

Shealy, Brenda

From: Koffskey, Dawn V.
Sent: Wednesday, January 30, 2019 11:36 AM
To: Shealy, Brenda
Subject: FW: CORRUPTION WITHIN THE COURTS - THIRD SET
Attachments: First Set of Motions.pdf; First Set of Motions - Rulings.pdf

From: Cathy Bishop <cathy_bishop2002@yahoo.com>
Sent: Wednesday, January 30, 2019 11:21 AM
To: Jones, Marjorie L. <[REDACTED]>; Koffskey, Dawn V. <[REDACTED]>; McLean, Denise S. <[REDACTED]>; Reynolds, Alexis K. <[REDACTED]>; Flinchum, Debra J. <[REDACTED]>
Subject: Fw: CORRUPTION WITHIN THE COURTS - THIRD SET

Please read attached document and call back at (803) 341-4278

If not responded to within 24 hours then I will proceed with filing criminal charges in both within the state and federal jurisdiction and list every one of you as complicit; as once you were informed as an officer of the court you have a duty yourself to report this to the executive branch under that of misprision of felony if not taking action immediately to rectify the issue as presented!

Part 3 of 5

It is noted that there has been no response from:

Donald Beatty

John Kittredge

Kay Hearn

John Few

George James

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS

	)	Case No: 2016-CP-02-00381
Bank of America	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Catherine Bishop	)	
Defendant,	)	Motion to Dismiss

NOTICE OF MOTION TO DISMISS

COMES NOW, the Defendant Catherine L. Bishop, In Pro Propria, herein after referred to as "Defendant", and files this Motion to Dismiss in regard to Plaintiff, Bank of America, herein after referred to as "Plaintiff" foreclosure complaint.

The basis for Motion to Dismiss is based upon Plaintiffs:

1. Failure to provide answers of Interrogatories as supplied by Defendant, pursuant to: FRCP Rule 33.
2. Failure to produce Discovery of Documents as supplied by Defendant, pursuant to: FRCP Rule 26 and FRCP Rule 34(b)(2)(E)
3. Lack of Capacity, pursuant to: FRCP Rule 17 and FRCP Rule 37
4. Failure to State a Claim for Which Relief Can be Granted, pursuant to: FRCP Rule 12(b)(6)
5. Fraud Upon the Court, pursuant to: FRCP 60(b) and ABA Rule 8.4
6. Conclusion: (Lack of Standing-Inclusive of all thee above)

FILED 5-22-2018
Robert J. White
CCJP § 8-5
Rhonda B. Dandy
Deputy Clerk

AFFADAVIT in SUPPORT of the MOTION

The basis for Motion to Dismiss is based upon Plaintiffs:

1. Failure to provide answers of Interrogatories as supplied by Defendant, pursuant to: FRCP Rule 33.
2. Failure to produce Discovery of Documents as supplied by Defendant, pursuant to: FRCP Rule 26 and FRCP Rule 34(b)(2)(E)
3. Lack of Capacity, pursuant to: FRCP Rule 17 and FRCP Rule 37
4. Failure to State a Claim for Which Relief Can be Granted, pursuant to: FRCP Rule 12(b)(6)
5. Fraud Upon the Court, pursuant to: FRCP 60(b) and ABA Rule 8.4
6. Conclusion: (Lack of Standing-Inclusive of all thee above)

1. Failure to provide Answers of Interrogatories

As noted by Exhibit "A1" Interrogatories supplied by Defendant to Plaintiff, and their refusal to "ANSWER" a single Integratory as noted in Exhibit "A2" precludes the Court from being established with the TRUTH in the matter before the Court. As noted the Defendant engaged Rule 33(a)(1) and Rule 33(a)(2). However, the Plaintiff refused to adhere to Rule 33(b)(1)(A), Rule 33(b)(1)(8), Rule 33(b)(3), Rule 33(b)(4), and likewise Rule 33(b)(2). It is hereby noted that the Plaintiff refused to adhere to the time requirements for providing response to said Interrogatories, despite every single response was stating that they were refusing to respond! As noted in exhibit "B1" it clearly delineates the date they received said Interrogatory and Discovery; and likewise shows there date when finally responding.

The added second paragraph in Rule 33 contributes clarity and specificity as to the use and scope of interrogatories to the parties. The field of inquiry will be as broad as the scope of examination under Rule 26(b). There is no reason why interrogatories should be more limited than depositions, particularly when the former represent an inexpensive means of securing useful information. See *Hoffman v. Wilson Line, Inc.* (E.D.Pa. 1946) 9 Fed.Rules Serv. 33.514; *Brewster v. Technicolor, Inc.* (S.D.N.Y. 1941).

It is noted that the Defendant's Interrogatories were well-defined and specific. Yet, the Plaintiff unequivocally deemed that every single Integratory was vague. Likewise, the Plaintiff, as proclaimed by many of its responses, was by observation believed it was the acting judge in this matter. Numerous times the said Plaintiff stated that a request for specific information was either argumentative, was beyond the scope, or was deemed to be irrelevant due to the Plaintiff's Belief that said information would be inadmissible in Court. Thus, the Plaintiff by said action has deemed you, your Honor, to be nothing more than a Puppet of the Bankers, as he has deemed himself to be the true judge and thereby it is him and him alone that determines what is admissible in court and what defenses the Defendants may make.

In each and every answer (response), was them stating that they were refusing to answer each and every Interrogatory. This was followed rebutted, by general, unsubstantiated claims, thereby never denoting a specific reasoning as to their refusal to answer the Interrogatories. As noted by my reasons for Motion to Dismiss, each and every single one of my Interrogatories was very direct as to the information sought and pertinent to the establishment of my Defense. Likewise, by the Plaintiff's own action in this regard, it has precluded them from providing any witness, in any regards to the proceedings. Thus, "No Witness" = "No Case"! Despite, being ordered by your Honor for them to provide a witness for said hearing, by their own action in refusing to supply the name(s) of said witness(s) deems any witness testimony as inadmissible. Thereby, the Plaintiff has refused to adhere to a Court Order, for which is known in common sense as "Contempt of Court"! Likewise, if said Plaintiff now presents any witness or document n Court for which they already stated in the Interrogatories as being non-existent then they themselves are engaged in PERJURY. As your Honor is well aware all Interrogatories are deemed to be answered under oath.

In accordance with FRCP Rule26 (a) and (e), if a party fails to provide information or identity of a witness, then the information and witness are to be deemed inadmissible In Court! Thus, in accordance with law nothing is allowed to be introduced in the case, as the action of the Plaintiff has deemed it incapable of being authenticated and thereby establishes outright the Plaintiff's Lacks any Standing!

If the Court were to refuse to uphold the Law, and allowed a Witness to testify, while knowing that the Plaintiff refused to relinquish the Name, and Information, would be deemed a clear violation of Due Process of Law, and thereby seen as the court complicit in the actions of a member of the BAR. Thus, the failure to dismiss the said witness would be seen both as biased, a disgrace, and a "Fraud Upon the Court!"

Page one of the Interrogatory Response states that the Plaintiff "OBJECTS" to the grounds as set forth in paragraphs "A" through "R" below. Thus, let us examine the claims:

- A. The Plaintiff objects generally to the Interrogatories to the extent that they exceed the scope permitted by the South Carolina Rules of civil procedure.

As noted SCOPE is legal defined as:

<https://thelawdictionary.org/scope/>

See scope of work. **All of the jobs required in order to complete a project, from the contract, employment and finishing the job.**

So as we can see the Plaintiff believes that the defense asking questions is beyond that which is allowed under the Rules of Federal Procedures in Civil Litigation.

Thus, let us look at what FRCP has to say in regards to "SCOPE":

<https://www.federalrulesofcivilprocedure.org/frcp/title-xiii/rule-a-scope-of-rules/>

Rule A – Scope of Rules

(1) These Supplemental Rules apply to:

(A) the procedure in admiralty and maritime claims within the meaning of Rule 9(h) with respect to the following remedies:

- (i) maritime attachment and garnishment,
- (ii) actions in rem,
- (iii) possessory, petitory, and partition actions, and
- (iv) actions for exoneration from or limitation of liability;

(B) forfeiture actions in rem arising from a federal statute; and

(C) the procedure in statutory condemnation proceedings analogous to maritime actions in rem, whether within the admiralty and maritime jurisdiction or not. Except as otherwise provided, references in these Supplemental Rules to actions in rem include such analogous statutory condemnation proceedings.

(2) The Federal Rules of Civil Procedure also apply to the foregoing proceedings except to the extent that they are inconsistent with these Supplemental Rules.

**** Again their use of the terminology SCOPE has no interaction in dictating what a Defendant may ask in the Interrogatories, as they cannot dictate what Defense a Defendant may present in Court.**

Thus, let us address FRCP Rule 33 (Interrogatories)

Rule 33 – Interrogatories to Parties

(a) In General.

(1) Number. Unless otherwise stipulated or ordered by the court, a party may serve on any other party no more than 25 written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and Rule 26(b)(2).

(2) Scope. An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.

(b) Answers and Objections.

(1) Responding Party. The interrogatories must be answered:

(A) by the party to whom they are directed; or

(B) if that party is a public or private corporation, a partnership, an association, or a governmental agency, by any officer or agent, who must furnish the information available to the party.

(2) Time to Respond. The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the court.

(3) Answering Each Interrogatory. Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) Objections. The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure.

(5) Signature. The person who makes the answers must sign them, and the attorney who objects must sign any objections.

(c) Use. An answer to an interrogatory may be used to the extent allowed by the Federal Rules of Evidence.

(d) Option to Produce Business Records. If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by:

(1) specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and

(2) giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 29, 2015, eff. Dec. 1, 2015.)

**** As we can see, according to Rule 33(a)(1) Interrogatories are to be limited to 25. Thus, the defendant requiring the plaintiff to answer 23 Interrogatories is within this Law Procedure Construct.**

**** As we can see, according to Rule 33(a)(2) SCOPE - (2) Scope. An interrogatory may relate to any matter that may be inquired into under Rule 26(b). An interrogatory is not objectionable merely because it asks for an opinion or contention that relates to fact or the application of law to fact, but the court may order that the interrogatory need not be answered until designated discovery is complete, or until a pretrial conference or some other time.**

Thus, let us now observe Rule 26(b):

(B) Proceedings Exempt from Initial Disclosure. The following proceedings are exempt from initial disclosure:

- (i) an action for review on an administrative record;**
- (ii) a forfeiture action in rem arising from a federal statute;**
- (iii) a petition for habeas corpus or any other proceeding to challenge a criminal conviction or sentence;**
- (iv) an action brought without an attorney by a person in the custody of the United States, a state, or a state subdivision;**
- (v) an action to enforce or quash an administrative summons or subpoena;**
- (vi) an action by the United States to recover benefit payments;**
- (vii) an action by the United States to collect on a student loan guaranteed by the United States;**
- (viii) a proceeding ancillary to a proceeding in another court; and**
- (ix) an action to enforce an arbitration award.**

**** As we can see, absolutely nothing under Rule 26(b) is applicable in the matter before the Court, or addressed within the Interrogatories that was presented to the Plaintiff to be answered.**

Likewise, if we address FRCP Rule 26(b) in regards to the Plaintiffs Response we will note that it is in violation of:

(2) Time to Respond. The responding party must serve its answers and any objections within 30 days after being served with the interrogatories. A shorter or longer time may be stipulated to under Rule 29 or be ordered by the court.

Plaintiff failed to adhere to timeline, see Exhibit "B1" Date of Plaintiff Receipt of said Interrogatories and Date of Reply being time stamped as being sent back to Defendant.

(3) Answering Each Interrogatory. Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

(4) Objections. The grounds for objecting to an interrogatory must be stated with specificity. Any ground not stated in a timely objection is waived unless the court, for good cause, excuses the failure.

Let us observe the Objections "A" through "R" as denoted by the Plaintiff:

- A. The Plaintiff objects generally to the Interrogatories to the extent that they exceed the scope permitted by the South Carolina Rules of Civil Procedure.
- B. Each response is subject to all objections as to relevance and materiality or any other objections that would require the exclusion of any statement herein if such statement were to be made by a witness present and testifying in court.
- C. A response to any Interrogatory is not intended and should not be construed to be a waiver by the Plaintiff of all or any part of any objection to any Interrogatory.
- D. The Plaintiff objects generally to the Interrogatories to the extent that they assume facts that are inaccurate.
- E. The Plaintiff objects generally to the Interrogatories to the extent that they are argumentative.
- F. The Plaintiff objects generally to the Interrogatories to the extent that they are defective in form.
- G. The Plaintiff objects generally to the Interrogatories to the extent that they are overly broad.
- H. The Plaintiff objects generally to the Interrogatories to the extent that they are unduly burdensome.
- I. The Plaintiff objects generally to the Interrogatories to the extent that they are oppressive.
- J. The Plaintiff objects generally to the Interrogatories to the extent that they are not reasonably calculated to lead to the discovery of admissible evidence.
- K. The Plaintiff objects generally to the Interrogatories to the extent that they impose on it an unreasonable burden of inquiry.
- L. The Plaintiff objects generally to the Interrogatories to the extent that they seek information that is subject to the attorney-client privilege, work product privilege, or any other privilege or legal protection. The inadvertent or mistaken production of information and/or documents subject to the protections of the attorney-client privilege, work product privilege, or any other privilege or legal protection shall not constitute a general, inadvertent, implicit, subject matter, separate, independent, or other waiver of such privilege or protection and does not put in issue or constitute the affirmative use of the advice of counsel or of any privileged communications. All such inadvertently produced information and or documents shall be returned to the Plaintiff's attorneys, along with any copies made thereof.

M. The Plaintiff objects generally to the interrogatories to the extent that they seek information that is of a confidential, proprietary, or trade secret nature.

N. The Plaintiff objects generally to the Interrogatories to the extent that they seek information that was prepared in anticipation of litigation.

O. The Plaintiff objects generally to the Interrogatories to the extent that they are not properly limited as to time.

P. The Plaintiff objects generally to the Interrogatories to the extent that they seek documents not in its possession, custody, or control.

Q. The Plaintiff objects generally to the Interrogatories to the extent that they seek conclusions or request opinions or contentions that relate to the application of law to facts.

R. The Plaintiff reserves its right to supplement its responses and objects to the Interrogatories to the extent necessary and appropriate.

So, we must therefore address the Interrogatories one by one.

INTERROGATORY 1

Please identify each person who answers these Interrogatories and each person (attach pages if necessary) who assisted, including attorneys, accountants, employees of third party entities, or any other person consulted, however briefly, on the content of any answer to these Interrogatories.

RESPONSE I:

The Plaintiff objects to this interrogatory on the grounds that it is vague, overly broad, ambiguous, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence! To the extent not objected to, the undersigned counsel for the plaintiff prepared the enclosed responses to these Interrogatories with the assistance of agents or employees of the plaintiff.

**** So let us understand that requiring the Plaintiff to identify who is answering any of the Interrogatories is deemed: vague, overly broad, ambiguous, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Sure seems pretty specific to me!**

**** As noted by law in accordance with:**

Rule 33(b)3: Answering Each Interrogatory. Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.

And,

Rule 33(b)5: Signature. The person who makes the answers must sign them, and the attorney who objects must sign any objections.

Thus, by Law what is requested by Interrogatory 1 is actually a requirement established by LAW and Put forth within the Federal Rules of Civil Procedure. Likewise, the statement of "not reasonably calculated to lead to the discovery of admissible evidence" is not for the Plaintiff to decide, but is in fact that of a Courts, or rather your Honor's call in the matter! Hence, by all observable manner, it is clear that the Plaintiff believes himself to be the Judge and decider of admissible evidence, and not the Court, or your Honor!

INTERROGATORY 2

For each of the above persons please state whether they have personal knowledge regarding the subject loan transaction.

RESPONSE 2: The Plaintiff objects to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence.

**** As noted by law and put forth in the Federal Rules of Civil Procedure:**

Rule 26 – Duty to Disclose; General Provisions Governing Discovery

(a) Required Disclosures.

(1) Initial Disclosure.

(A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, **without awaiting a discovery request, provide to the other parties:**

- (i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;
- (ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;
- (iii) a computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered; and
- (iv) for inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Thus, what was requested by Interrogatory is in fact a requirement that is to be provided to the Defendant, even without said request through an actual Interrogatory. Likewise, again we see the Plaintiff believes that it is to be the JUDGE of what is, or is not, reasonably calculated to lead to the discovery of admissible evidence. The reason given for non-compliance has no credence, as it is not based upon the items or reasons listed within Rule 26(a)(1)(B).

INTERROGATORY 3

Please state the date of first contact between Bank of America and the borrower in the subject loan transaction, the name, address and telephone number of the person(s) in your company/corporation who was/were involved in that contact.

RESPONSE 3:

The Plaintiff objects to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence.

Once, again we see the Plaintiffs refusal to adhere to FRCP 26(a)(1)(A) and even state that the reason for said non-compliance is that it may lead to the discovery of admissible evidence. **That is the purpose of Interrogatories and Discoveries! Thus, one must ask "What is the Plaintiff hiding from the Court?"**

INTERROGATORY 4

Please identify every potential party to this lawsuit

RESPONSE 4: The Plaintiff objects to this Interrogatory as it calls for speculation and is not reasonably calculated to lead to the discovery of admissible evidence. To the extent not objected to, the Plaintiff asserts that the named parties in this action are the currently known proper parties to the lawsuit.

As noted both under Capacity, Real Party of Interest, and overall Lack of Standing it is pertinent and necessary for the immediate case. The Prima Facie Evidence, for which will later be exhibited in this Motion demonstrates a possibility that Bank of America is not the Note Holder and therefore lacks standing. I have the RIGHT to not be tried twice, if this case is dismissed by said plaintiff. Prima Facie Evidence deems the interaction of both MERS being involved, as well as Fannie Mae and or Freddie Mac; not to mention clear indications by numerous documents that Bank of America lacks both the Original Note and therefore clearly Lacks Standing and surmises that Bank of America, and this lawyer of the plaintiff, is engaged in both Fraud Upon the Defendant and the Court! Please see exhibits: "C1 through C4", "D1", "E2 and E3", "F1".

Likewise, again we see the Plaintiff acting as Your Honor in deciding what may or may not be admissible. In accordance with Rule 26 (Duty to Disclose) "speculation and is not reasonably calculated to lead to the discovery of admissible evidence" is not within the reasoning for Proceedings Exempt from Initial Disclosure as noted in Rule 26 (a)(1)(B) ((i) through (ix)).

INTERROGATORY 5

Please identify the person(s) involved in the underwriting of the subject loan. "Underwriting" refers to any person who made representation, evaluations, or appraisals of the home, value of the security instruments, and ability of the borrower to pay.

RESPONSE 5: The Plaintiff objects to this interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence.

Once, again the Plaintiff believes that the Rules of Civil Procedure do not apply to him. According to Rule 26(Duty to Disclose) "not reasonably calculated to lead to the discovery of admissible evidence" is not within the reasoning for Proceedings to be Exempt from Initial Disclosure as noted in Rule 26(a)(1)(B) ((i) through (ix)). Thus, once again we have the Plaintiff acting as the Judge, Your Honor, and proclaiming what is and what is not admissible, what may or may not lead to admissible evidence!

INTERROGATORY 6

Please identify any person(s) who had any contact with any person or third party regarding the monetizing of the Defendant's "signature", as well as: securitization, sale, transfer, assignment, hypothecation of any document or agreement, oral, written or otherwise, that would affect the funding, closing or the receipt of money from a third party in a transaction that referred to the subject loan.

RESPONSE 6: The Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Again, in accordance with Rule 26(a)(1)(A)(i)

Rule 26 – Duty to Disclose; General Provisions Governing Discovery

(a) Required Disclosures.

(1) Initial Disclosure.

(A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, **without awaiting a discovery request, provide to the other parties:**

- (i) the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;

Thus, as we see this request is automatically a requirement under LAW for the Plaintiff to provide, even had it not been request by me, the DEFENDANT!

This Interrogatory is at the crux of this case as it exposes both FRAUD by the Plaintiff and Lack of Standing in this Specific Case. Thus, for the Plaintiff to provide the contact information of all parties involved with both the securitization of Promissory Note and Mortgage, as well as Monetization of said Promissory Note or Mortgage said to burdensome lacks both credibility and credence of truth. And yes, once again, we see that the Plaintiff believes that the Rules of Civil Procedure do not apply to him. According to Rule 26(Duty to Disclose) "not reasonably calculated to lead to the discovery of admissible evidence" is not within the reasoning for Proceedings to be Exempt from Initial Disclosure as noted in Rule 26 (a)(1)(B) ((i) through (ix)). Thus, once again we have the Plaintiff acting as the Judge, Your Honor, and proclaiming what is and what is not admissible, what may or may not lead to admissible evidence!

INTERROGATORY 7

Please identify any person(s) known or believed by anyone at Bank of America who had received physical possession of the note and allonges, the mortgage, or any document (including but not limited to assignment, endorsement, allonges, Pooling and Servicing Agreement, Assignment and Assumption Agreement, Trust Agreement, letters or email or faxes of transmittals including attachments) that refers to or incorporates terms regarding the monetizing of Defendant "Signature", as well as: securitization, sale, transfer, assignment hypothecation or any document or agreement, oral written or otherwise, that would affect the funding, or the receipt of money from a third party in a transaction and whether such money was allocated to principal, interest or other obligation related to the subject loan.

RESPONSE 7: The Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

As this Interrogatory is directly relevant to the case in that of "STANDING" it is unconscionable to engage in claiming unduly burdensome or vague in an attempt to cover up FRAUD! Likewise, when making a claim in refusal to answer an Interrogative the Party making said claim must specify how it is deemed, vague, broad, or overly burdensome! If they had true possession of the note, as required by law, in that for them to originate a suit then they should quite easily be able to produce the Chain of Title.

And of course once again we have the Plaintiff believing that the Rules of Civil Procedure do not apply to him. According to Rule 26(Duty to Disclose) "not reasonably calculated to lead to the discovery of admissible evidence" is not within the reasoning for Proceedings to be Exempt from Initial Disclosure as noted in Rule 26 (a)(1)(B) ((i) through (ix)). Thus, once again we have the Plaintiff acting as the Judge, Your Honor, and proclaiming what is and what is not admissible, what may or may not lead to admissible evidence!

In accordance with Rule 26 (b)(1) Discovery Scope and Limits.

(1) Scope in General. Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. **Information within this scope of discovery need not be admissible in evidence to be discoverable.**

INTERROGATORY 8

Please identify any document that the Defendant signed for which the plaintiff was authorized, i.e. given permission, to monetize the Defendant's Signature within the mortgage loan process, or thus utilized in any regard to acquiring the property hereby located at: 306 Coral Way, Belvedere, South Carolina 29841 or 306 Coral Way, North Augusta, South Carolina 29841.

RESPONSE 8: The Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous, overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

How is this vague when it specifies only to identify documents for which the Defendant had given the Plaintiff permission to monetize the Defendant's signature within the mortgage loan process, or in regards to acquiring said property? Seems pretty specific, narrowed the scope to be only in regards of monetizing of the Defendant's Signature.

** One must remember that the Defendant denies ever giving the Bank Permission to MONETIZE her name/signature, thereby creating an account in her name and creating an electronic ASSET in her name, i.e. creating a Credit out of thin Air. Likewise, issuing this line of credit to the Defendant, while calling it a loan! As your Honor is well aware it is both unlawful and outright ILLEGAL to Loan Credit, as well as unlawful to engage in Credit Exchange and calling it a loan. I refer you to:

"A bank may not lend its credit to another even though such a transaction turns out to have been of benefit to the bank, and in support of this a list of cases might be cited, which would look like a catalog of ships." [Emphasis added] Norton Grocery Co. v. Peoples Nat. Bank, 144 SE 505. 151 Va 195.

"In the federal courts, it is well established that a national bank has not power to lend its credit to another by becoming surety, indorser, or guarantor for him." Farmers and Miners Bank v. Bluefield Nat'l Bank, 11 F 2d 83, 271 U.S. 669.

"A national bank has no power to lend its credit to any person or corporation . . . Bowen v. Needles Nat. Bank, 94 F 925 36 CCA 553, certiorari denied in 20 S.Ct 1024, 176 US 682, 44 LED 637.

"The doctrine of ultra vires is a most powerful weapon to keep private corporations within their legitimate spheres and to punish them for violations of their corporate charters, and it probably is not invoked too often ... Zinc Carbonate Co. v. First National Bank, 103 Wis 125, 79 NW 229. American Express Co. v. Citizens State Bank, 194 NW 430.

"It has been settled beyond controversy that a national bank, under federal Law being limited in its powers and capacity, cannot lend its credit by guaranteeing the debts of another. All such contracts entered into by its officers are ultra vires ..." Howard & Foster Co. v. Citizens Nat'l Bank of Union, 133 SC 202, 130 SE 759(1926).

"It is not within those statutory powers for a national bank, even though solvent, to lend its credit to another in any of the various ways in which that might be done." Federal Intermediate Credit Bank v. L'Harrison, 33 F 2d 841, 842 (1929).

"There is no doubt but what the law is that a national bank cannot lend its credit or become an accommodation endorser." National Bank of Commerce v. Atkinson, 55 E 471.

"A bank can lend its money, but not its credit." First Nat'l Bank of Tallapoosa v. Monroe. 135 Ga 614, 69 SE 1124, 32 LRA (NS) 550.

"... the bank is allowed to hold money upon personal security; but it must be money that it loans, not its credit." Seligman v. Charlottesville Nat. Bank, 3 Hughes 647, Fed Case No.12, 642, 1039.

This is reaffirmed by the legal definition of what constitutes a "LOAN":

<https://thelawdictionary.org/loan/>

What Is LOAN?

A bailment without reward; consisting of the delivery of an article by the owner to another person, to be used by the latter gratuitously, and returned either in specie or in kind. **A sum of money** confided to another. Ramsey v. Whitbeck. 81 Ill. App. 210; Xylitols v. Pearson, 7 Pet. 109, S L. Ed. 023; Rodman v. Munson, 13 I' ah. (X. Y.) 75; Booth v. Terrell. 10 Ga. 25; Payne v. Gardiner, 29 N. Y. 107. A loan of money is a contract by which one delivers a sum of money to another, and the latter agrees to return at a future time a sum equivalent to that which he borrowed. Civ. Code Cal.

Likewise:

"A loan may be defined as the delivery by one party to, and the receipt by another party of, a sum of money upon an agreement, express or implied, to repay the sum with or without interest." Parsons v. Fox 179 Ga 605, 176 SE 644. Also see Kirkland v. Bailey, 155 SE 2d 701 and United States v. Neifert White Co., 247 Fed Supp 878, 879.

And as we know money is defined as:

"The word 'money' in its usual and ordinary acceptation means gold, silver, or paper money used as a circulating medium of exchange ..." Lane v. Railey 280 Ky 319, 133 SW 2d 75.

Money is Not:

"... checks, drafts, money orders, and bank notes are not lawful money of the United States ..." State v. Neilon, 73 Pac 324, 43 Ore 168.

"A check is merely an order on a bank to pay money." Young v. Hembree, 73 P2d 393.

So;

"Neither, as included in its powers not incidental to them, is it a part of a bank's business to lend its credit. If a bank could lend its credit as well as its money, it might, if it received compensation and was careful to put its name only to solid paper, make a great deal more than any lawful interest on its money would amount to. If not careful, the power would be the mother of panics, ... Indeed, lending credit is the exact opposite of lending money, which is the real business of a bank, for while the latter creates a liability in favor of the bank, the former gives rise to a liability of the bank to another. I Morse. Banks and Banking 5th Ed. Sec 65; Magee, Banks and Banking, 3rd Ed. Sec 248." American Express Co. v. Citizens State Bank, 194 NW 429.

"It has been settled beyond controversy that a national bank, under federal law being limited in its powers and capacity, cannot lend its credit by guaranteeing the debts of another. All such contracts entered into by its officers are ultra vires" Howard & Foster Co. v. Citizens Nat'l Bank of Union, 133 SC 202, 130 SE 759(1926).

Thus, if the Plaintiff created an account and digitally credited said account, and then withdrew that asset which was a credit, and gives this to a borrower while claiming it is a loan, when they have in fact not loaned any legal money, or in a legal manner, then they have engaged in Both a Federal Crime of FRAUD and Breach of Contract according to the LAW!

"A bank is not the holder in due course upon merely crediting the depositors account." Bankers Trust v. Nagler, 229 NYS 2d 142, 143.

"Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages." Barnsdall Refining Corn. v. Birnam Wood Oil Co. 92 F 26 817.

"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." Leonard v. Springer 197 Ill 532. 64 NE 301.

"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 559-572; 132 NW 1122.

"The contract is void if it is only in part connected with the illegal transaction and the promise single or entire." Guardian Agency v. Guardian Mut. Savings Bank, 227 Wis 550, 279 NW 83.

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

The United States Code, Title 12, Section 24, Paragraph 7 confers upon a bank the power to lend its money, not its credit. In First National Bank of Tallapoosa vs. Monroe, 135 Ga 614; 69 S.E. 1123 (1911), the court, after citing the statute heretofore said, "The provisions referred to do not give power to a national bank to guarantee the payment of the obligations of others solely for their benefit, nor is there any authority to issue them through such power incidental of the business of banking. A bank can lend its money, not its credit." Meanwhile, they do it anyway from a profit motive, even though it flies in the face of their primary duty to protect people's money.

Thus, again this information of accounts, to include monetizing and securitizing used in reference to name of Defendant or Property in question cannot be denied in Discover or Interrogatives without engaging in both Deprivation of Due Process and even Color of Law!

I could keep on going for the next 15 Interrogatives with the same excuses and answers by the Plaintiff. Thus, in truth the Plaintiffs are engaged in Obstruction of Justice and Truth in the Matter of this said supposed Loan!

Not one single Interrogative was answered by the Plaintiff!

The Plaintiff has denied that there is anyone within Bank of America that participated in or has knowledge to do with any aspect of said Mortgage and or Promissory Note!

Thus, as no one from the Plaintiffs Party has any knowledge of said Mortgage or the Banks Process of their supposed loans, then they have no witness as stated by their own refusal to answer the Interrogatories. Hence, they lack genuine authority or witness, by their own admission, to verify their claim before the Court!

Your Honor does remember that you ordered the Plaintiff to PRODUCE a witness (expert) in regards to said claims, yet according to their own answers in the interrogatives – THERE IS NO ONE according to the Interrogatories!

In accordance with Rule 26(a)(2)(A): In addition to the disclosures required by Rule 26(a)(1), a party must disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705.

However, as noted, not only was this not provided to the Defense, but was also outright withheld on purpose from the Defense. i.e. shows out right deliberate INTENT!

2. Failure to provide Documents and Information through Discovery

As noted by Exhibit "A1-pages(12-14)" Discovery Requests supplied by Defendant to Plaintiff, and their refusal to "PRODUCE" numerous Documents and Information as noted in Exhibit "B2" precludes the Court from being established with the TRUTH in the matter before the Court. As noted the Plaintiff has refused to adhere to Rule 26(a)(1)(A), 26(a)(2)(A), 26(a)(3)(A). Likewise, the Plaintiff refused to adhere to Rule 26(a)(1)(D), and even FRCP Rule 34(b)(2)(E), as noted by both Receipts shown in Exhibit "B1". It is hereby noted that the Plaintiff refused to adhere to the time requirements for Production of Information in response to said Discoveries, despite almost every single "REQUEST" was met by the Plaintiff claiming their refusal to produce the requested Documents. I must say it is amazing that it takes over 30 days to reply to both Interrogatories and Discovery Requests, while almost every single response was simply "I will not comply!"

Just as the "23" every single Interrogatory went unanswered, only 6 of the 20 Discoveries served upon the Plaintiff were met with any performance. As noted even of those 6, they were limited in what was produced!

One must remember that the purpose of discovery is to allow a broad search for facts, the names of witnesses, or any other matters which may aid a party in the preparation or presentation of his case. *Engl v. Aetna Life Ins. Co.* (C.C.A.2d, 1943) 139 F.(2d) 469; *Mahler v. Pennsylvania R. Co.* (E.D.N.Y. 1945) 8 Fed.Rules Serv. 33.351, Case 1. As noted Discovery and even Interrogatories is to allow a "BROAD SEARCH OF FACTS" by the Defense. Yet, the Plaintiff claimed repetitively that which was being requested by the Defendant was too broad! Should the Lawyer/Attorney for the Plaintiff(Bankers) be reminded that this fact of being deemed too broad by the them clearly delineates their lack of knowledge of *Olson Transportation Co. v. Socony-Vacuum Co.* (E.D.Wis. 1944) 8 Fed.Rules Serv. 34.41, Case 2 ("... the Rules ... permit 'fishing' for evidence as they should.")

3. Lack of Capacity

One must argue that both South Carolina Law and South Carolina Rules of Civil Procedure requires that a Plaintiff is to be properly identified in order to maintain a lawsuit, as brought forth by said Plaintiff(s). Properly Identified means in the body of the complaint the full corporation or entity name is described along with its state or jurisdiction of registration. (i.e. Bank of America a North Carolina Corporation or Bank of America a National Association chartered pursuant to the National Banking Act.) In the vast majority of foreclosure cases filed in this state, the Plaintiff fails to identify who it is, how it is chartered and how it has the authority to bring the suit. At best, you might find a plaintiff identified as, "U.S. Bank, N.A." What does "NA" stands for? On a beer bottle it means "Non Alcoholic". (I know this because it is written out.) While I'm not 100% certain what it means in a foreclosure case, I'm pretty sure it means, "National Association". I'm also pretty sure that in some instances when the Plaintiff is "US Bank, NA" that plaintiff may be exempt from some state laws. I say "may" because I've actually read the National

Banking Act and I'm very clear about the exemption/preemption language in the Act. Some acts of NA plaintiffs are exempt and some state laws are preempted....but many more (and potentially the important ones) are not. Taking deposits and collecting money is clearly exempted, but I'm not at all convinced that engaging in trust related activities is. I'm also pretty sure that breaking down doors and unilaterally repossessing a borrower's home without court process is not preempted by state law either. Anyway, the point is, Plaintiffs must be required to plead out their capacity at the start of these cases so that a whole range of other issues related to the Plaintiff's action are on the table from the front end; and that the failure to do so precludes any true "STANDING" in a Court of Law. As such this Fact of Law is embedded in FRCP Rule 17. This Federal Rule is otherwise noted as a "Real Party" in a court action. Thus, the Plaintiff should be clearly identified and its' "CAPACITY" be fully established as required by FRCP Rule 17(a)(1) and FRCP Rule 17(b). The "FAILURE" of the Court to uphold this Federal Rule under Civil Procedures which denotes that the Plaintiff must establish CAPACITY and delineate the "Real Party in Interest" is well established as Lack of Due Process and even Deprivation of Rights if not outright Color of Law. Fed. Home Loan Mtge. Corp. v. Schwartzwald, Slip Opinion No. 2012-Ohio-5017.

Justice O'Donnell wrote: "We recognized that standing is a 'jurisdictional requirement' in *State ex rel. Dallman v. Franklin Cty. Court of Common Pleas*, (1973), and we stated: 'It is an elementary concept of law that a party lacks standing to invoke the jurisdiction of the court unless he has, in an individual or representative capacity, some real interest in the subject matter of the action.' ... And recently, in *Kincald v. Erie Ins. Co.*, (2010), we affirmed the dismissal of a complaint for lack of standing when it had been filed before the claimant had suffered any injury."

Citing the U.S. Supreme Court's 1992 holding in *Lujan v. Defenders of Wildlife* that "standing is to be determined as of the commencement of suit," and state court decisions supporting that same conclusion from Oklahoma, Vermont, Maine, Connecticut, Florida, Mississippi, and Nebraska, Justice O'Donnell pointed out that in this case "Federal Home Loan concedes that there is no evidence that it had suffered any injury at the time it commenced this foreclosure action. Thus, because it failed to establish an interest in the note or mortgage at the time it filed suit, it had no standing to invoke the jurisdiction of the common pleas court."

The record does not verify that Plaintiff has suffered any damages other than those directly attributable to their own deliberate and ongoing frauds. Claim of damages, to be admissible as evidence, must incorporate records such as a general ledger and accounting of an alleged unpaid promissory note and the person responsible for preparing and maintaining the account general ledger must provide a complete accounting which must be sworn to and dated by the person who maintained the ledger. Plaintiff has adamantly refused to provide any true accounting to Defendant of its origination.

As noted, the above two points establishes that absolutely NOTHING is ADMISSABLE in Court on behalf of the Plaintiff, due to the Lawyer/Attorney of said Plaintiff! It is by the action of the Plaintiff that no evidence can be authenticated or witnessed. Thus, without no authentication and no witness of FACT, this negates any possibility of the Plaintiff proving "STANDING" which is required before the Court!

Hence, I Motion for this said case be dismissed with Prejudice!

In accordance with Rule 37: Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

"If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless."

As noted by the Interrogatories no such witnesses exist, thus none should be allowed to witness or authenticate anything in reference to said case. Likewise, as No Chain of Title was submitted, no proof of ownership of said NOTE, coupled with the Plaintiff denying under oath as signed on the interrogatories and discovery that such documents exist.

Then Motion for Dismissal should be upheld and approved by your Honor!

FRCR Rule 37(c) Failure to Disclose, to Supplement an Earlier Response, or to Admit.

FRCR Rule 37(c)(1) Failure to Disclose or Supplement. If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard:

(A) may order payment of the reasonable expenses, including attorney's fees, caused by the failure;

(B) may inform the jury of the party's failure; and

(C) may impose other appropriate sanctions, including any of the orders listed in Rule 37(b)(2)(A)(i) —
(vi). They are as follows:

(i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;

(ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(iii) striking pleadings in whole or in part;

(iv) staying further proceedings until the order is obeyed;

(v) dismissing the action or proceeding in whole or in part;

(vi) rendering a default judgment against the disobedient party;

Again, I remind the Court that in accordance with Scope of Discovery Proportional to the Needs of the Case

Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any non-privileged matter that is **relevant to any party's claim or defense** and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within **this scope of discovery need not be admissible in evidence to be discoverable.** FRCP 26(b)(1)

Due to egregious failure of the Plaintiff to comply with FRCP Rules: 26, 33, and 34 the Defendant Motions for the Court to order dismissal and/or strike all of Plaintiff's complaint as it is based on fraud for which the Plaintiff is engaged in covering up, thereby excluding the Court to have the evidence of truth brought before it! Likewise, as the Plaintiff has precluded that no Chain of Title exists, no witness to events of the mortgage or note exists by the reply of Interrogative, which according to LAW is Written response to questions submitted to a party from his or her adversary to ascertain answers that are prepared in writing and signed under oath and that have relevance to the issues in a lawsuit.

Thus, if the Plaintiff produces any witnesses at all, or any kind of physical evidence it should be inadmissible, else the Lawyer/Attorney who signed the interrogatives should be immediately charged with PERJURY.

As noted Under South Carolina law Section 16-9-10, PERJURY is willfully giving false, misleading, or incomplete testimony under oath in any court, or on any document or form that's legally binding in South Carolina.

This is a Felony/Crime that for which has a sentence of a maximum of 5 years, and additional fines at the discretion of the court.

4. Failure to State a Claim for Which Relief Can be Granted

There are three issues that must be addressed:

1. Did the Plaintiff suffer injuries/damages?
2. Was there a Legal Contract?
3. Was there FRAUD in the origination of the Contract?

The Plaintiff by bringing this suit against me, the DEFENDANT, has claimed that it has suffered an injury/damage by my action. Thus, let us examine the FACTS:

For any bank to enter into a Contract of Loan should be declared Null and Void on the mere fact that it CONTROLS the inflation rate and thereby has a controlling factor on which brings into action of the foreclosures themselves. By controlling the "FIAT" money by the illegal establishment of a "Private Corporation" calling itself the "FEDERAL RESERVE" is it in itself FRAUD! The banks which are the sub-corporations under this FRAUD SYSTEM have established a system that lets them Fleece the American People and strip them of their Property, by Legalese Design!

Who has really suffered the injury/damages in this exchange between a FICTION (Bank) and a Human Being (Living, Breathing Entity)? Can a non-living entity really be said to ever sustain injury/damage? How is a Contract Legal when a corporation is a (FICTION) dead-entity contracting with a Live Entity (Human Being). I clarify by using the wordage Human Being due to even more fraud which converted the CORPORATION into that of a "PERSON" to give it said STANDING to engage in their FRAUD, by their owner, against REAL PERSONS, while at the same time shielding the CORPORATE MASTERS of any Liability for the actions of their created Crime Syndicates.

As noted nowhere within the United States Constitution was the legislators given power/authority to create, much less allow, Corporations to exist on American Soil! This, same issue before us today was one of the main causes of the American Revolution and the STAND for Independence!

Scenario: You buy a house for say \$66,900 for which at the time you can afford everything. Ten years down the road the price of Food, Energy, and everything has doubled, if not tripled in price, yet because of the Economy your pay hasn't risen more than One More Dollar Per Hour, and then God Forbid you get sick. This then begets the question "who controlled the Economy and the inflation?" The Answer is "THE BANKS!" One might try to proclaim the ILLEGAL, UNLAWFUL, and UNCONSTITUTIONAL FEDERAL RESERVE (Private Corporation) masquerading as a government entity! However, the banks are sub-corporations of this ILLEGAL ENTITY which can easily be proven in the incorporation records. Thus, the banks for which one is the PLAINTIFF in this case has controlled the means by which you as a borrower is to pay them. As far as I can see this gives an unfair, unequal, advantage in the claimed Contract originating the Promissory Note. Thus, because the Adhesion Contract is not equal to both parties, as the Plaintiff controls the economy which affects your ability to pay should in all respect render such a Contract illegal and void on its face value!

The next issue is whether the Plaintiff sustained injury; in this case since the entity is a FICTION, anyone of Common Sense would immediately say "NO". As there has to be someone to file paperwork, this signifies arms and legs exist somewhere, yet the CORPORATION entity shields the true owner(s) from liabilities of their FRAUD SCHEMES. Thus, the corporations, (banks), Plaintiff in this case is represented by a lawyer. Let us address this issue of REPRESENTATION. To be assigned a lawyer/attorney in a court of Law, one is hereby claimed, by the COURTS, to be a "Ward of the State". As such, being a Ward of State is where a court gives one person or entity (the guardian) the duty and power to make personal and/or property decisions for another (the ward or incapacitated person). The appointment of a guardian occurs when a judge decides an adult individual lacks capacity to make decisions on his or her own behalf. Thus, when one is assigned an Attorney or Lawyer by a Court that person who needs such a lawyer/attorney is deemed in lacking the capacity to make decisions on his or her own behalf. When

applying this fact to a Mortgage Contract, as a lawyer/attorney always represents CORPORATIONS in court, then one can only surmise that the said CORPORATION, in this case the PLAINTIFF, (Bank of America), lacks capacity to make decisions on its own behalf. Thus, as stipulated by their own action and condition of contracts voids any and all mortgage contracts on its face value, as the Plaintiff lacked the mental capacity to enter into a legally binding contract. (Incapacity to Contract)

Thus, far we have covered the lack of uneven consideration whereby one party has greater benefit over that of another coupled with their power to control or have undue influence over external factors giving them an unfair advantage, and not disclosed nor expressed in the contract. Likewise, the capacity to enter into a contract when one lacks the mental capacity makes a contract Null and Void. This of course leaves us with a third Issue of being: Loss or Damage to that of a Plaintiff.

LOSS or DAMAGE

The Promissory Note, Please see Exhibit "H1" states "In return for a loan that I have received, I promise to pay U.S. \$ 66,900.00 (this amount is called "Principal"), plus interest to, the order of the Lender. The Lender is Bank of America, N.A.

As noted there is space/gap between the dollar sign and the 66,900 which leaves questionable doubt as to whether said document has been altered, as one should wonder as to why the 66,900 is so far away from the dollar sign. The next issue as seen is that the bank upon this document proclaims my address to be 306 Coral Way, Belvedere, SC, 29841. However, before the Court is the very claim that this wasn't my address but that I was engaged in buying that said premise.

This brings us to the claim that in this transaction that Bank of America, N.A. was the Lender in regards to the Promissory Note.

The Legal definition of a Lender is:

<https://www.lectlaw.com/def/l025.htm>

LENDER

A person or entity who loans money to others. He from whom a thing is borrowed.

The contract of loan confers rights and imposes duties on the lender. The lender has the right to revoke the loan at his mere pleasure and is deemed the owner or proprietor of the thing during the period of the loan, so that an action for a trespass or conversion will lie in favor of the lender against a stranger who has obtained a wrongful possession or has made a wrongful conversion of the thing loaned; e.g., mere gratuitous permission to a third person to use a chattel does not, in contemplation of the common law, take it out of the possession of the owner. In this the Civil Law agrees with that of Common Law.

In Civil Law, the first obligation on the part of the lender is to suffer the borrower to use and enjoy the thing loaned during the time of the loan, according to the original intention. Such is not the doctrine of the Common Law. The lender is obliged by the Civil Law to reimburse the borrower the extraordinary expenses to which he has been put for the preservation of the thing lent. In such a case the borrower would have a lien on the thing and may detain it until these extraordinary expenses are paid and the lender cannot, even by an abandonment of the thing to the borrower, excuse himself from re-payment, nor is he excused by the subsequent loss of the thing by accident or by a restitution of it by the borrower, without insisting upon repayment. What would be decided at Common Law does not seem very clear.

Another case of implied obligation on the part of the lender by the Civil Law is that he is bound to give notice to the borrower of the defects of the thing loaned; and if he does not and conceals them and any injury occurs to the borrower thereby, the lender is responsible.

In the Civil Law there is also an implied obligation on the part of the lender, where the thing has been lost by the borrower and after he has paid the lender the value of it, the thing has been restored to the lender. In such case the lender must return to the borrower either the price or thing. The common law seems to recognize the same principles.

This brings us to the issue of what constitutes a "LOAN".

A LOAN is defined as:

<https://legal-dictionary.thefreedictionary.com/loan>

LOAN: a transaction whereby property is lent or given to another on condition of return or, where the loan is of money, repayment. During the period of the loan the borrower is entitled to use the thing loaned for the purpose agreed between the parties. In a loan of money, the money lent becomes the property of the borrower during the period of the loan against an undertaking to return a sum of equivalent amount either on demand or on a specified date or in accordance with an agreed schedule of repayments.

This brings us to the specifics of the case in that it was agreed by the Plaintiffs own admission in the proclaimed Promissory Note. It was supposedly agreed that the Plaintiff was to LOAN the Defendant MONEY in order to buy a house/property.

So, exactly what is money?

The Law has clearly defined that money is to be in compliance with the United States Constitution, i.e. coinage:

"The word 'money' in its usual and ordinary acceptance means gold, silver, or paper money used as a circulating medium of exchange . . ." Lane v. Railey 280 Ky 319, 133 SW

By the definitions as according to LAW the Defendant NEVER RECEIVED a LOAN from the PLAINTIFF!

The DEFENDANT never received a single cent, (MONEY), from the Plaintiff!

The Plaintiff has failed to produce a shred of evidence to prove that the Defendant ever received MONEY from them. The only thing that the Plaintiff has produced for record is a COPY of the supposed Promissory Note, and even the Name signed by the Plaintiff is questionable as it is not dated and likewise on a list of suspected Robo-Signers, please see exhibit "I1".

Likewise, in accordance with the FRCP the Plaintiff by their own response to both Interrogatives, see Exhibit "A2" and Discoveries, see Exhibit "G2" they say there is no such witness or documents in reference to the questionable "LOAN" as being stipulated by the Plaintiff!

These documents as prima facie evidence are also supported by two notes of acceleration, from which both declare in BLACK and WHITE that the PLAINTIFF is not the Note Holder, but merely a SERVICER working for a Note Holder. Please see exhibits "E1" and "E2". Likewise, as noted in exhibit "J" the Plaintiff is requesting a copy of said NOTE! Now, this might be hard but Common Sense dictates that if they had or were the Note Holder then why would they be trying to get a copy.... Not the original, just a copy of the said original, from a third party?

Thus, while this is all Prima Facie Evidence, it clearly establishes EXTREME DOUBT in the claim being pursued in this Court! For anyone with just limited brain capacity this infers a great possibility what is being witnessed here is not only Fraud against a Consumer, but Fraud Upon the Court!

Let it be known, if the Plaintiff now produces a said witness or document magically, then the Defendant would hold the Court to the standing of Law and require that the Plaintiff immediately be charged with PERJURY and jailed accordingly!

In TRUTH it was not the Plaintiff that has been damaged by the Defendant, but the Defendant has in fact been harmed by the Plaintiff!

The transaction of what is before the Court today, which is being hidden by the Plaintiff is as follows:

The Plaintiff through mass advertising induced the Defendant to pursue a Home Loan with said Plaintiff (Bank of America). The Plaintiff while saying they were going to lend the borrower (Defendant) MONEY, instead engaged in an old practice of Three-Card-Monty. The Plaintiff, without consent of the borrower created a Demand Deposit Account in the Defendant's name without consent or disclosure of this fact to the Defendant.

CAN WE SAY FRAUD AND BREACH OF CONTRACT?

This was followed by the Plaintiff crediting the Demand Deposit Account with proclaimed \$66,900.00. This was NOT MONEY, by any legal definition of the word, but in TRUTH a FICTION of digitally created CREDIT which they deemed an ASSET on their books. This Asset was created by the Signature on said Promissory Note; and that signature just happens to be the Property of the Defendant. Thus, the ASSET created was in turn said to be the LOAN! So, as we can understand it, the Plaintiff created a credit on a Demand Deposit Account out of thin air, which was originated off the Signature provided on the Promissory Note. The Plaintiff then transferred this said amount to either the Mortgage Broker, or to another Account held by another Consumer or Account within the Bank. As noted, at no time did the Defendant ever receive MONEY from the Plaintiff! Thus, the truth is the Bank was engaged in Lending "CREDIT" NOT MONEY, but "CREDIT"!

Let us take a look at what the LAW has to say about Lending Credit In place of Real MONEY:

ULTRA VIRES - banks

The United States Code, Title 12, Section 24, Paragraph 7 confers upon a bank the power to lend its money, not its credit. In *First National Bank of Tallapoosa vs. Monroe*, 135 Ga 614; 69 S.E. 1123 (1911), the court, after citing the statute heretofore said, "The provisions referred to do not give power to a national bank to guarantee the payment of the obligations of others solely for their benefit, nor is there any authority to issue them through such power incidental of the business of banking. A bank can lend its money, not its credit." Meanwhile, they do it anyway from a profit motive, even though it flies in the face of their primary duty to protect people's money.

In *Howard & Foster Co. vs. Citizens National Bank of Union*, 133 S.C. 202; 130 SE 758, (1927), it was stated, "It has been settled beyond controversy that a national bank, under Federal law, being limited in its power and capacity, cannot lend its credit by guaranteeing the debt of another. All such contracts being entered into by its officers are ultra vires and not binding upon the corporation."

"In the federal courts, it is well settled that a national bank has not power to lend its credit to another by becoming surety, indorser, or guarantor for him." See the following cases:

C.E. Healey & Son v. Stewardson Nat. Bank, 1 N.E.2d 858, 285 Ill. App. 290.

People's Nat. Bank of Winston-Salem vs. Southern States Finance Co., 122 S.E. 415, 192 N.C. 69, 48 A.L.R. 519.

Colley v. Chowchilla Nat. Bank, 255 P. 188, 200 C. 760, 52 A.L.R. 569.

Rice & Hutchins Atlanta Co. v. Commercial Nat. Bank of Macon, 88 S.E. 999, 18 Ga.App. 151.

First Nat. Bank of Hagerman v. Stringfield, 235 P. 897, 40 Ill.App. 376

City Nat. Bank of Wellington v. Morgan, Civ. App., 258 S.W. 572.

Farmers' & Merchants' Bank of Reedsville v. Kingwood Nat. Bank, 101 S.E. 734, 85 W.Va. 371.

Best v. State Bank of Bruce, 221 N.W. 379, 197 Wis. 20.

"Banking Associations from the very nature of their business are prohibited from lending credit." (St. Louis Savings Bank vs. Parmalee 95 U. S. 557)

"Banking corporations cannot lend credit." (First National Bank of Amarillo vs. Slaton Independent School District, Tex Civ App 1933, 58 SW 2d 870)

"...the bank is allowed to hold money upon personal security; but it must be money that it loans, not its credit." Seligman v. Charlottesville Nat. Bank, 3 Hughes 647, Fed Case No. 12, 642, 1039.

"A loan may be defined as the delivery by one party to, and the receipt by another party of, a sum of money upon an agreement, express or implied, to repay the sum with or without interest." Parsons v. Fox 179 Ga 605, 176 SE 644. Also see Kirkland v. Bailey, 155 SE 2d 701 and United States v. Neifert White Co., 247 Fed Supp 878, 879.

"The word 'money' in its usual and ordinary acceptance means gold, silver, or paper money used as a circulating medium of exchange..." Lane v. Railey 280 Ky 319, 133 SW 2d 75.

"A bank is not the holder in due course upon merely crediting the depositors account." Bankers Trust v. Nagler, 229 NYS 2d 142, 143.

LAW STANDING ON FRAUD in CONTRACTS

"Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages." Barnsdall Refining Corn, v. Birnam Wood Oil Co., 92 F 26 817.

"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." Leonard v. Springer 197 Ill 532.64 NE 301.

"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 and C Co., 147 Wis 559.572; 132 NW 1122.

"The contract is void if it is only in part connected with the illegal transaction and the promise single or entire." Guardian Agency v. Guardian Mut. Savings Bank, 227 Wis 550, 279 NW 83.

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

Touche Ross Limited v. Filipek, 778 P.2d 721 (Haw. 1989) "the court held that the alleged misrepresentations made by the bank were material and actionable since it was claimed that the bank affiliate did not have the development expertise it was represented to have and had no intention of advancing the funds when the promise was made."

"Nowhere is the express authority granted to the corporation to lend its credit." (Gardilner Trust vs. Augusta Trust, 134 Me 191; 291 US 245)

"A national bank has no authority to lend its credit." (Johnston vs. Charlottesville National Bank, C.C. Va. 1879, Fed Cas. 7425)

Despite the above court cases, Ralph Gelder, Superintendent, Department of Banks and Banking, State of Maine, said on Feb. 20, 1974, "A commercial bank is able to make a loan by simply creating a new demand deposit (so called checkbook money) through bookkeeping entry." This is in total contradiction to what the courts have said. Yet, that is exactly how the banks create the money to loan to its customers or to buy government bonds.

"A holder who does not give value cannot qualify as a holder in due course." (Uniform Commercial Code §3-303.1)

In securities law, the most important requirement is full disclosure. Investors have to be given the full scoop. You cannot hold anything back. Everything-lawsuits, criminal records, market share, debt has to be disclosed. This same type of disclosure is required in the Truth in Lending Act as well. With that said, why is it that no one has ever heard of this legal argument? Well, probably because they have not been told. But don't you think that it is important and relevant to tell potential loan customers, as well as bank shareholders, that according to the US Code and numerous judicial decisions, it is questionable whether a national bank is actually authorized to lend credit, become a guarantor, or become surety?

They should at least say something to their customers and shareholders along the lines of this:

"Disclaimer: We the bank, are lending CREDIT – NOT MONEY, guaranteeing debts and becoming surety, through our lending business, for PROFIT. The Comptroller of Currency approves. Congress has been silent in recent years. However, both federal and state courts in the past have repeatedly told us that the National Bank Act does not provide for this activity. Therefore, at any point in the future, the bank could be subject to either federal or state cease and desist orders. In that event the bank will require immediate and full payments and will cancel your credit or loan. Further, the bank may be exposed to civil lawsuits from all its former loan Clients and Shareholders."

Here are other things to consider:

- If a party breaches its authority, by entering into an agreement that it knows it is not allowed by law to execute, is it moral to allow that party to enforce the agreement?
- Is it moral to force a person to pay on a loan, when that person did not know that the bank did not have the legal authority to issue credit or to become surety?
- Is it moral for a bank to place a negative mark on your credit report, when they did not have the authority to enter into the agreement in the first place, and that any deficit in payment has been insured by a third party insurance company and can be written off as a claim?

In addition to these three points, consider also that moral arguments (arguments based in equity), verses legal arguments (arguments based in law), are only upheld if the party seeking to enforce the agreement comes to the court with "clean hands." This concept is known as the clean hands doctrine. What this doctrine means is that if a bank desires to enforce an agreement based on equity (morality), then they must have acted equitable (moral). In the case of credit, if the banks know that the law prevents them from loaning credit (there is over a hundred years of case law on this point) and they do it anyway, then they simply do not have clean hands, and cannot argue their case in equity. Therefore they must argue in law.

MEANWHILE, THE LAW PREVENTS THEM FROM LOANING CREDIT.

There are penalties and forfeitures attached to what the bank did. In this case there are. In fact there are penalties attached to national banks going beyond their express powers in that they are exposing depositor's money to loss in contradiction to the bank's primary duty. Therefore, the issue that can be raised is the argument of ultra-virus and not only is the contract void, but even if the borrower did receive a benefit, the borrower was not unjustly enriched. If the contract is void then both parties walk away as if there never was a contract. The judge is then asked to declare a zero balance and deem it as paid as agreed. Since the borrower provided the value for the source of funds, the borrower is also entitled to a judgment in the amount of the highest credit limit issued or loan amount. Also, since the banks acts demonstrates that the bank took unfair advantage of the borrower, this results in the bank needing to be penalized. Typically, the borrower is entitled to ask for a financial award against the bank in the amount of the debt forgiven. Since fraud is committed, the borrower is entitled to all sums paid on the contract including interest, plus treble (triple) damages, attorney fees expended and court and other costs in addition. The borrower can also demands a zero balance on this debt, and a voidance of the loan agreement, and a financial judgment in favor of the borrower due to the bad behavior of the lender.

ADDITIONAL BORROWER (DEFENDANT) RELIEF

In Federal District Court, the borrower (DEFENDANT) may have additional claims for relief under "Civil RICO" Federal Racketeering laws. (18 U.S.C. 1964) As the lender has established a "pattern of racketeering activity" by using the U.S. Mail more than twice to collect an unlawful debt and the lender is therefore in violation of 18 U.S.C. 1341, 1343, 1961 and 1962.

Likewise, by the refusal of Plaintiff to be PRODUCTIVE in required lawful Interrogatives and Discoveries this can only be surmised as a conspiracy to deprive the DEFENDANT of property without due process of law. Under 42 U.S.C. 1983 (Constitutional Injury), 1985 (Conspiracy) and 1986 ("knowledge" and "Neglect to Prevent" a U.S. Constitutional Wrong). Under 18 U.S.C.A. 241 (Conspiracy) violators, "shall be fined not more than \$10,000 or imprisoned not more than ten (10) years or both.

Thus, what is before this Court is outright FRAUD by that of the PLAINTIFF!

The bank (Plaintiff) created a credit off the signature of the said Defendant and then in turn handed that credit back to the Defendant (Borrower). Was the fact that the Plaintiff was going to create this Credit, i.e. originate it from the Signature given by a borrower, (Defendant), on the Promissory Note? The answer is of course "NO!"

Then, the Plaintiff expected the Defendant to give back that Credit, but only in the form for which it was obligated under contract of the Promissory Note to provide to the Defendant, i.e. real money, not a credit, REAL MONEY! So no money was ever given by the Plaintiff to the Defendant, but the Defendant now unknowingly makes payment after payment not knowing they have been defrauded by the Plaintiff! The Plaintiff in the Promissory Note had you pledge the property in question. The banks (Plaintiff) in control of the inflation of the economy control the squeeze by making things in life more expensive. Thus, making it harder and harder to make the payments of the illegally obtained Promissory Note for which they have also been given collateral of the property for which the Plaintiff already enriched themselves 100% as shown by them claiming the \$66,900.00 as an asset on their books! As noted this means that the Plaintiff LOANED absolutely NOTHING to the Defendant and got in return: years of payments, plus interest, not to mention profit off of investment instruments created once again off the Promissory Note and even the Mortgage without consent or knowledge of the Borrower (Defendant)!

So, the bank at best never loaned any money, but engaged in a Credit Swap, and then while loaning absolutely nothing received money, hands-over-fist from the Defendant! As we can see the only one injured in this transaction has been the DEFENDANT!

If the 66,900 that was created out of thin air and then paid to a previous home seller the Plaintiff lost absolutely nothing! However, what happens to that \$66,900.00 had the Defendant changed her mind about the property? Would that ASSET have been given back to the Defendant, due to the fact that it was created off of the Defendant's Signature? Despite it being in an account in the Defendant's Name

the Plaintiff, being the Bank, would claim that the ASSET (\$66,900.00) was the Banks(Plaintiffs) property! If the Plaintiff refutes this as truth the Defendant is ready to surrender the said property (collateral) to the Plaintiff in exchange for the Plaintiff returning the said \$66,900.00 that was originated/created off of her signature without consent or knowledge! Likewise, since there was money earned by the Plaintiff off of the said Note and Mortgage by conversion into Investment Instruments it is only right that these said profits be returned to the Defendant as per contract she never agreed that her property or note was to be converted into any Investment instrument! In addition to the original LOAN AMOUNT, and the Money earned off the Property and Note, which is based off of herself, i.e. she never agreed that she was to be gambled on! She also wants returned the Mortgage Insurance that was paid to the Plaintiff, as she was forced through the adhesion contract to make the payments for insurance, yet the only one receiving benefit from said purchase was the PLAINTIFF!

Thus, the Defendant is willing to forfeit said property to the Plaintiff in exchange for the \$66,900.00 created off of her signature, plus all the payments ever made to the insurance company, plus all the money earned off the illegal conversion of her mortgage and Note into that of investment instruments without her consent, or disclosure by that of the PLAINTIFF under contract. i.e. Legal Contracts are to have FULL DISCLOSURE! I believe you will find the figure in question somewhere around 66,900 ASSET ACCOUNT, + 6,743 minimum in PMI Payments + 5% return to bank minimum on investments... Note 66900 at 5 % per year = 3,345 * 16 years = 53,520 + the same on the mortgage = 53,520. Thus in total if the Plaintiff wishes the said property and whereby the Defendant will be willing not to press CRIMINAL CHARGES of FRAUD, then the Defendant as stated will release the said property back to the Plaintiff in exchange for 66,900 + 6,743 + 53,520 + 53,520; i.e. a grand total of: \$180,683 dollars, not a CREDIT, but Dollars, preferably in Gold and Silver; you know – REAL MONEY!

The Defendant as stated in exchange will not bring Criminal Charges of FRAUD against the Plaintiff, nor all the other violations of law, in which the fines alone would be north of \$100,000, not to include possible jail time! Likewise, as she is NOT as GREEDY as the BANK, she is willing to forego seeking the recovery of all the monthly payments to the Plaintiff for which the Plaintiff was never truly entitled!

It is clear that the only financial injury was to the DEFENDANT, not the PLAINTIFF!!!

According to the Contract never did the Defendant agree to fund her own said loan, nor create money or credit for the Plaintiff! ALL OF THIS WAS FULLY HIDDEN, i.e. NOT DISCLOSED as is required for all true LEGAL CONTRACTS!

Defendant does hereby claim that the Complaint should be dismissed pursuant to FRCP Rule 12(b)(6), because Plaintiff "lacks the necessary standing to file this action prior to acquiring and recording an Assignment of Mortgage" and fails to mention how they are the owner of the Note and Mortgage in this case under our fact-based pleading scheme. Plaintiff was given opportunity to provide both answers to Interrogatories and supplying evidence via Discovery, yet refused to comply. The only Note that has been provided to the Court is a photo copy or electronically produced document, and not the original. Likewise, if we refer to Exhibit "K" It is noted that they did not have the original at one time, as they

requested a copy of such. Plaintiff claims that the note is a negotiable instrument under the South Carolina Uniform Commercial Code, S.C. Code §36-3 et seq. which would entitle them certainly to sue on the note in this action. However, Plaintiff is seeking to foreclose on the mortgage that is attached to the real property as opposed to simply suing on the promissory note.

The idea that the Mortgage follows the Note is one which has been repeatedly confirmed by our courts: "South Carolina recognizes the 'familiar and uncontroverted proposition' that 'the assignment of a note secured by a mortgage carries with it an assignment of mortgage. Carpenter v. Longan, 83 U.S. 271, 16 Wall. 271, 21 L.Ed. 313 (1872).

As concluded the Plaintiff never LOANED one single cent thus has sustained absolutely no injury/damage which is a requirement of Law to have "STANDING" to bring a Law Suit to fruition in said Court of Equity!

Thus, the Plaintiff has Failed to State a Claim for Which Relief Can be Granted.

5. Fraud Upon the Court

What is before this Court on this very day is FRAUD!

On page 6 of Modern Money Mechanics, the Federal Reserve Bank of Chicago tells us that the banks DO NOT "pay out" the funds for loans from money they received from other depositor's accounts.

What they do is "accept" promissory notes in "exchange" for, credits to the "borrower's" transaction accounts - called "liabilities."

It is noted that when a bank, the Plaintiff, receives a deposit of funds, either in Federal Reserve notes (cash) or some other form of a promise to pay, like a "check", or a "promissory note", it opens a "demand deposit account" in reference to the Borrower (DEFENDANT) and the supposed LOAN process, it makes a deposit in an account already opened, in the name of the "depositor." As there was no deposit made into the account of the DEFENDANT at the BANK, It is thereby assumed that the Plaintiff in this case created another said account!

Once the bank obtains that promise to pay, they own it. It's theirs. It is how they obtained that "promissory note, and how they "create money" with that "promise to pay".

The following is the example from the fed publication, Modern Money Mechanics, and reflects a typical bank deposit transaction.

BANKING TODAY

CHECKING ACCOUNT

(Deposit)

Assets	Liabilities
\$66,900	\$66,900

As noted, every deposit entry on the "asset" side of the ledger, demands that there must be a corresponding and matching "liability" entry. The liability is there because it is a Demand Deposit Account, which means you could withdraw it all at any time. The two ledgers, "assets" and Liabilities" must always balance out to "zero." In accordance with, GAAP, Generally Accepted Accounting Principles.

THIS IS KNOWN AS THE "TRANSACTION" CONCEPT OF MONEY

You take it to the bank, deposit it, bank has an asset and a liability, and the bank balance is "zero."

At this point, the new money has been created, but it is not in circulation. The bank has this newly created MONEY, in TRUTH nothing more than a digitally created CREDIT, in a Demand Deposit Account. If you have opened a checking account, you may write checks on that account, and buy goods or services. When the person to whom you wrote the check, deposits that check in their Demand Deposit Account, at their bank, that account is credited for the amount on the face of the check. The check you wrote (your promise to pay), is returned to your bank, and the Demand Deposit Account, that has your name and the Account Number attached to it, will be debited, for the amount you assigned to the check.

In TRUTH the BANK, (Plaintiff) created a Line of Credit and called it MONEY!

Goods and services have been purchased, but no new money has been created.

So how is new money created? One way is by INDIVIDUALS applying for loans.

What are the steps a bank uses to handle a loan transaction, and how does that loan create new money?

As exposed in Modern Money Mechanics, if the banks were to take their own money, or other depositor's money, and loan it to you, they would never be able to create any "new" money and birth it into the economy. So, they are allowed to take your note, (which is new money, based on your promise to pay), and birth it, into the economy through, they're access to the, clearing houses for negotiable instruments, and loan you "CREDIT."

However, let's look at a typical loan transaction today.

You go to the bank and ask to apply for a loan. Can the bank loan you they're own money (assets)? No.

Can the bank loan you the other depositor's money (**credits** in a Demand Deposit Account)? Well, they could, if they requested and received written permission of every single depositor, from whose account they would be using to make the loan. But that would defeat the effort to create new money, since they would just be recycling a certain amount of currency. So, the answer is also, NO!

So What Really is the Supposed Bank Loan Process?

Here is what they do. For purposes of this example, we will use \$66,900, but the principle used in the 'checking' (Demand Deposit Account) above, is the same. Your application for a loan is approved and you begin signing all the paperwork. Once you have signed the Promissory Note, the bank will make a book entry of a deposit into a bank Demand Deposit Account in the amount of your note, and show that amount as an "asset" to the bank. Remember there must be a corresponding and matching ledger entry as a liability. The loan is for \$66,900. On the books of the bank, the establishment of the loan transaction would look similar to that of the checking account.

There would be a deposit for \$66,900 (your promissory note), and a matching ledger liability book entry of \$66,900 (the numerical face amount of your note). Now, here is where it gets tricky. Let's track the transactions of a loan, in the following example.

LOAN ACCOUNT

Asset	Liability
\$66,900	\$66,900

Let's say this \$66,900 loan was for a mortgage. Here's what happens next:

MORTGAGE

\$66,900	\$66,900
Buyer	Seller

The Bank still owns asset. [Your Note]

Suppose they discount it 10%. 60,210

TOTAL \$127,110

WHAT IS WRONG WITH THIS PICTURE?

First, it becomes very obvious, that the bank raised an asset to itself, when it deposited your note in a bank Demand Deposit Account, and made a book entry of a "asset" and a matching book entry of a "liability." (a T accounting of the account will prove that.) <<This was requested in both Interrogatories and Discovery, for which the Plaintiff refused to Produce!

Second, it becomes very obvious, that the bank wrote a check on the "liability", and paid the seller, while keeping your note in the bank Demand Deposit Account, as an "asset." (An examination of the bank's books will prove that.) <<This was requested in both Interrogatories and Discovery, for which the Plaintiff refused to Produce!

Third, it now becomes very obvious, that in the loan transaction, the bank, exchanged their liability to the seller, for your note. Which means, the bank enriched itself in an amount equal to the face amount of your note. (Call in the Regulatory Examiner.)

Fourth, it becomes very obvious, by standard and well known business practice, that the bank does not hold your note, but will typically sell the note, at a discount, enriching the bank twice over. (Ask to see the original, unmarked and unaltered note.) <<This was requested in both Interrogatories and Discovery, for which the Plaintiff refused to Produce!

But, everybody's happy, right? Everyone got what, they bargained for, right? The seller is happy because he got the house sold. The buyer is happy because he got the house he wanted. However, was the above facts divulged in the contract between the bank (Plaintiff) and the borrower (Defendant) as required by LAW? The answer is unequivocally "NO!"

Please view the following videos that expose the TRUTH:

https://www.youtube.com/watch?v=qi7TscClo_g

https://www.youtube.com/watch?v=fOj_xp2iHl0

<https://www.youtube.com/watch?v=lz08Wj8xOuk>

<https://www.youtube.com/watch?v=-hR3MezEENg>

Here are some serious questions that the above scenario of a loan transaction naturally raises.

PRIMARY QUESTIONS:

1. Does the bank raise an asset to itself, in addition to the liability?
2. Was this disclosed in the contract?
3. Was the borrower, (Defendant), compensated for the bank using the borrower's, (Defendant's), note and signature, to raise this asset to the bank?
4. Was this account containing the asset for the bank, opened before the bank received the note from the Borrower, (DEFENDANT)?
5. When the Borrower pays off the supposed loan, who gets the asset that the bank raised to itself through use of the Borrowers, (Defendants), note?

QUESTIONS DERIVED FROM PRIMARY QUESTIONS:

1. Is, there fraud here?
2. If there is fraud here, what are the damages?

QUESTIONS THAT MAY LEAD TO THE DISCOVERY OF FRAUDULENT DAMAGES:

3. Was there inducement? Answer: (Advertising, Solicitation) - Yes
4. What does the note represent? Answer: Borrower's Promise to Pay
5. Where will you derive the funds to pay? Answer: From the Borrower's Labor
6. Is your labor, your property? Answer: Yes
7. How many years will you be paying on this note? (5, 10, 15, 30)
8. What is the interest rate? (8%, 10%, 12%)
9. Does this violate the Usury Laws? Answer: If the Plaintiff (Bank) Issued you a CREDIT, which they created off your signature which they got for free, and called it a loan when giving it back to said borrower (defendant) then the Interest Rate as stated in writing on the said contract is proof of FRAUD as this fact was not disclosed in the contract as required by the Federal Usury Disclosure Act, and the end result is that the Bank (Plaintiff) has received, or is to receive over 100% interest on said Mortgage Loans, per month!
10. Did the bank, (Plaintiff), raise an asset to itself on your hand written name (Signature)? (Without your knowledge or consent)
11. Did the bank, (Plaintiff), use the note first (before) the borrower, (Defendant), received the CREDIT for which the Plaintiff masqueraded as a loan, to raise the funds for the loan? (Did they sell it, or use it for collateral for a loan from another institution)
12. Does this make the note a negotiable instrument? (Tendering a future earnings instrument for consideration to a third party and endorsing, "without recourse.")
13. Who else is deriving a benefit from the Defendant's note, (and hand written name) without their knowledge or consent?
14. Was the Note or Mortgage converted into a bond or other investment instrument for the Plaintiff to enrich itself without consent or knowledge of the Defendant, much less divulged in the Loan Process as required by Law?
15. Was the Plaintiff who illegally created a CREDIT, derived without consent or knowledge on that of the defendant's Signature, as a noted asset to itself and then pawning it off as a loan back to the Borrower (Defendant) Injured when the said Plaintiff never loaned a single cent that wasn't created by the Defendant's own signature?
16. Did the Defendant at any time agree to fund their own loan in the Contract?

As clearly stated too many cases to count the Plaintiff was acting in FRAUD when it masqueraded a Line of CREDIT as a LOAN!

"A bank may not lend its credit to another even though such a transaction turns out to have been of benefit to the bank, and in support of this a list of cases might be cited, which would look like a catalog of ships." [Emphasis added] Norton Grocery Co. v. Peoples Nat. Bank, 144 SE 505. 151 Va 195.

"In the federal courts, it is well established that a national bank has not power to lend its credit to another by becoming surety, indorser, or guarantor for him." *Farmers and Miners Bank v. Bluefield Nat'l Bank*, 11 F 2d 83, 271 U.S. 669.

"A national bank has no power to lend its credit to any person or corporation . . . *Bowen v. Needles Nat. Bank*, 94 F 925 36 CCA 553, certiorari denied in 20 S.Ct 1024, 176 US 682, 44 LED 637.

"The doctrine of ultra vires is a most powerful weapon to keep private corporations within their legitimate spheres and to punish them for violations of their corporate charters, and it probably is not invoked too often . . . *Zinc Carbonate Co. v. First National Bank*, 103 Wis 125, 79 NW 229. *American Express Co. v. Citizens State Bank*, 194 NW 430.

"It has been settled beyond controversy that a national bank, under federal Law being limited in its powers and capacity, cannot lend its credit by guaranteeing the debts of another. All such contracts entered into by its officers are ultra vires . . . " *Howard & Foster Co. v. Citizens Nat'l Bank of Union*, 133 SC 202, 130 SE 759(1926).

"It is not within those statutory powers for a national bank, even though solvent, to lend its credit to another in any of the various ways in which that might be done." *Federal Intermediate Credit Bank v. L'Harrison*, 33 F 2d 841, 842 (1929).

"There is no doubt but what the law is that a national bank cannot lend its credit or become an accommodation endorser." *National Bank of Commerce v. Atkinson*, 55 E 471.

"A bank can lend its money, but not its credit." *First Nat'l Bank of Tallapoosa v. Monroe*. 135 Ga 614, 69 SE 1124, 32 LRA (NS) 550.

"... the bank is allowed to hold money upon personal security; but it must be money that it loans, not its credit." *Seligman v. Charlottesville Nat. Bank*, 3 Hughes 647, Fed Case No.12, 642, 1039.

This is reaffirmed by the legal definition of what constitutes a "LOAN":

<https://thelawdictionary.org/loan/>

What is LOAN?

A bailment without reward; consisting of the delivery of an article by the owner to another person, to be used by the latter gratuitously, and returned either in specie or in kind. A sum of money confided to another. *Ramsey v. Whitbeck*. 81 Ill. App. 210; *Xylitols v. Pearson*, 7 Pet. 109, 5 L. Ed. 023; *Rodman v. Munson*, 13 I' ah. (X. Y.) 75; *Booth v. Terrell*. 10 Ga. 25; *Payne v. Gardiner*, 29 N. Y. 107. A loan of money is a contract by which one delivers a sum of money to another, and the latter agrees to return at a future time a sum equivalent to that which he borrowed. Civ. Code Cal.

Likewise:

"A loan may be defined as the delivery by one party to, and the receipt by another party of, a sum of money upon an agreement, express or implied, to repay the sum with or without interest." *Parsons v. Fox* 179 Ga 605, 176 SE 644. Also see *Kirkland v. Bailey*, 155 SE 2d 701 and *United States v. Neifert White Co.*, 247 Fed Supp 878, 879.

And as we know money is defined as:

"The word 'money' in its usual and ordinary acceptance means gold, silver, or paper money used as a circulating medium of exchange . . ." *Lane v. Rayley* 280 Ky 319, 133 SW 2d 75.

Money is Not:

"... checks, drafts, money orders, and bank notes are not lawful money of the United States ..." *State v. Neilon*, 73 Pac 324, 43 Ore 168.

"A check is merely an order on a bank to pay money." *Young v. Hembree*, 73 P2d 393.

So;

"Neither, as included in its powers not incidental to them, is it a part of a bank's business to lend its credit. If a bank could lend its credit as well as its money, it might, if it received compensation and was careful to put its name only to solid paper, make a great deal more than any lawful interest on its money would amount to. If not careful, the power would be the mother of panics, . . . Indeed, lending credit is the exact opposite of lending money, which is the real business of a bank, for while the latter creates a liability in favor of the bank, the former gives rise to a liability of the bank to another. I Morse. Banks and Banking 5th Ed. Sec 65; Magee, Banks and Banking, 3rd Ed. Sec 248." *American Express Co. v. Citizens State Bank*, 194 NW 429.

"It has been settled beyond controversy that a national bank, under federal law being limited in its powers and capacity, cannot lend its credit by guaranteeing the debts of another. All such contracts entered into by its officers are ultra vires" *Howard & Foster Co. v. Citizens Nat'l Bank of Union*, 133 SC 202, 130 SE 759(1926).

Thus, if the Plaintiff created an account and digitally credited said account, and then withdrew that asset which was a credit, and gives this to a borrower while claiming it is a loan, when they have in fact not loaned any legal money, or in a legal manner, then they have engaged in Both a Federal Crime of FRAUD and Breach of Contract according to the LAWI

"A bank is not the holder in due course upon merely crediting the depositors account." *Bankers Trust v. Nagler*, 229 NYS 2d 142, 143.

"Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages." *Barnsdall Refining Corp. v. Birnam Wood Oil Co.* 92 F 26 817.

"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." Leonard v. Springer 197 Ill 532. 64 NE 301.

"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 559-572; 132 NW 1122.

"The contract is void if it is only in part connected with the illegal transaction and the promise single or entire." Guardian Agency v. Guardian Mut. Savings Bank, 227 Wis 550, 279 NW 83.

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

The United States Code, Title 12, Section 24, Paragraph 7 confers upon a bank the power to lend its money, not its credit. In First National Bank of Tallapoosa vs. Monroe, 135 Ga 614; 69 S.E. 1123 (1911), the court, after citing the statute heretofore said, "The provisions referred to do not give power to a national bank to guarantee the payment of the obligations of others solely for their benefit, nor is there any authority to issue them through such power incidental of the business of banking. A bank can lend its money, not its credit." Meanwhile, they do it anyway from a profit motive, even though it flies in the face of their primary duty to protect people's money.

Thus, again this information of accounts, to include monetizing and securitizing used in reference to name of Defendant or Property in question cannot be denied in Discovery or Interrogatives without engaging in both Deprivation of Due Process and even Color of Law!

This brings us to more FRAUD, as the Plaintiff in this case originated it on nothing more than a photocopy or electronically recreated Document.

According to Law the Plaintiff must originate said case upon a True Original Document:

McCay v. Capital Resources Company, LTD. 96-200 S.W.2d 1997 Where appellee apparently never possessed appellants' original note as provided in Ark. Code Ann. 4-3-309(a)(i) (Repl. 1991), but was required, even if it had, to have proven all three factors specified in 4-3-309(a) and did not do so, appellee could not enforce the original note's terms by the use of a copy; even if all three requirements in 4-3-309(a) had been proven, the trial court was still obligated to ensure that appellee provided adequate protection to the appellants from any future claim, and this, too, was not done. First, as previously discussed, we mention the unfairness in these circumstances that, if a duplicate was allowed in place of the original note, the McKays could later be subjected to double liability if the actual holder of the note appeared.

Next, we add that the Rules of Evidence are rules of the court involving legal proceedings, while the UCC is composed of statutes of law that established the rights and liabilities of persons. Again, as previously discussed, Capital Resources, as an assignee of the McKays' note, could not sue on the underlying debt the McKays owed to Landmark Savings. For Capital Resources to have prevailed in enforcing the McKays' note, it was required either to produce the original or satisfy the requirements for a lost negotiable instrument under 4-3309(a) and (b). Because Capital failed to do either, we must reverse and remand.

As noted there has been no claim of a lost note!

Mortgage Securities Inc. v. Hartley Lord. No. 4D02-4051. July 23, 2003 Mortgagee by assignment brought foreclosure action. The Circuit Court, 15th Judicial Circuit, Palm Beach County, Edward Fine and John Wessel, JJ., entered summary judgment for mortgagor. Mortgagee appealed. The District Court of Appeal, Stone, J., held that mortgagee could not maintain cause of action to enforce missing promissory note or foreclose mortgage, in absence of proof that mortgagee or assignor ever had possession of note.

As noted the limited document production proves that the Plaintiff was not in possession of the Real Original Note, they had even requested to get a copy from a third party: Please see exhibit "F1" and exhibits "E1" and "E2" where they state in black and white that they are not the Note Holder but merely a servicer of the Note.

Lorraine C. Tillman v. Virginia Savage Smith (07/25/85) The purpose of the section is well expressed by commentator Carl W. Ehrhardt as follows: [21] The drafters of the Code excluded from the general rule of admissibility of duplicates these documents because the possessor of the documents is the owner of the obligation that they represent and the party who may bring a cause of action based on the document. Therefore, the person **who possesses the duplicate may not possess the cause of action**. For example, if "A" makes a xerox copy of a promissory note and subsequently negotiates the original to "B", under section 90.953(1), "A", the transferor, is not able to sue on the xerox copy of the promissory note. [22] Ehrhardt, Florida Evidence § 953.1 (2d ed. 1984). See also Lowery v. State, 402 So.2d 1287 (Fla. 5th DCA 1981). To fall under section 90.953(1), the agreement would have not only to evidence a right to the payment of money, but be "of a type that is transferred by delivery in the ordinary course of business with any necessary endorsement or assignment" (emphasis added).

SMS Financial LLC v. Abco Homes, Inc. No.98-50117 February 18, 1999 (167 F. 3d. 235; 5th Circuit Court of Appeals.) Where the complaining party cannot prove the existence of the note, then there is no note. To recover on a promissory note, the plaintiff must prove: (1) the existence of the note in question; (2) that the party sued signed the note; (3) that the plaintiff is the **owner or holder of the note**; and (4) that a certain balance is due and owing on the note.

Since no one is able to produce the "instrument" there is no competent evidence before the Court that any party is the holder of the alleged note or the true holder in due course. Common law dictates that the plaintiff prove the existence of the alleged note in question, prove that the party sued signed the alleged note, prove that the plaintiff is the owner and holder of the alleged note, and prove that certain

balance is due and owing on any alleged note. Federal Circuit Courts have ruled that the only way to prove the perfection of any security is by actual possession of the security. See; *Matter of Staff Mortg. & Inv. Corp.*, 550 F.2d 1228 (9th Cir 1977), "Under the Uniform Commercial Code, the only notice sufficient to inform all interested parties that a security interest in instruments has been perfected is actual possession by the secured party, his agent or bailee." Bankruptcy Courts have followed the Uniform Commercial Code. In *Re Investors & Lenders, Ltd.* 165 B.R. 389 (Bkrcty.D.N.J.1994), unequivocally the Court's rule is that in order to prove the "instrument", possession is mandatory.

In addition to the note, another element of proof is necessary – an accounting that is signed and dated by the person responsible for the account. Claim of damages, to be admissible as evidence, must incorporate records such as a general ledger and accounting of an alleged unpaid promissory note, the person responsible for preparing and maintaining the account general ledger must provide a complete accounting which must be sworn to and dated by the person who maintained the ledger. See *Pacific Concrete F.C.U. V. Kauanoe*, 62 Haw. 334, 614 P.2d 936 (1980), *GE Capital Hawaii, Inc. v. Yonenaka* 25 P.3d 807, 96 Hawaii 32, (Hawaii App 2001), *Fooks v. Norwich Housing Authority* 28 Conn. L. Rptr. 371, (Conn. Super.2000), and *Town of Brookfield v. Candlewood Shores Estates, Inc.* 513 A.2d 1218, 201 Conn.1 (1986).

See § 90.953, West's Fla. Stat. Annot. (1979) (Sponsor's Note); C. Ehrhardt, *Florida Evidence* § 953.1, at 605 & n.5; *Lowery v. State*, 402 So.2d 1287, 1288-89 (Fla. 5th DCA 1981). 90.953(1), Florida Statutes; is misplaced. The purpose of that subsection is to require production of the original where there is an action on a negotiable instrument. In such instances, the original instrument must be brought forward both to demonstrate the right to payment and to preclude the possibility that the instrument has already been negotiated.

As noted, the Plaintiff has refused to produce a Chain Title, nor proof that the said Plaintiff has not engaged in BIFURCATION of said Note and Mortgage. Accordingly the Note and Mortgage are to be as one, i.e. not separated.

Common Sense dictates that since the Plaintiff Claimed to have been the Holder of the Note and Mortgage at the time of the Credit Lending Scheme renamed as LOAN, and claims to have a perfected security and thereby Chain of Title then there is no possibility that no one else from November of 2004 till present could ever originate a Note on the Mortgaged Property in question.

However, if one looks at MERS, Mortgage Electronic Registration Systems, and does a property search of 306 Coral Way, Belvedere, South Carolina 29841 and 306 Coral Way, North Augusta, South Carolina 29841 (Post Office Recognizes both addresses as the same property – Belvedere is a suburb of North Augusta). They will see that there was in fact "7" I repeat "7" other notes generated on said property since the Signing of the Promissory Note by the Defendant! As noted ONE of the SEVEN was just a month later by Bank of America (The Plaintiff) itself! Four of the said Notes were still ACTIVE as of 30 April, 2018. Please see exhibits "C1-C4".

If there was no BIFURCATION of said Note from the Mortgage then how did these other SEVEN notes come into existence? One must remember that one was by the Plaintiff itself! How many mortgages and Notes does the Plaintiff have on the same property? Which note is legitimate? If the Defendant had paid off the Note is there even a legitimate Title/Deed to said Property? Who has the legitimate Title/Deed? How many Notes have to be present on the same property before a DEFENDANT has the right to question Plaintiff if they are:

1. the holder of the Note?
2. the proper owner of said Title and or Deed of said property?
3. In Possession of a Complete and Perfected Chain Title for said Property and Note?

However, as seen by the Interrogatories and Discoveries the Plaintiff has worked over time in refusing to answer anything, much less in produce anything! (Can we say Obstruction of the TRUTH?)

"[I]n order to set aside a judgment or order because of fraud upon the court under Rule 60(b) . . . it is necessary to show an unconscionable plan or scheme which is designed to improperly influence the court in its decision." *England v. Doyle*, supra, 281 F.2d at 309. See also *United States v. Standard Oil Co. of California*, 73 F.R.D. 612, 615 (N.D. Cal. 1977).

The United States Court of Appeals for the Sixth Circuit has set forth five elements of fraud upon the court which consist of conduct: "1. On the part of an officer of the court; 2. That is directed to the 'judicial machinery' itself; 3. That is intentionally false, willfully blind to the truth, or is in reckless disregard for the truth; 4. That is a positive averment or is concealment when one is under a duty to disclose; 5. That deceives the court." *Demjanjuk v. Petrovsky*, 10 F.3d 338, 348(6th Cir. 1993). Fraud includes the suppression of the truth, as well as the presentation of false information (In re Witt (1191) 145 Ill.2d 380, 583 N.E. 2d 526, 531, 164 Ill. Dec. 610). See also In re Frederick Edward Strufe, Disciplinary case no. 93 SH 100,

"Where the Court stated that fraud has been broadly defined as anything calculated to deceive. It should be noted that the definition of fraud applies to everything an attorney may be engaged in, whether in court, or in his office."

It is well established in law that any attempt by an attorney, to deceive is considered fraud, and when the attempt to deceive occurs in a judicial proceeding, it is "fraud upon the Court."

As noted, the Lawyer/Attorney is clearly engaged in Misconduct before the Court, pursuant to the Rules of Professional Conduct 8.4. of the ABA, American Bar Association, Rules of Professional Conduct.

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
(d) engage in conduct that is prejudicial to the administration of justice;
(e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;
(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.

As clearly established in accordance with 8.4(c) Rules of Professional Conduct as a Member of the BAR, the Plaintiff's Lawyer/Attorney has engaged in dishonesty, fraud, and deceit or misrepresentation in this case through his observable action of Obstruction of Lawful Interrogatories and Discoveries.

As clearly established in accordance with 8.4(d) Rules of Professional Conduct as a Member of the BAR, the Plaintiff's Lawyer/Attorney conduct is clearly prejudicial to the administration of justice due to the withholding of pertinent evidence.

As clearly established in accordance with 8.4(e) Rules of Professional Conduct as a Member of the BAR, the Plaintiff's Lawyer/Attorney has outright stated or implied an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; Numerous in answer to both Interrogatories and Discoveries as exhibited in "A1" and "B1" he has implied that your HONOR is nothing more than a Puppet to bend to the will of the Banker's in it is but him, the Plaintiff's Lawyer/Attorney, that decides what is admissible in Court and whether there be production of Discovery or Interrogatories that may or may not lead to discoverable and prosecutorial information.

One must remember, that the Plaintiff by his own EGO has deemed that nothing other than what is before the Court, entered by himself ...i.e. a photocopied note is the basis for which the case was originated. Likewise, he has stated unequivocally in the interrogatories that he has no witnesses that are knowledgeable of the supposed LOAN or the Loan Process. This is also refortified by his claiming that no such information exists to confirm that even a LOAN was processed, other than a photocopied, or possibly even forged Note! As such for him to produce any document or witness from this point on out would be a direct violation of Due Process of Rights! Myself as a Defendant was to be informed and given ample time to prepare, which by his own actions has prevented (obstructed) as such! Please note that in addition to the multiple NOTES found under MERS after said Origination of said LOAN with the Defendant, coupled with documentation where the Plaintiff states in black and white to not being the Note Holder, the final topping of said deceit is that according to Exhibit "I" the named Vice President is on a list where he is designated as a probable Robo-Signer! By the Plaintiffs own answers to the

Interrogatives there is absolutely no documentation to prove any authorization of said Vice President to have signing authority on a Promissory Note. Likewise, as noted there was no date to show at what time this supposed signature claiming everything was legitimate and TRUE; and that they were in fact the Note Holder. When was the said signature acquired: Before, During, or After the Filing for this Case?

As noted the Plaintiff according to LAW was to produce the Original before or at the origination of such a case. The Courts have consistently ruled that the production of such document after the fact does NOT justify standing to originate such a case!

THE ORIGINAL NOTE MUST BE PROVEN SUBMITTED BEFORE THE COURT

IN ORDER TO ESTABLISH STANDING OF THE PLAINTIFF and JURISDICTION of the COURT

Because standing to sue is required to invoke the jurisdiction of the common pleas court, "standing is to be determined as of the commencement of suit." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 570-571, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992), fn. 5; see also *Friends of the Earth, Inc. v. Laidlaw Environmental Servs. (TOC)*, 528 U.S. 167, 180, 120 S.Ct. 693, 145 L.Ed.2d 610 (2000); *Nova Health Sys. v. Gandy*, 416 F.3d 1149, 1154-1155 (10th Cir.2005); *Focus on the Family v. Pinellas Suncoast Transit Auth.*, 344 F.3d 1263, 1275(11th Cir.2003); *Perry v. Arlington Hts.*, 186 F.3d 826, 830 (7th Cir.1999); *Carr v. Alta Verde Industries, Inc.*, 931 F.2d 1055, 1061 (5th Cir.1991).

Further, invoking the jurisdiction of the court "depends on the state of things at the time of the action brought," *Mullan v. Torrance*, 22 U.S. 537, 539, 9 Wheat. 537, 6 L.Ed. 154 (1824), and the Supreme Court has observed that "[t]he state of things and the originally alleged state of things are not synonymous; demonstration that the original allegations were false will defeat jurisdiction." *Rockwell Internatl. Corp. v. United States*, 549 U.S. 457, 473, 127 S.Ct. 1397, 167 L.Ed.2d 190 (2007).

This principle accords with decisions from other states holding that standing is determined **as of the filing of the complaint**. See, e.g., *Deutsche Bank Natl. Trust v. Brumbaugh*, 2012 OK 3, 270 P.3d 151, ("If Deutsche Bank became a person entitled to enforce the note as either a holder or nonholder in possession who has the rights of a holder after the foreclosure action was filed, then the case may be dismissed without prejudice * * *" [emphasis added]); *U.S. Bank Natl. Assn. v. Kimball*, 190 Vt. 210, 2011 VT 81, 27 A.3d 1087.

("U.S. Bank was required to show that at the time the complaint was filed it possessed the original note either made payable to bearer with a blank endorsement or made payable to order with an endorsement specifically to U.S. Bank" [emphasis added]); *Mtge. Electronic Registration Sys., Inc. v. Saunders*, 2010 ME 79, 2 A.3d 289, ("Without possession of or any interest in the note, MERS lacked standing to institute foreclosure proceedings and could not invoke the jurisdiction of our trial courts" [emphasis added]); *RMS Residential Properties, L.L.C. v. Miller*, 303 Conn. 224, 229, 232, 32 A.3d 307 (2011), quoting *Hiland v. Ives*, 28 Conn.Supp. 243, 245, 257 A.2d 822 (1966) (explaining that " '[s]tanding is the legal right to set judicial machinery in motion' " and holding that the plaintiff had standing because it proved ownership of the note and mortgage at the time it commenced foreclosure action);

McLean v. JP Morgan Chase Bank Natl. Assn., 79 So.3d 170, 173. ("the plaintiff must prove that it had standing to foreclose when the complaint was filed"); see also Burley v. Douglas, 26 So.3d 1013, 1019 (Miss.2009), quoting Lujan v. Defenders of Wildlife, 504 U.S. 555, 571, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992), fn. 5

Also of note which brings into question more FRAUD, can be seen in Exhibits "K1" and "K2". As noted even though the Defendant Supposedly took the possession of said property in November of 2004, it shows that she had paid the taxes on this very property all the way back to 1991. One has to wonder if there was games being played with the appraisal, and if the true cost of the property was 58,821 and the back taxes were added onto the property price, bringing it to the price of 66,900? This fact surely was not disclosed in the said contract. (MORE FRAUD? MORE DECEIT?) \$8,078.79 in back taxes paid by the Defendant without their knowledge or consent? (PATTERN of FRAUD)?

6. Lack of Standing, (CONCLUSION)

As noted above there are numerous issues before the Court, and it surmised that your Honor realizes that in every Case of Law there is actually TWO cases being tried in ONE! Though both cases are the same, one is where only superficial (BLING) is addressed, known as FORM, and the other is when there is a true search for the TRUTH thereby establishing Justice and Equality by observation of substance, i.e. the underlying FACTS and EVIDENCE of TRUTH!

Thus, as noted on the first hearing it was noted that you asked me, the Defendant, as to whether it was my signature on the Promissory Note? I of course said yes, because it looked like my signature. However, in truth I am not sure that the document in question was that very document that I signed. At no time did your Honor ever have the Plaintiff's Lawyer produce the original note, nor any affidavit or anything attesting to its authenticity. As noted in accordance with LAW it is a well-established FACT that the Original Document for which the claim is being made was and is to be provided to the Court, for inspection to ensure both STANDING of the Plaintiff and JURISDICTION of the Court! As this was not done, it is hereby requested that your Honor not only compel the Plaintiff to Produce the Original Note, but also a Complete Chain Title of the note, as well as Title/Deed/ and Mortgage to the Property prior to the Defendant taking possession and this to be inclusive of the entire period of time from Inception until this very day of Court. According to Rule 17(a) The Plaintiff in order to have the Capacity to bring said Suit/Claim it must first Produce PROOF that it is a Real Party. Thus, unless the Original Note was produced and a Chain Title to substantiate that the Note was never BIFURCATED from the Mortgage then I am sure you are well aware that any Ruling would be declared Null and Void, as the Plaintiff never had Standing; and without Standing the Court itself would not have Jurisdiction. As shown throughout this motion:

("U.S. Bank was required to show that at the time the complaint was filed it possessed the original note either made payable to bearer with a blank endorsement or made payable to order with an endorsement specifically to U.S. Bank" [emphasis added]); Mtge. Electronic Registration Sys., Inc. v. Saunders, 2010 ME 79, 2 A.3d 289, ("Without possession of or any interest in the note, MERS lacked standing to institute foreclosure proceedings and could not invoke the jurisdiction of our trial courts" [emphasis added]); RMS Residential Properties, L.L.C. v. Miller, 303 Conn. 224, 229, 232, 32 A.3d 307 (2011), quoting Hiland v. Ives, 28 Conn.Supp. 243, 245, 257 A.2d 822 (1966) (explaining that " '[s]tanding is the legal right to set judicial machinery in motion' " and holding that the plaintiff had standing because it proved ownership of the note and mortgage at the time it commenced foreclosure action);

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This principle accords with decisions from other states holding that standing is determined as of the filing of the complaint. See, e.g., Deutsche Bank Natl. Trust v. Brumbaugh, 2012 OK 3, 270 P.3d 151, ("If Deutsche Bank became a person entitled to enforce the note as either a holder or non-holder in possession who has the rights of a holder after the foreclosure action was filed, then the case may be dismissed without prejudice * * * " [emphasis added]); U.S. Bank Natl. Assn. v. Kimball, 190 Vt. 210, 2011 VT 81, 27 A.3d 1087.

HISTORY of the CASE

In November of 2004 Defendant was induced to enter into a contract with Bank of America, herein the "Plaintiff". Defendant agreed to establish a **LOAN** with them for the purchase of property located at 306 Coral Way, Belvedere, South Carolina 29841. However, Defendant never agreed for the Plaintiff to utilize her Signature to be used as a catalyst for creating a digital CREDIT to a Demand Deposit Account. This ACT was willfully with INTENT withheld from the Plaintiff! Let's use some Common Sense here; who would ever agree that a bank could use their Signature for FREE to create a CREDIT in an Account for which then would be lent back to the Borrower, who then in return would have to return that same money that was created off their signature back to the Bank, Plus Interest, plus put the property being bought as collateral on the same said LOAN for which the bank never lent a single cent of its own money?

The answer is "ABSOLUTELY NO ONE!

However, the TRUTH of this transaction was NOT and is NOT ever divulged to the Borrower(s)! For a Contract to be LEGAL everything must be divulged! Please see videos:

https://www.youtube.com/watch?v=fOj_xp2iHI0

<https://www.youtube.com/watch?v=Iz08Wj8xOuk>

<https://www.youtube.com/watch?v=-hR3MezEENg>

https://www.youtube.com/watch?v=qi7TscClo_g

The Fact that the Plaintiff cannot prove that they ever LOANED one cent to the Defendant indicates that Mortgage Fraud was its intent. Likewise, it clearly establishes that USURY is also taking place. As noted the Defendant was required to pay the Plaintiff 270% interest per month. This calculation is real simple... no money was ever given to the Defendant, and yet despite the Plaintiff not giving the Defendant one single cent of its own money, it has charged the Plaintiff approximately \$270.00 per month, in interest, which is PURE PROFIT!

If the above facts wasn't bad enough we then come into phase two of the Mortgage Fraud utilized by the Plaintiff against the Defendant.

Phase Two involves the Plaintiff once again taking an action involving both the Promissory Note and the Mortgage WITHOUT CONSENT or KNOWLEDGE of the DEFENDANT! At this point the Mortgage is converted into a bond for which is put into a TRUST and is/was bundled together with other Mortgages and deemed an Investment Instrument for which may have even been put into a trust. As it has been established that MERS, a nominee of Bank of America, shows SEVEN other Notes brought into fruition while the DEFENDANT was supposedly the holder of the Mortgage gives extreme circumstantial evidence which would suggest that the Note and Mortgage were BIFURCATED (Separated from one another). As noted in the U.S. Supreme Court case of 1872, *Carpenter v. Longan*, it was ruled that where a promissory note goes, a deed of trust must follow. In other words, the deed and the note cannot be separated. Thus, let us look how this BIFURCATION affects the Mortgage and the Promissory Note:

BIFURCATION

In the international financial world of notes and the act of securitizing notes and placing them into tradeable financial instruments, bifurcation is the process required by the Security Exchange Commission for a financial institution to legally securitize a loan on Wall Street which is then packaged into a mortgage backed security(MBS) or a collateralized debt obligation(CDO).

A home loan is usually created using two parts. When a financial institution offers a loan, the borrower would generally sign a promissory note with pertinent instructions with which to pay the lender's money back. In order to protect their monetary investment the financial institution would use the borrower's property as collateral, using a mortgage or trust deed. This would allow the lender to be able to collect for their loan balance through a foreclosure action if the borrower fails to pay back the borrowed funds, as was outlined in the promissory note. This foreclosure action could then be processed against a borrower's property without having to go through a collection lawsuit, if the property existed in a non-judicial foreclosure state. This also allowed the lender to not have to worry about a borrower's homestead rights using these documents. That security instrument formalized the lender's rights to the home. By law, those two documents; the note and the mortgage, **should stay together in their original ink and remain in the lender's possession.** This is usually done through a third party, called a Trustee. In a non-judicial foreclosure state, that Trustee must be an independent third party.

**** AS NOTED IN EXHIBIT "F1" THE PLAINTIFF WAS REQUESTING A COPY OF THE SAID NOTE FROM THAT OF A THIRD PARTY. THIS IS A CLEAR INDICATION THAT THEY DID NOT HAVE THE ORIGINAL, AND MOST LIKELY DO NOT EVEN HAVE THE ORIGINAL NOW! THEREFORE THE COURT HAS A DUTY TO ENSURE THAT NOT ONLY DOES THE PLAINTIFF HAVE THE ORIGINAL NOW, BUT ALSO THAT IT HAD IT AT THE TIME OF COMMENCING THE ORIGINAL FILING FOR THE FORECLOSURE. THIS CAN ONLY BE ACCOMPLISHED BY THE COURT REQUIRING PROOF OF "PERFECTION" OF CHAIN OF TITLE. AS NOTED IN THE INTERROGATORIES SERVED UPON THE PLAINTIFF THEY CLAIM THAT NO SUCH DOCUMENTATION EXISTS, AS THEY REFUSED TO PRODUCE IT. THUS, IF THEY PRODUCE ANYTHING NOW THEN THIS MEANS THAT THEY PERJURED THEMSELVES. LIKEWISE, THEY STATED THROUGH THE INTERROGATORIES THAT NO SUCH WITNESS EXISTS TO CORROBORATE THE BANK PROCESS OR THE KNOWLEDGE OF THE PROCESS FOR WHICH THE NOTE AND MORTGAGE IN THIS CASE HAS UNDERGONE. THUS, ONCE AGAIN THIS WOULD DICTATE NOT ONLY PERJURY, BUT DECEPTION AS THE PLAINTIFF FAILED TO PROVIDE ANY NAMES OR INFORMATION PRIOR TO HEARING, AS REQUIRED BY LAW!**

In a mortgage bifurcation, the mortgage and the note get split up. In over 80% of any real estate transaction the lenders would frequently sell their notes to other financial investment firms. These firms would then go through the process of securitizing their loans into mortgage backed securities and sell shares of packaged loans to investors on Wall Street. The Security Exchange Commission(SEC) has definitive rules and regulations for a financial institution which must be fully adhered to for the loan to be properly securitized correctly in order to legally be added to a MBS or a CDO. The SEC states that the note must be free and clear of any claims against it in order to be added to a MBS's or CDO's to be traded on Wall Street. i.e. then Promissory Notes or Mortgages can only be converted to a bond if they

are unencumbered. What must be clear then, if you are dealing with a foreclosure situation on a property, that if your note had been bifurcated, and chances are it has been as over 80% of all loans are, this means that from that 80% chance of your note being bifurcated numerous studies show that there is an additional 90% chance that it was done incorrectly according to the SEC rules for securitizing a note. If this is the case, and take heed of the odds of this being the case, because if the securitization process was done incorrectly it would then make the note void. Likewise, it was made void by the GREEDY actions of the Plaintiff, not then Defendant!

Understand that if a note has been securitized and placed into a MBS or CDO, this means that the financial institution sold their interest in the note and are no longer legally tied to the note. This means that they have been paid in full for their interest in the loan. If this is the case, then the question is "How can Bank of America", the PLAINTIFF, or any other original lender be asking for a monthly payment from the borrower, if the bank no longer has any legal interest in the note and have sold their rights to another party?" The only way for the lender to legally collect the monthly payments from the borrower for the note, that lender must have become the legal servicer as outlined in the terms and conditions of the Service Agreement of the securitization papers of the MBS or CDO. Remember, this paperwork was done incorrectly over 90% of the time.

Please see Articles "L1" and "L2" where it shows that the United States Government, SEC, Security Exchange Commission, actually sued the Plaintiff along with numerous other Banks, for this deceptive practice!

Also, understand that after the note and the trust deed have been bifurcated, this splitting of these two instruments **makes the trust deed void**. The trust deed, or also known as the deed of trust, is a document used to outline the rules associated with how the borrower will pay back the loan to the financial institution. When the financial institution sells the note to another party in order for that note go be securitized and packaged in MBS and CDO's on Wall Street, the SEC rules regulate that this note that is to be securitized must be free and clear of any encumbrances.

The deed of trust is an encumbrance to the property and this is why the bifurcation takes place. So, due to the bifurcation process the **deed of trust must become and does in fact become invalid and void**. The reason that it is no longer valid is due to the fact that the original lender, THE PLAINTIFF, has been **paid off in the sale of the note to the party that will subsequently be securitizing the note**. When the note is sold, and paid for in full, plus the interest due the financial company, the Deed of Trust for that note is then void, as the transaction has completed itself between the two parties of the borrower and the original lender. The Deed of Trust is the instrument that dealt with this transaction, and nothing further. When the note was paid off in full to the bank, the deed of trust that was attached to that document then became void, since there was nothing left for that financial institution to collect for. Thus, for the PLAINTIFF to engage in a foreclosure is FRAUD, not to mention the fact that they are trying to enrich themselves TWICE if not THREE or in some case FOUR times over!

Please see exhibits "M1-M3".

In order for the securitization to work, banks purchasing the mortgages had to physically convey the promissory note and the mortgage into the trust. The note had to be endorsed (the way an individual would endorse a check), and handed over to a document custodian for the trust, with a "mortgage assignment" confirming the transfer of ownership. And this had to be done before a 90-day cutoff date, with no grace period beyond that.

Georgetown Law professor Adam Levitin spelled this out in testimony before Congress in 2010: "If mortgages were not properly transferred in the securitization process, then mortgage-backed securities would in fact not be backed by any mortgages whatsoever."

The lawsuit alleges that these notes, as well as the mortgage assignments, were "never delivered to the mortgage-backed securities trusts," and that the trustees lied to the SEC and investors about this. As a result, the trusts could not establish ownership of the loan when they went to foreclose, forcing the production of a stream of false documents, signed by "robo-signers," employees using a bevy of corporate titles for companies that never employed them, to sign documents about which they had little or no knowledge.

Please view: <https://www.c-span.org/video/?296595-1/mortgage-services-foreclosure-practices>

With Georgetown Associate Law Professor Adam Levitin

This brings us back to the FORECLOSURE Case before us today! What has happened and continues to happen throughout the world is that financial institutions are using a deed of trust to show their right to foreclose, and the courts are allowing this as their main documentation to show cause and standing in order to facilitate the foreclosure process, i.e. the Courts are processing the cases on FORM, (BLING), instead of substance, (Chain of Title) and Loan Origination Process!

What the courts are ignoring is the fact that there is the highest percentage possible that the foreclosing party is holding an invalid or void deed of trust in order to foreclose, as well as, the fact that there is the highest percentage that the foreclosing party has sold the note or is not the rightful owner of the note in order to foreclose. One must be able to prove and argue these points in the court of law, however Court after Court is allowing PLAINTIFFS, the BANKS, to: not PROVE CHAIN of TITLE, not produce anything of SUBSTANCE by refusing to force the PLAINTIFF to prove where and how the supposed LOAN originated. Where did the Money come from for the Loan? Was it In fact a Digital Credit to an Account and therefore the PLAINTIFF never Loaned A Single Cent? The financial institutions know that if the Courts required them to substantiate ownership with Chain of Title, and Proof of Loan origination that their SCAM/FRAUD would be fully exposed!

To have STANDING the Plaintiff must prove STANDING!

Since the loan was illegally securitized by being sold, pooled into a trust, and turned into a stock certificate when recorded with the SEC, the alleged holder can no longer claim that it is a real party of interest, as the original lender has been paid in full as proven by the front or back of the last note page where your Lender/Bank endorsed the Promissory Note which by the Defendant's signature gave the bank supposed MONEY for free to loan back to herself.

This is why there are no original blue inked signed notes available for foreclosure, just a counterfeit copy of your note remains that these banks pawn off as the original to the judges and courts to start an illegal foreclosure action against you just on the bank's say so with no proof of mortgage loan debt. If your mortgage or deed of trust has been sold or assigned and you're paying another bank or even the same bank, then your mortgage may have been securitized illegally, under the Trust's Pooling and Servicing Agreement, and no one has the real, original promissory note and mortgage.

There is a Pooling and Servicing Agreement, PSA, for every lender or bank that they must follow the SEC laws. They never follow their own PSA! This is what makes it fraud and also breaks the Chain of Title to prove that they actually own the loan.

One Must Remember the Bank, Plaintiff, is stating an injury by the action of the DEFENDANT. However, if the SUPPOSED LOAN was an ILLEGALLY created CREDIT that was given to the Borrower, then the Plaintiff LOST NOTHING, nor was INJURED because it never LOANED any of its own money, nor anything of value; which is required by Law and Legitimate/Legal Contracts.!

IT WAS CREATED without CONSENT or KNOWLEDGE by that of the DEFENDANT's signature upon the Promissory Note!

"[W]hen a bank makes a loan, it simply adds to the borrower's deposit account in the bank by the amount of the loan. *The money is not taken from anyone else's deposit; it was not previously paid in to the bank by anyone. It's new money, created by the bank for the use of the borrower.*"

— Robert B. Anderson, Secretary of the Treasury under Eisenhower, in an interview reported in the August 31, 1959 issue of *U.S. News and World Report*

"Do private banks issue money today? Yes. Although banks no longer have the right to issue bank notes, they can create money in the form of bank deposits when they lend money to businesses, or buy securities. . . . The important thing to remember is that when banks lend money they *don't necessarily take it from anyone else to lend. Thus they 'create' it.*"

—Congressman Wright Patman, Money Facts (House Committee on Banking and Currency, 1964)

"*The modern banking system manufactures money out of nothing. The process is perhaps the most astounding piece of sleight of hand that was ever invented.*"

— Sir Josiah Stamp, president of the Bank of England and the second richest man in Britain in the 1920s.

"Banks create money. That is what they are for. . . . The manufacturing process to make money consists of making an entry in a book. That is all. . . . *Each and every time a Bank makes a loan . . . new Bank credit is created — brand new money.*"

— Graham Towers, Governor of the Bank of Canada from 1935 to 1955.

As, noted the PLAINTIFF has an extensive history of FRAUD and DECEIT; please see exhibits "M1", "M2" and "M3" whereas these are but just three articles exposing the TRUTH and for which there are hundreds more that I could easily enter as even more exhibits if your HONOR so wishes!

One must remember that the Courts possess inherent authority to control and regulate the proceedings before them, including the authority to sanction litigants for abusive practices. *Vargas v. Peltz*, 901 F. Supp 1572, 1579 (S.D. Fla. 1995); See also *Martin v. Automobili Lamborghini Exclusive, Inc.*, 307 F.3d 1332, 1335 (11th Cir. 2002). Where a party acts in bad faith and continually and flagrantly abuses the judicial process, a Court may use its inherent power to impose severe sanctions, including dismissal with prejudice. See *Martin*, 307 F.3d at 1335-1336. Federal Courts are additionally empowered to dismiss an action for failing to comply with the Federal Rules of Civil Procedure and Court orders, pursuant to F.R.C.P. § 41(b). *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985). Federal Rule of Civil Procedure 41(b) provides:

For failure of the plaintiff to prosecute or comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision ... operates as an adjudication upon the merits.

Thus, a Court's power to dismiss an action with prejudice for Fraud Upon the Court is derived (1) from its inherent authority to regulate the proceeding before it, and (2) from F.R.C.P. § 41(b). *Zocaras v. Castro*, 465 F.3d 479, 483 (11th Cir. 2006); *Idearc Media Corp. v. Klmsey & Associates, P.A.*, 2009 WL 928556, *3 (M.D. Fla.).

A party commits **Fraud Upon the Court** where clear and convincing evidence demonstrates that: a party has essentially set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier or unfairly hampering the presentation of the opposing party's claim or defense. *Vargas*, 901 F. Supp. at 1579.

The PLAINTIFF as noted by the refusal to answer a single Interrogative has clearly shown this to be the case!

While dismissal for Fraud Upon the Court most commonly results from fabricated evidence, 11th Circuit Courts have also found Fraud Upon the Court where a party wrongfully conceals the identity of the real party in interest in the case. In *Zocaras v. Castro*, the 11th Circuit upheld a dismissal for Fraud Upon the Court where the Plaintiff had filed suit under a false name and "proceed[ed] with that deception right up to trial." *Zocaras*, 465 F.3d at 485. In *Martin v. Automobili Lamborghini Exclusive, Inc.*, the 11th Circuit upheld a dismissal for Fraud Upon the Court where the Plaintiffs had engaged in substantial misconduct which included:

- 1) misleading the court about the real party in interest in the case;
- 2) engaging in extensive discovery abuse to obstruct revelation of the known falsities in the Complaint;
- 3) using letters threatening class-action litigation to extort settlement offers from [Defendants] without any intention of filing a case, and;
- 4) filing with the court many documents where the signatures of lawyers were forged by [a plaintiff].

Let it be known, by the Plaintiff utilizing a Lawyer/Attorney as its representative it is claiming that it lacks Mental capacity. Thus, as such it lacked mental capacity to enter into a contract as well! It is noted that if one were to be assigned a lawyer/attorney in a court of Law then they are deemed to be wards of the state and lacking in mental capacity!

Could It be that Lacking of Mental Capacity that they think that all judges are so stupid as to not see through their FAÇADE, BOVINE EXCREMENT? Sure makes one wonder!

Thus this it is hereby requested by the DEFENDANT, Catherin Bishop, that the Court not only MOTION that this Case be dismissed, but be dismissed with Prejudice for Lack of Standing, Lack of Capacity, Failure to State a Claim for Which Relief Can be Granted, Breach of Contract, Fraud, and Fraud Upon the Court! Likewise, I pray that Court via "Sua Sponte" takes appropriate action against both the Plaintiff and its representative Lawyer/Attorney for their action in this case.

Submitted by Catherine S. Bishop, 5/21/2018

Catherine Bishop

306 Coral Way

Belvedere, SC29841

803-341-4618

Cathy_Bishop2001@yahoo.com

STATE OF SOUTH CAROLINA

COUNTY OF Aiken

BANK OF AMERICA

Plaintiff,

vs.

CATHERINE L. BISHOP

Defendant.

IN THE COURT OF COMMON PLEAS
JUDICIAL CIRCUIT

CASE NO.: 2016-CP-0200381

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____ Other: _____		Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax: _____ E-mail: _____ Other: _____	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information Nature of Motion: <u>Dismissal</u> Estimated Time Needed: _____ Court Reporter Needed: ☒ YES / ☐ NO			
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <u>Catherine L. Bishop</u> <u>5/22/2018</u> , 20____ Signature of Attorney for ☐ Plaintiff / ☒ Defendant Date submitted			
SECTION III: Motion Fee ☐ PAID - AMOUNT: \$ _____ ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☒ Other: <u>MOTION OF DISMISSAL OF FORECLOSURE</u>			
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____, 20____	
CLERK'S VERIFICATION Collected by: _____ Date Filed: _____, 20____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____			

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN	)	SECOND JUDICIAL CIRCUIT
	)	
Bank of America, NA	)	
	)	
	)	ORDER
vs.	)	
	)	
Catherine L. Bishop	)	
	)	
	)	Docket No.: 2016-CP-02-00381
	)	

Plaintiff's Attorney: Chad Burgess
Defendant's: Catherine Bishop, Pro Se
Court Reporter: Roderick Fitzgerald, Creel Ct. Reporting, Inc.
Hearing Date: June 5, 2018

PROCEDURE

1. The Lis Pendens was filed on February 24, 2016.
 2. The Summons and Complaint was filed on February 24, 2016.
 3. An Affidavit of Default was filed on January 18, 2018.
 4. The matter was referred to the Master in Equity on January 18, 2018.
 5. A hearing was held on March 6, 2018. The Plaintiff presented the original Note and e-filed an affidavit of attorney's fees, affidavit of costs and copies of the Note and Mortgage. The matter was continued to determine the amount of damages.
 6. Between the first hearing and the date scheduled for the second hearing, the Defendant filed discovery on the Plaintiff and filed a Motion to Dismiss on May 22, 2018. The Defendant also e-filed numerous exhibits.
- The Defendant requested that another individual be allowed to present her motion argument. "The South Carolina Constitution assigns to this court the duty to regulate the practice of law."

S.C. Const. Art. V, §4. “South Carolina, like other jurisdictions, limits the practice of law to licensed attorneys.” *Brown v. Coe*, 365 S.C. 137, 139, 616 S.E. 2d 705, 706 (2005) (citation omitted). “The policy of prohibiting laymen from practicing law is not for the purpose of creating a monopoly in the legal profession, nor for its protection, but to assure the public adequate protection in the pursuit of justice, by preventing the intrusion of incompetent and unlearned persons in the practice of law.” *State ex. Rel. Daniel v. Wells*, 191 S.C. 468, 5 S.E. 2d 181, 186 (1939). *Boone v. Quicken Loans*, 420 S.C. 452, 803 S.E. 2d 707 (2017). The individual was not a licensed attorney and was not allowed to represent the interests of the defendant.

The Defendant argued that the Plaintiff had failed to provide answers to the Defendant’s interrogatories and the request for production. In this matter, the Defendant has never filed an answer and was in default at the time of the first hearing. When a defendant fails to deny an allegation, the allegation is admitted. Rule 8(d) SCRCP. The Defendant has not contested signing the Note and Mortgage or the default in payment. “Generally, the party seeking foreclosure has the burden of establishing the existence of the debt and the mortgagor’s default of that debt.” *Bank of America v. Draper*, 405 S.C. 214, 746 S.E. 2d 478 (2013). The Plaintiff has already established the existence of the Note and Mortgage. The Defendant has never pled any defense contesting those documents or the breach of the terms of the agreement. The remaining issue is for the Plaintiff to establish the amount of damages. The court does agree that the Plaintiff should be provided the name and information of the witness who will testify at the damages portion of the next hearing. The Plaintiff has already produced numerous documents as shown on the attached exhibit 1 to this order.

The Defendant did not file a Motion to Compel. She filed a Motion to Dismiss. Based on the pleadings and the documents produced (based on the DVD provided at the hearing), the Plaintiff

has produced most, if not all, of the documents concerning the foreclosure action. As stated above, the Defendant did not file any discovery prior to the first hearing. She did not object to the original Note being produced or the documents that were e-filed. Her request to cross-examine a witness about the amount of the debt was granted and the hearing was continued to have a witness appear to testify about the total debt.

While a court may dismiss an action under Rule 37 (b) (2) SCRCP, the sanction should not be imposed lightly. If the sanction requested by the moving party would essentially be a judgment for the Defendant, the Defendant is required to show bad faith or willful disobedience. *QZO, Inc. v. Moyes*, 358 S.C. 246, 594 S.E. 2d 541 (Ct. App. 2004). The Defendant has failed to establish either, and no motion to compel has ever been filed. The court declines to grant the motion to dismiss filed by the Defendant.

LACK OF CAPACITY

Defendant alleges the action should be dismissed pursuant to Rule 17 (a) SCRCP. In this matter, the Defendant executed a Note promising to pay Bank of America, N.A. under the terms of the Note. She also executed a Mortgage with Bank of America, N.A. There is no assignment recorded in this matter. "A real party in interest...is one who has a real, actual, material or substantial interest in the subject matter of the action, as distinguished from one who has only a nominal, formal, or technical interest in or connection with the action." *Stoney v. Stoney*, 417 S.C. 345, 790 S.E. 2d 31 (Ct. App. 2016). The Defendant has failed to show the Plaintiff does not have standing to pursue this action.

FAILURE TO STATE A CLAIM FOR WHICH RELIEF CAN BE GRANTED: RULE 12

(b) (6) SCRCP

Defendant alleges the action should be dismissed pursuant to Rule 12 (b) (6) SCRPC. “A motion to dismiss under Rule 12 (b) (6) should not be granted if facts alleged and inferences reasonable deducible therefrom would entitle the Plaintiff to relief on any theory of the case.” *Patterson v. Witter*, 418 S.C. 66, 791 S.E. 2d 294 (Ct. App. 2016). Based on the pleadings and the documents provided, the Defendant’s motion to dismiss under this theory is denied.

The Defendant’s Motion to Dismiss based on the Plaintiffs alleged fraud to the court is denied. There was no credible evidence submitted to support this claim.

IT IS SO ORDERED.

June 27, 2018
Aiken, South Carolina

M. ANDERSON GRIFFITH
MASTER IN EQUITY FOR
AIKEN COUNTY, S.C.

Bank of America v. Catherine L. Bishop 2016-CP-02-00381

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Plf Ex. 1



Aiken Common Pleas

Case Caption: Bank Of America Na VS Catherine L Bishop
Case Number: 2016CP0200381
Type: Master/Order/Other

AND IT IS SO ORDERED

s/M Anderson Griffith-3076