration Board;
- (4) a federal home loan bank or a member, as defined in Section 2 of the Federal Home Loan Bank Act, 12 U.S.C. Section 1422, of the federal home loan bank system; or
- (5) a bank, banking association, land bank, intermediate credit bank, bank for cooperatives, production credit association, land bank association, mortgage association, trust company, savings

bank, or other banking or financial institution organized or operating under the laws of the United States.”

(17) 16-9-10 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. **[Note: A Court Order is a**

document required by the laws of this State in a legal proceeding.
A deliberate Absolute Lie is not an error of law or discretionary abuse.]

(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.”

(18) 37-23-20(2)-(4) clearly states in pertinent parts... “[2)] "Annual percentage rate" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act (15 U.S.C. Section 1601, et seq.) and the regulations promulgated under it by the Federal Reserve Board, both as amended. **[Wells Fargo's illegal loan exceeds 50% of my gross monthly income.]**

(3) "Broker" or "mortgage broker" means a person or organization in the business of soliciting, processing, placing, or negotiating mortgage loans for others or offering to process, place, or negotiate mortgage loans for others. A broker or mortgage broker also includes a person or organization who brings borrowers or lenders together to obtain mortgage loans or renders a settlement service as described in 24 CFR Part 3500.2(a)(16)(ii). **[Thomas Jacobs offered the application not David Terrell]**

(4) "Consumer home loan" means a loan in which:

- (a) the borrower is a natural person;
- (b) the debt is incurred by the borrower primarily for personal, family, or household purposes; and
- (c) the loan is secured by a mortgage on real estate upon which is located or is to be located a structure designed principally for occupancy of from one to four families and that is or is to be occupied by the borrower as the borrower's principal dwelling.”

(19) 37-23-40(1)-(2) clearly states in pertinent parts.. “[T]he lender of a high-cost home loan may not: (1) make a high-cost home loan without first receiving a written certification from a counselor approved by the State Housing Finance and Development Authority that the borrower has received counseling on the advisability of the loan transaction and the appropriate loan for the borrower. The

Department of Consumer Affairs shall specify the information that must be provided by the lender and reviewed by the consumer credit counselor;

(2) make a high- cost home loan unless the lender reasonably believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, is able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources other than the borrower's equity in the dwelling that secures repayment of the loan....." "[A]n obligor is presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed pursuant to the loan including, but not limited to, principal, interest, current property taxes, and current insurance, do not exceed fifty percent of the obligor's monthly gross income as verified by the credit application, a credit report, and information provided to a lender by a third party, including the Internal Revenue Service (IRS). **A presumption of inability to make the scheduled payments to repay the obligation does not arise solely from the fact that, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed under the loan, exceed fifty percent of the obligor's monthly gross income;..**" [Boldness added for emphasis]

(20) 37-23-50 clearly state in pertinent parts.... "[A)] If a lender, or party charged with a violation, when making a high cost home loan violates the provisions of this article, the borrower has a right in action, other than a class action, to recover from the lender or party charged with the violation actual damages and also a penalty in an amount determined by the court of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each loan transaction. No borrower may bring a class action for a violation of this article. No borrower may bring an action for a violation of this article more than six years after the violation occurred and after the original scheduled maturity date of the debt. This section does not bar a borrower from asserting a violation of this article in an action to collect a debt which was brought more than six years from the date of the occurrence of the violation and after the original scheduled maturity date of the debt as a matter of defense by recoupment or set off in such action; **[My debts, at the time, exceeded 50% of Gross Income]**

[(B)](1) If the court finds as a matter of law that the agreement or transaction violates the provisions of this article at the time it was made, the court may, in an action other than a class action:

- (a) refuse to enforce the agreement, or a term, or part of the agreement or transaction that the court determines to have been unlawful at the time it was made;
- (b) enforce the remainder of the agreement without the unlawful term or part, or limit the application of the unlawful term or part to avoid an unlawful result;
- (c) rewrite or modify the agreement to eliminate an unlawful term, part, or result and enforce the new agreement; or
- (d) award either one of the following:
 - (i) not more than the total amount of the loan finance

charge and allow repayment of the unpaid balance of the loan without any finance charge; or
(ii) not more than double the amount of excess loan finance charge or other charges or fees actually received by the creditor or paid by the debtor to a third party.”

(21) 37-23-60 clearly states in pertinent parts... “[A] lender of a high- cost home loan who acts in good faith but through a bona fide unintentional error, notwithstanding the maintenance of procedures reasonably adapted to avoid errors, fails to comply with this article must make restitution to the borrower. Within forty-five days after the discovery of the compliance failure or receipt of written notice of the compliance failure, the lender must notify the borrower and make the necessary adjustments to the loan to make the high- cost home loan satisfy the requirements of Sections 37-23-30, 37-23-40, and 37-23-45. If the harm to the borrower cannot be remedied by compliance with the high- cost loan requirement of Sections 37-23-30, 37-23-40, and 37-23-45, the lender must change the terms of the loan in a manner beneficial to the borrower so that the loan is no longer considered a high- cost home loan subject to the provisions of this article. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a person's obligations pursuant to this article is not a bona fide error.” [Due to Wells Fargo's compliance failure, the loan was never adjusted.]

(22) 40-58-50(E)(1) clearly states in pertinent parts.. “[E](1) A person may not act as a qualified loan originator in this State without first being licensed with the administrator. It is unlawful for a person to employ, to compensate, or to appoint as its agent a qualified loan originator unless the qualified loan originator is licensed pursuant to this chapter. The license of a qualified loan originator is not effective during any period when that person is not supervised pursuant to an exclusive written contract by a mortgage broker licensed pursuant to this chapter. When a qualified loan originator ceases to be supervised by a licensed mortgage broker, the qualified loan originator and the mortgage broker 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 qualified loan originator's exclusive written contract. The reason for termination is confidential information and may not be released to the public.” {See also pgs 1 of 97 and 81 of 97 in My Opposition to the Plaintiff's Motion for Summary Judgment and Demand for a Jury Trial that was Filed on July 17, 2013, that is Incorporated by Reference as Though Fully Set Forth Herein Verbatim and Attached Exhibit 329 for **Proof**, Judge Goodstein overlooked the loan's illegality}

(23) 37-5-108 clearly states in pertinent parts.. “(1) With respect to a transaction that is, gives rise to, or leads the debtor to believe will give rise to, a consumer credit transaction, if the court as a matter of law finds: (a) the agreement or transaction to have been unconscionable at the time it was made, or to have been induced by unconscionable conduct, the court may refuse to enforce the agreement; or (b) any term or part of the agreement or transaction to have been unconscionable at the time it was made, the court may refuse to enforce the agree-

ment, enforce the remainder of the agreement without the unconscionable term or part, or so limit the application of any unconscionable term or part as to avoid any unconscionable result and award the consumer any actual damages he has sustained. (2) With respect to a consumer credit transaction, if the court as a matter of law finds that a person has engaged in, is engaging in, or is likely to engage in unconscionable conduct in collecting a debt arising from that transaction, the court may grant an injunction. In addition, the consumer has a cause of action to recover actual damages and, in an action other than a class action, a right to recover from the person violating this section a penalty in the amount determined by the court of not less than one hundred dollars nor more than one thousand dollars....” {See also pg 71 of 97 in *My Opposition to the Plaintiff’s Motion for Summary Judgment and Demand for a Jury Trial that was Filed on July 17, 2013, that is Incorporated by Reference as Though Fully Set Forth Herein Verbatim.*} **[Forced payments on an illegal loan is unconscionable.]**

(24) 39-5-20(a)-(b) clearly states in pertinent parts.. “[a)] Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful. (b) It is the intent of the legislature that in construing paragraph (a) of this section the courts will be guided by the interpretations given by the Federal Trade Commission and the Federal Courts to Section 5(a) (1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)), as from time to time amended.” **[Securitizing illegal mortgages is an unfair practice]**

(25) 39-5-50(a)-(b) clearly states in pertinent parts.. “[a)] Whenever the Attorney General has reasonable cause to believe that any person is using, has used or is about to use any method, act or practice declared by Section 39-5-20 to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by temporary restraining order, temporary injunction or permanent injunction the use of such method, act or practice. Unless the Attorney General determines in writing that the purposes of this article will be substantially impaired by delay in instituting legal proceedings, he shall, at least three days before instituting any legal proceedings as provided in this section, give notice to the person against whom proceedings are contemplated and give such person an opportunity to present reasons to the Attorney General why such proceedings should not be instituted. The action may be brought in the court of common pleas in the county in which such person resides, has his principal place of business or conducts or transacts business. The courts are authorized to issue orders and injunctions to restrain and prevent violations of this article, and such orders and injunctions shall be issued without bond. Whenever any permanent injunction is issued by such court in connection with any action which has become final, reasonable costs shall be awarded to the State. (b) The court may make such additional orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act or practice, any moneys or property, real or personal, which may have been acquired by means of any practice declared to be unlawful in this article, including the revocation of a license or certificate..” **[The FBI says using inflated appraisals is illegal]**

(26) 15 USC § 1692f (FDCPA) clearly states in pertinent parts.. “[A] debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: “(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law..... (6) Taking or threatening to take any nonjudicial action to effect dispossession possession or disablement of property if— (A) there is no present right to possession of the property claimed as collateral through an enforceable security interest...;” Wells Fargo has no legitimate enforceable right. Loan #0174072777 was obtained by an Unlicensed Seller – Thomas Jacobs, with the help of Golden Gate Mortgage – the report is not authorized. [WF00065-73]

(27) 15 USC § 1681n(a) clearly states in pertinent parts.... “[A]ny 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...” {See also pg 73 of 97 in *My Opposition to the Plaintiff’s Motion for Summary Judgment and Demand for a Jury Trial that was Filed on July 17, 2013, that is Incorporated by Reference as Though Fully Set Forth Herein Verbatim & WF00066-WF00073*}

(28) FDIC Policy Statement 5000 clearly states in pertinent parts... “[T]he Uniform Retail Credit Classification and Account Management Policy establishes standards for the classification and treatment of retail credit in financial institutions. -- For purposes of this policy, retail credit also includes loans to individuals secured by their personal residence, including first mortgage, home equity, and home improvement loans. ----- Actual credit losses on individual retail credits should be recorded when the institution becomes aware of the loss, but in no case should the charge-off exceed the time frames stated in this policy. This policy does not preclude an institution from adopting a more conservative internal policy. Loans in bankruptcy should be classified Loss and charged off within 60 days of receipt of notification of filing from the bankruptcy court or within the time frames specified in this classification policy, whichever is shorter, unless the institution can clearly demonstrate and document that repayment is likely to occur. ----- **Fraudulent loans should be classified Loss and charged off no later than 90 days of discovery or within the time frames adopted in this classification policy, whichever is shorter.**” [Boldness and underlining added for emphasis.] {See also pg 93 of 97 in *My Opposition to the Plaintiff’s Motion for Summary Judgment and Demand for a Jury Trial that was Filed on July 17, 2013, that is Incorporated by Reference as Though Fully Set Forth Herein Verbatim*}

(29) 18 USC Section 656 clearly states in pertinent parts.. “[W]hoever, 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 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.” **Funding a money purchase home mortgage that is based on Falsified “Altered” and/or “Forged” documents is a misapplication of money, funds or credit of such bank.** *{See also pg 93 of 97 in My Opposition to the Plaintiff’s Motion for Summary Judgment and Demand for a Jury Trial that was Filed on July 17, 2013, that is Incorporated by Reference as Though Fully Set Forth Herein Verbatim}*

(30) 16-13-10 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 de-fraud 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;” [WF00028-29]

(31) 18 USC § 1001(a) clearly states in pertinent parts.. “[E]xcept 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.”

(32) 18 USC § 1005 states in pertinent parts, "[W]hoever, 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; or Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution - Shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both...."

(33) 18 USC § 1007 states in pertinent parts.. "[W]hoever, 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 Bank use of falsified documents**]

(34) 18 USC § 1014 states in relevant parts.. "[W]hoever 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 ----." [**Wells Fargo & the Seller, Broker and Appraiser**]

(35) 18 USC § 1344 states in pertinent parts..., "Whoever knowingly executes, or attempts to execute, a scheme or artifice - (1) to defraud a financial institution; or (2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pre-tenses, representations, or promises; shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both."

"The illegalities surrounding this loan does not stop here, it gets even worse."

12. According to the **FBI's 2007 Financial Crime Report to the Public - Mortgage Fraud Indicators**; one of the features and indicators of a fraudulent mortgage scheme is **(6) Requested to Sign Other Types of Blank Forms**. This was done by Attorney Debra C. Galloway when she had me sign and/or initial blank forms [WF00058, WF00060 & WF00097] and see [Filed Exhibits 68-69]. As stated; Stephanie Hammond was never in my presence, before..., during... or after the closing. It was just me and attorney Galloway during and after the closing on 12/21/07.

(a) Wells Fargo's mortgage documents are Falsely Certified pursuant to.....;

(1) Section 30-5-30 – SC Code of Laws that clearly states in pertinent parts,

“[E]xcept as otherwise provided by statute, before any deed or other instrument in writing can be recorded in this State, it must be acknowledged or proved by the method described in (A) or (B): “(A)(1) the execution of the deed or other instrument must be first proved by the affidavit of a subscribing witness to the instrument, taken before some officer within this State competent to administer an oath.....,” “ (2) The Uniform Recognition of Acknowledgments Act must be complied with; or (3) the person executing it shall submit an affidavit subscribed to before a person authorized to perform notarial acts herein or by the Uniform Recognition of Acknowledgments Act that the signature on the deed or other instrument is his signature and that the instrument was executed for the uses and purposes stated in the instrument. (B) A deed or other instrument must be signed by the grantor, mortgagor, vendor, or lessor and the signing must be acknowledged by the grantor, mortgagor, vendor, or lessor in the presence of two witnesses, taken before some officer within this State competent to administer an oath.” “(C) Where the instrument is acknowledged by the grantor or maker, the form of acknowledgement must be in substance as follows:

"South Carolina,
_____ County.

I (here give the name of the official and his official title), do hereby certify that (here give the name of the grantor or maker), personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____ (year).

Signature of Officer"

“[I]n South Carolina, the statute of limitations for causes of action for fraud is governed by the ‘discovery rule,’ and does not begin to run until discovery of the fraud itself or of ‘such facts as would have led to the knowledge thereof, if pursued with reasonable diligence.’” *Burgess v. Am. Cancer Soc., S.C. Div., Inc.*, 300 S.C. 182, 185, 386 S.E.2d 798, 799 (Ct. App. 1989) **False Certification** was discovered on March 29, 2014.

(2) *Section 26-3-40 – SC Code of Laws* that states in pertinent parts the.. "[t]he person taking an acknowledgement shall certify that (1) The person acknowledging appeared before him and acknowledged he executed the instrument; and (2) The person acknowledging was known to the person taking the acknowledgment or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument."

(3) *Section 26-1-95 – SC Code of Laws* that clearly states in pertinent parts.. "[A] notary public who, in his official capacity, falsely certifies to affirming, swearing, or acknowledging of a person or his signature to an instrument, affidavit, or writing is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days. A notary public convicted under the provisions of this section shall forfeit his commission and shall not be issued another commission...."

(4) *Section 26-3-60 – SC Code of Laws* that clearly defines... "[T]he words "acknowledged before me" means that: (1) That the person acknowledging appeared before the person taking the acknowledgment;

(2) That he acknowledged he executed the instrument;

(3) that, in the case of:

(a) A natural person, he executed the instrument for the purposes therein stated....:

(4) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate."

(b) Legal meaning and definitions of Defraud, Intent to Defraud and Swindling

(1) **Intent to Defraud or Defraud** - means any deliberate plan of action or course of conduct by which someone intends to deceive or to cheat another or by which someone intends to deprive another of something of value.

(A) The term "false or fraudulent pretenses, representations, or promises" means a statement or an assertion which concerns a material or important fact or a material or important aspect of the matter in question and that was either known to be untrue at the time that it was made or used, or that was made or used with reckless indifference as to whether it was, in fact, true or false, and made or used with the intent to defraud. A material fact is a fact that would be of importance to a reasonable person in making a decision about a particular matter or transaction.

(B) The term "false or fraudulent pretenses, representations, or promises" includes actual, direct false statements as well as half-truths, and includes the knowing concealment of facts that are material or important to the matter in question and that were made or used with the intent to defraud. A "scheme or artifice to defraud" includes a scheme to deprive another person of tangible as well as intangible property rights. Intangible property rights means anything valued or considered to be a source of wealth.

(2) **Swindling** – “[C]heating and defrauding grossly with deliberate artifice.. By the statute, “swindling” is defined to be the acquisition of personal or movable property, money, or instrument of writing conveying or securing a valuable right, by means of some false or deceitful pretense or device, or fraudulent representations, with intent to appropriate the same to the use of the party so acquiring, or of destroying or impairing the rights of the party justly entitled to the same. Pen. Code Tex. art. 790; Cheating and defrauding grossly with deliberate artifice. Wyatt v. Ayres, 2 Port. (Ala.) 157; Forrest v. Hanson, 9 Fed. Cas. 456; Thorpe v. State, 40 Tex. Cr. R. 346, 50 S. W. 383 ; Chase v. Whitlock, 3 Hill (N. Y.) 140; Stevenson v. Hayden, 2 Mass. 408. By the statute, “swindling” is defined to be the acquisition of personal or movable property, money, or instrument of writing conveying or securing a valuable right, by means of some false or deceitful pretense or device, or fraudulent representations, with intent to appropriate the same to the use of the party so acquiring, or of destroying or impairing the rights of the party justly entitled to the same. Pen. Code Tex. art. 790; May v. Suite, 15 Tex. App. 436.” *Blacks Law Dictionary (2nd ed. 1910)*, pg 1130. [**Wells Fargo’s use of fraudulent representations is a Swindle by definition**]

13. Under prevailing criminal codes and statutes, it is not necessary for me to prove Wells Fargo actually succeeded in **Swindling** me or was successful in obtaining money or property by means of false or fraudulent pretenses, representations, or promises. It is not necessary to prove that I lost any money or property as a result of Wells Fargo’s scheme or plan to defraud or swindle [*with the falsified documents of the Seller, Appraiser and Broker*]; or scheme or plan to obtain money or property by means of false or fraudulent pretenses, representations, [*the Absolute lies of Janet Frotscher*] or promises. An unsuccessful [scheme to defraud or swindle [scheme or plan to obtain money by means of false or fraudulent pretenses, representations or promises] is as just as illegal as a scheme or plan that is ultimately successful.

14. Pursuant to *Section 40-58-20(28) – SC Codes of Laws*, relative to “security interest”; I have a legal right to ensure the documents supporting Wells Fargo’s security interest are legitimate and not falsified and a legal right not to participate in an illegal scheme to defraud. When it comes to loan #0174072777, I know the documents are not only falsified from my own personal knowledge, they are also forgeries and falsely certified. The City of Orangeburg P.S.D. was notified and said, “This is over our heads, contact the FBI”. The FBI said call Wells Fargo.

(1) 18 U.S. Code § 1346 - Definition of "scheme or artifice to defraud" "[F]or the purposes of this chapter, the term "scheme or artifice to defraud" includes a scheme or artifice to deprive another of the intangible right of honest services."

(2) Arizona Statute A.R.S. 13-2310: in pertinent parts.. "[A.] Any person who, pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions is guilty of a class 2 felony. B. Reliance on the part of any person shall not be a necessary element of the offense described in subsection A of this section..... E. As used in this section, "scheme or artifice to defraud" includes a scheme or artifice to deprive a person of the intangible right of honest services."

(3) From United States v. Neder, 527 U.S. 1 (1999), In Neder, the Supreme Court defined a matter as "material" if "[a] reasonable man would attach importance to its existence or nonexistence in determining his choice of action in the transaction in question." Neder, 527 U.S. at 22, n. 5. "[T]he issue of materiality is a question for the jury, not the judge. United States v. Neder, 527 U.S. 1 (1999); United States v. Gaudin, 515 U.S. 506 (1995) (materiality in a false statement case is a jury question).

15. Section 40-58-70 – SC Code of Laws clearly states in pertinent parts .. "[I]n addition to the activities prohibited by other provisions of state or federal law, it is unlawful for a person in the course of a mortgage loan transaction to: (1) misrepresent the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan. This includes presenting the broker in the guise of a lender or pursuing a course of misrepresentation through agents or otherwise; [WF00001-26, WF00084-85] (2) intentionally misrepresent or conceal a material factor, term, or condition of a transaction to which he [the definition of person in § 40-58-20(31) includes Wells Fargo] is a party, pertinent to an applicant for a mortgage loan or a mortgagor; [{Janet Frotscher deliberate LIES after all the facts were known by her own admission as of February 12, 2008. [WF00120, paragraph 1, WF00121 & WF00125-26 after Loss Mitigation told me to resubmit the request to cancel along with the evidence of fraud. See Filed Exhibit 39 to contact and verify Wells Fargo's procedures for reporting suspected fraudulent loans or evidence of fraudulent loans during 2008 and my Filed Verified Pleadings from June of 2009 to today's filing date.}]

16. All the services identified in *Section 40-58-78(1)-(2) – SC Code of laws* were done for the Seller – Thomas Jacobs [WF00014-27], by the Broker - Golden Gate Mortgage / David Terrell [WF00030-38, WF00074, WF00080-85, WF00087, WF00089] and the Appraiser – Jim H. Austin, III [WF00001-27 & WF00078]. File number 7-59 is assigned to Thomas Jacobs not Dorothy Sistrunk [WF00027]. Attorneys, Moise, Burns and Calub have filed no evidence of a file number being assigned to me. {See Wells Fargo's Filed Court Documents} If one suddenly appears..., like everything else associated with this case..... it would be an ABSOLUTE LIE an intentional misrepresentation of material facts.... concocted to deceive..... by whoever presents it.

17. *Section 40-58-20(36) – SC Code of Laws*; in pertinent parts, clearly defines "[S]oliciting, processing, placing, or negotiating a mortgage loan" as, "[e]ither 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." Attorneys Calub, Burns and Moise and Janet Frotscher have present no evidence of Golden Gate Mortgage offering or offering to accept an application of a mortgage loan that supports the signed Broker's Agreement and the applications that came from the Unlicensed Seller – Thomas Jacobs. There are no phone records, meeting dates, email records, eyewitness testimony, affidavits, depositions, interrogatories and/or admissions. Yet they accept the unverified and unsubstantiated agreement as the WRITTEN WORD OF GOD. In addition none of my judicial or evidentiary admissions in my **Verified Pleadings** or personal Affidavits have been refuted, denied, controverted and/or contested or mentioned by Judge Goodstein in over 5 years indicating partiality and biasness.

18. *Section 40-58-70(6) – SC Code of Laws*, clearly states, in pertinent parts, what Wells Fargo had the authority to do with respect to the 7-59 falsified and forged appraisals. "[T]his item does not prohibit a mortgage broker or mortgage lender from asking the appraiser to do one or

more of the following: (a) consider additional appropriate property information; (b) provide further detail, substantiation, or explanation for the appraiser's value conclusion; or (c) correct errors in the appraisal report;" Janet Frotscher had the option of contacting Jim H. Austin, III, herself or directing Golden Gate Mortgage to contact Jim H. Austin, III about the appraisals and choose not to do so. As I have stated, I am not responsible for Wells Fargo's errors in judgment, lack of due diligence and failure to substantially comply with South Carolina's Code of Laws.

19. This foreclosure proceeding is based on the **Big & Ultimate Lies** of Janet Frotscher, after all the facts were known and Wells Fargo's legal Department and Executives, including John G. Stumpf who was duly notified by certified mail. {See Attached Exhibits 344-345} If Wells Fargo's note and mortgage are the product of illegal brokering, the loan is dead, the foreclosure is dead and everything else related to it. Attorneys Burns, Moise and Calub treat Janet Frotscher's **Big Lie & Ultimate Lies** with the same awe Muslims give the Prophet Muhammad.

20. Judge Goodstein and attorneys Burns, Moise and Calub treat the Broker, the Seller and the Appraiser in their proven **Conspiracy to Defraud** as though they are members of the heavenly host and can do no wrong. Attorney Burns even stated in a filed pleading..... there is no evidence of wrongdoing by the Broker, the Appraiser and the Seller.

21. Before I go to ARTICLE III of the Uniform Commercial Code and address the **Ultimate Lies** that are the foundation of this proceeding, I need to revisit *the FBI's 2006 & 2007 Fraud Report*. We have already discussed "Fraud for Profit or Industry Insider Fraud" on pages 10-11. The second type of mortgage fraud is "Fraud for Property/Housing".

(a) **Fraud for property/housing** According to *the FBI's 2006 and 2007 Reports*.....

"[F]raud for property/housing entails minor misrepresentations by the applicant solely for the purpose of purchasing a property for a primary residence. This scheme usually involves a single loan. Although applicants may embellish income and conceal debt, their intent is to repay the

loan. Fraud for housing represents illegal actions perpetrated solely by the borrower. The simple motive behind this fraud is to acquire and maintain ownership of a house under false pretenses. This type of fraud is typified by a borrower who makes misrepresentations regarding his income or employment history to qualify for a loan. My income and employment history are verifiable.

(b) **Seller Assistance Scams** – According *the FBI's 2007 Report* “[I]n a typical seller assistance scam, a perpetrator solicits an anxious seller or his real estate agent and offers to find a property buyer. The perpetrator negotiates the amount that the property seller is willing to accept for the home. The perpetrator then hires an appraiser to inflate the property’s value. The property is sold at the inflated rate to a buyer who is recruited by the perpetrator. The buyer takes out a mortgage for the inflated amount. The seller then receives the asking price for the home, and the perpetrator pockets a “servicing fee,” the difference between the home’s market value and the fraudulently inflated value. When the mortgage defaults, the lender forecloses on the house, but is unable to sell it for the amount owed as a result of the inflated value.”

(c) **Neither (a) nor (b) applies to me** - I came to the closing to lower the price of 423 Bayne Street. There is no embellishment of my income. [WF00062] I did not obtain the property under false pretenses or conceal any debt and I did everything within reason to stop this fraud that Wells Fargo so eagerly maintains and defends. {See My Filed Exhibits} If Wells Fargo’s employees had taken decisive action, this situation would have turned out differently. Instead of a settlement we can agree to, Janet Frotscher resorted to fraudulent misrepresentations or Lying.

22. Janet Frotscher’s **Big Lie** is Golden Gate Mortgage is the broker for loan #0174072777, and she knows it is a **Big Lie**. She has known since 02/25/08, that Thomas Jacobs brokered the loan by himself with help from the Broker and the Appraiser. However, she does have a signed Broker’s Agreement that she must feel and Burns, Moise and Judge Goodstein must feel..... and believe is sufficient to counter the truth that can be proven. It is absolutely essential that Golden

Gate Mortgage remains the loan's broker... because... if Golden Gate Mortgage did not broker the loan...., not only is the loan dead, Wells Fargo is engaged in Defrauding or Swindling others.

23. As stated earlier in this pleading on pages 4-7, Janet Frotscher's **Ultimate Lies** came into existence after WFHM received the documented evidence that the appraisal and satisfaction completion certificate were falsified. Janet Frotscher acknowledged receiving the evidence in her letter dated February 21, 2008 [WF00120, page 1, paragraph 1] To embellish the **Big Lie** that she already told on February 21, 2008, she expanded it to the **Ultimate Lies** in her letter dated June 2, 2008 [WF00125-126]. Janet Frotscher accused me of meeting with the Appraiser and showing him invoices.... And... she did this..... with absolutely no evidence.

24. Janet Frotscher's **Ultimate Lies** are proven false by Wells Fargo's own documents [See Attached Exhibits WF00015-16, 21, 22 & 27]. As stated, there is only one invoice and only one file number [7-59] and that file number clearly identifies Thomas Jacobs as the borrower that supposedly met with the appraiser on September 14, 2007.... not me. These documented material facts are in my **Verified Pleadings**. I never had the opportunity to present them and was never asked to present them in Judge Goodstein's Courtroom. I am too nervous to speak fluently in public..I can't afford the \$5,000.00 fee.. attorneys in Orangeburg want... to accept the case.....and my witness... that can speak fluently..., Judge Goodstein will not allow him to speak.

The ultimate denial of "due process of law & equal protection under the law" by a Judge.

25. When it comes to this case, Judge Goodstein conducts it like a **Kangaroo Court** that is defined by *Black's Law Dictionary* (5th ed. 1979) on pg 780, 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 or other tribunal." Burns and Calub know this is true. However, I do not expect them to admit it publicly or quietly. The level of attorney corruption I have seen and experienced in this case may be systemic... and... endemic.

26. Once the truth comes to light, by obtaining phone records from Golden Gate Mortgage, it will become absolutely clear that I have been telling the truth from the very beginning. There are no phone records of contact, no letters, no emails, no personal visits and no office visits. If you have personal knowledge of the events, the documented proof that the Unlicensed Seller – Thomas Jacobs - supplied all the loan paperwork ... all the supporting documents.... and brokered the loan by himself, with help from the Broker, the Appraiser (all industry insiders) and Wells Fargo's own employees; most notably, Janet Frotscher is in Wells Fargo's files [WF00001-137].

27. As stated earlier without the Broker....., the loan is dead *ab initio*. UCC ARTICLE III § 305(ii)-(iii) codified in South Carolina as Section 36-3-305(ii)-(iii) - SC Code of Laws clearly states the following in pertinent parts:

(1) "[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...."

(2) Fraud in the Inducement and Fraud in Factum

(A) The necessary elements to verify *Fraud in the Inducement* by the Seller's representations are: (i) a false statement concerning a material fact, ["[t]he price will be lowered during the closing." – Thomas Jacobs 11/26/27] (ii) knowledge by the Seller making the statement that the representation is false, [the price was not lowered during the closing.] (iii) intent by the Seller making the statement that the representation will induce me to act upon it, [I went to the closing on 12/21/2007] and (iv) my reliance on the representation to my personal detriment. Mettler, Inc. v. Ellen Tracy, Inc., 648 So.2d 253 (Fla. 2d DCA 1994). Reliance was justified because the Seller had documents in his possession identifying Golden Gate Mortgage as a Lender. The phone number 803-788-2880 – was to his friend and business associate – Golden Gate Mortgage / David Terrell, the public records proved he owned the property and there is no federal or state law prohibiting an owner from financing his property with his friends and business associates and lowering the price at closing.

(B) *Fraud in the Factum* has been described as the kind of fraud that arises when a party signs a document without full knowledge of the character, supporting documentation, representations or the essential elements

that brought the agreement into existence. McLemore v. Landry, 898 F.2d 996, 1002 (5th Cir.), cert. denied sub no; River Villa Ptsp. v. Sun Belt Fed. Bank, F.S.B., 111 S.Ct. 428 (1990). "This kind of fraud renders any underlying agreement void." FDIC v. Gordy, 928 F.2d 1558, 1565 (11th Cir.1991). According to Janet Frotscher in her 06/02/2008 letter, the Contract of Sale, the Satisfaction Completion Certificate and the Appraisal are the supporting documents for the loan. Since the loan is not an arms length transaction, Wells Fargo's underwriters relied on representations from the Broker, Appraiser and the Seller. All my representations are verified and accurate. [WF00061-62 & WF00118] Everything else Wells Fargo relied upon are forgeries, falsities or gross misrepresentations including the unauthorized credit report, came from industry insiders.

28. The Fraud Exception to the Parole Evidence Rule establishes the legal parameters that allows me to legitimately introduce evidence upon which the contractual agreement relies and for all practical purposes are the foundation of Wells Fargo's mortgage and note. In addition, the Fraud Exception allows me to expose the **Big Lie** and **Ultimate Lies** of Janet Frotscher. Acting within her agency as Executive Communications Coordinator, Janet Frotscher prevented Wells Fargo's illegal loan transaction from being cancelled in February and May of 2008.

(a) Wells Fargo has already admitted, relying in whole or in part on the Appraisal, Satisfaction Completion Certificate, the Contract of Sale, the Application and the Credit Report to approve loan #708-0174072777. [WF00125, paragraph 4]. I merely assume Janet Frotscher is referring to the Unauthorized Credit Report [WF00066-73]. A copy of my driver's license and W-2 form will not approve a brokered loan. As you can plainly see, Wells Fargo's underwriters did not rely on any representations from me for its lending decision. **(Income or employment)**

(1) The 7-59 **Appraisals** are Forgeries by Substitution and Falsified. [WF00001-WF00026] ... and... belong to the Unlicensed Seller - Thomas Jacobs. [WF00027]

(2) The 7-59 **Satisfaction Completion Certificate** is a scam from the Appraiser & Seller. [WF00009 & WF00022] The Seller did not have a "Building Permit".

(3) The **Contract of Sale** is "Altered" and "Forged" [WF00028-WF00029]; either by Thomas Jacobs, or someone at WFHM.

(4) The **Credit Report** is Unauthorized and using it is a violation of FCRA § 1681n(a) [WF00066-WF00073 - WF00074 to verify it is not authorized.. and see WF00065 to verify Wells Fargo used it on 12/04/2007 to approve loan number

(5) The Broker LIED on the **Application** to conceal the illegal brokering activity of the Seller. {WF00032, WF00035, call SCDCa for verification the Seller was not employed by the Broker & See Filed Exhibit 245} and.....the...

(6) **False Certification** by attorney Debra C. Galloway and Stephanie Hammond who was not in my presence before, during or after the closing. [WF00058, WF00060 & WF00097]. Since Wells Fargo's mortgage is defective, there is no legitimate debt. Without a valid security instrument, Wells Fargo's note is unenforceable. If the security instrument is defective, its note is defective.

(b) "[T]he parol evidence rule was designed to prevent frauds, not to promote frauds by immunizing a party from claims arising out of his fraudulent misrepresentations." Pinken, 704

F.2d at 1023. The mortgage is inflated, falsely certified and obtained by violating SC's laws.

(1) "[P]arol evidence is admissible to ascertain the true meaning of the contract and the intent of the parties." Klutts Resort Realty, 268 S.C. at 89, 232 S.E.2d at 25. I will not be a party to Wells Fargo's illegal mortgage and banking scheme.

(2) "[F]raud is, and has been for a long time, an exception to virtually every known legal doctrine. See, e.g., Drinkard v. Ingram, 21 Tex. 650 (1858). The reason is that fraud undermines the process, the foundation, of all transactions. Thus, fraud in the inducement vitiates contracts. Fraud is an exception to the parol evidence rule. Fraud tolls statutes of limitation. Fraud can revoke wills and divisions of community property. Fraud will undo real estate conveyances. There is no reason to sanctify fraud in any litigation..."

(3) Delaware's Trial Handbook states "[P]arol evidence relating to circumstances surrounding the formation of the contract is admissible.." [Scott-Douglas Corp. v. Greyhound Corp., 304 A.2d 309, 315 (Del. Super. 1973). See also Glenn v. Tide Water Associated Oil Co., 101 A.2d 339, 342 (Del. Ch. 1953) (time, place and circumstances of execution of contract may be proved by parol evidence); Cochran v. Denton, C.A. No. 11826, slip op. at 5-6, Allen, C. (Del. Ch. Oct. 9, 1991), *aff'd mem.*, 612 A.2d 157 (Del. 1992) (parol evidence admissible to determine intent of parties to enter into a contract)]

29. This case began with me believing Wells Fargo was an innocent victim of a **Conspiracy to Defraud**. Kathryn R. Perkinson's support is what led to this belief. My encounter with Janet Frotscher's Executive Resolution Team quickly changed this belief. Wells Fargo's personnel threatened to destroy any additional correspondence about the unauthorized use of my credit report and Janet Frotscher's LIES are well documented in this and previous **Verified Pleadings**.

30. Since South Carolina's higher Courts have admitted they do not have much experience with **Verified Pleadings**, I have relied on the Full Faith and Credit Clause of the United States Constitution that requires the courts of one state give "[s]uch force and effect to a foreign judgment as the judgment would receive in its own state." See *Taylor*, 326 S.C. at 532, 484 S.E.2d at 597; See also U.S. Const. Art. IV, § 1 ("full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.")

31. I have filed over 30 **Verified Pleadings** in the Court of Common Pleas over a 5 year period. In any other Court of competent jurisdiction, except for Conclusions of Law, **Verified Pleadings** are treated as statements of fact... when submitted.. and when judicial or evidentiary admissions are not controverted, refuted or denied....they are deemed admitted by rule.

32. My **Verified Pleadings** judicial and/or evidentiary admissions have not been controverted, denied, refuted or contested in over 5 years. *Rynn v. Owens*, 181 Ill.App. 3d 232, 235, 536 N.E.2d 959, 962 (1st Dist. 1989).... and should have been deemed admitted years ago. A judicial admission is a deliberate, clear, unequivocal statement by me about a concrete fact that is based on my personal knowledge and not information or belief. Once made, a judicial admission binds me to the statement and I cannot change or contradict the statement later.

33. Unlike an attorney's unverified responsive pleading, my **Verified Pleadings** have the probative force of an affidavit. As any competent jurist can see, my **Verified Pleadings** are based on my personal knowledge, Wells Fargo's filed documents and not information or belief. And.. as to matters that are based on information or belief....., I believe them to be true.

34. Accordingly, a **Verified Pleading**, in Courts of competent jurisdiction, can only be countered by another affidavit based on personal knowledge, a sworn deposition based on personal knowledge and/or certified hard evidence to the contrary. Uncertified copies are legally insufficient and an attorney's brief that is not supported by an affidavit based on personal know-

ledge, certification or another **Verified Pleading** are dismissed because an unverified pleading is legally insufficient to challenge sworn statements in a **Verified Pleading** or defeat my statement of material facts in my *Rule 41(b) Motion for Dismissal* that was filed on August 15, 2012.

35. A judicial admission cannot be contradicted in a motion for summary judgment. A judicial admission cannot be contradicted at trial. *Dayan v. McDonald's Corp.*, 125 Ill.App.3d 972, 983, 466 N.E.2d 958, 967 (1st Dist. 1984). Thus, I cannot introduce an affidavit or testify contrary to a prior judicial admission. *Tom Olesker's Exciting World of Fashion, Inc. v. Dun & Bradstreet, Inc.* 71 Ill.App.3d 562, 568, 390 N.E.2d 60 (1979)

36. I cannot offer contrary testimony from other witnesses or experts. *Caponi v. Larry's* 66, 236 Ill.App.3d 660, 671, 601 N.E.2d 1347, 1355 (2nd Dist 1992) Formal admissions in open court, admissions pursuant to requests to admit and stipulations also constitute judicial admissions. Now that the Court and the Plaintiff understand my **Verified Pleadings** are entered as statements of fact when submitted, only **Verified Pleadings**, Affidavits based on personal knowledge and/or certified hard evidence can contradict the facts that have been stated in this **Verified Pleading** and every one filed since 2008 that are incorporated by reference.

37. Unlike; *Washington Mutual Bank v. Hiott*, an unpublished Opinion No. 2006-UP-329 from South Carolina's Appeals Court in 2006, filed on September 19, 2006, where the Court stated, "[B]ank's actions in granting Hiott a loan were based on the false loan application and documentation that it received....., there is no evidence Bank knew the information to be false. Even if we were to accept as fact that Bank's underwriters were negligent and caused Bank to make a bad loan, there is no evidence of any unfair or deceptive acts made by Bank." Janet Frotscher 's lying on me is an unfair act. Burns and Moise's filed Exhibits B & D in 2008 and Janet Frotscher's admissions in [WF00120, ¶¶ 1, 4 and 5... &.. WF00014-26] proves Wells Fargo knew. 8-14 are the documents Janet Frotscher said, were..... "acceptable for lending purposes."

38. In the same case, Washington Mutual Bank v. Hiott, the Court stated the following:

“[W]hile the identity of the person or persons who misled Bank is disputed amongst the parties in this action, it is undisputed that Bank was intentionally misled through the use of fraudulent documentation.” In this case, Wells Fargo knows who submitted the false documentation, the Unlicensed Seller – Thomas Jacobs [WF00014-WF00029], the Appraiser, Jim H. Austin, III, [WF00014-27 & WF00078] and the Broker – Golden Gate Mortgage [WF00030-38, WF00064 – *the evidence the Seller’s signed paperwork was for a loan from Golden Gate Mortgage and not from Wells Fargo, WF00065-73 – the evidence Golden Mortgage and Wells Fargo used an unauthorized credit report, and WF00080-84 – Wells Fargo has presented no evidence by way of affidavits, depositions, admissions and/or interrogatories that these are the documents I signed for the Seller on 11/26/2007. My signatures can be professionally cut and pasted on to documents. Wells Fargo has not presented any supporting evidence for their claim of legal brokering*]

39- My husband is not the only eyewitness that knows it was Thomas Jacobs that brokered this loan and supplied all the necessary paperwork for it. April Primrose, our next door neighbor at the time, can also verify it was Thomas Jacobs at 423 Bayne Street on 11/26/2007 and not David Terrell / Golden Gate Mortgage. The Court and Burns and Moise are aware of April Primrose. She is on my witness list. I cannot present April’s testimony in an affidavit. I need a Trial by Jury. April does not know Thomas Jacobs by name. She only knows him as the “White man that drives the black Cadillac.” Therefore, during a Trial by Jury, she can identify him. April no longer lives next door. If I can ever get my case out of Goodstein’s corrupt court, April can give her testimony. Lee Orr, my other eyewitness is no longer alive. He died 2 years ago.

40. I learned about **Verified Pleadings** in July of 2008 from an attorney that works as an advocate in a Guardian Ad Litem program in North Carolina. According to her, [notarized pleadings have more persuasive force than an attorney’s filed arguments. Attorney’s arguments are

rarely notarized and far more often than not are filed on information and belief and not personal knowledge. Therefore, they are legally insufficient to controvert sworn statements. In addition, if a deposition, interrogatory, admission or any other statement filed in court is not sworn to, it has no probative force to controvert sworn statements in notarized pleadings or in affidavits. In order to be admissible, sworn statements must be based on personal knowledge and not information or belief. Generally speaking, an attorney's argument is unacceptable for judgment purposes.] The following precedents were entered into the record to support her statements.

(1) From Dawkins v. Fields, 580 S.E.2d 433 (S.C. 2003) "[A]lthough our courts have not specifically addressed whether a verified complaint is the equivalent of an affidavit for purposes of summary judgment, Rule 56 of the South Carolina Rules of Civil Procedure is identical to its federal counterpart. In the absence of state law on the issue in question, federal cases interpreting the rule are persuasive." See State v. Colf, 332 S.C. 313, 504 S.E.2d 360 (Ct. App. 1998) (noting that federal interpretation of the rules of civil procedure is persuasive when there is no South Carolina interpretation). "[F]ederal courts addressing the issue have held that for the purposes of summary judgment, a verified complaint is the equivalent of an affidavit, provided that the verified complaint meets the requirements of Rule 56(e)." See Huckabay v. Moore, 142 F.3d 233 (5th Cir. 1998); Ford v. Wilson, 90 F.3d 245 (7th Cir. 1996); Colon v. Coughlin, 58 F.3d 865 (2d Cir. 1995); Neal v. Kelly, 963 F.2d 453 (D.C. 1992); Williams v. Griffin, 952 F.2d 820 (4th Cir. 1991); United States v. Four Parcels of Real Property, 941 F.2d 1428 (11th Cir. 1991); Williams v. Adams, 935 F.2d 960 (8th Cir. 1991); Sheinkopf v. Stone, 927 F.2d 1259 (1st Cir. 1991); Conaway v. Smith, 853 F.2d 789 (10th Cir. 1988); Hooks v. Hooks, 771 F.2d 935 (6th Cir. 1985); Lew v. Kona Hosp., 754 F.2d 1420 (9th Cir. 1985). "[L]ikewise, numerous state courts have held that a verified complaint is the equivalent of an affidavit for summary judgment purposes." See Smith v. Thompson, 923 P.2d 101 (Alaska 1996) (noting that verified and notarized documents satisfy the same basic requirements); Kiser v. A. J. Bayless Mkts., 449 P.2d 637 (Ariz. Ct. App. 1969) (recognizing that a verified complaint may be adequate to controvert the affidavits of the moving party); Moore v. Goldome Credit Corp., 370 S.E.2d 843 (Ga. 1988) (holding a properly verified pleading containing specific factual allegations must be considered in opposition to affidavits filed in support of a motion for summary judgment); Camp v. Jiminez, 693 P.2d 1080, 1083 (Idaho Ct. App. 1984) ("[A] verified complaint may be presented to the court . . . and it will be accorded the probative force of an affidavit if it meets the requirements of Rule 56(e)."); 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); Page v. Sloan, 190 S.E.2d 189 (N.C. 1972) (holding verified complaint may be treated as an affidavit if it complies with Rule 56(e)); Peace-U.S.A. v. Abbott, 1990 WL 75405, (Ohio

Ct. App. 1990) ("Since the complaint was verified . . . it is not merely a pleading to be disregarded for summary judgment purposes, but it is an affidavit in its own right suitable for admission . . . "); *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); *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); *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."); *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)." [Note: No requirement a **Verified Pleading** must be written in first person.

(2) *Fidelity Financial Services, Inc. v. Hicks*, 214 Ill.App.3d 398, 574 N.E.2d 15, 158 Ill.Dec. 221 (1st Dist. 1991) (admissions in verified pleading that are not product of mistake or inadvertence become binding judicial admissions)

(3) *U.S. Bank National Ass'n v. Clark*, 216 Ill.2d 334, 837 N.E.2d 74, 297 Ill.Dec. 294 (2005). *Winnetka Bank v. Mandas*, 202 Ill.App.3d 373, 559 N.E.2d 961, 147 Ill.Dec. 621 (1st Dist. 1990) (provision that verified allegations constitute evidence by way of admission refers to admissions of fact, not legal conclusions or admissions of law). "[I]n addition, when a verified complaint is filed, a prove-up of facts may be avoided in the event of a default. Verified complaints should be used with care because facts contained in a verified complaint are admissible against the plaintiff even if the complaint is subsequently amended. See *Tyler v. Gibbons*, 368 Ill.App.3d 126, 857 N.E.2d 885, 306 Ill.Dec. 486 (3d Dist. 2006); *In re Marriage of Osborn*, 206 Ill.App.3d 588, 564 N.E.2d 1325, 151 Ill.Dec. 663 (5th Dist. 1990); *Robins v. Lasky*, 123 Ill.App.3d 194, 462 N.E.2d 774, 78 Ill.Dec. 655 (1st Dist. 1984).

(4) *Pinnacle Corp. v. Village of Lake in the Hills*, 258 Ill.App.3d 205, 209, 196 Ill.Dec. 567, 630 N.E.2d 502 (1994) "[w]hen a pleading is verified, every subsequent pleading must also be verified unless verification is excused by the court. There is no allegation that verification was excused by the court. When a subsequent pleading is not verified, it is as if the unverified pleading was never filed; it must be disregarded." (*Charter Bank v. Eckert*, (1992), 223 Ill.App.3d

918, 924, 166 Ill.Dec. 282, 585 N.E.2d 1304; Florsheim v. Travelers Indemnity Co. (1979), 75 Ill.App.3d 298, 308, 30 Ill.Dec. 876, 393 N.E.2d 1223.) "[C]onsequently, we must ignore the allegations in Crystal Lake's unverified answer. Moreover, a failure to file an answer results in well-pleaded facts being deemed admitted. (Florsheim, 75 Ill.App.3d at 309, 30 Ill.Dec. 876, 393 N.E.2d 1223.) Estate of Rennick, 181 Ill.2d 395, 407, 692 N.E.2d 1150, 1156 (1998) "[A] judicial admission binds the party who made the admission. If the admission is merely an evidentiary admission (instead of a judicial admission), the party may contradict or explain it." Williams Nationallease, Ltd. v. Motter, 271 Ill.App.3d 594, 597, 207 Ill.Dec. 914, 648 N.E.2d 614, 616-17 (1995).

(5) From West v. Gladney, 533 S.E.2d 334, 337 (S.C. May 8, 2000) ("[G]ladney produced no evidence to refute West's statements... this court ordinarily will not consider statements of fact presented only in an attorney's argument in determining whether a genuine issue of material fact exists sufficient to preclude summary judgment." Gilmore v. Ivey, 290 S.C. 53, 348 S.E.2d 180 (Ct.App.1986)

41. Due process is the legal requirement that Judge Goodstein must respect all the legal rights that are owed to me under South Carolina's and the United States Constitution. Due process balances the power of law and protects me in legal proceedings from Corrupt and Dishonest Judges, Law Enforcement, Government Agencies and Corrupt and Dishonest attorneys. When an Officer of the Court; that represents the government, harms an individual by violative ethical and/or judicial procedures, it constitutes a "due process" violation which offends the rule of the law and as such, the Officer of the Court has committed **Fraud upon the Court**.

42. It is not my place, duty or responsibility to inform a sitting judge..... who is duly authorized by the State of South Carolina and the Supreme Court of the State of South Carolina to act in his/her official judicial capacity.....as to what he/she should and should not do during a legal proceeding. However, neither can I sit idly by and allow my legal rights and/or privileges under the Constitution of the United States and the State of South Carolina be violated by corrupt judicial practices and false testimony by Officers of the Court. Judges have a duty and responsibility to act within the established procedures, rules, regulations and the statutory requirements and limitations of federal and state law not in opposition to them or seek ways.. and/or means to avoid them. Judicial actions outside of law is a violation of law.

II. THE CLEAR AND CONVINCING EVIDENCE OF JUDGE GOODSTEIN'S ELIZABETH SCOTT MOISE'S, AND JAMES H. BURNS' FRAUD UPON THE COURT FOR OVER 5 YEARS AND THE CORRUPTION OF SO-CALLED OFFICERS OF THE COURT, INCLUDING DEBRA C. GALLOWAY AND ELIZABETH S. HODGSON WHO ALSO FILED FRAUDULENT DOCUMENTS

A. List of offenses I have personally experienced in Judge Goodstein's Courtroom that are a denial of the due process of law and are indicative of Judge Goodstein's Prejudicial Treatment, Biasness and Partiality.

43. It is not within a Trial Judge's "sound discretion" or any Officer of the Court to:

(a) Misrepresent or distort judicial or evidentiary admissions in Verified Pleadings,

Misrepresenting judicial and/or evidentiary admissions that are not favorable to Wells Fargo is a denial of the due process of law. Without a hearing or ruling from the Court, this is indicative of prejudice, biasness and partiality. Ruling on admissions and misrepresentations, either through incompetence, negligence or willful or deliberate intent is not the same as hearing the admission, considering the admission.... and then arriving at a decision on its merits. *{See Court transcripts of hearings for verification. None of my judicial and/or evidentiary admissions have ever been mentioned in any hearing of Judge Goodstein's or ruled upon as being inadmissible.}*

(b) Knowingly use false statements or misrepresentations of fact for Court Orders that are proven false by documentation and eyewitness testimony is Fraud upon the Court, a denial of due process and is indicative of partiality and prejudice toward me. In *Travelers Ins. v. Roof Doctor*, 325 S.C. 614, 481 S.E.2d 451 (1997) South Carolina's Appeals Court restated the Supreme's Court ruling in *State v. Wells*, "[A] corporation is not a natural person. It is an artificial entity created by law. Being an artificial entity it cannot appear or act in person. It must act in all its affairs through agents or representatives. In legal matters, it must act, if at all, through licensed attorneys." *State v. Wells*, 191 S.C. at 480, 5 S.E.2d at 186 (citation omitted). The clear and convincing evidence are the false statements & misrepresentation of facts that have already been filed and "[M]ost importantly, the acts of an attorney are directly attributable to and

binding on the client.” *Greenville Income Partners v. Holman*, 308 S.C. 105, 107, 417 S.E.2d 107,108 (Ct. App. 1992); *Mitchell Supply Co. Inc. v. Gaffney*, 297 S.C. 160, 375 S.E. (2d) 321 (Ct. App. 1988); *Arnold v. Yarborough*, 281 S.C. 570, 316 S.E. (2d) 416 (Ct. App. 1984)

(1) According to Janet Frotscher’s letter, dated June 2, 2008, [WF00125, ¶ 4], Janet Frotscher admits the documents supporting loan #0174072777 were accepted by Wells Fargo on December 4, 2007. No evidence of fraud and ignoring evidence of fraudulent misrepresentation or two entirely different legal matters. Janet Frotscher admits in [WF00120] that the documents were reviewed and found acceptable for lending purposes. [WF00014-WF00026] is an in-your-face fraudulent misrepresentation. I was not the property owner on October 8, 2007 and the document clearly shows Jacobs as the borrower. The loan’s approval date is 12/20/2007 [WF00086, WF00103, WF00115 & WF00119]. From 12/04/2007 to 12/20/2007, Wells Fargo had ample time to investigate the fraudulent misrepresentations pursuant to § 40-58-70(6) – SC Code of Laws and deliberately chose not to. Wells Fargo had ample opportunity and time to call me about the appraisal’s discrepancies and the loan in general pursuant to § 37-23-40(1)-(2) - SC Code of Laws and deliberately chose not to. “[A]t common law actual knowledge is not necessary to hold a principal liable, if misrepresentations are made by the agent while acting within the scope of his agency.” {See *West v. Service Life & Health Insurance Co.*, 220 S.C. 198, 66 S.E. (2d)816 (1951); *Restatement (Second) of Agency* § 261, comment a (1958)}

(2) The Court’s failure to cite my judicial admissions allowed Wells Fargo’s attorneys Burns, Moise and Calub to enter misrepresentations of fact in to the record that Wells Fargo did not know about the misrepresentations of the Seller, Broker and Appraiser and there is no evidence Wells Fargo participated. I have already addressed the issue of the appraiser’s invoice [WF00027] that verifies the 7-59 appraisals were ordered for Thomas Jacobs as Borrower – [WF00016] and is the Borrower that purportedly met Jim H. Austin, III on 09/14/2007. [WF00009 & WF00022]. Unlike the **in-your-face** fraudulent misrepresentations on [WF00014-26] that was covered up, ignored or not disclosed; on 12/04/2007, Wells Fargo’s underwriters may not have known the Contract of Sale was Forged and Altered or the Satisfaction Completion Certificate was a scam. Wells Fargo personnel did know by December 22, 2007 the loan is mired in fraud, deceit and deception; Kathryn R. Perkinson knew by December 24, 2007; Wells Fargo knew the loan was in dispute by December 27, 2007. {My Filed Exhibit 70} On 01/14/2007, Wells Fargo received a call from me, notifying Wells Fargo the Satisfaction Completion Certificate was a scam and the Appraisal was falsified. By February 29, 2007, Wells Fargo knew everything that is written in my **Verified Pleadings**. Therefore, Janet Frotscher knew or should have known and Elizabeth S. Hodgson knew or should have known that all Wells Fargo’s supporting documents for loan #0174072777 were based on fraudulent representations from the Broker, Seller and Appraiser that should have voided or cancelled this loan, note and mortgage.

(3) On 12/04/2007, Wells Fargo’s underwriters knew the Credit Report from

Golden Gate Mortgage was not authorized [WF00066-WF00073] and used it anyway [WF00065]. The date on the Credit Report is October 7, 2007. There is no written authorization before or on October 7, 2007 to access my credit report. Thomas Jacobs' written authorizing date is November 26, 2007 [WF00074]. Judge Goodstein has ignored Wells Fargo's violation of a United States Code. 15 USC § 1681n(a) Therefore, Judge Goodstein's Court Orders, in addition to being based on errors of law that bear no relevance or resemblance to this case, the misrepresentations and fraudulent misrepresentations of Burns, Moise, Calub the Broker, the Appraiser, the Seller and Janet Frotscher; as well as, her own misrepresentations of fact...are also inconsistent with Federal law. This is the evidence Wells Fargo participated in the fraud, by knowingly using a fraudulently misrepresented appraisal [WF00014-27] and an unauthorized credit report on 12/04/2007. Wells Fargo has presented no evidence as to when it received the forged by substitution appraisal [WF00001-13]. If I had authorized the credit report on or before 10/07/2007, any legitimate broker would have sent the signed authorization with it, along with any updated authorization....if required or needed. If Wells Fargo had both 7-59 appraisals at the same time, then it is an ABSOLUTE LIE and a FRAUDULENT MISREPRESENTATION OF A MATERIAL FACT by Wells Fargo or Wells Fargo's attorneys that Wells Fargo did not know and did not participate. A loan underwriter is not anyone off the street. This man or woman is trained to look for discrepancies in any loan request. If he/she approves a loan request with verifiable discrepancies and fraudulent misrepresentations, then his/her decision was made with full knowledge and deliberate intent. {See the Evidence – WF00015-16, 21-22 & WF00027}

(4) *Black's Law Dictionary* (2nd ed. 1910) pg 369 defines **Due Diligence** in pertinent parts as .."[S]uch a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case. *Perry v. Cedar Falls*, 87 Iowa, 315, 54 N. W. 225; *Dillman v. Nadelhoffer*, 160 Ill. 121, 43 N. E. 378; *Hendricks v. W. U. Tel. Co.*, 120 N. C. 304, 35 S. E. 543, 78 Am. St. Rep. 058; *Highland Ditch Co. v. Mumford*. 5 Colo. 336."

(5) Practically everything written in this **Verified Pleading** and will be written after this section and more can be found in my *Demand for Jury Trial and Legal Memorandum Supporting Opposition to Plaintiff's Wells Fargo Bank, N.A.'s Motion for Summary Judgment that was filed on July 17, 2013*. Attorneys Burns and Moise know this is true and I strongly suspect, despite their own misrepresentations, they are just as shocked as I am, that Judge Goodstein actually signed an Order for Partial Summary Judgment without even referring to my filed Objections or evidence and relied on excerpts from a deposition that cannot be used against me pursuant to *Rule 30(b)(2), SCRCF*. { See my Filed Exhibit 329 }

(6) What is it about this case ...that compels Officers of the Court to lie, misrepresent material facts and commit **Fraud upon the Court** in order to foreclose on an old house on 423 Bayne Street that was brokered illegally by an unlicensed seller?

(c) It is not within a Trial Judge's "sound discretion" to: Deny me "due process of law" by refusing to let my witness speak on my behalf and giving me 5 minutes to present a motion is unreasonable and I told her that in Court on 09/06/2012. The clear and convincing evidence has already been identified and discussed on pages 6-8 in this pleading and I incorporate them by reference as though I have written pages 6-8 in this paragraph verbatim. Those 3 separate incidents of egregious judicial misconduct are inexcusable; especially, when considering violations of my constitutional right to a fair and impartial hearing and/or trial is inviolate. "Due process of law" is guaranteed in the 5th and 14th Amendments and by Article I, § 3 in South Carolina's Constitution. Article I, § 14, guarantees me the right to have witnesses speak on my behalf. Legal redress for any loss that results from a denial of constitutionally guaranteed rights is available under 42 U.S.C. § 1983 and is a legitimate counterclaim in a lower court. I am claiming my right to a fair trial in this pleading as a COUNTERCLAIM pursuant to 42 U.S.C. § 1983. Neither judges nor attorneys are immune from a liability suit and no court has the legal authority to deny a citizen of the United States a fair hearing and a fair trial based on the truth, the evidence and the facts. In addition, when I come to Court, I rely upon the following:

- (1) *Rule 13(a), SCRM*C that clearly states in pertinent parts: ".....[I]n the trial of a civil action, in which one or both parties are unrepresented by legal counsel, the court shall question the parties and witnesses in order to assure that all claims and defenses are fully presented." This is not happening in Judge Goodstein's Court.
- (2) *Rule 614(a)-(b), SCRE*, states the following in pertinent parts.. "[I]n extraordinary circumstances, the court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called. Before calling a court's witness, the court shall afford the parties a hearing on the matter outside the presence of the jury." "[W]hen required by the interests of justice only, the court may interrogate witnesses."
- (3) "[t]he trial judge, of course, has the right, in his discretion, and in a proper manner, to question witnesses during a trial, in order to elicit the truth." *Williams v. S.C. Farm Bureau Mutual Ins. Co.*, 251 S.C. 464, 163 S.E.2d 212; *Fowler v. Laney Tank Lines, Inc.*, 263 S.C. 422, 211 S.E.2d 231 (1975) ("[I]f a trial judge in the exercise of his discretion feels called upon, in the interest of justice, to ques-

tion witnesses to elicit the truth, he should be cautious to see that such questions are propounded in a fair and impartial manner, and should not express or indicate to the jury the judge's opinion as to the facts of the case or the weight or sufficiency of the evidence.”)

(4) *State v. Chasteen*, 228 S.C. 88, 88 S.E. (2d) 880 quoting *State v. Anderson*, 85 S.C. 229, 67 S.E. 237, 238. (“[I]t is his duty to see to it that justice be done in every case, if it can be done according to law; and, if he thinks that the attorney for either party, either from inadvertence or any other cause, has failed to ask the witnesses the questions necessary and proper to bring out all the testimony which tends to ascertain the truth of the matter under investigation, we can see no legal objection to his propounding such questions; but, of course, he should do so in a fair and impartial manner and should not by the form or manner of his questions express or indicate to the jury his opinion as to the facts of the case, or as to the weight or sufficiency of the evidence.”)

(d) It is not within a Trial Judge’s “sound discretion” or any Officer of the Court to:

Ignore South Carolina’s Supreme Court Administrative Orders, i.e., #2009-05-22-01 that

clearly stated in pertinent parts... **Note:** The word “**shall**” (imperative when rights are concerned)

(1) “[T]he judge shall consider the affidavit and any counter affidavit that may be filed to determine if there is any contested issue that must be resolved regarding the eligibility of the loan for modification under the HMP or satisfaction of the requirements of the HMP if it applies. If so as to either, the judge shall resolve this issue like any other contested issue in a mortgage foreclosure action.”

(2) The Judge failed to act when Wells Fargo’s attorney; Elizabeth S. Hodgson, filed a *False/Scam Affidavit* that was a misrepresentation of material facts. Attorneys filing misleading statements, false statements and/or concealing information from the Court that is material is **Fraud upon the Court**. Elizabeth S. Hodgson’s filed Affidavit allowed an illegal loan transaction supported by fraudulent misrepresentations into the *TRO/Stay*. If she were indeed familiar with my case, she would have known and should have known about the fraudulent misrepresentations of the Broker, Seller and the Appraiser. My complaint against Wells Fargo then and now is Wells Fargo’s perpetuation of an Illegally Brokered Loan, an Illegal Predatory Lending and a Home Improvement and Mortgage Fraud based upon the acceptance and use of falsified documents.

(3) Attorney Hodgson’s *False/Scam Affidavit* has misled and deceived the Court for over 4 years. I challenged the legitimacy of attorney Hodgson’s Affidavit and the Judge failed to act. This *False/Scam Affidavit* has already been addressed in previous Pleadings filed after July of 2009 and those **Verified Pleadings** are incorporated by reference as though fully set forth herein verbatim. {Refer to Filed Exhibit 235 & My Filed & Verified Response Dated May 26, 2009} If Wells Fargo’s attorney, Elizabeth S. Hodgson, filed a *False/Scam Affidavit*, Wells Fargo failed to meet the requirements for the *Stay/TRO* and this case should have been dismissed due to Wells Fargo’s failure to “Substantially Comply” and **Fraud up-**

on the Court by Elizabeth S. Hodgson's misrepresentation of material facts in an affidavit, in layman's language...Lying. *Black's Law Dictionary* (2nd ed. 1910) defines a known false assertion in an affidavit as **Perjury** on page 893.

(4) "[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."

(5) Based upon Blacks Law definition, Brain A. Calub, Elizabeth Scott Moise, James H. Burns and Judge Diane Shafer Goodstein's information and belief is in adequate to controvert my sworn statements of fact. Any attempt to controvert my statements of fact are automatically impeached and will be perjured testimony, false information, fraudulent misrepresentations and/or representations and/or OUTRIGHT LIES because Wells Fargo's own document file and affidavits that have been filed in this proceeding verify my statements are true.

(6) In addition, on June 29, 2011, Elizabeth Scott Moise verified my statements of fact in my **Verified Pleadings** that Wells Fargo did not have a policy, process or procedure than can modify a fraudulent loan, note and mortgage. Elizabeth S. Hodgson's *False/Scam Affidavit* that is defined by Blacks Law Dictionary as **perjury** was verified as **perjury** by Elizabeth Scott Moise's own letter. {See My Filed Exhibit 218} My loan had no legal right or authority to be included in the Stay/TRO. The inclusion of loan #0174072777 violated the terms of the HMP.

(e) It is not within a Trial Judge's "sound discretion" to: **Ignore South Carolina's legal principles and/or well established legal precedents.** Judge Goodstein's Partial Order of Summary Judgment and Wells Fargo's Order of Reference are inconsistent with...and in opposition to South Carolina's legal principles and/or well established legal precedents. From 12/04/2007 – to the date of this filing, Wells Fargo had every opportunity to act upon the "**in-your-face**" fraudulent misrepresentations of the Broker, Seller and Appraiser and chose not to. Wells Fargo's personnel had every opportunity not to participate in fraudulent activity by using an Unauthorized Credit Report and chose to participate. Wells Fargo's personnel did not have to conceal material facts about loan #0174072777 from their attorneys or the Court of Common Pleas and chose not only to conceal them.....they chose to LIE about them after all the facts were known. South Carolina's Code of Laws gave Wells Fargo ample time to correct noncompliance

failures and Wells Fargo chose not to. Because of **Fraud upon the Court**, Judge Goodstein's

Court Orders are outside of law and inconsistent with and in opposition to:

(1) 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.** [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.}

(2) 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."**

(3) South Carolina Courts that refuse 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.")

(4) South Carolina's Code of Laws that prohibits **False Certification** by a notary pursuant to Sections 26-1-95, 30-5-30, 30-5-40 & 26-3-40 to 26-3-70. It is documented as [WF00058, WF00060 & WF00097] and it is verifiable to the highest legal standard. S. Hammond was never in my presence before, during or after the closing on December 21, 2007.

(5) 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 and had the fraudulently misrepresented documents in its possession since 12/04/2007. 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* (5th ed., 1979), pg 596.

(6) Because of **Fraud upon the Court**, by Officers of the Court, Judge Goodstein's Court Orders are inconsistent with and in opposition to: The Legal Doctrine of In Pari Delicto; "[t]he principle that a plaintiff who has participated in wrong-doing may not recover damages resulting from the wrongdoing." [the key word is **participate**; especially, after being duly notified and after all the facts were known.] Wells Fargo is barred from any recovery or any judicial relief.

(7) Because of **Fraud upon the Court**, by Officers of the Court, Judge Goodstein's Court Orders are inconsistent with and in opposition to: *Section 37-23 -50 SC Code of Laws* that clearly states... "[A)] If a lender, or party charged with a violation, when making a high - cost home loan violates the provisions of this article, the borrower has a right in action, other than a class action, to recover from the lender or party charged with the violation actual damages and also a penalty in an amount determined by the court of not less than one thousand five hundred dollars and not more than seven thousand five hundred dollars for each loan transaction. (B)(1) If the court finds as a matter of law that the agreement or transaction violates the provisions of this article at the time it was made, the court may, in an action other than a class action: (a) refuse to enforce the agreement, or a term, or part of the agreement or transaction that the court determines to have been unlawful at the time it was made;" **No adjustments can be made for Wells Fargo pursuant to this section of South Carolina Law because of Wells Fargo's fraudulent concealment of material facts and fraudulent representation of material facts, in layman's language...Lying. The loan must be cancelled and the Court must award statutory and punitive damages because of Wells Fargo's violation of Federal and State Law. [WF00120 & WF00125, Elizabeth S. Hodgson's False/Scam Affidavit & My Filed Exhibits 218 & 235]**

(8) Because of **Fraud upon the Court**, by Officers of the Court, Judge Goodstein's Court Orders are inconsistent with and in opposition to: *Section 37-23-60 SC Code of Laws* that clearly states.. "[A] lender of a high - cost home loan who acts in good faith but through a bona fide unintentional error, notwithstanding the maintenance of procedures reasonably adapted to avoid errors, fails to comply with this article must make restitution to the borrower. Within forty-five days after the discovery of the compliance failure or receipt of written notice of the compliance failure, the lender must notify the borrower and make the necessary adjustments to the loan to make the high - cost home loan satisfy the requirements of Sections 37-23-30, 37-23-40, and 37-23-45. If the harm to the borrower cannot be remedied by compliance with the high - cost loan requirement of Sections 37-23-30, 37-23-40, and 37-23-45, the lender must change the terms of the loan in a manner beneficial to the borrower so that the loan is no longer considered a high - cost home loan subject to the provisions of this article. **No adjustment can be made for Wells Fargo pursuant to this section of South Carolina Law because of Wells Fargo's fraudulent concealment of material facts and fraudulent representation of material facts in Layman's language..... Lying. The loan must be cancelled and the Court**

must award statutory and punitive damages because of Wells Fargo's violation of Federal and State Law. [WF00120 & WF00125, Elizabeth S. Hodgson's False/Scam Affidavit, My Filed Exhibits 218 and 235 & Amanda Weatherly's Affidavit Verifying the Illegal Loan]

(A) *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." {Also see 18 U.S. Code § 1346 & Elizabeth Scott Moise's Filed Statements}

(B) *Blacks Law Dictionary* (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. In a limited sense, an intentional false statement respecting a matter of fact, made by one of the parties to a contract, which is material to the contract and influential in producing it. *Wise v. Fuller*, 29 N.J. Eq. 262; *Hicks v. Wynn*, 137 Va. 186, 119 S.E. 133, 135. A "misrepresentation," which justifies the rescission of a contract, is a false statement of a substantive fact, or any conduct which leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead. *Rhodes v. Uhl*, 189 Iowa 408, 178 N.W. 394, 400. Misrepresentation such as will amount to false pretense is not confined to mere oral misstatements of fact but includes distribution of printed matter, or a course of conduct, manifestly intended to deceive as to conditions actually existing. *Commonwealth v. Dougherty*, 84 Pa.Super. Ct. 319, 321.

(C) **False or Fraudulent Misrepresentation** is defined as “[a] representation contrary to the fact, made by a person with a knowledge of its falsehood, and being the cause of the other party's entering into the contract.” [WF00001-38, WF00066-73, WF00078, WF00080-85] and Janet Frotscher's fraudulent concealment of the aforementioned fraudulent misrepresentations in all of her letters to me and to Office of the Comptroller of the Currency (OCC) [WF00125] and fraudulent concealment from South Carolina's Department of Consumer Affairs (SCDCA) [WF00132]. *Blacks Law Dictionary* (5th ed. 1979) page 596.

(9) Because of **Fraud upon the Court**, by Officers of the Court, Judge Goodstein's Court Orders are inconsistent with and in opposition to: 18 U.S.C. 1001(a) that 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.” This law is clearly written on [WF00008 & WF00021]. These are the same 7-59 Inflated 7-59 Appraisals that fraudulently misrepresents material facts that Janet Frotscher said were acceptable for lending purposes. [WF00120] [See Exhibit 113 – the Property for Additional Evidence and Proof] The law specifically states “conceals” or “covers up”, “makes” or “uses”. Wells Fargo has concealed, covered up and is using the inflated and falsified Appraisals of Jim H. Austin, III to Defraud or Swindle me out of money [WF00001-27] in violation of my legal right to honest services. {See 18 U.S. Code § 1346 & Pages 27-32 - the Actual Description and Condition of the Property in My First Amendment to Answer to Complaint with Counterclaims that was filed on July 28, 2008}

(10) Because of **Fraud upon the Court**, by Officers of the Court, Judge Goodstein's Court Orders are inconsistent with and in opposition to: Section 16-13-10 – SC Code of Laws that clearly 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; 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;” [WF0001-26 & WF00028-29] {Also See Pages 27-32 – the property in the Court's Records from September 30 – October 12, 2007 in My First Amendment to Answer to Complaint with Counterclaims that was filed on July 28, 2008}

(11) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: *18 U.S. Code § 1346* that guarantees me a right to honest services. A mortgage, loan and/or note based on illegal brokering, fraudulent representations and misrepresentations is not an honest service pursuant to any Federal or State Law

(12) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: *Sections 40-58-30(A)-(B) – SC Code of Laws* that clearly state in pertinent parts..“[(A)] A person may not act as a mortgage broker in this State without first being licensed with the administrator. A person... 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....” [**The documents supporting the loan were not at the closing.**]

(A) My sworn counterclaim against Wells Fargo that Wells Fargo is perpetuating an Illegally Brokered Mortgage Loan/Loan, an Illegal Predatory Lending Scheme and a Home Improvement and Mortgage Fraud based upon accepting, approving, funding, relying upon and defending the illegal brokering activities of an unlicensed seller, in which falsified documents were used to inflate the value of Wells Fargo's loan, mortgage and note - account number 0174072777 is verified pursuant to South Carolina law and the FBI's description of the illegal activity.

(B) My sworn statement that Wells Fargo is **Complicit** in perpetuating the illegal brokering activities of an Unlicensed Seller is verified pursuant to South Carolina law. *Section 40-58- 30(A)-(B)*

(C) My sworn statement that Wells Fargo's loan, mortgage and note were obtained in violation of South Carolina law, with help from the Broker and Appraiser is verified by South Carolina law. *Sections 40-58- 30(A)-(B)*

(D) My sworn statement that the Unlicensed Seller's illegal brokering activities are also a violation of Federal Regulations is verified by *12 U.S.C. 2602(3)* and *24 C.F.R. Part 3500. 2(b).*”

(E) My sworn statement that the Seller's illegal brokering activities, with help from the Broker, the Appraiser and Wells Fargo's own employees, acting within their respective agencies, including Janet Frotscher (whose misrepresentations and false accusations are the underpinning of this foreclosure action, and their combined fraudulent representations of fact are violations of South Carolina law and United Codes. This is verified by South Carolina Law and U. S. Codes; most notably, *SC Code of Laws Sections 16-13-10, 16-9-10(2) & 34-3-110* and U. S. Codes..... *18 USC § 1007 18 USC § 1001(a), 18 USC § 1014, 18 USC § 1344 and 15 USC 1681n(a).*

(13) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: *ARTICLE III of the Uniform Commercial Code 305(ii)-(iii)* and *Section 36-3-305(ii)-(iii) - SC Code of Laws* that clearly states the following 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...."

(14) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to the principles of: Contract Law – "[a] misrepresentation may make a contract voidable if it is either fraudulent or material." *Restatement (Second) Contracts ch. 7, Introductory Note (1981)* "[T]he question of whether a party was fraudulently induced into a contract may go to the formation of the contract. A party that is misled as to the essential terms of a contract does not technically agree to the contract, as no assent to its terms has been formulated due to the misrepresentation. In this situation, it is irrelevant whether the misrepresentation was made by the other party to the contract or a third person. *See Restatement (Second) Contracts § 163 (1981)* ("It is immaterial under the rule stated in this Section whether the misrepresentation is made by a party to the transaction or by a third person.").

(15) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: *Section 40-58- 50(E)(1) – SC Code of Laws* that clearly states in pertinent parts.. "[A] person may not act as a qualified loan originator in this State without first being licensed with the administrator." Judge Goodstein's cannot overlook illegal procurement and Wells Fargo's continued participation in and **Complicity** with the Unlicensed Seller's, Broker's and Appraiser's illegal **Conspiracy to Defraud** Wells Fargo out of \$75,000.00 in order to benefit Burns and Moise.

(16) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: South Carolina's legal precedents. Motion hearings are not appropriate for Summary Judgments unless each party can argue its position and the judge can ask specific questions about the facts or law. I have been to 4 motion hearings but not a trial. At the motion hearings I have been to, Judge Goodstein has never asked me any questions about any facts or law. {*See Court Transcripts for Verification*} "[H]earings on a motion are Motion Hearings. A Motion is a request asking a judge to issue a ruling or order on a legal matter. Once a judge receives a motion, he or she can grant or deny the motion based on its contents. In the alternative, the judge can also schedule a hearing. After the hearing the judge decides the motion and this is called an order {*USA Legal*}, unless a party objects.

See Gadson v. Hembree, 364 S.C. 316, 320, 613 S.E.2d 533, 535 (2005) ("Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.")

(17) Judges and attorneys that violate Federal and State laws must recuse themselves from legal proceedings or be suspended from them. There are no provisions in South Carolina's Constitution or the Constitution of the United States for anyone outside the governing laws or acting in opposition to governing laws to continue acting as a judge and/or attorney or continue in a judicial role or function; especially, after he/she has violated his/her oath of office. Violating the "due process clause" is an affront to public policy, statutory law and provisions of South Carolina's and the U.S. Constitution. Such a Judge must recuse himself /herself pursuant to 28 U.S.C. § 455(a) or by the legal means established by the State of South Carolina.

(18) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: 24 CFR Part 3500.2(a)(16)(ii). My counterclaims against Wells Fargo are verified by 24 CFR Part 3500.2(a)(16)(ii). Thomas Jacobs – the Unlicensed Seller - offered the applications on 11/26/2007 not Golden Gate Mortgage / David Terrell.

(19) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: 15 USC § 1681n(a) that clearly states in pertinent parts.... "[A]ny 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..." {See also pg 73 of 97 in *My Opposition to the Plaintiff's Motion for Summary Judgment and Demand for a Jury Trial that was Filed on July 17, 2013, that is Incorporated by Reference as Though Fully Set Forth Herein Verbatim & WF00066-WF00073*}

(20) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: the UNITED STATES CONSTITUTION - AMENDMENT V: that clearly states in pertinent parts.. "[N]o person shall be.... deprived of life, liberty, or property, without due process of law...;"

(21) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with and in opposition to: Section 37-5-108 – SC that clearly states in pertinent parts.. "[(1)] With respect

to a transaction that is, gives rise to, or leads the debtor to believe will give rise to, a consumer credit transaction, if the court as a matter of law finds: (a) the agreement or transaction to have been unconscionable at the time it was made, or to have been induced by unconscionable conduct, the court may refuse to enforce the agreement; or (b) any term or part of the agreement or transaction to have been unconscionable at the time it was made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable term or part, or so limit the application of any unconscionable term or part as to avoid any unconscionable result and award the consumer any actual damages he has sustained. (2) With respect to a consumer credit transaction, if the court as a matter of law finds that a person has engaged in, is engaging in, or is likely to engage in unconscionable conduct in collecting a debt arising from that transaction, the court may grant an injunction. In addition, the consumer has a cause of action to recover actual damages and, in an action other than a class action, a right to recover from the person violating this section a penalty in the amount determined by the court of not less than one hundred dollars nor more than one thousand dollars....” **No relief or modification is available to Wells Fargo pursuant to this section of South Carolina Law because of Wells Fargo’s fraudulent concealment of material facts and fraudulent representation of material facts, in layman’s language...Lying. The loan must be cancelled and the Court must award statutory and punitive damages because of Wells Fargo’s violation of Federal and State Law. {See also pg 71 of 97 in My Opposition to the Plaintiff’s Motion for Summary Judgment and Demand for a Jury Trial that was Filed on July 17, 2013, that is Incorporated by Reference as Though Fully Set Forth Herein Verbatim.}**

(A) Wells Fargo’s option of participating in the Seller’s, Appraiser’s and Broker’s **Conspiracy to Defraud** and Wells Fargo’s own Bank, Insurance and Securities Fraud due to its reliance on falsified documents or losing my home in foreclosure is **Unconscionable**; as well as, forcing me to make payments on an illegally brokered loan. It is unlawful to collect payments on illegal loan transactions. [WF00120 & WF00121-124, WF00129, WF00131 & Amanda Weatherly’s Filed Affidavit] Wells Fargo’s mortgage and note are based on falsified documents that constitute a fraudulent representation to Fannie Mae, Freddie Mac or any investor and the inflated value is also a fraudulent representation of material facts to any insurance company.

(B) Lenders are expected to use due diligence to detect fraud and they are liable if they fail to do so. Borrowers subjected to fraudulent circumstances by lenders can sue for damages if these are later uncovered.

(22) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein’s Court Orders are inconsistent with and in opposition to: the UNITED STATES CONSTITUTION – AMENDMENT XIV: that clearly 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.”

(23) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein’s Court Orders are inconsistent with and in opposition to: the STATE OF SOUTH CAROLINA CONSTITUTION – ARTICLE 1 - § 3: 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.”

(25) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein’s Court Orders are inconsistent with and in opposition to: STATE OF SOUTH CAROLINA CONSTITUTION – ARTICLE 1 - § 14: 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.” [*My Verified Pleading for a Jury Trial was filed on August 12, 2008 – See Attached Exhibit 341.*]

(18) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein’s Court Orders are inconsistent with and in opposition to: My Constitutionally protected legal rights and her judicially created immunity protection.

(f) It is not within a Trial Judge’s “sound discretion” to: **Condone and support Fraud upon the Court by attorneys**; especially the **Massive Filing Fraud** of Elizabeth Scott Moise and James H. Burns during the *TRO/Stay*. From June of 2009 until the *TRO/Stay* ended, to characterize what these two attorneys did as misrepresentations, false statements, intentional misstatements of facts or perjury are understatement. I prefer layman’s language. These two attorneys filed nothing but ABSOLUTE LIES. The panel of judges that reviews this **Verified Pleading for Fraud upon the Court** can access the records of the Court of Common Pleas during the *TRO/Stay* and prove to yourselves how massive it is and Judge Goodstein simply ignored it. This case of **Fraud upon the Court**, takes South Carolina all the way back to the 16th Century when people of African descent had no rights in “All White Courts” or any legal

protection from "All White Juries". I would go into an historical perspective, but it is not necessary, Burns and Moise's actual Case Status Updates and my **Verified Replies** and/or **Responses** from after June of 2009 to the present that I incorporate by reference as though I have fully written them herein verbatim are more than adequate and provides all the evidence a reviewing panel of Judges and legal professionals will need. The proof of Burns and Moise's **Massive Filing Fraud** is the absence of hard evidence to verify the misrepresentations in their so-called Case Status Updates; such as:, [See Samples in My Attached Exhibits 334 – 340]

(1) Pg 1, ¶ 2, in Elizabeth Scott Moise's *Case Status Update Pursuant to May 22, 2009 Supreme Court Order for Foreclosure Cases*, dated, June 15, 2009. "Wells Fargo attempted to contact Defendant Dorothy Sistrunk to speak with her about her eligibility pursuant to HMP requirements. However Defendant has refused to speak with Wells Fargo, but Wells Fargo currently is attempting to communicate with her again. Once an eligibility and/or loan modification determination is made, Wells Fargo will notify this Court." {See Attached Exhibit 334}

(A) **I have never refused to speak with Wells Fargo. Elizabeth Scott Moise filed an ABSOLUTE LIE OR GROSS MISREPRESENTATION OF FACT that Wells Fargo could not contact me.** I Demand she produce the phone records and the name of the individual/s that I refused to speak to, the date/s and time/s of the call/s. Email records, or anything she can find. Elizabeth Scott Moise deliberately lied on me and about me.

(B) **Wells Fargo never attempted to communicate with me.** I have two phones, two fax machines and an answering machine on each phone. In addition, my husband was home recovering from a severe groin injury. {Filed Exhibit 230} Wells Fargo and Nelson Mullins Riley & Scarborough, LLP have my home phone number that has not changed in 14 years. I have documented this **Massive Filing Fraud** for over 18 months in my **Verified Pleadings** from July 2009 to the Present and I incorporate all my **Verified Pleadings** by reference as though fully set forth herein verbatim as the clear and convincing evidence and proof.

(C) The most outrageous ABSOLUTE LIE is **Wells Fargo was making an eligibility determination.** {Attached Exhibit 335} I demand strict proof that a determination was being made, methods, procedures, qualification requirements and the personnel responsible for the decision.

(2) The proof that Judge Goodstein ignored this **Massive Fraud upon the Court** of misrepresented material facts and outright lies is the absence of documentation or notification in the Court's records. {See Burns & Moise's Case Status Updates from June of 2009 to August of 2011}

(A) Two common misrepresentation of material facts and/or OUTRIGHT LIES in Burns and Moise's Massive Filing Fraud are: (i) "[W]ells Fargo has attempted to contact the Defendant regarding her eligibility for a loan modification under the HMP, but has been unsuccessful in those attempts" and (ii) "[W]ells Fargo stated that the Defendant's loan is currently under review for possible modification consistent with the requirements of the HMP.." {See Attached Exhibits 335-340}

(B) Burns and Moise were exposed as LIARS by Ben Windust on August 6, 2010. {See Filed Exhibit 198}.

(C) Ben Windust was exposed as a LIAR on October 7, 2010. {See Filed Exhibit 209}

(D) Moise and Burns, Windust and the others were all exposed as LIARS by GreenPath on 10/26/2009, who tried to work with Wells Fargo to reduce the loan to the unfinished price of 423 Bayne Street, but Wells Fargo refused to cooperate and told more LIES instead. {See Filed Exhibits 166-173, 198, 209 & Burns and Moise's Case Status Updates}

(g) It is not within a Trial Judge's "sound discretion" or any Officer of the Court to:

Violate or ignore South Carolina's Rules of Civil Procedure. Under depositions upon oral examination, *Rule 30(b)(2), SCRCP* clearly states the following in pertinent parts...

"[I]f a party shows that when he was served with notice under this subdivision (b)(2) he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him."

(1) Why did Judge Goodstein violate this rule by using a deposition that could not be used against me? Judge Goodstein knows, I am a Pro Se / Pro Per litigant and cannot afford counsel? Why did Judge Goodstein violate the rule without giving me an opportunity to clarify any statement/s before she misquoted them and turned them into misstatements of fact and/or misrepresentations?

(2) Rule 32(a)(4), SCRCP, clearly states in pertinent parts.. "[I]f only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts." **Judge Goodstein quoted from excerpts from Attorney Calub's deposition that I never received...and to date...still have not received.**

(3) Rule 32(a)(5), SCRCP, states the following in pertinent parts..."[A] t least 1 day prior to offering excerpts from a deposition in the case in chief counsel, unless otherwise ordered by the trial judge, shall furnish to the trial judge and, at the same time and by the same means, furnish to all opposing counsel the excerpts from depositions (by page and line number) and a list of deposition exhibits which counsel expects to introduce in the case in chief at trial. When the deposi-

tion excerpt is offered at trial counsel for the adverse party shall furnish to the trial judge and, at the same time and by the same means, furnish to all opposing counsel any objections (by page and line number) to opposing counsel's deposition excerpts and any additional excerpts from the depositions (by page and line number) which counsel expects to be read pursuant to SCRCP (a)(4), as well as a list of deposition exhibits to be used. With reasonable notice to the trial judge and all counsel, other excerpts may be read." **Judge Goodstein violated this rule as well. Rule 32(a)(5) requires that excerpts of depositions and deposition exhibits that are to be used in the party's case in chief are to be provided to the judge and counsel 1 day before use. This was not done before or after Judge Goodstein's Order.**

(h) Because of **Fraud upon the Court**, by Officers of the Court and Wells Fargo, Judge Goodstein's Court Orders are inconsistent with.. in opposition to.. and violates South Carolina's and the Federal Rules of Civil Procedure relative to a Partial Summary Judgment Motion.

(1) *Rule 56(c), SCRCP* clearly states in pertinent parts..."[t]he judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." **Judge Goodstein did not consider or refer to any of my affidavits, pleadings, answers to interrogatories and/or admissions. I have already stated my witness was not even allowed to speak....and as already stated, attorney Burns knows what I am say is true. Attorney Burns was in court with me.**

(2) *Rule 56(d), SCRCP* clearly states in pertinent parts... "[I]f on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It may thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly." **Judge Goodstein did not examine any of my evidence or exhibits. Material facts were not even discussed and she has never directed any further proceedings into the action as just. She has simply agreed to or followed everything Wells Fargo suggests or wants by way of Court Orders. This is the classic definition of a Kangaroo Court or a Jim Crow Court in the South before the Civil Rights Act. {Review American History 16th - 20th Century}**

(A) *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." **This never happened for me in Judge Goodstein's Court.**

(B) *Black's Law Dictionary* (5th ed. 1979) on 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 or other tribunal." **This is what I have been experiencing in Judge Goodstein's Court room for over 5 years and Wells Fargo's attorneys Burns and Calub knows what I am saying is true. {Transcripts will verify everything written here if Burns and Calub do not.}**

(3) *Rule 56(e), SCRPC* clearly states in pertinent parts.. "[S]upporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him." **My affidavit refuting Amanda Weatherly's claims were not even discussed and attorney Burns did not offer any other affidavits based on personal knowledge and no certified copies were presented.**

(4) *Blacks Law Dictionary* (Rev. 4th ed. 1968), pg 287, defines **Certified Copy** as the following: "[A] copy of a document or record, signed and certified as a true copy by the officer to whose custody the original is intrusted. *People v. Foster*, 27 Misc. 576, 58 N.Y.Supp. 574; *Ehrlich v. Mulligan*, 104 N.J.Law, 375, 140 A. 463, 465, 57 A.L.R. 596. If the court is going to pass judgment, I have a legal right to demand Judge Goodstein follow South Carolina's Rules of Civil Procedure or recuse herself from this case pursuant to 28 U.S.C. 455(a).

(j) It is not within a Trial Judge's "sound discretion" to: **Ignore or violate his/her oath**

of office that is required of all active and/or sitting Judges.

(1) We must never forget Judges are not GODS, they are people that have power and "power tends to corrupt". "Absolute power corrupts absolutely" to believe otherwise is the wishful thinking of a fool. This quotation, ["power tends to corrupt, absolute power corrupts absolutely"] is by *John Emerich Edward Dalberg Acton, first Baron Acton (1834-1902)*. A historian and moralist, known

as Lord Acton. He expressed his opinion, relative to power's corrupting influence, in a letter to Bishop Mandell Creighton in 1887: "Power tends to corrupt, and absolute power corrupts absolutely: Great men are almost always bad." [Additional Quote by GMS]

(2) Judge's Oath

I do solemnly swear (or affirm) that:

I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and of the United States; [Note: Due Process is a Constitutional Guarantee]

I pledge to uphold the integrity and independence of the judiciary;

I pledge, in the discharge of my duties, to treat all persons who enter the courtroom with civility, fairness, and respect;

I pledge to listen courteously, sit impartially, act promptly, and rule after careful and considerate deliberation;

I pledge to seek justice, and justice alone; [So help me God.]

(k) It is not within a Trial Judge's "sound discretion" to: or Ignore the Judicial Canons and SCACR Rules in order to benefit an opposing counsel is Fraud upon the Court.

(1) *United States District Court N. D. Illinois, E. D. October 29, 1962. In Yates v. Village of Hoffman Estates, Illinois, 209 F.Supp. 757 (N.D. Ill. 1962)* The District Court held that "[n]ot every action by a judge is in exercise of his judicial function. ... it is not a judicial function for a judge to commit an intentional tort even though the tort occurs in the courthouse."

(2) *Subdivision (A) of CANON 2*: "[A] judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

(3) *Subdivision (B)(5) of CANON 3*: "[A] judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability or age, and shall not permit staff, court officials and others subject to the judge's direction and control to do so."

(4) *Canon 1* (judge shall uphold the integrity of the judiciary); *Canon 1A* (judge should participate in establishing, maintaining, and enforcing high standards of conduct and shall personally observe those standards so that the integrity of the judiciary will be preserved); *Canon 2* (judge shall avoid impropriety in all activities); *Canon 2A* (judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity of the judiciary)

(5) *Rule 7(a)(1)* (it shall be ground for discipline for judge to violate the Code of Judicial Conduct), *Rule 7(a)(1)(3)* (it shall be ground for discipline for judge to be convicted of crime of moral turpitude or a serious crime), and *Rule 7(a)(9)* (it shall be ground for discipline for judge to violate the Oath of Office) of the Rules for Judicial Disciplinary Enforcement, *Rule 502, SCACR*.

(6) "[A] trial courts possess 'a discretionary range of control over parties and proceedings' that allows reasonable accommodations to self represented litigants." *Blair v. Maynard*, 324 S.E.2d 391, 396 (West Virginia 1984). *Baber v. Greenville County*, 327 S.C. 31, 41, 488 S.E.2d 314, 319 (1997) (holding that "[t]he conduct of a trial is largely within the trial judge's sound discretion, the exercise of which will not be disturbed on appeal absent an abuse of that discretion or the commission of a legal error that results in prejudice for appellant"). "[A] failure to exercise discretion amounts to an abuse of that discretion." *Samples v. Mitchell*, 329 S.C. 105, 112, 495 S.E.2d 213, 216 (Ct. App. 1997). "[W]hen a trial judge is vested with discretion; but his ruling reveals no discretion was in fact exercised, an error of law has occurred." See *Ballon Plantation, Inc. v. Head Balloons, Inc.*, 303 S.C. 152, 155, 399 S.E.2d 439, 441 (1990).

(7) From *Ray vs. Ray*, "[I]n *Chewning*, we held 'the subornation of perjury by an attorney and/or the intentional concealment of documents by an attorney are actions which constitute extrinsic fraud.'" *Id.* at 82, 579 S.E.2d at 610. However, our holding in *Chewning* does not limit the finding of extrinsic fraud to misconduct of an attorney or an officer of the court. As we noted in *Evans*, fraud upon the court has been defined as "that species of fraud which does, or attempts to, subvert the integrity of the Court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Evans v. Gunter*, 294 S.C. 525, 529, 366 S.E.2d 44, 46 (1988) (quoting *H. Lightsey, J. Flanagan, South Carolina Civil Procedure*, 408 (2nd ed. 1985)) (emphasis added)"

(8) "[j]urisdiction" is to be broadly construed to effectuate the purposes of judicial immunity. *Stump*, 435 U.S. at 356, 98 S.Ct. at 1104-05. "[A]cts done **"in the clear absence of jurisdiction," for which no immunity is afforded, should be distinguished from actions in "excess of jurisdiction,"** which fall within the ambit of immunity protection." *Id.* at 357 n. 7, 98 S.Ct. at 1105 n. 7 (quoting *Bradley*, 80 U.S. (13 Wall.) at 351-52). [Boldness added for emphasis]

(9) From *Peterson v. Peterson*, 135 Cal. App. 2d 812, "[I]t is a well-recognized principle that a court of general jurisdiction has the inherent power to set aside a judgment obtained through fraud practiced upon the court. (*McKeever v. Superior Court*, 85 Cal.App. 381 [259 P. 373]; *McGuinness v. Superior Court*, 196 Cal. 222 [237 P. 42, 45, 40 A.L.R. 1110].)" "There can be no question as to the inherent power of the court to set aside the final decree if obtained by fraud." *Miller v. Miller*, 26 Cal. 2d 119, 121 [156 P.2d 931] (It should be pointed out that the relief obtained in this case by defendant in having **the final decree set aside**

was based upon the alleged false representations of plaintiff to the court.”) “[i]t is immaterial whether the fraud be extrinsic or intrinsic.” (*In re Johnson*, 7 Cal.App. 436 [94 P. 592].) (See also *Rice v. Rice*, 93 Cal. App. 2d 646, 651 [209 P.2d 662].) [Boldness added for emphasis]

(10) *Hartford v. Hartford* (1977), 53 Ohio App.2d 79, 83-84, 7 O.O.3d 53, 55-56, 371 N.E.2d 591, 595-596, the court stated: “[F]raud upon the court,” as used in regard to obtaining relief from judgment must be narrowly construed to embrace only that type of conduct which defiles court itself, or fraud which is perpetrated by officers of the court so as to prevent the judicial system from functioning in the customary manner of deciding the cases presented in an impartial manner,” such as bribery of a judge or jury, fabrication of evidence by counsel, or **prevention of an opposing party from fairly presenting his case.**” [Boldness added for emphasis]

(11) In *Coulson v. Coulson* (1983), 5 Ohio St.3d 12, 15, 5 OBR 73, 76, 448 N.E.2d 809, 811-812, the Supreme Court of Ohio acknowledged that “[a]ny fraud connected with the presentation of a case to a court is a fraud upon the court, in a broad sense,” quoting 11 *Wright & Miller, Federal Practice and Procedure* (1973) 253, Section 2870. [Boldness added for emphasis relative to Judge Goodstein’s not allowing My witness to speak.]

(12) From *Marquette Law Review*, Vol. 71:703, “[A] judgment procured by fraud, however, clearly does not represent a just and accurate determination. Thus, as the official comments to the Restatement (Second) of Judgments explain: “[T]o immunize such a judgment from attack is to compound the injustice of its result on the merits with the injustice of the means by which it was reached. Equally important, if judgments were wholly immune it would give powerful incentive to use of fraudulent tactics in obtaining a judgment.” *RESTATEMENT (SECOND) OF JUDGMENTS* § 70 comment a (1982).”

(13) “[F]raud upon the court by an attorney, whether or not intrinsic or extrinsic, can be used to set aside a prior judgment” *Chewning v. Ford Motor Co.*, 354 S.C. 72, 79 S.E.2d 605 (2003) “[F]ederal Rule 60(b)(3), by its express terms, permits judgments to be set aside for fraud, whether the fraud is intrinsic or extrinsic.” *Mr. G. v. Mrs. G.*, 320 S.C. 305, 465 S.E.2d 101 (Ct. App. 1995) “[F]raud upon the court includes fraud by bribing a judge, or tampering with a jury, or fraud by an officer of the court, including an attorney.” *Cleveland Demolition Co. v. Azcon Scrap Corp.*, 827 F.2d 984, 986 (4th Cir. 1987)

C. **A review of the Rogues Gallery of verifiable LIARS associated with this action and their Fraud upon the Court or Fraudulent Representations.**

44. This ROGUES GALLERY OF VERIFIABLE LIARS can be found on pages 62-63 of 97 in my *Opposition to Plaintiff’s Wells Fargo Bank, N.A.’s Motion for Summary Judgment and Demand for Jury Trial* that was filed on July 17, 2013 that is incorporated by reference as though

fully set forth herein verbatim and on pages 1-2 in my **Verified Pleading** entitled; *Object to the Plaintiff's Motion for Order of Reference. There is no valid mortgage on 423 Bayne Street due to False Certification*. According to *Webster's 10th Edition*, on page 1312, verifiable / from verify literally means capable of **establishing the truth with accuracy**.

45. Kathryn R. Perkinson is legitimately excluded from the Rogues Gallery because of her straight forward honesty, even though her advice was misguided. According to *Blacks Law Dictionary (Rev. 4th ed. 1968)*, pg 1733, **Verify** is defined in pertinent parts as, "[T]o prove to be true; to establish the truth of; to confirm; to confirm the truth or truthfulness of; to check or test the accuracy or exactness of; to confirm or establish the authenticity of; to authenticate; to prove;.....to affirm; [a] confirmation of correctness, truth, or authenticity by affidavit, oath, or deposition.

46. This **Verified Pleading** has the probative force of an affidavit and it will identify the fraudulent representations of the following people associated with this loan that Judge Diane Shafer Goodstein conveniently overlooked or ignored to sign Court Orders that favored Wells Fargo in this litigation.

47. Any testimony that did not favor Wells Fargo, Judge Goodstein conveniently suppressed or ignored. By doing so, Judge Goodstein committed **Fraud upon the Court** by violating the due process clauses in the 5th and 14th Amendments to the United States Constitution and....
Article I, Sections 3 and 14; as written, in South Carolina's Constitution. {Exhibits 255 & 329}

(1) **The Seller** - Thomas Jacobs, LIED to me {See My Filed Affidavits}, and Thomas Jacobs LIED to SCDCA {See My Filed Exhibits 35-36} and he is the Borrower that is identified by the appraiser's 7-59 file number. Thomas Jacobs fraudulent representations can be found on Wells Fargo's "Forged and Altered" Contract of Sale [WF00028-29] and he was not a licensed originator or broker.

(2) **The Broker** – David Terrell/Golden Gate Mortgage never interviewed me for any mortgage loan. {See My Affidavits} The Broker LIED to WHFM that he interviewed me on 11/26/2007. David Terrell also LIED to SCDCA after I filed a complaint against him. {Filed Exhibit 37} David Terrell's fraudulent representa-

tions can be found on the Residential Loan Applications [WF00032 & WF00035] and on the Unauthorized use of my credit report [WF00066-73]

(3) The Closing Attorney – Debra C. Galloway LIED to the Commission {See *Filed Exhibits 68-69 [Reason for the Complaint]*} and she LIED about the filed complaint. {*Filed Exhibit 70*} Attorney Galloway never left any messages on my answering machine because I did not have one at the time and I never received the fax Debra C. Galloway claims she sent on 12/27/2007. Debra C. Galloway and Stephanie Hammond **Falsely Certified** Wells Fargo's Mortgage. Stephanie Hammond was not in my presence before, during or after the closing and did not witness me executing anything. Debra C. Galloway and Stephanie Hammond fraudulent representations can be found on [WF00058, WF00068 & WF00097].

(4) The Appraiser - Jim H. Austin, III, LIED on the Appraisals [WF00001-26]. Thomas Jacobs did not have a building permit to do any of the repairs he cites on the 7-59 Appraisals. In addition, my husband was at 423 Bayne Street cleaning up the house on October 8th and 9th, 2007 as part of a rental agreement with the Seller {*Filed Exhibit 30*} and April Primrose was next door. Jim H. Austin, III did not visit 423 Bayne Street on October 8th or 9th, 2007. [WF00001, WF00008, WF00014 & WF00021] He may have come at another date and time. Jim H. Austin, III also LIED on the Satisfaction Completion Certificates, none of the repairs he mentions on the Certificates were done. [WF00009 & WF00022]. Jim H. Austin, III's fraudulent representations can be found on [WF0001-26]

(5) Wells Fargo Personnel - Janet Frotscher's OUTRIGHT LIES have been thoroughly documented in my **Verified Pleadings** and those Pleadings are incorporated by reference as though fully set forth herein verbatim. **I have never seen or met the Broker and has never seen or met the Appraiser.** Janet Frotscher fraudulently concealed material facts from SCDCA, OCC and Wells Fargo's own attorney's Burns and Moise; {*Filed Exhibits 8-14*} unless they knew the truth relative to this action and concealed it as well. Janet Frotscher's fraudulent representations can be found on [WF00120, WF000125-26, WF00130 & WF00132]

(6) Wells Fargo Senior Counsel – Elizabeth S. Hodgson LIED on her May 15, 2009 *Affidavit* that was filed on May 18, 2009. Her filed *False/Scam Affidavit* that was material to a matter before the Court is defined by Blacks Law Dictionary as **Perjury**. The HMP was never capable of modifying fraudulent loans, notes and mortgages and Wells Fargo never had a process, procedure or policy that could modify a fraudulent loan, note or mortgage. This was verified by Elizabeth Scott Moise on June 29, 2011. Loan #0174072777 never qualified for HMP. My complaint and allegation was and still is fraud. In order to avoid further confusion, perpetrating and perpetuating a fraud. {See *Filed Exhibit 235 and See My Response to Plaintiff's Affidavit filed on May 26, 2009 – Filed Exhibit 266*}

Blacks Law Dictionary (Rev. 4th ed. 1968), pg 1298, defines Perpetrator in pertinent parts, as the following; “[G]enerally, this term denotes the person who actually commits a crime or delict, or by whose immediate agency it occurs.”

(7) **Attorney** – Brian A. Calub was excluded from the original Rogues Gallery of verifiable LIARS, but he has earned his place in this one by his May 15, 2012 filed argument with the same misstatement of fact. Once might be accidental. Twice is an intentional misstatement of fact or misrepresentation. **The Seller did not give me an appraisal, neither is my defense based on the 7-59 appraisals.**

(8) **Attorneys of Record** - Elizabeth Scott Moise & James H. Burns who may have perpetrated the biggest **Fraud upon the Court** in the History of the Court of Common Pleas with their **Massive Filing Fraud** during the TRO/Stay. In addition, misrepresented material facts and facts in filed arguments before and since 2009. {Attached Exhibits 334-340} **I never refused to speak to anyone & no one from Wells Fargo or Nelson Mullins Riley & Scarborough contacted me or attempted to contact me during the TRO/ Stay.** {Burns & Moise Case Status Updates 2009–2011 – a **Massive Filing Fraud** & Court Filings 2009-Present}

(A) I did not submit any documents to Wells Fargo, [WF00120 & WF00125-126 verifies the loan paperwork was submitted by Broker. Janet Frotscher's statements relative to me are **OUTRIGHT LIES**. She has no evidence that I sent any documents to Wells Fargo and Wells Fargo never requested any documents from me. All the documents Wells Fargo has from me were given to the Seller. There are eyewitnesses that will testify to this in Court, if I can ever get out of Goodstein's Kangaroo Court] Golden Gate Mortgage never brokered any loan for me pursuant to Section 40-58-20(36) – SC Code of Laws and the signed agreement was included as a necessary requirement for funding. {See Filed Exhibit 245}

(B) Thomas Jacobs brokered the loan by himself with help from the Broker, the Appraiser and the **Complicity** of Wells Fargo's employees; most notably, Janet Frotscher. [WF00125] {See Filed Exhibit 245; and if I can ever get out of Goodstein's Corrupt Court, April Primrose can verify Thomas Jacobs left with Golden Gate Mortgage's loan paperwork on 11/26/2007} Thomas Jacobs illegal brokering activities included obtaining my signature on a Broker's Agreement for a home loan from Golden Gate Mortgage. [See WF00064 – For Verification] and {See Filed Exhibit 245}

(9) **Judge** – Diane Shafer Goodstein violated South Carolina's Rules of Civil Procedure, violated Constitutionally guaranteed rights of due process of law, a fair and impartial hearing and prevented my witness, who is also my husband, from testify on my behalf. Judge Goodstein LIED on Court Orders, misrepresented material facts {Attached Exhibits 255 & 329} and is currently operating an illegal **Kangaroo Court** relative to CA Case #2008-CP-38-1024. Any court that violates Constitutional rights as a standard operating procedure is an illegal Court under South Carolina's and the United States Constitution.

D. **Background to James H. Burns' Fraud upon the Court that occurred on or shortly after August 1, 2011 in his Certification of Compliance with Administrative Order 2011-05-02-01 {See My Attached Exhibit 342}.**

48. Attorney Burns' *Certification of Compliance with Administrative Order 2011-05-02-01*

is dated August 1, 2011. {See Attached Exhibit 342}

Background:

(1) During May of 2008 {My Filed Exhibit 39 and Wells Fargo's Filed Exhibits WF00122-123}, I contacted Wells Fargo's Loss Mitigation Department in Fort Mill, South Carolina. The representatives that answered the phone told me Wells Fargo did not have a policy, process or procedure to modify a fraudulent, loan, note and/or mortgage. Based on our conversation, the supervisor concluded loan #0174072777 was procured either as a direct result of fraud or suspected fraud. I was instructed to resend or fax my request to cancel the loan along with any evidence of fraud or suspected fraud to an Executive Resolution Team in Des Moines, Iowa. I followed her instructions and was routed back to Janet Frotscher who told the **Ultimate Lies** on June 2, 2008 [WF00125-126] that are now the foundation of this foreclosure proceeding.

(2) When Moise and Burns began sending me documents for foreclosure participation, I relied on the information I received from Loss Mitigation in 2008. However, there was a possibility that Wells Fargo might have changed its policies since 2008, so I made this a condition to participate in any existing program or any program that might be established in the future for foreclosure intervention that would end the fraud associated with loan #0174072777. On July 29, 2011, Elizabeth Scott Moise verified the information that I had received in May of 2008 was accurate, reliable and..... had not changed in 3 years.

49. With the aforestated background, the reviewing Judges will know on pages 1-2..., attorney Burns is telling the truth and has accurately described the events. However, when he gets to page 3, paragraph 1, sentence #2, the old habits of misrepresenting the truth and/or material facts, [**Committing Fraud upon the Court**] either from Wells Fargo's or his own hidden **Dishonesty**.... re-emerges. Attorney Burns' statement; "[M]ortgagor has failed to provide Wells Fargo with any documents or records for to evaluate eligibility for foreclosure intervention" is...in Layman's language... an ABSOLUTE LIE. [Italics added]

(a) Attorney Burns statement is a verifiable misrepresentation of material facts because ACORN sent Wells Fargo documents for loan modification during July of 2008. The Documents are dated and signed July 24, 2008. {See My Filed Exhibit 66}

(b) GreenPath sent me documents.... from Wells Fargo...to send back... to... Wells Fargo for..... loan modification.... during November of 2009... and... I sent the documents back to Wells Fargo in a prepaid UPS package. The Documents are dated 11/20/2009. {See My Filed Exhibits 167-171, 175 & 176} Wells Fargo already has the documents and I have no more documents to send. Wells Fargo has not sent me any more documents to participate in loan modification and I cannot create my own.

(c) In addition, I will not participate in Wells Fargo's unconscionable scheme to perpetuate the Seller's, Broker's and Appraiser's fraudulent misrepresentations in order to help Wells Fargo conceal the Unlicensed Seller's illegal loan transaction.... that Wells Fargo knowingly participated in by ignoring the misrepresentations that were in its possession since 12/04/2007. {See Attached Exhibits WF00015-16, WF00021-22, WF00027 & WF00029-32}

(d) Perhaps the reviewing panel of Judges can discover why are these people, Judge Goodstein, attorneys, Burns, Moise, Calub and Janet Frotscher compelled to tell lies on me, persecute me and maliciously abuse me, violate the Constitutions of a Nation and State and the Rules of Civil Procedure of a Nation and a State to foreclose on an old run down house that was obtained by violating the laws of a Nation and a State by an unlicensed Seller?

(e) I have done nothing to deserve Motions for Sanctions to produce documents Wells Fargo's law firm already has. Threatened with contempt of Court for not wanting to participate in a deposition that cannot be used against me by rule. {See Rule 30(b)(2), SCRPC} Especially, when nothing I can say in a deposition can change any judicial admission in a **Verified Pleading**. Judge Goodstein violated Rule 30(b)(2) and used it anyway without even entering it into the record as evidence or conducting a hearing to discuss it.

(f) I have been hounded for documents that Nelson Mullins Riley & Scarborough, LLP already have [WF00001-137], I have been LIED on and LIED about by attorneys and bank em-

ployees that I have done nothing to. Is it because I am African American / Black and the unlicensed Seller and his associates that Defrauded Wells Fargo out of \$75,000.00 are of European descent / "White"?

III. THE UNDENIABLE MATERIAL FACTS AND FACTS RELATIVE TO CIVIL ACTION CASE 2008-CP-38-1024

A. **List of undeniable material facts that have been ignored by Judge Goodstein in this case in order to benefit Burns and Moise. Deliberately suppressing information, facts, material facts and testimony to benefit opposing counsel is Fraud upon the Court.**

50. The following are undeniable facts associate with CA Case 2008-CP-38-1024 that Judge Goodstein has covertly suppressed in order to help Burns and Moise and/or to protect Wells Fargo's interest. To be frank, I have no idea, why Judge Goodstein is doing what she is doing that so clearly and convincingly violates the due process of law and equal protection under the law. *{For more Undeniable Facts, See My Response to Wells Fargo's Reply to Defendant's First Amendment to Answer to Complaint with Counterclaims that was Filed on October 24, 2008. I incorporate my Verified Pleading by reference as though it is set forth herein verbatim.}*

(a) Wells Fargo has failed to show how I personally harmed Wells Fargo. Being harmed or evidence of harm is the basis for a civil and/or criminal lawsuit.

- (1) I did not broker the loan. Thomas Jacobs did that and *GGM Lied.
- (2) I did not appraise the property. Jim H. Austin, III Lied about that.
- (3) I did not send Wells Fargo any documents with fraudulent representations. Wells Fargo paid the Seller \$75,000.00 not me.
- (4) Wells Fargo did not call me or communicate with me at any time prior to 12/21/2007 to inquire about loan number 0174072777.
- (5) Wells Fargo has presented no evidence to refute or deny my statement of fact that David Terrell has never seen me, know me, or corresponded with me either in person, by mail or by any authorized representative. Then how did he obtain the loan paperwork, if Thomas Jacobs – the unlicensed Seller did not give it to him or submitted it himself as Golden Gate Mortgage?
- (6) Janet Frotscher has presented no evidence that she knows me, has seen me or was physically present at 423 Bayne Street in Orangeburg, South Carolina on September 14, 2007.
- (7) Wells Fargo relied exclusively on the representations of the

* GGM means "Golden Gate Mortgage"

- Broker, the Unlicensed Seller and the Appraiser.
- (8) Wells Fargo and Janet Frotscher's Executive Resolution Team have provided no evidence that the documents supporting its loan, note and mortgage not falsified.
 - (9) After February 21, 2008 and prior to June 26, 2008, Wells Fargo has not provided any evidence that appropriate actions were taken to investigate allegations of suspected "Fraud" or initiated an onsite investigation to inspection 423 Bayne Street after Wells Fargo discovered its supporting documents did not belong to me, were not order for me and Janet Frotscher LIED about them on 6/02/2008.
 - (10) Janet Frotscher has already admitted the "Value" of the Note and Mortgage were taken from the appraisal ordered by the Broker. If the value is falsified, the mortgage value is falsified and the note is unenforceable because it is based on a falsified value.
 - (11) If documents Wells Fargo relied upon to make decisions cannot be verified, validated or substantiated and are filled with lies, half truths, misrepresentation of fact, omissions and/or misleading information, Wells Fargo's acceptance and reliance upon falsified documents is to Wells Fargo's detriment. **I have no liability.**
 - (12) Wells Fargo is justified in seeking relief from the individual(s) that sent them false and misleading documents and/or misrepresented material matters or material facts upon which Wells Fargo justifiably relied, the Appraiser, Broker, Seller, the Player Law Firm and Wells Fargo's Executive Resolution Team...not me.
 - (13) Based on Wells Fargo's filed documents, Wells Fargo's loan, note and mortgage were an illegal transaction on December 04, 2007.
 - (14) I am not responsible for Well Fargo's errors in judgment or bad decisions. Wells Fargo should have filed lawsuits against the Broker , the Seller and the Appraiser, rather than maliciously persecute me. Wells Fargo did not based its loan, note and mortgage on any supporting documents from me.
 - (15) If Wells Fargo knowingly accepted a lie, rather than truth; or knowingly accepted a falsified documents to substantiate value, rather than one that can be verified, then Wells Fargo does so to its detriment. Wells Fargo is barred from receiving any relief in any court of competent jurisdiction due to its own negligence.
 - (16) I have presented the Court sufficient credible evidence to show Wells Fargo knowingly accepted and used a falsified appraisal #7-59 to establish the "Value" of its note, loan and mortgage. It is immaterial that Wells Fargo claims it did not know it was falsified, the fact remains that they are falsified and I did not send them to Wells Fargo. After January 14, 2008, Wells Fargo knew they were falsified and had all the evidence of falsification by 02/29/2008.
 - (17) Should Wells Fargo defend the practice of accepting and using falsified documents to support its mortgage backed securities, Wells Fargo (being a bank) has the potential to defraud millions of

- people. It is the duty of the Courts to prevent, not aid and abet.
- (18) My signature does not make Wells Fargo's fraudulent note and mortgage any less fraudulent or exempt it from the FBI's designation that mortgage fraud is illegal and using falsified documents and inflated appraisals to support mortgages and notes is illegal.

B. **Wells Fargo verifiable violations of a Federal law-15 USC § 1681n(a) and a subsection of South Carolina's Code of Laws-37-23-40(1)-(2).**

51. Judge Goodstein is in effect aiding and abetting tortfeasors in order to benefit Burns and Moise or Wells Fargo.

(a) **Unfair Trade Practice:** It is not within in a Trial Judge's "sound discretion" to **ignore the requirements of South Carolina Law.** Forcing me to participate in a **Conspiracy to Defraud** when I know Wells Fargo's documents are verifiably falsified, forged and altered is an unfair trade practice that is immoral, unethical and an affront to public policy. SCUPTA states "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." *S.C. Code Ann. § 39-5-20 (Supp. 2005)*. "An act is 'unfair' when it is offensive to public policy or when it is immoral, unethical, or oppressive; a practice is 'deceptive' when it has a tendency to deceive." *Johnson v. Collins Entm't Co. Inc.*, 349 S.C. 613, 636, 564 S.E.2d 653, 665 (2002).

(b) **Unconscionable:** It is not within in a Trial Judge's "sound discretion" to **ignore the requirements of South Carolina Law.** Section 37-5-108 – SC Code of Laws demands Judge Goodstein examine my sworn statements of fact relative to an **Unconscionable** loan transaction. The statute clearly requires Judge Goodstein to determine whether or not this statute applies to Wells Fargo's illegal loan transaction under South Carolina law if I believe the transaction gives rise to, or leads me to believe it will give rise to credit transaction or agreement that is unconscionable at the time it was made. "In South Carolina, unconscionability is defined as the absence of meaningful choice on the part of one party due to one-sided contract provisions, together with terms that are so oppressive that no reasonable person would make them and no fair and honest

person would accept them." No fair and honest person wants to participate in a **Conspiracy to Defraud** himself/herself or others if the loan is packaged in a mortgage backed security.

(c) **Wells Fargo's Verifiable Violation of a Federal Law**: It is not within in a Trial Judge's "sound discretion" to **ignore violations of Federal Laws**. Judges are charged with enforcing laws, not violating them or excusing those that violate them without a fair hearing for the aggrieved party and a Trial by Jury. The evidence Wells Fargo used an unauthorized credit report {Attached Exhibit 66} to approve a residential home loan based on known fraudulent representations {Attached Exhibits WF00015-16, WF00021-22 & WF00027} is undeniable, it is clear and it is convincing. All #7-59 documents were ordered for, belonged to, and were assigned to Thomas Jacobs. Orangeburg County's public records verifies no Sistrunk owned any property at 423 Bayne Street on October 7th, 8th or 9th, 2007. {Also see Filed Exhibit 236}

(1) Wells Fargo used the unauthorized credit report on 12/04/2007. {Attached Exhibit WF00065} Golden Gate Mortgage could not and did not send Wells Fargo any authorization for it because it came from the unlicensed Seller – Thomas Jacobs . There is no authorization for an October 7, 2007 credit report by or from Golden Gate Mortgage.

(2) The Unlicensed Seller's authorization was obtained by the Seller for a home loan {Attached Exhibit WF00064} from Golden Gate Mortgage on 11/26/2007. {Attached Exhibit WF00074} Wells Fargo was duly notified about this violation in 2008 and 2009 and threatened to destroy any future correspondence about it, if it were sent again. This is the reason why no additional correspondence has been sent to Wells Fargo about the unauthorized use of my credit report. Wells Fargo has never denied or refuted this incident in 5 years. The fax machine that had the records of the faxes stop working and has been replaced.

(3) 15 USC §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..."

(d) Wells Fargo's verifiable violation of South Carolina's Code of Laws § 37-23-40(1)-(2):

It is not within in a Trial Judge's "sound discretion" to ignore violations of South Carolina Law/s. This well pleaded violation has been in the Court's records since 2008. Wells Fargo illegally obtained home loan exceeded 50% of my gross income at the time. {See Filed Exhibits 66, 166-173 & 196-212 – Wells Fargo's documented malfeasance relative to loan 0174072777}

(1) 37-23-40(1)-(2) clearly states in pertinent parts.. "[T]he lender of a high- cost home loan may not: (1) make a high - cost home loan without first receiving a written certification from a counselor approved by the State Housing Finance and Development Authority that the borrower has received counseling on the advisability of the loan transaction and the appropriate loan for the borrower. The Department of Consumer Affairs shall specify the information that must be provided by the lender and reviewed by the consumer credit counselor; (2) make a high-cost home loan unless the lender reasonably believes at the time the loan is consummated that one or more of the obligors, when considered individually or collectively, is able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status, and other financial resources other than the borrower's equity in the dwelling that secures repayment of the loan....." "[A]n obligor is presumed to be able to make the scheduled payments to repay the obligation if, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed pursuant to the loan including, but not limited to, principal, interest, current property taxes, and current insurance, do not exceed fifty percent of the obligor's monthly gross income as verified by the credit application, a credit report, and information provided to a lender by a third party, including the Internal Revenue Service (IRS). **A presumption of inability to make the scheduled payments to repay the obligation does not arise solely from the fact that, at the time the loan is consummated, the obligor's total monthly debts, including amounts owed under the loan, exceed fifty percent of the obligor's monthly gross income;..**" [Boldness added for emphasis]

(2) Wells Fargo has presented no evidence of compliance with this law. Judge Goodstein only struck counterclaims in my *Answer*. She did not refer to any maturing counterclaims that are hidden in my **Verified Pleadings**. *Rules 13(e)-(f)*, *SCRCP* specifically allows for maturing counterclaims. "**13(e) - Counterclaim Maturing or Acquired After Pleading**. A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleadings." "**13(f) - Omitted Counterclaim**. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may by leave of court set up the counterclaim by amendment." [Leave is freely given.]

(3) My husband learned from reading case file histories that when a defendant is confronted with a biased judge.... or... a judge that is determined to use any means

necessary to rule in favor of a plaintiff, the best method to get admissible evidence, counterclaims and affirmative defenses into the record is to put them in affidavits or verified pleadings. This forces a judge to rule on the admissibility of the evidence, or provide leave to enter maturing counterclaims and/or affirmative defenses into the record. In the absence of a ruling, the counterclaims, affirmative defenses and admissible evidence are protected. In my case, Judge Goodstein; in order to rule favorably for Wells Fargo or Burns and Moise, struck counterclaims with prejudice. Counterclaims, evidence and affirmative defenses in **Verified Pleadings** and **Affidavits** remain a permanent part of the Court's record until ruled upon; and can be used by State and Federal higher courts to determine abuse of discretion; as well as **Fraud upon the Court**. *{Information from Preserving Issues for Appeal by Benjamin G. Schatz - A certified specialist in appellate law with the Appellate Practice Group of Manatt, Phelps & Phillips, LLP in Los Angeles – was combined with information from New York's Law Review relative to how to get admissible evidence into the record for Appellate Review.}* Based on an article of this type being in a law review, attorneys know some judges that are protected by judicial immunity are biased and/or corrupt.

52. I have already presented the evidence and documentation for the **Perjured** testimony of attorney Elizabeth S. Hodgson in her *False/Scam Affidavit* and documented the deception of attorney Debra C. Galloway who had me sign and/or initial blank documents that were later used by her and Stephanie Hammond to misrepresent material facts and facts.... and falsely attest that she saw me or witnessed me signing documents. Nothing is farther from the truth. Under **section 6** in the **FBI's 2007 Fraud Report**, this is indicative of mortgage fraud. *{See Attached Exhibits WF00058, WF00060 & WF00097 & Review paragraph 8 subpart (f) at #6, on page 14, in this pleading. I hereby incorporate paragraph 8(f) by reference as though set forth herein verbatim.}*

53. Attorneys Burns, Moise and Calub's misrepresentations, false statements and in many cases **OUTRIGHT LIES** are just as nefarious and also an abomination. These attorneys are just as guilty as Judge Goodstein for committing **Fraud upon the Court** and violating their oath.

(1) *Rule 3.3, RPC, Rule 407, SCACR: Candor Toward The Tribunal*, clearly states the following in pertinent parts:

“(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
- (2) fail to disclose to the tribunal legal authority in the controlling

jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal."

(2) *Rule 3.4, RPC, Rule 407, SCACP: Fairness To Opposing Party And Counsel* - A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or

(f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(1) the person is a relative or an employee or other agent of a client; and

(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

C. Judge Goodstein has ignored my demand for a Jury Trial filed on 8/12/2008.

54. It is not within in a Trial Judge's "sound discretion" to ignore or violate Rule 38 (a)-(c),

SCRCP – Jury Trial of Right.

(a) I filed a *Demand for Trial by Jury* on August 12, 2008 and again on July 17, 2013 in my *Opposition to Plaintiff's Wells Fargo Bank, N.A.'s Motion for Summary Judgment and Demand for Jury Trial* that is incorporated by reference as though fully set forth herein verbatim. My demands have been ignored. This is a clear Constitutional and Statutory violation in addition to being a violation of South Carolina's and the Federal Rules of Civil Procedure.

(1) *Rule 38(a)-(c), SCRCP* clearly states the following in pertinent parts.

"(a) Right Preserved. The right of trial by jury as declared by the Constitution or as given by a statute of South Carolina shall be preserved to the parties inviolate. Issues of fact in an action for the recovery of money only or of specific real or personal property must be tried by a jury, unless a jury trial be waived.

(b) Demand. Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be endorsed upon a pleading of the party.

(c) Same: Specification of Issues. In his demand a party may specify the issues which he wishes so tried; otherwise he shall be deemed to have demanded trial by jury for all the issues so triable. If he has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action."

(d) A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties, except where an opposing party is in default under Rule 55(a)."

(2) *The Federal Rule 38 - Right to a Jury Trial; Demand* clearly states...

(a) Right Preserved. The right of trial by jury as declared by the Seventh Amendment to the Constitution—or as provided by a federal statute—is preserved to the parties inviolate.

(b) Demand. On any issue triable of right by a jury, a party may demand a jury trial by:

(1) serving the other parties with a written demand—which may be included in a pleading—no later than 14 days after the last pleading directed to the issue is served; and

(2) filing the demand in accordance with Rule 5(d).

(c) Specifying Issues. In its demand, a party may specify the issues that it wishes to have tried by a jury; otherwise, it is considered to have demanded a jury trial on all the issues so triable....."

(b) Trial courts possess “[a] discretionary range of control over parties and proceedings” that allows reasonable accommodations to self-represented litigants.” *Blair v. Maynard*, 324 S.E.2d 391, 396 (West Virginia 1984).

D. **Just because I am a pro se/pro per litigant does not give Judge Goodstein the right to abuse me by fabricating testimony for summary judgment purposes or withhold information and explanations relative to my case.**

55. Courts across America have recognized that the “[p]roper scope of the court’s responsibility to *pro se* litigants is necessarily an expression of careful exercise of judicial discretion’ Each case presents a wholly different set of circumstances which require careful attention so as to preserve the rights of all parties.” {quoting *ABA Commission on Standards of Judicial Administration, Standards Relating to Trial Courts, § 2.23 Conduct of Cases Where Litigants Appear Without Counsel (Commentary)* (1976). According to *Austin v. Ellis*, 408 A.2d 784, 785 (New Hampshire 1979).}

(a) Thus, while stating that “rules apply to uncounseled litigants and must be enforced,” the United States Court of Appeals for the 7th Circuit also recognized that “[i]mplementation of many procedural rules entails exercise of discretion.” *Members v. Paige*, 140 F.3d 699, 703 (7th Circuit 1998). In the same case, *Members v. Paige*, the Court stated, “[T]wo problems require a remand for further proceedings. First, the disposition violates Circuit Rule 50.....Rule 50 requires a statement of reasons for the decision that ends the case. A generic explanation that could apply to every suit is the equivalent of no explanation. To satisfy Rule 50 the court must analyze the facts in relation to the law; neither the magistrate judge nor the district judge did that.” **Judge Goodstein did not analyze any facts in relationship to law or relevant case law.**

(b) The Court concluded, “discretion implies the power to say no, but when deciding whether to grant or deny . . . a motion a judge is entitled to consider all circumstances, including

lack of counsel, that may have contributed” to a self-represented litigant’s error.” In Traguth v. Zuck, 710 F.2d 90, 95 (2nd Circuit 1983), the United States Appeals Court, 2nd Circuit, stated, “[A] judge may abuse his or her discretion if he or she fails to take into account a litigant’s self-represented status...” The U.S. Appeals Court added, “the district court also abused its discretion in failing to take into account Zuck’s pro se status. Implicit in the right to self-representation is an obligation on the part of the court to make reasonable allowances to protect pro se litigants from inadvertent forfeiture of important rights because of their lack of legal training. While the right “does not exempt a party from compliance with relevant rules of procedural and substantive law,” Birl v. Estelle, 660 F.2d 592, 593 (5th Cir.1981), trial courts have been directed to read pro se papers liberally, Haines v. Kerner, 404 U.S. at 520, 92 S.Ct. at 595, and to allow amendment of pro se complaints “fairly freely,” Holmes v. Goldin, 615 F.2d 83, 85 (2d Cir.1980).”

56. In Gamet v. Blanchard, the California Appeals Court stated the following: “We further note that pro per litigants are not entitled to special exemptions from the California Rules of Court or Code of Civil Procedure. (Rapplevea v. Campbell (1994) 8 Cal.4th 975, 35 Cal.Rptr.2d 669, 884 P.2d 126.)”. “They are, however, entitled to treatment equal to that of a represented party. Trial judges must acknowledge that pro per litigants often do not have an attorney’s level of knowledge about the legal system and are more prone to misunderstanding the court’s requirements. When all parties are represented, the judge can depend on the adversary system to keep everyone on the straight and narrow. When one party is represented and the other is not, the lawyer, in his or her own client’s interests, does not wish to educate the pro per. The judge should monitor to ensure the pro per is not inadvertently misled, either by the represented party or by the court. While attorneys and judges commonly speak (and often write) in legal shorthand, when a pro per is involved, special care should be used to make sure that verbal instructions given in court and written notices are clear and understandable by a layperson.”

57. Like my *Rule 41(b) Motion to Dismiss with Prejudice*, Judge Goodstein never scheduled a hearing to rule on any of my Counterclaims or Affirmative Defenses.

D. Facts and Procedural History relative to Judge Goodstein's striking my Counterclaims and Affirmative Defenses without notice and/or a hearing.

58. Judge Goodstein did not notify me or explained her reason/s and/or identified any deficiencies in my *Answer* before striking my Counterclaims and Affirmative Defenses from the record. Excluding Conclusions of Law, in other courts, **Verified Pleadings** are deemed to be admissions of fact when submitted to the Court and therefore.....remain a permanent part of the the record. Judicial admissions in **Verified Pleadings** must be ruled upon.

"[A]llegations contained in verified pleadings are deemed to be admissions of fact." *Winnetka Bank v. Mandas*, 202 Ill. App. 3d 373, 397 (1st Dist. 1990). "[W]hen a pleading is verified, every subsequent pleading must also be verified unless the trial court excuses the verification." *Pinnacle Corp. v. Village of Lake in the Hills*, 258 Ill.App.3d 205, 209, 196 Ill.Dec. 567, 630 N.E.2d 502 (1994). "[O]nce a pleading has been verified, facts contained within it are judicial admissions that remain part of the record and are admissible against the pleading party, even if the pleading is subsequently amended. *Id.*" *Fidelity Financial Services, Inc. v. Hicks*, 214 Ill.App.3d 398, 574 N.E.2d 15, 158 Ill.Dec. 221 (1st Dist. 1991) (admissions in verified pleading that are not product of mistake or inadvertence become binding judicial admissions),

59. In *Bolling v. Sharpe*, 347 U.S. 497 (1954), the Supreme Court of the United States held that: "[T]he concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive." . South Carolina's Supreme Court has written: "[T]he constitutional guaranty of equal protection of the laws requires that all persons shall be treated alike under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed.... The equal protection guaranty is intended to secure equality of protection not only for all, but against all similarly situated." *Thompson v. South Carolina Comm'n on Alcohol and Drug Abuse*, 267 S.C. 463, 472, 229 S.E.2d 718, 722 (1976).

60. By striking my counterclaims without notice and without giving me an opportunity to be heard, object or given an explanation as to why this was done, Judge Goodstein failed to "Sub-

stantially Comply” with *Subdivision (A) of CANON 2: Of the Code of Judicial Conduct (Rule 501 SCACR "South Carolina Appellate Court Rules")* that clearly state:

“[A] judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

61. Judge Goodstein’s actions also indicates a failure to “Substantially Comply” with *Subdivision (B)(5) of CANON 3: Of the Code of Judicial Conduct (Rule 501 SCACR "South Carolina Appellate Court Rules")*, that clearly states:

(i) “[A] judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability or age, and shall not permit staff, court officials and others subject to the judge’s direction and control to do so.”

(ii) “[A] failure to exercise discretion amounts to an abuse of that discretion.” *Samples v. Mitchell*, 329 S.C. 105, 112, 495 S.E.2d 213, 216 (Ct. App. 1997). “[W]hen a trial judge is vested with discretion; but his ruling reveals no discretion was in fact exercised, an error of law has occurred.” See *Ballon Plantation, Inc. v. Head Balloons, Inc.*, 303 S.C. 152, 155, 399 S.E.2d 439, 441 (1990).

(iii) “[D]ue process is flexible and calls for such procedural protections as the particular situation demands.” *Stono River Envtl. Protection Ass’n v. South Carolina Dep’t of Health and Envtl. Control*, 305 S.C. 90, 406 S.E.2d 340 (1991); *Brown v. Malloy*, 345 S.C. 113, 546 S.E.2d 195 (Ct. App. 2001). “[P]rocedural due process mandates that a litigant be placed on notice of the issues which the court is to consider.” *Murdock v. Murdock*, 338 S.C. 322, 526 S.E.2d 241 (Ct. App. 1999). “[T]he Due Process Clause demands notice reasonably calculated under all circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950).

(iv) “[I]t is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have a day in court, or opportunity to be heard, and that Procedural due process requires notice, the opportunity to be heard in a meaningful way, and judicial review.” *Grannis v. Ordean*, 234 U.S. 385, 34 S.Ct. 779, 58 L.Ed. 1363 (1914); *Cameron & Barkley Co. v. South Carolina Procurement Review Panel*, 317 S.C. 437, 454 S.E.2d 892 (1995); *Universal Benefits, Inc. v. McKinney*, 349 S.C. 179, 561 S.E.2d 659 (Ct. App. 2002); *South Carolina Dep’t of Health and Envtl. Control v. Armstrong*, 293 S.C. 209, 359 S.E.2d 302 (Ct. App. 1987). “[w]ithout due notice and opportunity to be heard a court has no jurisdiction to adjudicate such personal rights.” *Murdock*, 338 S.C. at 334, 526 S.E.2d at 248. “[A] judgment by a court without jurisdiction of both the parties and the subject matter is a nullity and must be so treated by the courts whenever and for whatever purpose it is presented and relied on.” *Murdock v. Murdock*, 338 S.C. 322, 526 S.E.2d 241 (Ct. App. 1999).

SUMMARY

62. For over 5 years I have endure the injustices in Judge Goodstein's **Kangaroo Court**. For almost 6 years I was hampered by my limited understanding of court procedures and financial resources. I have literally no way to fight this injustice at the hands of a tyrannical judge and as the Court's records show, lying and unscrupulous attorneys that are protected by immunity from all they have done to me. Judges are not privileged to violate the rights of citizens unfortunate enough to find themselves in a biased, corrupt, or irresponsible court.

63. The abuses I have endured at the hands of Wells Fargo's attorneys Burns, Moise and Calub and Judge Goodstein's indifference to their continuous misstatements and misrepresentation of material facts that she dutifully repeats is unnerving. The broad immunity from civil liability that judges in the U.S. enjoy does not extend to criminal conduct.

64. It wasn't until my husband read the following statement from SEO Law Firm and the quote that both of us began to realize and understand that what I had been experiencing at the hands of Judge Goodstein and Wells Fargo's attorneys... Burns, Moise, Calub and Hodgson was **Fraud upon the Court** and a violation of the due process clauses in the U.S. Constitution.

(i) "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*}

(ii) "[W]e must never forget Judges are not GODS. They are people that have power and "power tends to corrupt". "Absolute power corrupts absolutely" to believe otherwise is the wishful thinking of a fool. This quotation is by *John Emerich Edward Dalberg Acton, first Baron Acton* (1834–1902). A historian and moralist, known as Lord Acton. He expressed his opinion, relative to power's corrupting influence, in a letter to Bishop Mandell Creighton in 1887: "Power tends to corrupt, and absolute power corrupts absolutely: Great men are almost always bad." {*Additional Quote by GMS*}

65. The 7th Circuit further stated "[a] decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

66. It is not within a trial Judge's "sound discretion" to violate 28 U.S. Code § 455 – Dis-

qualification of justice, judge, or magistrate judge – that clearly states in pertinent parts:

“(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;...”

67. In my husband's legal research, he has yet to find a ruling by any Judge in South Carolina's Appellate or Supreme Court that states... It is within a Trial Judge's "sound discretion" to:

- (a) Fabricate evidence or suppress judicial and evidentiary admissions that are not favorable to the Plaintiff Verified Pleadings & See Exhibits 255 & 329
- (b) Falsify testimony or allow false testimony and misrepresentations, Burns, Calub, Moise, Hodgson, Galloway & Judge Goodstein
- (c) Deny a defendant "due process of law", 5th & 14th Amendments, SC Art. I, § 3, § 14
- (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
- (f) Ignore South Carolina's Code of Laws, 37-23-40(1)(2), 40-58-30-78 & § 34-3-110
- (g) Encourage misrepresentation of material facts Burns, Calub, Moise & Hodgson
- (h) Deny a Defendant's Constitutionally protected rights, Trial by Jury - Exhibit 341
- (i) Support Fraud upon the Court by attorneys and/or judges, Hodgson's False Affidavit
- (j) Not schedule hearings for a Defendant that might be detrimental to a favored Plaintiff, See Court's Public Index Record.
- (k) Mistreat a Defendant because she is a self represented litigant / or not "White", Threaten Contempt of Court & Denial of Due Process
- (l) Encourage unjust enrichment based on false information and accusations, WF00125
- (m) Suppress evidence and/or admissions that supports a Defendant, Verified Pleadings
- (n) Misrepresent material facts, that supports a Defendant, Attached Exhibits 255 & 329
- (o) Not read **Verified Pleadings** or any pleading filed by a Defendant, Exhibit 329
- (p) Ignore a Defendant's filed and uncontested affidavits, See Filed Affidavits
- (q) Suppress any testimony that is detrimental to a favored Plaintiff, Verified Pleadings
- (r) Strike counterclaims without notice, explanation or reason, Exhibit 329
- (s) Refuse any evidence that is detrimental to a favored Plaintiff, Verified Pleadings
- (t) Sign Court Orders based on an ABSOLUTE LIE. Exhibit 255
- (u) Violate South Carolina's Rules of Civil Procedure, 30(b)(2), 32(b), 38(a)-(d), 56(c)
- (v) Engage in **Dishonesty** by omitting material facts that are detrimental to the Plaintiff, Fraudulent representations of the Broker, Appraiser, Janet Frotscher & the Seller
- (w) Encourage Banks to profit by violating South Carolina law, § 36-3-305(ii)-(iii)
- (x) Be partial and biased in favor of a Plaintiff, WF00066-73 & My Filed Objections
- (y) Ignore his/her oath of office...and/or.. Exhibit 303 to Unfairly Limit Admissions
- (z) Ignore judicial cannons and rules in order to benefit an opposing counsel or a Plaintiff the favors in the litigation. Exhibit 329, WF00001-38 & 15 USC § 1681n(a)

68. Every identified offense in paragraphs 67(a)-(z) has happened in this case and more..

CONCLUSION

69. I have clearly presented the evidence of **Fraud upon the Court**. The abuses in paragraph 67(a)-(z) are just the tip of the iceberg, it runs far deeper. Wells Fargo vs. Sistrunk is not a precedent following case. It is a precedent setting case. Any Law School will be hard pressed to find all the elements in this case anywhere in American law history or the history of English law.

70. When the truth is so much simpler to use, the people involved in this case have turned it into a virtual sea of LIES, false testimony and deliberate misrepresentation of facts. Even the Judge has had to tell Lies in order to maintain this case and bring about a foreclosure for whatever reason. This question has already been asked twice and I will close with it.

(a) "What is it about this case that compels Judge Goodstein, attorneys, Burns, Moise, and Calub; as well as, Janet Frotscher to tell lies on me, persecute me and maliciously abuse me, falsify testimony, misrepresent facts and violate the Constitution of a Nation and a State, the Rules of Civil Procedure of a Nation and a State and commit **Fraud upon the Court** to foreclose on an old run down house that was obtained by violating the laws of a Nation and State by an Unlicensed Seller and the **Complicity** of bank employees?"

(b) Wells Fargo's personnel Elizabeth S. Hodgson and Janet Frotscher had to lie to maintain foreclosure. Attorneys Burns, Moise & Calub had to lie to maintain foreclosure and Judge Goodstein had to lie to maintain foreclosure. The question is why are these people compelled to LIE for Wells Fargo? Why are these people protecting and defending the LIES, the fraudulent representations, misrepresentations, the deception and the **Conspiracy to Defraud** of the Broker, the Appraiser the Unlicensed Seller and Wells Fargo's own corrupt employees?

71. Attorney Debra C. Galloway and Stephanie Hammond had to **Falsely Certified** Wells Fargo's mortgage because Debra C. Galloway knew I was not coming back to the Player Law Firm to certify a "Fraudulent" Loan, Note and/or Mortgage after I discovered the Seller had LIED, told her about it and requested she contact WFHM to put a stop payment on the check. {See Filed Exhibit 70, page 2, paragraph 2, even though she left out the stop payment request.}

72. The Relief Sought can be found on the last page in my *Legal Memorandum of Law and Authorities* so that a Righteous Judge can Dismissed this case with Prejudice and award the Statutory and Punitive Damages the rule of law requires.

NOTIFICATIONS

A copy of the Defendant's *Statement of Uncontested Facts and Material Facts in Support of Motion and Legal Memorandum of Law and Authorities to Vacate the Plaintiff's Judgment Order Pursuant to Rule 60(b), SCRPC 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: Civil Rights violations and 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

NOTARY CERTIFICATION

IN WITNESS WHEREOF, The undersigned, being duly **SWORN**, and under the **PENALTY OF PERJURY** declares the afore stated facts are true and correct as of her own knowledge.

When it comes to matters stated therein that are based upon information and/or belief; as to those matters, she believes them to be true. Accordingly, based on the stated facts, has signed and sealed these attestations this 28th day of May in the year 2014 in City and County of Orangeburg, in the State of South Carolina.

Affiant Signature: Dorothy Sistrunk

Notary's Signature as Witness (1): Jill D Staley

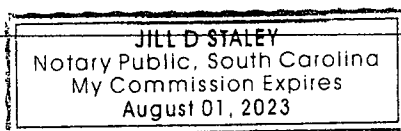
Signed, sealed and delivered in the presence of:

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

On 5/28/2014 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 instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on this Verified Pleading (Statement of Uncontested Facts and Material Facts) presents this document to the Court. WITNESS my hand and official seal.

Notary's Signature Jill D Staley

Commission Expires



(Seal)