

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM OCONEE COUNTY
Court of Common Pleas
Steven C. Kirven, Master-in-Equity

Appellate Case No. 2017-000886

RECEIVED
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S.C. SUPREME COURT

Federal National Mortgage Association, Respondent,

v.

John D. Dalen, Julie A. Dalen and Wawtockace Hills
Property Owners Association, Defendants,

Of whom John D. Dalen and Julie A. Dalen are Appellants,

And

John D. Dalen and Julie A. Dalen, Appellants,

v.

Bank of America, N.A., Successor by merger to BAC
Home Loans Servicing, L.P. f/k/a Countrywide Home
Loans Servicing, L.P., Respondent.

APPENDIX

VOL. 2 of 4

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Supplemental Citation

Bank of America, N.A. vs. Grisel Reyes-Toledo, SCWC – 15 – 0000005

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RECORD ON APPEAL

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§7.4007

apply to national bank operating subsidiaries to the same extent that those laws apply to the parent national bank.

(66 FR 34791, July 2, 2001)

§7.4007 Deposit-taking.

(a) *Authority of national banks.* A national bank may receive deposits and engage in any activity incidental to receiving deposits, including issuing evidence of accounts, subject to such terms, conditions, and limitations prescribed by the Comptroller of the Currency and any other applicable Federal law.

(b) *Applicability of state law.* (1) Except where made applicable by Federal law, state laws that obstruct, impair, or condition a national bank's ability to fully exercise its Federally authorized deposit-taking powers are not applicable to national banks.

(2) A national bank may exercise its deposit-taking powers without regard to state law limitations concerning:

- (i) Abandoned and dormant accounts;³
- (ii) Checking accounts;
- (iii) Disclosure requirements;
- (iv) Funds availability;
- (v) Savings account orders of withdrawal;
- (vi) State licensing or registration requirements (except for purposes of service of process); and
- (vii) Special purpose savings services;

(c) *State laws that are not preempted.* State laws on the following subjects are not inconsistent with the deposit-taking powers of national banks and apply to national banks to the extent that they only incidentally affect the exercise of national banks' deposit-taking powers:

- (1) Contracts;
- (2) Torts;

³This does not apply to state laws of the type upheld by the United States Supreme Court in *Anderson Nat'l Bank v. Luckett*, 321 U.S. 283 (1944), which obligate a national bank to "pay [deposits] to the persons entitled to demand payment according to the law of the state where it does business." *Id.* at 283-289.

⁴State laws purporting to regulate national bank fees and charges are addressed in 12 CFR 7.4002.

12 CFR Ch. I (1-1-09 Edition)

- (3) Criminal law;⁵
- (4) Rights to collect debts;
- (5) Acquisition and transfer of property;
- (6) Taxation;
- (7) Zoning; and
- (8) Any other law the effect of which the OCC determines to be incidental to the deposit-taking operations of national banks or otherwise consistent with the powers set out in paragraph (a) of this section.

(69 FR 1916, Jan. 13, 2004)

§7.4008 Lending.

(a) *Authority of national banks.* A national bank may make, sell, purchase, participate in, or otherwise deal in loans and interests in loans that are not secured by liens on, or interests in, real estate, subject to such terms, conditions, and limitations prescribed by the Comptroller of the Currency and any other applicable Federal law.

(b) *Standards for loans.* A national bank shall not make a consumer loan subject to this §7.4008 based predominantly on the bank's realization of the foreclosure or liquidation value of the borrower's collateral, without regard to the borrower's ability to repay the loan according to its terms. A bank may use any reasonable method to determine a borrower's ability to repay, including, for example, the borrower's current and expected income, current and expected cash flows, net worth, other relevant financial resources, current financial obligations, employment status, credit history, or other relevant factors.

⁵But see the distinction drawn by the Supreme Court in *Easton v. Iowa*, 183 U.S. 220, 236 (1903) between "crimes defined and punishable at common law or by the general statutes of a state and crimes and offenses cognizable under the authority of the United States." The Court stated that "[u]ndoubtedly a state has the legitimate power to define and punish crimes by general laws applicable to all persons within its jurisdiction ***. But it is without lawful power to make such special laws applicable to banks organized and operating under the laws of the United States." *Id.* at 239 (holding that Federal law governing the operations of national banks preempted a state criminal law prohibiting insolvent banks from accepting deposits).

transfer between deposit accounts. Moreover, currency is a relatively small part of the money stock. About 69 percent, or \$623 billion, of the \$896 billion total money stock in December 1991, was in the form of transaction deposits, of which \$290 billion were demand and \$333 billion were other checkable deposits.

What Makes Money Valuable?

In the United States neither paper currency nor deposits have value as commodities. Intrinsicly, a dollar bill is just a piece of paper, deposits merely book entries. Coins do have some intrinsic value as metal, but generally far less than their face value.

What, then, makes these instruments — checks, paper money, and coins — acceptable at face value in payment of all debts and for other monetary uses? Mainly, it is the confidence people have that they will be able to exchange such money for other financial assets and for real goods and services whenever they choose to do so.

Money, like anything else, derives its value from its scarcity in relation to its usefulness. Commodities or services are more or less valuable because there are more or less of them relative to the amounts people want. Money's usefulness is its unique ability to command other goods and services and to permit a holder to be constantly ready to do so. How much money is demanded depends on several factors, such as the total volume of transactions in the economy at any given time, the payments habits of the society, the amount of money that individuals and businesses want to keep on hand to take care of unexpected transactions, and the foregone earnings of holding financial assets in the form of money rather than some other asset.

Control of the quantity of money is essential if its value is to be kept stable. Money's real value can be measured only in terms of what it will buy. Therefore, its value varies inversely with the general level of prices. Assuming a constant rate of use, if the volume of money grows more rapidly than the rate at which the output of real goods and services increases, prices will rise. This will happen because there will be more money than there will be goods and services to spend it on at prevailing prices. But if, on the other hand, growth in the supply of money does not keep pace with the economy's current production, then prices will fall, the nation's labor force, factories, and other production facilities will not be fully employed, or both.

Just how large the stock of money needs to be in order to handle the transactions of the economy without exerting undue influence on the price level depends on how intensively money is being used. Every transaction deposit balance and every dollar bill is a part of somebody's spendable funds at any given time, ready to move to other owners as transactions take place. Some holders spend money quickly after they get it, making these funds available for other uses. Others, however, hold money for longer periods. Obviously, when some money remains idle, a larger total is needed to accomplish any given volume of transactions.

Who Creates Money?

Changes in the quantity of money may originate with actions of the Federal Reserve System (the central bank), depository institutions (principally commercial banks), or the public. The major control, however, rests with the central bank.

The actual process of money creation takes place primarily in banks. As noted earlier, checkable liabilities of banks are money. These liabilities are customers' accounts. They increase when customers deposit currency and checks and when the proceeds of loans made by the banks are credited to borrowers' accounts.

In the absence of legal reserve requirements, banks can build up deposits by increasing loans and investments so long as they keep enough currency on hand to redeem whatever amounts the holders of deposits want to convert into currency. This unique attribute of the banking business was discovered many centuries ago.

It started with goldsmiths. As early bankers, they initially provided safekeeping services, making a profit from vault storage fees for gold and coins deposited with them. People would redeem their "deposit receipts" whenever they needed gold or coins to purchase something, and physically take the gold or coins to the seller who, in turn, would deposit them for safekeeping, often with the same banker. Everyone soon found that it was a lot easier simply to use the deposit receipts directly as a means of payment. These receipts, which became known as notes, were acceptable as money since whoever held them could go to the banker and exchange them for metallic money.

Then, bankers discovered that they could make loans merely by giving their promises to pay, or bank notes, to borrowers. In this way, banks began to create money. More notes could be issued than the gold and coin on hand because only a portion of the notes outstanding would be presented for payment at any one time. Enough metallic money had to be kept on hand, of course, to redeem whatever volume of notes was presented for payment.

Transaction deposits are the modern counterpart of bank notes. It was a small step from printing notes to making book entries crediting deposits of borrowers, which the borrowers in turn could "spend" by writing checks, thereby "printing" their own money.

¹In order to describe the money-creation process as simply as possible, the term "bank" used in this booklet should be understood to encompass all depository institutions. Since the Depository Institutions Deregulation and Monetary Control Act of 1980, all depository institutions have been permitted to offer interest-bearing transaction accounts to certain customers. Transaction accounts (interest-bearing as well as demand deposits on which payment of interest is still legally prohibited) at all depository institutions are subject to the reserve requirements set by the Federal Reserve. Thus all such institutions, not just commercial banks, have the potential for creating money.

Bank Deposits—How They Expand or Contract

EXHIBIT

Let us assume that expansion in the money stock is desired by the Federal Reserve to achieve its policy objectives. One way the central bank can initiate such an expansion is through purchases of securities in the open market. Payment for the securities adds to bank reserves. Such purchases (and sales) are called "open market operations."

How do open market purchases add to bank reserves and deposits? Suppose the Federal Reserve System, through its trading desk at the Federal Reserve Bank of New York, buys \$10,000 of Treasury bills from a dealer in U.S. government securities.³ In today's world of computerized financial transactions, the Federal Reserve Bank pays for the securities with an "electronic" check drawn on itself.⁴ Via its "Fedwire" transfer network, the Federal Reserve notifies the dealer's designated bank (Bank A) that payment for the securities should be credited to (deposited in) the dealer's account at Bank A. At the same time, Bank A's reserve account at the Federal Reserve is credited for the amount of the securities purchase. The Federal Reserve System has added \$10,000 of securities to its assets, which it has paid for, in effect, by creating a liability on itself in the form of bank reserve balances. These reserves on Bank A's books are matched by \$10,000 of the dealer's deposits that did not exist before. See illustration 1.

How the Multiple Expansion Process Works

If the process ended here, there would be no "multiple" expansion, i.e., deposits and bank reserves would have changed by the same amount. However, banks are required to maintain reserves equal to only a fraction of their deposits. Reserves in excess of this amount may be used to increase earning assets — loans and investments. Unused or excess reserves earn no interest. Under current regulations, the reserve requirement against most transaction accounts is 10 percent.⁵ Assuming, for simplicity, a uniform 10 percent reserve requirement against all transaction deposits, and further assuming that all banks attempt to remain fully invested, we can now trace the process of expansion in deposits which can take place on the basis of the additional reserves provided by the Federal Reserve System's purchase of U.S. government securities.

The expansion process may or may not begin with Bank A, depending on what the dealer does with the money received from the sale of securities. If the dealer immediately writes checks for \$10,000 and all of them are deposited in other banks, Bank A loses both deposits and reserves and shows no net change as a result of the System's open market purchase. However, other banks have received them. Most likely, a part of the initial deposit will remain with Bank A, and a part will be shifted to other banks as the dealer's checks clear.

It does not really matter where this money is at any given time. The important fact is that *these deposits do not disappear*. They are in some deposit accounts at all times. All banks together have \$10,000 of deposits and reserves that they did not have before. However, they are not required to keep \$10,000 of reserves against the \$10,000 of deposits. All they need to retain, under a 10 percent reserve requirement, is \$1,000. The remaining \$9,000 is "excess reserves." This amount can be loaned or invested. See illustration 2.

If business is active, the banks with excess reserves probably will have opportunities to loan the \$9,000. Of course, they do not really pay out loans from the money they receive as deposits. If they did this, no additional money would be created. What they do when they make loans is to accept promissory notes in exchange for credits to the borrowers' transaction accounts. Loans (assets) and deposits (liabilities) both rise by \$9,000. Reserves are unchanged by the loan transactions. But the deposit credits constitute new additions to the total deposits of the banking system. See illustration 3.

³Dollar amounts used in the various illustrations do not necessarily bear any resemblance to actual transactions. For example, open market operations typically are conducted with many dealers and in amounts totaling several billion dollars.

⁴Indeed, many transactions today are accomplished through an electronic transfer of funds between accounts rather than through issuance of a paper check. Apart from the timing of posting, the accounting entries are the same whether a transfer is made with a paper check or electronically. The term "check," therefore, is used for both types of transfers.

⁵For each bank, the reserve requirement is 3 percent on a specified base amount of transaction accounts and 10 percent on the amount above this base. Initially, the Monetary Control Act set this base amount — called the "low reserve tranche" — at \$25 million, and provided for it to change annually in line with the growth in transaction deposits nationally. The low reserve tranche was \$41.1 million in 1991 and \$42.2 million in 1992. The Garn-St. Germain Act of 1982 further modified these requirements by exempting the first \$2 million of reservable liabilities from reserve requirements. Like the low reserve tranche, the exempt level is adjusted each year to reflect growth in reservable liabilities. The exempt level was \$3.4 million in 1991 and \$3.6 million in 1992.

EXHIBIT D

John Dalen

109 Wood Valley Drive
Westminster, SC 29693-5003

Fannie Mae
Federal Mortgage Association
3900 Wisconsin Avenue
Washington, DC 20016

February 27, 2016

Dear Sir or Madam:

Your office sent to me a document dated January 21, 2016 and titled "Mortgage Trial Modification Offer" which hereinafter I am referring to as the "Notice". A copy is included with this letter. I do not know you, and I do not know if you have the legal rights as alleged in the Notice. I need to determine whether the Notice has any legal validity. I do not want to make payments to the wrong person or to let the wrong person take my home.

Within fifteen (15) days from receipt of this letter, please provide the requested information as follows, as well as any additional information or documents you think establishes your right to make the demands or to carry out the threats of the Notice. Your compliance with this request will not require much time or effort if, in fact, you have such rights and you verified same before sending the Notice to me.

Respond only to the parts of the request that apply to you. Please inform me which parts you claim do not apply to you. Failure to eliminate any particular level of involvement will be viewed as your admission of claiming more than one "hat" regarding my mortgage loan, and not having provided a complete and meaningful response.

If you have a document that is responsive to this request, please provide a copy of the entire document, including exhibits. A summary, abstract, or comment about a document is not acceptable, and will not be treated as genuine evidence supporting whatever position you claim regarding my mortgage loan and home.

Silence or an incomplete response will be understood as your admission that the Notice was improperly issued and that your office has no right to enforce my mortgage loan pursuant to the Uniform Commercial Code as adopted by the State of South Carolina where my home is located and, therefore, no right to foreclose on my home. Please comply with the following:

- (1) If you are an attorney representing a company that is involved with the demands and foreclosure threats of the Notice, please identify your client or clients with name,


address, phone number, and a description of client's relationship to my mortgage loan and home. Further identify your contact person for each such identified client, including his or her name, address, phone number, employer and phone number. I consider your receipt of this letter to be receipt by your client and I require responses by you and your client(s) accordingly.

- (2) Do you claim that you are entitled to enforce my mortgage loan according to the Uniform Commercial Code of the State of South Carolina where my home is located, and not in the capacity as a servant for whomever might be that person? If so, please explain and identify the circumstances by which you obtained that right and when. In addition, please provide the explanations and documents requested below:
- (a) If you claim to have physical possession of the Note I executed, please let me know when you will make the Note available for inspection and copying. The place you select must be close to my home, unless we all agree otherwise.
 - (b) Please provide a complete accounting of the amount alleged due under my Note from its inception to the current time, including every credit and debit. Please account for each and any insurance proceeds, claim settlement, or warranty payments regarding my Note and home. If you maintain that no insurance, claim settlement, or warranty payments have been sought or received that involve, directly or indirectly, my mortgage loan and home, please state so in an affidavit under oath executed by one of your officers who is also your employee.
 - (c) Please provide a complete history of each transfer of the physical Note and each sale, transfer, exchange or assignment of the mortgage loan, in full or part from its creation to the current time, including but not limited to the name, address, and phone number of each transfer and each transferee in that chain. Further, for each transfer or transaction, please provide, in addition to any resulting assignment or conveyance instrument, the contract(s) or agreement(s) involved with the respective transfer or transaction, as made by the parties to each respective transfer or transaction. Also, please identify the source or sources of your information regarding that chain of activity regarding my mortgage loan.
 - (d) Please provide a copy of each email, fax, letter or other communication you sent to or received from any person or company regarding my mortgage loan since its inception.
- (3) Do you work for a company that claims the right to enforce my mortgage loan pursuant to the Uniform Commercial Code of the State of South Carolina? If so, please identify that company, address, and phone number, and identify the person(s) at that company to whom you report.
- (a) If you are an agent or servant, I consider that your receipt of this letter constitutes receipt by the company for which you are working, and I require that company to respond as if it received this letter directly rather than through you.

- (b) Please provide the contract, agreement, or document by which you were engaged to provide services for that company respecting my home. If more than one contract or agreement is involved, please provide complete copies of each.
- (c) Please admit that you hold no economic interest in my mortgage loan or home. If you maintain otherwise, please explain and provide each and all documents that you assert create an economic interest in my mortgage loan or home.
- (d) Please have the company you claim hired you regarding my home to provide by the hand of one of its employees, directly to me, its affirmation of your engagement and authority to represent it regarding my home and the Notice, and all of its documents regarding my home.
- (e) Please provide a copy of the document(s) by which that company declared a default under my mortgage loan, and instructed you or some other person to commence collection actions regarding same. If you claim that instruction was verbal, please identify the person who gave it to you and include the date of that instruction and that person's name, address, employer, and phone number.

You are welcome to answer that you have no such information with which to reply to any particular request. If you need more time to provide the requested information and documents, I would be amenable to an extension of time subject to a reciprocal extension of time, day-for-day, of each deadline stated in the Notice. Additionally, during such additional time, if granted per this paragraph, your delay in providing the required answers and documentation will be nevertheless deemed your admission pending proof to the contrary, that the Notice was issued by mistake and that neither you nor the company you claim to represent, if applicable actually has the right by law to make the demands and threats included in the Notice.

Sincerely,



John Dalen

Overview for Hearing on February 19, 2014

Your Honor:

All of my arguments will apply to all of the motions in this case before this court today. This should save some time because we won't need to argue them separately. The reasons for denying plaintiff's Motion for Summary Judgment apply also to *my* Motion for Summary Judgment, and will also show the relevance of my Discovery requests to the plaintiff.

We want to know who owns the note (see Pooling and Servicing Agreement aka the PSA). We want to know if Korn Law Firm was informed of note ownership (see PSA), and when were they informed? Are they acting on behalf of Fannie Mae? (See PSA)

Regarding the assignment:

- 1) No one can assign notes; they must be negotiated
- 2) No one can assign something they don't own
- 3) MERS cannot assign mortgage or note if such is owned by FNMA
- 4) Plaintiff's assignment document was manufactured for this foreclosure per the PSA

- 5) Note was already sold to the Trust, possibly even before we signed it
(see Law Review articles and Exhibit T, page 117).
- 6) Youda Cain signed for MERS as Assistant Secretary, as stated on
Plaintiff's Assignment of Mortgage; however MERS has no
employees
- 7) No date on endorsement
- 8) No endorsement from Quicken Loans to Trust/FNMA, or to Credit
Suisse/Bank of Boston, and/or Deutsche Bank (See Bailee letter)
- 9) Proper assignments/transfers protect grantors from fraud
- 10) Plaintiff's own filings, evidence of fraud
- 11) Evidence
 - a) PSA
 - b) Bailee letter
 - c) Korn letters
 - d) FNMA letters
 - e) Discovery Admissions and Interrogatories

Issues related to the challenged Assignment include Plaintiff's standing, chain of title/fraudulent assignment, and the question of whether the debt is secured or unsecured:

1) Once a note is securitized, it becomes a stock and is forever a stock.

SEC rules are in place to prevent note from being resold and re-securitized.

2) Note has been discharged, written off and tax credits received by shareholders.

3) Note has been paid by:

(a) Loan was sold and securitized

(b) Private Mortgage Insurance (PMI) pays full-face value

(c) Credit Default Swaps (CDS's)

(d) FDIC pays 70 – 80 % on defaulted loans

Regarding the Plaintiff's Affidavit of Debt:

1) It is heresay – no personal knowledge

2) If the Note was owned by FNMA, how could it be in Bank of America's records?

- 3) I demand to see the actual records.
- 4) For a statement to be admissible, it would have to be as if the affiant was actually in court with the proof, testifying.
- 5) Affidavit does not state when the note was acquired or how acquired.

Regarding RESPA Violations:

- 1) No notice of transfers (See Bailee letter)
- 2) Loan sold before even signed (See Exhibit T and Bailee letter)

Regarding FDCPA:

- 1) Korn and Bank of America repeatedly notify us that they are debt collectors.
- 2) Debt collectors are not the real party of interest, and in fact are attempting to collect an unsecured debt.

Regarding Foreclosure Elements:

- 1) Must be a real party of interest
 - a) Bank of America is not the note holder as claimed and has no right to foreclose

- b) Bank of America has no right to payments from the mortgage; payments are passed-through to Certificate holders. (See PSA)
- c) Note has been satisfied numerous times, by FDIC insurance, and Credit Default Swaps (pays full-face value--See Exhibit T, pg. 50), loan sold and securitized, and PMI (pays full-face value).

At this time, your Honor, I would like opposing council to be sworn in to testify as to our Exhibit D, the Korn letter to you, Judge Macauley, which is a statement by Dean Hayes regarding the PSA, aka a "Pooling and Servicing Agreement" in which they state that the loan has been re-classified out of the Trust. We want to know exactly what "re-classified out of the trust" means, because we don't see the term anywhere in the PSA.

Is Bank of America acting as an Agent for FNMA? If so, why do they engage in an elaborate fraud to foreclose? Is it because FNMA sold the note to thousands of certificate holders through securitization and is no longer the note holder?

Plaintiff's complaint is an attempt to mislead as to the ownership of the note. Even true statements can be deceptive. For plaintiff to prevail, all their arguments and evidence would have to be true. The evidence clearly shows

that this is not the case. We believe we have submitted sufficient proof to justify Summary Judgment in defendants' favor. Further Discovery will only add to that proof.

A final note: It is in the court's discretion, in the interest of justice, to overlook a defendant's procedural error or even the lack of raising an issue. Defendants have cited a court case in their Answer to plaintiff's complaint that states the court should look to the substance rather than the form.

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-37-1056

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

PLAINTIFF)

Exhibits Addendum

Vs.)

John D. Dalen, Julie A. Dalen, and Wawtockace)
Hills Property Owners Association,)

DEFENDANT(S).)

Exhibits Addendum

Submitted in court at hearing held on Wednesday, February 19, 2014
before the Honorable Judge Alexander S. Macauley

Exhibits, February 19, 2014

Exhibit M: Why Mortgage Formalities Matter

David A. Dana, Professor of Law, Northwestern Univ. School of Law, and Ernestor Longa, Asso. Professor of Law Librarianship, Univ. of New Mexico, School of Law

Pg. 2: Common practice of servicers and their law firms, i.e. robo-signing of docs

Pgs. 4, 5: Mortgage formalities matter, 3 parts:

- 1) Help homeowner rightfully stay in the home**
- 2) Value of home in people's lives**
 - a) vitality of communities**
 - b) equality before law – strict compliance by common folk, but excuses large corporations like Bank of America from legal obligations when “inconvenient”**
- 3) Insistence on following “formalities” might prevent repeat of foreclosure crisis**

Pg. 7: Falsification and standing; foreclosing party falsely represents that it has the note or mortgage that gives it standing to foreclose

Pgs. 8-11: MERS, Chain of Title, Ownership of Note and Mortgage

Exhibit M: Why Mortgage Formalities Matter, Continued

Pgs. 11-13: Three cases

U.S. Bank National Asso. v. Ibanez

Morgan Chase v. Harp

Tina v. Countrywide Home Loans

Above 3 cases cover:

- 1) Chain of Title and Foreclosing Entity Proving Ownership**
- 2) Form of foreclosure may matter less than attitude of the courts**
- 3) Trial courts uninterested in standing question**

Pg. 14: Rule 11 FRCP

Lawyer files a complaint that contains or implies a falsehood, such as suggesting that the filing party owns the note and mortgage at issue when that may not be true or is unknown; lawyer is breaching a basic professional duty and should be sanctioned.

Pg. 16: Why services may not modify loans; liability and inability

Pg. 17: Fragmentation of interests in mortgages

Pg. 18: NY Rule; lawyers required to certify accuracy of claims

Pg. 19: Trial courts could block foreclosure until evidence provided

Exhibit N: Losing the Paper-

Mortgage Assignment, Note Transfers, and Consumer Protection

Alan M. White, Professor of Law, Valparaiso Law School

Pg. 3: Obscure legal rules

- 1) governing transfer of mortgage loans from one lender to another
- 2) shortcuts to circumvent those rules (Robo-signing)

Pg. 4: Manufacturing Foreclosures

- 1) Assembly line signing of Affidavits /other documents; filed in courts /
Recorder's offices.
- 2) MERS devoid of statutory or regulatory authority

Pg. 5: Securitization

Pgs. 6, 7: UCC and Common Law

Enforcement of Note; UCC Sec. 3 must show it purchased the payee's rights
from the prior holder

Pg. 9: Obtained or forged necessary endorsements

Pg. 10: Rights in Note must exist prior to filing foreclosure

Pg. 12: Citing court ruling citing failure of Affidavits to say how and when the Plaintiff came into possession of the original note

Pg. 13: Standing and real party in interest; Two distinct prerequisites to Judicial foreclosure

**Exhibit N: Losing the Paper-Mortgage Assignment, Note Transfers, and
Consumer Protection, Continued**

Pgs. 17, 18: Assignment of Mortgage

- 1) Fannie Mae; not effective assignment**
- 2) U.S. Bank v. Ibanez**

Pg. 19: Fannie Mae procedures, assignments

Pgs. 20, 21: Assignments; Fannie Mae procedure for foreclosure

Pg. 22: Problem with MERS assignments, not valid

Pg. 24: Challenge defective mortgage assignments

Pg. 27: Foreclosure Attorney must verify standing

Pg. 30: Transparency of mortgage assignment

Exhibit J:

Demystifying the Mortgage Electronic Registration System's Land Title Theory

Christopher L. Peterson, Asso. Dean for Academic Affairs and Professor of Law, University of Utah, S.J. Quinney College of Law. Currently working for the Consumer Financial Protection Bureau that is in charge of rulemaking and enforcement of the FDCPA (Fair Debt Collection Practices Act).

Pg. 4: MERS "2-faced"

- 1) Claims to own mortgages
- 2) (And at the same time) Claims to act as an agent for others who also claim ownership

Pg. 7: No authority for MERS, relates to non-payment of fees

Pg. 8: No authoritative record of land ownership

Pg. 9: MERS *cannot* be both agent and principal with respect to same right

Pg. 10: Separation of note and mortgage = bifurcation

Pgs. 11, 12: Signers pretend to be V.P. of MERS but really employed by a bank or law firm

Pg. 15: Assignments of mortgages having no force because:

- 1) Note and mortgage split (bifurcation)
- 2) Note becomes unsecured
- 3) MERS never held note

Pg. 16: Transparency: Society needs to know who owns land to protect property right and expose fraud

Exhibit J: Demystifying the Mortgage Electronic Registration System's

Land Title Theory Continued

Pg. 20: MERS hides chain of title of ownership linking original lender to current owner; difficult to spot forgery or errors

Pg. 21: MERS abated public notice of land ownership

Pg. 22: MERS leads to systemic break in chain of title

Pg. 23: MERS unable to identify owner of mortgage

Pgs. 24-27: Loans originated through MERS fail to create enforceable liens

Pgs. 28, 29: MERS as a Shell company

1) Pretend owner of mortgages

2) Land title statutes and common law of property conveyance contemplate recording and transfer

Pg 30: Inducing debtors

Pg. 31: Bifurcation

Pg. 32: Statute of Frauds

Pg. 33: Promissory Note = unsecured debt

Pgs. 34, 35: MERS "mortgage" – false statement, false designation of MERS as Mortgagee or Beneficiary

Pgs. 35- 37: Servicer and law firm sign and record documents – not true; MERS has no employees (in MERS name/as employees of)

Exhibit J: Demystifying the Mortgage Electronic Registration System's

Land Title Theory Continued

Pg. 43: Securitization/True sales

Pg. 45: False documents created to avoid fees

Pg. 48: Loan Modifications

- 1) Homeowners unable to negotiate terms of mortgage**
- 2) Homeowners unable to learn mortgagees identity**

Pg. 50: Foreclosure cases no longer routine matters

Pg. 51: Conclusion

- 1) Broken chain of title**
- 2) MERS *not* mortgagee**

Exhibit K: Foreclosure, Subprime Mortgage Lending and the Mortgage Electronic Registration System

Christopher L. Peterson, Asso. Dean for Academic Affairs and Professor of Law, University of Utah, S.J. Quinney College of Law. Currently working for the Consumer Financial Protection Bureau that is in charge of rulemaking and enforcement of the FDCPA (Fair Debt Collection Practices Act).

Pg. 4: Securitization; MERS remains as mortgagee even though loan sold to Trust/Pool (Bifurcation)

Pg. 5: MERS role in mortgage – Tax evasion tool

Pgs. 5, 6: MERS has no employees

Pg. 8: Title recording – preservation of property rights

Pg. 11: Title recording – no legislation ever repealing title recording

Pg. 13: MERS ownership of mortgage – fictional

Pg. 14: MERS (Bifurcation)

- 1) MERS records assignment
- 2) Promissory note is not negotiated to MERS
- 3) No loan principle is advanced by MERS
- 4) MERS has no right to receive payments
- 5) MERS is not an actual party in interest
- 6) MERS eliminates reference to actual mortgagee

Pg. 17: Forced displacement of millions of American families

Exhibit K: Foreclosure, Subprime Mortgage Lending and the Mortgage

Electronic Registration System Continued

Pg. 18: Agency

- 1) MERS claims to be nominee and mortgagee
- 2) MERS cannot be both simultaneously

Pgs. 19-21: Assignments – MERS is not mortgagee or assignee

Pg. 22: Bifurcation – 15 USC Sec. 1641

Pg. 23: Standing – Holder in due course UCC Sec. 3 – 302(a)(2)(~~ii~~)
SC in 36-3-302(a)(2)(ii)

Pg. 24: MERS, no injury by mortgagor's default

Pg. 27: Bifurcation/Securitization

Pg. 28: Court let financiers seize houses

Pg. 29: FDCPA

Pg. 33: Economically meaningless claim in loan origination documents

- 1) FDCPA must be construed broadly in favor of debtors
- 2) Signing documents for lender – named as certifying officer

Pgs. 34, 35: MERS Job titles

- 1) MERS has no employees
- 2) Bank or law firm employees assume these titles on foreclosure documents:

Assistant Secretary or Vice President of MERS

**Exhibit K: Foreclosure, Subprime Mortgage Lending and the Mortgage
Electronic Registration System Continued**

3) Pretending to be original creditors, or creditors who pretend to be debt collectors, are regarded as debt collectors under statute (FDCPA)

Pg. 36: Standard of "least sophisticated consumer"

Pgs. 38, 39: Mortgages avoided for minor variations from norm invalidated

Pg. 40: Omission of the name of a mortgagee

Pg. 42: Cannot verify identity of note holder nor amount of debt in question

Pg. 43: MERS name will assist fraud

Pg. 44: Cannot verify individual acting in MERS name, actually represents real party in interest; Public records do not reveal who that party is

Pg. 46: Irish fable of leprechaun's gold regarding MERS

Pg. 48: MERS system not available to all

Pg. 49: MERS' claim to legal title violates 100 years of precedent

Exhibit F: Discovery

Interrogatories, Admissions, and Production of Documents

Pg. 1: Interrogatory: "Identify every potential party to this lawsuit."

- 1) a standard question under the rules
- 2) plaintiff did not identify FNMA, "the investor"

Pg. 2: Interrogatory

Answer 3. Incomplete; identifies Youda Cain as "Assistant Secretary" signing for MERS, assigning the mortgage to BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP on May 9, 2011 and recorded in Oconee County in Book 2975 at Page 40 on May 16, 2011.

Answers 5 and 6. Bank of America is in custody of the original note and mortgage.

Note: Rule 33 requires Answers to Interrogatories be signed by the person making them, and Objections signed by the attorney making them. None of the Interrogatories we received were signed by anyone other than the plaintiff's attorney.

Pg. 5: Admissions

Response 2. Plaintiff denies that defendant's loan has been securitized.

(Contradicts statements made in 2nd Set of Interrogatories; See page 27 of Exhibit F wherein it states: Fannie Mae securitized the loan on January 1, 2008 from Countrywide Bank as servicer and seller.)

Response 3. Plaintiff denies that it is not the real party of interest in this controversy.

Response 4. Plaintiff denies that it is a debt collector, but claims to be the assignee of the original creditor's interest.

Pg. 7: Request for Production (2nd)

Response 1. Plaintiff is not in possession of the wet-ink mortgage.

Pg. 10: Admissions (3rd)

#1. Plaintiff claims to be the holder of the note and mortgage prior to May 9, 2011 when mortgage was allegedly assigned to Bank of America, N.A.

Bifurcation?

Pg. 12: Interrogatories (3rd)

Answer 2: Plaintiff claims Countrywide became holder of the note and therefore holder of the mortgage on January 15, 2008; on April 27, 2009, Countrywide Bank f/s/b was acquired by plaintiff. (Contradicts statements made in 2nd Set of Interrogatories; See page 27 of Exhibit F wherein it states: Fannie Mae securitized the loan on January 1, 2008 from Countrywide Bank as servicer and seller.)

Note: The transfer of the note to FNMA? When? See Exhibit E, pg. 2, Bailee letter

Pg. 13: Interrogatories (3rd)

Answer 2: On May 9, 2011, Quicken Loans, Inc. executed an assignment of mortgage that was recorded on May 16, 2011 in the office of the Register of

Deeds for Oconee County; however, plaintiff became holder of the mortgage on the same date it became holder of the note. (As stated above, April 27, 2009, on Exhibit page 12, Answer 2.)

Pg. 13: Interrogatories (3rd)

Answer 5: Plaintiff claims to be the loan servicer of the mortgage

Answer 6: Plaintiff provides their purported chain of title, referring to FNMA as the investor on the loan

Pg. 14: Interrogatories (3rd)

Answer 8: Plaintiff provides their purported chain of title for the mortgage, referring to FNMA as the investor on the loan

Answer 9: Plaintiff provides their purported chain of title for the note, referring to FNMA as the investor on the loan

Note: Both 8 and 9 above leave out FNMA in their chain of title. This conflicts with previous statements in answer to above interrogatories and admissions, as well as the Pooling and Servicing Agreement, and letters from Fannie Mae to the defendants, wherein FNMA claims to be the owner/holder of the note.

Answer 10: Plaintiff refuses to answer or identify documents that conferred powers on the loan servicer to act as agent for FNMA.

Note: Rule 33 requires the person making the interrogatories to sign and only the bank's attorneys have signed.

Pg. 15: Interrogatories (3rd)

Answer 11: We asked the plaintiff to identify the beneficiaries of each and every payment made by the defendants. Plaintiff objected, refused to answer, and claimed that we were seeking material that is irrelevant and immaterial to the subject action. (Plaintiff is hiding facts regarding beneficial interest. Also there are no signatures of persons answering Interrogatories.)

Note: Please see the Pooling and Servicing Agreement, Exhibit A, pgs. 19 and 21

Pg.16: Request for Production (3rd)

Response 2: Plaintiff admits that assignment of mortgage does not transfer, convey or assign any interest in the note.

Note: Exhibit F, page 18, "The Assignment of Mortgage" signed by Youda Cain.

As previously explained, MERS has no employees, yet Youda Cain signed this document as Assistant Secretary for MERS. She is either an employee of Bank of America, N.A. or Korn Law Firm, P.A. The document itself states that it assigns the mortgage and the note. The note was already sold to Fannie Mae as shown above. The mortgage follows the note, not vice versa. Assigning the mortgage without negotiating the note is a nullity aka bifurcation. See Carpenter v. Longan, U.S. Supreme Court case provided in this filing.

Pgs. 23, 24: Admissions (2nd)

#5: Plaintiff denied that the servicer, or master servicer, or depositor continues to make payments into the pool as if the loan never defaulted, in contradiction of the Pooling and Servicing Agreement.

#7: Insurance paid? Answer: denied

#8: Parties not before the court – denied

#9: Plaintiff denied that note is part of a trust in contradiction to Pooling and Servicing Agreement, as well as previous statements regarding securitization.

Note: Please see Exhibit C, pgs. 17, 18, 19, 20, 22 and 24

#10: Denied Fannie Mae is or was the note holder at the time of the filing of this complaint.

Note: Please see Exhibits A, B and C, specifically C, pgs. 17- 20, 22 and 24

Also see plaintiff's complaint filed October 31, 2011 and Fannie Mae letter dated October 18, 2011 wherein FNMA states they own the note. See above answers where plaintiffs claim to have acquired the note on April 27, 2009.

#11: Plaintiff admits FNMA is an investor in the promissory note at the time of the filing of their complaint.

Pg. 26: Interrogatories (2nd)

Answer 1: Bank of America states Fannie Mae is the investor

Answer 2: Assignment of Mortgage executed on May 9, 2011

Answer 3: We asked for the date when the note was purchased or bought back

from FNMA. Plaintiff objected and stated FNMA is still the investor as of June 12, 2013, the date these Interrogatories were answered.

Note: Investors purchase things, such as notes. When they purchase notes, they become note holders. When they securitize notes, the purchasers of the certificates become the actual note holders, with a beneficial interest as per the Pooling and Servicing Agreement. Bank of America's claims to be the note holder as of April 27, 2009 cannot be true, and cannot be true at the time the complaint was filed as evidenced by their own admissions and answers. Bank of America and Korn Law Firm have repeatedly referred to FNMA as the investor.

Answer 4: Defendants asked plaintiff to provide the date when the note was purchased by FNMA and from whom the note was purchased. Plaintiff objected but stated that FNMA issued guaranteed mortgage pass-through certificates, securitizing the loan on January 1, 2008 from Countrywide Bank, FSB, as servicer and seller.

Note: This Answer #4 is contradicting Exhibit F, page 5, First Admissions, denial of securitization. Also, again there are no signatures of persons answering the Interrogatories, only attorney signatures. Because there are no signatures, we asked in Interrogatory #5 who was answering the first and second sets of Interrogatories and Admissions, and were provided the names of Scott Luttrull for FNMA and Jennifer Toney for Bank of America.

Pg. 30: Amended First Interrogatories

Answer 2: Plaintiff objected but stated that the mortgage has been filed with the Register of Deeds for Oconee County. We checked with the Register of Deeds and all documents filed with them are copied and returned to the filing party.

Plaintiff is claiming they do not have the original mortgage document.

Plaintiff also failed to answer as to the identity of one person known or believed by anyone at Bank of America who had received physical possession of the following: the original note, the Mortgage Deed of Trust, PSA, etc.

Answer 4: We asked plaintiff to identify persons or entities that are entitled, directly or indirectly, to benefit from the stream of revenue from the borrower in the subject loan. Plaintiff objected, claiming information sought is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and did not provide an answer. Our evidence shows (the PSA) that through securitization of our loan the stream of revenue is distributed to the certificate holders who have the beneficial interest, i.e. are the real note holders. This is the reason we believe that Bank of America will not answer these questions. The Pooling and Servicing Agreement (PSA) is the evidence that entitles the defendants to ask these questions, and demand that the plaintiff provide proper answers to our discovery. Please also see the Attorney Code of Ethics as laid out in our Motion for Summary Judgment.

Exhibit I: Robo-Signing, Chain of Title, Loss Mitigation, and Other Issues in Mortgage Servicing: Hearing Before the Subcomm. on Hous. And Cmty. Opportunity of the H. Fin. Serv. Comm., 111th Cong., Nov. 18, 2010 (Statement of Associate Professor Adam J. Levitin, Geo. U.L. Center)

Adam J. Levitin, Asso. Professor, Georgetown Univ. Law Center

Pg. 4: Executive Summary of Document (in its entirety):

- 1) including banks counterfeiting documents
- 2) procedural defects
- 3) financial incentives to foreclose rather than modify
- 4) chain of title problems, and clouded title

Pg. 6: The need to show evidence; Entity foreclosing has standing

- 1) False affidavits of indebtedness
- 2) Plaintiffs must have legal standing; Direct interest in the outcome

Pg. 7: Fraud on the court; Not merely technical

Pgs. 8, 9: Securitization; Investors are the beneficial owners

Pg. 17: Affidavits filed without personal knowledge – fraud on court

Pgs. 23, 24: Chain of title/transfers and securitized trusts

Pg. 26: MERS splits note and mortgage

- 1) Bifurcation (see U.S. Carpenter v. Longan)
- 2) MERS has no claim to note; MERS is mortgagee

Pgs. 27, 28: Trust asset transferred directly from originator to trust

- 1) Lack of endorsements
- 2) Violation of Trust laws

Pg. 29: Rule of law – Procedural fairness and protection against fraud

Exhibit L:

Uneasy Intersections: The Right to Foreclose and the UCC

Elizabeth Renuart, Associate Professor of Law, Albany Law School

Pgs. 2, 6, and 10: Affidavits filed without personal knowledge; fraud on the court

Pgs. 7, 39 and 40: MERS splits note and mortgage

- 1) Bifurcation
- 2) U.S. Carpenter v. Longan
- 3) MERS has no claim to note but MERS is mortgagee

Pg. 10: Fraud is widespread

Pgs. 13, 14: Foreclosure modifications entered into with legally correct person,
quoting Adam Levitin, Exhibit I, page 29

Pg. 19: Proper transfers

Pg. 22: Broken chain of transfers

Pgs. 20, 23 and 67: Owner vs. right to enforce (PETE/Person Entitled to Enforce)

Pg. 36: PSA failed to include itemized list of specified mortgage loans contained in
the deal; cannot determine whether they contained effective assignments of the
mortgages to trustee banks, citing U.S. National Bank v. Ibanez, Mass. Sup. Ct.

Exhibit T:

The Financial Crisis Inquiry Report

(Excerpts from CD)

Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States, Submitted by The Financial Crisis Inquiry Commission, Pursuant to Public Law 111-21, Official Government Edition

Pgs. 4, 5: Damages

Pgs. 6, 24, 25, 33, 35 and 39: Bank profits

Pgs. 7, 8: Financial industry played key role in collapse

Pg. 39: "Too big to fail"

Pg. 11: Breakdown in accountability and ethics/High cost loan = dollars

Pgs. 13, 18, 36 and 37: Securitization and Credit Default Swaps (CDSs)

Pg. 21: Flaws in documents

Pgs. 19, 31: FNMA Put Back Loans to Bank of America, PMI (Private Mtg. Ins.)

Pg. 20: Lawsuits regarding violations of Securities Act of 1933

Pg. 22: MERS failure to endorse per PSA; Bank of NY invalid foreclosure,

Nov. 16, 2010

Exhibit T: The Financial Crisis Inquiry Report

(Excerpts from CD), Continued

Pg. 30: Real Estate Settlement Procedures Act (RESPA); fees paid by borrowers without their knowledge to brokers for higher interest loans which could be sold to lenders for more money

Pg. 32: Financial Accounting Standards Board (FAS)

Recording Requested By:
Bank of America
Prepared By: Debbie Nichols
888-603-9611

When recorded mail to:
CoreLogic
450 E. Boundary St.
Afton Release Dept.
Charleston, SC 29634



DocID# 13817533570651340

Tax ID: 295-01-02-007

Property Address:
109 WOOD VALLEY DR
Westminster, SC 29693

REC-AM 12/14/07 062011

FILED & RECORDED
JOHNSON COUNTY, S.C.
REGISTER OF DEEDS

2011 MAY 16 P 4: 28



Doc ID: 008870810001 Type: RTM
#2975 pg 40

Ref: 601
RM
012419

MIN #: 100039032138692476 MERS Phone #: 644-679-6377

ASSIGNMENT OF MORTGAGE

For Value Received, the undersigned holder of a Mortgage (herein "Assignor") whose address is 3300 S.W. 34TH AVENUE, SUITE 101 OCALA, FL 34474 does hereby grant, sell, assign, transfer and convey unto RAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP whose address is 13150 WORLD GATE, HERNDON, VA 20170 all beneficial interest under that certain Mortgage described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Mortgage.

Original Lender: QUICKEN LOANS INC.
Original Borrower(s): JOHN DALEN AND JULIE A. DALEN, HUSBAND AND WIFE
Date of Mortgage: 12/28/2007
Original Loan Amount: \$118,750.00

Recorded in Orange County, SC on: 12/21/2007, book 2551, page 206 and instrument number 018516

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Mortgage to be executed on
Date: 5-9-2011

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

By: Yonda Crain
Yonda Crain, Assistant Secretary

Mark Baurto
Witness: Mark Baurto

[Signature]
Witness: Tina LeRaymond

State of California
County of Ventura

On May 9, 2011 before me, Jennie M. Kogak, Notary Public, personally appeared Yonda Crain, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Notary Public - Jennie M. Kogak
My Commission Expires 10/3/2013

(Seal)

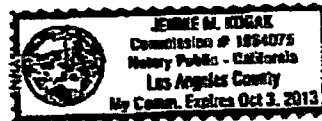


EXHIBIT D
Pg 1 of 5

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS

Bank of America, N.A. successor by merger to BAC
Home Loans Servicing, L.P. f/k/a Countrywide
Home Loans Servicing, L.P.,

COMPLAINT

(NON-JURY MORTGAGE FORECLOSURE)

PLAINTIFF,

vs.

C/A NO:

2011-CP-37-1056
DEFICIENCY REQUESTED

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANT(S).

2011 OCT 31 P 3:39
CLERK OF COURT
OFFICE OF THE CLERK OF COURT
COLUMBIA, SOUTH CAROLINA

F11-04694

The Plaintiff, complaining of the Defendants above-named would respectfully show unto this Honorable Court:

1. That the Plaintiff is a national association organized and existing under and by virtue of the laws of the United States of America; and that the Defendants, John D. Dalen and Julie A. Dalen, are upon information and belief, citizens and residents of the County of Oconee, State of South Carolina. That the Defendant, Wawtockace Hills Property Owners Association, is upon information and belief a business organized and existing under the laws of South Carolina.

2. Any Defendant described herein as a judgment creditor(s) has, by filing the judgment(s), designated the attorney(s) entering the judgment(s) as their agent for service of process pursuant to the provisions of Section 15-35-840 of the S.C. Code of Laws (1976) as amended.

3. That the real property hereinafter described, which is the subject of this action, is situated and located in the County of Oconee, State of South Carolina.

4. That on or about December 20, 2007, for value received, John Dalen did execute and deliver to Quicken Loans, Inc., a certain promissory note in writing according to the terms and conditions set out therein, wherein and whereby said John Dalen promised to pay to Quicken Loans, Inc., the sum of One Hundred Eighteen Thousand Seven Hundred Fifty And 00/100 Dollars (\$118,750.00), together with interest thereon at the rate of Six And 75/100 per cent (6.75%) per annum.

5. That in order to better secure the payments of the said note and debt, in accordance with the terms and conditions thereof, John Dalen and Julie A. Dalen, did execute and deliver on December 20, 2007 unto Mortgage Electronic Registration Systems, Inc., as nominee for Quicken Loans, Inc., its successors and assigns, a mortgage covering the following described property:

Legal description and property address:

ALL THAT CERTAIN piece, parcel or lot of land situate, lying and being in Oconee County, State of South Carolina, being shown and designated as LOT NUMBER TWENTY EIGHT (28), BLOCK A, WAWTOCKACE HILLS n/k/a WESTLAKE ESTATES, as shown and more fully described on a plat thereof prepared by Stephen R.

ENTERED
CLERK
COMP

Edwards, PLS #19881, dated July 31, 2006 and recorded November 2, 2006, in Plat Book B 172, at Page 10, records of Oconee County, South Carolina.

THIS BEING the same property conveyed unto John D. Dalen and Julie A. Dalen by virtue of a Deed from Karl G. Lowrey and Kathleen F. Lowrey, dated December 20, 2007 and recorded December 21, 2007, in Deed Book 1635 at Page 185, in the Office of the Register of Deeds for Oconee County, South Carolina.

109 Wood Valley Drive, Westminster, SC 29693
TMS# 295-01-02-007

6. Thereafter said mortgage was recorded in Book 2551 at page 206 on December 21, 2007 in the office of the Register of Deeds of Oconee County.

7. The above referenced instrument constitutes a first mortgage lien and is a purchase money mortgage with the proceeds of the loan being used to purchase the property above described.

8. Thereafter, by virtue of an assignment dated May 9, 2011, recorded May 16, 2011, in Mortgage Book 2975 at page 40, Mortgage Electronic Registration Systems, Inc. assigned said mortgage unto BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.

9. Thereafter, by virtue of a corporate merger, Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. merged with Bank of America, N.A. making Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. the present lien holder and Plaintiff herein.

10. That the Defendant, Wawtockace Hills Property Owners Association, is made a party by virtue of any homeowners liens or assessments recorded or unrecorded that are due or that may become due in the future.

11. According to the terms and conditions of the said note and mortgage, it is provided that in the event of default in the payment of any installment when due, and if such default is not made good prior to the due date of the next such installment, the entire principal and accrued interest shall at once become due and payable without notice at the option of the holder, and if the same should be placed in the hands of an attorney for collection, all costs of collection, including a reasonable attorney's fee, would be secured by the said mortgage as a part of the debt secured thereby.

12. That under the terms and conditions of said mortgage, it is provided that, together with, and in addition to, the monthly payments of principal and interest payable under the terms of the note secured thereby, the mortgagor will pay to the mortgagee, on the payment due date each month until the said note is fully paid, certain additional sums, including but not limited to, certain amounts for fire and other hazard insurance and taxes and assessments due on the mortgaged premises.

13. Further, under the terms and conditions of said mortgage, it was agreed that the mortgagor would pay all taxes, assessments, water rates and other governmental or municipal charges, fines or impositions for which provisions were not otherwise made, and if they failed to do so, the mortgagee might pay same, which amount, together with interest thereon, would be secured by said mortgage.

14. According to the terms of said mortgage, and as additional security, the mortgagor assigned all rents, issues and profits of the mortgaged premises from and after any default there under, and should legal proceedings be

instituted pursuant to said mortgage, the mortgagee, its successors or assigns, was given the right to have a Receiver appointed of the rents, issues and profits, who, after deducting all charges and expenses attending such proceedings, and the execution of his trust as a Receiver, shall apply the residue of the rents, issues and profits, toward the debt secured by said mortgage.

15. The monthly payments due on said note and mortgage are in default since December 1, 2010, and the conditions of said note and mortgage have been broken and the Plaintiff elects to, and does declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of December 1, 2010 the sum of One Hundred Fourteen Thousand Eight Hundred Seventy-Five And 72/100 Dollars (\$114,875.72), together with interest at the rate of six and 75/100 per cent (6.75 %) per annum from November 1, 2010 and also for the costs and disbursements of this action, including attorney's fees.

16. That the Plaintiff does not waive but specifically demands judgment against the Defendant, John Dalen for the full amount found to be due to Plaintiff on the note and mortgage held by plaintiff, with the right to enter personal judgment against the Defendant, John Dalen for any deficiency in this action remaining after sale of the mortgaged premises.

17. That the servicer is participating in the Home Affordable Modification Program (HMP). The HMP modification process specified by the Guidelines or Supplemental Directive has been completed without resulting in a modification because the borrower defaulted under the terms of the HMP Trial Plan.

18. That upon information and belief, certain costs for inspecting and securing the subject property have been incurred by the Plaintiff as a result of this delinquency and Plaintiff is informed and believes it is entitled to reimbursement for such charges, if any.

19. The notice of consumer's right to cure, as contemplated under S.C. Code Sections 37-5-110 and 37-5-111, has been given or is not required, and all conditions precedent to the acceleration of the debt and foreclosure of the mortgage have been performed or have occurred.

WHEREFORE, having fully set forth its complaint, the Plaintiff prays that this Honorable Court inquire into the matters set forth herein and:

- (1) That the amount due upon the said note and mortgage held by the Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and costs of this action.
- (2) That the said Plaintiff's mortgage be declared a purchase money mortgage and that the said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.
- (3) That the mortgaged premises be sold under the direction of this court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:
First, to the costs and expenses of the within action and sale.
Second, to the payment and discharge of the amount due on Plaintiff's note and mortgage, together with attorney's fees as aforesaid, and
Third, the surplus, if any, be distributed according to law.

Fourth, Plaintiff have judgment against the Defendant, John Dalen for the full amount found to be due Plaintiff on the note and mortgage, with right to enter personal judgment against the Defendant, John Dalen for any deficiency in this action remaining after sale of the mortgaged premises.

(4) For an Order directing and empowering the Sheriff of Oconee County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

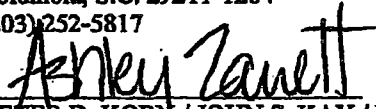
(5) For an Order granting the appointment of a receiver to secure and supervise the rental of the property sought to be foreclosed.

(6) For reimbursement of all costs for inspecting and securing the property incurred by the Plaintiff as a result of the delinquency.

(7) For such other and further relief as may be just and proper.

(8) For an order satisfying any prior liens that may be of record, but have been paid in full.

KORN LAW FIRM, P.A.
1300 Pickens Street
P.O. Box 11264
Columbia, S.C. 29211-1264
(803) 252-5817



PETER D. KORN / JOHN S. KAY / DEAN HAYES
ALAN M. STEWART / JOHN B. KELCHNER
H. GUYTON MURRELL / SUZANNAH HAYES
MEREDITH L. PRICKETT / KELLER C. FOSTER
TERESA D. VAN VLAKE / ASHLEY ZARRETT
Attorneys for Plaintiff

Columbia, South Carolina
October 27, 2011

NOTICE REQUIRED BY THE
FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. Section 1601 As Amended

EXHIBIT D
Pg 5 of 5

2011-CP-37-1056

1. The amount of the debt is stated in paragraph 15 of the Complaint attached hereto.
2. The Plaintiff as named in the attached Summons and Complaint is the creditor to whom the debt is owed.
3. The debt as described in the Complaint attached hereto will be assumed to be valid by the creditor's law firm, unless the debtor(s), within thirty (30) days after the receipt of this notice, disputes the validity of the debt or some portion thereof.
4. If the debtor(s) notify the creditor's law firm in writing within thirty days of the receipt of this notice that the debt or any portion thereof is disputed, the creditor's law firm will obtain a verification of the debt and a copy of the verification will be mailed to the debtor(s) by the creditor's law firm.
5. If the creditor named as Plaintiff in the attached Summons and Complaint is not the original creditor, and if the debtor(s) makes a written request to the creditor's law firm within thirty (30) days from the receipt of this notice, the name and address of the original creditor will be mailed to the debtor(s) by the creditor's law firm.
6. Written requests should be addressed to Korn Law Firm, P.A., Post Office Box 11264, Columbia, South Carolina 29211-1264.
7. This notice should NOT be construed as a thirty (30) day grace period. Creditor may pursue collection efforts immediately and not wait thirty (30) days.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

2011 OCT 31 P 3:40
CLERK OF COURT





FILED

SEP 8 2009

DEAN G. LOGAN
NOTARY PUBLIC - LOS ANGELES COUNTY CLERK
FEDERAL DEPT

Jennie M. Kogak
20520 Hiawatha Street
Chatsworth Ca. 91311

MERCHANTS
BONDING COMPANY
2100 FLEUR DRIVE • DES MOINES, IOWA 50321-1158
(800) 678-6827 - (800) 833-1211 FAX

NOTARY PUBLIC BOND

Bond No. 40642993N
Premium \$38.00

KNOW ALL PERSONS BY THESE PRESENTS:

That we Jennie M. Kogak as Principal, and MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly licensed to do business in the State of California, as Surety, are held and firmly bound unto the State of California, in the sum of Fifteen Thousand (\$15,000) Dollars, lawful money of the United States of America, to be paid to the said State of California, or its assigns, for which payment, well and truly to be made, we bind ourselves and our legal representatives, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the Principal was on the 4th day of October, 2009, duly appointed a Notary Public in the State of California for the term of four years from the date of his/her commission.

NOW THEREFORE, if the Principal shall well, truly and faithfully perform all official duties required of him/her by law, and all such additional duties as may hereafter be imposed on him/her as such officer by any law of the State of California, then the above obligation to be void, otherwise to remain in full force and effect.

Any proceeding under this bond may be instituted in any court of competent jurisdiction in the State of California.

Signed and dated this 11th day of September, 2009



By Jennie M. Kogak Principal
MERCHANTS BONDING COMPANY (MUTUAL)
By Mary Elizabeth Erba Attorney-in-Fact

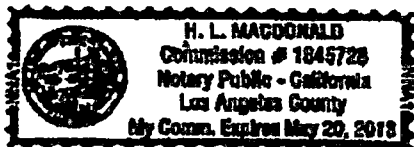
(Executed under penalty of perjury as provided in C.C.P. 995-830b)

STATE OF California
County of Los Angeles

CERTIFICATE OF ACKNOWLEDGMENT

On September 11, 2009 before me, H. L. MacDonald, Notary Public, personally appeared Mary Elizabeth Erba who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



H. L. MacDonald Notary Public
NEO 0801-0001 CA (1/08)

Standing in the Wake of the Foreclosure Crisis: Why Procedural Requirements Are Necessary To Prevent Further Loss to Homeowners

Timothy A. Froehle*

ABSTRACT: In the current fallout from the foreclosure crisis and the securitization of mortgages, an old procedural doctrine is becoming increasingly relevant to homeowners facing foreclosure. The doctrine of standing is surfacing in the contexts of judicial foreclosure and bankruptcy proceedings as a defense to the foreclosing party's right to foreclose. Defendants and debtors are affirmatively compelling lenders to produce evidence of ownership of the underlying note and mortgage, and lenders are increasingly falling victim to the same haste and lack of foresight that led to the crisis. Additionally, courts are beginning to raise these issues on their own, a sign that they are inclined not to allow lenders to foreclose without properly protecting the homeowners at risk. This protective stance, however, fails to reach the homeowners whose foreclosures occur outside the judicial system. Numerous defects in standing and ownership of the mortgages pass through nonjudicial foreclosure without any scrutiny, and homeowners' interests in retaining ownership of their property will continue to suffer unless legislators respond with laws requiring proof of ownership of the loan before foreclosure.

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* J.D., The University of Iowa College of Law, 2011; B.A., The University of Iowa, 2002. I would like to thank Professor Katie Porter for her suggestions and all her guidance in this field and beyond, and thanks to Professor Patrick Bauer for his insight and assistance. To the editors and student writers of Volumes 95 and 96, thank you for your hard work and patience in editing this piece. To my family and friends, thank you for your love and support. To my best friend and soon-to-be wife Sarah, thank you.

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I. INTRODUCTION

In the wake of the foreclosure crisis, an alarming number of families are in danger of losing their homes. In 2009, there were foreclosure filings reported on more than 2.8 million U.S. properties (about one in every forty-five houses).¹ Additionally, the percentage of homes delinquent on their mortgage payments in 2008 reached 12.07%, the highest rate the Mortgage Bankers Association, a national association representing the real-estate industry, had ever recorded in its twenty-seven years of surveys.²

The groups that have benefited from increasing numbers of foreclosures, however, are the law firms and the mortgage servicers they represent in the foreclosure proceedings.³ These firms make their money by processing huge numbers of foreclosures as quickly as possible.⁴ Their haste, however, has led one bankruptcy judge to write in an opinion, “[C]oncomitant with the increase in foreclosures is an increase in lenders who, in their rush to foreclose, haphazardly fail to comply with even the most basic legal requirements of the bankruptcy system.”⁵ One basic legal requirement causing lenders headaches is the simple requirement to prove that the lender has ownership of the underlying loan and therefore has standing to sue the homeowner to foreclose.

The process of securitizing residential mortgages has made it difficult for lenders to show they have standing.⁶ This process takes “illiquid assets,” such as mortgages, and converts them into a “tradeable security with a secondary market.”⁷ Securitization is largely blamed for the collapse of the

1. Press Release, RealtyTrac, RealtyTrac Year-End Report Shows Record 2.8 Million U.S. Properties with Foreclosure Filings in 2009—An Increase of 21 Percent from 2008 and 120 Percent from 2007 (Jan. 14, 2010), available at <http://media.oregonlive.com/frontporch/other/RealtyTrac%20YearEnd%202009%20National%20Data%20FINAL.pdf> (reporting 2,824,674 foreclosure filings). “Filings” include default notices, auction-sale notices, and bank repossessions. *Id.*

2. Press Release, Mortg. Bankers Ass’n, Delinquencies and Foreclosures Continue To Climb in Latest MBA National Delinquency Survey (May 28, 2009), available at <http://www.mbaa.org/NewsandMedia/PressCenter/69031.htm>. This percentage is the nonseasonally adjusted rate. *Id.* Additionally, the foreclosure rate in 2008 on prime fixed-rate loans has overtaken the percentage of subprime foreclosures “for the first time since the rapid growth of subprime lending.” *Id.*

3. See Gretchen Morgenson & Jonathan D. Glater, *The Foreclosure Machine*, N.Y. TIMES, Mar. 30, 2008, at BU1 (“Behind the scenes in these dramas, a small army of law firms and default servicing companies, who represent mortgage lenders, have been raking in mounting profits.”).

4. *Id.*

5. *In re Maisel*, 378 B.R. 19, 20–21 (Bankr. D. Mass. 2007); see also Morgenson & Glater, *supra* note 3, at BU1 (quoting from Judge Rosenthal’s opinion in the *In re Maisel* case).

6. See *infra* Part II (discussing the securitization process).

7. Kurt Eggert, *Held Up in Due Course: Predatory Lending, Securitization, and the Holder in Due Course Doctrine*, 35 CREIGHTON L. REV. 503, 535 (2002) (quoting Joseph C. Shenker & Anthony J. Colletta, *Asset Securitization: Evolution, Current Issues and New Frontiers*, 69 TEX. L. REV. 1369,

subprime lending market and the resulting national financial crisis.⁸ However, securitization itself was merely a financial tool, a hammer that created an almost insatiable appetite in investors and lenders for seeing every potential homeowner as a nail. The securitization process, highly lucrative and in demand at the height of the housing bubble, allowed lenders to transfer mortgage loans indefinitely and quickly. The sheer number of transfers between entities, however, made keeping track of the underlying promissory note and mortgage difficult and costly for lenders—to the extent that the legal considerations relevant to ownership of the loan were often of a much lower priority than the profit of each transfer.

The question of legal ownership of the underlying note and mortgage is central to showing a party has met these procedural requirements. First, it shows the party has standing to sue for foreclosure in a court of law. Second, it proves that the party is indeed the real party in interest that is entitled to relief from the judicial system. These two procedural requirements are necessary in every civil lawsuit;⁹ however, in the foreclosure process, the many complex transactions involved in securitization have made it difficult for a foreclosing lender to show ownership of the note and proper assignment of the mortgage through the chain of transfers of the underlying loan.¹⁰

The difficulty for lenders to prove ownership has led to several reports in the last few years regarding a “[n]ew way to fight foreclosure.”¹¹ In one CNN broadcast discussing why homeowners in foreclosure should be asking the bank to “produce the note,” one anchor turned to the reporter and asked, “Why doesn’t the judge just start out with something like this and says [sic] can somebody provide me with the proof of ownership of the house?”¹² The reporter answered, “I think that’s a great idea.”¹³

While it may sound like a “great idea” to the media and the homeowners facing foreclosure, whether a judge may raise the issue of “who owns the note” depends greatly on how a particular case comes before her and how much discretion she has in that particular procedural setting. Whether a court can and should raise such an issue *sua sponte*, or “on its

1373 (1991)) (internal quotation mark omitted); *What Is Securitization?*, INVESTOPEDIA, <http://www.investopedia.com/ask/answers/07/securitization.asp> (last visited Feb. 25, 2011).

8. See Kurt Eggert, *The Great Collapse: How Securitization Caused the Subprime Meltdown*, 41 CONN. L. REV. 1257, 1264–65 (2009) (arguing that securitization is one of the primary causes of the “subprime meltdown” and the increase in national foreclosure rates).

9. See *infra* notes 57 & 69.

10. See *infra* Part II (discussing the securitization process).

11. Greg Hunter, *New Way To Fight Foreclosure*, CNNMONEY.COM (June 20, 2008), <http://money.cnn.com/video/news/2008/06/20/news.hunter.produce.note.cnnmoney/>.

12. *Your Money* (CNN television broadcast June 21, 2008), available at <http://transcripts.cnn.com/TRANSCRIPTS/0806/21/cnn1m.01.html> (transcript).

13. *Id.*

own motion,¹⁴ will depend upon whether the foreclosure comes under judicial foreclosure; in a bankruptcy hearing; or in an attempt to halt foreclosure or get back ownership of the house after a power of sale, commonly referred to as nonjudicial foreclosure, has occurred.

Additionally, the attorneys for the foreclosing lenders are financially invested in the efficiency and expediency of each foreclosure lawsuit.¹⁵ Foreclosing attorneys have argued that the procedural requirements should not be so strict under the circumstances and that after-the-fact affidavits and other "fixes" of the assignment and transfer paperwork should be good enough to allow them to proceed with foreclosures they argue are inevitable.¹⁶ This mindset has started to come under fire from judges who strongly feel that the foreclosing party must adhere to the procedural requirements of standing to ensure justice within the foreclosure process.¹⁷ While this trend among courts is a necessary safeguard to prevent foreclosing lenders from running "roughshod over borrowers,"¹⁸ what is likely to happen when this safeguard of judicial oversight is absent but foreclosing parties' motivations for expediency and profit still exist?

Many states allow for nonjudicial foreclosure, which enables lenders to foreclose on a homeowner with little judicial process.¹⁹ When a homeowner is subject to a nonjudicial foreclosure, he must file a lawsuit to enjoin the foreclosure and raise any applicable defenses, including those based upon standing or real party in interest.²⁰ At best, a homeowner will seek to stop the foreclosure by filing a lawsuit of his own in a court of general jurisdiction; if there is an issue as to whether the creditor is the true owner of the mortgage, he will also raise it in the complaint. At worst, the homeowner does not contest the foreclosure and, in a matter of a few months, can lose the property without a court ever becoming involved and without judicial oversight as to whether the foreclosing party had the right to foreclose.

14. BLACK'S LAW DICTIONARY 1560 (9th ed. 2009).

15. See generally Morgenson & Glater, *supra* note 3, at BU1 (setting out the profit motivation for high-volume foreclosure law firms).

16. See Jeana Kim Reinhold, "Confirming" a Mortgage's Chain of Title: The Case of Gifty Samuels, AM. BANKR. INST. J., Sept. 2009, at 18, 89 (arguing that in *In re Samuels*, 415 B.R. 8 (Bankr. D. Mass. 2009), the court correctly overlooked initial defects that were "ultimately curable").

17. See *In re Foreclosure Cases (In re Foreclosure Cases I)*, No. 1:07CV2282 et al., 2007 WL 3232430, at *3 n.3 (N.D. Ohio Oct. 31, 2007) ("Plaintiff's, 'Judge, you just don't understand how things work,' argument reveals a condescending mindset and quasi-monopolistic system where financial institutions have traditionally controlled, and still control, the foreclosure process.").

18. Morgenson & Glater, *supra* note 3, at BU1.

19. See *infra* notes 115-20 and accompanying text.

20. See *infra* notes 121-22 and accompanying text.

Alternatively, a homeowner may bring suit and contest other issues relating to the foreclosure, such as improper notice, and not raise the issue of whether the creditor is the true owner of the note or has the capacity to initiate foreclosure. In this situation, the homeowner may waive these defenses and be barred from raising them later in the proceedings—even if he becomes aware of the likelihood that the creditor's standing was not valid. Further, a court overseeing these cases will not have the ability to raise these issues on its own motion because the standing of the plaintiff in these lawsuits is not in question.

The problems in the situations where a court does not oversee foreclosure are quite substantial. If the many judicial foreclosure cases in which courts have dismissed actions, or otherwise denied or conditioned a granting of foreclosure to creditors, are a reflection of the state of affairs among lenders, servicers, and mortgage trusts, the amount of potential violations of common procedural requirements that are occurring outside of judicial oversight may be staggering. When a creditor is able to foreclose on a property without having ownership of the mortgage or when the transfers between assignees contain improprieties, it amounts to an improper foreclosure of a homeowner's property interest.²¹ Besides the effect on the individual homeowners' interests, there are the lingering issues of title that will come back to haunt future buyers long after the creditors have conveyed the property and moved on.²²

The need to resolve these issues of proper ownership of the mortgages will undoubtedly arise at some point. The longer lenders can remain wholly outside of the judicial spotlight, the longer these complex issues of standing will continue to persist and create havoc in real-property titles. This Note argues that legislatures should take affirmative action to bring more of these foreclosures under judicial oversight or the regulation of state and local governments. The consequences of waiting until more homes are taken and more defective titles are conveyed will only prolong the fallout from the housing bubble. Additionally, this Note argues that nonjudicial foreclosure states should add fee-shifting provisions to their foreclosure laws to allow homeowners to recoup legal fees for lenders' violations of standing

21. See Pam Martens, *The Next Financial Crisis Hits Wall Street, as Judges Start Nixing Foreclosures*, COUNTERPUNCH (Oct. 21, 2009), <http://www.counterpunch.org/martens10212009.html> ("[R]epresentatives for the [securitization] trusts have been foreclosing on homes across the country, evicting the families, then auctioning the houses, without . . . proof that they had legal standing."). See generally *U.S. Bank Nat'l Ass'n v. Ibanez (Ibanez II)*, Nos. 08 MISC 384283 (KCL), 08 MISC 386755 (KCL), 2009 WL 3297551 (Mass. Land Ct. Oct. 14, 2009) (holding foreclosure sales invalid where lenders were not assigned ownership of the mortgages at issue until after the foreclosure sale; the lenders sued to clear title on the properties when they were unable to obtain insurance due to their lack of interest before the sale), *aff'd*, 941 N.E.2d 40 (Mass. 2011).

22. See *Ibanez II*, 2009 WL 3297551, at *1 (stating the lenders' arguments in an action to clear title after a defective nonjudicial sale).

requirements. In nonjudicial states, this would provide an incentive for more homeowners to seek legal assistance and for attorneys to review the propriety of a lender's claim to standing and result in more meritorious cases brought within the judicial system.

Part II of this Note outlines the securitization process and the problems it has caused in foreclosure proceedings. Part III analyzes the judicial procedural requirements of standing, including real party in interest. Part IV analyzes how judges may raise issues of standing and ownership of the loan on their own motion and the effect of this lack of judicial oversight in states with nonjudicial foreclosure. Part V argues for legislative solutions that would mitigate the harmful effects of lenders foreclosing without proper standing and ownership of the mortgage loan in states with nonjudicial foreclosure.

II. SECURITIZATION AND THE PAPERWORK PROBLEM

Securitization of mortgages is a relatively recent development in investment strategies.²³ Securitization is "the process of creating debt instruments (usually bonds) by pooling mortgage loans, transferring those obligations to a trust, and then selling to investors fractional interests in the trust's pool of mortgages."²⁴ This process converts a group of mortgages into mortgage-backed securities ("MBSs").²⁵ A mortgage servicer conducts the basic, day-to-day tasks of collecting payments from homeowners and then distributing these payments to the appropriate parties, which include "lenders, investors, taxing authorities, and insurers."²⁶ The structure of MBSs is such that the payments by homeowners cover the interest paid to investors in the bonds.²⁷

The securitization process requires transferring the notes and assigning the mortgages as they are sold, pooled, and put into a trust.²⁸ Had the originating lenders held the loans, foreclosure proceedings would be the simple and traditional case of the originating lender, still in possession of the borrower's promissory note and mortgage, pursuing the foreclosure.²⁹ Because of securitization, however, "the interests in the defaulting loans

23. See Richard J. Rosen, *The Role of Securitization in Mortgage Lending*, CHL FED LETTER, Nov. 2007, at 1 available at http://www.chicagofed.org/digital_assets/publications/chicago_fed_letter/2007/cfnovember2007_244.pdf (stating that thirty years ago the originating bank would have kept the mortgage on its own balance sheet for the term of the loan).

24. Katherine Porter, *Misbehavior and Mistake in Bankruptcy Mortgage Claims*, 87 TEX. L. REV. 121, 126 (2008).

25. Rosen, *supra* note 23, at 1.

26. Porter, *supra* note 24, at 126.

27. Rosen, *supra* note 23, at 1-2.

28. See generally *id.* (discussing the complex transfers and assignments of the mortgages during securitization).

29. See Eggert, *supra* note 8, at 1264-65 (discussing the differences in effect on the real-estate market between originating lenders holding the mortgage and securitization).

[have] been sliced and diced, tranced and sold, then often resecured, retransched and resold, perhaps several times over."³⁰

This process of slicing, dicing, and transferring interests between many parties has significantly affected home foreclosures. Subpart IIA details the problems particular to securitized mortgages that can arise when a party is trying to seek relief. Subpart IIB discusses where things fall apart in the securitization process.

A. TRANSFERRING THE NOTE AND ASSIGNING THE MORTGAGE

For a party to seek relief from the automatic stay in bankruptcy, and then foreclose on the property, the party must establish itself as the real party in interest as owner of the mortgage and holder of the note.³¹ To do so, a party seeking relief from the automatic stay must show that it is the owner of the original note showing the indebtedness of the debtor.³² The party must also obtain proper assignment of the mortgage itself to seek relief.³³

1. Transferring Ownership of the Promissory Note

The promissory note demonstrates the debtor's promise to pay the amount borrowed from the original lender and is generally governed by Article 3 of the Uniform Commercial Code.³⁴ A party is entitled to enforce the note when the party is (1) "the holder of the instrument," (2) "a

30. *Id.* at 1265.

31. *E.g.*, *In re Wilhelm*, 407 B.R. 392, 398 (Bankr. D. Idaho 2009) ("Applying these principles [of real party in interest] . . . each Movant must show that it has an interest in the relevant note, and that it has been injured by debtor's conduct (presumably through a default on the note)."); *In re Jacobson*, 402 B.R. 359, 366 (Bankr. W.D. Wash. 2009) ("The real party in interest in relief from stay is whoever is entitled to enforce the obligation sought to be enforced."); *In re Nosek*, 386 B.R. 374, 380 (Bankr. D. Mass. 2008) ("[T]hose parties who do not hold the note or mortgage and who do not service the mortgage do not have standing to pursue motions for relief . . . arising from the mortgage obligation." (citing *In re Schwartz*, 366 B.R. 265, 270 (Bankr. D. Mass. 2007)), *rev'd in part on other grounds*, 406 B.R. 434 (D. Mass. 2009), *modified*, 609 F.3d 6 (1st Cir. 2010).

32. *See, e.g.*, *Everhome Mortg. Co. v. Rowland*, 10th Dist. No. 07AP-615, 2008-Ohio-1282, at ¶15 ("Without evidence demonstrating the circumstances under which it received an interest in the note and mortgage, Everhome cannot establish itself as the holder."); *Wash. Mut. Bank, F.A. v. Green*, 156 Ohio App. 3d 461, 2004-Ohio-1555, 806 N.E.2d 604, at ¶32-33 (holding that plaintiff had not sufficiently demonstrated that it was the holder of the note and mortgage and thus summary judgment was inappropriate). Additionally, in a bankruptcy proof of claim, where the claim is based on a writing (as all mortgages must be), "the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim." FED R. BANKR. P. 3001(c).

33. *See supra* note 32.

34. *See* U.C.C. § 3-104 (2009) (defining "negotiable instrument"). A note is a negotiable instrument that contains a "promise," defined as a "written undertaking to pay money signed by the person undertaking to pay." *Id.* §§ 3-103(a)(12), 3-104(b), (c).

nonholder in possession of the instrument who has the rights of a holder," or (3) "a [party] not in possession of the instrument who is entitled" by reason of loss, destruction, or theft³⁵ or mistake³⁶ "to enforce the instrument."³⁷

In the first instance listed under Article 3, a party is the holder of the note if the note is indorsed to the party or, as is common practice in mortgages destined for securitization, indorsed in blank.³⁸ The blank indorsement allows a party to transfer the note merely by possession.³⁹ Possession of the note provides evidence of the obligation of the debt, while the mortgage provides security of payment of the debt. The note is thus required for a party to show authorization that it may foreclose on the property.

2. Proper Assignment of the Mortgage

Proper ownership of the mortgage itself presents a different kind of analysis. Without a proper showing of a chain of assignments of the mortgage, a lender holding only the note has no lien on the property and only a collection action on the debt.⁴⁰ Courts have held that foreclosing parties do not have standing to foreclose when the parties are unable to produce sufficient evidence of assignment of the mortgage between the originator of the loan and the party ultimately foreclosing on the property.⁴¹ For example, in *In re Hayes*, the court found that Deutsche Bank did not establish that Argent Mortgage Company, LLC, had effectively assigned the original mortgage to either Deutsche Bank or other entities in the chain of ownership.⁴² The *Hayes* court stated that it and the debtor were "entitled to insist that [Deutsche Bank] establish its standing . . . through the submission

35. *Id.* § 3-309.

36. *Id.* § 3-418(d).

37. *Id.* § 3-301.

38. *Id.* § 3-205(b).

39. *Id.* ("When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed.")

40. JOHN RAO ET AL., NAT'L CONSUMER LAW CTR., FORECLOSURES: DEFENSES, WORKOUTS, AND MORTGAGE SERVICING 36 (Supp. 2009). *But see* CONN. GEN. STAT. § 49-17 (2009) (allowing legal title to vest in the "person entitled to receive the money" for the mortgage, after the redemption period and "on failure of redemption").

41. *See, e.g., In re Hayes*, 393 B.R. 259, 270 (Bankr. D. Mass. 2008) (holding that the party seeking relief from automatic stay had not shown that the originator of the loan had properly assigned it the mortgage); *Everhome Mortg. Co. v. Rowland*, 10th Dist. No. 07AP-615, 2008-Ohio-1281, at ¶ 17 (holding that the plaintiff was not entitled to summary judgment because a genuine issue of material fact remained as to "how or when it became the holder of the note and mortgage"); *First Union Nat'l Bank v. Hufford*, 767 N.E.2d 1206, 1210 (Ohio Ct. App. 2001) (finding that Plaintiff First Union National Bank did not "produce sufficient evidence explaining or demonstrating its right to the note or mortgage" other than "inferences and bald assertions").

42. *In re Hayes*, 393 B.R. at 270.

of an accurate history of the chain of ownership of the mortgage."⁴³ By not satisfying this requirement, Deutsche Bank was effectively the "wrong party" to move for relief.⁴⁴

B. SECURITIZATION AND HOW THINGS FALL APART

A typical securitization process begins in the same manner as what one would consider a traditional consumer-real-estate transaction. A borrower purchasing real property gets a loan from the originating lender, commonly through a mortgage broker; signs a promissory note in favor of the lender; and assigns a security interest to the lender in the form of a mortgage.⁴⁵ The originating party then sells the loan to an intermediary (known as the "seller") who "pools" together this and other loans, creating a bundle of loans that are finally transferred to the Special Purpose Vehicle ("SPV"), most commonly a trust, set up to hold onto the loan bundle and issue securities to the seller representing the interests in the bundle.⁴⁶ The seller then packages these securities according to the desired profiles it wants to create to provide investors with options "featuring different sets of risk and rewards."⁴⁷

The SPV performs what are thought of as the traditional roles of a residential mortgage lender through the trustee, master servicer, and special servicer.⁴⁸ The trustee conducts the basic administrative functions regarding the trust, including making payments to the investors as the mortgage borrowers make their monthly payments.⁴⁹ The roles of the master servicer and special servicer depend on the default status of the individual loans.⁵⁰ If the loan is not in default, the master servicer performs the everyday role of

43. *Id.* at 269.

44. *Id.*

45. See Katherine A. Burroughs et al., *Complex Loan Structures*, in MORTGAGE AND ASSET BACKED SECURITIES LITIGATION HANDBOOK § 8:17, § 8:50 (Talcott J. Franklin & Thomas F. Nealon III eds., 2010) (describing the parties involved in the securitization of single loans).

46. See Eggert, *supra* note 7, at 538-39 (setting out the typical process of securitization). The SPV is also referred to as a *special purpose entity* or simply just *trust*. See Burroughs et al., *supra* note 45 (using the term *special purpose entity trust* to refer to what Eggert calls the SPV).

47. Eggert, *supra* note 8, at 1266. Additionally, Eggert discusses how the process of packaging the securities allowed most of the resulting securities (eighty percent) to receive a AAA rating by rating agencies. *Id.* at 1260. During the height of subprime loan securitization, the MBSs rated the most risky (BBB+ or lower) were then transferred to another SPV that pooled and repackaged the risky securities with other pools of mortgages, assets, collateralized-debt obligations, etc. to turn a BBB into a AAA. *Id.* The fervor Wall Street lent to this process of packaging, repackaging, slicing, and dicing dramatically amplified lenders' problems as they now try to trace the path of transfers for a single loan in default. *Cf. id.* at 1268 ("[E]ven the rating agencies were overwhelmed by the complexity of the securities they were rating.").

48. Burroughs et al., *supra* note 45, § 8:29.

49. *See id.*

50. *See id.*

collecting payments from the borrowers and servicing the loan agreement.⁵¹ In the event of default, however, the special servicer steps in to service the loan and possibly foreclose on the borrower.⁵²

The securitization process made MBSs extremely attractive to investors seeking to cash-in on the rising housing market by “unbundling” the mortgage-lending industry.⁵³ Where the traditional model of mortgage lending contains a lender conducting the tasks of documenting, funding, holding, and servicing the loan over the course of its life, securitization allows these functional aspects to be separated and distributed among several entities⁵⁴—each with its own profit mechanism and each caring little about the actions and behavior of the others.⁵⁵ This complex “house of cards,” as Professor Kurt Eggert has referred to it, still relied upon a simple action at its base—the monthly mortgage payment by the homeowners.⁵⁶ When this simple action did not occur, the mortgage servicers at the end of these chains were the ones who then had to perform the traditional task of foreclosure. This was a task that, regardless of how complex securitization had made the lending industry, still required the same basic elements of standing and proof of ownership that had existed long before anyone had heard the term *collateralized-debt obligation*.

III. STANDING

Standing is a requirement in all state and federal courts in the United States.⁵⁷ This requirement gives a party the “right to make a legal claim or seek judicial enforcement of a duty or right.”⁵⁸ While the standing requirements for the federal courts are uniform and based upon

51. *Id.*

52. *See id.* (stating how the special servicer comes into play “upon the occurrence and during the continuance of certain events of default or imminent events of default”); *see also* Eggert, *supra* note 8, at 1266 (“A servicer collects the mortgage payments and may foreclose if necessary.”).

53. Eggert, *supra* note 7, at 552.

54. *Id.*

55. *See id.* (“This separation of the mortgage process confers on each entity . . . plausible deniability of the actions of the others. The securitizer can claim to be unconnected to the broker and unaware of any of his activities, however improper.”).

56. *See* Eggert, *supra* note 8, at 1268 (“The entire house of cards . . . depended on the payments made by borrowers and the likelihood that the borrowers would continue to make their payments.”).

57. *See* *Farm Bureau Ins. Co. of Ark. v. Running M Farms, Inc.*, 237 S.W.2d 32, 36 (Ark. 2006) (“It is fundamental in American jurisprudence that in order to bring a lawsuit against an opposing party, one must have standing to do so. Without standing, a party is not properly before the court to advance a cause of action.”); *see also* Robert T. Mowrey et al., *Issues Arising in Connection with the Foreclosure or Other Enforcement of the Securitized Loan*, in *MORTGAGE AND ASSET BACKED SECURITIES LITIGATION HANDBOOK*, *supra* note 45, § 5:99, § 5:110 (providing a general overview of standing relating to securitization litigation).

58. BLACK’S LAW DICTIONARY 1536 (9th ed. 2009).

constitutional requirements,⁵⁹ each state has discretion in deciding upon its own standing threshold.⁶⁰ However, these differences among states are unlikely to dramatically alter the results in foreclosure cases involving the standing issues discussed herein.⁶¹

For a lender to foreclose on a debtor's property, the lender must meet certain substantive constitutional requirements established by the doctrine of standing and prudential limitations required by rules of civil procedure.⁶² Courts have stated that "[t]he concept of standing subsumes a blend of constitutional requirements and prudential considerations."⁶³ Importantly, courts have recognized that failure to satisfy all standing requirements may be dispositive in cases involving foreclosures.⁶⁴ The common-law standing requirements are proof of injury in fact, causation, and redressability.⁶⁵ Because standing is a "threshold question,"⁶⁶ courts have stated that "a defect in standing cannot be waived; it must be raised, either by the parties or by the court, whenever it becomes apparent."⁶⁷

59. U.S. CONST. art. III, § 2, cl. 1; see also *Allen v. Wright*, 468 U.S. 737, 750-51 (1984) (discussing the constitutional and prudential requirements of standing).

60. See *Mowrey et al.*, *supra* note 57, § 5:110 (discussing the basis of state standing requirements).

61. While state standing requirements may differ from one jurisdiction to the next, resulting in differing outcomes in close cases of any area of law involving standing issues, for the purposes of this Note, it is relatively safe to assume that most state courts would not find sufficient standing where a foreclosing party could not demonstrate, in at least the most basic manner, that it was the proper party to foreclose on a mortgage. See *Jasmine Networks, Inc. v. Superior Court*, 103 Cal. Rptr. 3d 426, 433 (Ct. App. 2009) (discussing how the California Code of Civil Procedure does not require additional "federal-style" standing requirements, but does require a plaintiff to have "the right to sue under the substantive law" (emphasis omitted) (quoting 4 B.E. WITKIN ET AL., CALIFORNIA PROCEDURE § 121 (5th ed. 2008) (internal quotation mark omitted))).

62. See, e.g., *Valley Forge Christian Coll. v. Am. United for Separation of Church & State, Inc.*, 454 U.S. 464, 472 (1982) (setting out the minimum constitutional requirements for a plaintiff to state a case in a federal court); *Warth v. Seldin*, 422 U.S. 490, 498 (1975) (stating that standing "is [a] threshold question in every federal case, determining the power of the court to entertain the suit"); *Coyne v. Am. Tobacco Co.*, 183 F.3d 488, 494 (6th Cir. 1999) ("[P]laintiff bears the burden of demonstrating standing and must plead its components with specificity.").

63. *In re Vill. Rathakeller, Inc.*, 147 B.R. 665, 668 (Bankr. S.D.N.Y. 1992) (citing *Warth*, 422 U.S. at 498).

64. See, e.g., *In re Hwang*, 396 B.R. 757, 769 (Bankr. C.D. Cal. 2008) (discussing how a party in a bankruptcy motion seeking relief from the automatic stay may fulfill one requirement and still fail the other), *rev'd*, 438 B.R. 661 (C.D. Cal. 2010) (reversing the trial court's factual determination that the plaintiff was not the real party in interest).

65. *Valley Forge Christian Coll.*, 454 U.S. at 472.

66. *Warth*, 422 U.S. at 498.

67. *United States v. AVX Corp.*, 962 F.2d 108, 116 n.7 (1st Cir. 1992) (emphasis added); see also *Pershing Park Villas Homeowners Ass'n v. United Pac. Ins. Co.*, 219 F.3d 895, 899-900 (9th Cir. 2000) (noting that standing is a threshold question based on the "case or controversy" requirement of Article III of the Constitution and cannot be waived).

Subpart A discusses how, in establishing the right to sue in foreclosure cases, a lender typically struggles with the prudential limitation of being the real party in interest. Next, Subpart B describes how defective transfers can create issues for the party attempting to establish this right to sue. Then, Subpart C illustrates this problem with the case of *In re Hwang*.

A. REAL PARTY IN INTEREST

The requirement that the party requesting relief be the "real party in interest" is one such "prudential limitation."⁶⁸ The real-party-in-interest rule is set forth in Federal Rule of Civil Procedure 17.⁶⁹ The "real party in interest" is the party entitled to bring suit to enforce a substantive right under the applicable substantive law.⁷⁰ The purpose of this requirement is to "avoid prejudice and the possibility of duplicate lawsuits"⁷¹ and to "ensure that the outcome of the case will be *res judicata*,"⁷² which means "conclusive of rights, questions, and facts in issue, as to the parties."⁷³ In the case of a foreclosure hearing on a securitized mortgage, the real-party-in-interest requirement is needed to ensure that the proper owner of the loan is the party seeking foreclosure. If courts did not hold lenders to this requirement, there would be a possibility that after a foreclosure the true owner of the loan could come forward rightfully seeking foreclosure on its interest and subject the homeowner to double jeopardy—essentially making the homeowner pay twice. Standing and real-party-in-interest requirements, while similar, arise from different sources of law.⁷⁴ While these procedural requirements are separate and distinguishable, foreclosure defenses by homeowners based upon these requirements ultimately stem from the

68. *In re Hwang*, 396 B.R. at 769.

69. Federal Rule of Civil Procedure 17(a)(1) states:

An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought: (A) an executor; (B) an administrator; (C) a guardian; (D) a bailee; (E) a trustee of an express trust; (F) a party with whom or in whose name a contract has been made for another's benefit; and (G) a party authorized by statute.

FED. R. CIV. P. 17(a)(1) (internal paragraph structure altered).

70. *Swanson v. Bixler*, 750 F.2d 810, 813 (10th Cir. 1984); *Scheufler v. Gen. Host Corp.*, 895 F. Supp. 1416, 1418 (D. Kan. 1995) (citing *Whelan v. Abell*, 953 F.2d 663, 672 (D.C. Cir. 1992)). *aff'd*, 126 F.3d 1261 (10th Cir. 1997).

71. *Verizon N.J., Inc. v. Ntegrity Telecontent Servs., Inc.*, 219 F. Supp. 2d 616, 635 (D.N.J. 2002).

72. *Ezra Charitable Trust v. Rent-Way, Inc.*, 156 F. Supp. 2d 435, 443 (W.D. Pa. 2001); *see also* JACK H. FRIEDENTHAL ET AL., *CIVIL PROCEDURE: CASES AND MATERIALS* 600-02 (9th ed. 2005) (discussing the purposes of the real-party-in-interest rule and its rationale).

73. *BALLENTINES'S LAW DICTIONARY* 1105 (3d ed. 1969).

74. *See supra* note 62 and accompanying text (describing the sources of law for standing and real party in interest).

inability of the foreclosing party to provide proof that it properly obtained ownership and assignment of the note and mortgage.⁷⁵

What courts have determined to be procedural requisites for a party to pursue a claim in foreclosure proceedings or seek relief from the automatic stay to foreclose in bankruptcy are related to what is typically thought of as "standing." The jurisdiction of the court, as well as the nature of the proceeding, will determine how and when these issues arise. The jurisdiction of the court and nature of the proceeding also determine whether the homeowner must raise these issues, or whether the court, on its own motion, may raise them as reasons for not allowing the lender to foreclose on a property. If a plaintiff in the foreclosure case cannot prove that it had proper ownership of the note and mortgage at the beginning of the action or, as is actually a fairly regular practice, the mortgage was assigned to the plaintiff after the commencement of the foreclosure proceeding, a court can determine that the plaintiff has not shown that the plaintiff has standing in the case.

Some federal courts in Ohio have done just that, throwing out or ordering plaintiffs to produce evidence that they had proper standing to foreclose at the commencement of the lawsuit.⁷⁶ In a widely-remarked-upon decision, Judge Boyko of the Northern District of Ohio stated, "[T]he federal judicial system need not, and will not, be 'forgiving in this regard.'"⁷⁷ The reasoning behind these decisions is—as Judge Bokyo argues in the *In re Foreclosures Cases*—relatively simple: "[T]his Court possesses the independent obligations to preserve the judicial integrity of the federal court and to jealously guard federal jurisdiction. Neither the fluidity of the secondary mortgage market, nor monetary or economic considerations of the parties, nor the convenience of the litigants supersede those obligations."⁷⁸

Additionally, as these cases in Ohio illustrate, a federal court may raise the issue of subject-matter jurisdiction at any time.⁷⁹ When a question of subject-matter jurisdiction in a foreclosure case comes up because a plaintiff has not convinced a judge that it is the proper owner of the note and mortgage at issue, a judge may dismiss the case or stay the proceedings until

75. See *supra* Part IIA (discussing ownership of the note and assignment of mortgages).

76. See *In re Foreclosure Cases* (*In re Foreclosure Cases II*), 521 F. Supp. 2d 650, 653–55 (S.D. Ohio 2007) (discussing diversity jurisdiction requirements and stating that the plaintiffs in twenty-seven foreclosure cases "have submitted evidence that indicates that . . . subject matter jurisdiction may not have existed when the foreclosure complaint was filed"); *In re Foreclosure Cases I*, Nos. 1:07CV2282 et al., 2007 WL 3292430, at *2 (N.D. Ohio Oct. 31, 2007) ("[N]one of the Assignments show the named Plaintiff to be the owner of the rights, title and interest under the Mortgage at issue as of the date of the Foreclosure Complaint.").

77. *In re Foreclosure Cases I*, 2007 WL 3292430, at *3.

78. *Id.* at *2.

79. *Plyler v. Moore*, 129 F.3d 728, 731 n.6 (4th Cir. 1997) (citing *North Carolina v. Ivory*, 906 F.2d 999, 1000 n.1 (4th Cir. 1990)).

the plaintiff can sufficiently demonstrate that it has satisfied the requirements.⁸⁰

B. DEFECTS

Defective transfers of notes and assignments of mortgages can come in many shapes and sizes. The most common are reflective of the confusion that securitization of mortgages has added to keeping track of the ownership of the mortgage.

The securitization of mortgage loans has led to what prominent bankruptcy attorney O. Max Gardner III has referred to as the "Alphabet Problem."⁸¹ This problem refers to the assignment of the mortgage from entity A, the originator, to other entities (B and up) along the chain of securitization.⁸² The problem becomes relevant to standing requirements as courts call on the foreclosing lender to show proof of the chain of transfers to foreclose on the property (i.e., A to B to C to D, the foreclosing party).⁸³ Because of the complexity of maintaining proper documentation and complying with all the legal requirements for proper conveyances up the chain, it has become frequent practice for a party to skip a step in the process and directly endorse a transfer to the foreclosing party in an attempt to show legal ownership of the loan and the right to foreclose.⁸⁴ Gardner suggests that such a transfer essentially amounts to fraud.⁸⁵

Coinciding with the "Alphabet Problem," often a foreclosing party simply cannot produce the original note in its initial pleadings and instead attaches affidavits of averment—purportedly from either the originator of the loan or an intermediate assignee—that the plaintiff is the owner of the note and mortgage.⁸⁶ These affidavits are falling under increasing levels of

80. See *In re Foreclosure Cases II*, 521 F. Supp. 2d at 654 (giving plaintiffs thirty days to comply with a court order to produce evidence of standing); *In re Foreclosure Cases I*, 2007 WL 3232430, at *3 (dismissing the consolidated cases in the action).

81. O. Max Gardner III, *The Alphabet Problem and the Pooling and Servicing Agreements*, CREDIT SLIPS (Aug. 14, 2009, 12:59 PM), <http://www.creditlips.org/creditlips/2009/08/the-alphabet-problem-and-the-pooling-and-servicing-agreements.html> (internal quotation marks omitted).

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.* These transfers may amount to fraud because they may not be consistent with the "representations and warranties made in the [Pooling and Service Agreement] to the Securities and Exchange Commission and to the holders of the bonds," because of parties not having "signing authority," or because the original party has become "legally defunct" by the time the documents are signed. *Id.* (internal quotation marks omitted).

86. See, e.g., *In re Foreclosure Cases I*, Nos. 1:07CV2282 et al., 2007 WL 3232430, at *1 (N.D. Ohio Oct. 31, 2007) (stating that in all of the consolidated complaints, there were attached affidavits "recit[ing] the averment that Plaintiff is the owner of the Note and Mortgage, without any mention of an assignment or trust or successor interest"); *Wells Fargo Bank, NA v. Davilmar*, No. 6464-2006, 2007 WL 2481898, at *3 (N.Y. Sup. Ct. Aug. 15, 2007) (threatening

suspicion by courts who suspect the parties submit these affidavits not out of necessity but because they failed to maintain proper documentation of the assignments and want to avoid the inconvenience and costs of a post hoc attempt to fulfill the legal requirements.⁸⁷

Assignments of the mortgages along the chain of titles must show a proper conveyance of the note and mortgage from the originator to the final party seeking to foreclose on the homeowner. In the process of securitizing a mortgage, the originating lender will typically assign the mortgage to a trustee who then combines that mortgage with a bundle of other similar mortgages to form a single secured asset.⁸⁸ The originating lender usually retains the right to service the mortgage, but the interest in the property (and status as real party in interest) has been transferred to the trustee.⁸⁹

To collect on the mortgage note, the creditor "must (1) be the holder of the note, (2) have constitutional standing and (3) be the 'real party in interest.'"⁹⁰ A problem in these proceedings arises because of the increase in the practice of securitization of residential mortgages in which the entity seeking foreclosure on the mortgage may not ultimately fulfill one or more of the elements of this three-part test due to the complex structure of the securitization process.⁹¹

C. *IN RE HWANG*

An illustrative example of the complexity of the securitization process appears in the bankruptcy case of *In re Hwang*.⁹² The beneficiary of the mortgagor's deed of trust was initially a broker, Mortgageit, Inc.⁹³ At some point before the bankruptcy petition was filed, Mortgageit transferred the mortgage to IndyMac Bank.⁹⁴ The deed of trust named Mortgage Electronic Registration Systems, Inc. ("MERS")—"a national electronic registry of mortgage loans"⁹⁵—as the beneficiary; however, MERS had transferred the deed of trust back to IndyMac by the time of the case and was no longer a

sanctions because plaintiff was continually submitting affidavits by an alleged attorney-in-fact for the plaintiff who had no actual knowledge of the assignments of the note or mortgage).

87. See sources cited *supra* note 76 (illustrating cases in which judges have strongly questioned the after-the-fact affidavits supplied by foreclosing lenders).

88. See *supra* Part II.B (discussing the securitization process in detail).

89. *In re Hwang*, 396 B.R. 757, 766 (Bankr. C.D. Cal. 2008), *rev'd*, 438 B.R. 661 (C.D. Cal. 2010).

90. Gregory C. Hesse, *Who Has the Right To Prosecute a Securitized Mortgage in Bankruptcy Court?*, AM. BANKR. INST. J., Mar. 2009, at 16, 16 (summarizing the test provided in *In re Hwang*).

91. *Id.*

92. 396 B.R. 757.

93. *Id.* at 760.

94. *Id.* at 760-61.

95. *Id.* at 761 n.2.

party of interest to the mortgage.⁹⁶ IndyMac sold the note to Mr. Hwang's mortgage through Freddie Mac, likely into a securitization trust.⁹⁷ At the time of filing its motion for relief from the automatic stay, "IndyMac [did] not know who own[ed] the note . . . although it still ha[d] possession of the note and there [wa]s nothing on the note to indicate that it ha[d] been transferred."⁹⁸ Freddie Mac and the investors in the securitization trust had not been joined in the motion for relief, and IndyMac "failed to provide any documents showing its sale of the note or its status as a servicing agent for the note's new owner."⁹⁹

The bankruptcy court was satisfied that IndyMac was the holder of the original note and that it had sufficient constitutional standing due to IndyMac's ability to show that Mr. Hwang's failure to make payments on the mortgage debt constituted an injury to IndyMac.¹⁰⁰ However, on the issue of "real party in interest," the court determined that, because it was a securitized mortgage, only the trustee of the securitization trust as the owner of the note, and not IndyMac as the servicer, could be the real party in interest.¹⁰¹ The court denied IndyMac's motion to avoid the stay on Hwang's property until it could discover and join the proper trustee in the action for relief from the automatic stay.¹⁰² Although upon appeal, the district court reversed the *In re Hwang* court's conclusion that IndyMac was not the "real party in interest,"¹⁰³ the bankruptcy court's review of this issue is still relevant. Until a higher court reviews similar conclusions, the precedential effect of this reversal is largely unknown.

96. *Id.* at 761. Several issues regarding MERS as a player in the securitization of mortgages have arisen recently, and it is uncertain what role MERS has in regards to its own standing to prosecute its interests in foreclosure and bankruptcy proceedings. *See generally In re Mitchell*, No. BK-S-07-16226-LBR, 2009 WL 1044368, at *7 (Bankr. D. Nev. Mar. 31, 2009) ("MERS may not enforce the notes as the alleged beneficiary. . . [but] may have standing to prosecute the motion [for relief from the automatic stay] in the name of its Member as a nominee . . ."), *aff'd on other grounds*, 423 B.R. 914 (D. Nev. 2009); Christopher L. Peterson, *Foreclosure, Subprime Mortgage Lending, and the Mortgage Electronic Registration System*, 78 U. CIN. L. REV. 1359, 1369 (2010) (discussing "whether MERS actually has standing to bring foreclosure actions; whether MERS should be considered a debt collector under the federal Fair Debt Collection Practices Act; and whether loans recorded in MERS's name should have priority in various collateral competitions under state law and the federal bankruptcy code."). For the purposes of this Note, I will assume that MERS has standing in the same capacity as any other lender and will address only the underlying issue of whether the facts support any foreclosing lender having standing in the same circumstances.

97. *In re Hwang*, 396 B.R. at 761.

98. *Id.*

99. *Id.*

100. *See id.* at 762-66 (holding that the bank was the qualified holder of the physical note and that it was entitled to enforce the note).

101. *Id.* at 767.

102. *Id.* at 772.

103. *In re Hwang*, 438 B.R. 661, 666 (C.D. Cal. 2010).

IV. SUA SPONTE

An important secondary consideration by the court in *In re Hwang* involved the propriety of the trial court's raising of the real-party-in-interest issue sua sponte.¹⁰⁴ A bankruptcy court may raise an issue sua sponte to prevent an abuse of the bankruptcy system,¹⁰⁵ just as a court of general jurisdiction may raise the issues of standing and subject-matter jurisdiction.¹⁰⁶ While it is settled law that a party may not waive objections to subject-matter jurisdiction,¹⁰⁷ a question arises in regard to whether the real-party-in-interest requirement is one that judges should raise sua sponte when a defendant does not object on its own volition.¹⁰⁸ This becomes an especially difficult question when the homeowner does not appear to contest the foreclosure proceeding or is representing herself pro se in either foreclosure or bankruptcy. This Part discusses how a court's ability to raise an issue sua sponte, whether it is a judicial or nonjudicial foreclosure, can be an effective method for dealing with defective standing.

A. JUDICIAL FORECLOSURE AND BANKRUPTCY

All of the *standing* issues described in the previous Part occur in the context of judicial foreclosure or a motion to seek relief from the automatic stay in bankruptcy.¹⁰⁹ As discussed previously in Part III.C, the bankruptcy case of *In re Hwang* illustrates the power of judicial oversight in ensuring that creditors are the proper owners of the note and mortgage and sufficiently demonstrate they are the real party in interest to foreclose.¹¹⁰ The action in *In re Hwang* arose in the context of nonjudicial foreclosure, where the debtor filed for bankruptcy, and the foreclosing lender provided copies of the note, the deed of trust, and a declaration of a vice president of IndyMac in support of its action to avoid the automatic stay and foreclose on Hwang's property.¹¹¹ The court on its own motion called for an evidentiary hearing, and in that hearing, the defects of the standing of the lender were

104. *In re Hwang*, 396 B.R. at 769-70.

105. *In re Brown*, 399 B.R. 162, 165 (Bankr. W.D. Va. 2009) (citing 11 U.S.C. § 105(a) (2008)).

106. See generally *In re Foreclosure Cases I*, Nos. 1:07CV2282 et al., 2007 WL 3232430 (N.D. Ohio Oct. 31, 2007) (raising the issue of standing and subject-matter jurisdiction on the court's own motion).

107. See FED. R. CIV. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action."); see also *In re Foreclosure Cases I*, 2007 WL 3232430, at *1 (discussing the requirement of proof of diversity jurisdiction).

108. *U.S. Fid. & Guar. Co. v. Slifkin*, 200 F. Supp. 563, 573-74 (N.D. Ala. 1961).

109. See *supra* Part III (discussing issues of standing).

110. See *In re Hwang*, 396 B.R. 757 (Bankr. C.D. Cal. 2008), *rev'd*, 438 B.R. 661 (C.D. Cal. 2010).

111. *Id.* at 761.

exposed.¹¹² In striking down IndyMac's argument that this action by the court was improper, the judge in his opinion quoted Judge Learned Hand, "A judge is more than a moderator; he is charged to see that the law is properly administered, and it is a duty which he cannot discharge by remaining inert."¹¹³

In re Hwang demonstrates a "catch" by a vigilant jurist who had seen a number of motions seeking relief from bankruptcy's automatic stay with questionable supporting documentation.¹¹⁴ Because of the foreclosure crisis, judges in state, federal, and bankruptcy courts are seeing a remarkable influx of foreclosure actions, and they are catching more of these irregularities.¹¹⁵ As the number of irregularities caught continues to rise, however, there is a question looming on the horizon: How many defects and improper assignments are passing through the process in nonjudicial foreclosure states?

B. SUA SPONTE IN THE CONTEXT OF NONJUDICIAL FORECLOSURE

In states that allow nonjudicial foreclosure,¹¹⁶ mortgage lenders may foreclose on and sell a property without any kind of court action.¹¹⁷ These states permit this type of foreclosure pursuant to a "power of sale" clause in the mortgages that allows a trustee—a non-court employee—to serve notice

112. *See id.* at 761-62 (describing the testimony of the vice president of IndyMac, who stated that she did not know who owned the note and could not produce evidence of a servicing agreement that allowed IndyMac to foreclose on Hwang's property).

113. *Id.* at 769 (quoting *United States v. Marzano*, 149 F.2d 929, 925 (2d Cir. 1945)) (internal quotation marks omitted). At least one other court has also related this quote in response to a party's questioning of the judge's ability to raise an issue sua sponte. *See In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd.*, 389 B.R. 325, 335 (S.D.N.Y. 2008) (rejecting a similar attack on the bankruptcy court's requiring of an evidentiary hearing that led to a ruling unfavorable to the attacking party). For further support of a court's ability to raise the issue of real party in interest on its own motion, see generally the only federal appellate court review of the issue, *Weissman v. Weener*, 12 F.3d 84, 85-86 (7th Cir. 1993) (holding that the trial judge could raise the issue of real party in interest before going on to discuss why the plaintiff in this case was not the real party in interest).

114. *In re Hwang*, 396 B.R. at 761 n.4 ("The court ha[d] found that numerous declarants ... [were] not competent to testify as to the information included in their declarations.")

115. *See, e.g., In re Foreclosure Cases I*, Nos. 1:07CV2282 et al., 2007 WL 3232430, at *3 (N.D. Ohio Oct. 31, 2007) (dismissing fourteen foreclosure proceedings after raising the real-party-in-interest issue on the court's own motion); *In re Schwartz*, 366 B.R. 265, 269-70 (Bankr. D. Mass. 2007) (holding that the lender could not evict the debtor after its carelessness in documenting the assignment from the previous holder of the mortgage led to an improper foreclosure sale).

116. States allowing nonjudicial foreclosure include: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Hawaii, Idaho, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, Oregon, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wyoming, and the District of Columbia. JOHN RAO ET AL., NAT'L CONSUMER LAW CTRL., FORECLOSURES: DEFENSES, WORKOUTS, AND MORTGAGE SERVICING app. B.5-2, at 525 (2d ed. 2007).

117. *Id.* § 4.2.3, at 76.

of the default and initiate the foreclosure sale.¹¹⁸ Although there is no required judicial action or oversight, these sales must follow the statutory guidelines of each state.¹¹⁹ While the details of the laws vary from state to state, there is a basic structure that a majority of states follow. If the homeowner defaults on the mortgage (or deed of trust), the lender will give the homeowner the notice required either by the terms of the mortgage or statute.¹²⁰ During this time period, the homeowner may cure the amount in default, and if the homeowner does not, the trustee may sell the home by auction or through a sheriff sale.¹²¹

While there are several potential defenses that a homeowner can raise in a nonjudicial foreclosure, the homeowner will have to file a lawsuit to enjoin the foreclosure sale in order to raise the defense,¹²² and most foreclosures go uncontested.¹²³ If homeowners do not take affirmative action and either contest the foreclosure or file for bankruptcy, they will likely lose the property without ever going before a judge. In the current climate of securitized mortgages, many lenders are having difficulty providing evidence of ownership of the note and mortgage when attempting judicial foreclosure.¹²⁴ This difficulty strongly implies that in many of these sales (1) there is a lack of evidence that the lender has the standing to foreclose and (2) lenders are foreclosing the homeowners' property interest without the proper evidence of ownership of the note and mortgage.

In the recent case of *U.S. Bank National Ass'n v. Ibanez*, a Massachusetts land court recognized that a lender that had conducted a power-of-sale foreclosure had not acquired proper ownership of the mortgage before commencing the nonjudicial foreclosure action and extinguishing the homeowner's property interest.¹²⁵ The lender was attempting to remove a

118. *Id.*

119. *E.g.*, CAL. CIV. CODE § 2924 (West 2009) (providing requirements for power of sale); MICH. COMP. LAWS §§ 600.3105-3180, 600.3201-3285 (2010) (setting out "Foreclosure of Mortgages and Land Contracts" and "Foreclosure of Mortgage by Advertisement," respectively).

120. RAO ET AL., *supra* note 116, § 4.2.3, at 76.

121. *Id.*

122. For example, lack of proper notice, invalid mortgage, and contract-law actions are all potential defenses. *See, e.g.*, *Bank-Fund Staff Fed. Credit Union v. Cuellar*, 639 A.2d 561, 563 (D.C. Cir. 1994) (holding that notice to homeowners was invalid); *G.E. Capital Mortg. Servs., Inc. v. Baker*, No. CV 980167089S, 1999 WL 511156, at *3 (Conn. Super. Ct. July 7, 1999) (holding that defendants had a valid defense where lender sent demand letter stating that defendants had thirty days to cure default, and the mortgage specifically provided for sixty days); *Mason v. S. Mortg. Co.*, 828 So. 2d 795, 799 (Miss. 2002) (holding that the mortgage company attempted to foreclose on an invalid mortgage).

123. RAO ET AL., *supra* note 116, § 4.2.3, at 79.

124. *See supra* Part III (describing the issues of subject-matter jurisdiction, standing, and real party in interest in the context of judicial foreclosure).

125. *See generally Ibanez II*, Nos. 08 MISC 384283 (KCL), 08 MISC 386755 (KCL), 2009 WL 3297551 (Mass. Land Ct. Oct. 14, 2009) (holding foreclosure sales invalid where lenders were

cloud of title on the foreclosed property, which the lender had itself purchased at the foreclosure sale, so the lender could obtain title insurance.¹²⁶ A title-insurance company had denied to insure the title due to its concern that the assignment of the underlying mortgage had not been "executed or recorded until after the exercise of the power of sale," and there was a question as to whether the lender had the right to foreclose at that time.¹²⁷ The court held that the foreclosure sales were invalid because the assignment was executed *fourteen months* after the sale.¹²⁸

In addition, the plaintiff-lenders were seeking relief after a default judgment in the underlying case, which means, as is unfortunately typical, the homeowner had failed to appear to contest the ownership issue.¹²⁹ In the process of reviewing the plaintiffs' motion for a default judgment, the main issue of which was a statutory notice requirement, the land court hearing the initial case raised the issue of the after-the-fact assignment *sua sponte*¹³⁰ and declared as invalid the foreclosures resulting from these assignments.¹³¹ This *sua sponte* decision was upheld in the subsequent appeal¹³² with the reviewing court stating:

[T]he court is not bound by the legal conclusions in the [Plaintiffs'] complaint. Rather, it "has the duty to enter a judgment that is lawful in light of the facts established, even in the absence of a contest before him" and even when that judgment may be unfavorable to the moving party.¹³³

This case illustrates how far into the process a nonjudicial foreclosure may run before a judge is able to step in and declare that "[t]o accept the plaintiffs' arguments is to allow them to take someone's home without any demonstrable right to do so, based upon the assumption that they ultimately will be able to show that they have that right."¹³⁴ At this point, the property at issue had already been taken from the homeowner, and the court's

not assigned ownership of the mortgages at issue until after the foreclosure sale), *aff'd* 941 N.E.2d 40 (Mass. 2011).

126. *Id.* at *1.

127. *Id.* (emphasis omitted). This after-the-fact assignment is the same "defect" that many bankruptcy courts and judicial foreclosure courts have held to demonstrate a lack of standing. See *In re Foreclosure Cases I*, Nos. 1:07CV2282 et al., 2007 WL 3232430, at *3 (N.D. Ohio Oct. 31, 2007) (describing how none of the captioned plaintiffs could show that the assignment of the note and mortgage was executed before the date of the complaint).

128. *Ibanez II*, 2009 WL 3297551, at *9, *12.

129. See *U.S. Bank Nat'l Ass'n v. Ibanez (Ibanez I)*, Nos. 384283 (KCL), 386018 (KCL), 386755 (KCL), 2009 WL 795201 (Mass. Land Ct. Mar. 26, 2009) ("Memorandum and Order on Plaintiffs' Motions for Entry of Default Judgment"), *aff'd* 941 N.E.2d 40 (Mass. 2011).

130. *Ibanez II*, 2009 WL 3297551, at *3 n.18.

131. *Ibanez I*, 2009 WL 795201, at *8.

132. *Ibanez II*, 2009 WL 3297551, at *12.

133. *Id.* at *3 (emphasis omitted) (citation omitted).

134. *Id.* at *12.

finding of improper ownership left the proper title to the land (and the titles to any similarly foreclosed property in Massachusetts) in limbo. This is too far. The court in *Ibanez II* acknowledged that the lenders had violated the "protections given to homeowners and borrowers by the Massachusetts legislature,"¹³⁵ but it is clear that these protections arrived too late in the game to sufficiently mitigate the result.

V. POLICY RECOMMENDATIONS

Because of the extrajudicial nature of foreclosures in states authorizing power-of-sale foreclosure, the responsibility falls upon the legislature to enact or amend power-of-sale statutes to safeguard against the injustice of a foreclosing lender taking an individual's home without proper proof of ownership. This Note argues for two legislative responses that may prove effective—especially when used in concert: (1) the addition of a proof-of-ownership filing by foreclosing lenders prior to the commencement of the foreclosure proceedings, and (2) the addition of fee-shifting provisions to allow prevailing plaintiffs the ability and the incentive to contest foreclosures and increase the review of the foreclosing lender's ownership by courts and consumer attorneys.

A. LEGISLATURES SHOULD ADD RECORD-OF-OWNERSHIP REQUIREMENTS TO POWER-OF-SALE STATUTES

In the nonjudicial context, state legislatures should adapt their power-of-sale-foreclosure laws to reflect this on-the-ground reality. Some states, such as Michigan, require that a party who is not the original mortgagee must show a "record chain of title . . . prior to the date of sale . . . evidencing the assignment of the mortgage to the party foreclosing the mortgage."¹³⁶ Simply addressing the subgroup of power-of-sale foreclosures that are most responsible for these irregularities (securitized mortgages) and asking them to provide more documentation than required in the classic foreclosure-by-originator model could provide a degree of protection for homeowners. In addition, it would create a reviewable record in the case of future conflicts arising from messy titles.

The Michigan statute has provided homeowners with a substantial basis for regaining ownership of their property in cases where a lender's ownership is defective.¹³⁷ In a recent case before the Michigan Court of Appeals, the court overruled the lower court's decision that the assignment of the mortgage to the foreclosing lender after the commencement of

135. *Id.*

136. MICH. COMP. LAWS § 600.3204(3) (2010).

137. See *Davenport v. HSBC Bank USA*, 739 N.W.2d 383, 384–85 (Mich. Ct. App. 2007) (overruling the trial court's holding that the lender who was assigned the mortgage after the commencement of the foreclosure proceeding had not violated the Michigan statute).

foreclosure was only "technically deficient."¹³⁸ The lower court stated, "[I]t would be laughable . . . to upset this whole arrangement because of that hair breadth of a thread that the plaintiff is hanging on."¹³⁹ The appellate court struck back in strong terms, responding, "[W]hat is at issue . . . is not a mere notice defect. Instead, it is a structural defect that goes to the very heart of [the lender's] ability to foreclose . . . in the first instance. . . . Quite simply, [the lender] did not yet own the indebtedness that it sought to foreclose."¹⁴⁰ Because of the record-of-ownership statutory requirement, the court in this case was able to easily review the record chain of title and uncover the defective nature of the notice. This case illustrates the effect a record-of-ownership statute can have in protecting homeowners at risk of losing their property to lenders in nonjudicial-foreclosure states.

Georgia provides another example of how nonjudicial-foreclosure states should address this issue. In 2008, the state adopted an amendment to its power-of-sale statute, adding the provision that "[t]he security instrument or assignment thereof vesting the secured creditor with title to the security instrument *shall be filed prior* to the time of sale in the office of the clerk of the superior court."¹⁴¹ This amendment requires that the foreclosure sale "be conducted by the current owner or holder of the mortgage, as reflected by public records."¹⁴² While it remains to be seen how effective statutes such as those in Michigan and Georgia are in reducing the number of wrongful foreclosures, they provide an important step in accountability and supply an information trail that courts may find useful in resolving claims brought by homeowners alleging lack of standing. Additionally, bills such as the Georgia amendment are signs that state legislatures are recognizing the risks posed by securitized-mortgage foreclosures that go unchecked by the judicial system.

B. LEGISLATURES SHOULD ADD FEE-SHIFTING PROVISIONS TO THEIR FORECLOSURE STATUTES

Statutory fee-shifting, or attorney fees, provisions are common to many consumer-protection statutes in the United States.¹⁴³ The underlying force behind these statutes is to provide an incentive for attorneys to take cases on behalf of consumers where the monetary judgment is likely to be low, and

138. *Id.* at 384.

139. *Id.* (internal quotation marks omitted).

140. *Id.* at 384-85.

141. Act of May 13, 2008, No. 576, § 1, 2008 Ga. Laws 624, 625 (to be codified at GA. CODE ANN. § 44-14-162(b)) (emphasis added).

142. *Id.* at 624.

143. Examples include the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, and the Truth in Lending Act. John R. Chiles et al., *Some Song, Different Year—Attorneys' Fees Still a Driving Force Behind Consumer Finance Litigation*, 62 CONSUMER FIN. L. Q. REP. 256, 257 (2008).

the consumers are even less likely to have the means to afford the costs of representation.¹⁴⁴ Statutory fee-shifting provisions indicate that the legislature has recognized a need to increase the remedial purposes of certain consumer-protection acts.¹⁴⁵

Fee-shifting provisions in favor of successful plaintiffs also provide a strong incentive for legal compliance among defendants.¹⁴⁶ As one commentator has argued, fee shifting creates a greater incentive for potential plaintiffs to sue, which results in greater compliance incentives for the potential defendants (in this case, foreclosing lenders).¹⁴⁷ The result is, counterintuitively, less litigation as defendants who realize the increased likelihood of litigation take greater effort to ensure that they are compliant.¹⁴⁸

Attorneys taking consumers' claims in cases involving fee-shifting provisions typically pursue the cause of action at no cost to the consumer (who is typically unable to afford the costs, win or lose, anyway). While fee-shifting provisions would incentivize plaintiffs' attorneys to bring more lawsuits against lenders, these attorneys still operate on the principle that only meritorious claims actually result in recoupment of their legal costs and fees, and the effect of bringing a losing claim is that all their work and expense has been for naught. The result of this fee structure with consumers provides a strong disincentive to bringing an onslaught of frivolous actions against lenders. If this disincentive is not enough, a provision that allowed shifting of the lawsuit's costs to the consumer-plaintiff who brings a claim in bad faith would be likely to sufficiently cause careful consideration before filing.¹⁴⁹

Additionally, fee shifting is likely to bring more potential clients to consumer attorneys' offices and substantially increase the review of lenders' standing to foreclose. The effect of such a provision would therefore not only bring more violations of standing under the oversight of judges in nonjudicial-foreclosure states, but it would also increase the percentage of the total amount of power-of-sale foreclosures that are reviewed as a general matter. A consumer attorney with the financial incentive to bring cases she believes she can win could provide an effective threshold review, sorting out the cases in which lenders were compliant from those that have the merits to pursue in court. In the context of nonjudicial foreclosure, a fee-shifting provision would be most effective in combination with the record-of-

144. See *id.* (discussing how statutory fee-shifting provisions provide an incentive to attorneys to take these smaller-recovery cases).

145. *Id.*

146. Keith N. Hylton, *Fee Shifting and Incentives To Comply with the Law*, 46 VAND. L. REV. 1069, 1071-72 (1993).

147. *Id.* at 1072.

148. *Id.*

149. *Id.*

ownership provisions discussed in the above Subpart.¹⁵⁰ The fee-shifting provision could apply to prevailing plaintiffs bringing an action that arises from a potential violation of the record-of-ownership requirement before the commencement of the foreclosure.

The first, and most important, instance in which the fee-shifting provision should apply is when the plaintiff brings an action to halt the foreclosure of the property. Because it is necessary for the homeowner to affirmatively file a lawsuit in this case, the fee-shifting provision would likely increase the number of homeowners seeking help to save their homes before the sale. Additionally, it would reduce the obstacle of homeowners trying to come up with money they obviously do not have to pay an attorney for the proceeding and enable them to potentially avoid the increased complexity of attempting to get back the property after the foreclosure sale.

In the case where the sale has occurred, the fee-shifting provision should apply to attorney fees for the prevailing plaintiff in a wrongful-foreclosure action arising from a violation of the record-of-ownership provision. This would allow more homeowners to seek review of their lender's ownership of the loan, even after the foreclosure sale, and would increase the possibility of regaining rightful ownership of their homes.

Any fee-shifting provision will have the important effects of increasing the costs to lenders of maintaining sloppy, haphazard records of the mortgage loans they are foreclosing and reducing the haste of rushing to foreclose. As Judge Christopher A. Bokyo stated in *In re Foreclosure Cases*:

There is no doubt every decision made by a financial institution in the foreclosure process is driven by money. . . . There is nothing improper or wrong with . . . making a profit—to the contrary, they should be rewarded for sound business and legal practices. However, unchallenged by underfinanced opponents, the institutions worry less about jurisdictional requirements and more about maximizing returns. . . . Finally put to the test, their weak legal arguments compel the Court to stop them at the gate.¹⁵¹

VI. CONCLUSION

The fallout from the foreclosure crisis has created new issues in the various foreclosure contexts. Within these contexts, the defense of contesting a foreclosing party's standing has become increasingly popular and has met with some degree of success. Judges hearing judicial foreclosure cases and bankruptcy proceedings have taken hold of these issues, and increasingly more judges are requesting proof of standing to ensure that the

^{150.} See *supra* Part V.A (discussing the examples of Michigan's and Georgia's record-of-ownership provisions in their respective power-of-sale statutes).

^{151.} *In re Foreclosure Cases I*, Nos. 1:07CV2282 et al., 2007 WL 3232430, at *3 n.3 (N.D. Ohio Oct. 31, 2007).

party seeking to foreclose is indeed the proper owner of the loan.¹⁵² While this progress is necessary to prevent homeowners from losing their property to lenders who cannot prove proper ownership of the note and mortgage, lenders in states allowing nonjudicial foreclosure continue to use the power of sale to foreclose on homeowners outside of the judicial process.¹⁵³ State legislatures must recognize that in the prevailing climate, power-of-sale laws should be enacted or amended to include record-of-ownership and fee-shifting provisions to ensure that lenders who have been assigned mortgages through the securitization process provide evidence of the propriety of their assignments before taking away a homeowner's property.¹⁵⁴

^{152.} See *supra* Parts III-IV (outlining issues of *standing* and courts raising the issues on their own motion).

^{153.} See *supra* Part IV.B (discussing the absence of judicial involvement in power-of-sale foreclosures).

^{154.} See *supra* Parts IV.B-V (discussing the process of nonjudicial foreclosure and providing an example of possible legislative remedies).

Foreclosure Fraud in a Nutshell

The untold story in the foreclosure crisis unfolding across America is that, following a foreclosure perpetrated by one of the October 2008 Bailout Banks (e.g. Bank of America, Citibank, JPMorgan, Wells Fargo) Fannie Mae or Freddie Mac suddenly appear as the record owner of Average Joe's home. These federal government sponsored entities then go into local housing court and get a court order authorizing them to evict Joe. If Joe resists, these supposedly charitable institutions obtain a writ ordering the local sheriff to forcibly remove Joe from his home.

Newt Gingrich recently admitted (\$25,000 to \$30,000 a month during one span of time) for advising this proto-fascist entity. Gingrich claims that he supports Fannie and Freddie because he believes the federal government "should have programs to help low income people acquire the ability to buy homes." But Fannie and Freddie don't do this and never have. When government "helps" someone by subsidizing the purchase of something (through easy credit or lower-than-market rates), it makes that something more expensive. Helping someone buy something that is overpriced because of your help is not help. Fannie/Freddie subsidies not only hurt the low income people they intend to help, they hurt everyone by subsidizing, and therefore distorting, the entire housing market. Fannie/Freddie's charity has now taken a dark turn. Like their Depression-era New Deal predecessor the Regional Agricultural Credit Corp., Fannie/Freddie are now repossessing homes at an increasing and alarming rate.

Mr. Gingrich either does not understand economics - government subsidies make things more expensive, not less expensive, and therefore hurt their intended beneficiaries - or he is a vain, selfish, and cynical man with no interest in actually helping his neighbor.

You decide.

THE OCTOBER 2008 BAILOUT PAID OFF THE HOLDERS OF MORTGAGE BACKED SECURITIES AND DERIVATIVE INSURED

The facts indicate that the however, who got it, why and what did the Fed get in return? The Fed doesn't just print money. It prints money to buy stuff. Most often this is U.S. Treasuries. That changed in October of 2008. In and after October 2008 the Fed printed new money to buy mortgage-backed securities (MBS) that were defaulting at a rapid rate. Want proof? Here is a link to the which shows that the Fed is holding over a trillion dollars in mortgage backed securities that it began acquiring in 2008.

Why is the Federal Reserve holding all these MBS? Because when "the market" collapsed in September of 2008, what really collapsed is the Fannie/Freddie/Wall Street mortgage "daisy chain" securitization scheme. As increasing numbers of MBS went into default, the purchasers of derivatives (naked insurance contracts betting on MBS default) began filing claims against the insurance writers (e.g. AIG) demanding payment. This started in February 2007 when HSBC Bank announced billions in MBS losses, gained momentum in June of 2007 when Bear Stearns announced \$3.8 billion in MBS exposure in just one Bear Stearns fund, and further momentum with the actual collapse of Bear Stearns in July and August of 2007. By September of 2008, the Bear Stearns collapse proved to be the canary in the coal mine as the claims on off-balance sheet derivatives became that Alan Greenspan warned could collapse the entire Western financial system.

Part of what happened in October 2008 is that the Federal Reserve paid AIG's and others' derivative obligations to the insureds (pension funds, hedge funds, major banks, foreign banks) who held the naked insurance contracts guaranteeing Average Joe's payments. To understand this, imagine that a cataclysmic event occurred in the U.S. that destroyed nearly every car in the U.S. and further that Allstate insured all of these cars. That is what happened to AIG. When the housing market collapsed and borrowers began defaulting on their securitized loans, AIG's derivative obligations exceeded its ability (or willingness) to pay. So the Fed stepped in as the insurer of last resort and bailed out AIG (and probably others). When an insurer pays on a personal property claim, it has " " rights. This means when it pays it has the right to demand possession of the personal property it insured or seek recovery from those responsible for the loss. In Allstate's case this is wrecked cars. In the case of AIG and the Fed, it is MBS. That is what the trillions of MBS on the Fed's balance sheet represent: wrecked cars that Fannie and Freddie are now liquidating for scrap value.

Thank you Mr. Gingrich. Great advice.

BUT FANNIE/FREDDIE WASN'T MY LENDER AND WASN'T MY MORTGAGEE, SO HOW CAN THEY TAKE MY HOUSE?

To understand how it came to be that the Fed has paid Average Joe's original actual lender (the MBS purchaser) and now Fannie and Freddie are trying to take Joe's home, you first have to understand some mortgage law and securitization basics.

The Difference Between Notes and Mortgages

When you close on the purchase of your home, you sign two important documents. You sign a promissory note that represents your legal obligation to pay. You sign ONE promissory note. You sign ONE promissory note because it is a negotiable instrument, payable "to the order of" the "lender" identified in the promissory note. If you signed two promissory notes on a \$300,000 loan from Countrywide, you could end up paying Countrywide (or one of its successors) \$600,000.

At closing you also sign a Mortgage (or a Deed of Trust in Deed of Trust States). You may sign more than one Mortgage. You may sign more than one Mortgage because it **does not represent a legal obligation to pay anything**. You could sign 50 Mortgages relating to your \$300,000 Countrywide loan and it would not change your obligation. A Mortgage is a security instrument. It is security and security only. Without a promissory note, a mortgage is nothing. Nothing.

You "give" or "grant" a mortgage to your original lender as security for the promise to pay as represented by the promissory note. In real estate law parlance, you "give/grant" the "mortgage" to the "holder" of your "promissory note."

If you question my bona fides in commenting on the important distinction between notes and mortgages, I know what I am talking about. I tried and won perhaps the first securitized mortgage lawsuit ever in the country in

In FNBER v. IMS a mortgage assignee (IMS) claimed the ownership of two mortgages relating to loans (promissory notes) held by my client, the First National Bank of Elk River (FNBER). After a three-day trial where IMS was capably represented by a former partner of the international law firm Dorsey & Whitney, my client prevailed and the Court voided the recorded mortgage assignments to IMS. My client prevailed not because of my great skill but because it had actual, physical custody of the original promissory notes (payable to the order of my client) and had been "servicing" (receiving payments on) the loans for years notwithstanding the recorded assignment of mortgage. The facts at trial showed that IMS rejected the loans because they did not conform to their securitization parameters. In short, IMS, as the "record owner" of the mortgages without any provable connection to the underlying notes, had nothing. FNBER, on the other hand, had promissory notes payable to the order of FNBER but did not have "record title" to the mortgages. FNBER was the winner because its possession of and entitlement to enforce the notes made it the "legal owner" of the mortgages.

The lesson: if you have record title to a mortgage but cannot show that you have possession of and/or entitlement to enforce the promissory notes that the mortgage secures, you lose.

This is true for 62 million securitized loans.

Securitization - The Car That Doesn't Go In Reverse

There is nothing per se illegitimate about securitization. The law has for a long time recognized the rights of a noteholder to sell off pro-rata interests in the note. So long as the noteholder remains the noteholder he has the right to exercise rights in a mortgage (take the house) when there is a default on the note. Securitization does not run afoul of traditional real estate and foreclosure law when the mortgage holder can prove his connection to the noteholder.

But modern securitization doesn't work this way.

The "securitization" of a "mortgage loan" today involves multiple parties but the most important parties and documents necessary for evaluating whether a bank has a right to foreclose on a mortgage are:

- (1) the Borrower (Average Joe);
- (2) the Original Lender (Mike's Baitshop and Mortgages or Bailey Savings & Loan - whoever is across the closing table from Joe);
- (3) the Original Mortgagee (could be Mike's B&M, but could be anyone, including Fannie's Creature From the Black Lagoon, the mortgagee "nominee" MERS);
- (4) the "Servicer" of the loan as identified in the PSA (usually a Bank or anyone with "servicer" in its name, the entity to whom Joe makes

his payments);

(5) the mortgage loan "pooling and servicing agreement" (PSA) and the PSA Trust created by the PSA;

(6) the "PSA Trust" is the "special purpose entity" created by the PSA. The PSA Trust is the heart of the PSA. It holds all securitized notes and mortgages and also sells MBS securities to investors; and

(7) the "Trustee" of the PSA Trust is the entity responsible for safekeeping of Joe's promissory note and mortgage and the issuer of MBS.

The PSA Servicer is essentially the Chief Operating Officer and driver of the PSA. Without the Servicer, the securitization car does not go. The Servicer is the entity to which Joe pays his "mortgage" (really his note, but you get it) every month. When Joe's loan gets "sold" multiple times, the loan is not actually being sold, the servicing rights are. The Servicer has no right, title or interest in either the promissory note or the mortgage. Any right that the Servicer has to receive money is derived from the PSA. The PSA, not Joe's Note or Joe's Mortgage, gives the Servicer the right to take droplets of cash out of Joe's monthly payments before distributing the remainder to MBS purchasers.

The PSA Trustee and the sanctity of the PSA Trust are vitally important to the validity of the PSA. The PSA promoters (the usual suspects, Goldman Sachs, Lehman Bros., Merrill, Deutchebank, Barclays, etc.) persuaded MBS purchasers to part with trillions of dollars based on the idea that they would ensure that Joe's Note would be properly endorsed by every person or entity that touched it after Joe signed it, that they would place Joe's Note and Joe's Mortgage in the vault-like PSA Trust and the note and mortgage would remain in the PSA Trust with a green-eyeshade, PSA Trustee diligently safekeeping them for 30 years. Further, the PSA promoters hired law firms to persuade the MBS purchasers that the PSA Trust, which is more than 100 percent funded (that is, oversold) by the MBS purchasers, was the real owner of Joe's Note and Joe's Mortgage and that the PSA Trust, using other people's money, had purchased or soon would purchase thousands of similar notes and mortgages in a "true sale" in accordance with

The PSA does not distribute pool proceeds that can be tracked pro rata to identifiable loans. In this respect, in the wrong hands (e.g. Countrywide's Angelo Mozilo) PSAs have the potential to operate like a modern "daisy chain" fraud whereby the PSA oversells the loans in the PSA Trust, thus defrauding the MBS investors. The PSA organizers also do not inform Joe at the other end of the chain that they have sold his \$300,000 loan for \$600,000 and that the payout to the MBS purchasers (and other derivative side-bettors) when Joe defaults is potentially multiples of \$300,000.

The PSA organizers can cover the PSA's obligations to MBS purchasers through derivatives. Derivatives are like homeowners' fire insurance that anyone can buy. If everyone in the world can bet that Joe's home is going to burn down and has no interest in preventing it, odds are that Joe's home will burn down. This is part of the reason Warren Buffet called derivatives a "financial weapon of mass destruction." They are an off-balance sheet fiat money multiplier (the Fed stopped reporting the explosive expansion of M3 in 2006 most likely because of derivatives and mortgage loan securitization fraud), and create incentive for fraud. On the other end of the chain, Joe has no idea that the "Lender" across the table from him has no skin in the game and is more than likely receiving a commission for dragging Joe to the table.

A serious problem with modern securitization is that it destroys "privity." Privity of contract is the traditional notion that there are two parties to a contract and that only a party to the contract can enforce or renegotiate that contract. Put simply, if A and B have a contract, C cannot enforce B's rights against A (unless A expressly agrees or C otherwise shows a lawful agency relationship with B). The frustration for Joe is that he cannot find the other party to his transaction. When Joe talks to his "bank" (really his Servicer) and tries to renegotiate his loan, his bank tells him that a mysterious "investor" will not approve. He can't do this because they don't exist, have been paid or don't have the authority to negotiate Joe's loan.

Joe's ultimate "investor" is the Fed, as evidenced by the trillion of MBSs on its balance sheet. Although Fannie/Freddie purportedly now "own" 80 percent of all U.S. "mortgage loans," Fannie/Freddie are really just the Fed's repo agents. Joe has no privity relationship with Fannie/Freddie. Fannie, Freddie and the Fed know this. So they are using the Bailout Banks to frontrun the process - the Bailout Bank (who also have no cognizable connection to the note and therefore no privity relationship with Joe) conducts a fraudulent foreclosure by creating a "record title" right to foreclose and, when the fraudulent process is over, hands the bag of stolen loot (Joe's home) to Fannie and Freddie.

Record Title and Legal Title

Virtually all 62 million securitized notes define the "Noteholder" as "anyone who takes this Note by transfer **and who is entitled to receive payment under this Note...**" Very few of the holders of securitized mortgages can establish that they both hold (have physical

possession of) the note AND are entitled to receive payments on the notes. For whatever reason, if a Bailout Bank has possession of an original note, it is usually endorsed payable to the order of some other (often bankrupt) entity.

If you are a Bailout Bank and you have physical possession of an original securitized note, proving that you are "entitled to receive payment" on the note is nearly impossible. First, you have to explain how you obtained the note when it should be in the hands of a PSA Trustee and it is not endorsed by the PSA Trustee. Second, even if you can show how you obtained the note, explaining why you are entitled to receive payments when you paid nothing for it and when the Fed may have satisfied your original creditors is a very difficult proposition. Third, because a mortgage is security for payments due to the noteholder and only the noteholder, if you cannot establish legal right to receive payments on the note but have a recorded mortgage all you have is "record" title to the mortgage. You have the "power" to foreclose (because courts trust recorded documents) but not necessarily the legal "right" to foreclose. Think FNBER v. IMS.

The "robosigner" controversy, _____, is a symptom of the banks' problem with "legal title" versus "record title." The 60 Minutes reports shows that Bailout Banks are hiring 16 year old, independent contractors from Backwater, Georgia to pose as vice presidents and sign mortgage assignments which they "record" with local county recorders. This is effective in establishing the Bailout Banks' "record title" to the "mortgage." Unlike real bank vice presidents subject to Sarbanes-Oxley, Backwater 16-year olds have no reason to ask: "Where is the note?"; "Is my bank the noteholder?"; or "Is my Bank entitled to receive payments on the note?"

The _____ and the _____ with this analysis. In April of 2011 the OCC and OTS reprimanded the Bailout Banks for fraudulently foreclosing on millions of Average Joe's:

...without always ensuring that the either the promissory note or the mortgage document were properly endorsed or assigned and, if necessary, in the possession of the appropriate party at the appropriate time...

The OCC and OTS further found that the Bailout Banks "failed to sufficiently oversee outside counsel and other third-party providers handling foreclosure-related services."

Finally, Bailout Banks consented to the OCC and OTS spanking by admitting that they have engaged in "unsafe and unsound banking practices."

In these "Order and Consent Decrees," the OCC and the OTS reprimanded all of the usual suspects:

_____, _____, _____, _____, _____, _____, _____, _____, _____, _____, _____ and _____

Although the OCC and OTS Orders are essentially wrist slaps for what is a massive fraud, these orders at least expose some truth. In response to the OCC Order, the Fannie/Freddie-created Mortgage Electronic Registration Systems (MERS), _____ (see Rule 8) to demand that foreclosing lawyers identify the "noteowner" prior to initiating foreclosure proceedings.

NEWT'S FANNIE/FREDDIE ENDGAME: PLANTATION USA

Those of us fighting the banks began to see a disturbing trend starting about a year ago. Fannie and Freddie began showing up claiming title and seeking to evict homeowners from their homes.

The process works like this, using Bank of America as an example. Average Joe had a securitized loan with Countrywide. Countrywide, which might as well have been run by the Gambino family with expertise in "daisy chain" fraud, never followed the PSA, did not care for the original notes and almost never deposited the original notes in the PSA Trust. Countrywide goes belly up. Bank of America (BOA) takes over Countrywide in perhaps the worst deal in the history of corporate America, acquiring more liabilities than assets. Bank of America realizes that it has acquired a big bag of dung (no notes = no mortgages = big problem) and so sets up an entity called "BAC Home Loans LLP" whose general partner is another BOA entity.

The purpose of these BOA entities is to execute the liquidation the Countrywide portfolio as quickly as possible and, at the same time, isolate the liability to two small BOA subsidiaries. BOA uses BAC Home Loans LLP to conduct the foreclosure on Joe's home. BAC Home Loans LLP feeds local foreclosure lawyers phony, robo-signed documents that establish an "of record" transfer of the Countrywide mortgage to BAC Home Loans LLP. BAC Home Loans LLP, "purchases" Joe's home at a Sheriff's sale by bidding Joe's debt owed to Countrywide. BAC Home Loans LLP does not have and cannot prove any connection to Joe's note so BAC Home Loans LLP quickly deeds Joe's property to Fannie and Freddie.

When it is time to kick Joe out of his home, Fannie Mae shows up in the eviction action. When compelled to show its cards, Fannie will

claim title to Joe's house via a "quit claim deed" or an assignment of the Sheriff's Certificate of sale. Adding insult to injury, while Joe may have spent years trying to get BOA to "modify" his loan, and may have begged BOA for the right to pay BOA \$1000 a month if only BOA will stop the foreclosure, Fannie now claims that BOA deeded Joe's property to Fannie for nothing. That right, nothing. All county recorders require that a real estate purchaser claim how much they paid for the property to determine the tax value. Fannie claims on these recorded documents that it paid nothing for Joe's home and, further, falsely claims that it is exempt because it is a US government agency. It isn't. It is a government sponsored entity that is

Great advice Newt.

CONCLUSION

It is apparent that the US government is so broke that it will do anything to pay its bills, including stealing Average Joe's home.

That's change that both Barack Obama and Newt Gingrich can believe in.

APPENDIX

More and more courts are agreeing that the banks "inside" the PSA do not have legal standing (they have no skin in the game and so cannot show the necessary "injury in fact"), are not "real parties in interest" (they cannot show that they followed the terms of the PSA or are otherwise "entitled to enforce" the note) and that there are real questions of whether any securitized mortgage can ever be properly perfected.

The banks' weakness is exposed most often in bankruptcy courts because it is there that they have to show their cards and explain how they claim a legal right, rather than the "of record" right, to foreclose the mortgage. More and more courts are recognizing that, without proof of ownership of the underlying note, holding a mortgage means nothing.

The most recent crack in the Banks's position is evidenced by the federal Eight Circuit Court of Appeals' decision in _____, No. 11-6025 (8th Cir., Sept. 13, 2011). In *Banks*, a bank attempted to execute a foreclosure within a bankruptcy case. The bank had a note payable to the order of another entity; that is, the foreclosing bank was "Bank C" but had a note payable to the order of "Bank B" and endorsed in blank by Bank B. The bank, Bank C, alleged that, because the note was endorsed in blank and "without recourse," that it had the right to foreclose. The Court held that this was insufficient to show a sufficient chain of title to the note, reversed the lower court's decision and remanded for findings regarding when and how Bank C acquired the note.

See also, _____, No. 810-77338-reg (Bankr. E.D.N.Y., Feb. 10, 2011) (Judge Grossman slams MERS as lacking standing, working as both principal and agent in same transaction, and exposes MERS' alleged principal US Bank as unable to produce or provide evidence that it is in fact the holder of the note); _____, No. 08-17036SB (Bankr. C.D. Cal., Sept. 30, 2008) (Judge Bufford correctly applied rules of evidence and held that MERS could not establish right to possession of the 83-year old Mr. Vargas' home through the testimony of a low-level employee who had no foundation to testify about the legal title to the original note); _____, Bankr. E.D. Cal. No. 10-21656-E-11 (May 20, 2010) (holding that neither MERS nor its alleged principal could show that they were "real parties in interest" because neither could provide any evidence of the whereabouts of, much less legal title to, the original note); _____, 216 P.2d 158 (Kan. 2009) (in this case the Kansas Supreme Court provides the most cogent state court analysis of the problem created by securitization - the "splitting" of the note and the mortgage and the real party in interest and standing problems that the holder of the mortgage has when it cannot also show that it has clean and clear legal title to the note); _____, 941 NE 40 (Mass. 2011), (the Massachusetts Supreme Court denied two banks' attempts to "quiet title" following foreclosure because the banks' proffered evidence did not show ownership of the mortgages - or for that matter, the notes - prior to the Sheriff's sale); and _____, 770 N.W.2d 489 (Minn. 2009) (this federal-gun-to-the-head - certified question from federal court asking for state court blessing of its already decided ruling - to the Minnesota Supreme Court is most notable for the courageous dissent of NFL Hall of Fame player and only popularly elected Justice Alan Page who opined that MERS should pound sand and obey state recording standards).

**Transcript of the Testimony of
ZACHARY CHROMIAK**

Date: September 12, 2014



**CREEL COURT REPORTING, INC.
Condensed Transcript and Word Index**

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Page 1		Page 3	
1	STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS	1	ZACHARY CHROMIAK, having been duly sworn, deposes and
2	COUNTY OF OCONEE) C/A #: 2011-CP-37-1056	2	testifies as follows:
3	Bank of America, N.A., Successor)	3	MR. CHROMIAK - EXAMINATION BY MR. SLOAN:
4	by merger to BAC Home Loans)	4	Q: Mr. Chromiak, what's your full name?
5	Servicing, L.P.,)	5	A: Zachary Chromiak.
6	Plaintiff,)	6	Q: Okay. Can you spell your last name please?
7	v.)	7	A: C-H-R-O-M-I-A-K
8	John D. Dalen, Julie A. Dalen,)	8	Q: Thank you. May I call you Zach or Zachary?
9	and Wawtrockace Hills Property)	9	A: Yes.
10	Owners Association,)	10	Q: Okay. Thank you. And you work for Bank of
11	Defendants.)	11	America?
12	DEPOSITION OF	12	A: Correct. Bank of America, N.A.
13	ZACHARY CHROMIAK	13	Q: Bank of America N.A. And what do you do for
14	*****	14	them?
15	Friday, September 12, 2014	15	A: Im an assistant vice president, mortgage
16	3:57 p.m. - 4:56 p.m.	16	resolution associate.
17		17	Q: Okay. And where are you based out of?
18		18	A: Im based out of the Pittsburgh office.
19	The deposition of ZACHARY CHROMIAK, taken on	19	Q: Okay. All right. And have you ever given a
20	behalf of the Defendant at the Korn Law Firm, P.A.,	20	similar type of deposition before today?
21	1300 Pickens Street, Columbia, South Carolina, on the	21	A: Yes.
22	12th day of September, 2014 before M. Sean Cary,	22	Q: Okay. Im not going to do the spiel. And have
23	Court Reporter and Notary Public in and for the State	23	you had a chance to review records of, we'll
24	of South Carolina, pursuant to Notice of Deposition	24	just call it the Dalen loan, prior to your
25	and/or agreement of counsel.	25	coming to give this testimony today?
Page 2		Page 4	
1	APPEARANCES	1	A: Yes.
2	Dean A. Hayes, Esquire	2	Q: Okay. What documents did you review in
3	KORN LAW FIRM, P.A.	3	preparation for today?
4	1300 Pickens Street	4	A: I reviewed information contained within our
5	Columbia, South Carolina 29201	5	electronic system of record. I reviewed it,
6	Attorney for the Plaintiff	6	including copies of the Note and Mortgage, the
7	William H. Sloan, Esquire	7	Notice of Intent to Accelerate. I ordered the
8	SLOAN LAW FIRM, P.A.	8	payment history and reviewed that. And that's
9	1055 North Main Street, Suite F	9	it.
10	Summerville, South Carolina 29483	10	Q: Okay. I didn't want to --
11	Attorney for the Defendants	11	A: I was still thinking.
12	Also Present:	12	Q: I thought you were. Okay. All right.
13	Bob Jackman, Law Clerk for Dean A. Hayes	13	A: I also reviewed some pleadings.
14	Spencer Reed, Attorney with William H. Sloan	14	Q: Okay. Well we certainly reviewed the Answer
15	John D. Dalen, Defendant	15	and Counterclaim very thoroughly today. Let's
16	Julie A. Dalen, Defendant	16	see. Where is Plaintiff's One, the Note. That
17	INDEX	17	was going to be my number one. Zach, I'm
18	MR. CHROMIAK: PAGE	18	showing you Plaintiff's Exhibit One for the
19	MR. SLOAN: EXAMINATION: 3	19	Dalens. Do you recognize that as the
20	MR. HAYES: EXAMINATION: 44	20	Promissory Note?
21	Signature: 47	21	A: Yes, a copy of which.
22	Certificate: 48	22	Q: Okay. And the original of which is with this
23	EXHIBITS	23	file. Can you turn to page three please? I
24	Defendant's Exhibit Number One: 8	24	direct your attention, under Mr. Dalen's
25	(Notice of Intent to Accelerate)	25	signature, on the left hand side starting,
	Defendant's Exhibit Number Two: 14		
	(Copy of Assignment of Mortgage)		
	STIPULATIONS		
	It is stipulated and agreed that this		
	deposition is being taken pursuant to the South		
	Carolina Rules of Civil Procedure.		
	It is stipulated by and between counsel and the		
	witness that the reading and signing of the following		
	deposition be, and the same are, hereby not waived.		
	Signature sheet is attached at page 47.		

1 Q: Okay. Now --
 2 A: The main body of it.
 3 Q: Okay. Now, are you -- I wasn't even thinking
 4 about asking you this; but does the Notice of
 5 Intent to Accelerate, that type of letter,
 6 typically have more than one page?
 7 A: Not the information contained therein, there
 8 would just be a cover page, I believe, and it's
 9 off of -- it's also followed by -- I think one
 10 blank page is inserted as well.
 11 Q: Oh, okay.
 12 A: But the cover page has the mailing information.
 13 Q: Okay. All right. I see that this letter, at
 14 the top of the letter, is dated December 17th,
 15 2010. Would there be any reason to think that
 16 this letter was not mailed out December 27th --
 17 excuse me, December 17th, 2010?
 18 A: Not that I've seen.
 19 Q: Okay. And where would this letter typically be
 20 sent out of? Where would it be mailed from?
 21 A: Typically it's mailed to the property address,
 22 unless another address has been specified.
 23 Q: I'm sorry, I didn't -- I'm sorry. Where would
 24 the letter be mailed from, from the Bank of
 25 America? Where would it be mailed from, from

1 --
 2 A: Correct.
 3 Q: Okay. If you don't know something, then I'm
 4 not going to ask you to guess. But there's no
 5 reason to think that this letter was sent any
 6 earlier than December 17th, 2010, the date of
 7 the letter? Is there any reason why it would
 8 have been mailed earlier with a different date?
 9 A: There very well could have been a similar
 10 letter sent earlier if there was a default that
 11 had to be noticed, a right to cure that had to
 12 be delivered and a time to cure that default
 13 specified.
 14 Q: Okay. And --
 15 A: And this would be the operative breach letter
 16 -- or the operative Notice of Intent to
 17 Accelerate.
 18 Q: Okay. And in your review of the business
 19 records, did you see any evidence of any
 20 letter, right to cure letter, sent prior to
 21 this letter?
 22 A: I don't recall seeing any other letter. This
 23 is the one -- I looked at the -- I look at our
 24 business records for the operative breach,
 25 which is the breach that we are foreclosing on.

1 the Bank of America offices?
 2 A: I believe it's -- in my experience, it's mailed
 3 by a third party vendor.
 4 Q: This was mailed by a third party vendor?
 5 A: Yes. The information is compiled from within
 6 Bank of America systems, it's merged with Bank
 7 of America templates and then it's mailed by a
 8 third party vendor.
 9 Q: Okay. What third party -- do you know --
 10 A: I don't.
 11 Q: Okay. There's nothing in the business records
 12 which state this was -- of what vendor --
 13 A: I don't know who the third party vendors are.
 14 Q: Okay. So, you don't know the vendor. And so
 15 you would have no idea where this letter was
 16 mailed out of -- from? You would have no idea
 17 --
 18 A: I have no idea what person completed the
 19 mailing process. The information in the letter
 20 is compiled from Bank of America's records and
 21 the return address is placed on it as well.
 22 Q: You've already answered a question I would have
 23 asked. You don't know the person and you don't
 24 know the location, the physical location, where
 25 this letter was allegedly mailed from, is that

1 Q: Okay.
 2 A: And then I find the letter that corresponds
 3 with that day and that would be this particular
 4 letter.
 5 Q: Okay. Very good.
 6 A: But I don't recall seeing any other ones.
 7 Q: Okay. I'm going to ask you real quick to look
 8 at Plaintiff's Four, which appears to be a
 9 response of the -- which according to the
 10 testimony of Mr. Dalen, and possibly of Ms.
 11 Dalen as well, is a response to an FDCPA
 12 letter. Now, according to this letter Fannie
 13 Mae purports to be the owner of the Note as of
 14 this letter, December 6th, 2011. Would that be
 15 fair, accurate to say?
 16 A: Well, I believe we purported that Fannie Mae --
 17 yeah, that we're servicing on behalf of the
 18 owner, Fannie Mae.
 19 Q: Okay. And according to your review of the
 20 business records, when did Fannie Mae purchase
 21 this loan? Is that in --
 22 A: I don't want to get into the -- necessarily the
 23 purchase agreement because I'm not entirely --
 24 I don't know how that went down.
 25 Q: I understand.

1 A: But they became the investor, that's how I
 2 would describe it. They became the investor in
 3 January of 2008.
 4 Q: Okay. So according to your review, they became
 5 the investor January of 2008?
 6 A: The beneficial owner of the Note, right.
 7 Q: Okay. Okay.
 8 A: It was, I want to say -- let's see. We
 9 received it January 14th, 2008, I believe,
 10 Fannie Mae became the investor -- I know it was
 11 before the first payment was due, February 1st,
 12 2008.
 13 Q: Okay.
 14 A: So it was between the date of receipt and
 15 February of 2008. That's when Fannie Mae
 16 became the owner.
 17 Q: Okay. And now you've mentioned, and it's also
 18 mentioned in the letter, the word owner, and
 19 then you also mentioned in the answer to the
 20 last question, investor. Is there any
 21 significant difference between the word owner
 22 and investor when we're talking about this Note
 23 and Mortgage?
 24 A: I'm not going to make legal conclusions, but
 25 when I say -- if you were to ask me who owns

1 the Note, I would say Fannie Mae.
 2 Q: Okay.
 3 A: Bank of America is the servicer and holder of
 4 the Note, and has the right to enforce.
 5 Q: Okay. So tying that in, going back to the
 6 right to cure letter, December 17th. So on
 7 December 17th, 2010, when this letter went out,
 8 this letter went out from Bank of America with
 9 the help of a third party vendor for the
 10 benefit of Fannie Mae, the owner of the Note?
 11 A: Correct. That's one of the main functions of
 12 the servicer is to enforce the Note and
 13 Mortgage.
 14 Q: And Bank of America and its predecessor,
 15 Countrywide, have serviced the Dalen's loan
 16 since before the first payment?
 17 A: Since January 14th, 2008.
 18 Q: Okay. All right. Let's get into -- Okay.
 19 (Defendant's Exhibit Number Two was marked for
 20 identification purposes.)
 21 Q: Chromiak Two, the Assignment of Mortgage, I
 22 know we've got it, but do you have it handy?
 23 A: I do.
 24 Q: Okay. All right Zach, Chromiak Two. Can you
 25 identify that?

1 A: This appears to be an Assignment of Mortgage
 2 from MERS as nominee for Quicken loans, the
 3 original lender, to BAC Home Loan Servicing,
 4 LP, formerly known as Countrywide Servicing,
 5 LP.
 6 Q: Okay. Did you review the Assignment of
 7 Mortgage when you prepared for this deposition?
 8 A: I believe I saw the Assignment of Mortgage,
 9 yes.
 10 Q: Okay. Did you have any personal knowledge or
 11 any involvement in the preparation, signing,
 12 recording of this Assignment of Mortgage?
 13 A: No, I did not.
 14 Q: Okay. Now, you had testified that Fannie Mae
 15 has been the owner of the Mortgage since before
 16 the first payment in January of 2008, right?
 17 A: I testified they were the owner of the Note.
 18 Q: Okay.
 19 A: I don't -- you can't own a Mortgage. The
 20 Mortgage follows the Note.
 21 Q: I don't want to put words into your mouth, so
 22 I appreciate that. And does this -- does this
 23 assignment purport to have signed the Note and
 24 the Mortgage? That's the way I read it. All
 25 beneficial interests under that certain

1 Mortgage described below together with the
 2 Note.
 3 A: It states that the undersigned "does hereby
 4 grant, sell, sign, transfer and convey", then
 5 I'm paraphrasing, I'm skipping some third
 6 parties. All beneficial interests under that
 7 certain Mortgage described below, with the
 8 Notes and the obligations therein described,
 9 "and money due and to become due thereon with
 10 interest and all rights accrued or to accrue
 11 under said Mortgage".
 12 Q: Okay. But according to your records, Fannie
 13 Mae has owned the Note and the Mortgage since
 14 January 2008?
 15 A: Yes.
 16 Q: Okay. And this assignment -- the assignment
 17 was -- it looks like the assignment was dated
 18 May 9th, 2011. Is there any reason to think
 19 that date is inaccurate in any way?
 20 A: No.
 21 Q: Okay. And I see that the Mortgage was --
 22 excuse me, the Assignment of Mortgage was
 23 subsequently recorded just a week later on May
 24 16th.
 25 A: That's right.

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

v.

John D. Dalen, Julie A. Dalen, Wawtockace Hills
Property Owners Association,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S RESPONSES
TO DEFENDANTS JOHN D. DALEN
AND JULIE A. DALEN'S FIRST SET OF
INTERROGATORIES**

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants' First Set of Interrogatories as follows:

1. Identify all persons having first-hand knowledge of any material fact alleged in the pleadings in this case and, with regard to each such person, state what they know about each such fact and how they came to know it.

ANSWER: Plaintiff has first-hand knowledge of the material facts alleged in the pleadings in this case. Plaintiff will identify any witnesses that will testify at trial if necessary in accordance with the South Carolina Rules of Civil Procedure.

2. Please identify every potential party to this lawsuit.

ANSWER: Bank of America, N.A., John D. Dalen, Julie A. Dalen, Wawtockace Hills Property Owners Association.

3. Please identify any person(s) who had any contact with any third party regarding the securitization, sale, transfer, assignment, hypothecation or 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.

ANSWER: Youda Cain assigned the mortgage to BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP on May 9, 2011 and recorded in Oconee County in Book 2975 at Page 40 on May 16, 2011.

4. Please identify any person(s) known or believed by anyone at Bank of America, N.A. 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 faces of transmittals including attachments) that refers to or incorporates terms regarding the 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.

ANSWER: Please see Answer to Interrogatory 3.

5. Please identify any person(s) in custody of any document which refers to any instruction or authority to enforce the note or mortgage in the subject loan transaction.

ANSWER: Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP. Bank of America is in custody of the original note and mortgage.

6. Please identify the person(s) or entities that are entitled directly or indirectly to the stream of revenue from the borrower in the subject loan.

ANSWER: Bank of America, N.A., successor by merger to BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP. Bank of America is in custody of

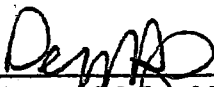
the original note and mortgage.

7. Did any investor/certificate holder approve or authorize foreclosure proceedings on Defendant's property?

ANSWER: Bank of America, N.A. authorized foreclosure proceedings in accordance with its rights in the property under the mortgage.

Plaintiff will supplement these responses as additional information and documentation is obtained, and as required by the South Carolina Rules of Civil Procedure.

KORN LAW FIRM, P.A.



Dean A. Hayes, SC Bar No. 66066
Chris S. Truluck, SC Bar No. 77829
Post Office Box 12369
Columbia, South Carolina 29211-2369
(803) 252-5817
dhayes@kornlawfirm.com
christopher.truluck@kornlawfirm.com
ATTORNEYS FOR PLAINTIFF

March 1, 2012
Columbia, South Carolina
File No: F11-04694

KORN LAW FIRM, P.A.
ATTORNEYS AND COUNSELORS AT LAW
1300 PICKENS STREET
COLUMBIA, SOUTH CAROLINA 29201

MAILING ADDRESS
POST OFFICE BOX 12369
COLUMBIA, SOUTH CAROLINA 29211-2369
(803) 252-5817
FACSIMILE (803) 231-2060

February 23, 2012

John D. Dalen
Julie A. Dalen
109 Wood Valley Dr.
Westminster, SC 29693

RE: Bank of America, N.A., et al. v. John D. Dalen, et al.
C/A No: 2011-CP-37-1056
Our File No.: F11-04694

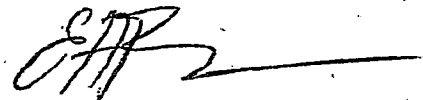
Dear Mr. and Mrs. Dalen:

Enclosed in connection with the above-referenced foreclosure action is Plaintiff's Response to Defendant John D. Dalen and Julie A. Dalen's Request for Admissions.

Should you have any questions concerning the enclosed discovery responses, please do not hesitate to contact our office.

With kindest regards, I am

Sincerely,



Elizabeth Perkins
Paralegal to Dean A. Hayes

EP/ald
Enc. (as stated)

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A. Successor by merger to
BAC Home Loans Servicing, L.P. F/K/A
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

v.

John D. Dalen, Julie A. Dalen, Wawtockace Hills
Property Owners Association,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S RESPONSE TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S REQUEST FOR
ADMISSIONS**

F11-04694

TO: JOHN D. DALEN AND JULIE DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John d. Dalen and Julie A. Dalen's Request for Admissions as follows:

REQUEST 1

Admit or deny that Bank of America, N.A. is a servicer of the promissory note of the subject loan.

RESPONSE 1

Plaintiff admits that it is a servicer of the promissory note of the subject loan.

REQUEST 2

Admit or deny that the Defendant's loan has been securitized.

RESPONSE 2

Plaintiff denies that the Defendant's loan has been securitized.

REQUEST 3

EXHIBIT B PAGE 5 OF 31

Admit or deny that Bank of America, N.A. is not the real party of interest in this controversy.

RESPONSE 3

Plaintiff denies that it is not the real party of interest in this controversy.

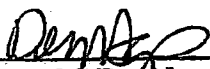
REQUEST 4

Admit or deny that Bank of America, N.A. is a debt collector and not the original creditor.

RESPONSE 4

Plaintiff denies that it is a debt collector, and admits that it is not the original creditor, but that it is the assignee of the original creditor's interests.

KORN LAW FIRM, P.A.



Dean A. Hayes, SC Bar No: 66066
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 252-5817
Facsimile: (803) 231-2060
ATTORNEYS FOR PLAINTIFF

February 23, 2012
Columbia, South Carolina
N:\PDA\F10-08733

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., Successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

L11-04694

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S RESPONSES TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S SECOND SET OF
REQUESTS FOR PRODUCTION**

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John D. Dalen and Julie A. Dalen's Second Set of Requests for Production of Documents to Plaintiff as follows:

REQUEST 1

Please provide the original wet-ink signature Mortgage Deed of Trust for viewing and copying.

RESPONSE 1:

Plaintiff is not in possession of the "wet-ink" Mortgage.

REQUEST 2

Please provide the collateral file relating to this loan (usually held by a trustee).

RESPONSE 2:

Please see attached. Defendants may contact Korn Law Firm to arrange to inspect and copy the original note at a mutually agreeable date and time.

[SIGNATURE PAGE TO FOLLOW]

KORN LAW FIRM, P.A.

EXHIBIT B PAGE 7 OF 31

DWA

Dean A. Hayes, SC Bar No: 66066
Chris S. Truluck, SC Bar No: 77829
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
Facsimile: (803) 231-2060
ATTORNEYS FOR PLAINTIFF

June ¹² 10, 2013
Columbia, South Carolina
N:\PD\ L11-04694

EXHIBIT B PAGE 8 OF 71

KORN LAW FIRM, P.A.
ATTORNEYS AND COUNSELORS AT LAW
1300 PICKENS STREET
COLUMBIA, SOUTH CAROLINA 29201

MAILING ADDRESS
POST OFFICE BOX 12369
COLUMBIA, SOUTH CAROLINA 29211-2369
(803) 252-5817
FACSIMILE (803) 231-2060

October 7, 2013

John D. Dalen
Julie A. Dalen
109 Wood Valley Drive
Westminster, SC 29693

RE: Bank of America, N.A. v. John D. Dalen, et al.
C/A No.: 2011-CP-37-1056
File No.: F11-04694

Dear Mr. and Mrs. Dalen:

Enclosed in connection with the above-referenced matter for service upon you are the following, together with Certificates of Service of the same:

- a) Plaintiff's Responses to Defendants John D. Dalen and Julie A. Dalen's Third Set of Requests for Admission to Plaintiff;
- b) Plaintiff's Responses to Defendants John D. Dalen and Julie A. Dalen's Third Set of Interrogatories to Plaintiff; and
- c) Plaintiff's Responses to Defendants John D. Dalen and Julie A. Dalen's Third Set of Requests to Produce to Plaintiff.

Thank you.

Sincerely,



Elizabeth A. Kozlarek
Paralegal to Dean A. Hayes

Enclosures (as stated)

EXHIBIT B PAGE 9 OF 31

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., Successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S RESPONSES TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S THIRD SET OF
REQUESTS TO ADMIT**

F11-04694

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John D. Dalen and Julie A. Dalen's Second Set of Requests for Admission to Plaintiff as follows:

1. Admit or deny that Plaintiff did not become holder of the mortgage or note on May 9, 2011.

ANSWER: ADMITTED. The assignment of mortgage to Plaintiff was executed on that date; however, Plaintiff was holder of the note- and thereby holder of the mortgage- prior to that date.

2. Admit or deny that the mortgage broker/ loan originator of the loan was forced to buy back the loan from the then-owner of the mortgage upon the borrower's alleged default.

ANSWER: DENIED

Plaintiff will supplement these responses in accordance with the South Carolina Rules of Civil Procedure.

[SIGNATURE PAGE TO FOLLOW]

KORN LAW FIRM, P.A.



Dean A. Hayes, SC Bar No: 66066
Chris S. Truluck, SC Bar No: 77829
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
Facsimile: (803) 231-2060
ATTORNEYS FOR PLAINTIFF

October 7, 2013
Columbia, South Carolina
N:VPA F11-04694

EXHIBIT B PAGE 11 OF 31

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., Successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

F11-04694

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S ANSWERS TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S THIRD SET OF
INTERROGATORIES**

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John D. Dalen and Julie A. Dalen's Second Set of Interrogatories to Plaintiff as follows:

INTERROGATORY 1

State the date the Plaintiff became holder of the Mortgage. Countrywide Bank, FSB became holder of the note- and thereby holder of the mortgage- on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff.

ANSWER 1:

Countrywide Bank, FSB became holder of the note- and thereby holder of the mortgage-

and not reasonably calculated to lead to this discovery of admissible evidence. Subject to this objection, on May 9, 2011, Quicken Loans, Inc. executed an assignment of mortgage that was recorded on May 16, 2011, in the Office of the Register of Deeds for Oconee County; however, Plaintiff became holder of the mortgage on the same date it became holder of the note.

INTERROGATORY 3

State the date the plaintiff became holder of the Note.

ANSWER 3:

Countrywide Bank, FSB became holder of the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff.

INTERROGATORY 4

Identify fully the party that sold, transferred, conveyed, or assigned the Note to the plaintiff, and state the consideration provided by the plaintiff, for such sale, transfer, conveyance, or assignment.

ANSWER 4:

Plaintiff objects to this interrogatory on the basis that the information sought is irrelevant and not reasonably calculated to lead to this discovery of admissible evidence. Subject to this objection Quicken Loans, Inc. conveyed the note to Countrywide Bank, FSB, which received the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB was acquired by Plaintiff.

INTERROGATORY 5

Identify fully who the "Loan Servicer" of the Mortgage is. If more than one exists, identify fully each, as they are known to Plaintiff.

ANSWER 5:

The loan servicer of the mortgage is Bank of America, N.A.

INTERROGATORY 6

Identify fully who the "Note Purchaser" of the Mortgage is, as it is known to Plaintiff. If there is more than one note purchaser, or multiple parties have held this distinction, fully identify each as they are known to Plaintiff (i.e. provide a chain of title for the Mortgage).

ANSWER 6:

Countrywide Bank, FSB became holder of the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff. The Federal National Mortgage

EXHIBIT B PAGE 13 OF 31

Association is the investor on the loan.

INTERROGATORY 7

Identify fully who the "Note Purchaser" of the Note is, as it is known to Plaintiff. If there is more than one note purchaser, or multiple parties have held this distinction, fully identify each as they are known to Plaintiff (i.e. provide a chain of title for the Mortgage).

ANSWER 7:

Countrywide Bank, FSB became holder of the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff. The Federal National Mortgage Association is the investor on the loan.

INTERROGATORY 8

Identify fully each and every holder of the Mortgage since December 20, 2007 in chronological order, as this information is known to plaintiff.

ANSWER 8:

Quicken Home Loans Inc. was the original holder of the note and mortgage. Countrywide Bank, FSB became holder of the note- and thereby the mortgage- on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff. The Federal National Mortgage Association is the investor on the loan.

INTERROGATORY 9

Identify fully each and every holder of the Note since December 20, 2007 in chronological order, as this information is known to plaintiff.

ANSWER 9:

Quicken Home Loans Inc. was the original holder of the note. Countrywide Bank, FSB became holder of the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff. The Federal National Mortgage Association is the investor on the loan.

INTERROGATORY 10

Identify fully each and every document relied upon by the plaintiff that conferred powers upon the loan servicer to act as agent for FNMA, commonly known as Fannie Mae.

ANSWER 10:

Plaintiff objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks materials that are irrelevant and immaterial to the subject action.

INTERROGATORY 11

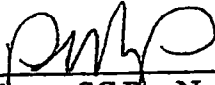
Identify fully the beneficiaries of each and every payment made by the defendants, including a breakdown of which beneficiary received how much of each defendants' payments, as this information is known to the plaintiff.

ANSWER 11:

Plaintiff objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks materials that are irrelevant and immaterial to the subject action.

Plaintiff will supplement these responses in accordance with the South Carolina Rules of Civil Procedure.

KORN LAW FIRM, P.A.



Dean A. Hayes, SC Bar No: 66066
Chris S. Truluck, SC Bar No: 77829
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
ATTORNEYS FOR PLAINTIFF

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., Successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S RESPONSES TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S THIRD SET OF
REQUESTS FOR PRODUCTION**

F11-04694

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John D. Dalen and Julie A. Dalen's Second Set of Requests for Production of Documents to Plaintiff as follows:

REQUEST 1

Provide each and every assignment of mortgage under Plaintiff's control that sells, transfers, conveys or assigns any and all interest in the mortgage subject to this lawsuit from any entity to any other entity.

RESPONSE 1:

Please see the attached assignment of mortgage dated May 9, 2011; however, the mortgage is transferred, conveyed, or assigned by transfer of the note for which it is security. On September 21, 2012, Defendants were provided with a copy of the original note endorsed in blank.

REQUEST 2

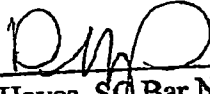
Provide each and every assignment of mortgage under Plaintiff's control that sells, transfers, conveys or assigns any and all interest in the note subject to this lawsuit from any entity to any other entity.

RESPONSE 2:

None. The assignment of the mortgage does not transfer, convey, or assign any interest in the note.

[SIGNATURE PAGE TO FOLLOW]

KORN LAW FIRM, P.A.


Dean A. Hayes, SC Bar No: 66066
Chris S. Truluck, SC Bar No: 77829
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
Facsimile: (803) 231-2060
ATTORNEYS FOR PLAINTIFF

October 7,, 2013
Columbia, South Carolina
N:\PD\F11-04694

Recording Requested By:
Bank of America
Prepared By: Debbie Nieblas
888-603-9011

When recorded mail to:
CoreLogic
450 E. Boundary St.
Attn: Release Dept.
Chapin, SC 29036



DocID# 13817533570651340
Tax ID: 295-01-02-007

Property Address:
109 WOOD VALLEY DR
Westminster, SC 29693

SC0-AM 12/4/04 3/5/2011

FILED IN RECORD
JOHNSON COUNTY, S.C.
REGISTER OF DEEDS

2011 MAY 16 P 4: 28



Doc ID: 003870210001 Type: MTG
BK 2975 Pg 40

MIN #: 100039032138692476 MERS Phone #: 888-679-6377

ASSIGNMENT OF MORTGAGE

For Value Received, the undersigned holder of a Mortgage (herein "Assignor") whose address is 3300 S.W. 34TH AVENUE, SUITE 101 OCALA, FL 34474 does hereby grant, sell, assign, transfer and convey unto BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP whose address is 13150 WORLD GATE, HERNDON, VA 20170 all beneficial interest under that certain Mortgage described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Mortgage.

Original Lender: QUICKEN LOANS INC.
Original Borrower(s): JOHN DALEN AND JULIE A. DALEN, HUSBAND AND WIFE
Date of Mortgage: 12/20/2007
Original Loan Amount: \$118,750.00

Recorded in Oconee County, SC on: 12/21/2007, book 2551, page 206 and instrument number 010516

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Mortgage to be executed on

Dated: 5-9-2011

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

By: Youda Crain
Youda Crain, Assistant Secretary

Malik Basurto
Witness: Malik Basurto

Tina LeRaybaud
Witness: Tina LeRaybaud

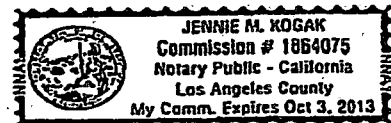
State of California
County of Ventura

On May 9, 2011 before me, Jennie M. Kogak, Notary Public, personally appeared Youda Crain, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jennie M. Kogak
Notary Public, Jennie M. Kogak
My Commission Expires 10/3/2013



(Seal)

Ret.
601
em
012419

EXHIBIT B PAGE 18 OF 31

3213869247
Dalen, John

NOTE

December 20, 2007
[Date]

Westminster.
[City]

SC
[State]

109 Wood Valley Dr
Westminster, SC 29693-5003
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$118,750.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is Quicken Loans Inc.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.750%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on February 1, 2008. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on January 1, 2038, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P. O. Box 553154, Detroit, MI 48255-3154 or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 770.22

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFO
1767888238



610

N 001 001



03213869247 0140 300 0100

Page 509

WMP -5N (0005).01

Form 3200 1/01

WMP MORTGAGE FORMS - (800)521-7291

Page 1 of 3

Initials: **LD**

EXHIBIT B PAGE 19 OF 31

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of Fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.



EXHIBIT PAGE 7 OF 8

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

John Dalen 12/20/2007 (Seal) _____ (Seal)
John Dalen -Borrower -Borrower

WITHOUT RECOURSE
Pay To the Order of (Seal) _____ (Seal)
Countrywide Bank, FSB -Borrower
QUICKEN LOANS, INC.
BY _____
THERESA ROODBEEN (Seal)
CAPTURE MANAGER -Borrower
PAY TO THE ORDER OF _____ (Seal)
WITHOUT RECOURSE -Borrower
COUNTRYWIDE BANK, FSB
BY *Laurie Meder* _____ (Seal)
LAURIE MEDER -Borrower
SENIOR VICE PRESIDENT

(Seal) _____ (Seal)
-Borrower -Borrower

[Sign Original Only]



EXHIBIT B PAGE 21 OF 31

KORN LAW FIRM, P.A.
ATTORNEYS AND COUNSELORS AT LAW
1300 PICKENS STREET
COLUMBIA, SOUTH CAROLINA 29201

MAILING ADDRESS
POST OFFICE BOX 12369
COLUMBIA, SOUTH CAROLINA 29211-2369
(803) 252-5817
FACSIMILE (803) 231-2060

June 12, 2013

John D. Dalen
Julie A. Dalen
109 Wood Valley Drive
Westminster, SC 29693

RE: Bank of America, N.A. v. John D. Dalen, et al.
C/A No.: 2011-CP-37-1056
File No.: L11-04694

Dear Mr. and Mrs. Dalen:

Enclosed in connection with the above-referenced matter for service upon you are the following, together with Certificates of Service of the same:

- a) Plaintiff's Responses to Defendants John D. Dalen and Julie A. Dalen's Amended First Set of Interrogatories;
- b) Plaintiff's Responses to Defendants John D. Dalen and Julie A. Dalen's Second Set of Requests for Admission to Plaintiff;
- c) Plaintiff's Responses to Defendants John D. Dalen and Julie A. Dalen's Second Set of Interrogatories to Plaintiff; and
- d) Plaintiff's Responses to Defendants John D. Dalen and Julie A. Dalen's Second Set of Requests to Produce to Plaintiff.

Thank you.

Sincerely,

Elizabeth A. Kozlarek
Paralegal to Dean A. Hayes and Chris S.
Truluck

Enclosures (as stated)

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., Successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S RESPONSES TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S SECOND SET OF
REQUESTS TO ADMIT**

L11-04694

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John D. Dalen and Julie A. Dalen's Second Set of Requests for Admission to Plaintiff as follows:

1. Admit or deny that Bank of America, N.A., has never purchased John and Julie Dalen's mortgage account as a charged-off account.

ANSWER: ADMITTED

2. Admit or deny that Bank of America, N.A., is not in possession of any authenticated business records (certified copies of the ledger and initial balance sheet) relevant to this account that could be introduced into the record in open court.

ANSWER: DENIED

3. Admit or deny that Youda Cain is not a competent fact witness because she/he does not have first-hand personal knowledge of the accounts/records in this instant case.

ANSWER: DENIED

4. Admit or deny that Tara L. Anderson is not a competent fact witness because she/he does not have first-hand personal knowledge of the accounts/records in this instant case.

ANSWER: DENIED

5. Admit or deny that when a loan defaults, the servicer or master servicer or depositor

EXHIBIT B PAGE 23 OF 31

continues to make payments into the pool as if the loan never defaulted.

ANSWER: DENIED

6. Admit or deny that absent possession of the account and general ledger statement, authenticated by a competent fact witness, providing a deficiency owed by John and Julie Dalen, you cannot prove up your claim for amounts owing.

ANSWER: DENIED

7. Admit or deny that when the mortgage loans in the Trust Fund become delinquent for 90 days, that claims on the insurance are made and payment received.

ANSWER: DENIED

8. Admit or deny that all parties to this instant case are not before the Court.

ANSWER: DENIED

9. Admit or deny that John and Julie Dalen were never advised that the promissory note would form part of a "Trust" when there was no "Trust" in the mortgage transaction, making it a completely different transaction, which demonstrates lack of material disclosure on the part of the lender.

ANSWER: DENIED, the subject note is not part of a Trust.

10. Admit or deny that FNMA, Fannie Mae, is or was the note holder at the time of the filing of this complaint.

ANSWER: DENIED

11. Admit or deny that FNMA, Fannie Mae, is or was an investor in the promissory note which is of the subject loan at the time of the filing of this complaint.

ANSWER: ADMITTED

Plaintiff will supplement these responses in accordance with the South Carolina Rules of Civil Procedure.

[SIGNATURE PAGE TO FOLLOW]

KORN LAW FIRM, P.A.



Dean A. Hayes, SC Bar No: 66066
Chris S. Truluck, SC Bar No: 77829
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
Facsimile: (803) 231-2060
ATTORNEYS FOR PLAINTIFF

June 12, 2013
Columbia, South Carolina
N:APD\ L11-04694

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF OCONEE

Bank of America, N.A., Successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

C/A No.: 2011-CP-37-1056

PLAINTIFF,

**PLAINTIFF'S ANSWERS TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S SECOND SET OF
INTERROGATORIES**

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

L11-04694

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John D. Dalen and Julie A. Dalen's Second Set of Interrogatories to Plaintiff as follows:

INTERROGATORY 1

Please provide the names of investors in the subject mortgage, either persons or entities.

ANSWER 1:

Plaintiff objects to this Interrogatory on the basis that the information sought is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding this objection, Fannie Mae is the investor.

INTERROGATORY 2

Please provide the date of the Assignment of the Note and Mortgage.

ANSWER 2:

The Assignment of Mortgage was executed May 9, 2011.

CAROLINA RABUZZO DE 31

INTERROGATORY 3

Please provide the date when the Note was purchased or bought back from FNMA/Fannie Mae.

ANSWER 3:

Plaintiff objects to this Interrogatory on the basis that the information sought is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Objection notwithstanding, FNMA is still the investor.

INTERROGATORY 4

Please provide the date when the Note was purchased by FNMA/Fannie Mae, and from whom the Note was purchased.

ANSWER 4:

Plaintiff objects to this Interrogatory on the basis that the information sought is irrelevant and not reasonably calculated to lead to this discovery of admissible evidence. Notwithstanding this objection, Fannie Mae issued guaranteed mortgage pass-through certificates, securitizing the loan, on January 1, 2008, from Countrywide Bank, FSB, as servicer and seller.

INTERROGATORY 5

Please identify the person or person(s) who answered the First Set of Interrogatories, the First Set of Requests for Admission, as well as who is answering the Second Set of Interrogatories and the Second Set of Requests for Admissions.


ANSWER 5:

Dean A. Hayes reviewed the responses provided by Scott Luttrull for FNMA and Jennifer Toney for Bank of America, N.A., for the above listed discovery requests.

Plaintiff will supplement these responses in accordance with the South Carolina Rules of Civil Procedure.

[SIGNATURE PAGE TO FOLLOW]

KORN LAW FIRM, P.A.



Dean A. Hayes, SC Bar No: 66066
Chris S. Truluck, SC Bar No: 77829
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
ATTORNEYS FOR PLAINTIFF

June *V*, 2013
Columbia, South Carolina

EXHIBIT *B* PAGE 28 OF 31

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., Successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

L11-04694

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S ANSWERS TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S AMENDED FIRST
SET OF INTERROGATORIES**

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John D. Dalen and Julie A. Dalen's Amended First Set of Interrogatories to Plaintiff as follows:

INTERROGATORY 1

Please identify at least one person having first-hand knowledge of the material facts alleged in the pleadings in this case, and, with regard to such person, state what they know about each such fact and how they came to know it.

ANSWER 1:

Plaintiff objects to this Interrogatory on the basis that the information overly broad.

INTERROGATORY 2

Please identify at least one person known or believed by anyone at Bank of America, N.A., who had received physical possession of the following:

- a. The original note and allonges associated with the loan that is the subject of the plaintiff's complaint;
- b. The mortgage deed of trust;

EXHIBIT B PAGE 29 OF 31

- c. The pooling and servicing agreement;
- d. Any document relating to the assignment, endorsement of the note, and the mortgage deed of trust; and
- e. Letters, email, or faxes of transmittals including attachments that refer to or incorporate terms regarding the securitization, sale, transfer, assignment, hypothecation, or any document or agreement that would affect the funding, or receipt of money from a third party in a transaction, and whether such money was allocated to the principal, interest, or other obligation related to the subject loan.

ANSWER 2:

Plaintiff objects to Interrogatory #2 as overly broad and not reasonably calculated to lead to the discovery of admissible evidence. Objection notwithstanding, the original note is located at the Korn Law Firm and has been made available for inspection. The mortgage has been filed with the Register of Deeds for Oconee County. Please see Plaintiff's responses to Defendant's Second Request for Production for a copy of the Assignment of Mortgage. Additional information has been requested and upon receipt will be provided to Defendant.

INTERROGATORY 3

Please identify at least one person in custody of any document which refers to any instruction or authority to enforce the note or mortgage in the subject loan transaction.

ANSWER 3:

Plaintiff objects to this Interrogatory on the basis that the information sought is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection, the Assignment of Mortgage was executed on May 9, 2011. A copy of the assignment of mortgage is attached. Korn Law Firm is in possession of the original note.

INTERROGATORY 4

Please identify the person(s) or entities that are entitled directly or indirectly to the stream of revenue from the borrower in the subject loan.

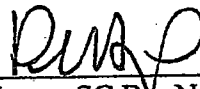
ANSWER 4:

Plaintiff objects to this Interrogatory on the basis that the information sought is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

CONFIDENTIAL

Plaintiff will supplement these responses in accordance with the South Carolina Rules of Civil Procedure.

KORN LAW FIRM, P.A.



Dean A. Hayes, SC Bar No: 66066
Chris S. Frutuck, SC Bar No: 77829
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
Facsimile: (803) 231-2060
ATTORNEYS FOR PLAINTIFF

June 12, 2013
Columbia, South Carolina
N:\PD\ L11-04694

EXHIBIT B PAGE 31 OF 31

EXHIBIT C
Pg. 1

2011 OCT 31 P 3:39
CLERK OF COURT
JOHN W. HARRIS JR.
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace Hills Property Owners Association,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

LIS PENDENS

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 2011-CP-37-1056

DEFICIENCY REQUESTED

LIS PENDENS # 2011-LP-37-366

F11-04694

NOTICE IS HEREBY GIVEN that an action has been commenced and is now pending in this court upon Complaint of the above-named Plaintiff against the above-named Defendant for foreclosure of a certain mortgage of real estate given by John Dalen and Julie A. Dalen to Mortgage Electronic Registration Systems, Inc., as nominee for Quicken Loans, Inc., its successors and assigns in the amount of One Hundred Eighteen Thousand Seven Hundred Fifty And 00/100 (\$ 118,750.00) Dollars, dated December 20, 2007, and recorded December 21, 2007 in the Office of the Register of Deeds for Oconee County in Book 2551 at Page 206.

Thereafter, by virtue of an assignment dated May 9, 2011, recorded May 16, 2011, in Mortgage Book 2975 at page 40, Mortgage Electronic Registration Systems, Inc. assigned said mortgage unto BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.

Thereafter, by virtue of a corporate merger, Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. merged with Bank of America, N.A. making Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. the present lien holder and Plaintiff herein.

The premises covered and affected by the said mortgage as by the foreclosure thereof, were, at the time of the making thereof, and at the time of the filing of this Notice, described as follows:

LEGAL DESCRIPTION AND PROPERTY ADDRESS:

ALL THAT CERTAIN piece, parcel or lot of land situate, lying and being in Oconee County, State of South Carolina, being shown and designated as LOT NUMBER TWENTY EIGHT (28), BLOCK A, WAWTOCKACE HILLS n/k/a WESTLAKE ESTATES, as shown and more fully described on a plat thereof prepared by Stephen R. Edwards, PLS #19881, dated July 31, 2006 and recorded November 2, 2006, in Plat Book B 172, at Page 10, records of Oconee County, South Carolina.

THIS BEING the same property conveyed unto John D. Dalen and Julie A. Dalen by virtue of a Deed from Karl G. Lowrey and Kathleen F. Lowrey, dated December 20, 2007 and recorded December 21, 2007, in Deed Book 1635 at Page 185, in the Office of the Register of Deeds for Oconee County, South Carolina.

109 Wood Valley Drive, Westminster, SC 29693
TMS # 295-01-02-007 ✓

KORN LAW FIRM, P.A.
1300 Pickens Street
P.O. Box 11264
Columbia, SC 29211-1264

PETER D. KORN / JOHN S. KAY / DEAN HAYES
ALAN M. STEWART / JOHN B. KELCHNER
H. GUYTON MURRELL / SUZANNAH HAYES
MEREDITH L. PRICKETT / KELLER C. FOSTER
TERESA D. VAN VLAKE / ASHLEY ZARRETT
Attorneys for Plaintiff

Columbia, South Carolina
October 27, 2011



EXHIBIT D
Pg 1 of 5

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF OCONEE

Bank of America, N.A. successor by merger to BAC
Home Loans Servicing, L.P. f/k/a Countrywide
Home Loans Servicing, L.P.,

COMPLAINT

(NON-JURY MORTGAGE FORECLOSURE)

PLAINTIFF,

C/A NO:

2011-CP-37-1056
DEFICIENCY REQUESTED

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANT(S).

2011 OCT 31 P 3:39

CLERK OF COURT
EVERETT W. WATFIELD

F11-04694

The Plaintiff, complaining of the Defendants above-named would respectfully show unto this Honorable Court:

1. That the Plaintiff is a national association organized and existing under and by virtue of the laws of the United States of America; and that the Defendants, John D. Dalen and Julie A. Dalen, are upon information and belief, citizens and residents of the County of Oconee, State of South Carolina. That the Defendant, Wawtockace Hills Property Owners Association, is upon information and belief a business organized and existing under the laws of South Carolina.

2. Any Defendant described herein as a judgment creditor(s) has, by filing the judgment(s), designated the attorney(s) entering the judgment(s) as their agent for service of process pursuant to the provisions of Section 15-35-840 of the S.C. Code of Laws (1976) as amended.

3. That the real property hereinafter described, which is the subject of this action, is situated and located in the County of Oconee, State of South Carolina.

4. That on or about December 20, 2007, for value received, John Dalen did execute and deliver to Quicken Loans, Inc., a certain promissory note in writing according to the terms and conditions set out therein, wherein and whereby said John Dalen promised to pay to Quicken Loans, Inc., the sum of One Hundred Eighteen Thousand Seven Hundred Fifty And 00/100 Dollars (\$118,750.00), together with interest thereon at the rate of Six And 75/100 per cent (6.75%) per annum.

5. That in order to better secure the payments of the said note and debt, in accordance with the terms and conditions thereof, John Dalen and Julie A. Dalen, did execute and deliver on December 20, 2007 unto Mortgage Electronic Registration Systems, Inc., as nominee for Quicken Loans, Inc., its successors and assigns, a mortgage covering the following described property:

Legal description and property address:

ALL THAT CERTAIN piece, parcel or lot of land situate, lying and being in Oconee County, State of South Carolina, being shown and designated as LOT NUMBER TWENTY EIGHT (28), BLOCK A, WAWTOCKACE HILLS n/k/a WESTLAKE ESTATES, as shown and more fully described on a plat thereof prepared by Stephen R.

ENTERED
COMPUTER

Edwards, PLS #19881, dated July 31, 2006 and recorded November 2, 2006, in Plat Book B 172, at Page 10, records of Oconee County, South Carolina.

THIS BEING the same property conveyed unto John D. Dalen and Julie A. Dalen by virtue of a Deed from Karl G. Lowrey and Kathleen F. Lowrey, dated December 20, 2007 and recorded December 21, 2007, in Deed Book 1635 at Page 185, in the Office of the Register of Deeds for Oconee County, South Carolina.

109 Wood Valley Drive, Westminster, SC 29693
TMS# 295-01-02-007

6. Thereafter said mortgage was recorded in Book 2551 at page 206 on December 21, 2007 in the office of the Register of Deeds of Oconee County.

7. The above referenced instrument constitutes a first mortgage lien and is a purchase money mortgage with the proceeds of the loan being used to purchase the property above described.

8. Thereafter, by virtue of an assignment dated May 9, 2011, recorded May 16, 2011, in Mortgage Book 2975 at page 40, Mortgage Electronic Registration Systems, Inc. assigned said mortgage unto BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.

9. Thereafter, by virtue of a corporate merger, Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. merged with Bank of America, N.A. making Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. the present lien holder and Plaintiff herein.

10. That the Defendant, Wawtockace Hills Property Owners Association, is made a party by virtue of any homeowners liens or assessments recorded or unrecorded that are due or that may become due in the future.

11. According to the terms and conditions of the said note and mortgage, it is provided that in the event of default in the payment of any installment when due, and if such default is not made good prior to the due date of the next such installment, the entire principal and accrued interest shall at once become due and payable without notice at the option of the holder, and if the same should be placed in the hands of an attorney for collection, all costs of collection, including a reasonable attorney's fee, would be secured by the said mortgage as a part of the debt secured thereby.

12. That under the terms and conditions of said mortgage, it is provided that, together with, and in addition to, the monthly payments of principal and interest payable under the terms of the note secured thereby, the mortgagor will pay to the mortgagee, on the payment due date each month until the said note is fully paid, certain additional sums, including but not limited to, certain amounts for fire and other hazard insurance and taxes and assessments due on the mortgaged premises.

13. Further, under the terms and conditions of said mortgage, it was agreed that the mortgagor would pay all taxes, assessments, water rates and other governmental or municipal charges, fines or impositions for which provisions were not otherwise made, and if they failed to do so, the mortgagee might pay same, which amount, together with interest thereon, would be secured by said mortgage.

14. According to the terms of said mortgage, and as additional security, the mortgagor assigned all rents, issues and profits of the mortgaged premises from and after any default there under, and should legal proceedings be

instituted pursuant to said mortgage, the mortgagee, its successors or assigns, was given the right to have a Receiver appointed of the rents, issues and profits, who, after deducting all charges and expenses attending such proceedings, and the execution of his trust as a Receiver, shall apply the residue of the rents, issues and profits, toward the debt secured by said mortgage.

15. The monthly payments due on said note and mortgage are in default since December 1, 2010, and the conditions of said note and mortgage have been broken and the Plaintiff elects to, and does declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of December 1, 2010 the sum of One Hundred Fourteen Thousand Eight Hundred Seventy-Five And 72/100 Dollars (\$114,875.72), together with interest at the rate of six and 75/100 per cent (6.75 %) per annum from November 1, 2010 and also for the costs and disbursements of this action, including attorney's fees.

16. That the Plaintiff does not waive but specifically demands judgment against the Defendant, John Dalen for the full amount found to be due to Plaintiff on the note and mortgage held by plaintiff, with the right to enter personal judgment against the Defendant, John Dalen for any deficiency in this action remaining after sale of the mortgaged premises.

17. That the servicer is participating in the Home Affordable Modification Program (HMP). The HMP modification process specified by the Guidelines or Supplemental Directive has been completed without resulting in a modification because the borrower defaulted under the terms of the HMP Trial Plan.

18. That upon information and belief, certain costs for inspecting and securing the subject property have been incurred by the Plaintiff as a result of this delinquency and Plaintiff is informed and believes it is entitled to reimbursement for such charges, if any.

19. The notice of consumer's right to cure, as contemplated under S.C. Code Sections 37-5-110 and 37-5-111, has been given or is not required, and all conditions precedent to the acceleration of the debt and foreclosure of the mortgage have been performed or have occurred.

WHEREFORE, having fully set forth its complaint, the Plaintiff prays that this Honorable Court inquire into the matters set forth herein and:

- (1) That the amount due upon the said note and mortgage held by the Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and costs of this action.
- (2) That the said Plaintiff's mortgage be declared a purchase money mortgage and that the said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.
- (3) That the mortgaged premises be sold under the direction of this court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:
First, to the costs and expenses of the within action and sale.
Second, to the payment and discharge of the amount due on Plaintiff's note and mortgage, together with attorney's fees as aforesaid, and
Third, the surplus, if any, be distributed according to law.

Fourth, Plaintiff have judgment against the Defendant, John Dalen for the full amount found to be due Plaintiff on the note and mortgage, with right to enter personal judgment against the Defendant, John Dalen for any deficiency in this action remaining after sale of the mortgaged premises.

(4) For an Order directing and empowering the Sheriff of Oconee County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

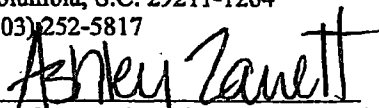
(5) For an Order granting the appointment of a receiver to secure and supervise the rental of the property sought to be foreclosed.

(6) For reimbursement of all costs for inspecting and securing the property incurred by the Plaintiff as a result of the delinquency.

(7) For such other and further relief as may be just and proper.

(8) For an order satisfying any prior liens that may be of record, but have been paid in full.

KORN LAW FIRM, P.A.
1300 Pickens Street
P.O. Box 11264
Columbia, S.C. 29211-1264
(803) 252-5817


PETER D. KORN / JOHN S. KAY / DEAN HAYES
ALAN M. STEWART / JOHN B. KELCHNER
H. GUYTON MURRELL / SUZANNAH HAYES
MEREDITH L. PRICKETT / KELLER C. FOSTER
TERESA D. VAN VLAKE / ASHLEY ZARRETT
Attorneys for Plaintiff

Columbia, South Carolina
October 27, 2011

NOTICE REQUIRED BY THE
FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. Section 1601 As Amended

EXHIBIT D
Pg 5 of 5

2011. CP-37-1056

1. The amount of the debt is stated in paragraph 15 of the Complaint attached hereto.
2. The Plaintiff as named in the attached Summons and Complaint is the creditor to whom the debt is owed.
3. The debt as described in the Complaint attached hereto will be assumed to be valid by the creditor's law firm, unless the debtor(s), within thirty (30) days after the receipt of this notice, disputes the validity of the debt or some portion thereof.
4. If the debtor(s) notify the creditor's law firm in writing within thirty days of the receipt of this notice that the debt or any portion thereof is disputed, the creditor's law firm will obtain a verification of the debt and a copy of the verification will be mailed to the debtor(s) by the creditor's law firm.
5. If the creditor named as Plaintiff in the attached Summons and Complaint is not the original creditor, and if the debtor(s) makes a written request to the creditor's law firm within thirty (30) days from the receipt of this notice, the name and address of the original creditor will be mailed to the debtor(s) by the creditor's law firm.
6. Written requests should be addressed to Korn Law Firm, P.A., Post Office Box 11264, Columbia, South Carolina 29211-1264.
7. This notice should NOT be construed as a thirty (30) day grace period. Creditor may pursue collection efforts immediately and not wait thirty (30) days.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

2011 OCT 31 P 3:40

CLERK OF COURT



Single-Family MBS Prospectus



Guaranteed Mortgage Pass-Through Certificates (Single-Family Residential Mortgage Loans)

The Certificates

We, the Federal National Mortgage Association or Fannie Mae, will issue the guaranteed mortgage pass-through certificates or MBS certificates. Each issue of certificates will have its own identification number and will represent the beneficial ownership in a distinct pool of residential mortgage loans secured by single-family (one-to four-unit) dwellings, or in a pool of participation interests in loans of that type.

Fannie Mae Guaranty

We guarantee to the MBS trust that we will supplement amounts received by the MBS trust as required to permit timely payments of interest and principal on the certificates. We alone are responsible for making payments under our guaranty. The certificates and payments of principal and interest on the certificates are not guaranteed by the United States, and do not constitute a debt or obligation of the United States or any of its agencies or instrumentalities other than Fannie Mae.

Consider carefully the risk factors section beginning on page 10. Unless you understand and are able to tolerate these risks, you should not invest in the certificates.

The certificates are exempt from registration under the Securities Act of 1933, as amended, and are "exempted securities" under the Securities Exchange Act of 1934, as amended. Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these certificates or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this Prospectus is June 1, 2007.

AMENDED AND RESTATED 2007 SINGLE-FAMILY MASTER TRUST AGREEMENT

THIS AMENDED AND RESTATED 2007 SINGLE-FAMILY MASTER TRUST AGREEMENT is executed by Federal National Mortgage Association ("Fannie Mae"), in its corporate capacities as Issuer, Master Servicer and Guarantor, and in its capacity as Trustee.

RECITALS:

- A. Fannie Mae previously executed the Single-Family Master Trust Agreement dated June 1, 2007 and, pursuant to clause (a) of Section 14.3, wishes to amend and restate that document.
- B. Fannie Mae is a corporation organized and existing pursuant to the Charter Act, and has full corporate authority and power to enter into, and to undertake the obligations set forth in, this Trust Agreement.
- C. Fannie Mae has purchased and intends to purchase residential mortgage loans.
- D. Fannie Mae intends to set aside and transfer residential mortgage loans acquired by it to various Trusts established pursuant to this Trust Agreement and the related Issue Supplements and to issue guaranteed mortgage pass-through certificates representing undivided beneficial ownership interests in the assets of the related Trusts.
- E. Fannie Mae intends to guarantee to each Trust sufficient funds to permit timely distributions to Holders of principal and interest on Certificates, as required by this Trust Agreement.
- F. Fannie Mae intends to be the Master Servicer of the Mortgage Loans held in each Trust and to arrange for and supervise the contractual servicing of the Mortgage Loans by Direct Servicers.
- G. Fannie Mae intends to be the Trustee for each Trust.

NOW, THEREFORE, the signatories to this Trust Agreement, in the capacities and with the responsibilities described above, irrevocably declare and establish this Trust Agreement and undertake the following:

ARTICLE I

DEFINED TERMS AND RULES OF CONSTRUCTION

Section 1.1 *Definitions.* Capitalized terms in this Trust Agreement will have the meanings given to them in this Section 1.1 or elsewhere in this Trust Agreement, unless the context clearly indicates a different meaning.

Accepted Servicing Practices: To the extent particular servicing practices are specified in the Trust Documents, such servicing practices; to the extent not specified in the Trust Documents, the servicing practices specified in the related Servicing Contract and the Guide; and to the extent not specified in the Trust Documents, the related Servicing Contract or the Guide,

EXHIBIT ~~1~~ PAGE 2 OF 7

**FEDERAL NATIONAL MORTGAGE ASSOCIATION
("FANNIE MAE")**

as

Issuer, Master Servicer, Guarantor and Trustee

AMENDED AND RESTATED 2007 SINGLE-FAMILY MASTER TRUST AGREEMENT

for

**GUARANTEED MORTGAGE
PASS-THROUGH CERTIFICATES**

evidencing undivided beneficial interests in

POOLS OF RESIDENTIAL MORTGAGE LOANS

January 1, 2009

Buydown or Abatement Funds: With respect to any Mortgage Loan, funds, if any, held by a Direct Servicer or Subservicer for the purpose of covering all or a portion of the interest, principal or other payment obligation of the Borrower under the related Mortgage Note until such funds are applied to the payment of the Borrower's obligation or otherwise released.

Certificate: A guaranteed mortgage pass-through certificate issued pursuant to this Trust Agreement and the related Issue Supplement, representing an undivided beneficial interest in the related Trust Fund.

Certificate Account: Any account or accounts created and maintained pursuant to Section 7.2, which may hold funds of one or more Trusts and Other Fannie Mae Trusts.

Certificate Distribution Amount: For each Distribution Date with respect to a Trust, the sum of the Certificate Interest Distribution Amount and the Certificate Principal Distribution Amount for that Trust.

Certificate Interest Distribution Amount: For each Distribution Date with respect to a Trust, one month's interest (based on a 360-day year consisting of twelve 30-day months) calculated as (a) the product of (x) the Pass-Through Rate and (y) the aggregate Certificate Principal Balance for all outstanding Certificates of that Trust as of the immediately preceding Distribution Date (or in the case of the initial Distribution Date, the original aggregate Certificate Principal Balance) minus (b) in the case of a Trust that holds a Pool of Negative Amortization Mortgage Loans, the aggregate amount of Deferred Interest for all Negative Amortization Mortgage Loans in that Pool that was added to the outstanding principal balances of such Mortgage Loans during the Due Period related to the current Distribution Date; provided, however, that the Master Servicer in calculating or causing to be calculated the amount to be distributed on any Distribution Date will make any adjustments as are necessary to reconcile prior payments made in error.

Certificate Principal Balance: As to any Certificate on any date of determination, the product of (x) the aggregate of the Stated Principal Balances of the Mortgage Loans in the related Pool (i) in the case of a date of determination other than a Distribution Date, on the immediately preceding Distribution Date (or, prior to the first Distribution Date for a Trust, on the Issue Date for that Trust), and (ii) in the case of a date of determination that is a Distribution Date, on that Distribution Date (in either case, after giving effect to any distribution of principal of the Certificates on the applicable Distribution Date and any addition to principal of the Certificates on such Distribution Date as a result of Negative Amortization with respect to the related Mortgage Loans during the Due Period relating to that Distribution Date) and (y) the Undivided Beneficial Interest represented by that Certificate.

Certificate Principal Distribution Amount: For each Distribution Date with respect to a Trust, the aggregate of the principal payments for all Mortgage Loans included in the related Pool (or for which payment has been received as provided in Section 2.7) for which the Stated Principal Balance has not been reduced to zero, consisting, without duplication, of:

1.2(16) *Will.* Whenever the word “will” is used as a verb, such word means that an obligation is imposed and is not intended merely as an expression of the future tense.

1.2(17) *Court.* Whenever the word “court” is used, such word means a court of competent jurisdiction.

ARTICLE II

CREATION OF TRUST; CONVEYANCE OF LOANS; PURCHASES OF LOANS

Section 2.1 *Declaration of Trust, Transfer and Conveyance of Mortgage Loans; Acceptance of Responsibilities.*

2.1(1) *Declaration of Trust, Transfer and Conveyance of Mortgage Loans.* By delivering at least one Certificate of a Trust in the manner described in Section 3.1, the Issuer unconditionally, absolutely and irrevocably sets aside, transfers, assigns, sets over and otherwise conveys to the Trustee, on behalf of related Holders, all of the Issuer’s right, title and interest in and to the Mortgage Loans in the related Pool, together with any Pool Proceeds. Once Mortgage Loans have been identified as being part of a particular Trust for which at least one Certificate has been issued, they will remain in that Trust unless removed in a manner consistent with the Trust Documents.

2.1(2) *Acceptance of Responsibilities.* Concurrently with the Issuer’s setting aside, transferring, assigning, setting over and otherwise conveying Mortgage Loans to the Trustee for a Trust:

(a) the Trustee (i) accepts the Mortgage Loans so conveyed, (ii) acknowledges that it holds all of the related Trust Fund in trust for the exclusive benefit of the related Holders, and (iii) agrees to administer the related Trust Fund and the related Certificates in accordance with the terms of the related Trust Documents;

(b) the Master Servicer accepts its responsibility to perform the functions of Master Servicer for the related Trust in accordance with the terms of the related Trust Documents; and

(c) the Guarantor agrees to make Guaranty payments in accordance with the terms of the related Trust Documents.

2.1(3) *Security Interest.* The Issuer intends that the conveyance, transfer and setting aside of the Mortgage Loans by the Issuer to the Trustee pursuant to the Trust Documents be a true, absolute and unconditional sale of the Mortgage Loans by the Issuer to the Trust, and not a pledge of the Mortgage Loans to secure a debt or other obligation of the Issuer. Notwithstanding this express intention, however, if the Mortgage Loans are determined by a court to be the property of the Issuer, then the Issuer intends that:

(a) the conveyance of the Mortgage Loans be deemed a pledge of the Mortgage Loans by the Issuer to the Trustee to secure a debt or other obligation of the Issuer; and

(b) (i) the Trust Documents be deemed a security agreement within the meaning of Articles 8 and 9 of the Uniform Commercial Code as in effect from time to time in the District of Columbia;

(ii) the conveyance provided for in Subsection 2.1(1) be deemed a grant by the Issuer to the Trustee of a security interest in: (A) all of the Issuer's right, title and interest in and to the Mortgage Loans and all amounts payable under the Mortgage Documents in accordance with their terms; and (B) all proceeds of any conversion, voluntary or involuntary, of those Mortgage Loans and amounts into cash, instruments, securities or other property (other than interest earnings and other investment earnings on any Custodial Account, Certificate Account, Escrow Account, Supplemental Account or other account established in connection with the Mortgage Loans);

(iii) the obligations secured by this security agreement be deemed all of the Issuer's obligations under the Trust Documents, including the obligation to make payments to Holders;

(iv) notifications to Persons holding such property, and acknowledgments, receipts or confirmations from Persons holding such property, be deemed notifications to, or acknowledgments, receipts or confirmations from, financial intermediaries, bailees or agents (as applicable) of the Trustee for the purpose of perfecting the security interest under applicable law; and

(v) immediately upon default of the deemed indebtedness of the Issuer with respect to any Trust, the Trustee, without any further action, become the absolute owner (in its capacity as Trustee of the related Trust) of the Mortgage Loans securing such deemed indebtedness, free and clear of any and all interests of the Issuer in such Mortgage Loans.

2.1(4) *Equitable Interest.* If the Issuer fails to transfer the entire legal ownership in and to each Mortgage Loan to the related Trust, the Issuer intends that the Trust Documents nevertheless will operate to transfer the entire equitable ownership interest in and to each Mortgage Loan to the Trustee for the related Trust.

2.1(5) *Prohibition Against Encumbrance.* Except as may otherwise be provided expressly in the Trust Documents, neither Fannie Mae (in any of its corporate capacities) nor the Trustee will, directly or indirectly (by causing a Direct Servicer, a Custodian or other agent or independent contractor to do so), assign, sell, dispose of or transfer all or any portion of or interest in the Trust Fund, or permit all or any portion of the Trust Fund to be subject to any lien, claim, mortgage, security interest, pledge or other encumbrance of any other Person. Nothing in this Subsection 2.1(5) prevents the Borrower from causing the Mortgaged Property that secures a Mortgage Loan included in such Trust Fund to become subject to another lien, nor a Direct Servicer from pledging or transferring its rights under and in accordance with the provisions of the Servicing Contract or from transferring a portion of the Excess Spread or Designated Excess Spread with respect to a Mortgage Loan as provided in clause (viii) of paragraph (a) of Subsection 5.1(4), paragraph (b) of Subsection 5.1(6) or Subsection 5.1(7).

EXHIBIT PAGE 20 OF 27

2.1(6) *Accounting Treatment.* For so long as required under FAS 140, each Trust upon its creation is intended to be considered a “qualifying special purpose entity” under accounting principles generally accepted in the United States. Accordingly, no Trust is intended to be required to be consolidated into the financial statements of the Issuer. Further, it is intended that no Trust will be required to be consolidated into the financial statements of any Holder or any other Person having a beneficial interest in the Trust, other than the Issuer, because no such Holder or other Person has the unilateral ability (x) to cause a Trust to be liquidated or (y) for so long as the requirements of FAS 140 remain applicable, to change a Trust in such a way that the Trust no longer is a “qualifying special purpose entity.”

2.1(7) *Status of Trust.* For federal income tax purposes, each Trust formed under this Trust Agreement will be treated as a fixed investment trust under the Internal Revenue Code and applicable Treasury Regulations, and not as an association taxable as a corporation. The Trust Documents will be interpreted so as not to provide any “power to vary the investment” (within the meaning of the applicable Treasury Regulations) of any Trust formed under this Trust Agreement. The Trustee will take any action or cause the Trust to take any action necessary to create and maintain the status of each Trust as a fixed investment trust for federal income tax purposes; provided that if any such action would require the consent of Holders under Article XIV, the Trustee will not effect that action without the requisite consent of Holders.

2.1(8) *Use of Information.* Notwithstanding anything to the contrary in Subsection 2.1(1), Fannie Mae, in each of its capacities, retains or is and will be granted, as applicable, on a nonexclusive basis, any and all licenses and rights to store, reproduce, edit, analyze, distribute and use in any manner all or part of information or data contained in the Mortgage Documents and in any other records and documentation regarding the Mortgage Loans, and all accounts, insurance policies and other matters relating to any Mortgage Loan or Pool under Article V or otherwise under the Trust Documents. Assignees and successors of the Issuer, the Trustee, the Master Servicer and the Guarantor are and will be granted, on a nonexclusive basis, any and all licenses and rights to store, reproduce, edit, analyze, distribute and use all or part of such information or data for the purpose of carrying out their respective functions.

2.1(9) *Payment for Services to Trusts.* In order that services to the Trusts will be provided, fees and expenses payable under the Trust Documents for a Trust (including Servicing Fees and ancillary charges, LPMI Charges, Excess Spread, Trust Administration Fees and Guaranty Fees) are payable prior to any distribution to Holders.

Section 2.2 *Issuance of Certificates.* The issuance of a Certificate pursuant to the related Trust Documents will occur upon the date of initial settlement and transfer of consideration for such Certificate and will constitute a sale, assignment, transfer and conveyance to a Holder of an Undivided Beneficial Interest in the related Trust Fund, effective as of the related Issue Date. With regard to each Trust, all of the terms and conditions of the Trust Documents will become binding and irrevocable at such time as the Issuer first causes a Certificate for that Trust to be issued; provided, however, that the Issue Date Pool Balance may be increased during the same calendar month as the Issue Date if additional Certificates of a Trust are transferred when additional Mortgage Loans are added, upon settlement and transfer of consideration for those additional Certificates. By settlement of and transfer of consideration for a Certificate, a Holder acknowledges, accepts and agrees to be bound by all of the terms and

EXHIBIT D PAGE 534

KORN LAW FIRM, P.A.
ATTORNEYS AND COUNSELORS AT LAW
1300 PICKENS STREET
COLUMBIA, SOUTH CAROLINA 29201

MAILING ADDRESS
POST OFFICE BOX 12369
COLUMBIA, SOUTH CAROLINA 29211-2369
(803) 252-5817
FACSIMILE (803) 231-2060

June 18, 2013

The Honorable Alexander S. Macaulay
S.C. Circuit Court
P.O. Drawer 428
Walhalla, SC 29691

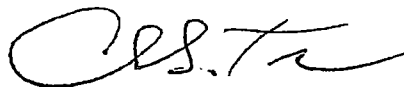
RE: Bank of America, N.A. v. John D. Dalen, et al.
C/A No.: 2011-CP-37-01056
Korn Law Firm File No.: F11-04694

Dear Judge Macaulay:

I am writing with regard to the court's Order compelling that the plaintiff produce the "Pooling and Servicing Agreement" before June 28, 2013, a copy of which is enclosed for your reference. Although this loan has been reclassified out of the trust as of March 21, 2011, the attached documents are the most recent that applied to the subject loan, and we are forwarding them to Mr. and Mrs. Dalen pursuant to the Order. The plaintiff withdraws its request to have these documents reviewed in camera.

Thank you.

Sincerely,



Chris S. Truluck, Esquire

Enclosures (as stated)
John D. Dalen
Julie A. Dalen
109 Wood Valley Drive
Westminster, SC 29693

EXHIBIT f PAGE 1 OF 1

EXHIBIT #6
Pg 1 of 1

175335706

Recording Requested By:
Bank of America
Prepared By: Debbie Nieblas
888-603-9011

When recorded mail to:
CoreLogic
450 E. Boundary St.
Attn: Release Dept.
Chapin, SC 29036



DocID# 13817533570651340

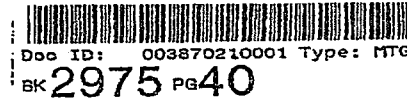
Tax ID: 295-01-02-007

Property Address:
109 WOOD VALLEY DR
Westminster, SC 29693

SC0-AM 138-1494 5/6/2011

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS

2011 MAY 16 P 4:28



Doc ID: 003870210001 Type: MTC

BK 2975 PG 40

This space for Recorder's use

MIN #: 100039032138692476

MERS Phone #: 888-679-6377

ASSIGNMENT OF MORTGAGE

For Value Received, the undersigned holder of a Mortgage (herein "Assignor") whose address is 3300 S.W. 34TH AVENUE, SUITE 101 OCALA, FL 34474 does hereby grant, sell, assign, transfer and convey unto BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP whose address is 13150 WORLD GATE, HERNDON, VA 20170 all beneficial interest under that certain Mortgage described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Mortgage.

Original Lender: QUICKEN LOANS INC.
Original Borrower(s): JOHN DALEN AND JULIE A. DALEN, HUSBAND AND WIFE
Date of Mortgage: 12/20/2007
Original Loan Amount: \$118,750.00

Recorded in Oconee County, SC on: 12/21/2007, book 2551, page 206 and instrument number 010516

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Mortgage to be executed on
Dated: 5-9-2011

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

By: Youda Crain
Youda Crain, Assistant Secretary

Malik Basurto
Witness: Malik Basurto

Tina LeRuybaud
Witness: Tina LeRuybaud

State of California
County of Ventura

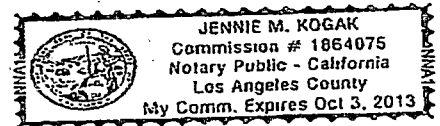
On May 9, 2011 before me, Jennie M. Kogak, Notary Public, personally appeared Youda Crain, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jennie M. Kogak
Notary Public, Jennie M. Kogak
My Commission Expires 10/3/2013

(Seal)



610 175335706 D8 001 003

Ret.
600
012419

NOTE

REDACTED
Dalen, John

December 20, 2007
(Date)

Westminster.
(City)

SC
(State)

109 Wood Valley Dr
Westminster, SC 29693-5003
(Property Address)

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$118,750.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is Quicken Loans Inc.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.750%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on February 1, 2008. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on January 1, 2038, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P. O. Box 553154, Detroit, MI 48255-3154 or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 770.22

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

REDACTED

EXHIBIT A PAGE 1 OF 3

MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFO

REDACTED

5N (0005).01

Form 3200 1/01

VMP MORTGAGE FORMS - (800)521-7291

REDACTED

Page 1 of 3

Initials: *JD*

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of Fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

REDACTED

EXHIBIT PAGE 2 OF 3

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

John Dalen 12/20/2007 (Seal)
-Borrower

(Seal)
-Borrower

WITHOUT RECOURSE
Pay To the Order of (Seal)

Countrywide Bank, FSB

QUICKEN LOANS, INC.

By THERESA ROODBEEN
CAPTURE MANAGER (Seal)
-Borrower

PAY TO THE ORDER OF _____ (Seal)
-Borrower

WITHOUT RECOURSE
COUNTRYWIDE BANK, FSB

BY LAURIE MEDER
LAURIE MEDER (Seal)
SENIOR VICE PRESIDENT -Borrower

(Seal)
-Borrower

(Seal)
-Borrower

[Sign Original Only]

REDACTED

EXHIBIT # PAGE 3 OF 3

012419
Ret.
RM 6/10

Recording Requested By:
Bank of America
Prepared By: Debbie Niehaus
888-693-9011
When recorded mail to:
CoreLogic
450 E. Boundary St.
Attn: Release Dept.
Chapin, SC 29036



DocID# 13817533570651340
Tax ID: 295-01-02-007
Property Address:
109 WOOD VALLEY DR
Westminster, SC 29693
SCO-AM 124494 2/9/2011

FILED FOR RECORD
JOHNSON COUNTY, S.C.
REGISTER OF DEEDS

2011 MAY 16 P 4:28



Doc ID: G09870210001 Type: MTG
BK 2975 Pg 40

MIN #: 108039032138692476 MERS Phone #: 888-679-6377

ASSIGNMENT OF MORTGAGE

For Value Received, the undersigned holder of a Mortgage (herein "Assignor") whose address is 3300 S.W. 34TH AVENUE, SUITE 101 OCALA, FL 34474 does hereby grant, sell, assign, transfer and convey unto BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP whose address is 13150 WORLD GATE, HERNDON, VA 20170 all beneficial interest under that certain Mortgage described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Mortgage.

Original Lender: QUICKEN LOANS INC.
Original Borrower(s): JOHN DALEN AND JULIE A. DALEN, HUSBAND AND WIFE
Date of Mortgage: 12/20/2007
Original Loan Amount: \$118,750.00

Recorded in Oconee County, SC on: 12/21/2007, book 2551, page 206 and instrument number 010516

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Mortgage to be executed on
Dated: 5-9-2011

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

By: Youda Crain
Youda Crain, Assistant Secretary

Malik Basurto

Witness: Malik Basurto

Tina LeRoydand

Witness: Tina LeRoydand

State of California
County of Ventura

On May 9, 2011 before me, Jennie M. Kogak, Notary Public, personally appeared Youda Crain, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

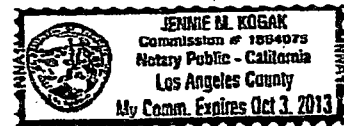
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jennie M. Kogak

Notary Public, Jennie M. Kogak
My Commission Expires 10/3/2013

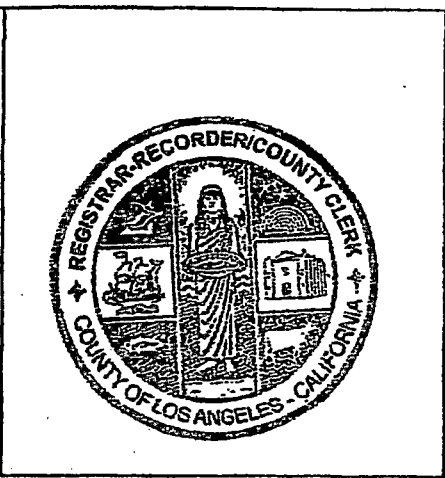
(Seal)



NOTARY PUBLIC OATH AND CERTIFICATE OF FILING

MUST BE FILED IN THE COUNTY CLERK'S OFFICE BY 11-03-2009

I hereby certify that the official bond and oath of office of the person whose name is shown below, was filed on the date indicated and that the following is a copy of said oath.



[PLACE OFFICIAL SEAL HERE]

State of California Los Angeles County
County of _____

- Subscribed and sworn to before me, and filed in my office,
- OR
- Filed in my office, this

SEP 28 2009

_____ day of _____, 20____
JEAN C. LOGAN _____ P. CORONA

County Clerk/Deputy

(This Area is for County Clerk's Use Only)

I, Jennie M. Kogak, do solemnly swear and (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

SIGNATURE OF NOTARY Jennie M. Kogak
The signature must be used by you in signing ALL notarized documents and must match the signature on your Notary Public application.

Jennie M. Kogak

Self
20520 Hiawatha Street
Chatsworth, 91311
(818) 993-5521

Pursuant to Government Code section 8213.5, any change of address must be sent to the Secretary of State by certified mail. Changes to the address on this form will NOT update your address with the Secretary of State.

Commission No. 1864075 for term commencing 10/04/2009 and ending 10/03/2013 in the county of LOS ANGELES.

FOR PERSONS FILING BY MAIL

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on

this 10th day of September, 2009 Jennie M. Kogak proved to me on the basis of satisfactory evidence to be the person who appeared before me.



[PLACE NOTARY SEAL HERE]

Paul Nias Shin
(Signature of Notary Public administering oath of office)

NOTE: FOR INFORMATION ON THE AMOUNT OF THE FEES FOR FILING AND RECORDING THE OFFICIAL BOND AND OATH, CONTACT YOUR COUNTY CLERK/RECORDER.

Check here if county transfer. A county transfer can only be filed after the initial oath and bond have been filed

EXHIBIT I Pa 2012



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FILED

SEP 28 2009

DEAN C. LOGAN
REGISTRAR-RECORDER/COUNTY CLERK
CALIFORNIA
DEPUTY

Jennie M. Kogak
20520 Hiawatha Street
Chatsworth Ca. 91311

MERCHANTS BONDING COMPANY

2100 FLEUR DRIVE • DES MOINES, IOWA 50321-1158
(800) 876-6827 • (800) 833-1211 FAX

NOTARY PUBLIC BOND

Bond No. 40642993N
Premium \$38.00

KNOW ALL PERSONS BY THESE PRESENTS:

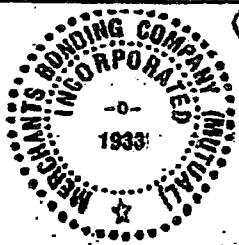
That we Jennie M. Kogak, as Principal, and MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly licensed to do business in the State of California, as Surety, are held and firmly bound unto the State of California, in the sum of Fifteen Thousand (\$15,000) Dollars, lawful money of the United States of America, to be paid to the said State of California, or its assigns, for which payment, well and truly to be made, we bind ourselves and our legal representatives, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the Principal was on the 4th day of October, 2009, duly appointed a Notary Public in the State of California for the term of four years from the date of his/her commission.

NOW THEREFORE, if the Principal shall well, truly and faithfully perform all official duties required of him/her by law, and all such additional duties as may hereafter be imposed on him/her as such officer by any law of the State of California, then the above obligation to be void, otherwise to remain in full force and effect.

Any proceeding under this bond may be instituted in any court of competent jurisdiction in the State of California.

Signed and dated this 11th day of September, 2009



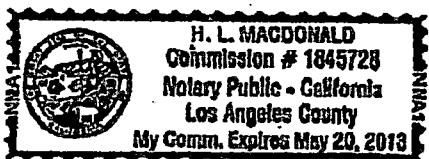
By Jennie M. Kogak Principal
MERCHANTS BONDING COMPANY (MUTUAL)
By Mary Elizabeth Erba Attorney-in-Fact

(Executed under penalty of perjury as provided in C.C.P. 995-630b)

STATE OF California
County of Los Angeles

CERTIFICATE OF ACKNOWLEDGMENT

On September 11, 2009 before me, H. L. MacDonald, Notary Public, personally appeared Mary Elizabeth Erba who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.



H. L. MacDonald Notary Public
NEO 0601-0001 CA (1/09)



what Jennie Kogak where

Find Resumes Advanced Search

Jennie Kogak

Executive Assistant San Diego, CA

Work Experience

Notary Public/Signing Agent Express Notary - Irvine, CA

Responsibilities I perform loan closings and notaries for borrowers, buyers and sellers. Handle large volumes of real estate/lending documents.

Executive Assistant/Office Manager Dependency Legal Group - Mission Valley, CA December 2011 to February 2012

Notary Public Bank of America - Simi Valley, CA February 2011 to August 2011

High volume full-time notary services for Bank of America in Simi Valley for their final docs department performing up to 350 notarization per day.

Administrative Assistant P&G Beauty - Woodland Hills, CA July 2010 to December 2010

Administrative Support for P&G Beauty Temporary position with P&G Hair Products in Woodland Hills supporting Global Elite Program for salons nationwide which required drafting of correspondence, filing, customer service and support, and heavy use of Outlook

Executive Assistant QUALITY PROPERTIES - Calabasas, CA October 2009 to June 2010

Executive/Administrative Support for Property Management Company. Provide executive administrative duties for a broker/owner of real estate company, appraisal and property management company and loan brokerage. Phone and correspondence, showing rental units, overseeing repair and maintenance, collecting rents, and assisting owner with anything needed for all four entities.

Executive Administrative Assistant Forry Law Group - Mission Hills, CA May 2009 to October 2009

Provide high-level administrative support to solo real estate attorney on a temporary basis. Perform a variety of duties to assist attorney with major real estate litigation. Handled all administrative duties including all correspondence, arranging travel, calendaring, preparing and scanning exhibits using Excel, and legal briefs for attorney.

Executive Assistant TYRA SKIN CARE - Chatsworth, CA February 1997 to May 2009

Provide high-level administrative support to Chief Executive Officer of leading manufacturer of a nationally known skin care company.
• Prepared all personal and business correspondence, memos, emails both internal and external from all areas of the company
• Arranged all travel requirements both domestic and international including hotel, air and local transportation
• Personal and corporate banking, insurance and brokerage accounts
• Prepared any and all documentation relating to company's marketing materials, including newsletter

Save Resume

Forward Resume

Print Resume

Download Resume

Updated: March 11, 2014

Resumes you may be interested in:

Toni Thomas - Huntington Beach, CA Notary Public / Notary Signing... self

Kimberly Lindsay - San Diego, CA Notary Public/ Account... THE UPS STORE

Karen Schoenfeld - Huntington Beach, CA Notary Public Self

Rebecca Wright - Alpine, CA Owner/Broker & Notary Public California Options Real Estate /...

Stephen Seneca - San Diego, CA Loan Signing Agent/Notary Public... Loan Signing Agency

Sarah Menchel - San Diego, CA Paralegal WEST MALDONADO LAW GROUP

JACKSON BURTON - Lake Elsinore, CA Notary Public/Associate ALL WRITE DOC PREP.

Annie Anderson - La Jolla, CA Executive Assistant JULIE A. DALE CLOSING SERVICES....

Jane Katnik - Lake Forest, CA Certified Signing Agent On The Dotted Line

Sara Guerra - Hemet, CA Notary Public County to County Notary™

EXHIBIT 5 as 1-4-12

and mailings, and product photo shoots.

- Maintained client data base and website as well as assist in the design and implementation of all new product designs and product development.
- Customer service representative and liaison for vendor contacts, including chemist, distributors and retail customers.
- Organized and attended many ASPRS Conventions preparing marketing materials, sample packets, as well as speaking directly with plastic surgeons and dermatologists
- Oversaw all event planning both personal and corporate, from small social events to larger corporate functions.
- Coordinated and hosted successful client seminars and conventions, creating invitations and promotional materials, booking venues, and selecting guest speakers
- Designed and coordinated new product creation and manufacture
- Supported up to five different company personal at any one time

Administrative Assistant-Volunteer Coordinator

Tarzana/Encino Hospital - Tarzana, CA
1996 to 1997

Served as Administrative Assistant and Volunteer Coordinator to the Vice-President of Patient Relations for both hospitals.

- Provided administrative and logistical support for VP of Volunteers
- Coordinated volunteers with scheduled duties for both hospitals
- Trained and supervised volunteers for both hospitals
- Coordinated and planned volunteer special events
- Wrote, edited and published hospital volunteer newspaper
- Assisted with patient discharges
- Coordinated, implemented and oversaw all volunteer activities for both campuses
- Successfully published a monthly newsletter and calendar

Event Assistant

WHITE LOTUS PRODUCTIONS - San Diego, CA

Present

ALL STAR PRODUCTIONS, SAN DIEGO, CA Present

Provide event set up, production and strikes, design work and floral arrangement support for both event production companies.

Education

AA in History

Pierce College - Woodland Hills, CA

Additional Information

I have worked for attorneys, hospitals and in sales and marketing. My specialty is getting things done and supporting those I work for and with in every way that I can.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
555 4th Street, NW
Washington, DC 20530

THE STATE OF ALABAMA,
501 Washington Avenue
Montgomery, AL 36130

THE STATE OF ALASKA,
1031 W. 4th Avenue, Ste. 200
Anchorage, AK 99501

THE STATE OF ARIZONA,
1275 W. Washington
Phoenix, AZ 85007

THE STATE OF ARKANSAS,
323 Center Street, Suite 200
Little Rock, Arkansas 72201

THE STATE OF CALIFORNIA,
455 Golden Gate Avenue, Ste. 14500
San Francisco, CA 94102-7007

THE STATE OF COLORADO,
1525 Sherman Street – 7th Floor
Denver, Colorado 80203

THE STATE OF CONNECTICUT,
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120

THE STATE OF DELAWARE,
820 N. French Street
Wilmington, DE 19801

THE STATE OF FLORIDA,
3507 E. Frontage Road
Suite 325
Tamp, FL 33607

EXHIBIT K - pg 1 of 15

THE STATE OF GEORGIA,
40 Capitol Square, S.W.
Atlanta, Georgia 30334

THE STATE OF HAWAII,
425 Queen Street
Honolulu, Hawaii 96813

THE STATE OF IDAHO,
700 W. Jefferson St.
P.O. Box 83720
Boise, ID 83720-0010

THE STATE OF ILLINOIS,
500 South Second Street
Springfield, IL 62706

THE STATE OF INDIANA,
302 West Washington St., IGCS 5th Fl.
Indianapolis, Indiana 46204

THE STATE OF IOWA,
1305 E. Walnut St.
Des Moines, IA 50319

THE STATE OF KANSAS,
120 SW 10th Avenue, 2nd Floor
Topeka, KS 66612

THE COMMONWEALTH OF KENTUCKY,
State Capitol, Suite 118
700 Capital Avenue
Frankfort, Kentucky 40601-3449

THE STATE OF LOUISIANA,
1185 N. Third Street
Baton Rouge, Louisiana 70802

THE STATE OF MAINE,
Burton Cross Office Building, 6th Floor
111 Sewall Street
Augusta, Maine 04330

THE STATE OF MARYLAND,
200 Saint Paul Place
Baltimore, MD 21202

THE COMMONWEALTH
OF MASSACHUSETTS,
One Ashburton Place
Boston, MA 02108

THE STATE OF MICHIGAN,
525 W. Ottawa Street
PO Box 30755
Lansing, MI 48909

THE STATE OF MINNESOTA,
445 Minnesota Street, Suite 1200
St. Paul, MN 55101-2130

THE STATE OF MISSISSIPPI,
Post Office Box 22947
Jackson, MS 39225-2947

THE STATE OF MISSOURI,
PO Box 899
Jefferson City, MO 65102

THE STATE OF MONTANA,
215 N. Sanders
Helena MT 59624

THE STATE OF NEBRASKA,
2115 State Capitol
Lincoln, NE 68509-8920

THE STATE OF NEVADA,
100 North Carson Street
Carson City, Nevada 89701

THE STATE OF NEW HAMPSHIRE,
33 Capitol Street
Concord, New Hampshire 03301

THE STATE OF NEW JERSEY,
124 Halsey Street – 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

EXHIBIT K Pg 3 of 15

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THE STATE OF NEW MEXICO,
PO Drawer 1508
Santa Fe, NM 87504-1508

THE STATE OF NEW YORK,
120 Broadway
New York, NY 10271

THE STATE OF NORTH CAROLINA,
P. O. Box 629
Raleigh, NC 27602

THE STATE OF NORTH DAKOTA,
Gateway Professional Center
1050 E Interstate Ave, Ste. 200
Bismarck, ND 58503-5574

THE STATE OF OHIO,
30 E. Broad St., 14th Floor
Columbus, OH 43215

THE STATE OF OREGON,
1515 SW 5th Avenue, Ste. 410
Portland, OR 97201

THE COMMONWEALTH OF PENNSYLVANIA,
16th Floor, Strawberry Square
Harrisburg, PA 17120

THE STATE OF RHODE ISLAND,
150 South Main Street
Providence, RI 02903

THE STATE OF SOUTH CAROLINA,
1000 Assembly Street, Room 519
Columbia, SC 29201

THE STATE OF SOUTH DAKOTA,
1302 E. Highway 14, Suite 1
Pierre, SD 57501

THE STATE OF TENNESSEE,
425 Fifth Avenue North
Nashville, TN 37243-3400

THE STATE OF TEXAS,
401 E. Franklin Avenue, Suite 530
El Paso, Texas 79901

THE STATE OF UTAH,
350 North State Street, #230
Salt Lake City, UT 84114-2320

THE STATE OF VERMONT,
109 State Street
Montpelier, Vermont 05609

THE COMMONWEALTH OF VIRGINIA,
900 East Main Street
Richmond, Virginia 23219

THE STATE OF WASHINGTON,
1250 Pacific Avenue, Suite 105
PO Box 2317
Tacoma, WA 98402-4411

THE STATE OF WEST VIRGINIA,
State Capitol, Room 26E
Charleston, WV 25305-0220

THE STATE OF WISCONSIN,
Post Office Box 7857
Madison, Wisconsin 53707-7857

THE STATE OF WYOMING, and
123 State Capitol Bldg
200 W. 24th
Cheyenne, WY 82002

THE DISTRICT OF COLUMBIA,
441 Fourth Street, N.W., Suite 600-S
Washington, DC 20001

Plaintiffs,

v.

BANK OF AMERICA CORPORATION,
Corporate Center 100
100 North Tyron Street)
Charlotte, North Carolina 28255

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BANK OF AMERICA, N.A.,
100 North Tryon Street
Charlotte, North Carolina 28255

BAC HOME LOANS SERVICING, LP f/k/a
COUNTRYWIDE HOME LOANS
SERVICING, LP,
4500 Park Granada
Calabasas, California 91302-1613

COUNTRYWIDE HOME LOANS, INC.,
4500 Park Granada
Calabasas, California 91302

COUNTRYWIDE FINANCIAL CORPORATION,
4500 Park Granada
Calabasas, California 91302

COUNTRYWIDE MORTGAGE
VENTURES, LLC,
4500 Park Granada
Calabasas, California 91302-1613

COUNTRYWIDE BANK, FSB,
100 North Tryon Street
Charlotte, NC 282002

CITIGROUP INC.,
399 Park Ave.
New York, New York 10022-4614

CITIBANK, N.A.,
399 Park Ave.
New York, New York 10022-4617

CITIMORTGAGE, INC.,
1000 Technology Drive
O'Fallon, Missouri 63368

J.P. MORGAN CHASE & COMPANY,
270 Park Avenue
New York, New York 10017

JPMORGAN CHASE BANK, N.A.
1111 Polaris Parkway
Columbus, OH 43240

RESIDENTIAL CAPITAL, LLC,
1100 Virginia Drive
Fort Washington, Pennsylvania 19034

ALLY FINANCIAL, INC.,
200 Renaissance Center
P.O. Box 200
Detroit, Michigan 48265

GMAC MORTGAGE, LLC,
1100 Virginia Drive
Fort Washington, Pennsylvania 19034

GMAC RESIDENTIAL FUNDING CO. LLC
8400 Normandale Lake Boulevard
Minneapolis, Minnesota 55437

WELLS FARGO & COMPANY,
420 Montgomery Street Front
San Francisco, CA 94104-1205

WELLS FARGO BANK, N.A.,
One Home Campus
Des Moines, IA 50328

Defendants.

COMPLAINT

Now comes the United States, and the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming, the Commonwealths of Kentucky, Massachusetts, Pennsylvania and Virginia, and the District of Columbia by and through their undersigned attorneys, and respectfully allege as follows:

INTRODUCTION

1. This is a civil action filed jointly by the United States; the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska,

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pg
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of
15
EXHIBIT K
UNFILED

Nevada, New Hampshire, New Jersey, New Mexico, York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming; the Commonwealths of Kentucky, Massachusetts, Pennsylvania and Virginia; and the District of Columbia against:

2. Residential Capital, LLC, Ally Financial, Inc., and GMAC Mortgage, LLC; Bank of America Corporation, Bank of America, N.A., BAC Home Loans Servicing, LP, Countrywide Financial Corporation, Countrywide Home Loans, Inc., Countrywide Mortgage Ventures, LLC, and Countrywide Bank FSE Citigroup Inc., Citibank, N.A., and CitiMortgage, Inc.; J.P. Morgan Chase & Company and J.P. Morgan Chase Bank, N.A.; and Wells Fargo & Company and Wells Fargo Bank, N.A., for misconduct related to the origination and servicing of single family residential mortgages.

3. As described in the allegations below, Defendants' misconduct resulted in the issuance of improper mortgages, premature and unauthorized foreclosures, violation of service members' and other homeowners' rights and protections, the use of false and deceptive affidavits and other documents, and the waste and abuse of taxpayer funds. Each of the allegations regarding Defendants contained herein applies to instances in which one or more, and in some cases all, of the Defendants engaged in the conduct alleged.

THE PARTIES

4. This action is brought by the United States of America, on behalf of its agencies and department acting through the United States Department of Justice.

5. This action is also brought by the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming; the Commonwealths of Kentucky, Massachusetts, Pennsylvania and Virginia; and the District of Columbia. Collectively the plaintiffs identified in this paragraph are referred to here as the "plaintiff States." This action is brought by the Attorneys General of the plaintiff States pursuant to consumer protection enforcement authority conferred on them by state law and pursuant to *parens patriae* and common law authority. The Attorneys General are authorized to seek injunctive relief, restitution for consumers, and civil penalties for violation of the consumer protection laws of their States.

6. Defendant Bank of America Corporation is a diversified global financial services company and bank holding company. It is a Delaware corporation headquartered in Charlotte, North Carolina. Defendant Bank of America, N.A. is a national banking association headquartered in Charlotte, North Carolina. Defendant BAC Home Loans Servicing, L.P. was a servicing company that had formerly been known

Countrywide Home Loans Servicing, L.P. It was a Texas limited partnership with its principal place of business in Plano, Texas. It was, for a time, a wholly owned subsidiary of Bank of America, N.A. In July 2011, it was merged into Bank of America, N.A. This action is also brought against Countrywide Financial Corporation, a financial services company headquartered in Calabasas, California, and three of its subsidiaries, Countrywide Home Loans, Inc., Countrywide Mortgage Ventures, LLC, and Countrywide Bank, FSB (collectively, with Countrywide Financial Corporation, "Countrywide"). On April 23, 2009, the Office of the Comptroller of the Currency approved Countrywide Bank, FSB's ("CWB") request to convert its charter back to that of a national bank and the request by Bank of America, N.A. to then immediately acquire CWB by merger. These transactions were executed on April 27, 2009, as a result of which CWB ceased to exist. Bank of America, N.A. was the surviving institution resulting from this merger. Thus, Bank of America, N.A. is the successor in interest to CWB. Collectively the defendants identified in this paragraph are referred to here as "BOA." The business of BOA and its subsidiaries and affiliates includes origination and servicing of mortgage loans.

7. Defendant Citigroup Inc. is a diversified global financial services company. It is a Delaware corporation headquartered in New York City. Defendant Citibank, N.A. is a national banking association. It is Citigroup Inc.'s primary U.S. subsidiary depositor institution. It is headquartered in New York City. Citibank, N.A. is a wholly owned indirect subsidiary of Citigroup, Inc. It provides residential real estate lending. Defendant CitiMortgage is a New York corporation, wholly owned indirect subsidiary of Citigroup, Inc., and is a residential mortgage loan servicing company headquartered in O'Fallon, Missouri. Collectively the three defendants identified in this paragraph are referred to here as "Citigroup." The business of Citigroup and its subsidiaries and affiliates, includes the origination and servicing of mortgage loans.

8. Defendant J.P. Morgan Chase & Company is a diversified global financial services firm. It is a Delaware corporation, headquartered in New York, New York. On May 30, 2008, J.P. Morgan Chase & Company acquired The Bear Stearns Companies Inc. (now the Bear Stearns Companies LLC) by merger, including its subsidiary EMC Mortgage Corporation (now EMC Mortgage LLC). Defendant JPMorgan Chase Bank, N.A. is a national banking association. It is headquartered in Columbus, Ohio. On September 25, 2008, Washington Mutual Bank., F.S.B., a federal savings bank headquartered in Henderson, Nevada, failed, and J.P. Morgan Chase Bank, N.A., purchased substantially all of the assets and assumed all deposit and substantially all other liabilities of Washington Mutual Bank., F.S.B., pursuant to a Purchase and Assumption Agreement with the Federal Deposit Insurance Corporation (FDIC) and the FDIC as Receiver for Washington Mutual Bank, F.S.B. Collectively the two defendants identified in this paragraph are referred to here as "J.P. Morgan." The business of J.P. Morgan and its subsidiaries and affiliates includes the origination and servicing of mortgage loans.

EXHIBIT K PG 9 OF 15

FACTUAL ALLEGATIONS

A. The Banks' Servicing Misconduct

49. Each of the Banks services home mortgage loans secured by residential properties owned by individual citizens of the Plaintiff States, and of the United States.

50. Each Bank is engaged in trade or commerce in each of the Plaintiff States and is subject to the consumer protection laws of the States in the conduct of their debt collection, loss mitigation and foreclosure activities. The consumer protection laws of the Plaintiff States include laws prohibiting unfair or deceptive practices.

1. The Banks' Unfair, Deceptive, and Unlawful Servicing Processes

51. Under the States' consumer protection laws, the Banks are prohibited from engaging in unfair or deceptive practices with respect to consumers.

52. In the course of their conduct, management and oversight of loan servicing in the Plaintiff States, the Banks have engaged in a pattern of unfair and deceptive practices.

53. The Banks' unfair and deceptive practices in the discharge of their loan servicing activities, include, but are not limited to, the following:

- a. failing to timely and accurately apply payments made by borrowers and failing to maintain accurate account statements;
- b. charging excessive or improper fees for default-related services;
- c. failing to properly oversee third party vendors involved in servicing activities on behalf of the Banks;
- d. imposing force-placed insurance without properly notifying the borrowers and when borrowers already had adequate coverage;
- e. providing borrowers false or misleading information in response to borrower complaints; and
- f. failing to maintain appropriate staffing, training, and quality control systems.

2. The Banks' Unfair, Deceptive, and Unlawful Loan Modification and Loss Mitigation Processes

54. Under the States' consumer protection laws, the Banks are prohibited from engaging in unfair or deceptive practices with respect to consumers.

55. Pursuant to HUD regulations and FHA guidance, FHA-approved mortgage lenders and their servicers are required to engage in loss-mitigation efforts to avoid the foreclosure of HUD-insured single family residential mortgages. E.g., 24 C.F.R. § 203.500 et seq.; Mortgagee Letter 2008-07 ("Treble Damages for Failure to Engage in Loss Mitigation") (Sept. 26, 2008); Mortgagee Letter 1996-25 ("Existing Alternatives to Foreclosure – Loss Mitigation") (May 8, 1996). Thus, when acting as a servicer, the Banks were required to refrain from foreclosing on any FHA insured mortgage where a default could be addressed by modifying the terms of the mortgage or other less-costly alternatives to foreclosure were available.

56. Under the Treasury's various rescue and stimulus programs, the Banks received monetary incentives from the Federal government in exchange for the commitment to make efforts to modify defaulting borrowers' single family residential mortgages. See, e.g., Making Home Affordable Handbook v.1.0, ch. 13 ("Incentive Compensation") (Aug. 19, 2010). Under the programs, the Banks agreed to fulfill requirements set forth in program guidelines and servicer participation agreements.

57. Each of the Banks regularly conducts or manages loan modifications on behalf of the entities that hold the loans and mortgages and that hired the Banks as servicers.

58. In the course of their servicing and oversight of mortgage loans, the Banks violated federal laws, program requirements and contractual requirements governing loss mitigation.

59. In the course of their conduct, management and oversight of loan modifications in the plaintiff States, the Banks have engaged in a pattern of unfair and deceptive practices.

60. The Banks' failure to discharge their required loan modification obligations, and related unfair and deceptive practices, include, but are not limited to, the following:

- a. failing to perform proper loan modification underwriting;
- b. failing to gather or losing loan modification application documentation and other paper work;
- c. failing to provide adequate staffing to implement programs;
- d. failing to adequately train staff responsible for loan modifications;
- e. failing to establish adequate processes for loan modifications;
- f. allowing borrowers to stay in trial modifications for excessive time periods;
- g. wrongfully denying modification applications;
- h. failing to respond to borrower inquiries;
- i. providing false or misleading information to consumers while referring loans to foreclosure during the loan modification application process;
- j. providing false or misleading information to consumers while initiating foreclosures where the borrower was in good faith actively pursuing a loss mitigation alternative offered by the Bank;
- k. providing false or misleading information to consumers while scheduling and conducting foreclosure sales during the loan application process and during trial loan modification periods;
- l. misrepresenting to borrowers that loss mitigation programs would provide relief from the initiation of foreclosure or further foreclosure efforts;
- m. failing to provide accurate and timely information to borrowers who are in need of, and eligible for, loss mitigation services, including loan modifications;
- n. falsely advising borrowers that they must be at least 60 days delinquent in loan payments to qualify for a loan modification;

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- o. miscalculating borrowers' eligibility for loan modification programs and improperly denying loan modification relief to eligible borrowers;
- p. misleading borrowers by representing that loan modification applications will be handled promptly when Banks regularly fail to act on loan modifications in a timely manner;
- q. failing to properly process borrowers' applications for loan modifications, including failing to account for documents submitted by borrowers and failing to respond to borrowers' reasonable requests for information and assistance;
- r. failing to assign adequate staff resources with sufficient training to handle the demand from distressed borrowers; and
- s. misleading borrowers by providing false or deceptive reasons for denial of loan modifications.

3. Wrongful Conduct Related to Foreclosures

61. Under the States' consumer protection laws, the Banks are prohibited from engaging in unfair or deceptive practices with respect to consumers.

62. FHA regulations and guidance and HAMP and other MHA servicer participation agreements establish requirements to be followed in the foreclosure of single family residential mortgages that are FHA insured, or where the servicer conducting the foreclosure is an MHA participant.

63. Each of the Banks regularly conducts or manages foreclosures on behalf of entities that hold mortgage loans and have contracted with the Bank to service such loans.

64. In the course of their conduct, management, and oversight of foreclosures, the Banks violated FHA and MHA foreclosure requirements.

65. In the course of their conduct, management, and oversight of foreclosures in the plaintiff States, the Banks have engaged in a pattern of unfair and deceptive practices.

66. The Banks' failure to follow appropriate foreclosure procedures, and related unfair and deceptive practices include, but are not limited to, the following:

- a. failing to properly identify the foreclosing party;
- b. charging improper fees related to foreclosures;
- c. preparing, executing, notarizing or presenting false and misleading documents, filing false and misleading documents with courts and government agencies, or otherwise using false or misleading documents as part of the foreclosure process (including, but not limited to, affidavits, declarations, certifications, substitutions of trustees, and assignments);
- d. preparing, executing, or filing affidavits in foreclosure proceedings without personal knowledge of the assertions in the affidavits and without review of any information or documentation to verify the assertions in such affidavits. This practice of repeated false attestation of information in

- affidavits is popularly known as “robo-signing.” Where third parties engaged in robo-signing on behalf of the Banks, they did so with the knowledge and approval of the Banks;
- e. executing and filing affidavits in foreclosure proceedings that were not properly notarized in accordance with applicable state law;
 - f. misrepresenting the identity, office, or legal status of the affiant executing foreclosure-related documents;
 - g. inappropriately charging servicing, document creation, recordation and other costs and expenses related to foreclosures; and
 - h. inappropriately dual-tracking foreclosure and loan modification activities, and failing to communicate with borrowers with respect to foreclosure activities.

B. The Banks’ Origination Misconduct

1. Unfair and Deceptive Origination Practices

67. Under the States’ consumer protection laws, the Banks are prohibited from engaging in unfair or deceptive practices with respect to consumers.

68. Each of the Banks regularly originates mortgage loans.

69. In the course of their origination of mortgage loans in the Plaintiff States, the Banks have engaged in a pattern of unfair and deceptive practices. Among other consequences, these practices caused borrowers in the Plaintiff States to enter into unaffordable mortgage loans that led to increased foreclosure in the States.

2. The Direct Endorsement Program

70. The FHA’s Direct Endorsement Program is a vital part of its single-family insured mortgage program. Under the Direct Endorsement Program, the FHA does not review or approve borrower loan applications. Rather, the FHA approves lenders, called Direct Endorsement Lenders (DE Lenders), which have the responsibility and obligation for underwriting the loan and determining whether a proposed mortgage is eligible for FHA insurance according to FHA rules and requirements. Unconditional DE Lenders employ Direct Endorsement Underwriters, who are authorized to perform the underwriting of mortgage loans to be insured by the FHA. The DE Lenders give the FHA full information and documentation about an underwritten loan only after the mortgage has closed, and both the underwriter and DE Lender certify compliance with FHA requirements in submitting the loan for mortgage insurance. Although the FHA conducts regular desk reviews and brings enforcement actions, the FHA does not, and given its resources cannot, review the details of every loan. The FHA therefore relies on the underwriter’s and DE Lender’s certifications and due diligence as evidence of the insurability of a mortgage.

71. DE Lenders are responsible for all aspects of the mortgage application, the property analysis, and loan underwriting. The FHA relies on DE Lenders to determine (1) a borrower’s ability and willingness to

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97. The Banks implemented and relied upon inadequate bankruptcy procedures despite having actual or constructive notice that such procedures could, and did, lead to the errors described above.

98. Use of these bankruptcy procedures has also resulted in the Banks seeking inappropriate relief from debtors under the Bankruptcy Code, including under 11 U.S.C. §§ 362 and 501, and in violation of 11 U.S.C. § 524.

D. Violation of Service members Civil Relief Act (SCRA), 50 U.S.C. App. §§ 501-597b.

99. Financial firms responsible for servicing single family mortgages failed to determine consistently and accurately the military status of borrowers in foreclosure.

100. As a result, the Defendants engaged in a pattern and practice of violating service members' rights under the SCRA, including, but not limited to the following conduct:

- a. The Banks foreclosed upon mortgages without required court orders on properties that were owned by service members who, at the time, were on military service or were otherwise protected by the SCRA, and who had originated their mortgages before they entered into military service in violation of 50 U.S.C. App. § 533;
- b. The Banks failed to file an accurate affidavit stating that service members who had not entered an appearance in a civil action involving a foreclosure were at the time in military service or otherwise protected by the SCRA in violation of 50 U.S.C. App. § 521;
- c. The Banks wrongfully charged interest rates in excess of 6 percent per annum to service members who were on military service or otherwise protected by the SCRA on mortgage debts that were incurred by service members or service members and their spouses jointly before service members entered military service and after service members had made valid requests to lower their interest rates, as provided for by the SCRA.

101. In the cases of the above-described wrongful conduct, affected Service members had not waived their rights under a separate agreement, as provided for by the SCRA, 50 U.S.C. App. § 527.

102. The service members affected by such wrongful conduct suffered damages and are aggrieved persons under the SCRA, 50 U.S.C. App. § 517.

103. The Banks engaged in the foregoing conduct in disregard of the rights of the affected service members

COUNT. I UNFAIR AND DECEPTIVE CONSUMER PRACTICES WITH RESPECT TO LOAN SERVICING

104. The allegations in paragraphs 1 through 101 above are incorporated herein by reference.

105. The loan servicing conduct of the Banks, as described above, constitutes unfair or deceptive practices in violation of the consumer protection laws of each State.

COUNT VIII DAMAGES UNDER COMMON LAW RELATED TO THE BANKS' BANKRUPTCY MISCONDUCT

135. The allegations in paragraphs 1 through 101 above are incorporated herein by reference.

136. The Banks implemented and relied on inadequate bankruptcy procedures and thereby has prejudiced debtors, creditors, including the United States, and the courts in bankruptcy cases, has led to increased errors, delays, and costs of administration in bankruptcy cases, and constitutes a continuing abuse of the bankruptcy process.

137. The Banks' abuse of the bankruptcy process violated a duty or duties owed by the Banks to the debtors, the courts, and other parties in such bankruptcy cases, including the United States.

138. The Banks' abuse of the bankruptcy process violates a federal policy, reflected in the Bankruptcy Code and the Bankruptcy Rules, in favor of the efficient and equitable administration of bankruptcy cases, as well as the policy of ensuring accuracy in claims submitted to the bankruptcy courts.

139. The Banks' unlawful conduct has resulted in injury to the United States and to debtors in bankruptcy who have had their home loans serviced by the Banks. The harm sustained by such debtors includes payment of improper fees and charges, unreasonable delays and expenses in their bankruptcy cases, and loss of homes due to improper, unlawful, or undocumented foreclosures. The harm sustained by the United States includes reduced and delayed recoveries to the United States in its capacity as a creditor in bankruptcy cases. Such conduct has also caused the United States to assume increased administrative duties in monitoring bankruptcy cases, and to incur expenses in the investigations and litigation of the Banks' unlawful conduct.

PRAYER FOR RELIEF

WHEREFORE, the United States and the Plaintiff States respectfully request that judgment be entered in their favor and against the Banks as follows:

1. On Count I, judgment against the Defendants, injunctive relief to restrain the Banks from further unlawful conduct; an order requiring disgorgement of unlawful gains obtained by the Banks as a result of their unlawful conduct; restitution or other remedial relief to compensate individual victims of the Banks' unlawful conduct; civil penalties; and attorney fees and costs of investigation.

2. On Count II, judgment against the Defendants, injunctive relief to restrain the Banks from further unlawful conduct; an order requiring disgorgement of unlawful gains obtained by the Banks as a result of their unlawful conduct; restitution or other remedial relief to compensate individual victims of the Banks' unlawful conduct; civil penalties; and attorney fees and costs of investigation.

3. On Count III, judgment against the Defendants, injunctive relief to restrain the Banks from further unlawful conduct; an order requiring disgorgement of unlawful gains obtained by the Banks as a result of their

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REDACTED
Dalen, John

NOTE

December 20, 2007
[Date]

Westminster.
[City]

SC
[State]

109 Wood Valley Dr
Westminster, SC 29693-5003
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$118,750.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is Quicken Loans Inc.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.750%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on February 1, 2008. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on January 1, 2038, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P. O. Box 553154, Detroit, MI 48255-3154
or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 770.22

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

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MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFORM
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Form 3200 1/01

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Initials: JD

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5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of Fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

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REDACTED

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

John Dalen 12/20/2007 (Seal) _____ (Seal)
John Dalen -Borrower -Borrower

WITHOUT RECOURSE
Pay To the Order of (Seal)
Countrywide Bank, FSB -Borrower
QUICKEN LOANS, INC.
By *THERESA ROODBEEN* (Seal)
CAPTURE MANAGER -Borrower

PAY TO THE ORDER OF _____ (Seal)
WITHOUT RECOURSE
COUNTRYWIDE BANK, FSB
BY *Laurie Meder* (Seal)
LAURIE MEDER -Borrower
SENIOR VICE PRESIDENT

(Seal) _____ (Seal)
-Borrower -Borrower

[Sign Original Only]

REJECTED

Return To:
Christie Holloway
Quicken Loans Inc.
20555 Victor Parkway
Livonia, MI 48152

Prepared By:
Taniel Smith

CERTIFIED TRUE COPY
Paul M. Bolick
NOTARY PUBLIC OF S.C.
MY COMMISSION EXPIRES 10/27/15

[Space Above This Line For Recording Data]

MORTGAGE

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MIN 100039032138692476

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated December 20, 2007, together with all Riders to this document.
- (B) "Borrower" is John Dalen and Julie A. Dalen, husband and wife

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS Form 3041 1/01

DEPARTMENT OF REVENUE
6A(SC) 100031

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Initials: *JD* *JS*

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(D) "Lender" is Quicken Loans Inc.

Lender is a Corporation organized and existing under the laws of the State of Michigan Lender's address is 20555 Victor Parkway, Livonia, MI 48152

(E) "Note" means the promissory note signed by Borrower and dated December 20, 2007 The Note states that Borrower owes Lender One Hundred Eighteen Thousand Seven Hundred Fifty and 00/100 Dollars (U.S. \$118,750.00) plus interest Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than January 1, 2038

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- Adjustable Rate Rider
- Balloon Rider
- VA Rider
- Condominium Rider
- Planned Unit Development Rider
- Biweekly Payment Rider
- Second Home Rider
- 1-4 Family Rider
- Other(s) [specify] Legal Attached

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used

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in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in the County of Oconee:

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.
SUBJECT TO COVENANTS OF RECORD.

Parcel ID Number: 295-01-02-007 which currently has the address of
109 Wood Valley Dr (Street)
Westminster (City), South Carolina 29693-5003 (Zip Code)
("Property Address"):

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns,) and to the successors and assigns of MERS, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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Form 30-41 1/01

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THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.

Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be

LOAN - 6A(SI) 100251

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INITIALS

Handwritten initials and signatures.

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in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the

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lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with

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the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting in the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to, (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable

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attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

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(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

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12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

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16. **Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument, (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. **Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

18. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA

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requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

REDACTED

EXHIBIT V PAGE 12 OF 15

REDACTED

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. Release. Upon Payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument Borrower shall by any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Homestead Waiver. Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-250 of the South Carolina Code of Laws.

26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

Initials AD GO

REDACTED

EXHIBIT B PAGE 13 OF 16

REDACTED

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it

Signed, sealed and delivered in the presence of:

Paul M. Bolick

John Dalen 12/20/2007 (Seal)
John Dalen -Borrower

James J. Fermano

Julie A. Dalen 12/20/2007 (Seal)
Julie A. Dalen -Borrower

_____(Seal)
-Borrower

_____(Seal)
-Borrower

_____(Seal)
-Borrower

_____(Seal)
-Borrower

_____(Seal)
-Borrower

_____(Seal)
-Borrower

REDACTED

EXHIBIT B PAGE 11 OF 12

REDACTED

STATE OF SOUTH CAROLINA,
County of Cconee

Personally appeared before me Tara M. Bolick
and made oath that he/she saw the within named Borrower sign, seal, and as his/her/their act and deed,
deliver the within written Mortgage; and that he/she with Renee Fleming,
witnessed the execution thereof.

Tara M Bolick

Sworn to before me this 20th day of December, 2007

My Commission Expires: 10-13-15

Renee Fleming
Notary Public for South Carolina

EXHIBIT B PAGE 15 OF 16

EXHIBIT "A"
PROPERTY DESCRIPTION
FOR
JOHN D. DALEN and JULIE A. DALEN

All that certain piece, parcel or lot of land situate, lying and being in Oconee County, State of South Carolina, being shown and designated as **LOT NUMBER TWENTY EIGHT (28), BLOCK "A", WAWTOCKACE HILLS n/k/a WESTLAKE ESTATES**, as shown and more fully described on a plat thereof prepared by Stephen R. Edwards, PLS #19881, dated July 31, 2006 and recorded in Plat Book B172, at Page 10, records of Oconee County, South Carolina.

This being the identical property conveyed unto John D. Dalen and Julie A. Dalen by deed of Karl G. Lowrey and Kathleen F. Lowrey, recorded December _____, 2007 in Deed Book _____, at Page _____, records of Oconee County, South Carolina.

1/20
90

EXHIBIT D PAGE 17 OF 17

Recording Requested By:
Bank of America
Prepared By: Debbie Nieblas
888-603-9011

When recorded mail to:
CoreLogic
450 E. Boundary St.
Attn: Release Dept.
Chapin, SC 29036

DocID# 13817533570651340

Tax ID: 295-01-02-007

Property Address:
109 WOOD VALLEY DR
Westminster, SC 29693

SC0-AM 13841494 5/6/2011

FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS

2011 MAY 16 P 4: 28



Doc ID: 003870210001 Type: MTG

BK 2975 PG 40

This space for Recorder's use

MIN #: 100039032138692476

MERS Phone #: 888-679-6377

ASSIGNMENT OF MORTGAGE

For Value Received, the undersigned holder of a Mortgage (herein "Assignor") whose address is 3300 S.W. 34TH AVENUE, SUITE 101 OCALA, FL 34474 does hereby grant, sell, assign, transfer and convey unto BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP whose address is 13150 WORLD GATE, HERNDON, VA 20170 all beneficial interest under that certain Mortgage described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Mortgage.

Original Lender: QUICKEN LOANS INC.
Original Borrower(s): JOHN DALEN AND JULIE A. DALEN, HUSBAND AND WIFE
Date of Mortgage: 12/20/2007
Original Loan Amount: \$118,750.00

Recorded in Oconee County, SC on: 12/21/2007, book 2551, page 206 and instrument number 010516

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Mortgage to be executed on
Dated: 5-9-2011

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.

By: Youda Crain
Youda Crain, Assistant Secretary

Malik Basurto

Witness: Malik Basurto

Tina LeRaybaud

Witness: Tina LeRaybaud

State of California
County of Ventura

On May 9, 2011 before me, Jennie M. Kogak, Notary Public, personally appeared Youda Crain, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public, Jennie M. Kogak
My Commission Expires: 10/3/2013

(Seal)

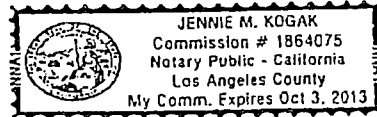


EXHIBIT PAGE 1 OF 1

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace Hills Property Owners Association,

DEFENDANT(S).

F11-04694

IN THE COURT OF COMMON PLEAS

SUMMONS

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO:

2011 CP 37-1056

DEFICIENCY REQUESTED

2011 OCT 21 P 3:11

RECEIVED
CLERK OF COURT

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, or otherwise appear and defend, and to serve a copy of your Answer to said Complaint upon the subscriber at his office, 1300 Pickens Street, P.O. Box 11264, Columbia, South Carolina, 29211-1264, within thirty (30) days after service hereof, except as to the United States of America, which shall have Sixty (60) days, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, or otherwise appear and defend, the Plaintiff in this action will apply to the Court for the relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDES, AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:

YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Mortgagee immediately and separately and such application will be deemed absolute and total in the absence of your application for such an appointment within thirty (30) days after the service of the Summons and Complaint upon you.

YOU WILL ALSO TAKE NOTICE that should you fail to Answer the foregoing Summons, the Plaintiff will move for an Order of Reference of this cause to the Master-in-Equity or Special Referee in/for this County, which Order shall, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, specifically provide that the said Master in Equity or Special Referee is authorized and empowered to enter a final judgment in this cause with appeal only to the South Carolina Court of Appeals pursuant to Rule 203(d)(1) of the SCAR, effective June 1, 1999.

KORN LAW FIRM, P.A.
1300 Pickens Street
P.O. Box 11264
Columbia, S.C. 29211-1264
(803) 552-5817

PETER D. KORN / JOHN S. KAY / DEAN HAYES
ALAN M. STEWART / JOHN B. KELCHNER
H. GUYTON MURRELL / SUZANNAH HAYES
MEREDITH L. PRICKE'TT / KELLER C. FOSTER
TERESA D. VAN VLAKE / ASHLEY ZARRETT
Attorneys for Plaintiff

Columbia, South Carolina
October 27, 2011

EXHIBIT D PAGE 1 OF 5

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace Hills Property Owners Association,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

COMPLAINT

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 2011-CP-37-1056

DEFICIENCY REQUESTED

2011 OCT 31 P 3:42

F11-04694

The Plaintiff, complaining of the Defendants above-named would respectfully show unto this Honorable Court:

1. That the Plaintiff is a national association organized and existing under and by virtue of the laws of the United States of America; and that the Defendants, John D. Dalen and Julie A. Dalen, are upon information and belief, citizens and residents of the County of Oconee, State of South Carolina. That the Defendant, Wawtockace Hills Property Owners Association, is upon information and belief a business organized and existing under the laws of South Carolina.

2. Any Defendant described herein as a judgment creditor(s) has, by filing the judgment(s), designated the attorney(s) entering the judgment(s) as their agent for service of process pursuant to the provisions of Section 15-35-840 of the S.C. Code of Laws (1976) as amended.

3. That the real property hereinafter described, which is the subject of this action, is situated and located in the County of Oconee, State of South Carolina.

4. That on or about December 20, 2007, for value received, John Dalen did execute and deliver to Quicken Loans, Inc., a certain promissory note in writing according to the terms and conditions set out therein, wherein and whereby said John Dalen promised to pay to Quicken Loans, Inc., the sum of One Hundred Eighteen Thousand Seven Hundred Fifty And 00/100 Dollars (\$118,750.00), together with interest thereon at the rate of Six And 75/100 per cent (6.75%) per annum.

5. That in order to better secure the payments of the said note and debt, in accordance with the terms and conditions thereof, John Dalen and Julie A. Dalen, did execute and deliver on December 20, 2007 unto Mortgage Electronic Registration Systems, Inc., as nominee for Quicken Loans, Inc., its successors and assigns, a mortgage covering the following described property:

Legal description and property address:

ALL THAT CERTAIN piece, parcel or lot of land situate, lying and being in Oconee County, State of South Carolina, being shown and designated as LOT NUMBER TWENTY EIGHT (28), BLOCK A, WAWTOCKACE HILLS n/k/a WESTLAKE ESTATES, as shown and more fully described on a plat thereof prepared by Stephen R.

EXHIBIT 0 PAGE 2 OF 5

Edwards, PLS #19881, dated July 31, 2006 and recorded November 2, 2006, in Plat Book B 172, at Page 10, records of Oconee County, South Carolina.

THIS BEING the same property conveyed unto John D. Dalen and Julie A. Dalen by virtue of a Deed from Karl G. Lowrey and Kathleen F. Lowrey, dated December 20, 2007 and recorded December 21, 2007, in Deed Book 1635 at Page 185, in the Office of the Register of Deeds for Oconee County, South Carolina.

109 Wood Valley Drive, Westminster, SC 29693
TMS# 295-01-02-007

6. Thereafter said mortgage was recorded in Book 2551 at page 206 on December 21, 2007 in the office of the Register of Deeds of Oconee County.

7. The above referenced instrument constitutes a first mortgage lien and is a purchase money mortgage with the proceeds of the loan being used to purchase the property above described.

8. Thereafter, by virtue of an assignment dated May 9, 2011, recorded May 16, 2011, in Mortgage Book 2975 at page 40, Mortgage Electronic Registration Systems, Inc. assigned said mortgage unto BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.

9. Thereafter, by virtue of a corporate merger, Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. merged with Bank of America, N.A. making Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. the present lien holder and Plaintiff herein.

10. That the Defendant, Wawtockace Hills Property Owners Association, is made a party by virtue of any homeowners liens or assessments recorded or unrecorded that are due or that may become due in the future.

11. According to the terms and conditions of the said note and mortgage, it is provided that in the event of default in the payment of any installment when due, and if such default is not made good prior to the due date of the next such installment, the entire principal and accrued interest shall at once become due and payable without notice at the option of the holder, and if the same should be placed in the hands of an attorney for collection, all costs of collection, including a reasonable attorney's fee, would be secured by the said mortgage as a part of the debt secured thereby.

12. That under the terms and conditions of said mortgage, it is provided that, together with, and in addition to, the monthly payments of principal and interest payable under the terms of the note secured thereby, the mortgagor will pay to the mortgagee, on the payment due date each month until the said note is fully paid, certain additional sums, including but not limited to, certain amounts for fire and other hazard insurance and taxes and assessments due on the mortgaged premises.

13. Further, under the terms and conditions of said mortgage, it was agreed that the mortgagor would pay all taxes, assessments, water rates and other governmental or municipal charges, fines or impositions for which provisions were not otherwise made, and if they failed to do so, the mortgagee might pay same, which amount, together with interest thereon, would be secured by said mortgage.

14. According to the terms of said mortgage, and as additional security, the mortgagor assigned all rents, issues and profits of the mortgaged premises from and after any default there under, and should legal proceedings be

EXHIBIT A - Factual

instituted pursuant to said mortgage, the mortgagee, its successors or assigns, was given the right to have a Receiver appointed of the rents, issues and profits, who, after deducting all charges and expenses attending such proceedings, and the execution of his trust as a Receiver, shall apply the residue of the rents, issues and profits, toward the debt secured by said mortgage.

15. The monthly payments due on said note and mortgage are in default since December 1, 2010, and the conditions of said note and mortgage have been broken and the Plaintiff elects to, and does declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of December 1, 2010 the sum of One Hundred Fourteen Thousand Eight Hundred Seventy-Five And 72/100 Dollars (\$114,875.72), together with interest at the rate of six and 75/100 per cent (6.75 %) per annum from November 1, 2010 and also for the costs and disbursements of this action, including attorney's fees.

16. That the Plaintiff does not waive but specifically demands judgment against the Defendant, John Dalen for the full amount found to be due to Plaintiff on the note and mortgage held by plaintiff, with the right to enter personal judgment against the Defendant, John Dalen for any deficiency in this action remaining after sale of the mortgaged premises.

17. That the servicer is participating in the Home Affordable Modification Program (HMP). The HMP modification process specified by the Guidelines or Supplemental Directive has been completed without resulting in a modification because the borrower defaulted under the terms of the HMP Trial Plan.

18. That upon information and belief, certain costs for inspecting and securing the subject property have been incurred by the Plaintiff as a result of this delinquency and Plaintiff is informed and believes it is entitled to reimbursement for such charges, if any.

19. The notice of consumer's right to cure, as contemplated under S.C. Code Sections 37-5-110 and 37-5-111, has been given or is not required, and all conditions precedent to the acceleration of the debt and foreclosure of the mortgage have been performed or have occurred.

WHEREFORE, having fully set forth its complaint, the Plaintiff prays that this Honorable Court inquire into the matters set forth herein and:

(1) That the amount due upon the said note and mortgage held by the Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and costs of this action.

(2) That the said Plaintiff's mortgage be declared a purchase money mortgage and that the said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.

(3) That the mortgaged premises be sold under the direction of this court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

First, to the costs and expenses of the within action and sale.

Second, to the payment and discharge of the amount due on Plaintiff's note and mortgage, together with attorney's fees as aforesaid, and

Third, the surplus, if any, be distributed according to law.

EXHIBIT D PAGE 4 OF 5

Fourth, Plaintiff have judgment against the Defendant, John Dalen for the full amount found to be due Plaintiff on the note and mortgage, with right to enter personal judgment against the Defendant, John Dalen for any deficiency in this action remaining after sale of the mortgaged premises.

(4) For an Order directing and empowering the Sheriff of Oconee County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

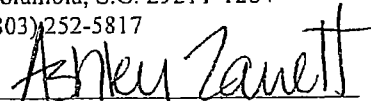
(5) For an Order granting the appointment of a receiver to secure and supervise the rental of the property sought to be foreclosed.

(6) For reimbursement of all costs for inspecting and securing the property incurred by the Plaintiff as a result of the delinquency.

(7) For such other and further relief as may be just and proper.

(8) For an order satisfying any prior liens that may be of record, but have been paid in full.

KORN LAW FIRM, P.A.
1300 Pickens Street
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TERESA D. VAN VLAKE / ASHLEY ZARRETT
Attorneys for Plaintiff

Columbia, South Carolina
October 27, 2011

EXHIBIT D PAGE 5 OF 5

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

BANK OF AMERICA, N.A. SUCCESSOR
BY MERGER TO BAC HOME LOANS
SERVICING, L.P. F/K/A COUNTRYWIDE
HOME LOANS SERVICING, L.P.
Plaintiff(s)

vs.
JOHN D. DALEN, JULIE A. DALEN, AND
WAWTOCKACE HILLS PROPERTY
OWNERS ASSOCIATION,
Defendant(s).

IN THE COURT OF COMMON PLEAS

C/A NO.: 2011-CP-37-1056

AFFIDAVIT OF DEBT

STATE OF Pennsylvania
COUNTY OF Allegheny

BEFORE ME an officer authorized to take oaths this day personally appeared Tiana LaBaune Reynolds of Bank of America, N.A. ("BANA"), who, being first duly sworn, deposes and says:

1. I am authorized to sign this affidavit on behalf of plaintiff, BANK OF AMERICA, N.A. SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P., as an officer of BANA.
2. BANA maintains records for the subject mortgage loan ("the Loan"), owed by JOHN DALEN, in the ordinary course of its business. As part of my job responsibilities for BANA, I am familiar with the type of records maintained by BANA in connection with the Loan.
3. The information in this affidavit is taken from BANA's business records. I have personal knowledge of BANA's procedures for creating these records. They are: (a) made at or near the time of the occurrence of the matters recorded by persons with personal knowledge of the information in the business record, or from information transmitted by persons with personal knowledge; (b) kept in the course of BANA's regularly conducted business activities; and (c) it is the regular practice of BANA to make such records.
4. BANK OF AMERICA, N.A. SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P. directly or through an agent, has possession of the promissory note. The promissory note has been duly indorsed. BANK OF AMERICA, N.A. SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P. is the assignee of the security instrument for

EXHIBIT E PAGE 1 OF 4

the referenced loan.

- 5. The business record attached, which I have reviewed, is a true and correct copy that is part of the business records described above and the amount stated in the attached record is owed on the Loan.

FURTHER AFFIANT SAYETH NAUGHT

Tiana Reynolds
 Signature
Tiana LaRayne Reynolds
 Name
Assistant Vice President
 Title
October 3, 2013
 Date

SWORN TO and subscribed before me this 3 day of October, 2013, by Tiana LaRayne Reynolds, as an Assistant Vice President of Bank of America, N.A. He/she () is personally known to me or (x) produced drivers license as identification.

Marva LaMar
 Notary Public
 My commission expires
10/20/2016

COMMONWEALTH OF PENNSYLVANIA
 Notarial Seal
 Marva LaMar, Notary Public
 North Braddock Boro, Allegheny County
 My Commission Expires Oct. 20, 2016
 MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

EXHIBIT 5

Bank of America, N.A.
Account Information Statement
Account#(last four digits): 5706

Borrower Name : JOHN DALEN

Good Through Date:10/24/2013 Paid to Date:11/01/2010 Based on Date:09/24/2013

Unpaid Principal Balance 114,875.72

Interest 23,104.92

Change Date	Interest Rate(%)	No of Days
11/01/2010	6.750	1089

Payment Due Total 33,883.37

From Date	To Date	No of Payments Due	Amount(\$)	
12/01/2010	06/01/2012	19	958.94	18,219.86
07/01/2012	05/01/2013	11	958.66	10,545.26
06/01/2013	10/01/2013	5	1,023.65	5,118.25

Late Charges 35.96

Assessed Late Charges 35.96

Advances Total 7,407.51

Escrow Advances 5,617.51

Taxes 1,253.68

Date Paid	Description	Actual(\$)	Anticipated(\$)
12/03/2012	COUNTY TAX PMT	443.50	
12/20/2010	COUNTY TAX PMT	366.68	
12/14/2011	COUNTY TAX PMT	443.50	

MIP/PMI 2,358.55

Date Paid	Description	Actual(\$)	Anticipated(\$)
09/13/2013	PMI PMT MONTHLY	77.19	
08/15/2013	PMI PMT MONTHLY	77.19	
07/15/2013	PMI PMT MONTHLY	77.19	
06/13/2013	PMI PMT MONTHLY	77.19	
05/14/2013	PMI PMT MONTHLY	77.19	
04/11/2013	PMI PMT MONTHLY	77.19	
03/14/2013	PMI PMT MONTHLY	77.19	
02/15/2013	PMI PMT MONTHLY	77.19	
01/15/2013	PMI PMT MONTHLY	77.19	
12/14/2012	PMI PMT MONTHLY	77.19	
11/16/2012	PMI PMT MONTHLY	77.19	
10/18/2012	PMI PMT MONTHLY	77.19	
09/18/2012	PMI PMT MONTHLY	77.19	
08/17/2012	PMI PMT MONTHLY	77.19	
07/18/2012	PMI PMT MONTHLY	77.19	
06/19/2012	PMI PMT MONTHLY	77.19	
05/18/2012	PMI PMT MONTHLY	77.19	
01/14/2011	PMI PMT MONTHLY	77.19	
04/16/2012	PMI PMT MONTHLY	77.19	
02/14/2011	PMI PMT MONTHLY	77.19	
03/16/2012	PMI PMT MONTHLY	77.19	
03/15/2011	PMI PMT MONTHLY	77.19	
02/17/2012	PMI PMT MONTHLY	77.19	
04/14/2011	PMI PMT MONTHLY	77.19	
01/18/2012	PMI PMT MONTHLY	77.19	
05/12/2011	PMI PMT MONTHLY	77.19	
12/09/2011	PMI PMT MONTHLY	77.19	
06/14/2011	PMI PMT MONTHLY	77.19	
11/08/2011	PMI PMT MONTHLY	42.85	
07/14/2011	PMI PMT MONTHLY	77.19	
08/11/2011	PMI PMT MONTHLY	77.19	

Hazard Insurance 2,005.28

Date Paid	Description	Actual(\$)	Anticipated(\$)
12/12/2012	ADDL INS PMT	43.19	
11/13/2012	HAZARD INS PMT	1,070.59	
11/14/2011	HAZARD INS PMT	891.50	

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Bank of America, N.A.
Account Information Statement
Account#(last four digits): 5706
Borrower Name : JOHN DALEN

Good Through Date:10/24/2013 Paid to Date:11/01/2010 Based on Date:09/24/2013

Fee Due Advances			1,790.00
Foreclosure Fees			1,515.00
Tran Date	Description	Actual(\$)	Anticipated(\$)
01/26/2012	FILING FEES	150.00	
01/26/2012	ATTORNEY/TRUSTEE FEE	185.00	
01/26/2012	PROCESS SERVER	405.00	
10/05/2011	ATTORNEY/TRUSTEE FEE	550.00	
10/05/2011	TITLE FEES	225.00	
Bankruptcy Fees			0.00
Tran Date	Description	Actual(\$)	Anticipated(\$)
Property Inspection Fees			275.00
Tran Date	Description	Actual(\$)	Anticipated(\$)
08/26/2013	INSPECTION-OCCUPIED	15.00	
07/24/2013	INSPECTION-OCCUPIED	15.00	
06/24/2013	INSPECTION-OCCUPIED	15.00	
05/19/2013	INSPECTION-OCCUPIED	15.00	
02/16/2013	INSPECTION-OCCUPIED	15.00	
12/07/2012	INSPECTION-OCCUPIED	15.00	
05/10/2012	INSPECTION-OCCUPIED	7.00	
03/06/2012	INSPECTION-OCCUPIED	14.00	
01/26/2012	INSPECTION-OCCUPIED	14.00	
12/14/2011	INSPECTION-OCCUPIED	15.00	
12/29/2010	INSPECTION-OCCUPIED	15.00	
02/03/2011	INSPECTION-OCCUPIED	15.00	
03/14/2011	INSPECTION-OCCUPIED	15.00	
05/08/2011	INSPECTION-OCCUPIED	15.00	
11/10/2011	INSPECTION-OCCUPIED	15.00	
10/10/2011	INSPECTION-OCCUPIED	15.00	
06/28/2011	INSPECTION-OCCUPIED	15.00	
09/09/2011	INSPECTION-OCCUPIED	15.00	
08/15/2011	INSPECTION-OCCUPIED	15.00	
Others			0.00
Tran Date	Description	Actual(\$)	Anticipated(\$)
Credits			0.00
Date Paid	Description	Actual(\$)	Anticipated(\$)
Total Amount Owed			145,424.11

EXHIBIT E PAGE 4 OF 4

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
OCONEE COUNTY)	TENTH JUDICIAL CIRCUIT
)	CIVIL ACTION NO. <u>2011-CP-37-1056</u>
Bank of America, N.A. Successor by merger to)	
BAC Home Loans Servicing, L.P. f/k/a Countrywide)	
Home Loans Servicing, L.P.,)	
)	<u>DEFENDANTS' ANSWER, AFFIRMATIVE DEFENSES,</u>
)	<u>COUNTERCLAIM, AND DEMAND FOR JURY TRIAL</u>
)	
PLAINTIFF)	
)	
Vs.)	
)	
John D. Dalen, Julie A. Dalen, and Wawtockace)	
Hills Property Owners Association,)	
)	
DEFENDANT(S).)	

FILED
 OCT 10 2011
 10:04 AM
 CLERK OF COURT

Comes now Defendants John and Julie Dalen, acting Pro Se and hereby filing this: Defendants' Answer, Affirmative Defenses, Counterclaim, and Demand for Jury Trial against Plaintiff Bank of America, N.A. Successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.

Defendants hereby ask the court to take mandatory judicial notice of the following:

- a) The United States Supreme Court, in Haines v. Kerner 404 U.S. 519 (1972), said that all litigants defending themselves must be afforded the opportunity to present their evidence and that the Court should look to the substance of the complaint rather than the form.
- b) In Platsky v. CIA, 953 F.2d 26 (2nd Cir. 1991), the Circuit Court of Appeals allowed that the District Court should have explained to the litigant proceeding without a lawyer the correct form to the litigant so that he could have amended his pleadings accordingly. Defendants respectfully reserve the right to amend their pleadings.
- c) Constitutional provisions, both state(s) and federal give full faith and credit to judicial proceedings in other states – effective proceedings as evidence or as a bar to further litigation. M'Elmoyle v. Cohen 13 Pet. (38 U.S.) 312; 34 C.J. p.1137 and Chicago & Alton R.

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Co. v. Wigginsferry Co., 108 U.S. 18 (1 Sup. Ct. 614). In ascertaining a particular state's **substantive law** [common law] when the highest court of that state has not spoken, a federal court should "consider relevant cases from jurisdictions other than [the subject state] in an effort to predict 'what would be the decision of reasonable intelligent lawyers,' sitting as judges of the highest . . . Court [of that state], and fully jurisprudence." Further, "[i]t is well established that the court will honor the parties' choice of law where there is a reasonable basis for the choice or the chosen state has some relation to the agreement."

Depositors Trust Co. v. Hudson Gen. Corp., 485 F. Supp. 1355, 1359 (E.D.N.Y. 1980).

- d) A Massachusetts Supreme Court ruling cited as US Bank National Association vs. Ibanez (SJC – 10694), ruled unanimously that for a bank to foreclose, it must demonstrate that it is the real party of interest through perfection of chain of title for both the Deed of Trust and the Promissory Note.

ANSWER

- 1) Defendants are without knowledge of the first part and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon. Admit that the Defendants are citizens and residents of Oconee County, State of South Carolina, and are without knowledge of the third part.
- 2) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 3) Admit.
- 4) The Defendants admit signing a mortgage and note on or about December 20, 2007. Denied "for value received". The Defendants expressly, directly, and explicitly deny the material allegations of this statement, and strict proof is demanded thereon.
- 5) Admit.
- 6) Admit.
- 7) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 8) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.

EXHIBIT 1

- 9) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 10) Defendants are without knowledge.
- 11) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 12) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 13) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 14) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 15) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 16) Denied.
- 17) Denied.
- 18) Defendants are without knowledge and so the allegations are expressly, directly, and explicitly denied, and strict proof is demanded thereon.
- 19) Denied.

Any allegations of the complaint not expressly admitted herein are expressly, directly, and explicitly denied and strict proof is demanded thereon.

DEMAND FOR JURY TRIAL (S.C. Rule 38)

The Defendants hereby demand trial by jury as to all issues so triable thereon. (Pursuant to S. C. Rules of Civil Procedure Rule 38.)

Wherefore, the Defendants pray that this honorable court dismiss this action in toto, ordering that Plaintiff take nothing by this action.

EXHIBIT F PAGE 3 OF 23

AFFIRMATIVE DEFENSES TO THE COMPLAINT

- 1) The Plaintiff lacks standing to pursue its claims against the Defendants, and/or lacked standing at the time of the filing of this action as the Plaintiff has not, and cannot establish it is the real party in interest to enforce the mortgage and/or note that is the subject of the above-styled action. Plaintiff's complaint fails to adequately show the chain of title of the note and mortgage, demonstrating that Plaintiff is in fact the real party in interest (i.e. owner of the note) with standing to bring this action. Plaintiff has provided no proof of claim.
- 2) This court lacks subject matter jurisdiction over this action inasmuch as Plaintiff has not, and cannot establish it is the real party in interest to enforce the mortgage and/or note that is the subject of the above-styled action. It appears on the face of the Complaint that a person/party other than the Plaintiff is/was the true owner of the claim sued upon at the time this action was filed and that the Plaintiff is not the real party of interest and is not shown to be the real party of interest and is not shown to be authorized to bring this foreclosure action. Plaintiff admits to being a Servicer. CFR Title 12, Banks and Banking, Part 226 – Truth in Lending (Regulation Z), (a)(1) A “covered person” means any person, as defined in §226.2(a)(22), that becomes the owner of an existing mortgage loan by acquiring legal title to the debt obligation, whether through a purchase, assignment, or other transfer, and who acquires more than one mortgage loan in any twelve-month period. **For purposes of this section, a servicer of a mortgage loan shall not be treated as the owner of the obligation** if the servicer holds title to the loan or it is assigned to the servicer solely for the administrative convenience of the servicer in servicing the obligation.
- 3) The Plaintiff has failed to state a claim upon which relief may be granted inasmuch as Plaintiff has not, and cannot establish it is the real party in interest to enforce the mortgage and/or note that is the subject of the above-styled action. CFR Title 12, Banks and Banking, Part 226 – Truth in Lending (Regulation Z), (a)(1) . . . **For purposes of this section, a servicer of a mortgage loan shall not be treated as the owner of the obligation** Additionally, under the Financial Accounting Standards (FAS), specifically FAS 140, “Once an asset has been sold, the seller forever loses control of the asset.”
- 4) The Plaintiff has failed to plead the performance or meet a condition precedent to institution of this action because the “Lender” failed to mail a notice of acceleration to the Defendants as required by ¶122 of the mortgage.

- 5) Any and all claims against Defendants are offset by the damages owed by Plaintiff in connection with the counterclaim set forth herein.
- 6) The complaint should be dismissed for failure to state a cause of action upon which relief may be granted since Plaintiff never acquired the note and/or mortgage, and/or never properly acquired the note and/or mortgage under the Uniform Commercial Code, nor the right to reestablish and enforce the note and/or mortgage that it seeks to reestablish and/or enforce and/or foreclose under South Carolina and/or Federal law.
- 7) Plaintiff has failed to join indispensable parties; to wit, the party who currently owns the mortgage and note.

Plaintiff moves this honorable court to take mandatory judicial notice of the following:

- a) The United States Supreme Court, in *Haines v. Kerner* 404 U.S. 519 (1972), said that all litigants defending themselves must be afforded the opportunity to present their evidence and that the court should look to the substance of the complaint rather than the form.
- b) In *Platsky v. CIA*, 953 F.2d 26 (2nd Cir. 1991); the Circuit Court of Appeals allowed that the District Court should have explained to the litigant proceeding without a lawyer the correct form to the litigant so that he could have amended his pleadings accordingly. Defendants respectfully reserve the right to amend their pleadings.
- c) Constitutional provisions, both state(s) and federal give full faith and credit to judicial proceedings in other states – effective proceedings as evidence or as a bar to further litigation. *M'Elmoyle v. Cohen* 13 Pet. (38 U.S.) 312; 34 C.J. p.1137 and *Chicago & Alton R. Co. v Wigginsferry Co.*, 108 U.S. 18 (1 Sup. Ct. 614). In ascertaining a particular state's **substantive law** [common law] when the highest court of that state has not spoken, a federal court should "consider relevant cases from jurisdictions other than [the subject state] in an effort to predict 'what would be the decision of reasonable, intelligent lawyers,' sitting as judges of the highest . . . court [of that state], and fully jurisprudence." Further, "[i]t is well established that the court will honor the parties' choice of law where there is reasonable basis for the choice or the chosen state has some relation to the agreement." *Depositors Trust Co., v. Hudson Gen. Corp.*, 485 F. Supp. 1355, 1359 (E.D.N.Y. 1980).
- d) Under a recent Massachusetts Supreme Court Ruling on a similar matter in *US Bank National Association vs. Ibanez* (SJC – 10694), it was ruled unanimously that for a bank

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to foreclose, it must demonstrate that it is the real party of interest through perfection of chain of title for both the Deed of Trust and the Promissory Note.

COUNTER-CLAIM

Defendants/Counter-claimants hereby sue Plaintiff which is Counter-Defendant Bank of America, N.A. Successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. and Korn Law Firm, their attorneys/agents, and state as follows:

- 1) This is an action for damages exceeding \$15,000.00 USD exclusive of interest and cost.
- 2) Counter-claimants, the Defendants, are South Carolina residents with their principal place of residence situated in Oconee County, South Carolina.
- 3) Venue is proper in this jurisdiction because the events and transactions at issue herein took place within Oconee County, South Carolina and the parties to this dispute are all situated within Oconee County, South Carolina.
- 4) Counter-Defendant, Bank of America, N.A. Successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P., is a debt collector as defined by 15 U.S.C. Sec. 1692 et seq.
- 5) Counter-Defendant, Bank of America, N.A. Successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P., is a mortgage loan servicer with a principal office at 100 North Tryon Street, Charlotte, North Carolina.
- 6) Defendant Korn Law Firm is a debt collector as defined by 15 U.S.C. Sec. 1692 et seq. whose principal address is 1300 Pickens Street, P.O. Box 12369, Columbia, SC 29211-2369.
- 7) Any allegations about acts of any corporate or other business Counter-Defendants means that the corporation or other business did the alleged acts through its officers, directors, employees, agents and/or representatives while they were acting within the actual or ostensible scope of their authority.
- 8) At all relevant times, each Counter-Defendant committed acts, caused or directed others to commit the acts, or permitted others to commit the acts alleged in this complaint;

additionally, some of the Defendants acted as the agent for other Defendants, and all of the Defendants acted within the scope of their agency as if acting as the agent of another.

- 9) Knowing or realizing that other Counter-Defendants were engaging in or planning to engage in unlawful conduct, each Defendant nevertheless facilitated the commission of those unlawful acts.
- 10) Each Counter-Defendant intended to and did encourage, facilitate or assist in the commission of the unlawful acts, and thereby aided and abetted the other Counter-Defendants in the unlawful conduct.
- 11) All Counter-Defendants engaged in continuous and multiple unfair and deceptive trade practices, fraud and misrepresentations that affected interstate commerce and proximately caused the herein injuries to the Counter-Plaintiff.
- 12) Counter-Plaintiffs believe the alleged loan became part of a real estate mortgage conduit and became a special purpose vehicle (SPV) for the purposes of tax exemption.
- 13) REMICs are investment vehicles that hold commercial and residential mortgages in trust and REMICs issue securities representing an undivided interest in these mortgages.
- 14) Once the REMIC containing Counter-Plaintiff's loan was formed, the loan was converted into a security owned by thousands of shareholders throughout the world and was traded on Wall Street.
- 15) At that point, the state of Counter-Plaintiff's loan changed and was converted forever more into a stock.
- 16) Once Counter-Plaintiff's loan was securitized and converted, it forever lost its security.
- 17) Since the loan was sold and securitized into stock, the "Lender" can no longer claim that it is a real party in interest, or even that the loan still exists as a loan, since double-dipping is a form of securities fraud.
- 18) A negotiable instrument can only be in one of two states after undergoing securitization, not both at the same time. It can either be a loan or a stock.
- 19) Once the instrument is traded as a stock, it is forever a stock and therefore regulated as this loan was by the SEC as a stock.
- 20) The subject Mortgage states that the Mortgage secures the Promissory Note.
- 21) The Promissory Note, by conversion into stock, was extinguished as a collateralized asset and therefore the trust secures absolutely nothing and Bank of America, N.A., not being a real party in interest, has no standing to foreclose in Counter-Plaintiff.

- 22) Since the "Lender" sold the loan to a REMIC, it forever lost the ability to enforce, control or otherwise foreclose on Counter-Plaintiff's property, including the right to assign the Mortgage or endorse the Note. It was no longer the real party in interest.
- 23) If Bank of America, N.A. owned the Note, it would have to be taxed on the interest owned from the Note. If the REMIC owned the Note, it would have a tax liability.
- 24) To avoid double taxation, under Internal Revenue Code 860, the loan was put into an SPV so that only the shareholders are taxed and therefore are the real parties in interest.
- 25) Because of IRS Code 860, Bank of America, N.A. is not the real and beneficial party in interest because the REMIC does not own the Note, the shareholders do.
- 26) By distributing the tax liabilities to the shareholders, the REMIC has also distributed the parties in interest.
- 27) Since a Promissory Note is only enforceable in its entirety and thousands of shareholders own the subject Note, no one of them can foreclose on Counter-Plaintiff's home.
- 28) The asset of the REMIC is registered and traded as part of a security, and as such cannot be traded out and is permanently attached and converted into stock preventing the Note from being assigned and securitized again and again which would create securities fraud.
- 29) Since Counter-Plaintiff's loan went into default, it was written off by the REMIC and received tax credits from the IRS, was therefore discharged, and settled destroying the Note forever.
- 30) After securitization, the Note cannot be reattached to the Mortgage through adhesion.
- 31) Under the Uniform Commercial Code (UCC Sec. 3), the Promissory Note is a one-of-a-kind instrument and any assignment must be a permanent fixture onto the original Note much like a check.
- 32) There is no endorsement on the original Note.
- 33) The original Promissory Note has the only legally binding chain of title, otherwise the instrument is faulty.
- 34) The original Note had to be destroyed upon securitization because the Note and the stock cannot exist at the same time.
- 35) All Counter-Defendants lack standing to enforce the Note.
- 36) Under the terms of the pooling and servicing agreement, the Servicer can buy back the Note as a non-performing, non-secured debt like collection agencies that buy non-performing credit card debts.

- 37) This purchase is of a discharged asset and cannot be re-adhered to the original Mortgage, since the original Note was a one-of-a-kind instrument, not part of the discharged asset.
- 38) Therefore, the purchaser of the discharged asset can never be the holder in due course of the original Note.
- 39) Under the Uniform Commercial Code (UCC), the original Promissory Note is the only valid and legally binding chain of title for the Note.
- 40) The numerous attempts by Counter-Defendant Bank of America, N.A. to claim ownership of the original Note by the purchaser of the discharged asset is fraudulent and is characterized as "reverse engineering."
- 41) There is no perfection of title.
- 42) Counter-Plaintiffs were never informed or notified of any transfer of the Note to Counter-Defendant Bank of America, N.A.
- 43) The Mortgage states that only the lender can make an assignment.
- 44) No evidence exists to support the claim that Bank of America, N.A. is the holder in due course of the Note at issue in this action.
- 45) Counter-Plaintiff's Mortgage was flawed from the date of the origination of the loan because MERS was named as the beneficiary and nominee of the lender on the Mortgage, which was done for purposes of deception, fraud, and confusing—and therefore harming—the Counter-Plaintiff, and theft of revenue from the local county government through the illegal avoidance of mortgage recording fees.
- 46) MERS is unregistered and unlicensed to conduct mortgage lending or any other type of business in the State of South Carolina, and MERS has been and continues to knowingly, intentionally, illegally, and fraudulently record mortgages and conduct business in South Carolina on a large scale and systematic fashion.
- 47) Neither MERS nor Bank of America, N.A. is the original lender for the Counter-Plaintiff's subject Mortgage or Note herein.
- 48) Neither MERS nor Bank of America, N.A. are legally documented assignees of either the Counter-Plaintiff's Mortgage or Note and do not hold the original Mortgage nor have they ever held the Counter-Plaintiff's Note.
- 49) No Note or other evidence exists which could ever make the Counter-Plaintiff indebted to MERS or Bank of America, N.A. in any way.

- 50) Neither MERS nor Bank of America, N.A. ever had nor will they ever have the authority to assign the Mortgage to any entity.
- 51) Neither MERS nor Bank of America, N.A. ever had any right to collect on the Note or enforce the Mortgage, nor have they ever had a right to hold, enforce, or collect upon Counter-Plaintiff's Note.
- 52) At the time Counter-Plaintiff signed the Note and Mortgage, he/she was unknowingly converting his/her property into an asset of an MBS (Mortgage Backed Security) and was deliberately induced into signing a negotiable instrument, which was never intended as such but was intended as collateral for an MBS.
- 53) The alleged Note in question started its life as a negotiable instrument, similar to a check. The negotiation and enforceability of the Note is governed by Article III of the Uniform Commercial Code.
- 54) The Note that had been executed with the Mortgage became part of a pool of mortgages losing its individual identity as a note between a lender and a borrower; it merged with other unknown notes as a total obligation due to the investor or investors; it is no longer a negotiable instrument, rather, it is collateral for a federally regulated security under the confines of the SEC (Securities and Exchange Commission).
- 55) In actuality, MERS was not the "nominee" for the lender; the true lenders were investors who had provided the funds for the loans through mortgage backed security pools which were held as trusts.
- 56) This fact was known to MERS and the servicers and the subsequent assignees of any and all rights purported to have been assigned by MERS at the time the Note and Mortgage was signed by Counter-Plaintiff and at the time (or each and every later purported assignment by MERS, or others) of any interest in the note and mortgage.
- 57) The proper parties to this action would be the investors of the mortgage backed securities to which Counter-Plaintiff's loan was securitized; but these parties have no recorded interest in the mortgage, which were never delivered to the trustee for the mortgage backed security pool; therefore the note itself is, at best, unsecured rights to payment.
- 58) All of the purported assignments and transfers were done by the Counter-Defendants without the required corporation resolution giving authority for that person to conduct such assignments and transfers.

- 59) A “debt collector” under the Statute is “any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another” 15 U.S.C. Section 92(a)(6).
- 60) Attorneys who regularly engage in debt collection or debt collection litigation are covered by the FDCPA and their litigation activities must comply with the requirements of that Act.
- 61) In *Platsky v. CIA*, 953 F.2d 26 (2nd Cir. 1991), the Circuit Court of Appeals allowed that the District Court should have explained to the litigant proceeding without a lawyer the correct form to the litigant so that he could have amended his pleadings accordingly. Defendants respectfully reserve the right to amend their pleadings.

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTIONS PRACTICES ACT
(“FDCPA”) 15 USC § 1692

Counter-Defendants Bank of America, N.A. Successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. and Korn Law Firm, their Attorneys/Agents

- 1. All preceding paragraphs are incorporated herein as though fully set forth.
- 2. Counter-Defendants misrepresented the character and legal status of the unlawful debt in violation of 15 USC 1692(e)(2), by sending false correspondence to Counter-Plaintiffs and third persons and assisting in the filing of an unlawful foreclosure action in county court.
- 3. Counter-Defendants threatened to take and did take actions that they could not legally take without the ruse and falsities committed upon the Counter-Plaintiffs in violation of 15 USC 1692(e)(5).
- 4. Counter-Defendants engaged in conduct that disgraced the Counter-Plaintiffs in violation of 15 USC 1692(e)(7), by sending false correspondence to Counter-Plaintiffs and third persons and assisting in the filing of an unlawful foreclosure action in county court.

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5. Although Counter-Plaintiffs disputed the alleged debt, Counter-Defendants communicated false credit information to others and failed to communicate that the debt was disputed, when it was disputed, in violation of 15 USC 1692(e)(8).
6. Counter-Defendants stated numerous times that they were the lawful owners in interest of the debt or empowered to speak on behalf of the owner in interest (as Attorneys/Agents), yet knew or should have known that they were not, and as such violated 15 USC 1692(e)(5).
7. All Counter-Defendants engaged in unfair and deceptive means and attempts to collect the alleged debt in violation of 15 USC 1692(f).
8. Counter-Defendants attempted to collect the alleged debt in a manner and amount not authorized by the original MORTGAGE and Note in violation of 15 USC 1692(f)(1).
9. Counter-Defendants threatened to unlawfully repossess the Counter-Plaintiffs' property in violation of 15 USC 1692(f)(8).
10. Counter-Plaintiffs suffered actual damages from these violations.
11. Pursuant to 15 USC 1692(k), Counter-Plaintiffs are entitled to actual damages, statutory damages as set forth herein, and reasonable attorney fees and costs.
12. Because the conduct of the Counter-Defendants was frequent and persistent and because the nature of the violations of the FDCPA were so egregious and because the FDCPA violations were a part of a deliberate scheme, Counter-Plaintiffs are entitled to the maximum possible relief permitted under 15 USC 1692(k)(a).

COUNT II
VIOLATIONS OF RESPA 12 USC 2601 ET SEQ.

13. All preceding paragraphs are incorporated as though fully set forth herein.
14. Counter-Defendants failed to timely inform Counter-Plaintiffs of any alleged Appointments, Assignments and transfers of the mortgage in violation of RESPA.
15. Counter-Plaintiffs have previously made written demands to Counter-Defendants to show evidence of standing to claim a debt and Counter-Defendants have refused to evidence such standing.

EXHIBIT 1 - PROCEEDINGS

COUNT III
SLANDER OF TITLE / PETITION TO QUIET TITLE

16. Counter-Plaintiffs incorporate by this reference each preceding paragraph of this Complaint as if set forth fully herein.
17. The Counter-Defendants have knowingly and maliciously communicated, in writing, false statements that have the effect of disparaging the Counter-Plaintiffs' title to property. The Counter-Plaintiffs have incurred special damage as a result.
18. Counter-Defendants Bank of America, N.A. Successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. and Korn Law Firm, their Attorneys/Agents have no legally enforceable claim, interest or standing to sue as to the Note or Mortgage in question and the claim is a cloud on the Counter-Defendants' title and should be quieted under South Carolina law.
19. Counter-Plaintiffs are the rightful owners of the subject property.
20. Counter-Plaintiffs are the legal titleholders of their property.
21. Counter-Defendants Bank of America, N.A. Successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. and Korn Law Firm, their Attorneys/Agents have knowingly and unlawfully caused a cloud to be recorded against the title of Counter-Plaintiffs' property and have caused to be sent notices of default and foreclosures, and have served and filed mortgage documents that claim an interest in the property of the Counter-Plaintiffs.
22. Any purported transfer of any interest in the Counter-Plaintiffs' real estate was wrongful and invalid because of the endorsements, assignments, foreclosures or purported foreclosures were invalid and were not conducted in accordance with the laws of South Carolina.
23. Counter-Defendants Bank of America, N.A. Successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. and Korn Law Firm, their Attorneys/Agents knew or should have known that such transfers were wrongful and invalid and the publication of an ownership interest in the Counter-Plaintiffs' property is, therefore false.
24. The recording of the mortgages published the information to third parties.

25. Because of said wrongful publication of an ownership interest in the Counter-Plaintiffs' property, Counter-Plaintiffs have incurred damages and will continue to incur attorney's fees and costs related to this litigation, in an amount to be proven at trial.
26. Counter-Plaintiffs seek a declaratory judgment against Counter-Defendants stating that the Counter-Defendants have violated Counter-Plaintiffs' rights and that the Counter-Defendants had and have no right to hold mortgages in the name of Bank of America, N.A. and/or foreclose on Counter-Plaintiffs' property and that the Counter-Defendants are entitled to no further payments from the Counter-Plaintiffs or recognition in Counter-Plaintiffs' Title to their property.
27. The Counter-Plaintiffs are entitled to a reformation of this note as an unsecured note or as a partially or wholly discharged note and a right to reformation of the contract with the persons or entities who are owed obligations because of funding of the loan of the Counter-Plaintiffs.

COUNT IV

FRAUD AND MISREPRESENTATION

SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT

SCUTPA S.C. Code Ann. § 39-5-20(a)(1985), S.C. Code Ann. § 39-5-140(a)(1985)

28. Counter-Plaintiffs re-allege and affirm each preceding paragraph of this Complaint and incorporate such as if alleged anew.
29. In 2011, Counter-Defendants intentionally instituted unlawful foreclosure against Counter-Plaintiffs based upon fraudulent documents in the Oconee County Court.
30. The deceptive acts of the Counter-Defendants and their employees and agents resulted in a multitude of misrepresentations, including but not limited to the true identity of the Lender, and the fraudulent misrepresentation as to the Mortgagee.
31. The Counter-Defendants induced the Counter-Plaintiffs to enter into the transaction when there existed in the inducement and execution material representations that were false and were known to be false or were made recklessly, which inducement was reasonably acted upon by Counter-Plaintiffs and acted upon in reliance thereon and Counter-Plaintiffs have suffered injury proximately due to such.

32. The scheme employed by Counter-Defendants intentionally had the capacity and tendency to deceive Counter-Plaintiffs, and did deceive Counter-Plaintiffs and the Clerk of Court.
33. The acts of the Counter-Defendants violated standards of fair trade practices and affected commerce.
34. As a result of the Counter-Defendants unfair and deceptive trade practices, Counter-Plaintiffs were proximately injured in their business and in their persons.
35. This foreclosure has been continued with no date set for a hearing.
36. The deceptive acts of the Counter-Defendants constitute fraudulent misrepresentation and the Counter-Defendants are jointly and severally liable for their acts of fraud by their misrepresentation and all damages stemming from such, including punitive damages and attorney's fees.

COUNT V
WRONGFUL CONDUCT
SOUTH CAROLINA CODE OF LAWS
S.C. Code of Laws Title 15 -75-60

37. Counter-Plaintiffs re-allege and affirm each preceding paragraph of this Complaint and incorporate such as if alleged anew.
38. Counter-Defendants in instigating foreclosure action against Counter-Plaintiffs in their Complaint falsely asserting authority of law, claiming to be the Holder of the Note and Mortgage, and as such claim the authority at law to collect on the Note and the Mortgage and foreclose on Counter-Plaintiffs' property.
39. Counter-Defendants have filed false or misleading documents with Oconee County Recorder's Office to assert their claim.
40. By falsely asserting authority of law, Counter-Defendants are jointly and severally liable for their acts and all damages stemming from such including actual damages, punitive damages, costs and reasonable attorney's fees.

COUNT VI
NEGLIGENT SUPERVISION
SOUTH CAROLINA CODE OF LAWS
S.C. Code of Laws Title 15 -75-60

41. Counter-Plaintiffs re-allege and affirm each preceding paragraph of this Complaint and incorporate such as if alleged new.
42. Counter-Defendants had a duty of care to supervise the actions of their employees and agents.
43. Counter-Defendants' employees and/or agents' actions, as alleged previously, were unlawful and violated Counter-Plaintiffs' property rights.
44. Counter-Defendants knew or should have known that their employees and/or agents were acting unlawfully.
45. As a result of the Counter-Defendants' negligent supervision, Counter-Plaintiffs were proximately injured by the unlawful acts of their employees and/or agents.
46. An agency relationship exists between the individual defendants and the corporate defendants.
47. The actions of the individual defendants were done on behalf of and at the direction of the corporate defendants and within the scope of their agency relationship.
48. As a result of the actions of the individual defendants, the Counter-Plaintiffs were injured.

COUNT VII
COMMON LAW FRAUD AND INJURIOUS FALSEHOOD

49. Counter-Plaintiffs incorporate by this reference each paragraph of this Complaint as if set forth fully herein.
50. The publicly filed false mortgage assignments enabled all of the Counter-Defendants to perpetrate the fraudulent foreclosure.
51. All of the Counter-Defendants knew or should have known the material representations were false.

52. The material representations to the Counter-Plaintiffs were made so that the Court and the Counter-Plaintiffs would believe that the Counter-Defendants had a legitimate claim in the property. The Counter-Plaintiffs relied on such and the Counter-Plaintiffs were injured as a result with the facing of foreclosure litigation.
53. Counter-Defendants fraudulently concealed their wrongdoings and prevented Counter-Plaintiffs from discovering their cause of action.
54. Counter-Plaintiffs have been injured by the fraud by Counter-Defendants and have remained in ignorance of it without any fault or want of diligence or care on their part.
55. Counter-Defendants made many misleading statements that the loan contained certain terms desirable to the consumer when it did not.
56. Counter-Defendants' use of deceit or trickery caused Counter-Plaintiffs to act to their disadvantage.

WHEREFORE, Counter-Plaintiffs demand judgment against Counter-Plaintiffs as follows:

- 1) Judgment against Counter-Defendants as Jointly and Severally Liable for all issues in excess of \$1,000,000.00;
- 2) Costs and Attorneys Fees pursuant to 18 USC § 1964(c) and relevant South Carolina law;
- 3) Actual and statutory damages for violations of FDCPA pursuant to 15 USC § 1692(k) and relevant South Carolina law;
- 4) Costs and Attorneys Fees pursuant to 15 USC § 1692(k) and relevant South Carolina law;
- 5) Rescission of the entire Mortgage and Note amounting to clear title to property with fixtures as a result of the aforementioned, and
- 6) Damages for the Unfair and Deceptive Acts and Practices and
- 7) Judgment against Counter-Defendants for return of the down payment, and other payments, as well as interest on the above amount, and
- 8) Cost of litigation as provided in Title 15 United States Code, Section 1601 et Seq.
- 9) Pre-judgment and post judgment interest at the maximum rate allowable by law;
- 10) Compensatory damages;
- 11) Punitive damages as allowed by law;

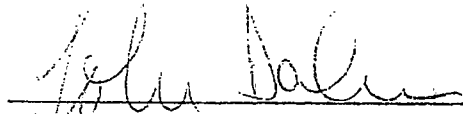
12) Such other and further relief available under all applicable state and federal laws and any relief the court deems just and appropriate;

DEMAND FOR JURY TRIAL pursuant to Rule 38 of the South Carolina Rules of Civil Procedure (SCRCP) Counter-Plaintiffs demand a jury trial as to all issues triable by a jury.

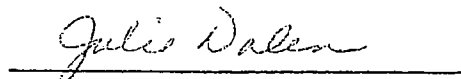
Respectfully submitted this February 21, 2012.

Submitted by John D. Dalen and Julie A. Dalen

DATED this 21st day of February, 2012



John D. Dalen, Defendant



Julie A. Dalen, Defendant

109 Wood Valley Drive,
Westminster, SC 29693

864 647 4705

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
OCONEE COUNTY)	TENTH JUDICIAL CIRCUIT
)	CIVIL ACTION NO. <u>2011-CP-37-1056</u>
Bank of America, N.A. Successor by merger to)	
BAC Home Loans Servicing, L.P. f/k/a Countrywide)	
Home Loans Servicing, L.P.,)	
)	
PLAINTIFF)	
)	
Vs.)	
)	
John D. Dalen, Julie A. Dalen, and Wawtockace)	
Hills Property Owners Association,)	
)	
DEFENDANT(S).)	

2012 SEP 21 A 9 24

MEMORANDUM OF LAW

The point at issue in this Civil Action is whether or not the Plaintiff has standing to proceed with foreclosure. The Plaintiff has the presumption of law that they do have standing yet have not offered any proof of the right of enforcement. This presumption is hereby formally rebutted. The Defendants move the Court to compel the Plaintiff to prove, verify and validate whether or not they have standing to enforce the debt. Material to the arguments of this case is the evidence contained on the original wet-ink signature Promissory Note. The original note is a critical piece of evidence that establishes the following: (1) who is the current Holder in Due Course, and (2) whether the Plaintiff is the current Holder in Due Course.

While it is true that the Defendants signed a note in 2007, that Note is likely to have been sold and assigned. Material to Defendant's argument is "Who was it sold/assigned to and is the Plaintiff the Holder in Due Course, and if not, who is?" Specifically, does the Plaintiff have the authority to enforce the negotiable instrument?

While it is not normally required of the Plaintiff to provide proof of claim in the normal conduct of a foreclosure proceeding, the Fair Debt Collections Act is enacted when the debt is in dispute and the right of enforcement is being challenged.

EXHIBIT F PAGE 19 OF 23

The authority to disclose is derived directly from the negotiable instrument's right of enforcement. As the issue at hand is the Promissory Note, which is a negotiable instrument, the matter must be governed under the UCC (Uniform Commercial Code) Article III, Sections 3101 to 3605. The Commercial Codes cited are on point and relevant to the issue at hand. The Defendants have presented crucial evidence that indicates the Plaintiff is not the rightful owner in due course. Crucial evidence consists of letters that the Court allowed to be introduced at the hearing on February 6, 2012. Copies are attached to this Motion and listed as Exhibits A, B, C, and D. The Plaintiff is attempting to collect a debt that is in dispute. We assert the following regarding **Bank of America, N.A., Successor by Merger to Countrywide Home Loan Servicing, L.P.:**

- 1) Bank of America, N.A. has no right, title or beneficial interest in the note or mortgage
- 2) Bank of America, N.A. is not the Secured Creditor, and therefore has no standing to foreclose
- 3) Bank of America, N.A. is only the Servicer
- 4) Bank of America, N.A. has falsely conveyed the Deed Assignment misrepresenting itself as the Lender/Creditor
- 5) Bank of America, N.A. has violated FDCPA 15 U.S.C. having no right, title or beneficial interest in the note or mortgage Section 1692 f(6)(A):
 - a) The FDCPA prohibits the "[t]aking or threatening to take any nonjudicial action to effect dispossession or disablement of property if . . . there is no present right to possession of the property claimed as collateral through an enforceable security interest."
 - b) The FDCPA also allows a plaintiff to recover "any actual damage sustained" as a result of a violation of the statute. 15 U.S.C. Section 1692 k(a)(1). Actual damages under the FDCPA include damages for emotional distress. Johnson v. Eaton, 880 F.3d 148, 152 (5th Cir. 1996) (noting that the FDCPA not only requires that the debt collector compensate the debtor for any monetary damages, but also for "emotional distress or other injury that the debtors can prove the debt collector caused."

Furthermore under the United States Supreme Court decision of Carpenter v. Longan, 83 U.S. 16 Wall, 271 271 (1872), the Deed of Trust follows the Promissory Note. Where the promissory note goes, the Deed of Trust must follow. Page 83 U.S. 274: The note and mortgage

are inseparable; the former as essential, the latter as an incident. **An assignment of the note carries the mortgage with it, while an assignment of the latter alone is a nullity.**

The ownership of the Deed of Trust and subsequent assignments follow the promissory note, and not an arbitrary assignment of MERS. The Massachusetts Supreme Court has ruled that before the "lender" may foreclose on a subject property, the "lender" must provide evidence of perfected chain of title in both the Deed of Trust as well as the promissory note. Blank assignments of the promissory note cannot be construed as evidence of perfected interest. Neither is possession without proper assignment. *US Bank National Association vs. Ibanez*, (SJC – 10694).

The Defendants, upon information and belief, have reason to believe the following:

- a) The mortgage note has been paid in whole or in part by one or more undisclosed party/parties who prior to or contemporaneously, with the closing of the "loan", paid the originating lender in exchange for certain unrecorded rights to the revenues arising out of the loan documents.
- b) In connection with the matters which are the subject of paragraph "a" as above, the plaintiff (foreclosing party) has no financial interest in the Note or Mortgage.
- c) The original note was destroyed or was transferred to a structured investment vehicle which may be located offshore, which also has no interest in the Note or Mortgage or revenue therefrom.
- d) The revenue stream deriving from the Note/Mortgage was eviscerated upon one or more assignments of the Note/Mortgage to third parties and parsing of obligations as part of the securitization process, some of whom are joined as co-obligators/co-obligatees, in connection with the closing.
- e) **To the extent which Plaintiff has been paid on the underlying obligation or has no legal interest therein, or in the Note or Mortgage, or does not have lawful possession of the Note or Mortgage, Plaintiff's allegations of possession and capacity to institute foreclosure constitute a fraud upon the Court. Based upon one or more of the affirmative defenses set forth above, Defendants John and Julie Dalen are entitled to a dismissal of the foreclosure claim with prejudice.**

EXHIBIT F PAGE 31 OF 23

If the lender is allowed to proceed without proof, there is a possibility another institution which may have bought our note may attempt to collect the same debt from us again. Courts across the country are becoming more sympathetic to homeowners because of the prevalence of predatory lending and servicing. They are holding the lender to the law, requiring them to produce evidence that they are the true owners of the Note.

Not only does the foreclosing party need to physically hold the note, but the note must be properly endorsed and transferred every time a mortgage is sold. A clear chain of title must be demonstrated to make the note valid. This is to protect borrowers from fraud – no one can manufacture a note, claim to be a creditor, and then take a homeowner's property. This is especially important when mortgages are securitized and bought and sold a dozen times – if there is no clear chain of title, the borrower can never be sure who is really the creditor.

Defendants move the Court to consider the following cases:

Patton v. Diemer, 35 Ohio St. 3d 68; 518 N.E.2d 941 (1988)

Lebanon Correctional Institution v. Court of Common Pleas, 35 Ohio St. 2d 176 (1973), and Wells Fargo Bank v. Byrd, 178 Ohio App. 3d 285, 2008 - Ohio - 4603, 897 N.E. 2d 722 (2008)

"A party lacks standing to invoke the jurisdiction of a court unless he has, in an individual or representative capacity, some real interest in the subject matter of the action." Furthermore the Wells Fargo case went on to hold, "If plaintiff has offered no evidence that it owned the note and mortgage when the complaint was filed, it would not be entitled to judgment as a matter of law."

Stachnik v. Winkel, 394 Mich. 375, 387; 230 N.W. 2d 529, 534 (1975) In determining whether the plaintiffs come before this Court with clean hands, the primary factor to be considered is whether the plaintiffs sought to mislead or deceive the other party, not whether that party relied upon plaintiff's misrepresentations.

LaSalle Bank v. Ahearn, 875 N.Y. S. 2d 595 (2009) Dismissed with prejudice; lack of standing.

Novastar Mortgage, Inc. v. Snyder 3:07CV480 (2008) Plaintiff has the burden of establishing its standing. It has failed to do so.

DLJ Capital, Inc. v. Parsons, Case No. 07 – MA – 17 (2008) A genuine issue of material fact existed as to whether or not appellee was the real party in interest as there was no evidence on the record of an assignment. Reversed for lack of standing.

Everhome Mortgage Company v. Rowland, No. 07AP – 615 (Ohio 2008) Mortgagee was not the real party in interest pursuant to Rule 17(a). Lack of standing.

Lambert v. Firststar Bank, 83 Ark. 259, 127 S.W. 3d 523 (2003) Complying with the Statutory Foreclosure Act does not insulate a financial institution from liability and does not prevent a party from timely asserting any claims or defenses it may have concerning a mortgage foreclosure A.C.A. § 18-50-116(d)(2) and violates honest services Title 18 Fraud. Notice to credit reporting agencies of overdue payments/foreclosure on a fraudulent debt is defamation of character and a whole separate fraud. A Court of Appeals does not consider assertions of error that are unsupported by convincing legal authority or argument, unless it is apparent without further research that the argument is well taken. FRAUD is a point well taken!

Lambert Supra.

Anheuser-Busch Brewing Company v. Emma Mason, 44 Minn. 318, 46 N.W. 558 (1890)
No lawful consideration tendered by Original Lender and/or Subsequent Mortgage and/or Servicing Company to support the alleged debt. "A lawful consideration must exist and be tendered to support the Note" and demand under TILA full disclosure of any such consideration.

National Bank Act, Sect. 28 & 56

National Bank of Commerce v. Atkinson, 8 Kan. App. 30, 54 P. 8 (1898) National Banks and/or subsidiary Mortgage companies cannot retain the note, "Among the assets of the state bank were two notes, secured by mortgage, which could not be transferred to the new bank as assets under the National Banking Laws.

WHEREFORE Defendants respectfully request an order dismissing plaintiff's complaint with prejudice as a matter of law.

EXHIBIT F PAGE 23 OF 23

John and Julie Dalen

109 Wood Valley Drive
Westminster, SC 29693
Ph. 864 647 4705

July 18, 2012

Korn Law Firm, P.A.
Dean A. Hayes
1300 Pickens Street
P.O. Box 12369
Columbia, SC 29201-2369

Re: Order of the Court Issued June 20, 2012

Dear Mr. Hayes:

In compliance with the Court's Order to respond to Plaintiff's Interrogatory Number One, we the defendants, John Dalen and Julie Dalen, are the only witnesses concerning the facts of this case at this time. In response to Plaintiff's Interrogatory Number Five, there are no payments not reflected in the payment history provided to the defendants by the plaintiff.

Regarding the Court's Order for the defendants to produce responsive documentary evidence as pertaining to the Plaintiff's Request for Production, during our meeting in Columbia on July 16, 2012, we asked Attorney Dean Hayes if there were any unfulfilled requests for documents such as canceled checks, and he stated that all he required was for defendants to state that there are no payments not reflected in the payment history, and that with this statement we would not need to produce evidence such as canceled checks. As we have so stated above to Plaintiff's Interrogatory Number Five, there are no payments not reflected in the payment history provided to the defendants by the plaintiff. As we have stated in our Answers to Plaintiff's Request for Production, plaintiff has in its possession all documents plaintiff had requested defendants to produce.

Defendants are prepared to bring all documents in our possession that we have received from Bank of America, N.A. for copying by plaintiff's attorneys to the location in Oconee County where Attorney Dean Hayes will bring the original (wet-ink) mortgage note for our inspection and copying.

With regard to the Plaintiff's Request for Admissions:

1. Admit or deny that the document attached and incorporated as **Exhibit A** is a true and accurate copy of the Note signed in connection with the subject loan.

Admit. We admit that the document attached and incorporated as **Exhibit A** appears to be a true and accurate copy of the Note that the defendants signed on December 20, 2007 and which was given to the lender, Quicken Loans Incorporated.

2. Admit or deny that the document attached and incorporated as **Exhibit B** is a true and accurate copy of the Mortgage signed in connection with the subject loan.

Dalen Letter to Korn Law Firm, P.A. Continued

July 19, 2012

Page 2 of 2

Admit. We admit that the document attached and incorporated as **Exhibit B** appears to be a true and accurate copy of the Mortgage that the defendants signed on December 20, 2007 and which was given to the lender, Quicken Loans Incorporated.

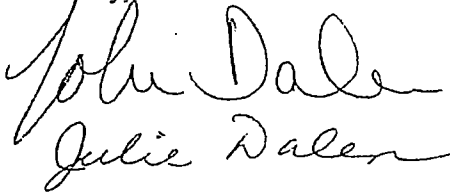
3. Admit or deny that the document attached and incorporated as **Exhibit C** is a true and accurate copy of the payment history of the subject loan.

Admit. The document attached and incorporated as **Exhibit C** appears to be a true and accurate copy of the payment history of the subject loan.

Defendants believe we have complied with the Court's Order of June 20, 2012 with this letter. This letter is being emailed on July 19, 2012 and a paper copy is being mailed on the same day to Korn Law Firm offices in Columbia, SC.

The Court further ordered the parties to this dispute confer on a time not to exceed July 29, 2012 for the defendant to view the original note held by the plaintiff. During our July 16th meeting which had been scheduled for this purpose, Mr. Hayes informed us that someone had inadvertently sent the note to another location. Mr. Hayes said that he would be able to reacquire the note and suggested that someone from his law firm would be willing to bring the note for our viewing and copying to Oconee County, but probably that would not occur until maybe August 13, 2012. For the record, defendants remain uncomfortable with the lack of compliance with this Court's Order by the plaintiff's attorneys in a timely manner. We have been patient, rescheduling this appointment several times at plaintiff's attorneys' request, and we expect plaintiff's attorneys to comply with Court's Orders.

Sincerely,



John Dalen and Julie Dalen

EXHIBIT 6 PAGE 3 OF 29

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

PLAINTIFF)

Vs.)

John D. Dalen, Julie A. Dalen, and Wawtockace)
Hills Property Owners Association,)

DEFENDANT(S).)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-37-1056

ANSWERS TO PLAINTIFF'S FIRST SET
OF INTERROGATORIES

We, John D. Dalen and Julie A. Dalen, Defendants in the above-captioned action, hereby submit these answers to Plaintiff's Interrogatories.

- 1) None at this time.
- 2) Copies of a presentation submitted or presented at the Hearing on the Motion to Dismiss on February 6, 2012 at 2:00 p.m.
- 3) None at this time.
- 4) None at this time.
- 5) Don't understand the question. The question does not appear to make sense. Please restate the question.

Submitted by John D. Dalen and Julie A. Dalen

John Dalen

Julie Dalen

DATED this 6 day of February 2012

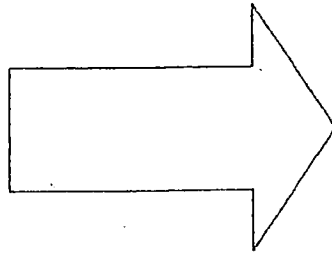
EXHIBIT G PAGE 3 OF 79

C 1 Page 18
Page 614

PRE - 1980's DEREGULATION

Diagram #1

Home Buyer



Lender

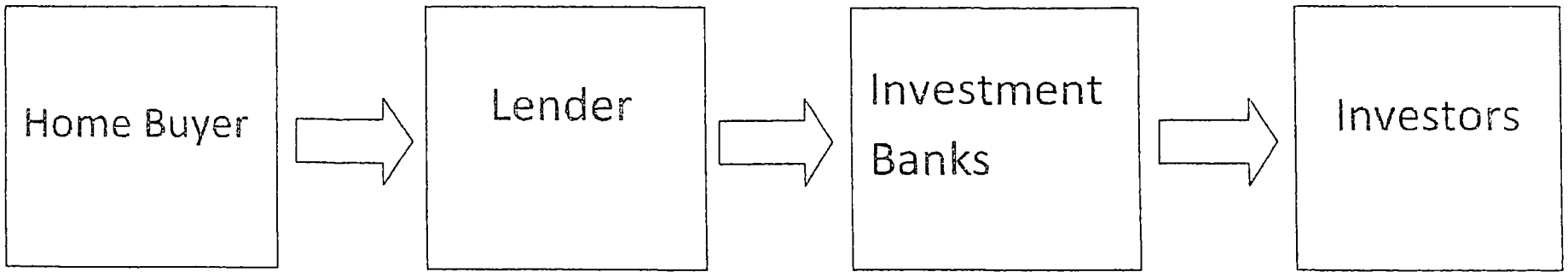
Home buyer obtained mortgage from lender. Payments went to local lender. Since mortgages took decades to repay, lenders were careful.

EXHIBIT G PAGE 4 OF 19

C 2 18

POST - 1980's DEREGULATION

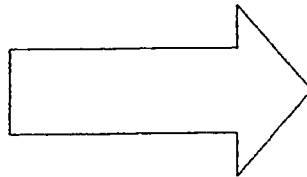
Diagram #2



Lender sold mortgages to investment banks which then sold the mortgages to investors.

POST – 1980's DEREGULATION
Diagram #3

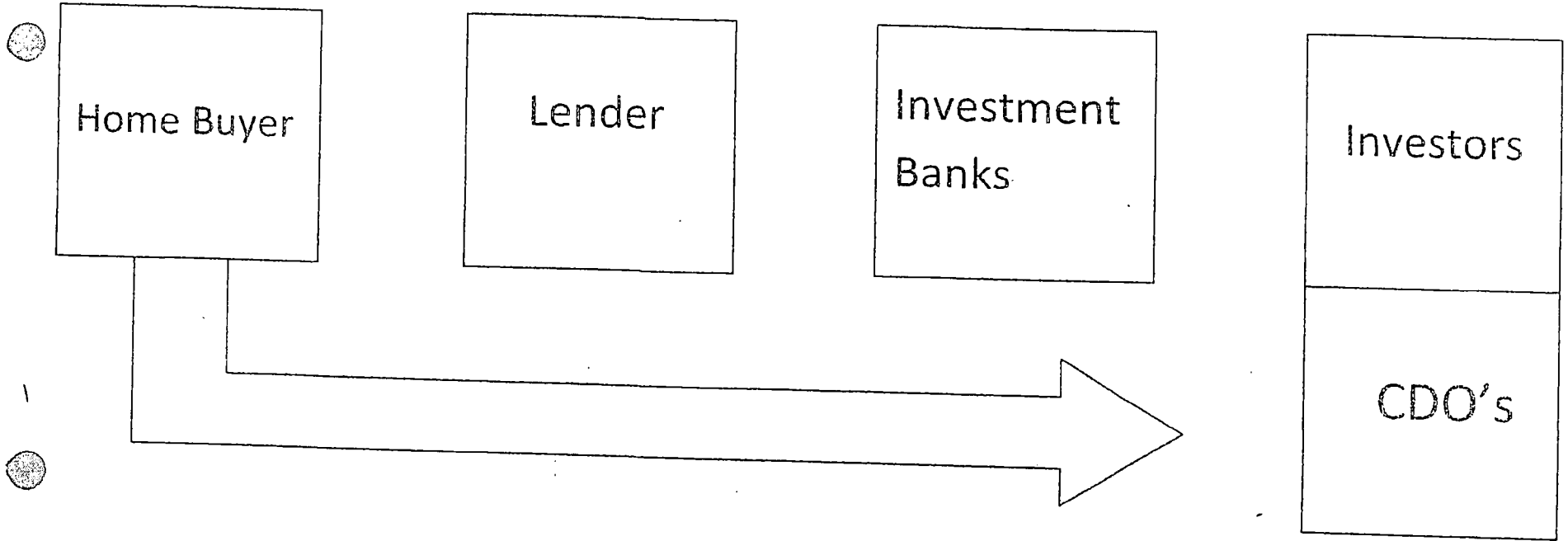
Investment Banks
Commercial Mortgages
Corporate Buy-out Debt
Home Mortgages
Car Loans
Student Loans
Credit Card Debt
CDO's (Collateralized Debt Obligations)



Investors
Commercial Mortgages
Corporate Buy-out Debt
Home Mortgages
Car Loans
Student Loans
Credit Card Debt
CDO's (Collateralized Debt Obligations)

Investment banks combined loans to create CDO's, then sold these CDO's to investors.

POST - 1980's DEREGULATION
Diagram #4



Now when home buyers pay their mortgage, the payments go to investors all over the world.

POST - 1980's DEREGULATION
Diagram #5

Securitization Food Chain

Home Buyer

Lender

Investment
Banks

Investors

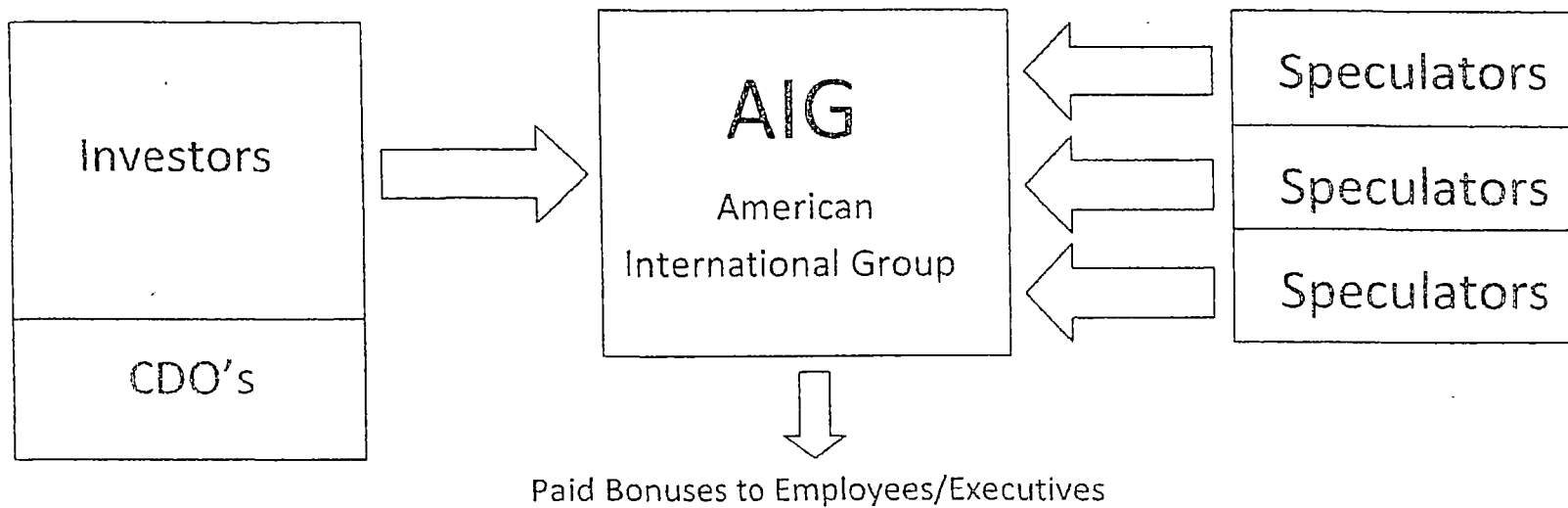
Lenders didn't care anymore whether borrowers could pay so they started making riskier loans. Investment bankers didn't care either. More CDO's sold = higher profits. Quality of mortgage sacrificed to maximize volume. This is what caused the real estate bubble and crash of 2008.

EXHIBIT 6 PAGE 8 OF 19

POST - 1980's DEREGULATION

Diagram #6

Derivatives/Credit Default Swaps



Investors and Speculators (non-owners) buy insurance to cover losses if CDO's go bad. AIG pays million dollar bonuses.

POST - 1980's DEREGULATION
Diagram #7

EXHIBIT 6 PAGE 5 OF 24

Page 621 18

Derivatives/Credit Default Swaps



CDO's go bad. (Mortgages, credit card defaults, etc.) AIG sold hundreds of billions of dollars in policies but did not have the capital to pay its obligations, leaving taxpayers "holding the bag".

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-37-1056

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

CERTIFICATE OF SERVICE

PLAINTIFF)

Vs.)

John D. Dalen, Julie A. Dalen, and Wawtockace)
Hills Property Owners Association,)

DEFENDANT(S).)

We, John D. Dalen and Julie A. Dalen, Defendants in the above-captioned action, hereby certify that a copy of the **DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** was served on Plaintiff, Bank of America, N.A., by mailing a copy of the same to the address of Plaintiff's attorneys by First Class mail addressed to:

KORN LAW FIRM, P.A.

Attn: Dean A. Hayes and Keller C. Foster, Attorneys for Plaintiff

1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369

Telephone: (803) 252-5817

Facsimile: (803) 231-2060

DATED this 6 day of February 2012

By: John Dalen

Julie Dalen

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

IN THE COURT OF COMMON PLEAS)
TENTH JUDICIAL CIRCUIT)
CIVIL ACTION NO. 2011-CP-37-1056

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

ANSWERS TO PLAINTIFF'S FIRST SET
OF REQUESTS FOR PRODUCTION OF
DOCUMENTS

PLAINTIFF)

Vs.)

John D. Dalen, Julie A. Dalen, and Wawtockace)
Hills Property Owners Association,)

DEFENDANT(S).)

We, John D. Dalen and Julie A. Dalen, Defendants in the above-captioned action, hereby submit these answers to Plaintiff's First Set of Requests for Production of Documents.

- 1) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 2) See attached copies of presentation made at Hearing for Motion to Dismiss held on February 6, 2012.
- 3) We have none at this time.
- 4) We have none at this time.
- 5) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 6) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 7) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 8) Objection. Plaintiff is requesting documents that Plaintiff has in its possession and the documents requested have no bearing on the contested issues in this case.

Submitted by John D. Dalen and Julie A. Dalen

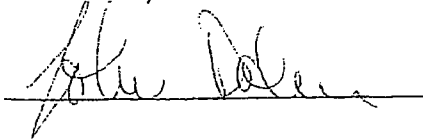


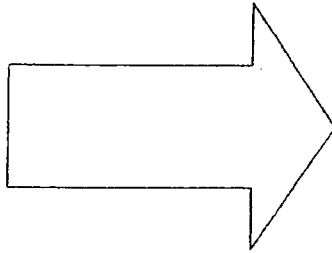


EXHIBIT 6 PAGE 10 OF 79

DATED this 6 day of February, 2012

PRE - 1980's DEREGULATION
Diagram #1

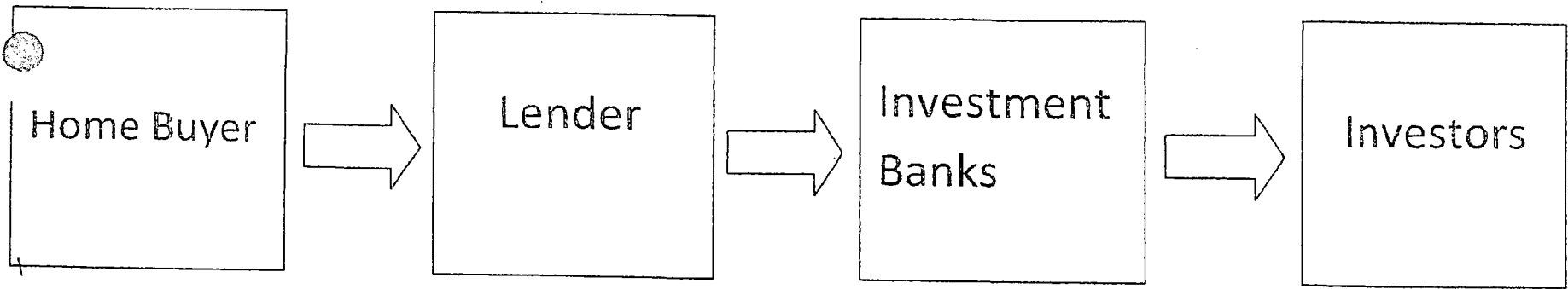
Home Buyer



Lender

Home buyer obtained mortgage from lender. Payments went to local lender. Since mortgages took decades to repay, lenders were careful.

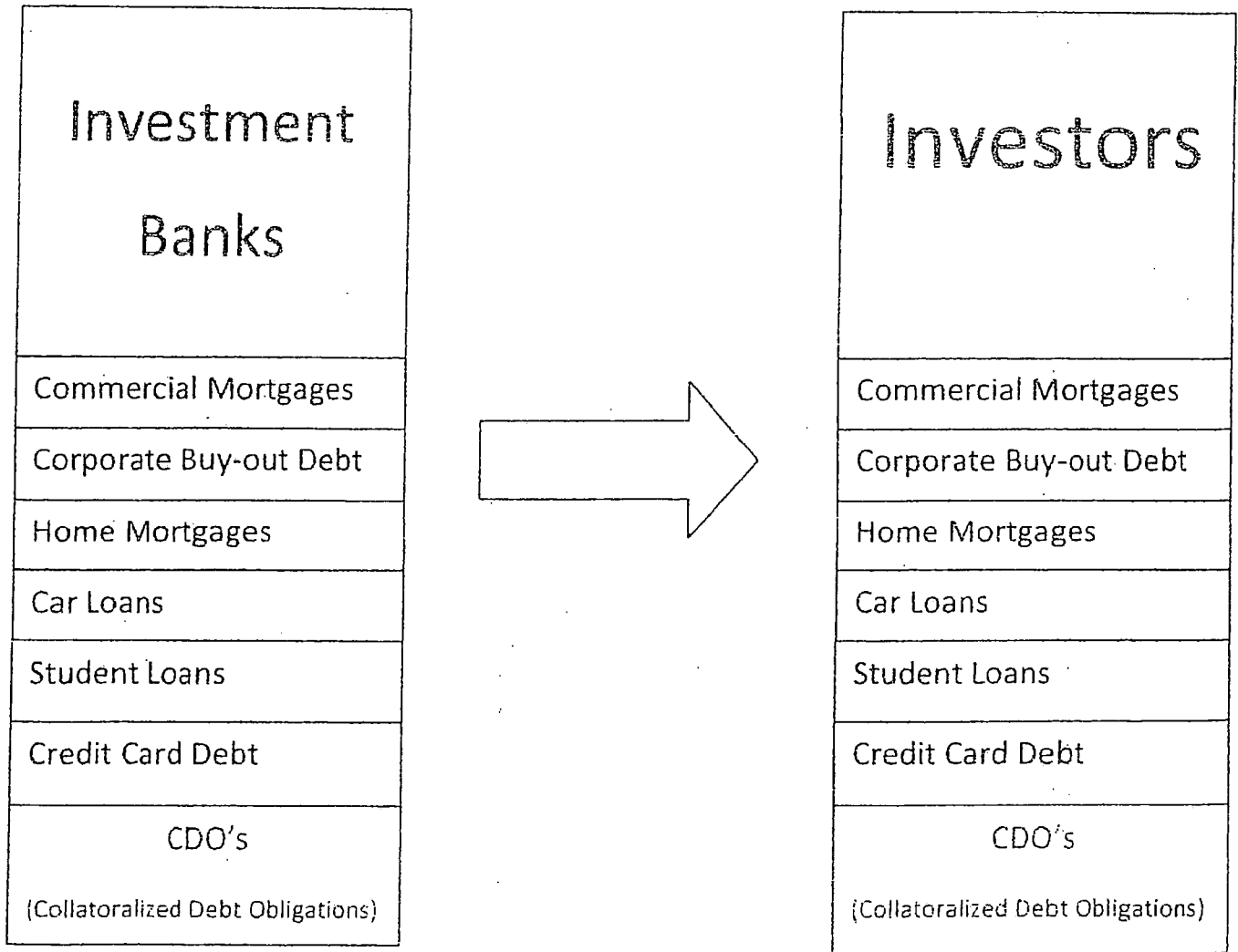
POST - 1980's DEREGULATION
Diagram #2



● Lender sold mortgages to investment banks which then sold the mortgages to investors.

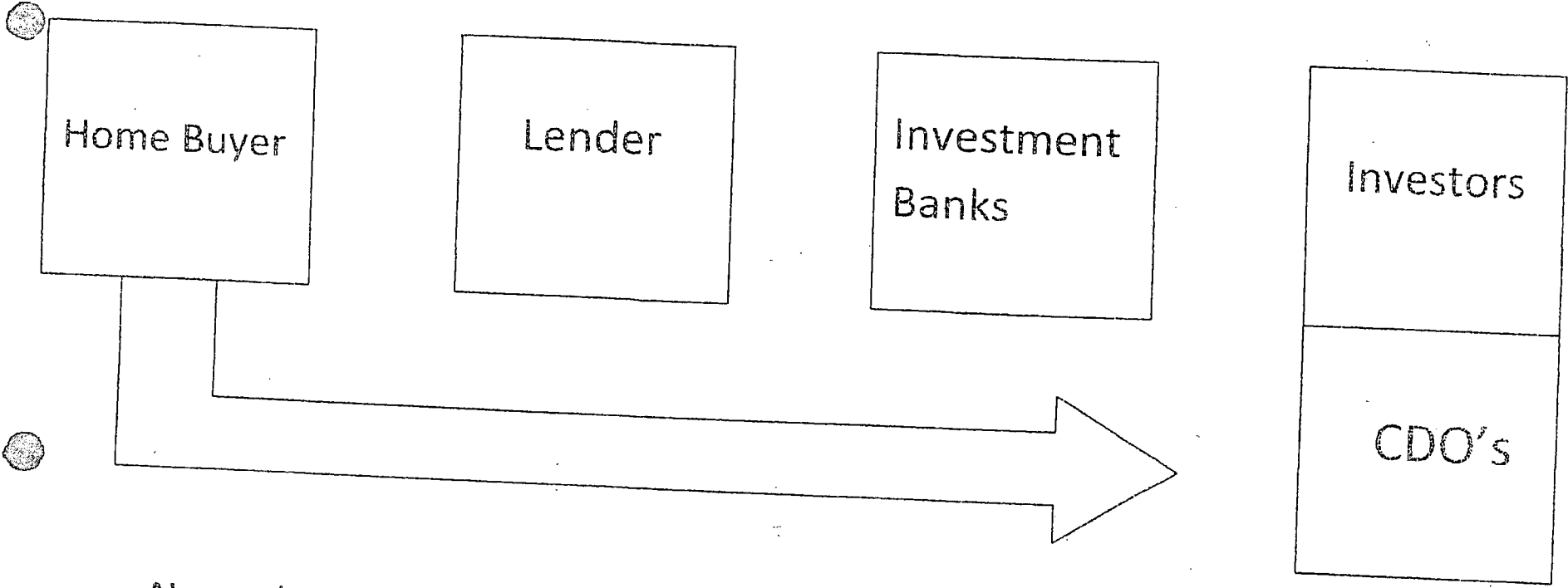
C b 18

POST - 1980's DEREGULATION
Diagram #3



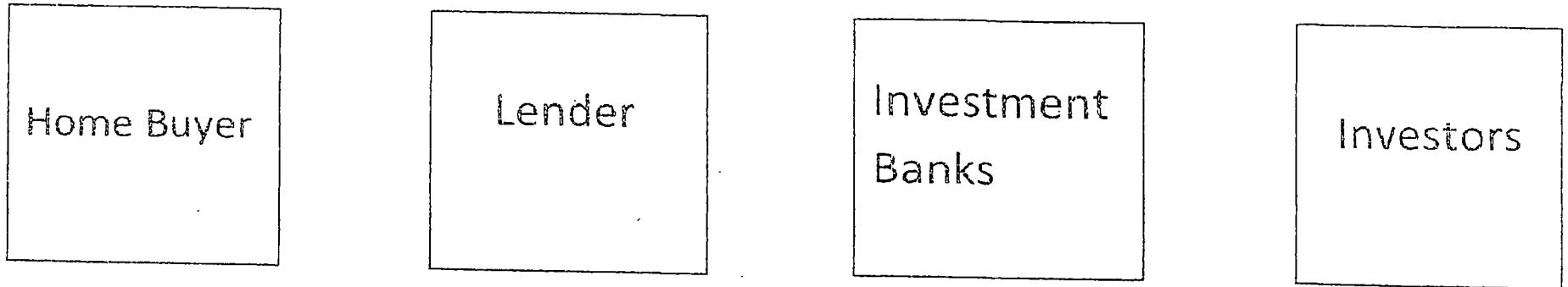
Investment banks combined loans to create CDO's, then sold these CDO's to investors.

POST - 1980's DEREGULATION
Diagram #4



Now when home buyers pay their mortgage, the payments go to investors all over the world.

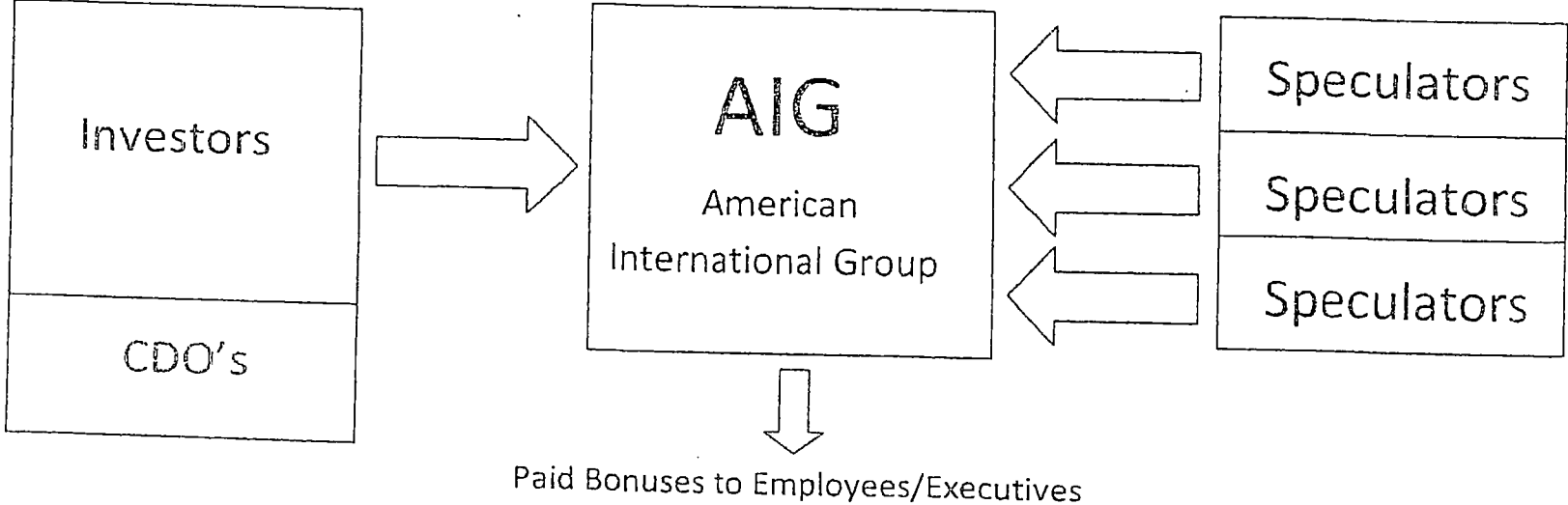
Securitization Food Chain



Lenders didn't care anymore whether borrowers could pay so they started making riskier loans. Investment bankers didn't care either. More CDO's sold = higher profits. Quality of mortgage sacrificed to maximize volume. This is what caused the real estate bubble and crash of 2008.

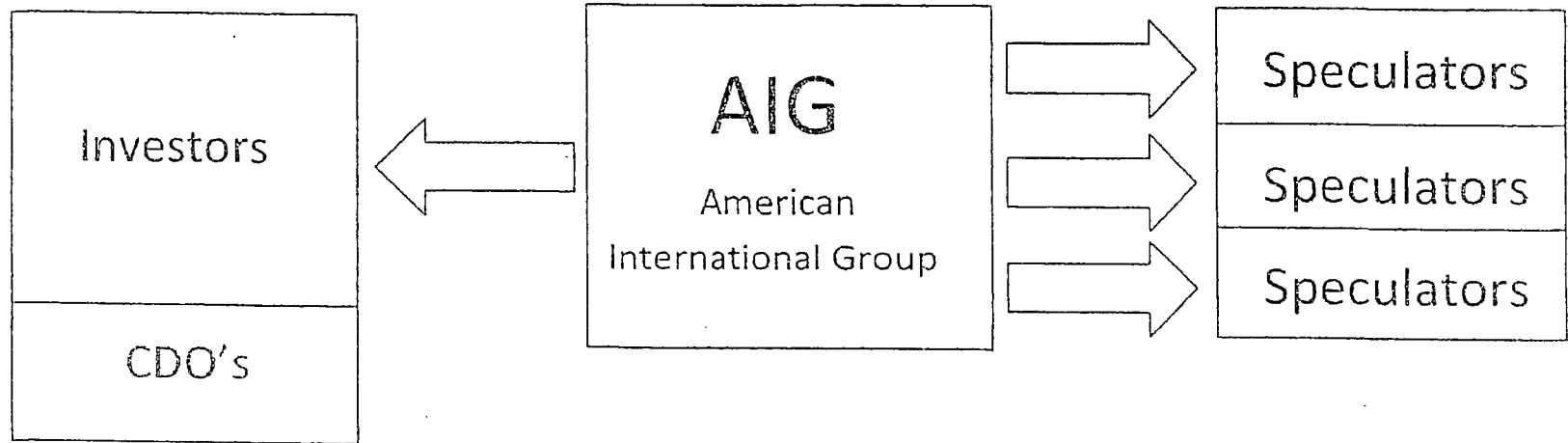
POST - 1980's DEREGULATION
Diagram #6

Derivatives/Credit Default Swaps



Investors and Speculators (non-owners) buy insurance to cover losses if CDO's go bad. AIG pays million dollar bonuses.

Derivatives/Credit Default Swaps



CDO's go bad. (Mortgages, credit card defaults, etc.) AIG sold hundreds of billions of dollars in policies but did not have the capital to pay its obligations, leaving taxpayers "holding the bag".

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-37-1056

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

CERTIFICATE OF SERVICE

PLAINTIFF)

Vs.)

John D. Dalen, Julie A. Dalen, and Wawtockace)
Hills Property Owners Association,)

DEFENDANT(S).)

We, John D. Dalen and Julie A. Dalen, Defendants in the above-captioned action, hereby certify that a copy of the **DEFENDANT'S ANSWERS TO PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** was served on Plaintiff, Bank of America, N.A., by mailing a copy of the same to the address of Plaintiff's attorneys by First Class mail addressed to:

KORN LAW FIRM, P.A.
Attn: Dean A. Hayes and Keller C. Foster, Attorneys for Plaintiff
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 252-5817
Facsimile: (803) 231-2060

DATED this 6 day of February 2012

By: John Dalen

Julie Dalen

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A. successor by merger to,
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

F11-04694

IN THE COURT OF COMMON PLEAS

C/A No. 2011-CP-37-1056

CERTIFICATE OF SERVICE

2012 FEB 22 PD 2:57

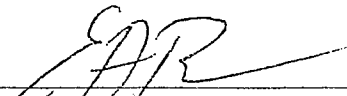
FILED
BEVERLY L. WHITEFIELD
CLERK OF COURT
F11-04694-SC

I, Elizabeth A. Perkins, an employee of the Korn Law Firm, P.A., attorneys for Plaintiff in the above-captioned action, certify that **PLAINTIFF'S NOTICE OF MOTION AND MOTION TO COMPEL DISCOVERY** was served on the Defendants by causing a copy of the same to be deposited into the United States Mail, addressed as follows:

John D. Dalen
Julie A. Dalen
109 Wood Valley Drive
Westminster, South Carolina 29693
PRO SE DEFENDANTS

this 21st day of February, 2012.

KORN LAW FIRM, P.A.


Elizabeth A. Perkins
Paralegal to Dean Hayes and Chris Truluck

Columbia, South Carolina
N:APD\F11-04694

EXHIBIT G PAGE 19 OF 29

John Dalen

109 Wood Valley Drive
Westminster, SC 29693

April 28, 2008

Countrywide Home Loans
Attn: Customer Service SVB-314
P.O. Box 5170
Simi Valley, CA 93062-5170

Re: Account # 175335706

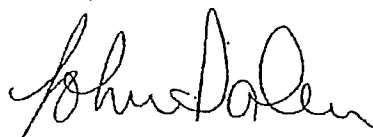
Dear Account Representative:

My wife and I consulted recently with an account representative because we believe the escrow fund currently contains more than enough money to cover taxes and insurance that will be due in November for next year. We were told to provide you with an estimate from the Oconee County Assessor showing next year's taxes.

The annual taxes that you are showing on our Account Summary reflect the taxes owed by the previous owner at a non-resident rate. As you can see from the enclosed estimate, the tax on owner-occupied property is considerably less. Therefore, we do not wish to pay any more funds into escrow for this year (other than the PMI). Our monthly mortgage payment of \$770.22 plus \$77.14 PMI equals \$847.41. We would like you to send us a June 1st statement reflecting this amount, as well as coupons or bills for subsequent monthly payments as we had discussed with the account representative.

You may reach us by phone at the residence: (864) 647-4705.

Thank you,



John and Julie Dalen

EXHIBIT H PAGE 1 OF 1

F11-0464
FNMA
① ②

John and Julie Dalen

109 Wood Valley Drive
Westminster, SC 29693

November 21, 2011

Korn Law Firm, P.A.
Post Office Box 11264
Columbia, SC 29211-1264

Re: Your notice dated October 31, 2011 (Copy enclosed) included with Complaint
Case # 2011.CP.37.1056

Certified mail # 7010 1870 0003 6803 6103

Dispute of Debt

Dear Representatives of Korn Law Firm, P.A.:

We are hereby disputing the following facts stated in your notice:

Number one of your notice refers to paragraph 15 of the complaint which alleges that we owe the plaintiff, Bank of America, N.A., One Hundred Fourteen Thousand Eight Hundred Seventy-five and 72/100 Dollars (\$114,875.72). We hereby deny this claim in its entirety. There is no evidence that Bank of America, N.A., is entitled to be named the beneficiary under this debt. The original lender under the Deed of Trust/Mortgage is Quicken Loans.

There is no chain of title naming Bank of America, N.A., as the real party of interest or holder of the negotiable instrument. You have a responsibility to verify the facts. Please provide us the following: we are demanding that you verify and know for a fact who the real party of interest is for this debt, or we will be naming your firm in a civil action for conspiracy to commit fraud and racketeering against us. Furthermore we require response within thirty days (30 days) from Korn Law Firm, P.A., that you have recused yourself from this foreclosure action. If no response from Korn Law Firm, P.A., has been received within thirty days, then this letter will serve as an admission that the notice was done in error and you agree to rescind the notice.

Sincerely,

John Dalen
Julie Dalen

John and Julie Dalen

Enclosure: Copy of your Notice

EXHIBIT ... OF 2

400 National Way
Mailstop CA6-919-02-22
Simi Valley, CA 93065

December 6, 2011

John Dalen
109 Wood Valley Drive
Westminster, SC 29693

Re: Property Address: 109 Wood Valley Drive, Westminster, SC 29693
Loan Number Ending in 5706

Dear Mr. Dalen:

We are in receipt of your correspondence dated November 21, 2011, which was received on November 28, 2011 and November 29, 2011 by Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP, regarding the reference loan.

The current owner of the note is:
Federal National Mortgage Association (FNMA)
13150 World Gate Drive
Herndon, VA 20170
Bank of America N.A., has serviced the Loan since January 14, 2008.

In providing the above response, Bank of America, N.A., is not limiting or waiving any rights or remedies it may now or hereafter have, whether arising under Borrower's Loan documents, at law or in equity, all of which rights and remedies are expressly reserved. The remaining concerns addressed in your correspondence require further detailed analysis. We will respond to your request after we have completed our investigation.

If you have any questions in the interim, please contact me at (805) 577-3163.

Sincerely,
Janette Castillejos
Janette Castillejos
Litigation Specialist
Qualified Written Request (QWR) Group

EXHIBIT 1 PAGE 2 OF 3

KORN LAW FIRM, P. A.
POST OFFICE BOX 11264
1300 PICKENS STREET
COLUMBIA, SOUTH CAROLINA 29211
(803) 252-5817

December 21, 2011

John & Julie Dalen
109 Wood Valley Drive
Westminster, SC 29693

RE: Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P.
f/k/a Countrywide Home Loans Servicing, L.P. vs. John D. Dalen, Julie A. Dalen,
and Wawtockace Hills Property Owners Association
Docket No. 2011-CP-37-1056
Our file No. F11-04694
Loan No. 175335706

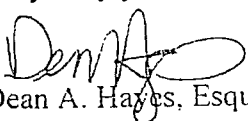
Dear John and Julie Dalen:

I am writing in response to your letters of November 21, 2011, copies of which are attached for your reference. We have verified that the current principal balance due on the above-referenced loan is \$114,875.72.

We have also verified that Bank of America, N.A., is the holder of the note and mortgage. Enclosed is a copy of the assignment of mortgage which shows Mortgage Electronic Registration Systems, Inc., as nominee for Quicken Loans, Inc., assigned the note and mortgage to BAC Home Loans Servicing, LP, FKA Countrywide Home Loans Servicing, LP. Also enclosed is the institution history for BAC Home Loans Servicing, LP, showing it was acquired by Bank of America, N.A.

Thank you. Please contact me if you have questions.

Very truly yours,


Dean A. Hayes, Esquire

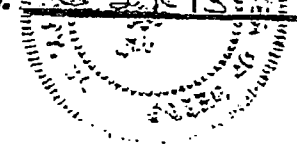
Enclosures (as stated)

EXHIBIT "1"

CERTIFIED-TRUE COPY
Register of Deeds
Oconee County, SC

By: *[Signature]*
Date: 12-27-07

Doc ID: CC1382580516 Type: FTO
EX 2551 PG 206-221



DR# 175335700

Return To:
Christie Holloway
Quicken Loans Inc.
20555 Victor Parkway
Livonia, MI 48152

010516
01070

Prepared By:
Tara Saito

FILED FOR RECORD
OCONEE COUNTY, SC
REGISTER OF DEEDS
2007 DEC 21 PM 11:07

MSS
22-00

[Space Above This Line For Recording Data]

3213869247

MORTGAGE

MIN 10003903213869247



610 REDACTED D2 001 003

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated December 20, 2007 together with all Riders to this document.
- (B) "Borrower" is John Dalen and Julie A. Dalen, husband and wife

RECALL S.C.A. FILE



F0140004530399

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagor under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (388) 679-MERS.

SOUTH CAROLINA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT WITH MERS Form 3041 1/01
1767888253

6A(20) 00000

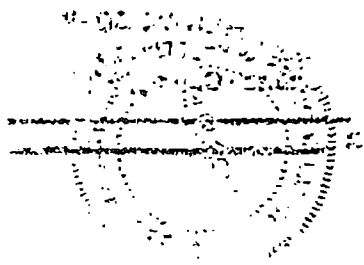
Page 1 of 15

[Handwritten initials]



003213869247 0222 700 0115

TMF MORTGAGE FORMS - (200512) 221



REDACTED

(D) "Lender" is Quicken Loans Inc.

Lender is a Corporation organized and existing under the laws of the State of Michigan. Lender's address is 20555 Victor Parkway, Livonia, MI 48152

(E) "Note" means the promissory note signed by Borrower and dated December 20, 2007. The Note states that Borrower owes Lender One Hundred Eighteen Thousand Seven Hundred Fifty and 00/100 Dollars (U.S. \$118,750.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than January 1, 2038.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower (check box as applicable):

- Adjustable Rate Rider
- Balloon Rider
- VA Rider
- Condominium Rider
- Planned Unit Development Rider
- Biweekly Payment Rider
- Second Home Rider
- 1-4 Family Rider
- Other(s) (specify) Legal Attached

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-applicable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 9.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used

4470-9A(SC) 00000

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Form 3041 1/01



REDACTED

in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in the County of Oconee:

(Type of Recording Jurisdiction) (Name of Recording Jurisdiction)

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF. SUBJECT TO COVENANTS OF RECORD.

Parcel ID Number: 295-01-02-007 which currently has the address of 109 Wood Valley Dr Westminister (City), South Carolina 29693-9003 (Zip Code) ("Property Address"):

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

REDACTED

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentally, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payment is insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it becomes due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) household payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be

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Page 4 of 16

W/Value [Signature]

Form 2041 1/01



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in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payments within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 5.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentally, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the

SA(S) (S)

Page 5 of 15

[Handwritten signature]

Form 3041 1/01



REDACTED

Item. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal policies. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property. If the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with

BA(SC) 0005

Page 6 of 16

1/23/04 JD go

Form 2041 7/01



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the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attach priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable

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Handwritten initials/signature

Form 20-11 1/01



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lender's loss to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

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(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

XI. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstates as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

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John Doe

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12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

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16. **Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. **Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

18. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstatement After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentally or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Default.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA

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requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (x) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

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NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. Release. Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall be responsible for recording costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Homestead Waiver. Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-250 of the South Carolina Code of Laws.

26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

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Form 3041 1/01

THE INFORMATION ON THIS LABEL IS FOR IDENTIFICATION PURPOSES ONLY
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REDACTED

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:

Paul M. Bolick

John Dalen 12558/2017 (Seal)
-Borrower

Julie A. Dalen

Julie A. Dalen 12558/2017 (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

GA(GO) 10000

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STATE OF SOUTH CAROLINA,
County of Oconee

Personally appeared before me Tara M. Balick
and made oath that he/she is the within named Borrower sign, seal, and as his/her/their act and deed,
deliver the within written Mortgage; and that he/she with Renee F. Linn,
witnessed the execution thereof.

Tara M. Balick

Sworn to before me this 20th day of December, 2007 .

My Commission Expires: 10-13-15

Renee F. Linn
Notary Public for South Carolina

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Widely to go Form 3041 1-01



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EXHIBIT "A"
PROPERTY DESCRIPTION
FOR
JOHN D. DALEN and JULIE A. DALEN

All that certain piece, parcel or lot of land situate, lying and being in Oconee County, State of South Carolina, being shown and designated as LOT NUMBER TWENTY EIGHT (28), BLOCK "A", WAWTOCKACE HILLS n/k/a WESTLAKE ESTATES, as shown and more fully described on a plat thereof prepared by Stephen R. Edwards, PLS #19881, dated July 31, 2006 and recorded in Plat Book B172, at Page 10, records of Oconee County, South Carolina.

This being the identical property conveyed into John D. Dalen and Julie A. Dalen by deed of Karl G. Lowrey and Kathleen F. Lowrey, recorded December 21, 2007 in Deed Book 1635, at Page 185, records of Oconee County, South Carolina.

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FILED FOR RECORD
OCONEE COUNTY, S.C.
REGISTER OF DEEDS
2007 DEC 21 P 1:57

EXHIBIT "2"

Transcript of the Testimony of
ZACHARY CHROMIAK

Date: September 12, 2014



CREEL COURT REPORTING, INC.
Condensed Transcript and Word Index

1230 Richland Street
Columbia, SC 29201
Phone: (803) 252-3445 / (800) 822-0896
Fax: (803) 799-5668
Email: contact@creelreporting.com
Internet: www.creelreporting.com

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
 2 COUNTY OF OCONEE) C/A #: 2011-CP-37-1056
 3
 4 Bank of America, N.A., Successor)
 by merger to BAC Home Loans)
 Servicing, L.P.,)
 5)
 6 Plaintiff,)
 7)
 v.)
 8 John D. Dalen, Julie A. Dalen,)
 and Wawtuckee Hills Property)
 Owners Association,)
 9)
 10 Defendants.)

11 DEPOSITION OF
 12 ZACHARY CHROMIAK
 13 *****

14 Friday, September 12, 2014
 15 3:57 p.m. - 4:56 p.m.
 16
 17
 18

19 The deposition of ZACHARY CHROMIAK, taken on
 20 behalf of the Defendant at the Korn Law Firm, P.A.,
 21 1300 Pickens Street, Columbia, South Carolina, on the
 22 12th day of September, 2014 before M. Sean Cary,
 23 Court Reporter and Notary Public in and for the State
 24 of South Carolina, pursuant to Notice of Deposition
 25 and/or agreement of counsel.

1 ZACHARY CHROMIAK, having been duly sworn, deposes and
 2 testifies as follows:
 3 MR. CHROMIAK - EXAMINATION BY MR. SLOAN:
 4 Q: Mr. Chromiak, what's your full name?
 5 A: Zachary Chromiak.
 6 Q: Okay. Can you spell your last name please?
 7 A: C-H-R-O-M-I-A-K.
 8 Q: Thank you. May I call you Zach or Zachary?
 9 A: Yes.
 10 Q: Okay. Thank you. And you work for Bank of
 11 America?
 12 A: Correct. Bank of America, N.A.
 13 Q: Bank of America N.A. And what do you do for
 14 them?
 15 A: I'm an assistant vice president, mortgage
 16 resolution associate.
 17 Q: Okay. And where are you based out of?
 18 A: I'm based out of the Pittsburgh office.
 19 Q: Okay. All right. And have you ever given a
 20 similar type of deposition before today?
 21 A: Yes.
 22 Q: Okay. I'm not going to do the spiel. And have
 23 you had a chance to review records of, we'll
 24 just call it the Dalen loan, prior to your
 25 coming to give this testimony today?

1 APPEARANCES
 2 Dean A. Hayes, Esquire
 KORN LAW FIRM, P.A.
 3 1300 Pickens Street
 Columbia, South Carolina 29201
 4 Attorney for the Plaintiff
 5 William H. Sloan, Esquire
 SLOAN LAW FIRM, P.A.
 6 1635 North Main Street, Suite F
 Summerville, South Carolina 29483
 7 Attorney for the Defendants
 8 Also Present:
 Bob Jackson, Law Clerk for Dean A. Hayes
 9 Spencer Reed, Attorney with William H. Sloan
 John D. Dalen, Defendant
 10 Julie A. Dalen, Defendant
 11 INDEX
 12 MR. CHROMIAK: PAGE
 13 MR. SLOAN.....EXAMINATION.....3
 14 MR. HAYES.....EXAMINATION.....44
 15 Signature.....47
 16 Certificate.....48

17 EXHIBITS
 18 Defendant's Exhibit Number One.....8
 (Notice of Intent to Accelerate)
 19 Defendant's Exhibit Number Two.....14
 (Copy of Assignment of Mortgage)

20 STIPULATIONS
 21 It is stipulated and agreed that this
 22 deposition is being taken pursuant to the South
 23 Carolina Rules of Civil Procedure.
 24 It is stipulated by and between counsel and the
 25 witnesses that the reading and signing of the following
 deposition be, and the same are, hereby not waived.
 Signature sheet is attached at page 47.

1 A: Yes.
 2 Q: Okay. What documents did you review in
 3 preparation for today?
 4 A: I reviewed information contained within our
 5 electronic system of record. I reviewed it,
 6 including copies of the Note and Mortgage, the
 7 Notice of Intent to Accelerate. I ordered the
 8 payment history and reviewed that. And that's
 9 it.
 10 Q: Okay. I didn't want to --
 11 A: I was still thinking.
 12 Q: I thought you were. Okay. All right.
 13 A: I also reviewed some pleadings.
 14 Q: Okay. Well we certainly reviewed the Answer
 15 and Counterclaim very thoroughly today. Let's
 16 see. Where is Plaintiff's One, the Note. That
 17 was going to be my number one. Zach, I'm
 18 showing you Plaintiff's Exhibit One for the
 19 Dalens. Do you recognize that as the
 20 Promissory Note?
 21 A: Yes, a copy of which.
 22 Q: Okay. And the original of which is with this
 23 file. Can you turn to page three please? I
 24 direct your attention, under Mr. Dalen's
 25 signature, on the left hand side starting

Page 33

1 Q: Okay. What exactly does the term nominee mean
 2 when we're talking about MERS and the Quicken
 3 Loans, Bank of America?
 4 A: It's in name only.
 5 Q: It's a name only?
 6 A: In name only. Right.
 7 Q: Okay.
 8 A: The Mortgagee of record for the original
 9 lender, who owns the Note and Mortgage.
 10 Q: Okay. And you have said that the Mortgage
 11 follows the Note? I think you've said that a
 12 couple of times.
 13 A: Unequivocally.
 14 Q: Okay. Then why is it necessary -- if that's
 15 true, then why is it necessary to also have a
 16 Mortgage assignment prior to bringing the
 17 foreclosure?
 18 A: Well, I never actually said that was necessary,
 19 but the Mortgage is -- it's public record.
 20 It's recorded in the public records. The Note
 21 is not, necessarily.
 22 Q: Okay. That's a fair answer. Let me rephrase
 23 the question. Why, if it's -- if the Mortgage
 24 assignment is not necessary, why have one
 25 recorded?

Page 34

1 A: Again, it is a way of showing the public record
 2 who is enforcing that Mortgage.
 3 Q: Okay.
 4 A: I don't want to get into the legal of whether
 5 it's necessary or not, because I'm...
 6 Q: I understand.
 7 A: I don't know, so.
 8 Q: I respect that. Do you still have that
 9 mortgage assignment in front of you?
 10 A: Probably.
 11 Q: Okay. Oh, there it is. Super. Great. I
 12 would direct your attention to -- it says a
 13 MERS -- a Mortgage Electronic Registration
 14 System Inc. is executing the Mortgage.
 15 A: That's not a Mortgage.
 16 Q: Excuse me: Thank you. Assignment of Mortgage.
 17 It doesn't say who they're acting on behalf.
 18 Who are they acting on behalf of when they
 19 executed this Assignment of Mortgage?
 20 A: Well, that would -- this Assignment of Mortgage
 21 is referring to the Mortgage which states that
 22 they were nominee for Quicken Loans Inc., their
 23 successors and assigns. And on this document
 24 it says original lender, Quicken Loans Inc.
 25 Q: Okay. But you told me Quicken Loans was not

Page 35

1 servicing the loan in 2011, correct?
 2 A: No.
 3 Q: And neither were they the owner of the Mortgage
 4 in 2011?
 5 A: You can't own a Mortgage. They weren't the
 6 owner of the Note.
 7 Q: Excuse me. They were not the servicer of the
 8 Note and Mortgage?
 9 A: Correct.
 10 Q: And neither were they the owner of the Note and
 11 Mortgage at the time of this mortgage
 12 assignment?
 13 A: That's right.
 14 Q: Do you know the basis that MERS would have to
 15 execute an assignment of mortgage for a company
 16 that no longer owned or serviced the Note and
 17 Mortgage?
 18 A: All right. Well, they -- the documents of
 19 origination provide for MERS to be the nominee
 20 for the original lender, its successors and
 21 assigns. That means the successors and assigns
 22 of that original Note. The original Note was
 23 transferred via endorsement to Countrywide and
 24 then to blank which gives the bearer the right
 25 to enforce it and, you know, underneath that

Page 36

1 there was the investor changed to Fannie Mae.
 2 At a point it becomes imperative to file a
 3 foreclosure if certain circumstances occur, and
 4 in order to effect the public record, MERS as
 5 nominee for the successor -- or for the lender,
 6 Quicken Loans, its successors and assigns,
 7 which would then be BAC Home Loan Servicing,
 8 formerly known as Countrywide Home Loan
 9 Servicing, LP, would record an Assignment of
 10 Mortgage into the public record of who the
 11 current party and interest to enforce the Note
 12 and Mortgage would be.
 13 Q: Okay. Do you know what I'm referring to when
 14 I talk about the MERS milestone?
 15 A: Yes, I've seen MERS milestone reports before.
 16 Q: Okay. Have you seen the MERS milestone for
 17 this one?
 18 A: No.
 19 Q: Okay. Okay. Sorry to ask this because you
 20 probably don't have it, are you aware that --
 21 was Quicken Loans aware of the assignment of
 22 mortgage in this matter in 2011, three years
 23 after they no longer owned or serviced the Note
 24 in this case?
 25 A: I don't know.

EXHIBIT "3"

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., Successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.,

PLAINTIFF,

vs.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

DEFENDANTS.

F11-04694

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S ANSWERS TO
DEFENDANTS JOHN D. DALEN AND
JULIE A. DALEN'S THIRD SET OF
INTERROGATORIES**

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, Plaintiff responds to Defendants John D. Dalen and Julie A. Dalen's Second Set of Interrogatories to Plaintiff as follows:

INTERROGATORY 1

State the date the Plaintiff became holder of the Mortgage. Countrywide Bank, FSB became holder of the note- and thereby holder of the mortgage- on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff.

ANSWER 1:

Countrywide Bank, FSB became holder of the note- and thereby holder of the mortgage- on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff.

INTERROGATORY 2

Identify fully the party that sold, transferred, conveyed, or assigned the Mortgage to the plaintiff, and state the consideration provided by the plaintiff, for such sale, transfer, conveyance, or assignment.

ANSWER 2:

Plaintiff objects to this interrogatory on the basis that the information sought is irrelevant

and not reasonably calculated to lead to this discovery of admissible evidence. Subject to this objection, on May 9, 2011, Quicken Loans, Inc. executed an assignment of mortgage that was recorded on May 16, 2011, in the Office of the Register of Deeds for Oconee County; however, Plaintiff became holder of the mortgage on the same date it became holder of the note.

INTERROGATORY 3

State the date the plaintiff became holder of the Note.

ANSWER 3:

Countrywide Bank, FSB became holder of the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff.

INTERROGATORY 4

Identify fully the party that sold, transferred, conveyed, or assigned the Note to the plaintiff, and state the consideration provided by the plaintiff, for such sale, transfer, conveyance, or assignment.

ANSWER 4:

Plaintiff objects to this interrogatory on the basis that the information sought is irrelevant and not reasonably calculated to lead to this discovery of admissible evidence. Subject to this objection Quicken Loans, Inc. conveyed the note to Countrywide Bank, FSB, which received the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB was acquired by Plaintiff.

INTERROGATORY 5

Identify fully who the "Loan Servicer" of the Mortgage is. If more than one exists, identify fully each, as they are known to Plaintiff.

ANSWER 5:

The loan servicer of the mortgage is Bank of America, N.A.

INTERROGATORY 6

Identify fully who the "Note Purchaser" of the Mortgage is, as it is known to Plaintiff. If there is more than one note purchaser, or multiple parties have held this distinction, fully identify each as they are known to Plaintiff (i.e. provide a chain of title for the Mortgage).

ANSWER 6:

Countrywide Bank, FSB became holder of the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff. The Federal National Mortgage

Association is the investor on the loan.

INTERROGATORY 7

Identify fully who the "Note Purchaser" of the Note is, as it is known to Plaintiff. If there is more than one note purchaser, or multiple parties have held this distinction, fully identify each as they are known to Plaintiff (i.e. provide a chain of title for the Mortgage).

ANSWER 7:

Countrywide Bank, FSB became holder of the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff. The Federal National Mortgage Association is the investor on the loan.

INTERROGATORY 8

Identify fully each and every holder of the Mortgage since December 20, 2007 in chronological order, as this information is known to plaintiff.

ANSWER 8:

Quicken Home Loans Inc. was the original holder of the note and mortgage. Countrywide Bank, FSB became holder of the note- and thereby the mortgage- on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff. The Federal National Mortgage Association is the investor on the loan.

INTERROGATORY 9

Identify fully each and every holder of the Note since December 20, 2007 in chronological order, as this information is known to plaintiff.

ANSWER 9:

Quicken Home Loans Inc. was the original holder of the note. Countrywide Bank, FSB became holder of the note on January 15, 2008, and on April 27, 2009, Countrywide Bank, FSB, was acquired by Plaintiff. The Federal National Mortgage Association is the investor on the loan.

INTERROGATORY 10

Identify fully each and every document relied upon by the plaintiff that conferred powers upon the loan servicer to act as agent for FNMA, commonly known as Fannie Mae.

ANSWER 10:

Plaintiff objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks materials that are irrelevant and immaterial to the subject action.

INTERROGATORY 11

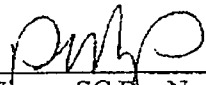
Identify fully the beneficiaries of each and every payment made by the defendants, including a breakdown of which beneficiary received how much of each defendants' payments, as this information is known to the plaintiff.

ANSWER 11:

Plaintiff objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, and seeks materials that are irrelevant and immaterial to the subject action.

Plaintiff will supplement these responses in accordance with the South Carolina Rules of Civil Procedure.

KORN LAW FIRM, P.A.



Dean A. Hayes, SC Bar No: 66066
Chris S. Truluck, SC Bar No: 77829
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
ATTORNEYS FOR PLAINTIFF

October 7, 2013
Columbia, South Carolina

EXHIBIT "4"

REDACTED

MERS MIN: 100039032138692476

REDACTED
Dalen, John

NOTE

December 20, 2007
[Date]

Westminster.
[City]

SC
[State]

109 Wood Valley Dr
Westminster, SC 29693-5003
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$118,750.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is Quicken Loans Inc.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.750%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on February 1, 2008. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on January 1, 2038, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P. O. Box 553154, Detroit, MI 48255-3154 or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 770.22

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.



MULTISTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFORM
1767888238

REDACTED

Form 3200 1/01
VMP MORTGAGE FORMS - (800)521-7291
Page 1 of 3
Initials: JD

403213869247 0140 200 0103

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of Fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.



901223869247 0140 208 0203

5N (0006) 01

Page 2 of 3

Form 3200 1/01

Initials: AD

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

John Dalen 12/20/2007 (Seal) _____ (Seal)
John Dalen -Borrower -Borrower

WITHOUT RECOURSE
Pay To the Order of (Seal)

COUNTRYWIDE BANK, FSB

QUICKEN LOANS, INC.

By *THERESA ROODBEEN*
CAPTURE MANAGER (Seal)
-Borrower

PAY TO THE ORDER OF _____ (Seal)
-Borrower

WITHOUT RECOURSE
COUNTRYWIDE BANK, FSB

BY *Laure Meder*
LAURE MEDER (Seal)
SENIOR VICE PRESIDENT -Borrower

(Seal)
-Borrower

(Seal)
-Borrower

[Sign Original Only]



EXHIBIT "5"

January 9, 2008



20555 Victor Parkway
Livonia, MI 48152

Notice of Assignment, Sale or Transfer of Servicing Rights

John Dalen
109 Wood Valley Dr
Westminster, SC 29693-5003

Property Address:
109 Wood Valley Dr
Westminster, SC 29693-5003
Loan Amount: \$118,750.00
Interest Rate: 6.750%

There Will be A Change To Where You Make Your Mortgage Payments

Frequently Asked Questions

Does this partnership with Countrywide Home Loans, Inc. affect the interest rate or the terms of my loan?

No. Our partnership with Countrywide Home Loans, Inc. does not in any way change the terms of your loan.

Did both my first and second mortgage transfer to the same company at the same time?

No. If you closed a first and second mortgage with Quicken Loans on this property, your loans may transfer several weeks apart, and may go to different companies. You will receive information on each loan separately.

I sent my next payment to Quicken Loans. What will you do with it when it is received?

If you have already sent Quicken Loans a payment that should have been sent to Countrywide Home Loans, Inc., we will forward that payment to Countrywide Home Loans, Inc. on your behalf.

JANUARY 2008

Beginning January 9, 2008 please send your mortgage payments to:

Countrywide Home Loans, Inc.
P. O. Box 660694
Dallas, TX 75266-0694
800-669-6607
Loan Number: 3213869247

Quicken Loans will continue to accept payment through January 8, 2008.

Who is Countrywide Home Loans, Inc.?

- Countrywide Home Loans, Inc. is our trusted partner who will receive and process your monthly mortgage payments.

Quicken Loans is always here for you.

- You are a Quicken Loans client, which means you can always call us at any time for any reason at (800) 708-1499.
- Our goal is to provide you with world-class customer service for the life of your loan.

Still have questions?

- Contact us at (800) 708-1499, Monday - Friday, from 8:30 a.m. to 8:00 p.m. (Eastern Time) or email us at help@quickenloans.com.

Effective January 9, 2008, you will begin making your monthly payments to Countrywide Home Loans, Inc. This is known as the "transfer of servicing" of your loan. The last day Quicken Loans will accept payments from you for this loan is January 8, 2008. After that date please send your mortgage payments to Countrywide Home Loans, Inc. at:

Countrywide Home Loans, Inc.
P. O. Box 660694
Dallas, TX 75266-0694

Any payments received by Quicken Loans after January 8, 2008 will be forwarded to Countrywide Home Loans, Inc..

The transfer of servicing rights does not affect any terms or conditions of your loan, other than those directly related to the collection and tracking of your monthly statements. If you have additional questions, feel free to contact our Client Relations Team at (800) 708-1499 from 8:30 a.m. to 8:00 p.m. (Eastern Time) Monday - Friday, or email us at help@quickenloans.com.

Federal law requires that you receive notice of the transfer of servicing of your loan at least 15 days before the effective date of the transfer, and receive a welcome acknowledgement from Countrywide Home Loans, Inc. within 15 days of the transfer.

This notification is a requirement of Section 6 of the Real Estate Settlement Procedures Act which details your rights and legal remedies.

During the 60-day period after January 9, 2008, any loan payment received by Quicken Loans (before its due date) will not be considered late by Countrywide Home Loans, Inc. A late charge will not be imposed and Quicken Loans will forward the payment to Countrywide Home Loans, Inc.

In the next few weeks, you will receive a coupon book or regular statements from Countrywide Home Loans, Inc. If you should have any questions in the meantime, feel free to call Countrywide Home Loans, Inc. at 800-669-6607, or send a qualified written request (which is correspondence that is not written on your bill or statement) with your name, question, and the reason for your request. You will receive an acknowledgement of your request within 20 business days of its receipt. Any inaccurate information or errors on your account will be addressed within 60 business days, and you will be notified in writing of the resolution.

EXHIBIT "6"

Transcript of the Testimony of
JOHN D. DALEN

Date: September 12, 2014



CREEL COURT REPORTING, INC.
Condensed Transcript and Word Index

1230 Richland Street
Columbia, SC 29201
Phone: (803) 252-3445 / (800) 822-0896
Fax: (803) 799-5668
Email: contact@creelreporting.com
Internet: www.creelreporting.com

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
 COUNTY OF OCONEE) C/A #: 2011-CP-37-1056

Bank of America, N.A., Successor)
 by merger to BAC Home Loans)
 Servicing, L.P.,)
)
 Plaintiff,)
)
 v.)
)
 John D. Dalen, Julie A. Dalen,)
 and Wawtockace Hills Property)
 Owners Association,)
)
 Defendants.)
 _____)

DEPOSITION OF
 JOHN D. DALEN

Friday, September 12, 2014
 1:11 p.m. - 3:01 p.m.

The deposition of JOHN D. DALEN, taken on behalf of the Plaintiff at the Korn Law Firm, P.A., 1300 Pickens Street, Columbia, South Carolina, on the 12th day of September, 2014 before M. Sean Cary, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.

1230 Richland Street / Columbia, SC 29201
 (803) 252-3445 / (800) 822-0896

1 APPEARANCES

2 Dean A. Hayes, Esquire
 KORN LAW FIRM, P.A.
 3 1300 Pickens Street
 Columbia, South Carolina 29201
 4 Attorney for the Plaintiff
 5 William H. Sloan, Esquire
 SLOAN LAW FIRM, P.A.
 6 1055 North Main Street, Suite F
 Summerville, South Carolina 29483
 7 Attorney for the Defendants

8 Also Present:
 Bob Jackman, Law Clerk for Dean A. Hayes
 9 Spencer Reed, Attorney with William H. Sloan
 Julie A. Dalen, Defendant
 10 Zachary Chromiak, Associate Vice-President; Mortgage
 Resolution Associate with Bank of America

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16 EXHIBITS

17 Plaintiff's Exhibit Number One	5
(Copy of the original Note)	
18 Plaintiff's Exhibit Number Two	5
(Copy of the Mortgage)	
19 Plaintiff's Exhibit Number Three	7
(Payment history from Bank of America)	
20 Plaintiff's Exhibit Number Four.	14
(Letter from Bank of America dtd 12/6/11)	
21 Plaintiff's Exhibit Number Five.	16
(Bank of America letter in response to FDCPA request)	
22 Plaintiff's Exhibit Number Six	18
(Letter from Countrywide with statement date of 3/31/08)	
23 Plaintiff's Exhibit Number Seven	19
24 (Letter from Quicken Loans transferring 25 service)	

1230 Richland Street / Columbia, SC 29201
 (803) 252-3445 / (800) 822-0896

1 Plaintiff's Exhibit Number Eight : 23
 2 (Letter from Bank of America dtd 8/18/11)
 3 Plaintiff's Exhibit Number Nine. 32
 4 (Letter from Bank of America dtd 2/22/11)
 5 Plaintiff's Exhibit Number Ten 38
 6 (Fannie Mae loan lookup)
 7 Plaintiff's Exhibit Number Eleven. 46
 8 (Defendant's Counterclaim)
 9 Plaintiff's Exhibit Number Twelve. 64
 10 (Copy of Justice Swayne's opinion in the
 11 Carpenter v. Longan Supreme Court case)

STIPULATIONS

16 It is stipulated and agreed that this
 17 deposition is being taken pursuant to the South
 18 Carolina Rules of Civil Procedure.

20 It is stipulated by and between counsel and the
 21 witness that the reading and signing of the following
 22 deposition be, and the same are, hereby not waived.
 23 Signature sheet is attached at page 87.

EXHIBIT "7"



P. O. Box D-1633
Simi Valley, CA 93094-1633

Doc ID: BANACOM3A

0274386 01 AT 0.362 **AUTO 82440928693-809209 -C01-P74880-1

JOHN DALEN
109 WOOD VALLEY DR
WESTMINSTER SC 29893-8903



Account No.: REDACTED



IMPORTANT MESSAGE ABOUT YOUR LOAN

Effective July 1, 2011, the servicing of home loans by our subsidiary-BAC Home Loans Servicing, LP, transfers to its parent company-Bank of America, N.A. Based upon our records as of June 29, 2011, the home loan account noted above is affected by this servicing transfer. The information contained in this communication does not change or affect any other communications you may have received or will receive regarding this servicing transfer.

IMPORTANT ADDITIONAL INFORMATION

Under the federal Fair Debt Collections Practices Act and certain state laws, Bank of America, N.A. is considered a debt collector. As a result, we are sending you the enclosed Fair Debt Collection Practices Act Notice containing important information about your loan and your rights under applicable federal and state law.

If an attorney represents you in connection with your Bank of America home loan, please provide your attorney a copy of this letter and the enclosed legal notice.

THANK YOU

We appreciate the opportunity to serve your home loan needs. If you have any questions or need assistance regarding this servicing transfer, please call us at 1.877.488.7312 between 8 a.m. and 9 p.m. Eastern, Monday through Friday.

Please Note: This letter is being sent to the address and borrower(s) listed above. If there are other borrowers on this account who receive mail at a different address than above, please share this information with them.

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector attempting to collect a debt, and any information obtained will be used for that purpose. Notwithstanding the foregoing, if you are currently in a bankruptcy proceeding or have received a discharge of the debt referenced above, this notice is for informational purposes only and is not an attempt to collect a debt. If you are represented by an attorney, please provide this notice to your attorney.

Fair Debt Collections Practices Act and State Law Notice

The servicing of your home loan was transferred to Bank of America, N.A., effective July 1, 2011. Bank of America, N.A. is required by law to advise you of the following:

(1.) Under the federal Fair Debt Collections Practices Act and certain state laws, Bank of America, N.A. is considered a debt collector. Bank of America, N.A. must provide certain information to you in order to make sure you are informed when a communication is related to a debt. The purpose of this letter is therefore to provide you with information required by law, including the amount of the debt.

(2.) Debt Validation Notice:

- a) The amount of the debt; As of June 29, 2011, you owe \$122,020.91. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Therefore, if you pay the amount shown above, an adjustment may be necessary after we receive your payment, in which event we will inform you or your agent before accepting the payment for collection. For further information, write to the address provided below or call 1.877.488.7812 between 8 a.m. and 9 p.m. Eastern, Monday through Friday.
- b) The name of the creditor to whom the debt is owed: FNMA AA MSTR/SUB CW BANK
Please note that unless Bank of America, N.A. is listed in 2(b) as the creditor of your loan, Bank of America, N.A. does not own your loan and only services your loan on behalf of your creditor, subject to the requirements and guidelines of your creditor.
- c) Unless you, within thirty (30) days after receipt of this letter, dispute the validity of the debt or any portion of the debt, Bank of America, N.A. will assume the debt to be valid.
- d) If you notify Bank of America, N.A. in writing, at the address provided below within the thirty (30) day period, that the debt, or any portion thereof, is disputed, Bank of America, N.A. will obtain verification of the debt and mail it to you.
- e) Upon your written request within the thirty (30) day period, Bank of America, N.A. will provide you with the name and address of the original creditor if it is different from the current creditor.

Bank of America, N.A.
Customer Service, CAG-919-01-41
Attention: DVN
P.O. Box 1140
Simi Valley, CA 93062-1140

If you have any questions regarding this notification, please call Bank of America, N.A. Customer Service at 1.877.488.7812 between 8 a.m. and 9 p.m. Eastern, Monday through Friday.

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector attempting to collect a debt, and any information obtained will be used for that purpose. Notwithstanding the foregoing, if you are currently in a bankruptcy proceeding or have received a discharge of the home loan debt referenced above, this statement is being furnished for informational purposes only. It should not be construed as an attempt to collect against you personally, Bank of America, N.A. will take no steps to collect from you personally or against the property securing this loan while the bankruptcy's automatic stay remains in effect. In the future, you may receive a discharge in bankruptcy. Under those circumstances, by operation of law, Bank of America, N.A. will retain the ability to enforce its rights against the property securing this loan should there be a default under the terms of your loan documents. If you are represented by an attorney, please provide this notice to your attorney.

SEE REVERSE SIDE

Bank of America
Hase Luoke
PO Box 5048
Temecula, CA 92593-8048



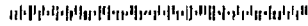
PRESORT
First-Class Mail
U.S. Postage and
Fees Paid
WSO

REDACTED

Send Payments to:
P.O. Box 15222
Wilmington, DE 19803-5222

Send Correspondence to:
PO Box 5170, MS SV314B
Simi Valley, CA 93365

25101217-7



John Dalen
109 Wood Valley Dr
Westminster, SC 29693-5003



EL05EV1221 05010610

EXHIBIT "8"

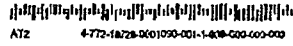
C3_1078 PSC8R01 17015 02032016

Bank of America



P.O. Box 5170
SIMI VALLEY, CA 93062-5170

IMPORTANT INFORMATION ENCLOSED



ATZ 4772-18728-0001090-001-1-000-000-000
JOHN DALEN
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Send Correspondence to:
P.O. Box 5170
Simi Valley, CA 93062-5170

Business Address:
450 American Street
Simi Valley, CA 93065-0205

Notice Date: March 11, 2015

Loan No.: REDACTED;

Property Address:
109 Wood Valley Dr
Westminster, SC 29693

JOHN DALEN:

The servicing of your home loan will transfer to Seterus, Inc. on April 01, 2015.

IMPORTANT INFORMATION ABOUT THE SERVICING OF YOUR HOME LOAN

On April 01, 2015, the servicing of your above referenced mortgage loan will transfer to Seterus, Inc. As of that date, your new servicer, Seterus, Inc., will support all of your loan servicing, including billing, payment processing, and customer support. You will no longer receive mortgage statements from Bank of America; instead, your statements will be sent by Seterus, Inc.

Enclosed is a Notice of Servicing Transfer from Bank of America regarding the above referenced loan. No action is required on your part in response to this notice. In addition to the information provided in this letter, this notice will contain important information about the servicing transfer of your loan. Please note this servicing transfer only applies to the loan noted above. Other loans you may have with us will not be affected by this change unless you are notified. Please review this notice and retain it for your records.

In the mortgage lending industry, the transfer or sale of loan servicing to other servicing institutions is a common practice and we'll work closely with Seterus, Inc. to make the transition as smooth as possible. If you have any questions or concerns regarding this transfer, we're available to answer your questions Monday-Friday 9 a.m. to 7 p.m. Local Time at 1-800-269-6607.

WHAT YOU NEED TO KNOW

If you are currently being considered for a loan modification or other foreclosure avoidance program, your new servicer Seterus, Inc. is aware of your current status and will have all of your documents. Please contact Seterus, Inc. to complete the process and determine which programs may best suit your current situation. For more information on working with Seterus, Inc., please review the frequently asked questions below.

ANSWERS TO QUESTIONS YOU MAY HAVE

What will change with my servicing transfer?

- Your loan number and payment address information will change once your loan has been transferred. Please look for a letter from Seterus, Inc. within the next few weeks which will outline this important information.
- The transfer of your loan to Seterus, Inc. does not affect any terms or conditions of your mortgage loan, other than those terms directly related to the servicing of the loan.
- Your monthly payment will not be affected by this transfer.

Will the quality of my loan service change?

- We expect that the quality of your loan service will not change. We are transferring servicing on your loan to Seterus, Inc., an experienced mortgage servicer who will work with you on your mortgage concerns.

Where should I make my home loan payments?

- You should continue to make your monthly payment to Bank of America through March 31, 2015. You will begin making payments to Seterus, Inc. on April 01, 2015.
- If you do not receive a billing statement from Seterus, Inc. before the payment is due, write your new loan number on your check and mail it to the payment address shown on the enclosed notice. Please note, if you do not have the new loan number, you may write your old Bank of America loan number on the check.

What if I have automatic payments set up with Bank of America?

- Any automatic payments set up with us through the PayPlan programs will be discontinued as of March 31, 2015. Please look for instructions from Seterus, Inc. or contact them on or after April 01, 2015 to determine what payment options they may offer.

SEE REVERSE SIDE FOR IMPORTANT INFORMATION

Loan No.: REDACTED;

Notice Date: March 11, 2015

NOTICE OF SERVICING TRANSFER

You are hereby notified that the servicing of your mortgage loan, that is, the right to collect payments from you, will be assigned, sold or transferred from Bank of America, N.A. to Seterus, Inc., effective April 01, 2015.

The transfer of the servicing of your mortgage loan does not affect any terms or conditions of the mortgage instruments, other than those terms directly related to the servicing of your loan. Except in limited circumstances, federal law requires that your present servicer send you this notice at least 15 calendar days before the effective date of transfer, or at closing. Your new servicer must also send you this notice no later than 15 calendar days after the effective date or at closing.

YOUR SERVICER PRIOR TO APRIL 01, 2015:

Your present servicer is Bank of America, N.A. If you have any questions relating to the transfer of servicing from your present servicer, please call Bank of America, N.A. Customer Service at 1-800-669-6607, Monday-Friday 7 a.m. to 7 p.m. Local Time. This is a toll-free number. The address to send written questions to your present servicer relating to the transfer of servicing of your mortgage loan (but not your loan payments) is: Customer Service Correspondence, P.O. Box 5170, Simi Valley, CA 9062-5170.

YOUR NEW SERVICER ON AND AFTER APRIL 01, 2015:

Your new servicer will be Seterus, Inc.

Phone Number for Questions Related to Servicing Transfer

The telephone number of Seterus, Inc. is 1-866-570-5277. If you have any questions relating to the transfer of servicing to your new servicer, please call Seterus, Inc. Customer Service toll-free at 1-866-570-5277, Monday through Thursday, 5:00 a.m. to 8:00 p.m. Pacific Time and Friday, 5:00 a.m. to 6:00 p.m. Pacific Time.

Address for Written Questions Related to Servicing Transfer

The address to send written questions related to the transfer of servicing to Seterus, Inc. is:

Seterus, Inc.
PO Box 2008,

Grand Rapids, MI 49501-2008

Address for Mailed Payments

The address to send payments to Seterus, Inc. is:

Seterus, Inc.
PO Box 54420,
Los Angeles, CA 90054-0420

Please include your loan number on all checks, cashier's checks and other payments sent to Seterus, Inc.

INFORMATION CONCERNING YOUR LOAN PAYMENTS:

The date that Bank of America, N.A. will stop accepting payments from you is March 31, 2015.

The date that your new servicer Seterus, Inc. will start accepting payments from you is April 01, 2015. Send all payments due on or after that date to your new servicer.


INFORMATION ABOUT OPTIONAL INSURANCE PRODUCTS:

The transfer of servicing may affect the terms of or the continued availability of credit insurance, accidental death insurance or any other type of optional insurance in the following manner: Bank of America, N.A. will no longer make payments to the insurance company on your behalf. As a result, your coverage may be cancelled.

To see if it is possible to maintain coverage, you will need to contact your insurance provider to find out if you are still eligible to receive the coverage and/or to arrange another payment method.

TREATMENT OF PAYMENTS FOR THE 60 DAYS AFTER SERVICING TRANSFER:

Under federal law, during the 60-day period beginning the effective date of the transfer of the servicing of your mortgage loan, a loan payment received by current servicer on or before its due date may not be treated by the new servicer as late and a late fee may not be imposed on you.

 **MILITARY PERSONNEL/SERVICEMEMBERS.** If you or your spouse is a member of the military, please contact us immediately. The federal Servicemembers Civil Relief Act (SCRA) and similar state laws provide significant protections and benefits to eligible military service personnel. However, military service and/or SCRA qualification may not necessarily prevent foreclosure. If your loan is in default, a court may authorize foreclosure. If you are having difficulty making your payments, please call us as soon as you can so we can discuss various home retention options. You can reach our Enterprise Military Benefits Unit at 1.877.345.0593. From outside the U.S., please call us at 1.817.245.4084. Both numbers are available 24 hours a day, 7 days a week. Homeowner counseling is also available at agencies such as Military OneSource at militaryonesource.mil or 1.800.342.9647 and Armed Forces Legal Assistance at legalassistance.law.af.mil, and through HUD-approved housing counseling agencies, which you can find at hud.gov/officesofgish/hud/hcsc/.

This communication is from Bank of America, N.A., the servicer of your home loan.

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector. If you are currently in a bankruptcy proceeding or have previously obtained a discharge of this debt under bankruptcy law, this notice is for informational purposes only and is not an attempt to collect a debt, a demand for payment or an attempt to impose personal liability for a discharged debt.

- Will I still be able to make my mortgage payment at a Bank of America financial center or through online banking?
- You will no longer be able to make your payment at a Bank of America financial center for the mortgage loan being transferred.
 - If you make payments through Bank of America online banking or any other online banking or bill payment service, you will need to update your loan number and payee information for Seterus, Inc. on or after April 01, 2015.
- When my loan is transferred, will I still have access to my online loan information through Bank of America?
- After the transfer is complete, your mortgage account will be moved to Seterus, Inc.. As a result, you will no longer access your mortgage information through Bank of America. Prior to the transfer, you may choose to download any information currently online to keep for your own records, such as tax documents, mortgage statements, payment history, etc. Seterus, Inc. will be able to provide you with information about access to your loan account information following the transfer. If you have any other accounts with Bank of America, such as checking, savings or credit card, you will still be able to access those accounts through Bank of America's online banking.
- How will the service transfer affect my other Bank of America accounts?
- There will be no charge to any additional accounts you have with us.
 - If you have a Bank of America Advantage, Premium or Preferred checking account, and you're not charged a monthly fee on your account because your mortgage is with us, this will not change with the transfer of your mortgage to another servicer. We'll let you know in writing if it's changes in the future.
- What if I am currently participating in a loan modification or other foreclosure avoidance program (e.g., forbearance, short sale, refinance or deed in lieu of foreclosure)?
- The loan assistance programs that are offered by Seterus, Inc. are determined by the owner (also known as the investor) or insurer of your loan. Where applicable, Seterus, Inc. has agreed to evaluate your loan under the same investor or insurer guidelines as Bank of America, N.A.
 - We will transfer any supporting documentation you may have submitted to us to Seterus, Inc.. We encourage you to work with Seterus, Inc. to complete the process and determine which programs may best suit your current situation.
 - You should continue to make your payments to Bank of America, N.A. through March 31, 2015. On or after April 01, 2015, your payments should be made to Seterus, Inc. unless you are provided additional direction.
 - If your loan is pending a decision regarding qualification for these programs, that decision will now be made by Seterus, Inc..
- Will my ability to receive financial counseling be impacted by this servicing transfer?
- If you have previously received an offer for financial counseling in association with a HAAMP trial or permanent modification, the transfer of your loan does not impact that offer.
 - If you have already set an appointment, please continue to attend your scheduled appointment.
 - If you have yet to take advantage of this opportunity, please contact us at your earliest convenience by calling the number provided in your offer letter or by contacting your current Relationship Manager.
- What if I need loan assistance after the transfer?
- If you experience a hardship and struggle with making your home loan payments after the servicing of your loan has been transferred, please contact Seterus, Inc. right away to request help. They will determine which program may be right for you based on the applicable investor and insurer guidelines.
- What if I am refinancing my mortgage loan that is being transferred?
- Your refinance will not be affected by the upcoming loan transfer. If you are working on a refinance through Bank of America Home Loans, your application remains active and we will continue to work with you on your refinance. Please contact the Mortgage Loan Officer or Loan Processor you have been working with if you have any questions.
- What about my optional insurance products with or through Bank of America?
- If your payments include amounts for any optional insurance products such as credit insurance, accidental death insurance, etc., please read the "Information About Optional Insurance Products" section in the enclosed notice carefully.
- What about my other (non-insurance) optional products with or through Bank of America?
- If your payments include amounts for any other optional products you have purchased such as home warranty, identity theft protection, etc., we will no longer make payments to the optional product provider on your behalf. As a result, your optional product may be canceled unless you are able to make alternative arrangements to pay the amounts due. To see if it is possible to establish another payment method and maintain your optional products, you will need to contact your optional product provider.
 - Please note, if you have an optional Borrowers Protection or Line Protection Plan®, this plan will cancel when the servicing of your loan is transferred and you will receive a separate communication from us confirming the cancellation of your plan. If you have any questions about an existing Protection Plan® benefit, please contact Protection Plan Services. Your provider contact information may be found on your monthly mortgage statement. If you have more than two optional products, they may not all be listed on your monthly mortgage statement. If you are unsure about how many optional products you have or you have questions about your products, please contact Bank of America.

WE'RE HERE TO HELP

Thank you for the opportunity to serve your home loan needs. If you have any questions or need assistance prior to your loan transfer, please call us toll free at 1-800-665-0607, Monday-Friday 7 a.m. to 7 p.m. Local Time.

Beginning April 01, 2015, Seterus, Inc. can assist you with any questions related to your home loan and the transfer of servicing. Seterus, Inc.'s customer service number is 1-866-570-5277, Monday through Thursday, 8:00 a.m. to 8:00 p.m. Pacific Time and Friday, 8:00 a.m. to 6:00 p.m. Pacific Time.

EXHIBIT "9"

011066
684
33

Recording Requested By:
Bank of America
When recorded mail to:
CoreLogic
Mail Stop: ASGN
1 CoreLogic Drive
Westlake, TX 76262-9823
DocID# 10517533570616150
Tax ID: 295-01-02-007
Property Address:
109 Wood Valley Dr
Westminster, SC 29693-5003
326-AM 324M75 412200 F00314



FILED FOR RECORD
OCONEE COUNTY, SC
REGISTER OF DEEDS

2015 APR 22 A 11:48

Doc ID: 00455510001 Type: MTG
EX 3382 pg 237

This space for Recorder's use

ASSIGNMENT OF MORTGAGE

For Value Received, the undersigned holder of a Mortgage (herein "Assigner") whose address is 4909 SAVARESE CIRCLE, TAMPA, FL 33634 does hereby grant, sell, assign, transfer and convey unto FEDERAL NATIONAL MORTGAGE ASSOCIATION whose address is 1421 DALLAS PARKWAY SUITE 1000, DALLAS, TX 75244 all beneficial interest under that certain Mortgage described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Mortgage.

Beneficiary: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR QUICKEN LOANS INC., ITS SUCCESSORS AND ASSIGNS
Original Borrower(s): JOHN DALEN AND JULIE A. DALEN, HUSBAND AND WIFE
Date of Mortgage: 12/20/2007
Original Loan Amount: \$118,750.00

Recorded in Oconee County, SC on: 12/21/2007, book 2551, page 206 and instrument number 010516
Contact Federal National Mortgage Association for this instrument c/o Seterus, Inc, 14523 SW Millikan Way #200, Beaverton, OR 97005, telephone 41-866-570-5277, which is responsible for receiving payments.

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Mortgage to be executed on
Dated: 04-13-2015

BANK OF AMERICA, N.A., SUCCESSOR BY MERGER
TO BAC HOME LOANS SERVICING, LP, FKA
COUNTRYWIDE HOME LOANS SERVICING LP

By: [Signature]
Giang Vu
Assistant Vice President

[Signature]
Witness: [Signature]
Adriy Lucas

[Signature]
Witness: [Signature]
Thygn Jari

State of FL, County of Hillsborough

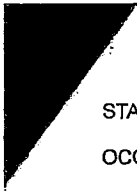
The foregoing instrument was acknowledged before me this APR 13 2015 by Giang Vu Assistant Vice President of BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, LP, FKA COUNTRYWIDE HOME LOANS SERVICING LP, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

[Signature]
Notary Public: Martha Lucia Correa
My Commission Expires: 1/26/19

Martha Lucia Correa
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF192644
Expires 1/26/2019

EXHIBIT "10"

interest. Neither is possession without proper assignment. A copy of the Massachusetts Court's ruling is Exhibit A and the ruling is a part of this Motion. The Plaintiff is not the true and beneficial party of interest. There is no evidence that Bank of America, N.A. is entitled to be named the beneficiary under this debt. The original lender under the Deed of Trust/Mortgage is Quicken Loans, Inc. There is no chain of title naming Bank of America, N.A. as the real party of interest or holder of the negotiable instrument.



STATE OF SOUTH CAROLINA)
 OCONEE COUNTY)
 Bank of America, N.A. Successor by merger to BAC)
 Home Loans Servicing, L.P. f/k/a Countrywide Home)
 Loans servicing, L.P.,)
 PLAINTIFF)
 vs.)
 John D. Dalen, Julie A. Dalen, and Wawtockace)
 Hills Property Owners Association,)
 DEFENDANT(S).)

IN THE COURT OF COMMON PLEAS
 TENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2011-CP-37-1056

FILED OCTOBER 30
 BEVERLY H. WRIGHT, CLERK
 2011 NOV 22 A 9:02

MEMORANDUM OF LAW

Under Federal Rules of Civil Procedure Rule 17, an action must be taken by a real party of interest. The Defendants have reason to believe that the Plaintiff is not the real party of interest. Unless the Plaintiff can present perfection in the chain of title for the promissory note, ending in the Plaintiff being NAMED as the holder in due course, the Defendants believe that the Plaintiff is in fact bringing fraud before the court. The Plaintiff is in fact a Servicer.

In *McLaughlin v. Williams*, 665 S.E. 2d 667, 379 S.C. 451 (S.C. App. 06/30/2008), the Court notes the "(the Plaintiff) must offer some evidence that a genuine issue of material fact exists as to each element of the complaint." See *Steele v. Rogers*, 306 S.C. 546, 552, 413 S.E.2d 329, 333 (Ct. App. 1992) (explaining the plaintiff has the burden to prove each element of the cause of action).

The plaintiff offers no affidavit, no testimony and no evidence of any kind. In *Housing Authority of the City of Columbia vs. Cornerstone Housing, LLC*, 356 S.C. 328, 588 S.E. 2d 617 (S.C. App. 09/15/2003) the court held: "A trial judge may dismiss a claim when the defendant demonstrates the plaintiff's 'failure to state facts sufficient to constitute a cause of action' in the pleadings filed with the court." *FOC Lawshe Ltd. P'ship v. Int'l Paper Co.*, 352 S.C. 408, 412, 574 S.E. 2d 228, 230 (Ct. App. 2002) quoting Rule 12(b)(6), South Carolina Rules of Civil Procedure, "The trial court must dispose of a motion for failure to state a cause of action based solely upon the allegations set forth on the face of the complaint." In *Brown v. Leverett*, 291 S.C. 364, 366, 353 S.E. 2d 697, 698 (1987), under rule 12(b)(6), SCRPC, a defendant may make a motion to dismiss based on a failure to

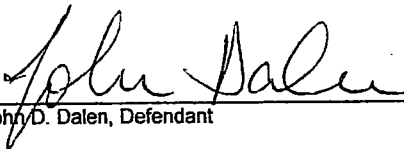
state facts sufficient to constitute a cause of action. Generally, in considering a 12(b)(6) motion, the trial court must base its ruling solely upon allegations set forth on the face of the complaint. Stiles v. Onorato, 318 S.C. 297, 457 S.E. 2d 601 (1995).

Under Federal Rules of Civil Procedure 17, an action must be taken in the name of a real party of interest. Since the Plaintiff is not a real and beneficial party of interest, the Plaintiff cannot be a party to this controversy.

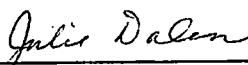
WHEREFORE defendants respectfully request an order dismissing plaintiff's complaint because:

- (1) the Plaintiff lacks standing to pursue its claims
- (2) the Plaintiff has failed to state a claim upon which relief may be granted
- (3) the Court lacks subject matter jurisdiction over this action
- (4) the Plaintiff has failed to meet a condition precedent to institution of this action.

DATED this 22nd day of November, 2011



John D. Dalen, Defendant



Julie A. Dalen, Defendant

109 Wood Valley Drive
Westminster, SC 29693

864 647 4705

EXHIBIT "11"

John and Julie Dalen

109 Wood Valley Drive
Westminster, SC 29693
Ph. REDACTED

July 18, 2012

Korn Law Firm, P.A.
Dean A. Hayes
1300 Pickens Street
P.O. Box 12369
Columbia, SC 29201-2369

Re: Order of the Court Issued June 20, 2012

Dear Mr. Hayes:

In compliance with the Court's Order to respond to Plaintiff's Interrogatory Number One, we the defendants, John Dalen and Julie Dalen, are the only witnesses concerning the facts of this case at this time. In response to Plaintiff's Interrogatory Number Five, there are no payments not reflected in the payment history provided to the defendants by the plaintiff.

Regarding the Court's Order for the defendants to produce responsive documentary evidence as pertaining to the Plaintiff's Request for Production, during our meeting in Columbia on July 16, 2012, we asked Attorney Dean Hayes if there were any unfulfilled requests for documents such as canceled checks, and he stated that all he required was for defendants to state that there are no payments not reflected in the payment history, and that with this statement we would not need to produce evidence such as canceled checks. As we have so-stated above to Plaintiff's Interrogatory Number Five, there are no payments not reflected in the payment history provided to the defendants by the plaintiff. As we have stated in our Answers to Plaintiff's Request for Production, plaintiff has in its possession all documents plaintiff had requested defendants to produce.

Defendants are prepared to bring all documents in our possession that we have received from Bank of America, N.A. for copying by plaintiff's attorneys to the location in Oconee County where Attorney Dean Hayes will bring the original (wet-ink) mortgage note for our inspection and copying.

With regard to the Plaintiff's Request for Admissions:

1. Admit or deny that the document attached and incorporated as Exhibit A is a true and accurate copy of the Note signed in connection with the subject loan.

Admit. We admit that the document attached and incorporated as Exhibit A appears to be a true and accurate copy of the Note that the defendants signed on December 20, 2007 and which was given to the lender, Quicken Loans Incorporated.

2. Admit or deny that the document attached and incorporated as Exhibit B is a true and accurate copy of the Mortgage signed in connection with the subject loan.

EXHIBIT G PAGE 1 OF 19

Dalen Letter to Korn Law Firm, P.A. Continued

July 19, 2012

Page 2 of 2

Admit. We admit that the document attached and incorporated as Exhibit B appears to be a true and accurate copy of the Mortgage that the defendants signed on December 20, 2007 and which was given to the lender, Quicken Loans Incorporated.

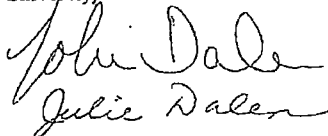
3. Admit or deny that the document attached and incorporated as Exhibit C is a true and accurate copy of the payment history of the subject loan.

Admit. The document attached and incorporated as Exhibit C appears to be a true and accurate copy of the payment history of the subject loan.

Defendants believe we have complied with the Court's Order of June 20, 2012 with this letter. This letter is being emailed on July 19, 2012 and a paper copy is being mailed on the same day to Korn Law Firm offices in Columbia, SC.

The Court further ordered the parties to this dispute confer on a time not to exceed July 29, 2012 for the defendant to view the original note held by the plaintiff. During our July 16th meeting which had been scheduled for this purpose, Mr. Hayes informed us that someone had inadvertently sent the note to another location. Mr. Hayes said that he would be able to reacquire the note and suggested that someone from his law firm would be willing to bring the note for our viewing and copying to Oconee County, but probably that would not occur until maybe August 13, 2012. For the record, defendants remain uncomfortable with the lack of compliance with this Court's Order by the plaintiff's attorneys in a timely manner. We have been patient, rescheduling this appointment several times at plaintiff's attorneys' request, and we expect plaintiff's attorneys to comply with Court's Orders.

Sincerely,



John Dalen and Julie Dalen

EXHIBIT 6 PAGE 3 OF 39

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

IN THE COURT OF COMMON PLEAS)
TENTH JUDICIAL CIRCUIT)
CIVIL ACTION NO. 2011-CP-37-1056

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

ANSWERS TO PLAINTIFF'S FIRST SET
OF INTERROGATORIES

PLAINTIFF)

Vs.)

John D. Dalen, Julie A. Dalen, and Wawtockace)
Hills Property Owners Association,)

DEFENDANT(S).)

We, John D. Dalen and Julie A. Dalen, Defendants in the above-captioned action, hereby submit these answers to Plaintiff's Interrogatories.

- 1) None at this time.
- 2) Copies of a presentation submitted or presented at the Hearing on the Motion to Dismiss on February 6, 2012 at 2:00 p.m.
- 3) None at this time.
- 4) None at this time.
- 5) Don't understand the question. The question does not appear to make sense. Please restate the question.

Submitted by John D. Dalen and Julie A. Dalen

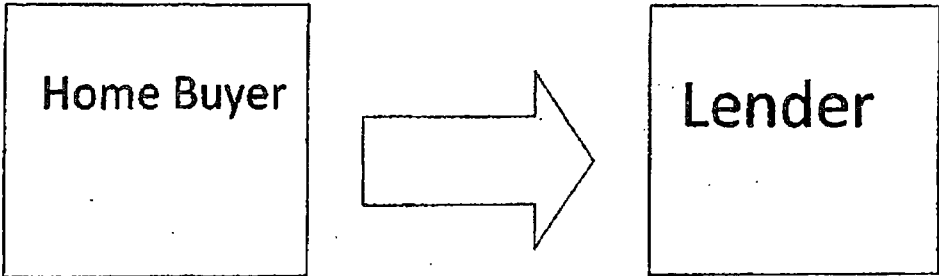
John Dalen

Julie Dalen

DATED this 6 day of February 2012

C 1002 1 18

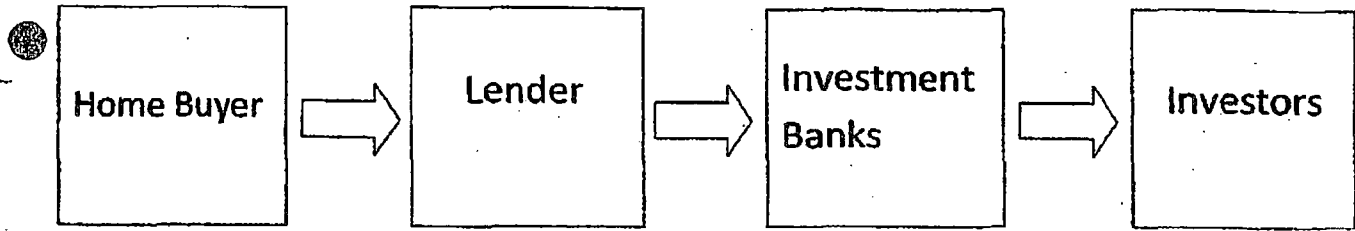
PRE - 1980's DEREGULATION
Diagram #1



Home buyer obtained mortgage from lender. Payments went to local lender. Since mortgages took decades to repay, lenders were careful.

C 11 18

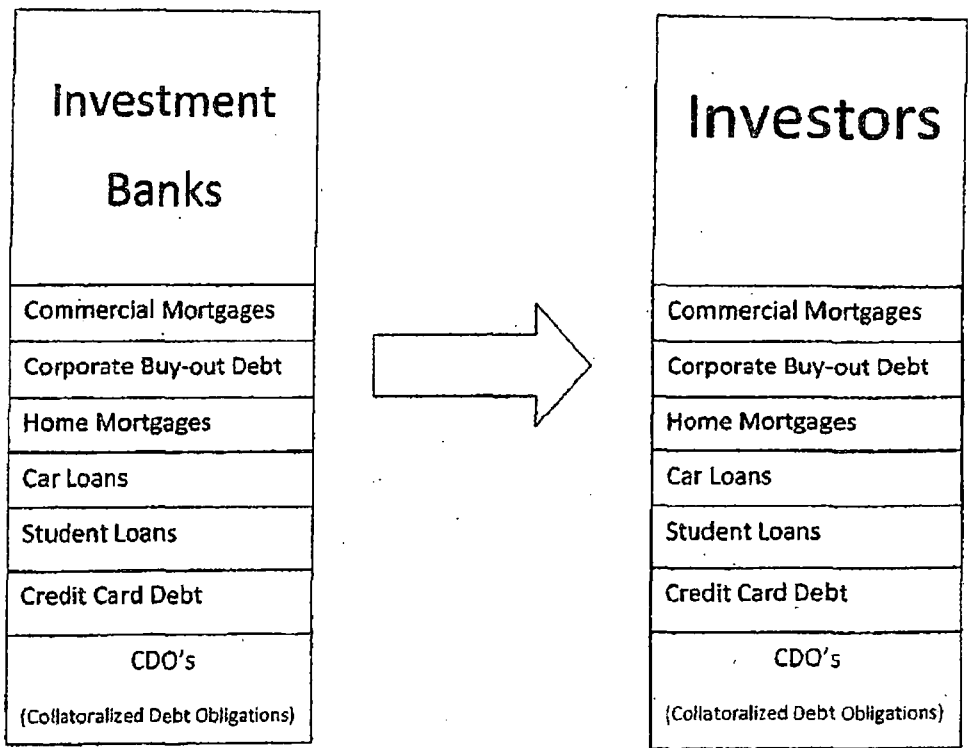
POST-1980's DEREGULATION
Diagram #2



81
21
C
12
18

Lender sold mortgages to investment banks which then sold the mortgages to investors.

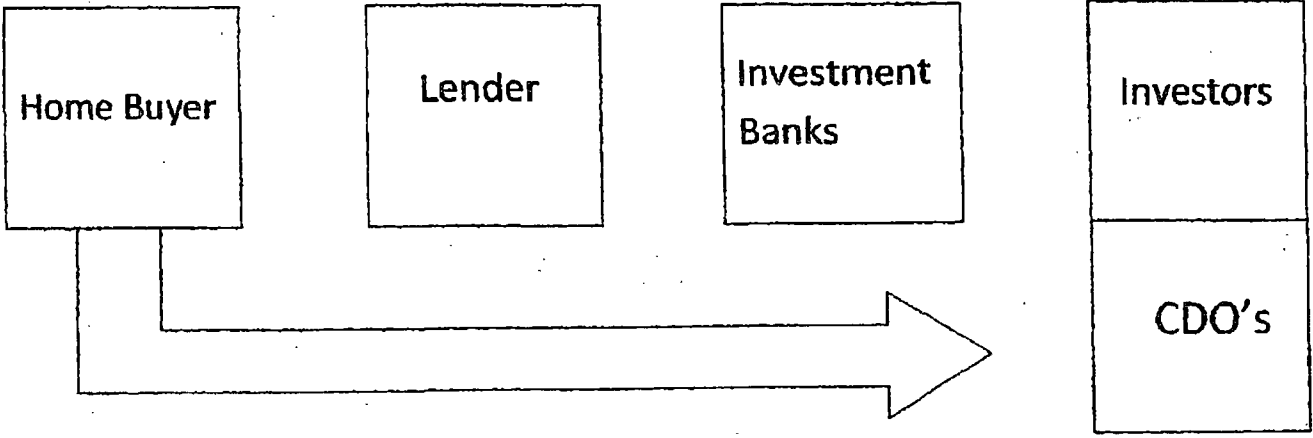
POST - 1980's DEREGULATION
Diagram #3



Investment banks combined loans to create CDO's, then sold these CDO's to investors.

C 13 18

POST-1980's DEREGULATION
Diagram #4

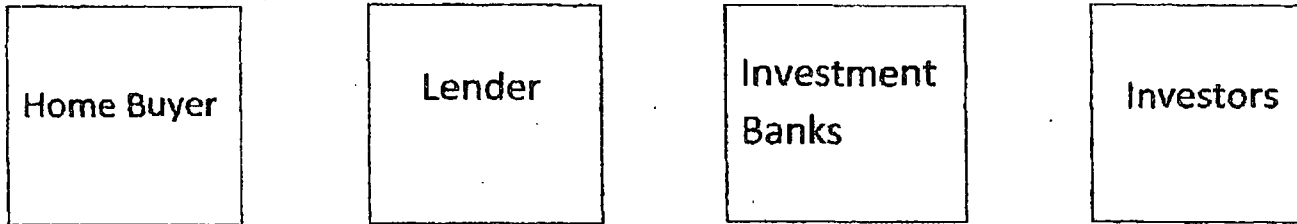


Now when home buyers pay their mortgage, the payments go to investors all over the world.

POST - 1980's DEREGULATION

Diagram #5

Securitization Food Chain

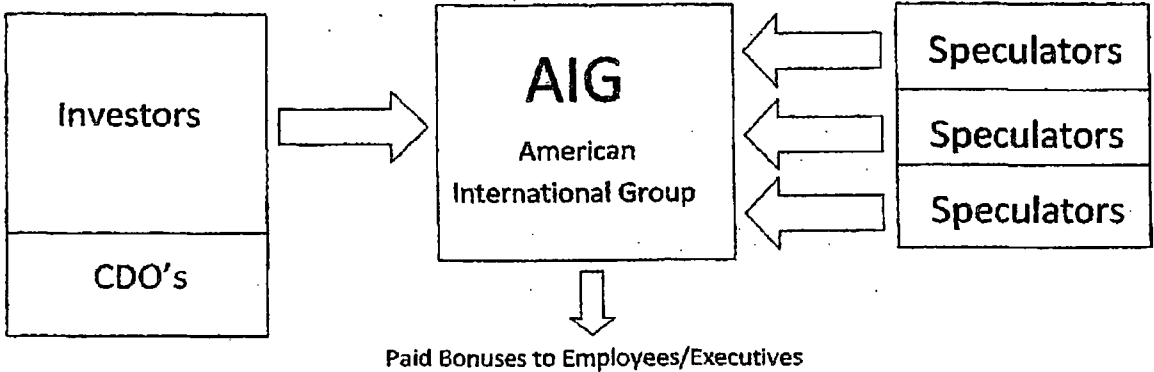


Lenders didn't care anymore whether borrowers could pay so they started making riskier loans. Investment bankers didn't care either. More CDO's sold = higher profits. Quality of mortgage sacrificed to maximize volume. This is what caused the real estate bubble and crash of 2008.

C 15 18

POST - 1980's DEREGULATION
Diagram #6

Derivatives/Credit Default Swaps

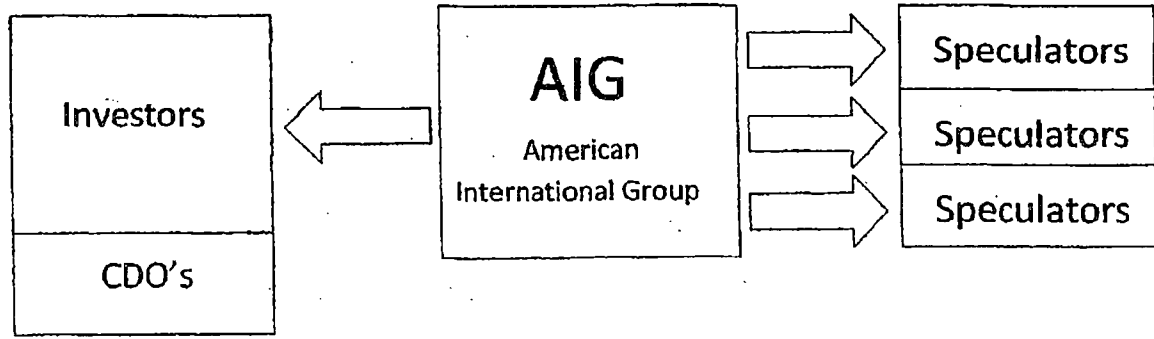


Investors and Speculators (non-owners) buy insurance to cover losses if CDO's go bad. AIG pays million dollar bonuses.

C 16 18

18
17
C

Derivatives/Credit Default Swaps



CDO's go bad. (Mortgages, credit card defaults, etc.) AIG sold hundreds of billions of dollars in policies but did not have the capital to pay its obligations, leaving taxpayers "holding the bag".

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-37-1056

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

ANSWERS TO PLAINTIFF'S FIRST SET
OF REQUESTS FOR PRODUCTION OF
DOCUMENTS

PLAINTIFF)

Vs.)

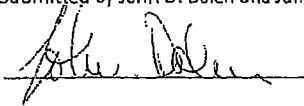
John D. Dalen, Julie A. Dalen, and Wawtockace)
Hills Property Owners Association,)

DEFENDANT(S).)

We, John D. Dalen and Julie A. Dalen, Defendants in the above-captioned action, hereby submit these answers to Plaintiff's First Set of Requests for Production of Documents.

- 1) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 2) See attached copies of presentation made at Hearing for Motion to Dismiss held on February 6, 2012.
- 3) We have none at this time.
- 4) We have none at this time.
- 5) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 6) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 7) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 8) Objection. Plaintiff is requesting documents that Plaintiff has in its possession and the documents requested have no bearing on the contested issues in this case.

Submitted by John D. Dalen and Julie A. Dalen



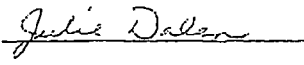


EXHIBIT G PAGE 10 OF 29

DATED this 12 day of February, 2012

C 10 18

EXHIBIT "12"

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.,

Plaintiff,

v.

John D. Dalen, Julie A. Dalen and Wawtockace Hills Property Owners Association,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A No. 2011-CP-37-1056

ORDER DENYING DEFENDANTS' MOTION TO DISMISS

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2012 MAR 7 PM 3 54

F11-04694

This is an action for foreclosure as to certain realty located in Oconee County. A Motion to Dismiss was filed by Defendants John D. Dalen & Julie A. Dalen alleging lack of subject matter jurisdiction pursuant to Rule 12(b)(1) and failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6). The motion came before the court on February 6, 2012. Appearing on behalf of the Plaintiff was H. Guyton Murrell of the Korn Law Firm. Also appearing were the pro se Defendants John D. Dalen and Julie A. Dalen.

The Defendant John A. Dalen argued that the motion should be granted based upon his allegations that Plaintiff lacked standing and was not the real party in interest to institute or litigate a foreclosure action. Defendant John Dalen submitted a letter dated

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Package	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

John D. Dalen + Julie A. Dalen
 Street, Apt. No.
 or PO Box No. 109 Wood Valley Drive
 City, State, ZIP+4[®]
 Westminster, SC 29693

owner of the subject note is Federal National Mortgage a, N.A. as the servicing agent. Plaintiff's counsel ing submitted prior to hearing and in the form of an CRCP. Plaintiff's counsel further objected to the ation by a litigant with another party represented by ng pro se litigants, the court has afforded them a wide parties that they would be held to the same standards compliance with the rules of court.

Cert
Copies to:
Any (F) YOM (D) Dalen
DSS Other
Mailed Boxed Handled


The court has carefully considered the evidence presented and the arguments of the parties. The subject complaint was filed October 31, 2011 and states that Plaintiff is the present lien holder. The subject mortgage was filed December 21, 2007 in Book 2551 at Page 206 in the Oconee County Register of Deeds. The mortgage was assigned to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. by assignment filed May 16, 2011 in Book 2975 at Page 40 in the Oconee County Register of Deeds. The complaint alleges that Bank of America, N.A. is the successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.


The court finds that the Defendants have failed to present sufficient evidence to grant a motion to dismiss pursuant to Rule 12(b)(1) SCRPC due to a lack of subject matter jurisdiction. "Subject matter jurisdiction is met if the case is brought in the court which has authority and power to determine the type of action at issue." *Washington v. Whitaker*, 317 S.C.108, 115, 451 S.E.2d 894, 898 (1994). In South Carolina, a foreclosure action must be filed and litigated in the county where the real estate is located. §15-7-10(3), S.C. Code of Laws. The subject real estate is located in Oconee County. The court finds that this court has subject matter jurisdiction over this action and venue is proper in this court. Therefore, the Defendants' motion to dismiss pursuant to Rule 12(b)(1) SCRPC due to a lack of subject matter jurisdiction is denied.

The court further finds that the Defendants have failed to present sufficient evidence to grant a motion to dismiss pursuant to Rule 12(b)(6) SCRPC. In this case, the subject complaint states a cause of action for foreclosure of a note and mortgage. The allegations of the complaint and the public record reflect that the subject mortgage was conveyed to Plaintiff by assignment of mortgage filed several months prior to the commencement of this action. "The ruling on a Rule 12(b)(6) motion to dismiss must be based upon the allegations set forth on the face of the complaint. A Rule 12(b)(6) motion may not be sustained if facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case." *Stiles v. Onorato*, 318 S.C. 297, 457 S.E.2d 601, 602-03 (1995). The court finds that the allegations set forth in the complaint are sufficient to constitute a cause of action for foreclosure. Therefore, the Defendants' motion to dismiss pursuant to Rule 12(b)(6) SCRPC due to an alleged failure to state a claim upon which relief can be granted is denied.

THEREFORE, IT IS HEREBY ORDERED that the motion by Defendants John Dalen and Julie Dalen to dismiss this action is denied.

IT IS SO ORDERED.


The Honorable J. Cordell Maddox, Jr.
Presiding Judge 10th Judicial Circuit


South Carolina
3/5, 2012

FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
012 MAR 7 PM 3 54

EXHIBIT "13"

L11-04694

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF OCONEE

AFFIDAVIT OF PLAINTIFF

Bank of America, N.A., successor by merger to
BAC Home Loans Servicing, LP f/k/a
Countrywide Home Loans Servicing, LP,

(NON-JURY MORTGAGE FORECLOSURE)

PLAINTIFF,

C/A NO: 2011-CP-37-1056

vs.

DEFICIENCY REQUESTED

John D. Dalen, Julie A. Dalen, Wawtockace
Hills Property Owners Association,

DEFENDANT(S).

AFFIDAVIT

BEFORE ME an officer authorized to take oaths this day personally appeared
Tara L. Anderson of Bank of America, N.A.
("BANA"), who, being first duly sworn, deposes and says:

1. I am authorized to sign this affidavit on behalf of plaintiff, Bank of America, N.A. ("BANA"), as an officer of BANA.
2. BANA maintains records for the Loan, owed by John D. Dalen, in the ordinary course of its business. As part of my job responsibilities for BANA, I am familiar with the type of records maintained by BANA in connection with the Loan.
3. The records of BANA reflect that it is the present holder of a note and mortgage given to Quicken Loans, Inc. by John D. Dalen, in the amount of One Hundred Eighteen Thousand Seven Hundred Fifty and 00/100 (\$118,750.00) Dollars on December 20, 2007 and recorded on December 21, 2007 in Book 2551 at Page 206 in the Office of the Register of Deeds for Oconee County.

FILED OCONEE, SC
BEVERLY H. WRIGHT
CLERK OF COURT
2011 APR 13 P 4:49

C/A NO: 2011-CP-37-1056 Affidavit Certifying Ownership of Note and Mortgage

4. The information in this affidavit is taken from BANA's business records. I have knowledge of BANA's procedures for creating these records. They are: (a) made at or near the time of the occurrence of the matters recorded by persons with personal knowledge of the information in the business record, or from information transmitted by persons with personal knowledge; (b) kept in the course of BANA's regularly conducted business activities; and (c) it is the regular practice of BANA to make such records.

FURTHER AFFIANT SAYETH NAUGHT.

Tara L. Anderson
Name Tara L. Anderson
Assistant Vice President

STATE OF Pennsylvania

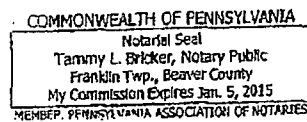
COUNTY OF Allegheny

SWORN TO and subscribed before me this 6th day of April, 2012, by
Tara L. Anderson, as an Assistant Vice President of Bank of America, N. A.
He/~~she~~() is personally known to me or () produced drivers license as identification.

Tammy L. Bricker

Notary Public

My commission expires 1-5-2015



FILED DOONE, SC
DEBRA H. WHITFIELD
CLERK OF COURT
2012 APR 13 P 4: 50

C/A NO: 2011-CP-37-1056 Affidavit Certifying Ownership of Note and Mortgage

EXHIBIT "14"

STATE OF SOUTH CAROLINA)
)
 COUNTY OF OCONEE)
)
 Bank of America, N.A. successor by merger)
 to BAC Home Loans Servicing, LP f/k/a)
 Countrywide Home Loans Servicing, LP,)
)
 Plaintiff,)
)
 John D. Dalen, Julie A. Dalen, and)
 Wawtockace Hills Property Owners)
 Association,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 C/A NO.: 2011-CP-37-1056

ORDER

FILED OCONEE, SO
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2012 JUN 20 PM 3 43

COPY

This order arises out of a hearing before this court on May 21, 2012 on defendant John Dalen's motion for reconsideration of the court's order denying his motion to dismiss, and on plaintiff Bank of America's motion to compel responses to interrogatories and requests for production, as well as Bank of America's motion to deem requests admitted, or in the alternative, to compel responses to its requests to admit. Present at this hearing were Dean Hayes for the plaintiff, and John and Julie Dalen, pro se defendants. After careful review of the arguments and documents submitted during this hearing, this court hereby orders the following:

It is ORDERED that defendant's motion for reconsideration is denied.

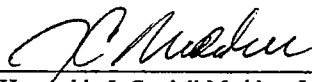
It is ORDERED that the parties to this dispute confer on a time not to exceed July 29, 2012 for the defendant to view the original note held by the plaintiff.

It is ORDERED that the defendant respond to the plaintiff's interrogatories and requests to produce. In response to plaintiff's interrogatory number one, this court orders the defendants to provide the names and addresses of any witnesses concerning the facts of this case. Furthermore, the defendants must respond to plaintiff's interrogatory number five concerning defendant's payments made on the note in question. In particular, the defendants must respond if

they allege that they have made payments not reflected in the payment history provided to the defendants by the plaintiff. This court also orders the defendants to produce any responsive documentary evidence to plaintiff's requests for production. Defendants must provide these responses and documents within 30 (thirty) days of this order.

Finally, it is ORDERED that the defendants properly respond to the plaintiff's requests to admit within 30 (thirty) days of this order. If, at the expiration of 30 (thirty) days, the defendants have not submitted responses to these requests, the court will deem them admitted.

IT IS SO ORDERED!


Honorable J. Cordell Maddox, Jr.
Circuit Court Judge

This 8 day of June, 2012
J. Cordell Maddox, Jr., South Carolina

FILED OCONEE, SC
BEVERLY N. WHITFIELD
CLERK OF COURT
2012 JUN 20 PM 3 43

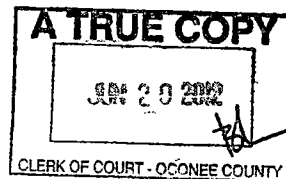


EXHIBIT "15"

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A., successor by merger to
BAC Home Loans Servicing, LP f/k/a
Countrywide Home Loans Servicing, LP

Plaintiff,

v.

John D. Dalen, Julie A. Dalen, and Wawtockace
Hills Property Owners Association,

Defendants.

IN THE COURT OF COMMON PLEAS

C/A No.: 2011-CP-37-1056

**PLAINTIFF'S FIRST SET OF
REQUESTS FOR ADMISSION**

TO: JOHN D. DALEN AND JULIE A. DALEN, PRO SE DEFENDANTS:


YOU WILL PLEASE TAKE NOTICE, that pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, Plaintiff requests that you admit or deny the truth of the following matters of fact within 30 days after service hereof. Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, a matter will be deemed admitted unless, within 30 days of service hereof, you serve a written answer or objection to the matter on the undersigned attorney at the Korn Law Firm, P.A., P.O. Box 12369, Columbia, South Carolina 29211-2369. If an objection is made, the reasons for the objection shall be stated. An answer shall specifically deny the matter or set forth in detail the reasons why you cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify your answer or deny only a part of the matter of which an admission is requested, you shall specify so much of it as is true and qualify or deny the remainder. You may not give lack of information or knowledge as a reason for failure to admit or deny unless you state that you have made reasonable inquiry and that the information readily obtainable by you is insufficient to enable you to admit or deny.

1. Admit or deny that the document attached and incorporated as **Exhibit A** is a true and accurate copy of the Note signed in connection with the subject loan.
2. Admit or deny that the document attached and incorporated as **Exhibit B** is a true and accurate copy of the Mortgage signed in connection with the subject loan.

3. Admit or deny that the document attached and incorporated as **Exhibit C** is a true and accurate copy of the payment history of the subject loan.

If any of the above Requests for Admission are denied, please state with particularity the reason for your denial.

KORN LAW FIRM, P.A.


Dean A. Hayes, SC Bar No: 66066
Keller C. Foster, SC Bar No. 79640
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2369
Telephone: (803) 231-2022
Facsimile: (803) 231-2060
ATTORNEYS FOR PLAINTIFF

January 12, 2012
Columbia, South Carolina
N:VPDF11-04694

MERS MIN: REDACTED

REDACTED
Dalen, John

NOTE

December 20, 2007
(Date)

Westminster
(City)

SC
(State)

109 Wood Valley Dr
Westminster, SC 29693-5003
(Property Address)

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$118,750.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is Quicken Loans Inc.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 6.750%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on February 1, 2008. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on January 1, 2038, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P. O. Box 553154, Detroit, MI 48255-3154
or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 770.22

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

MINNISCOTATE FIXED RATE NOTE-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT
REDACTED



-5N (0005) 01

Form 3200, 1/01

VMP MORTGAGE FORMS - (800)521-7291

Page 1 of 2

Initials: *JD*



003213869247 0140 208 0103

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of Fifteen calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.



A 2 Page 718

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

John Dalen 12/20/2007 (Seal) _____ (Seal)
John Dalen -Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

_____ (Seal) _____ (Seal)
-Borrower -Borrower

[Sign Original Only]



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Return To:
Christie Holloway
Quicken Loans Inc.
20555 Victor Parkway
Livonia, MI 48152

Prepared By:
Taniel Smith

CERTIFIED TRUE COPY
James M. Bolick
NOTARY PUBLIC OF S.C.
MY COMMISSION EXPIRES 10/27/15

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DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated December 20, 2007, together with all Riders to this document.
- (B) "Borrower" is John Dalen and Julie A. Dalen, husband and wife

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

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VMP MORTGAGE FORMS - (800)521-7281



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(D) "Lender" is Quicken Loans Inc.

Lender is a Corporation organized and existing under the laws of the State of Michigan Lender's address is 20555 Victor Parkway, Livonia, MI 48152

(E) "Note" means the promissory note signed by Borrower and dated December 20, 2007 The Note states that Borrower owes Lender One Hundred Eighteen Thousand Seven Hundred Fifty and 00/100 Dollars (U.S. \$118,750.00) plus interest Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than January 1, 2038

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- Adjustable Rate Rider
- Balloon Rider
- VA Rider
- Condominium Rider
- Planned Unit Development Rider
- Biweekly Payment Rider
- Second Home Rider
- 1-4 Family Rider
- Other(s) [specify] Legal Attached

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3:

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used

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in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, the following described property located in the County of Oconee:

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF. SUBJECT TO COVENANTS OF RECORD.

Parcel ID Number: 295-01-02-007 which currently has the address of 109 Wood Valley Dr Westminister (City), South Carolina 29693-5003 ("Property Address"): [Street] [Zip Code]

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns,) and to the successors and assigns of MERS, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right: to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be



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in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower falls to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the



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lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with

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the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable



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attorneys fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

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(D) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

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12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.



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16. **Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. **Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

18. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 22 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA



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requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

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NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

23. Release. Upon Payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall by any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Homestead Waiver. Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

25. Waiver of Appraisal Rights. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in Section 12-37-250 of the South Carolina Code of Laws.

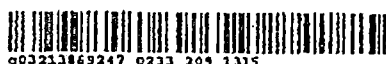
26. Future Advances. The lien of this Security Instrument shall secure the existing indebtedness under the Note and any future advances made under this Security Instrument up to 150% of the original principal amount of the Note plus interest thereon, attorneys' fees and court costs.

6A(SC) (0005)

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Initials *JD JP*

Form 3041 1/01



P 13 16

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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:

Paul M. Bolick

John Dalen 12/20/2007 (Seal)
John Dalen -Borrower

Julie A. Dalen

Julie A. Dalen 12/20/2007 (Seal)
Julie A. Dalen -Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower



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STATE OF SOUTH CAROLINA,
County of Oconee

Personally appeared before me Tara M. Bolick
and made oath that he/she saw the within named Borrower sign, seal, and as his/her/their act and deed,
deliver the within written Mortgage; and that he/she with Renee Flumire
, witnessed the execution thereof.

Tara M Bolick

Sworn to before me this 20th day of December, 2007

My Commission Expires: 10-13-15

Renee Flumire
Notary Public for South Carolina



EXHIBIT "A"
PROPERTY DESCRIPTION
FOR
JOHN D. DALEN and JULIE A. DALEN

All that certain piece, parcel or lot of land situate, lying and being in Oconee County, State of South Carolina, being shown and designated as **LOT NUMBER TWENTY EIGHT (28), BLOCK "A", WAWTOCKACE HILLS n/k/a WESTLAKE ESTATES**, as shown and more fully described on a plat thereof prepared by Stephen R. Edwards, PLS #19881, dated July 31, 2006 and recorded in Plat Book B172, at Page 10, records of Oconee County, South Carolina.

This being the identical property conveyed unto John D. Dalen and Julie A. Dalen by deed of Karl G. Lowrey and Kathleen F. Lowrey, recorded December _____, 2007 in Deed Book _____, at Page _____, records of Oconee County, South Carolina.

i/d
: 90

B 16 14

Bank of America



Home Loans

Account Number: REDACTED
 Statement Period: 02/2008 - 01/2012
 Date Prepared: 01/06/2012

Property Address:
 109 WOOD VALLEY DR
 WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
Beginning Balance				118,750.00		626.32				.00
02/01/2008	INITIAL TAX DEP	626.32	01/2008	.00	.00	626.32	.00	.00	.00	.00
				118,750.00		1,252.64			.00	.00
02/01/2008	INITIAL TAX DEP	-626.32	01/2008	.00	.00	-626.32	.00	.00	.00	.00
				118,750.00		626.32			.00	.00
02/04/2008	REGULAR PAYMENT	1,056.20	02/2008	102.25	667.97	285.98	.00	.00	.00	.00
				118,647.75		912.30			.00	.00
02/14/2008	PMI PMT MONTHLY	-77.19	02/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,647.75		835.11			.00	.00
02/25/2008	REGULAR PAYMENT	1,056.20	03/2008	102.83	667.39	285.98	.00	.00	.00	.00
				118,544.92		1,121.09			.00	.00
03/12/2008	PMI PMT MONTHLY	-77.19	03/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,544.92		1,043.90			.00	.00
03/14/2008	REGULAR PAYMENT	1,056.20	04/2008	103.40	666.82	285.98	.00	.00	.00	.00
				118,441.52		1,329.88			.00	.00
03/31/2008	REGULAR PAYMENT	1,056.20	05/2008	103.99	666.23	285.98	.00	.00	.00	.00
				118,337.53		1,615.86			.00	.00
03/31/2008	MISC. POSTING	43.80	05/2008	43.80	.00	.00	.00	.00	.00	.00
				118,293.73		1,615.86			.00	.00
04/11/2008	PMI PMT MONTHLY	-77.19	05/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,293.73		1,538.67			.00	.00
05/12/2008	PMI PMT MONTHLY	-77.19	05/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,293.73		1,461.48			.00	.00
05/12/2008	OVERAGE REFUND	-651.00	05/2008	.00	.00	-651.00	.00	.00	.00	.00
				118,293.73		810.48			.00	.00
05/23/2008	REGULAR PAYMENT	952.29	06/2008	104.82	665.40	182.07	.00	.00	.00	.00
				118,188.91		992.55			.00	.00
06/11/2008	PMI PMT MONTHLY	-77.19	06/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,188.91		915.36			.00	.00
06/12/2008	REGULAR PAYMENT	952.29	07/2008	105.41	664.81	182.07	.00	.00	.00	.00
				118,083.50		1,097.43			.00	.00

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Bank of America



Home Loans

Account Number: REDACTED
Statement Period: 02/2008 - 01/2012
Date Prepared: 01/06/2012

Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/14/2008	REGULAR PAYMENT	952.29	08/2008	108.00 117,977.50	664.22	182.07 1,279.50	.00	.00	.00	.00
07/14/2008	PMI PMT MONTHLY	-77.19	08/2008	.00 117,977.50	.00	-77.19 1,202.31	.00	.00	.00	.00
08/11/2008	PMI PMT MONTHLY	-77.19	08/2008	.00 117,977.50	.00	-77.19 1,125.12	.00	.00	.00	.00
08/22/2008	REGULAR PAYMENT	952.29	09/2008	106.60 117,870.90	663.62	182.07 1,307.10	.00	.00	.00	.00
09/12/2008	PMI PMT MONTHLY	-77.19	09/2008	.00 117,870.90	.00	-77.19 1,230.00	.00	.00	.00	.00
09/22/2008	REGULAR PAYMENT	952.29	10/2008	107.20 117,763.70	663.02	182.07 1,412.07	.00	.00	.00	.00
10/15/2008	PMI PMT MONTHLY	-77.19	10/2008	.00 117,763.70	.00	-77.19 1,334.88	.00	.00	.00	.00
10/22/2008	REGULAR PAYMENT	952.29	11/2008	107.80 117,655.90	662.42	182.07 1,518.95	.00	.00	.00	.00
11/13/2008	PMI PMT MONTHLY	-77.19	11/2008	.00 117,655.90	.00	-77.19 1,439.76	.00	.00	.00	.00
11/18/2008	ADDL INS PMT	-586.37	11/2008	.00 117,655.90	.00	-586.37 853.39	.00	.00	.00	.00
11/28/2008	REGULAR PAYMENT	952.29	12/2008	108.41 117,547.49	661.81	182.07 1,035.46	.00	.00	.00	.00
12/01/2008	COUNTY TAX PMT	-608.52	12/2008	.00 117,547.49	.00	-608.52 428.94	.00	.00	.00	.00
12/11/2008	PMI PMT MONTHLY	-77.19	12/2008	.00 117,547.49	.00	-77.19 349.75	.00	.00	.00	.00
12/26/2008	REGULAR PAYMENT	952.29	01/2009	109.02 117,438.47	661.20	182.07 531.02	.00	.00	.00	.00

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Bank of America



Account Number: REDACTED
Statement Period: 02/2008 - 01/2012
Date Prepared: 01/06/2012

Property Address:
109 WOOD VALLEY DR
WESTMINSTER SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
01/14/2009	PMI PMT MONTHLY	-77.19	01/2009	.00 117,438.47	.00	-77.19 484.63	.00	.00	.00	.00
01/27/2009	REGULAR PAYMENT	952.29	02/2009	109.63 117,328.84	660.59	182.07 636.70	.00	.00	.00	.00
02/13/2009	PMI PMT MONTHLY	-77.19	02/2009	.00 117,328.84	.00	-77.19 559.51	.00	.00	.00	.00
02/27/2009	REGULAR PAYMENT	952.29	03/2009	110.25 117,218.59	659.07	182.07 741.58	.00	.00	.00	.00
03/11/2009	PMI PMT MONTHLY	-77.19	03/2009	.00 117,218.59	.00	-77.19 664.39	.00	.00	.00	.00
03/24/2009	REGULAR PAYMENT	952.29	04/2009	110.87 117,107.72	659.35	182.07 846.46	.00	.00	.00	.00
04/09/2009	REGULAR PAYMENT	952.29	05/2009	111.49 116,996.23	658.73	182.07 1,028.53	.00	.00	.00	.00
04/15/2009	PMI PMT MONTHLY	-77.19	05/2009	.00 116,996.23	.00	-77.19 951.34	.00	.00	.00	.00
05/01/2009	OVERAGE REFUND	-160.14	05/2009	.00 116,996.23	.00	-160.14 791.20	.00	.00	.00	.00
05/15/2009	PMI PMT MONTHLY	-77.19	05/2009	.00 116,996.23	.00	-77.19 714.01	.00	.00	.00	.00
05/27/2009	REGULAR PAYMENT	949.53	06/2009	112.12 116,884.11	658.10	179.31 533.32	.00	.00	.00	.00
06/15/2009	PMI PMT MONTHLY	-77.19	06/2009	.00 116,884.11	.00	-77.19 456.13	.00	.00	.00	.00
06/15/2009	REGULAR PAYMENT	949.53	07/2009	112.76 116,771.35	657.47	179.31 276.82	.00	.00	.00	.00
06/24/2009	REGULAR PAYMENT	949.53	08/2009	113.38 116,657.97	656.84	179.31 97.51	.00	.00	.00	.00

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Bank of America

Home Loan

Page 6

Account Number: REDACTED
Statement Period: 02/2008 - 01/2012
Date Prepared: 01/06/2012

Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Fees/Charges Total	Unapplied Total
07/13/2009	PMI PMT MONTHLY	-77.19	08/2009	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				116,543.98		1,097.36			0.00	0.00
07/22/2009	REGULAR PAYMENT	949.53	09/2009	114.02	654.20	179.31	0.00	0.00	0.00	0.00
				116,543.98		1,276.57			0.00	0.00
08/13/2009	PMI PMT MONTHLY	-77.19	09/2009	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				116,543.98		1,199.68			0.00	0.00
09/17/2009	PMI PMT MONTHLY	-77.19	09/2009	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				116,543.98		1,122.49			0.00	0.00
09/28/2009	REGULAR PAYMENT	949.53	10/2009	114.66	655.56	179.31	0.00	0.00	0.00	0.00
				116,429.30		1,301.80			0.00	0.00
09/28/2009	MISC. POSTING	2.76	10/2009	2.76	0.00	0.00	0.00	0.00	0.00	0.00
				116,426.54		1,301.80			0.00	0.00
10/19/2009	PMI PMT MONTHLY	-77.19	10/2009	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				116,426.54		1,224.61			0.00	0.00
10/29/2009	REGULAR PAYMENT	949.53	11/2009	115.32	654.90	179.31	0.00	0.00	0.00	0.00
				116,311.22		1,403.82			0.00	0.00
11/10/2009	PMI PMT MONTHLY	-77.19	11/2009	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				116,311.22		1,326.73			0.00	0.00
11/18/2009	ADDL INS PMT	-657.04	11/2009	0.00	0.00	-657.04	0.00	0.00	0.00	0.00
				116,311.22		889.69			0.00	0.00
11/27/2009	REGULAR PAYMENT	949.53	12/2009	116.97	654.25	179.31	0.00	0.00	0.00	0.00
				116,195.25		849.00			0.00	0.00
12/18/2009	PMI PMT MONTHLY	-77.19	12/2009	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				116,195.25		771.81			0.00	0.00
12/29/2009	REGULAR PAYMENT	949.53	01/2010	117.52	654.50	179.31	0.00	0.00	0.00	0.00
				116,078.33		851.12			0.00	0.00
12/29/2009	COUNTY TAX PMT	695.35	01/2010	0.00	0.00	695.35	0.00	0.00	0.00	0.00
				116,078.33		355.77			0.00	0.00

Page 7 of 9

7

01/06/2012 4:48:04 PM PDF B/W/09 888294 5558

Bank of America

Home Loans

Account Number: REDACTED
Statement Period: 02/2008 - 01/2012
Date Prepared: 01/06/2012

Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Page 1

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Fees/Charges Total	Unapplied Total
01/20/2010	PMI PMT MONTHLY	-77.19	01/2010	110,073.83	.00	77.18	.00	.00	.00	.00
01/29/2010	REGULAR PAYMENT	949.53	02/2010	115,861.35	652.94	179.31	.00	.00	.00	.00
02/16/2010	PMI PMT MONTHLY	-77.19	02/2010	115,861.35	.00	77.19	.00	.00	.00	.00
03/05/2010	REGULAR PAYMENT	949.53	03/2010	115,843.41	652.28	179.31	.00	.00	.00	.00
03/16/2010	PMI PMT MONTHLY	-77.19	03/2010	115,843.41	.00	77.19	.00	.00	.00	.00
03/18/2010	REGULAR PAYMENT	949.53	04/2010	115,724.81	651.62	179.31	.00	.00	.00	.00
04/14/2010	PMI PMT MONTHLY	-77.19	04/2010	115,724.81	.00	77.19	.00	.00	.00	.00
05/03/2010	REGULAR PAYMENT	949.53	05/2010	115,605.54	650.95	179.31	.00	.00	.00	.00
05/14/2010	PMI PMT MONTHLY	-77.19	05/2010	115,605.54	.00	77.19	.00	.00	.00	.00
05/28/2010	REGULAR PAYMENT	958.94	06/2010	115,485.60	650.28	188.72	.00	.00	.00	.00
06/15/2010	PMI PMT MONTHLY	-77.19	06/2010	115,485.60	.00	77.19	.00	.00	.00	.00
07/15/2010	PMI PMT MONTHLY	-77.19	07/2010	115,485.60	.00	77.19	.00	.00	.00	.00
07/16/2010	REGULAR PAYMENT	958.94	07/2010	115,368.88	649.61	188.72	.00	.00	.00	.00
08/16/2010	REGULAR PAYMENT	958.94	08/2010	115,253.70	648.93	188.72	.00	.00	.00	.00

109-2310

Account Number: **REDACTED**
 Statement Period: 02/2008 - 01/2012
 Date Prepared: 01/06/2012

Property Address:
 108 WOODVALEE DR
 WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/MO	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
08/16/2010	PMI PMT MONTHLY	-77.19	08/2010	.00	.00	-77.19	.00	.00	.00	.00
				115,211.73		1,021.65			.00	.00
08/30/2010	REGULAR PAYMENT	958.94	09/2010	121.97	648.25	188.72	.00	.00	.00	.00
				115,121.73		1,210.57			.00	.00
09/15/2010	PMI PMT MONTHLY	-77.19	09/2010	.00	.00	-77.19	.00	.00	.00	.00
				115,121.73		1,133.10			.00	.00
10/14/2010	PMI PMT MONTHLY	-77.19	09/2010	.00	.00	-77.19	.00	.00	.00	.00
				115,121.73		1,055.88			.00	.00
11/12/2010	PMI PMT MONTHLY	-77.19	09/2010	.00	.00	-77.19	.00	.00	.00	.00
				115,121.73		978.60			.00	.00
11/15/2010	REGULAR PAYMENT	958.94	10/2010	122.66	647.56	188.72	.00	.00	.00	.00
				114,999.07		1,167.52			38.51	.00
11/15/2010	HAZARD INS PMT	-878.28	10/2010	.00	.00	-878.28	.00	.00	.00	.00
				114,999.07		289.24			38.51	.00
12/14/2010	PMI PMT MONTHLY	-77.19	10/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,999.07		212.05			38.51	.00
12/20/2010	COUNTY TAX PMT	-578.73	10/2010	.00	.00	-578.73	.00	.00	.00	.00
				114,999.07		388.68			38.51	.00
01/14/2011	PMI PMT MONTHLY	-77.19	10/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,999.07		443.87			38.51	.00
02/14/2011	PMI PMT MONTHLY	-77.19	10/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,999.07		521.08			38.51	.00
03/15/2011	PMI PMT MONTHLY	-77.19	10/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,999.07		598.27			38.51	.00
04/14/2011	PMI PMT MONTHLY	-77.19	10/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,999.07		675.46			38.51	.00
05/12/2011	PMI PMT MONTHLY	-77.19	10/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,999.07		752.65			38.51	.00

12/6/2012 4:28:04 PM PAGE 87/809 888 297 558

12/6/2012 4:28:04 PM PAGE 87/809 888 297 558

EXHIBIT "16"

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2011-CP-37-1056

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

ANSWERS TO PLAINTIFF'S FIRST SET
OF INTERROGATORIES

PLAINTIFF)

Vs.)

John D. Dalen, Julie A. Dalen, and Wawtrockace)
Hills Property Owners Association,)

DEFENDANT(S).)

We, John D. Dalen and Julie A. Dalen, Defendants in the above-captioned action, hereby submit these answers to Plaintiff's Interrogatories.

- 1) None at this time.
- 2) Copies of a presentation submitted or presented at the Hearing on the Motion to Dismiss on February 6, 2012 at 2:00 p.m.
- 3) None at this time.
- 4) None at this time.
- 5) Don't understand the question. The question does not appear to make sense. Please restate the question.

Submitted by John D. Dalen and Julie A. Dalen

John Dalen

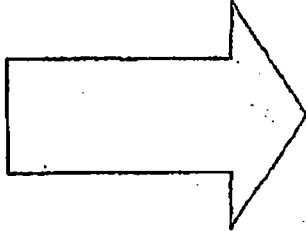
Julie Dalen

DATED this 6 day of February 2012

C. M. 1 18

PRE - 1980's DEREGULATION
Diagram #1

Home Buyer



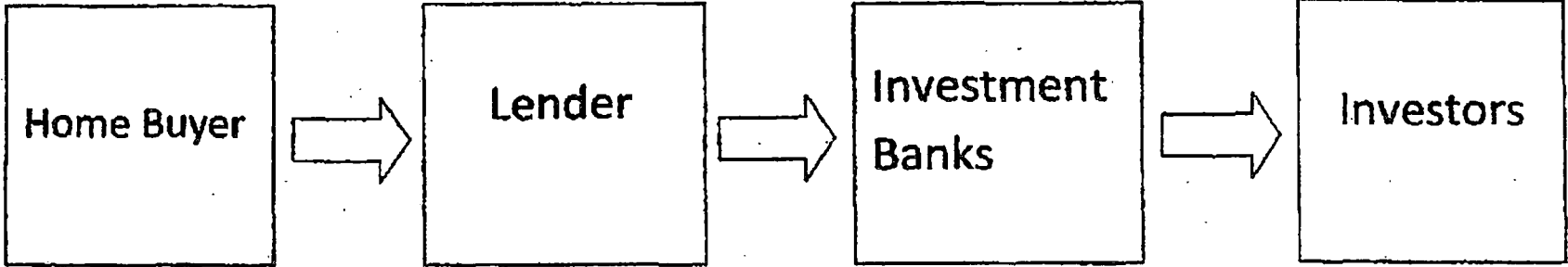
Lender

Home buyer obtained mortgage from lender. Payments went to local lender. Since mortgages took decades to repay, lenders were careful.

C PAGE 2 of 18

POST - 1980's DEREGULATION

Diagram #2

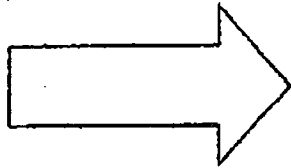


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Lender sold mortgages to investment banks which then sold the mortgages to investors.

POST - 1980's DEREGULATION
Diagram #3

Investment Banks
Commercial Mortgages
Corporate Buy-out Debt
Home Mortgages
Car Loans
Student Loans
Credit Card Debt
CDO's (Collateralized Debt Obligations)

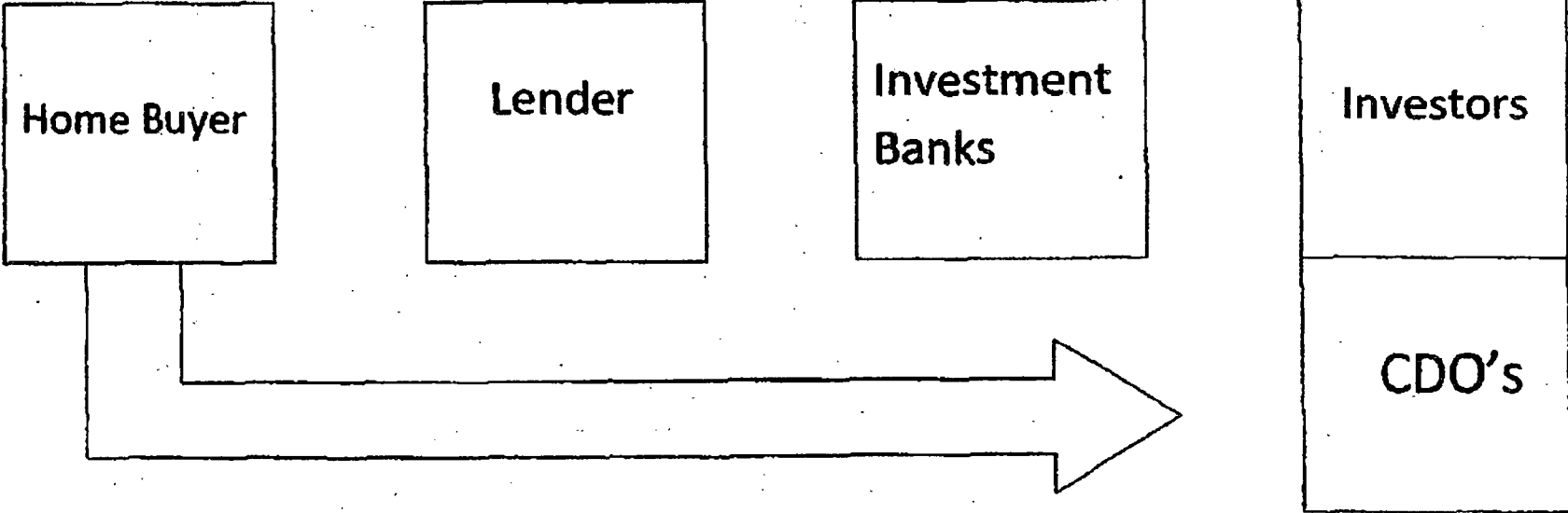


Investors
Commercial Mortgages
Corporate Buy-out Debt
Home Mortgages
Car Loans
Student Loans
Credit Card Debt
CDO's (Collateralized Debt Obligations)

Investment banks combined loans to create CDO's, then sold these CDO's to investors.

C 4 18

POST - 1980's DEREGULATION
Diagram #4

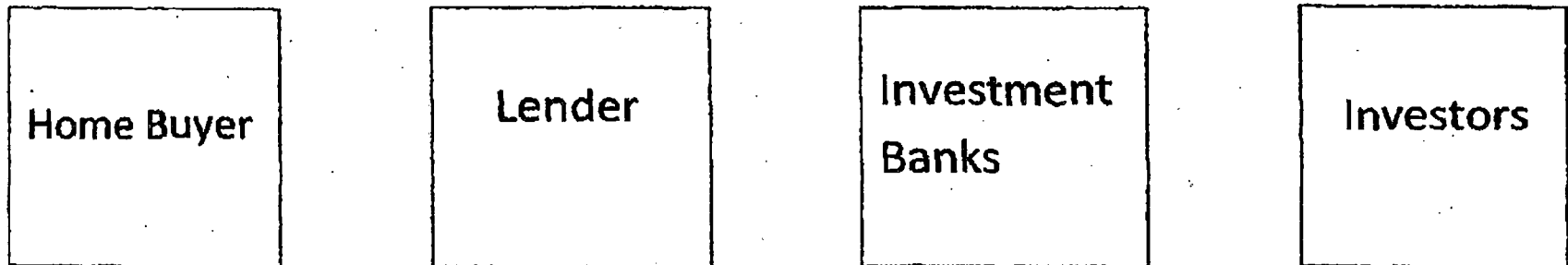


Now when home buyers pay their mortgage, the payments go to investors all over the world.

POST - 1980's DEREGULATION

Diagram #5

Securitization Food Chain

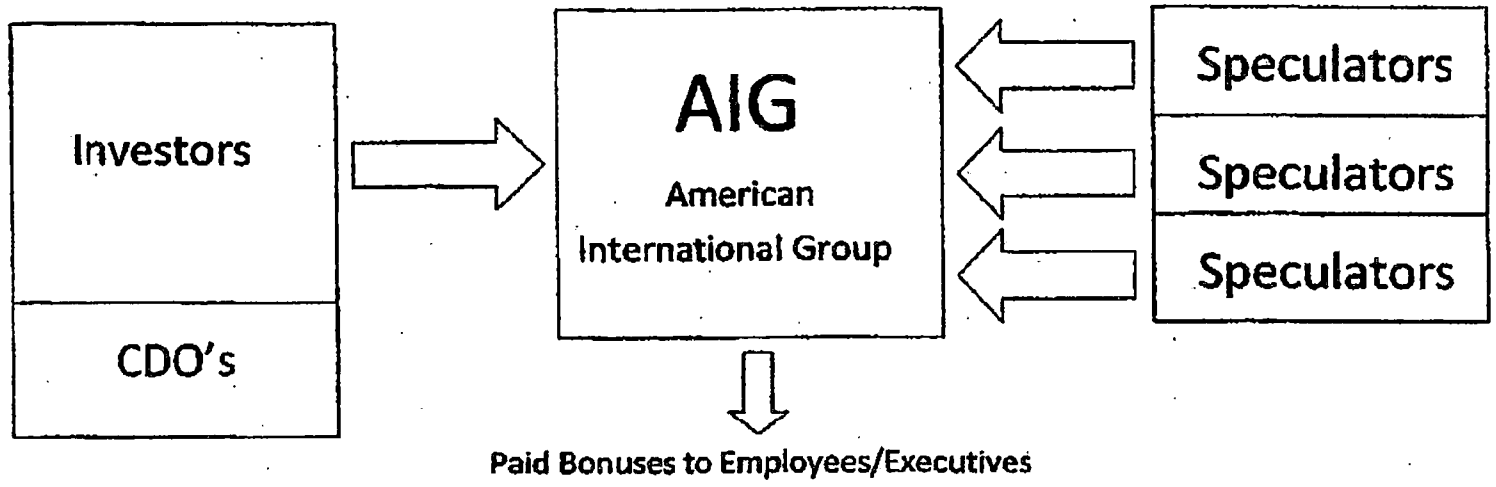


Lenders didn't care anymore whether borrowers could pay so they started making riskier loans. Investment bankers didn't care either. More CDO's sold = higher profits. Quality of mortgage sacrificed to maximize volume. This is what caused the real estate bubble and crash of 2008.

81
6
18

POST - 1980's DEREGULATION
Diagram #6

Derivatives/Credit Default Swaps



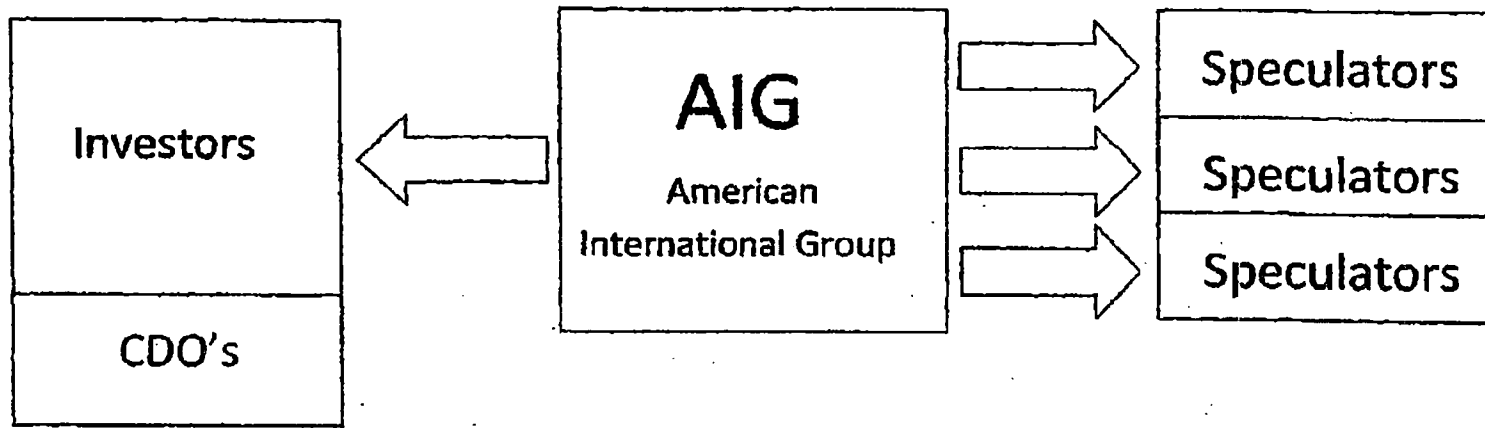
Investors and Speculators (non-owners) buy insurance to cover losses if CDO's go bad. AIG pays million dollar bonuses.

7 18

POST - 1980's DEREGULATION
Diagram #7

Case 8:18

Derivatives/Credit Default Swaps



CDO's go bad. (Mortgages, credit card defaults, etc.) AIG sold hundreds of billions of dollars in policies but did not have the capital to pay its obligations, leaving taxpayers "holding the bag".

EXHIBIT "17"

STATE OF SOUTH CAROLINA)
OCONEE COUNTY)

IN THE COURT OF COMMON PLEAS)
TENTH JUDICIAL CIRCUIT)
CIVIL ACTION NO. 2011-CP-37-1056)

Bank of America, N.A. Successor by merger to)
BAC Home Loans Servicing, L.P. f/k/a Countrywide)
Home Loans Servicing, L.P.,)

ANSWERS TO PLAINTIFF'S FIRST SET
OF REQUESTS FOR PRODUCTION OF
DOCUMENTS

PLAINTIFF)

Vs.)

John D. Dalen, Julie A. Dalen, and Wawtockace)
Hillis Property Owners Association,)

DEFENDANT(S).)

We, John D. Dalen and Julie A. Dalen, Defendants in the above-captioned action, hereby submit these answers to Plaintiff's First Set of Requests for Production of Documents.

- 1) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 2) See attached copies of presentation made at Hearing for Motion to Dismiss held on February 6, 2012.
- 3) We have none at this time.
- 4) We have none at this time.
- 5) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 6) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 7) Objection. Plaintiff is requesting documents that Plaintiff has in its possession.
- 8) Objection. Plaintiff is requesting documents that Plaintiff has in its possession and the documents requested have no bearing on the contested issues in this case.

Submitted by John D. Dalen and Julie A. Dalen

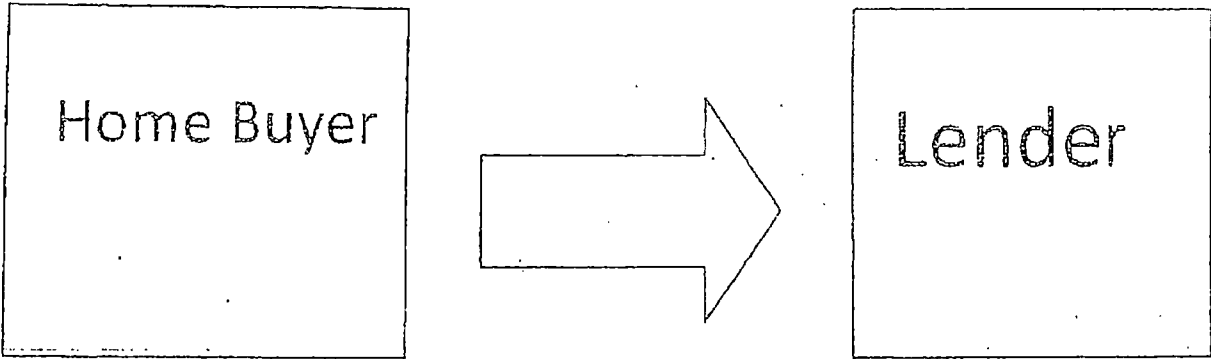




DATED this 6 day of February, 2012

C 10 18

PRE - 1980's DEREGULATION
Diagram #1



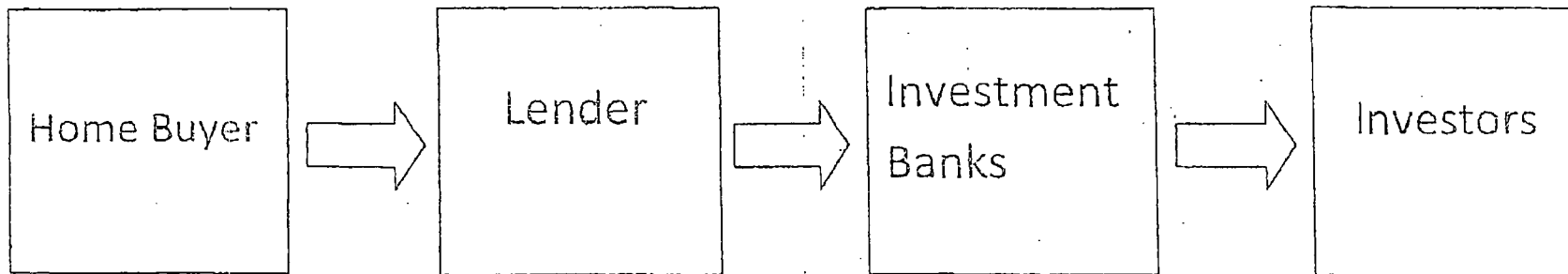
Home buyer obtained mortgage from lender. Payments went to local lender. Since mortgages took decades to repay, lenders were careful.

EXHIBIT G PAGE 4 OF 19

C 2 = 18

POST-1980's DEREGULATION

Diagram #2



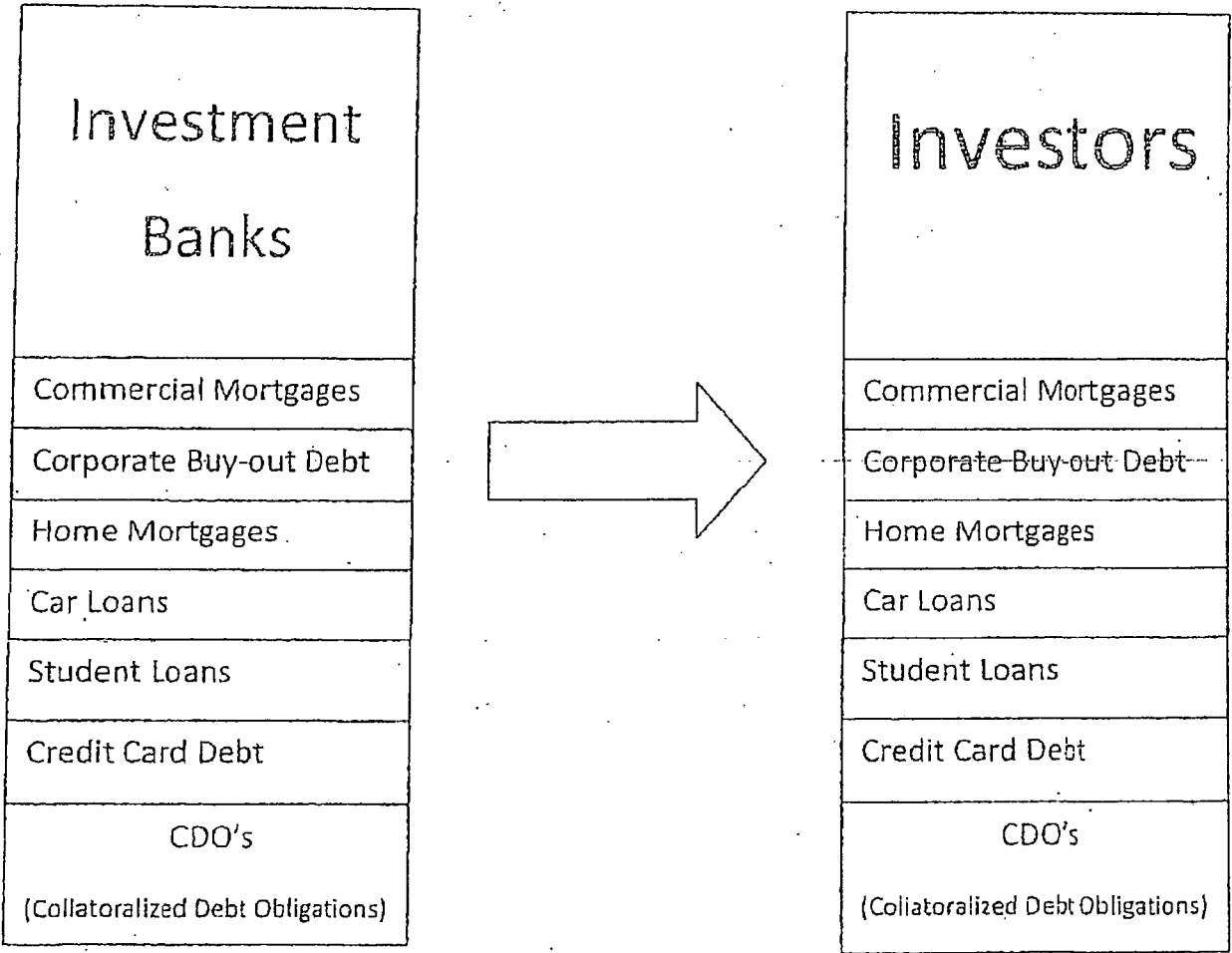
Lender sold mortgages to investment banks which then sold the mortgages to investors.

EXHIBIT 6 PAGE 5 OF 18

18

3

POST - 1980's DEREGULATION
Diagram #3

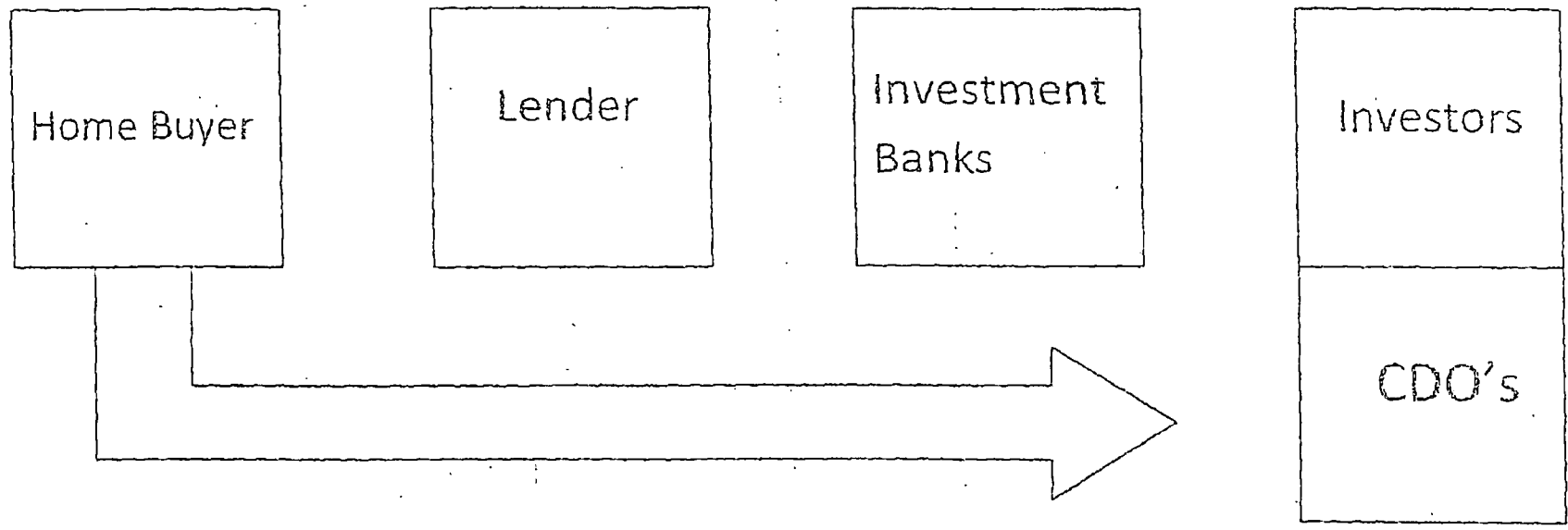


Investment banks combined loans to create CDO's, then sold these CDO's to investors.

EXHIBIT 6 PAGE 6 OF 19

C 4 18

POST - 1980's DEREGULATION.
Diagram #4



Now when home buyers pay their mortgage, the payments go to investors all over the world.

POST - 1980's DEREGULATION
Diagram #5

EXHIBIT 6 PAGE 8 OF 29

C n 18

Securitization Food Chain

Home Buyer

Lender

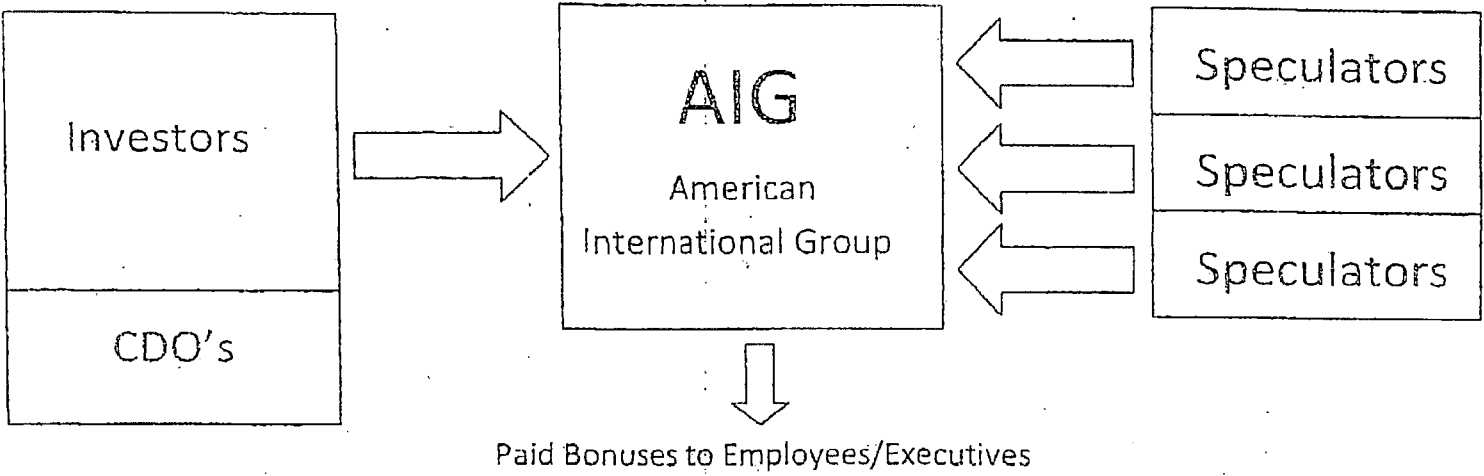
Investment
Banks

Investors

Lenders didn't care anymore whether borrowers could pay so they started making riskier loans. Investment bankers didn't care either. More CDO's sold = higher profits. Quality of mortgage sacrificed to maximize volume. This is what caused the real estate bubble and crash of 2008.

POST - 1980's DEREGULATION
Diagram #6

Derivatives/Credit Default Swaps



Investors and Speculators (non-owners) buy insurance to cover losses if CDO's go bad. AIG pays million dollar bonuses.

EXHIBIT G- PAGE 7 OF 29

7 18

Derivatives/Credit Default Swaps



CDO's go bad. (Mortgages, credit card defaults, etc.). AIG sold hundreds of billions of dollars in policies but did not have the capital to pay its obligations, leaving taxpayers "holding the bag".

EXHIBIT "18"

John and Julie Dalen

109 Wood Valley Drive
Westminster, SC 29693
Ph. 864 647 4705

July 18, 2012

Korn Law Firm, P.A.
Dean A. Hayes
1300 Pickens Street
P.O. Box 12369
Columbia, SC 29201-2369

Re: Order of the Court Issued June 20, 2012

Dear Mr. Hayes:

In compliance with the Court's Order to respond to Plaintiff's Interrogatory Number One, we the defendants, John Dalen and Julie Dalen, are the only witnesses concerning the facts of this case at this time. In response to Plaintiff's Interrogatory Number Five, there are no payments not reflected in the payment history provided to the defendants by the plaintiff.

Regarding the Court's Order for the defendants to produce responsive documentary evidence as pertaining to the Plaintiff's Request for Production, during our meeting in Columbia on July 16, 2012, we asked Attorney Dean Hayes if there were any unfulfilled requests for documents such as canceled checks, and he stated that all he required was for defendants to state that there are no payments not reflected in the payment history, and that with this statement we would not need to produce evidence such as canceled checks. As we have so stated above to Plaintiff's Interrogatory Number Five, there are no payments not reflected in the payment history provided to the defendants by the plaintiff. As we have stated in our Answers to Plaintiff's Request for Production, plaintiff has in its possession all documents plaintiff had requested defendants to produce.

Defendants are prepared to bring all documents in our possession that we have received from Bank of America, N.A. for copying by plaintiff's attorneys to the location in Oconee County where Attorney Dean Hayes will bring the original (wet-ink) mortgage note for our inspection and copying.

With regard to the Plaintiff's Request for Admissions:

1. Admit or deny that the document attached and incorporated as Exhibit A is a true and accurate copy of the Note signed in connection with the subject loan.

Admit. We admit that the document attached and incorporated as Exhibit A appears to be a true and accurate copy of the Note that the defendants signed on December 20, 2007 and which was given to the lender, Quicken Loans Incorporated.

2. Admit or deny that the document attached and incorporated as Exhibit B is a true and accurate copy of the Mortgage signed in connection with the subject loan.

EXHIBIT G PAGE 1 OF 19

Dalen Letter to Korn Law Firm, P.A. Continued

July 19, 2012

Page 2 of 2

Admit. We admit that the document attached and incorporated as Exhibit B appears to be a true and accurate copy of the Mortgage that the defendants signed on December 20, 2007 and which was given to the lender, Quicken Loans Incorporated.

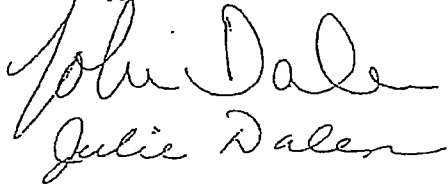
3. Admit or deny that the document attached and incorporated as Exhibit C is a true and accurate copy of the payment history of the subject loan.

Admit. The document attached and incorporated as Exhibit C appears to be a true and accurate copy of the payment history of the subject loan.

Defendants believe we have complied with the Court's Order of June 20, 2012 with this letter. This letter is being emailed on July 19, 2012 and a paper copy is being mailed on the same day to Korn Law Firm offices in Columbia, SC.

The Court further ordered the parties to this dispute confer on a time not to exceed July 29, 2012 for the defendant to view the original note held by the plaintiff. During our July 16th meeting which had been scheduled for this purpose, Mr. Hayes informed us that someone had inadvertently sent the note to another location. Mr. Hayes said that he would be able to reacquire the note and suggested that someone from his law firm would be willing to bring the note for our viewing and copying to Oconee County, but probably that would not occur until maybe August 13, 2012. For the record, defendants remain uncomfortable with the lack of compliance with this Court's Order by the plaintiff's attorneys in a timely manner. We have been patient, rescheduling this appointment several times at plaintiff's attorneys' request, and we expect plaintiff's attorneys to comply with Court's Orders.

Sincerely,



John Dalen and Julie Dalen

EXHIBIT 6 PAGE 3 OF 79

EXHIBIT "19"

FACSIMILE COVER SHEET

From: Name: Customer Service
Fax Number: (800)669-6607
Voice Phone:

To: Name: MARTHA REYES
Company:
Fax Number: (704) 602 5697
Voice Phone:

Fax Notes:

Bank of America, N.A.

Date and time of transmission: 9/29/15 13:18
Number of pages including this cover page: 16

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND DESTROY THIS DOCUMENT. THANK YOU.

Bank of America



Home Loans

P.O. Box 5170
Simi Valley, CA 93062-5170

C3_1632 LNHISTF 17695 04/24/2012

JOHN DALEN
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Notice Date: 09/29/2015

Loan No.: REDACTED

Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

IMPORTANT MESSAGE ABOUT YOUR HOME LOAN

Enclosed is the loan history statement you requested that provides a detailed outline of transactions for the above-referenced loan number. This statement provides a history of information on payments we have received from you, servicing expenses we have paid to third parties, tax and insurance payments paid on your behalf, and any late charges assessed and paid.

QUESTIONS?

We appreciate the opportunity to serve your home loan needs. If you have any questions, please call us at 1-800-669-6607, Monday-Friday 7a.m. to 7p.m. Local Time.

This communication is from Bank of America, N.A., the servicer of your home loan.

Bank of America



Loan Number: REDACTED
 Statement Period: 01/1986 - 09/2015
 Date Prepared: 09/29/2015

Property Address:
 109 WOOD VALLEY DR
 WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
Beginning Balance				118,750.00		.00				.00
01/15/2008	INITIAL TAX DEP	626.32	01/2008	.00	.00	626.32	.00	.00	.00	.00
				118,750.00		626.32			.00	.00
02/01/2008	INITIAL TAX DEP	626.32	01/2008	.00	.00	626.32	.00	.00	.00	.00
				118,750.00		1,252.64			.00	.00
02/01/2008	INITIAL TAX DEP	-626.32	01/2008	.00	.00	-626.32	.00	.00	.00	.00
				118,750.00		626.32			.00	.00
02/04/2008	REGULAR PAYMENT	1,056.20	02/2008	102.25	667.97	285.98	.00	.00	.00	.00
				118,647.75		912.30			.00	.00
02/14/2008	PMI PMT MONTHLY	-77.19	02/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,647.75		835.11			.00	.00
02/25/2008	REGULAR PAYMENT	1,056.20	03/2008	102.83	667.39	285.98	.00	.00	.00	.00
				118,544.92		1,121.09			.00	.00
03/12/2008	PMI PMT MONTHLY	-77.19	03/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,544.92		1,043.90			.00	.00
03/14/2008	REGULAR PAYMENT	1,056.20	04/2008	103.40	666.82	285.98	.00	.00	.00	.00
				118,441.52		1,329.88			.00	.00
03/31/2008	REGULAR PAYMENT	1,056.20	05/2008	103.99	666.23	285.98	.00	.00	.00	.00
				118,337.53		1,615.86			.00	.00
03/31/2008	MISC. POSTING	43.80	05/2008	43.80	.00	.00	.00	.00	.00	.00
				118,293.73		1,615.86			.00	.00
04/11/2008	PMI PMT MONTHLY	-77.19	05/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,293.73		1,538.67			.00	.00
05/12/2008	PMI PMT MONTHLY	-77.19	05/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,293.73		1,461.48			.00	.00
05/12/2008	OVERAGE REFUND	-651.00	05/2008	.00	.00	-651.00	.00	.00	.00	.00
				118,293.73		810.48			.00	.00
05/23/2008	REGULAR PAYMENT	952.29	06/2008	104.82	665.40	182.07	.00	.00	.00	.00
				118,188.91		992.55			.00	.00
06/11/2008	PMI PMT MONTHLY	-77.19	06/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,188.91		915.36			.00	.00
06/12/2008	REGULAR PAYMENT	952.29	07/2008	105.41	664.81	182.07	.00	.00	.00	.00
				118,083.50		1,097.43			.00	.00

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/14/2008	REGULAR PAYMENT	952.29	08/2008	106.00 117,977.50	664.22	182.07 1,279.50	.00	.00	.00 .00	.00 .00
07/14/2008	PMI PMT MONTHLY	-77.19	08/2008	.00 117,977.50	.00	-77.19 1,202.31	.00	.00	.00 .00	.00 .00
08/11/2008	PMI PMT MONTHLY	-77.19	08/2008	.00 117,977.50	.00	-77.19 1,125.12	.00	.00	.00 .00	.00 .00
08/22/2008	REGULAR PAYMENT	952.29	09/2008	105.60 117,870.90	663.62	182.07 1,307.19	.00	.00	.00 .00	.00 .00
09/12/2008	PMI PMT MONTHLY	-77.19	09/2008	.00 117,870.90	.00	-77.19 1,230.00	.00	.00	.00 .00	.00 .00
09/22/2008	REGULAR PAYMENT	952.29	10/2008	107.20 117,763.70	663.02	182.07 1,412.07	.00	.00	.00 .00	.00 .00
10/15/2008	PMI PMT MONTHLY	-77.19	10/2008	.00 117,763.70	.00	-77.19 1,334.88	.00	.00	.00 .00	.00 .00
10/22/2008	REGULAR PAYMENT	952.29	11/2008	107.80 117,655.90	662.42	182.07 1,516.95	.00	.00	.00 .00	.00 .00
11/13/2008	PMI PMT MONTHLY	-77.19	11/2008	.00 117,655.90	.00	-77.19 1,439.76	.00	.00	.00 .00	.00 .00
11/18/2008	ADDLINS PMT	-586.37	11/2008	.00 117,655.90	.00	-586.37 853.39	.00	.00	.00 .00	.00 .00
11/28/2008	REGULAR PAYMENT	952.29	12/2008	108.41 117,547.49	661.81	182.07 1,035.46	.00	.00	.00 .00	.00 .00
12/01/2008	COUNTY TAX PMT	-608.52	12/2008	.00 117,547.49	.00	-608.52 426.94	.00	.00	.00 .00	.00 .00
12/11/2008	PMI PMT MONTHLY	-77.19	12/2008	.00 117,547.49	.00	-77.19 349.75	.00	.00	.00 .00	.00 .00
12/26/2008	REGULAR PAYMENT	952.29	01/2009	109.02 117,438.47	661.20	182.07 531.82	.00	.00	.00 .00	.00 .00
01/14/2009	PMI PMT MONTHLY	-77.19	01/2009	.00 117,438.47	.00	-77.19 454.63	.00	.00	.00 .00	.00 .00
01/27/2009	REGULAR PAYMENT	952.29	02/2009	109.53 117,328.84	660.59	182.07 636.70	.00	.00	.00 .00	.00 .00
02/13/2009	PMI PMT MONTHLY	-77.19	02/2009	.00 117,328.84	.00	-77.19 559.51	.00	.00	.00 .00	.00 .00
02/27/2009	REGULAR PAYMENT	952.29	03/2009	110.25 117,218.59	659.97	182.07 741.58	.00	.00	.00 .00	.00 .00



Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
03/11/2009	PMI PMT MONTHLY	-77.19	03/2009	.00 117,218.59	.00	-77.19 664.39	.00	.00	.00 .00	.00 .00
03/24/2009	REGULAR PAYMENT	952.29	04/2009	110.87 117,107.72	659.35	182.07 846.46	.00	.00	.00 .00	.00 .00
04/09/2009	REGULAR PAYMENT	952.29	05/2009	111.49 116,996.23	658.73	182.07 1,028.53	.00	.00	.00 .00	.00 .00
04/15/2009	PMI PMT MONTHLY	-77.19	05/2009	.00 116,996.23	.00	-77.19 951.34	.00	.00	.00 .00	.00 .00
05/01/2009	OVERAGE REFUND	-160.14	05/2009	.00 116,996.23	.00	-160.14 791.20	.00	.00	.00 .00	.00 .00
05/15/2009	PMI PMT MONTHLY	-77.19	05/2009	.00 116,996.23	.00	-77.19 714.01	.00	.00	.00 .00	.00 .00
05/27/2009	REGULAR PAYMENT	949.53	06/2009	112.12 116,884.11	658.10	179.31 893.32	.00	.00	.00 .00	.00 .00
06/15/2009	PMI PMT MONTHLY	-77.19	06/2009	.00 116,884.11	.00	-77.19 816.13	.00	.00	.00 .00	.00 .00
06/15/2009	REGULAR PAYMENT	949.53	07/2009	112.75 116,771.36	657.47	179.31 895.44	.00	.00	.00 .00	.00 .00
06/24/2009	REGULAR PAYMENT	949.53	08/2009	113.38 116,657.98	656.84	179.31 1,174.75	.00	.00	.00 .00	.00 .00
07/13/2009	PMI PMT MONTHLY	-77.19	08/2009	.00 116,657.98	.00	-77.19 1,097.56	.00	.00	.00 .00	.00 .00
07/22/2009	REGULAR PAYMENT	949.53	09/2009	114.02 116,543.96	656.20	179.31 1,276.87	.00	.00	.00 .00	.00 .00
08/13/2009	PMI PMT MONTHLY	-77.19	09/2009	.00 116,543.96	.00	-77.19 1,189.68	.00	.00	.00 .00	.00 .00
09/17/2009	PMI PMT MONTHLY	-77.19	09/2009	.00 116,543.96	.00	-77.19 1,122.49	.00	.00	.00 .00	.00 .00
09/28/2009	REGULAR PAYMENT	949.53	10/2009	114.66 116,429.30	655.56	179.31 1,301.80	.00	.00	.00 .00	.00 .00
09/28/2009	MISC. POSTING	2.76	10/2009	2.76 116,426.54	.00	.00 1,301.80	.00	.00	.00 .00	.00 .00
10/19/2009	PMI PMT MONTHLY	-77.19	10/2009	.00 116,426.54	.00	-77.19 1,224.61	.00	.00	.00 .00	.00 .00
10/29/2009	REGULAR PAYMENT	949.53	11/2009	115.32 116,311.22	654.90	179.31 1,403.92	.00	.00	.00 .00	.00 .00

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
11/10/2009	PMI PMT MONTHLY	-77.19	11/2009	.00 116,311.22	.00	-77.19 1,326.73	.00	.00	.00 .00	.00 .00
11/18/2009	ADDL INS PMT	-657.04	11/2009	.00 116,311.22	.00	-657.04 669.69	.00	.00	.00 .00	.00 .00
11/27/2009	REGULAR PAYMENT	949.53	12/2009	115.97 116,195.25	654.25	179.31 849.00	.00	.00	.00 .00	.00 .00
12/18/2009	PMI PMT MONTHLY	-77.19	12/2009	.00 116,195.25	.00	-77.19 771.81	.00	.00	.00 .00	.00 .00
12/29/2009	REGULAR PAYMENT	949.53	01/2010	116.62 116,078.63	653.60	179.31 951.12	.00	.00	.00 .00	.00 .00
12/29/2009	COUNTY TAX PMT	-595.35	01/2010	.00 116,078.63	.00	-595.35 355.77	.00	.00	.00 .00	.00 .00
01/20/2010	PMI PMT MONTHLY	-77.19	01/2010	.00 116,078.63	.00	-77.19 278.58	.00	.00	.00 .00	.00 .00
01/29/2010	REGULAR PAYMENT	949.53	02/2010	117.28 115,961.35	652.94	179.31 457.89	.00	.00	.00 .00	.00 .00
02/16/2010	PMI PMT MONTHLY	-77.19	02/2010	.00 115,961.35	.00	-77.19 380.70	.00	.00	.00 .00	.00 .00
03/05/2010	REGULAR PAYMENT	949.53	03/2010	117.94 115,843.41	652.28	179.31 560.01	.00	.00	.00 .00	.00 .00
03/16/2010	PMI PMT MONTHLY	-77.19	03/2010	.00 115,843.41	.00	-77.19 482.82	.00	.00	.00 .00	.00 .00
03/19/2010	REGULAR PAYMENT	949.53	04/2010	118.60 115,724.81	651.62	179.31 662.13	.00	.00	.00 .00	.00 .00
04/14/2010	PMI PMT MONTHLY	-77.19	04/2010	.00 115,724.81	.00	-77.19 584.94	.00	.00	.00 .00	.00 .00
05/03/2010	REGULAR PAYMENT	949.53	05/2010	119.27 115,605.54	650.95	179.31 764.25	.00	.00	.00 .00	.00 .00
05/14/2010	PMI PMT MONTHLY	-77.19	05/2010	.00 115,605.54	.00	-77.19 687.06	.00	.00	.00 .00	.00 .00
05/28/2010	REGULAR PAYMENT	958.94	06/2010	119.94 115,485.60	650.28	188.72 875.78	.00	.00	.00 .00	.00 .00
06/15/2010	PMI PMT MONTHLY	-77.19	06/2010	.00 115,485.60	.00	-77.19 798.59	.00	.00	.00 .00	.00 .00
07/15/2010	PMI PMT MONTHLY	-77.19	06/2010	.00 115,485.60	.00	-77.19 721.40	.00	.00	.00 .00	.00 .00

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Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/16/2010	REGULAR PAYMENT	958.94	07/2010	120.61 115,364.99	649.61	188.72 910.12	.00	.00	.00 .00	.00 .00
08/16/2010	REGULAR PAYMENT	958.94	08/2010	121.29 115,243.70	648.93	188.72 1,098.84	.00	.00	.00 .00	.00 .00
08/16/2010	PMI PMT MONTHLY	-77.19	08/2010	.00 115,243.70	.00	-77.19 1,021.65	.00	.00	.00 .00	.00 .00
08/30/2010	REGULAR PAYMENT	958.94	09/2010	121.97 115,121.73	648.25	188.72 1,210.37	.00	.00	.00 .00	.00 .00
09/15/2010	PMI PMT MONTHLY	-77.19	09/2010	.00 115,121.73	.00	-77.19 1,133.18	.00	.00	.00 .00	.00 .00
10/14/2010	PMI PMT MONTHLY	-77.19	09/2010	.00 115,121.73	.00	-77.19 1,055.99	.00	.00	.00 .00	.00 .00
11/12/2010	PMI PMT MONTHLY	-77.19	09/2010	.00 115,121.73	.00	-77.19 978.80	.00	.00	.00 .00	.00 .00
11/15/2010	REGULAR PAYMENT	958.94	10/2010	122.66 114,999.07	647.56	188.72 1,167.52	.00	.00	.00 -38.51	.00 .00
11/15/2010	HAZARD INS PMT	-878.28	10/2010	.00 114,999.07	.00	-878.28 289.24	.00	.00	.00 -38.51	.00 .00
12/14/2010	PMI PMT MONTHLY	-77.19	10/2010	.00 114,999.07	.00	-77.19 212.05	.00	.00	.00 -38.51	.00 .00
12/20/2010	COUNTY TAX PMT	-578.73	10/2010	.00 114,999.07	.00	-578.73 -366.68	.00	.00	.00 -38.51	.00 .00
01/14/2011	PMI PMT MONTHLY	-77.19	10/2010	.00 114,999.07	.00	-77.19 -443.87	.00	.00	.00 -38.51	.00 .00
02/14/2011	PMI PMT MONTHLY	-77.19	10/2010	.00 114,999.07	.00	-77.19 -521.06	.00	.00	.00 -38.51	.00 .00
03/15/2011	PMI PMT MONTHLY	-77.19	10/2010	.00 114,999.07	.00	-77.19 -598.25	.00	.00	.00 -38.51	.00 .00
04/14/2011	PMI PMT MONTHLY	-77.19	10/2010	.00 114,999.07	.00	-77.19 -675.44	.00	.00	.00 -38.51	.00 .00
05/12/2011	PMI PMT MONTHLY	-77.19	10/2010	.00 114,999.07	.00	-77.19 -752.63	.00	.00	.00 -38.51	.00 .00
06/14/2011	PMI PMT MONTHLY	-77.19	10/2010	.00 114,999.07	.00	-77.19 -829.82	.00	.00	.00 -38.51	.00 .00
07/14/2011	PMI PMT MONTHLY	-77.19	10/2010	.00 114,999.07	.00	-77.19 -907.01	.00	.00	.00 -38.51	.00 .00

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/18/2011	MISC. POSTING	500.00	10/2010	.00 114,989.07	.00	.00 -907.01	.00	.00	.00 -38.51	500.00 500.00
08/11/2011	PMI PMT MONTHLY	-77.19	10/2010	.00 114,989.07	.00	-77.19 -984.20	.00	.00	.00 -38.51	.00 500.00
08/11/2011	MISC. POSTING	500.00	10/2010	.00 114,989.07	.00	.00 -984.20	.00	.00	.00 -38.51	500.00 1,000.00
08/12/2011	MISC. POSTING	-958.94	10/2010	.00 114,989.07	.00	.00 -984.20	.00	.00	.00 -38.51	-958.94 -41.06
08/12/2011	REGULAR PAYMENT	958.94	11/2010	123.35 114,875.72	646.87	188.72 -795.48	.00	.00	.00 -77.02	.00 41.06
08/24/2011	MISC. POSTING	.00	11/2010	.00 114,875.72	.00	.00 -795.48	.00	.00	41.06 -35.96	-41.06 .00
09/14/2011	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -872.67	.00	.00	.00 -35.96	.00 .00
10/14/2011	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -949.86	.00	.00	.00 -35.96	.00 .00
11/08/2011	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -1,027.05	.00	.00	.00 -35.96	.00 .00
11/14/2011	HAZARD INS PMT	-891.50	11/2010	.00 114,875.72	.00	-891.50 -1,918.55	.00	.00	.00 -35.96	.00 .00
12/09/2011	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -1,995.74	.00	.00	.00 -35.96	.00 .00
12/14/2011	COUNTY TAX PMT	-443.50	11/2010	.00 114,875.72	.00	-443.50 -2,439.24	.00	.00	.00 -35.96	.00 .00
01/18/2012	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -2,516.43	.00	.00	.00 -35.96	.00 .00
02/17/2012	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -2,593.62	.00	.00	.00 -35.96	.00 .00
03/16/2012	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -2,670.81	.00	.00	.00 -35.96	.00 .00
04/16/2012	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -2,748.00	.00	.00	.00 -35.96	.00 .00
05/18/2012	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -2,825.19	.00	.00	.00 -35.96	.00 .00
06/19/2012	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -2,902.38	.00	.00	.00 -35.96	.00 .00



Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/18/2012	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-2,979.57			-35.96	.00
08/17/2012	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-3,056.76			-35.96	.00
09/18/2012	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-3,133.95			-35.96	.00
10/18/2012	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-3,211.14			-35.96	.00
11/13/2012	HAZARD INS PMT	-1,070.59	11/2010	.00	.00	-1,070.59	.00	.00	.00	.00
				114,875.72		-4,281.73			-35.96	.00
11/16/2012	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-4,358.92			-35.96	.00
12/03/2012	COUNTY TAX PMT	-443.50	11/2010	.00	.00	-443.50	.00	.00	.00	.00
				114,875.72		-4,802.42			-35.96	.00
12/12/2012	ADDLINS PMT	-43.19	11/2010	.00	.00	-43.19	.00	.00	.00	.00
				114,875.72		-4,845.61			-35.96	.00
12/14/2012	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-4,922.80			-35.96	.00
01/15/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-4,999.99			-35.96	.00
02/15/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-5,077.18			-35.96	.00
03/14/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-5,154.37			-35.96	.00
04/11/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-5,231.56			-35.96	.00
05/14/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-5,308.75			-35.96	.00
06/13/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-5,385.94			-35.96	.00
07/15/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-5,463.13			-35.96	.00
08/15/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-5,540.32			-35.96	.00
09/13/2013	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-5,617.51			-35.96	.00

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
10/11/2013	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -5,694.70	.00	.00	.00 -35.96	.00 .00
11/12/2013	HAZARD INS PMT	-1,161.42	11/2010	.00 114,875.72	.00	-1,161.42 -6,856.12	.00	.00	.00 -35.96	.00 .00
11/15/2013	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -6,933.31	.00	.00	.00 -35.96	.00 .00
11/26/2013	COUNTY TAX PMI	-452.12	11/2010	.00 114,875.72	.00	-452.12 -7,385.43	.00	.00	.00 -35.96	.00 .00
12/12/2013	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -7,462.62	.00	.00	.00 -35.96	.00 .00
01/13/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -7,539.81	.00	.00	.00 -35.96	.00 .00
02/14/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -7,617.00	.00	.00	.00 -35.96	.00 .00
03/14/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -7,694.19	.00	.00	.00 -35.96	.00 .00
04/14/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -7,771.38	.00	.00	.00 -35.96	.00 .00
05/13/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -7,848.57	.00	.00	.00 -35.96	.00 .00
06/09/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -7,925.76	.00	.00	.00 -35.96	.00 .00
07/15/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -8,002.95	.00	.00	.00 -35.96	.00 .00
08/15/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -8,080.14	.00	.00	.00 -35.96	.00 .00
09/15/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -8,157.33	.00	.00	.00 -35.96	.00 .00
10/15/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -8,234.52	.00	.00	.00 -35.96	.00 .00
11/12/2014	PMI PMT MONTHLY	-77.19	11/2010	.00 114,875.72	.00	-77.19 -8,311.71	.00	.00	.00 -35.96	.00 .00
11/12/2014	HAZARD INS PMT	-957.28	11/2010	.00 114,875.72	.00	-957.28 -9,268.99	.00	.00	.00 -35.96	.00 .00
12/05/2014	COUNTY TAX PMT	-452.12	11/2010	.00 114,875.72	.00	-452.12 -9,721.11	.00	.00	.00 -35.96	.00 .00



Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
12/15/2014	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-9,798.30			-35.96	.00
01/15/2015	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-9,875.48			-35.96	.00
02/11/2015	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-9,952.68			-35.96	.00
03/13/2015	PMI PMT MONTHLY	-77.19	11/2010	.00	.00	-77.19	.00	.00	.00	.00
				114,875.72		-10,029.87			-35.96	.00

Fee Transaction Activity (01/1986 - 09/2015)

Transaction Date	Fee Description	Charges	Payments
12/29/2010	Property Inspection	15.00	.00
02/03/2011	Property Inspection	15.00	.00
03/14/2011	Property Inspection	15.00	.00
04/07/2011	Property Inspection	15.00	.00
05/08/2011	Property Inspection	15.00	.00
06/22/2011	Property Inspection	15.00	.00
06/28/2011	Property Inspection	15.00	.00
08/02/2011	Property Inspection - Adjustment	-15.00	.00
08/15/2011	Property Inspection	15.00	.00
09/09/2011	Property Inspection	15.00	.00
10/05/2011	Title Fee	225.00	.00
10/05/2011	Attorney/Trustee Fee	550.00	.00
10/10/2011	Property Inspection	15.00	.00
11/10/2011	Property Inspection	15.00	.00
12/14/2011	Property Inspection	15.00	.00
01/05/2012	Property Inspection	15.00	.00

Transaction Date	Fee Description	Charges	Payments
01/26/2012	Process Server	405.00	.00
01/26/2012	Attorney/Trustee Fee	165.00	.00
01/26/2012	Court Filing Fee	150.00	.00
01/26/2012	Property Inspection	14.00	.00
03/06/2012	Property Inspection	14.00	.00
03/27/2012	Property Inspection	14.00	.00
05/10/2012	Property Inspection	14.00	.00
06/27/2012	Property Inspection - Adjustment	-15.00	.00
06/27/2012	Property Inspection - Adjustment	-14.00	.00
06/27/2012	Property Inspection - Adjustment	-7.00	.00
11/27/2012	Property Inspection - Adjustment	-15.00	.00
12/07/2012	Property Inspection	15.00	.00
02/16/2013	Property Inspection	15.00	.00
03/15/2013	Property Inspection	15.00	.00
05/19/2013	Property Inspection	15.00	.00
06/24/2013	Property Inspection	15.00	.00
07/24/2013	Property Inspection	15.00	.00
08/26/2013	Property Inspection	15.00	.00
08/28/2013	Property Inspection - Adjustment	-15.00	.00
09/25/2013	Property Inspection	15.00	.00
10/25/2013	Property Inspection	15.00	.00
11/25/2013	Property Inspection	15.00	.00
12/17/2013	Property Inspection	15.00	.00
01/20/2014	Property Inspection	15.00	.00
02/17/2014	Property Inspection	15.00	.00
03/19/2014	Property Inspection	15.00	.00
03/21/2014	Property Inspection - Adjustment	-15.00	.00



Transaction Date	Fee Description	Charges	Payments
04/17/2014	Property Inspection	15.00	.00
05/19/2014	Property Inspection	15.00	.00
06/16/2014	Property Inspection	15.00	.00
07/17/2014	Property Inspection-Vacant	15.00	.00
08/15/2014	Property Inspection-Vacant	15.00	.00
09/16/2014	Property Inspection	15.00	.00
11/13/2014	Property Inspection	15.00	.00
12/12/2014	Property Inspection	15.00	.00
01/12/2015	Property Inspection-Vacant	15.00	.00
02/11/2015	Property Inspection-Vacant	15.00	.00
02/17/2015	Litigation Management Fee	897.50	.00
02/17/2015	Court Filing Fee	50.00	.00
02/18/2015	Litigation Management Fee	247.50	.00
03/04/2015	Photos	5.25	.00
03/16/2015	Property Inspection	15.00	.00
03/18/2015	Litigation Management Fee	1,183.75	.00
03/18/2015	Litigation Management Fee	426.25	.00
03/27/2015	Litigation Management Fee	795.00	.00
03/27/2015	Court Cost	100.00	.00
06/09/2015	Property Inspection - Adjustment	-7.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection-Vacant - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Litigation Management Fee - Adjustment	-897.50	.00
06/09/2015	Photos - Adjustment	-5.25	.00
06/09/2015	Litigation Management Fee - Adjustment	-795.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00

Transaction Date	Fee Description	Charges	Payments
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Attorney/Trustee Fee - Adjustment	-550.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Litigation Management Fee - Adjustment	-247.50	.00
06/09/2015	Litigation Management Fee - Adjustment	-426.25	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Litigation Management Fee - Adjustment	-1,183.75	.00
06/09/2015	Title Fee - Adjustment	-225.00	.00
06/09/2015	Property Inspection - Adjustment	-14.00	.00
06/09/2015	Court Filing Fee - Adjustment	-150.00	.00
06/09/2015	Process Server - Adjustment	-405.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-14.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00

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Transaction Date	Fee Description	Charges	Payments
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Attorney/Trustee Fee - Adjustment	-185.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection-Vacant - Adjustment	-15.00	.00
06/09/2015	Court Cost - Adjustment	-100.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00
06/09/2015	Property Inspection-Vacant - Adjustment	-15.00	.00
06/09/2015	Property Inspection-Vacant - Adjustment	-15.00	.00
06/09/2015	Court Filing Fee - Adjustment	-50.00	.00
06/09/2015	Property Inspection - Adjustment	-15.00	.00

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Account Number: REDACTED
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Date Prepared: 01/06/2012

Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
Beginning Balance				118,750.00		626.32				.00
02/01/2008	INITIAL TAX DEP	626.32	01/2008	.00	.00	626.32	.00	.00	.00	.00
				118,750.00		1,252.64			.00	.00
02/01/2008	INITIAL TAX DEP	-626.32	01/2008	.00	.00	-626.32	.00	.00	.00	.00
				118,750.00		626.32			.00	.00
02/04/2008	REGULAR PAYMENT	1,056.20	02/2008	102.25	667.97	285.98	.00	.00	.00	.00
				118,647.75		912.30			.00	.60
02/14/2008	PMI PMT MONTHLY	-77.19	02/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,647.75		835.11			.00	.00
02/25/2008	REGULAR PAYMENT	1,056.20	03/2008	102.83	667.39	285.98	.00	.00	.00	.00
				118,544.92		1,121.09			.00	.00
03/12/2008	PMI PMT MONTHLY	-77.19	03/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,544.92		1,043.90			.00	.00
03/14/2008	REGULAR PAYMENT	1,056.20	04/2008	103.40	666.82	285.98	.00	.00	.00	.00
				118,441.52		1,329.88			.00	.00
03/31/2008	REGULAR PAYMENT	1,056.20	05/2008	103.99	666.23	285.98	.00	.00	.00	.00
				118,337.53		1,615.86			.00	.00
03/31/2008	MISC. POSTING	43.80	05/2008	43.80	.00	.00	.00	.00	.00	.00
				118,293.73		1,615.86			.00	.00
04/11/2008	PMI PMT MONTHLY	-77.19	05/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,293.73		1,538.67			.00	.00
05/12/2008	PMI PMT MONTHLY	-77.19	05/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,293.73		1,461.48			.00	.00
05/12/2008	OVERAGE REFUND	-651.00	05/2008	.00	.00	-651.00	.00	.00	.00	.00
				118,293.73		810.48			.00	.00
05/23/2008	REGULAR PAYMENT	952.29	06/2008	104.82	665.40	182.07	.00	.00	.00	.00
				118,188.91		992.55			.00	.00
06/11/2008	PMI PMT MONTHLY	-77.19	06/2008	.00	.00	-77.19	.00	.00	.00	.00
				118,188.91		915.36			.00	.00
06/12/2008	REGULAR PAYMENT	952.29	07/2008	105.41	664.81	182.07	.00	.00	.00	.00
				118,083.50		1,097.43			.00	.00

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Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

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Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/14/2008	REGULAR PAYMENT	952.29	08/2008	106.00 117,977.50	664.22	182.07 1,279.50	.00	.00	.00	.00
07/14/2008	PMI PMT MONTHLY	-77.19	08/2008	.00 117,977.50	.00	-77.19 1,202.31	.00	.00	.00	.00
08/11/2008	PMI PMT MONTHLY	-77.19	08/2008	.00 117,977.50	.00	-77.19 1,125.12	.00	.00	.00	.00
08/22/2008	REGULAR PAYMENT	952.29	09/2008	106.60 117,870.90	663.62	182.07 1,307.19	.00	.00	.00	.00
09/12/2008	PMI PMT MONTHLY	-77.19	09/2008	.00 117,870.90	.00	-77.19 1,230.00	.00	.00	.00	.00
09/22/2008	REGULAR PAYMENT	952.29	10/2008	107.20 117,763.70	663.02	182.07 1,412.07	.00	.00	.00	.00
10/15/2008	PMI PMT MONTHLY	-77.19	10/2008	.00 117,763.70	.00	-77.19 1,334.88	.00	.00	.00	.00
10/22/2008	REGULAR PAYMENT	952.29	11/2008	107.80 117,655.90	662.42	182.07 1,516.85	.00	.00	.00	.00
11/13/2008	PMI PMT MONTHLY	-77.19	11/2008	.00 117,655.90	.00	-77.19 1,439.76	.00	.00	.00	.00
11/18/2008	ADDL INS PMT	-586.37	11/2008	.00 117,655.90	.00	-586.37 853.39	.00	.00	.00	.00
11/28/2008	REGULAR PAYMENT	952.29	12/2008	108.41 117,547.49	661.81	182.07 1,035.48	.00	.00	.00	.00
12/01/2008	COUNTY TAX PMT	-608.52	12/2008	.00 117,547.49	.00	-608.52 426.94	.00	.00	.00	.00
12/11/2008	PMI PMT MONTHLY	-77.19	12/2008	.00 117,547.49	.00	-77.19 349.75	.00	.00	.00	.00
12/26/2008	REGULAR PAYMENT	952.29	01/2009	108.02 117,439.47	661.20	182.07 531.62	.00	.00	.00	.00

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Account Number: REDACTED
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Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
01/14/2009	PMI PMT MONTHLY	-77.19	01/2009	.00	.00	-77.19	.00	.00	.00	.00
				117,438.47		454.63			.00	.00
01/27/2009	REGULAR PAYMENT	952.29	02/2009	109.69	660.59	182.07	.00	.00	.00	.00
				117,328.84		636.70			.00	.00
02/13/2009	PMI PMT MONTHLY	-77.19	02/2009	.00	.00	-77.19	.00	.00	.00	.00
				117,328.84		559.51			.00	.00
02/27/2009	REGULAR PAYMENT	952.29	03/2009	110.25	659.97	182.07	.00	.00	.00	.00
				117,218.59		741.58			.00	.00
03/11/2009	PMI PMT MONTHLY	-77.19	03/2009	.00	.00	-77.19	.00	.00	.00	.00
				117,218.59		664.39			.00	.00
03/24/2009	REGULAR PAYMENT	952.29	04/2009	110.87	659.35	182.07	.00	.00	.00	.00
				117,107.72		846.46			.00	.00
04/09/2009	REGULAR PAYMENT	952.29	05/2009	111.49	658.73	182.07	.00	.00	.00	.00
				116,996.23		1,029.53			.00	.00
04/15/2009	PMI PMT MONTHLY	-77.19	05/2009	.00	.00	-77.19	.00	.00	.00	.00
				116,996.23		951.34			.00	.00
05/01/2009	OVERAGE REFUND	-160.14	05/2009	.00	.00	-160.14	.00	.00	.00	.00
				116,996.23		791.20			.00	.00
05/15/2009	PMI PMT MONTHLY	-77.19	05/2009	.00	.00	-77.19	.00	.00	.00	.00
				116,996.23		714.01			.00	.00
05/27/2009	REGULAR PAYMENT	949.53	06/2009	112.12	658.10	179.31	.00	.00	.00	.00
				116,884.11		893.32			.00	.00
06/15/2009	PMI PMT MONTHLY	-77.19	06/2009	.00	.00	-77.19	.00	.00	.00	.00
				116,884.11		816.13			.00	.00
08/15/2009	REGULAR PAYMENT	949.53	07/2009	112.76	657.47	179.31	.00	.00	.00	.00
				116,771.36		995.24			.00	.00
08/24/2009	REGULAR PAYMENT	949.53	08/2009	113.39	658.84	179.31	.00	.00	.00	.00
				116,657.97		1,174.73			.00	.00

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Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
07/13/2009	PMI PMT MONTHLY	-77.19	08/2009	116,543.88	.00	-77.19	.00	.00	.00	.00
07/22/2009	REGULAR PAYMENT	949.53	09/2009	116,543.88	650.20	179.31	.00	.00	.00	.00
08/13/2009	PMI PMT MONTHLY	-77.19	09/2009	116,543.88	.00	-77.19	.00	.00	.00	.00
09/17/2009	PMI PMT MONTHLY	-77.19	09/2009	116,543.88	.00	-77.19	.00	.00	.00	.00
09/29/2009	REGULAR PAYMENT	949.53	10/2009	116,428.30	655.56	179.31	.00	.00	.00	.00
09/29/2009	MISC. POSTING	2.76	10/2009	116,428.34	.00	.00	.00	.00	.00	.00
10/19/2009	PMI PMT MONTHLY	-77.19	10/2009	116,428.54	.00	-77.19	.00	.00	.00	.00
10/29/2009	REGULAR PAYMENT	949.53	11/2009	116,311.22	654.90	179.31	.00	.00	.00	.00
11/10/2009	PMI PMT MONTHLY	-77.19	11/2009	116,311.22	.00	-77.19	.00	.00	.00	.00
11/18/2009	ADDL INS PMT	-657.04	11/2009	116,311.22	.00	-657.04	.00	.00	.00	.00
11/27/2009	REGULAR PAYMENT	949.53	12/2009	116,195.25	651.25	179.31	.00	.00	.00	.00
12/18/2009	PMI PMT MONTHLY	-77.19	12/2009	116,195.25	.00	-77.19	.00	.00	.00	.00
12/29/2009	REGULAR PAYMENT	949.53	01/2010	116,078.63	650.00	179.31	.00	.00	.00	.00
12/29/2009	COUNTY TAX PMT	-595.35	01/2010	116,078.63	.00	-595.35	.00	.00	.00	.00

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Home Loans

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Account Number: REDACTED
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Property Address:
109 WOOD VALLEY DR
WESTMINSTER, SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Principal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charges Total	Unapplied Total
01/20/2010	PMI PMT MONTHLY	-77.19	01/20/10	0.00	0.00	77.18	0.00	0.00	0.00	0.00
				110,078.93		270.54			0.00	0.00
01/29/2010	REGULAR PAYMENT	949.53	02/20/10	117.20	652.04	179.31	0.00	0.00	0.00	0.00
				115,961.35		457.60			0.00	0.00
02/16/2010	PMI PMT MONTHLY	-77.19	02/20/10	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				115,961.35		380.70			0.00	0.00
03/05/2010	REGULAR PAYMENT	949.53	03/20/10	117.94	652.28	179.31	0.00	0.00	0.00	0.00
				115,843.41		580.01			0.00	0.00
03/16/2010	PMI PMT MONTHLY	-77.19	03/20/10	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				115,843.41		482.82			0.00	0.00
03/18/2010	REGULAR PAYMENT	949.53	04/20/10	118.60	651.62	179.31	0.00	0.00	0.00	0.00
				115,724.81		682.13			0.00	0.00
04/14/2010	PMI PMT MONTHLY	-77.19	04/20/10	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				115,724.81		584.94			0.00	0.00
05/03/2010	REGULAR PAYMENT	949.53	05/20/10	119.27	650.95	179.31	0.00	0.00	0.00	0.00
				115,605.54		784.25			0.00	0.00
05/14/2010	PMI PMT MONTHLY	-77.19	05/20/10	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				115,605.54		687.06			0.00	0.00
05/28/2010	REGULAR PAYMENT	958.94	06/20/10	119.94	650.28	188.72	0.00	0.00	0.00	0.00
				115,485.60		875.78			0.00	0.00
06/15/2010	PMI PMT MONTHLY	-77.19	06/20/10	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				115,485.60		798.58			0.00	0.00
07/15/2010	PMI PMT MONTHLY	-77.19	07/20/10	0.00	0.00	-77.19	0.00	0.00	0.00	0.00
				115,485.60		721.40			0.00	0.00
07/16/2010	REGULAR PAYMENT	958.94	07/20/10	120.81	649.61	188.72	0.00	0.00	0.00	0.00
				115,364.79		910.12			0.00	0.00
08/16/2010	REGULAR PAYMENT	958.94	08/20/10	121.22	648.93	188.72	0.00	0.00	0.00	0.00
				115,243.57		1,090.84			0.00	0.00

Bank of America

Home Loans

Page 1

Account Number: REDACTED
Statement Period: 02/2008 - 01/2012
Date Prepared: 01/06/2012

Property Address:
109 WOOD VALLEY DR
WESTMINSTER SC 29693

Transaction Date	Description	Total Payment	PMT/Mo	Prinbal Balance	Interest	Escrow Balance	Optional	Buydown	Late Charge Total	Unapplied Total
08/16/2010	PMI PMT MONTHLY	-77.19	08/2010	115,211.70	0.00	-77.19	0.00	0.00	0.00	0.00
08/30/2010	REGULAR PAYMENT	958.94	09/2010	115,121.73	648.25	188.72	0.00	0.00	0.00	0.00
09/15/2010	PMI PMT MONTHLY	-77.19	09/2010	115,121.73	0.00	-77.19	0.00	0.00	0.00	0.00
10/14/2010	PMI PMT MONTHLY	-77.19	09/2010	115,121.73	0.00	-77.19	0.00	0.00	0.00	0.00
11/12/2010	PMI PMT MONTHLY	-77.19	09/2010	115,121.73	0.00	-77.19	0.00	0.00	0.00	0.00
11/15/2010	REGULAR PAYMENT	958.94	10/2010	114,989.07	647.56	188.72	0.00	0.00	38.51	0.00
11/15/2010	HAZARD INS PMT	-878.28	10/2010	114,989.07	0.00	-878.28	0.00	0.00	0.00	0.00
12/14/2010	PMI PMT MONTHLY	-77.19	10/2010	114,989.07	0.00	-77.19	0.00	0.00	38.51	0.00
12/20/2010	COUNTY TAX PMT	578.73	10/2010	114,989.07	0.00	578.73	0.00	0.00	38.51	0.00
01/14/2011	PMI PMT MONTHLY	-77.19	10/2010	114,989.07	0.00	-77.19	0.00	0.00	38.51	0.00
02/14/2011	PMI PMT MONTHLY	-77.19	10/2010	114,989.07	0.00	-77.19	0.00	0.00	38.51	0.00
03/15/2011	PMI PMT MONTHLY	-77.19	10/2010	114,989.07	0.00	-77.19	0.00	0.00	38.51	0.00
04/13/2011	PMI PMT MONTHLY	-77.19	10/2010	114,989.07	0.00	-77.19	0.00	0.00	38.51	0.00
05/12/2011	PMI PMT MONTHLY	-77.19	10/2010	114,989.07	0.00	-77.19	0.00	0.00	38.51	0.00

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EXHIBIT "20"

STATE OF SOUTH CAROLINA)
)
COUNTY OF OCONEE)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Bank of America, N.A., Successor by)
merger to BAC Home Loans Servicing, L.P.)
f/k/a Countrywide Home Loans Servicing,)
L.P.,)

**ORDER DENYING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

Plaintiff,)

v.)

CA. NO.: 2011-CP-37-1056

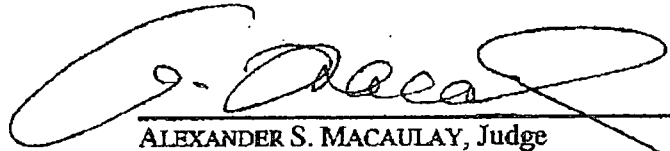
John D. Dalen, Julie A. Dalen, and)
Wawtockace Hills Property Owners)
Association,)

Defendants.)

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2014 JUL 9 PM 2 45

This matter came before the Court on Plaintiff Bank of America, N.A.'s Motion for Summary Judgment as to Defendants John D. Dalen and Julie A. Dalen's Counterclaims. After a careful consideration of the entire record, to include the arguments and filings of the parties, Plaintiff's Motion for Summary Judgment as to Defendant Dalens' Counterclaims is **DENIED**.

IT IS SO ORDERED.


ALEXANDER S. MACAULAY, Judge

Walhalla, South Carolina
July 9, 2014

ENTERED
CLERK
OMP

EXHIBIT "21"

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Bank of America, N.A. successor by merger to
BAC Home Loans Servicing, L.P. f/k/a
Countrywide Home Loans Servicing, L.P.

Plaintiff,

v.

John D. Dalen, Julie A. Dalen and
Wawtockace Hills Property Owners
Association,

Defendant.

(515262.01894 JDW)

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2011-CP-37-1056

ORDER

2015 FEB 25 PM 1:03

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

This matter came before the Court on January 26, 2015 at 3:00 P.M. on the following motions: John D. Dalen and Julie A. Dalen's ("Defendants") Motion for Summary Judgment and Plaintiff Bank of America, N.A. successor by merger to BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P.'s ("Plaintiff") Motion to Strike the Jury Trial Demand and Refer the above-referenced case to the Master-in-Equity. Counsel for the parties was present: Jason D. Wyman for the Plaintiff and William H. Sloan, Esq., on behalf of the Dalen Defendants.

Based on the record, arguments of counsel, and the applicable case law, the Court makes the following findings and conclusions and hereby denies Defendants' Motion for Summary Judgment, grants Plaintiff's Motion to Strike the Jury Demand and refers the case to the Master-in-Equity.

BACKGROUND AND PROCEDURAL HISTORY

This lawsuit arises out of the foreclosure of a residential real estate mortgage. On October 27, 2011, Plaintiff filed a Lis Pendens, Successor's Complaint seeking foreclosure

Defendants' Mortgage. On February 21, 2012, Defendants filed an Answer and Counterclaim to Plaintiff's Complaint.

DISCUSSION

A. Defendants' Motion for Summary Judgment

In their motion for summary judgment, Defendants argued that Federal National Mortgage Association ("Fannie Mae") is the real party in interest and that they are entitled to summary judgment as a matter of law because Plaintiff lacks standing to proceed with the foreclosure action. The Court disagrees. The Court finds that *Bank of America, N.A. v. Draper*, 405 S.C. 214, 746 S.E.2d 478 (Ct. App. 2013) is controlling on the issue of whether or not Plaintiff has standing and is, therefore, the proper party plaintiff to this foreclosure action.

In *Draper*, the South Carolina Court of Appeals held that a "servicer of a loan" is a "real party in interest" and is a proper party to "initiate a foreclosure." *Draper*, 405 S.C. at 223, 746 S.E.2d at 482. In the present case, it is undisputed that the assignment of mortgage in to the Plaintiff was recorded prior to the filing of the summons and complaint. Furthermore, it is undisputed that Plaintiff is the current servicer of the loan. Based on the foregoing, the Court finds the Plaintiff has standing and is a real party in interest. Accordingly, Defendants' motion for summary judgment is denied.

B. Plaintiff's Motion to Strike the Jury Demand and Refer Case to the Master in Equity

A mortgage foreclosure is an equitable proceeding. *Continental Mortgage Investors v. Quail Run Assocs.*, 280 S.C. 409, 312 S.E.2d 272 (Ct. App. 1984). A "party is entitled to a jury trial on his counterclaims in an equitable action only if the counterclaims are legal and compulsory." *Carolina First Bank v. BADD, L.L.C.*, Opinion No. 27486 (S.C. Sup. Ct. filed January 28, 2015) (Shearouse Adv. Sh. No. 4 at 21). A counterclaim is compulsory if it arises

out of the same transaction or occurrence as the Plaintiff's claim. See Rule 13, SCRCF. Therefore, in a foreclosure action, a party would be entitled to a jury trial if the counterclaim is considered compulsory and there is a "logical relationship" between the counterclaim and enforceability of the note and mortgage. *Id.* On the other hand, a party waives his right to a jury trial on a counterclaim asserted in a foreclosure action that is considered permissive. See *N.C. Fed. Sav. And Loan Ass'n v. DAV Corp.*, 298 S.C. 514, 381 S.E.2d 903 (1989).

In the present case, the Court finds that Defendants' counterclaims for violation of the South Carolina Unfair Trade Practices Act and the federal Fair Debt Collection Practices Act are permissive. Neither claim arises out of the underlying transaction or occurrence because neither affects the execution or the enforceability of the note or mortgage. Therefore, Defendants' waived their right to a jury trial by asserting these permissive counterclaims in the Plaintiff's foreclosure action. Accordingly, the Court finds that this mortgage foreclosure action should be referred to the Master in Equity for further proceedings under Rule 53 of the South Carolina Rules of Civil Procedure.

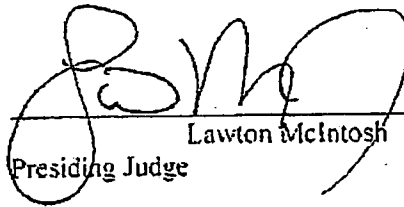
CONCLUSION

NOW, THEREFORE, IT IS ORDERED THAT:

1. Defendants' Motion for Summary Judgment is Denied.
2. Plaintiff's Motion to Strike the Jury Trial Demand and Refer the Case to the Master in Equity is Granted.
3. This action is referred to the Honorable Ellis B. Drew, Master-in-Equity for Oconee County, to take testimony and to direct entry of final judgment in this action under Rule 53(b), SCRCF, and all matters arising from or reasonably related to such action. The Master-in-Equity shall retain jurisdiction to perform all necessary acts incident to this action, including issuance of a writ of assistance or issuance of any rule to show cause why a party should not be bound by any judgment that may be entered of record. Further, the Master-in-Equity shall retain:

jurisdiction to hear any action contesting the validity of the action or any motions pursuant to the South Carolina Rules of Civil Procedure, including but not limited to, Rule 60(b). Pursuant to Rule 53(e), SCRPC, any appeal from the final judgment entered by the Master-in-Equity shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.

AND IT IS SO ORDERED!


Lawton McIntosh
Presiding Judge

A TRUE COPY
FEB 25 2015
CLERK OF COURT - OCONEE COUNTY

Anders, South Carolina
Dated: 2/20/15

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BEVERLY H. WHITFIELD
CLERK OF COURT
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