

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

HARRIET NICHOLSON,

Plaintiff,

v.

BANK OF AMERICA, N.A.,
and
COUNTRYWIDE HOME LOANS, INC.,

Defendants.

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Case No. 3:21-cv-01779-G-BK

PLAINTIFF’S FIRST AMENDED COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, HARRIET NICHOLSON, Plaintiff, complaining of BANK OF AMERICA, N.A. and COUNTRYWIDE HOME LOANS, INC., Defendants, in this her Plaintiff’s First Amended Complaint, an equitable action to vacate a void state court judgment for lack of jurisdiction and would respectfully show unto the Court as follows, to-wit:

I. PARTIES

1. Plaintiff is an individual residing in Grand Prairie, Texas in the

Northern District of Texas.

2. Defendant BANK OF AMERICA, N.A. is a foreign corporation organized under the laws of the State of South Carolina, doing business in the State of Texas. BANK OF AMERICA, N.A. has appeared in this lawsuit.

3. Defendant COUNTRYWIDE HOME LOANS, INC. is doing business in the State of Texas. COUNTRYWIDE HOME LOANS, INC. has appeared in this lawsuit.

II. JURISDICTION AND VENUE

The Court has jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1331. Applying Texas law, a federal court may entertain a collateral attack on a state court judgment in four instances: 1) if the state court lacked jurisdiction over the party or his property; 2) if the state court lacked jurisdiction over the subject matter of the suit; 3) if the state court lacked jurisdiction to enter the particular judgment rendered; or 4) if the state court lacked the capacity to act as a court. *Steph v. Scott*, 840 F.2d 267, 270 (5th Cir. 1988).

Under Texas Law, and we have said that Rooker-Feldman does not preclude review of void state court judgments. *Burciaga v. Deutsche Bank Nat'l Tr. Co.*, 871 F.3d 380, 386 (5th Cir. 2017). *United States v. Shepherd*, 23 F.3d 923, 925 (5th Cir. 1994) (observing that the Rooker-Feldman doctrine would likely not bar federal court review of void state court judgments, although it would still preclude

jurisdiction to review voidable state court judgments).

III. CASE SUMMARY

4. The bank foreclosed on Plaintiff's homestead, sold the home, obtained sole title through a substitute trustee's deed and obtained a judgment of possession in 2012.

5. Two years later, the bank, its legal counsel and agents acted autonomously to rescind the sale, reinstate the loan, rescind the substitute trustee's deed and place title back in Plaintiff's name; without her knowledge or consent in 2014. All done while in litigation with Plaintiff in effective pursuit of a common goal to mislead the court, cover-up their errors and take advantage of an unwittingly pro se litigant to deny Plaintiff equal and impartial justice.

IV. FACTUAL BACKGROUND

6. On November 5, 2012, Plaintiff filed a state court action to stop a wrongful post-foreclosure eviction and adjudicate title post-foreclosure in case 342-262692-12 styled Harriet Nicholson v. Bank of New York Mellon.

7. Plaintiff's lawsuit against Bank of New York Mellon on November 5, 2012, gave rise to a legal malpractice claim against ReconTrust, for its failure to provide sufficient notice when prosecuting a debt claim through a foreclosure sale. Erikson v. Renda, 590 S.W.3d 557, 568 (Tex. 2019).

8. On December 6, 2012, Plaintiff filed a Lis Pendens publicly noticing the post-foreclosure title dispute pending in the 342nd District Court, 342-262692-12.

9. On January 17, 2013, the Defendant removed the state lawsuit; Judge McBryde subsequently remanded case 4:13-cv-37-A back to the 342nd District Court on January 24, 2013.

10. On April 15, 2013, the Defendants removed the state court action again, Judge Means subsequently remanded case 4:13-cv-310-Y back to the 342nd District Court on May 9, 2013.

11. On July 3, 2013, the Defendants removed the state court action a third time, Judge McBryde subsequently remanded case 4:13-cv-542-A back to the 342nd District Court on July 17, 2013.

12. On July 19, 2013, Judge Means vacated the second remand 4:13-cv-310-Y and assumed jurisdiction over the wrongful post-foreclosure eviction and title dispute.

13. On December 13, 2013, Plaintiff filed her First Amended Complaint including causes of action for Violations of Texas Property Code 51.002 and Quiet Title/Trespass to Try to Title in pending case, 4:13-cv-310-Y.

14. On July 31, 2014, ReconTrust, 2012 foreclosure attorney for the non-judicial foreclosure sale, caused the "Notice of Rescission", to be filed in the Tarrant County, Texas real property records purporting to rescind the July 3, 2012, foreclosure sale; cancel August 2, 2012, substitute trustee's deed; and reinstating

foreclosed lien; during the pendency of case 4:13-cv-310-Y to rescind the foreclosure sale, enjoin wrongful post-foreclosure eviction, and quiet title.

15. On July 31, 2014, ReconTrust, foreclosure attorney, was the Grantor of the “Notice of Rescission” and Plaintiff, Harriet Nicholson, was the purported Grantee.

16. Bank of America’s and ReconTrust’s attorneys failed to notify the Court in pending case, 4:13-cv-310-Y, of the “Notice of Rescission”.

17. Bank of America purportedly reinstated the foreclosed loan after the filing of the “Notice of Rescission” on July 31, 2014.

18. On December 1, 2014, Bank of America transferred servicing rights of the purported reinstated foreclosed loan to Nationstar Mortgage.

19. Plaintiff’s suit against Bank of New York Mellon, Bank of America, ReconTrust, and Cowan for wrongful foreclosure in case 4:13-CV-310-Y mirrored the facts in *Gulf Coast Inv. Corp. v. Brown*, 821 S.W.2d 159, 160 (Tex. 1991).

20. An attorney commits malpractice by failing to provide sufficient notice when prosecuting a debt claim through a foreclosure sale. *Gulf Coast Inv. Corp. v. Brown*, 821 S.W.2d 159, 160 (Tex. 1991); see TEX. PROP. CODE § 51.002 (prescribing the mandatory process for selling real property via non-judicial foreclosure sale under a power of sale conferred by a contract lien)

Gulf Coast Inv. Corp. v. Brown, 821 S.W.2d 159 (Tex. 1991)	Nicholson v. Bank of New York Mellon 4:13-CV-310-Y (N.D. Tex.)
Gulf Coast Investment Corporation	BONYM hired ReconTrust Company to

(GCIC) hired Brown & Shapiro (Brown) to conduct a non-judicial foreclosure sale of real property owned by Thomas and Darlene Smith (Smiths).	conduct a non-judicial foreclosure sale of real property owned by Harriet Nicholson.
On June 2, 1987, the sale was held.	On July 3, 2012, the purported sale took place at the George Allen Courthouse, Dallas County, Texas conveying title to BONYM by Substitute Trustee's Deed, D212187326.
On August 1, 1987, an attorney for the Smiths informed GCIC that the sale was invalid due to improper notice.	BONY was awarded Judgment of Possession post-foreclosure by virtue of the Substitute Trustee's Deed.
The Smiths filed a wrongful foreclosure action against GCIC on September 30, 1987.	Harriet Nicholson filed a lawsuit in the 342 nd District Court against BONYM to stop a wrongful post-foreclosure eviction and rescind the invalid foreclosure alleging improper notice that was subsequently removed to Federal Court, 4:13-cv-310-Y by David Romness, BONY's attorney.
GCIC hired a new attorney and, on October 22, 1987, filed an answer.	Harriet Nicholson added Recontrust Company as foreclosure attorney, to the 4:13-cv-310-Y lawsuit. David Romness appeared as attorney for Recontrust Company as well.
On May 12, 1989, judgment was rendered against GCIC.	On July 31, 2014, ReconTrust purportedly granted Harriet Nicholson the "Notice of Rescission" without her knowledge to rescind the foreclosure sale, cancel the Substitute Trustee's Deed, and reinstate lien on Nicholson's property during the pendency of 4:13-cv-310-Y without notifying the Court.
Shortly thereafter, Smith and GCIC entered into a settlement agreement.	On December 30, 2015, BANA and Recontrust, filed its answer in the pending lawsuit, 4:13-cv-310-Y which stated in relevant part: 207. Should Plaintiff be awarded any damages, Defendants are entitled to offset and recoupment in the amount the funds due and owing at the time of the foreclosure sale plus reasonable market value rent from the date of foreclosure until the service release of the loan to non-party Nationstar Mortgage, LLC..

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21. BONYM, BANA, ReconTrust tried the same maneuvering in Plaintiff's wrongful foreclosure case as Countrywide Home Loans, Inc. and its agents tried in Lopez v. Countrywide 2:06-116 in the United States District Court for the Southern District of Texas, Corpus Christi Division.

- On March 14, 2006, Lopez sued Countrywide Home Loans, Inc. in cause number 2:06-116 in the United States District Court for the Southern District of Texas, Corpus Christi Division, for various causes of action relating to the alleged wrongful foreclosure of Lopez's residence in Corpus Christi, Texas. Lopez's home had been sold in October 2005 at a foreclosure sale. Lopez's claims in this lawsuit included causes of action for usury, fraud, negligence, eviction, and consumer protection claims, for which Lopez sought compensatory and punitive damages.
- On May 23, 2006, Countrywide directed the substitute trustee, Diane Larew, to execute a "Rescission of Trustee's Sale by Affidavit to Purge" ("Rescission Deed") which purported to rescind the earlier foreclosure sale. The Rescission Deed was prepared by Barrett Daffin and provided that:

At the time the [trustee] executed the Deed [at foreclosure], one or more conditions precedent required by Tex. R. Civ. P. 54 and Tex. Prop. Code § 51.002 to conduct the putative foreclosure had not been accomplished, and the Deed is void and without force and effect. Further [Countrywide] has not accepted delivery of said Deed; therefore, no conveyance of the Property had been made. Therefore, said property remains the property of Thomas E. Lopez, subject to said lien.

- On August 24, 2007, the Court issued an order concluding that the Rescission Deed was legally invalid, and therefore, it had no effect on the foreclosure sale. (Dkt. No. 68.)
- On or around October 2, 2009, Lopez and Countrywide agreed to settle the lawsuit for \$375,000. (Dkt. No. 269.)

Unlike GCIC and Countrywide, whereby GCIC and Countrywide settled with the homeowners for wrongful foreclosure; Bank of New York Mellon and its agents filed an artifice, “Notice of Rescission”, to escape liability for the wrongful foreclosure sale; orchestrated a scheme to reinstate Plaintiff’s foreclosed loan documents without her knowledge or consent; pursued aggressive post-foreclosure debt collection activity on the purported reinstated foreclosed loan harassing Plaintiff for years; attempted to steal Plaintiff’s home post-foreclosure by mortgage fraud; and save its face from the wrongful foreclosure sale using the courts as vehicles of fraud.

Plaintiff sought to unravel the web of deception by filing a lawsuit in the Tarrant County Judicial District to determine the validity of the “2014 Notice of Rescission” the subject of the case, 048-286132-16.

BONYM, BANA, and ReconTrust would have done well to learn from Sir Walter Scott's verse, "O, what a tangled web we weave, [w]hen first we practise to deceive!" Marmion, Canto VI, Stanza 17 (1808)

22. On June 11, 2016, Plaintiff filed suit against David Stockman for declaratory judgment to declare the “2014 Notice of Rescission” was null and void and did not resurrect the 2012 foreclosed loan documents.

23. On August 18, 2017, Judge Wade Birdwell declared the “2014 Notice of Rescission” and the “2012 Substitute Trustee’s Deed” were both invalid; in the

related remanded case 342-262692-12.

24. On June 11, 2018, Plaintiff filed her Eighth Amended Action against Bank of America; Countrywide Home Loans, Inc., David Stockman; Donna Stockman; Denise Boerner; Bank of New York Mellon; Nationstar; ReconTrust; Harvey Law Group; William Viana; Trefe Tekle; including fraud and conspiracy to commit fraud against ALL Defendants.¹

25. On October 30, 2018, the trial court granted Countrywide Home Loans, Inc.'s Motion for Summary Judgment.² Ordinarily, an order granting summary judgment must expressly dispose of all parties and all issues in the case for it to be a final, appealable judgment. See *Mafrige v. Ross*, 866 S.W.2d 590, 591 (Tex.1993). A partial summary judgment is a decision on the merits unless set aside by the trial court.... It becomes final upon the disposition of the other issues of the case."). *Hyundai Motor Co. v. Alvarado*, 892 S.W.2d 853, 855 (Tex.1995); *Webb v. Jorns*, 488 S.W.2d 407, 409 (Tex.1972) (interlocutory judgment becomes final judgment when it merges into final judgment disposing of whole case).

26. On October 30, 2018, the trial court granted Bank of America's interlocutory Motion for Summary Judgment.³

27. On November 2, 2018, the trial court granted David Stockman's,

¹ Ex. 1, 048-286132-16, CERTIFIED EIGHTH AMENDED PETITION, OPERATIVE PLEADING, 06.30.18

² Ex. 2, 048-286132-16, ORDER, CHLI MSJ, OCTOBER 30, 2018

³ Ex. 3, 048-286132-16, ORDER, BANA MSJ OCTOBER 30, 2018

Donna Stockman's, and Denise Boerner's interlocutory No-Evidence Motion for Summary Judgment.

28. On November 9, 2018, BANA and CHLI file its "Motion to Sever" to afford Plaintiff an opportunity to appeal its interlocutory summary judgment orders before adjudicating all parties and claims in case 048-286132-16.

29. On November 28, 2018, the trial court granted Bank of America's and Countrywide Home Loans, Inc.'s severance order purporting to sever dismissed adjudicated claims against Plaintiff's Eighth Amended Petition and assigned cause number 048-304598-18.⁴

30. The record in case 048-286132-16 shows, nine Defendants remained unadjudicated after BANA's and CHLI's severance order on November 28, 2018.

31. On January 24, 2019, Plaintiff filed a Petition for Writ on Mandamus in the Second Court of Appeals complaining of the improper interlocutory severance order in case 02-19-0022-CV.

32. On February 7, 2019, the Second Court of Appeals denied Plaintiff's/Petitioner's Writ of Mandamus in case 02-19-0022-CV.

33. Under Texas law, the effect of entering the severance order after a judgment that would otherwise be final but for the presence of the severed party is that the order of severance becomes the "final order" and the various timetables that run from entry of final judgment run from the date of the order of

⁴ Ex. 4, 048-286132-16, ORDER, BANA AND CHLI SEVERANCE ORDER, NOVEMBER 28, 2018

severance. See *Farmer v. Ben E. Keith Co.*, 907 S.W.2d 495, 496 (Tex.1995) ("When a judgment is interlocutory because unadjudicated parties or claims remain before the court, and when one moves to have such unadjudicated claims or parties removed by severance, dismissal, or nonsuit, the appellate timetable runs from the signing of a judgment or order disposing of those claims or parties."). *Oviedo v. Hallbauer*, 655 F.3d 419, 426 (5th Cir. 2011) citing *Farmer v. Ben E. Keith Co.*, 907 S.W.2d 495, 496 (Tex.1995); *Portillo v. Cunningham*, 872 F.3d 728, 742 (5th Cir. 2017). In case 048-286132-16, the trial court granted BANA's and CHLI's severance order purporting to dismiss adjudicated claims and parties leaving nine unadjudicated parties. If the record reveals the existence of parties or claims not mentioned in the order, the order is not final. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 206 (Tex.2001).

34. On February 17, 2019, the trial court granted Recontrust's interlocutory Motion for Summary Judgment in case 048-286132-16.

35. On March 8, 2019, Plaintiff appealed BANA's and CHLI's presumptive final and appealable severance order.

36. On March 21, 2019, the trial court granted Bank of New York Mellon's and Nationstar's interlocutory Motion for Summary Judgment in case 048-286132-16.

37. On March 20, 2019, the trial court granted the Harvey Law Group's interlocutory Motion for Summary Judgment in case 048-286132-16.

38. On March 26, 2019, the trial court signed the Non-Suit of Terefe Tekle and William Viana in case 048-286132-16.

39. On February 19, 2020, the trial court signed the “Final Judgment” in case 048-286132-16. There can be only one final judgment in a lawsuit. See Tex.R. Civ. P. 301; *Logan v. Mullis*, 686 S.W.2d 605, 609 (Tex.1985); [I]n cases in which only one final and appealable judgment can be rendered, a judgment issued without a conventional trial is final for purposes of appeal if and only if either it actually disposes of all claims and parties then before the court, regardless of its language, or it states with unmistakable clarity that it is a final judgment as to all claims and all parties. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 192-193 (Tex.2001)

40. A judgment is final and appealable when it determines the rights of all parties and disposes of all issues in a case so that no future action by the court is necessary to settle the entire controversy. See *Schlipf v. Exxon Corp.*, 644 S.W.2d 453, 455 (Tex.1982).

41. On March 8, 2019, Plaintiff appealed Bank of America’s and Countrywide Home Loans, Inc.’s presumptive final and appealable summary judgments and severance order, 02-19-00085-CV styled Harriet Nicholson v. Bank of America and Countrywide Home Loans, Inc.⁵

42. On October 16, 2019, Bank of America and Countrywide Home Loans, Inc. challenged the Second Court of Appeals’ jurisdiction over its

⁵ Ex. G, *Nicholson v. Bank of America, NA*, No. 02-19-00085-CV Docket Sheet.

interlocutory summary judgment orders in case 02-19-00085-CV.

43. On December 31, 2019, the Second Court of Appeals determined it had jurisdiction to review the interlocutory summary judgment and severance orders, subsequently, affirming the trial court's interlocutory summary judgment and severance orders in its Memorandum Opinion⁶ and entered its Judgment.⁷

44. On February 19, 2020, the trial court signed the "Final Judgment" in case 048-286132-16.⁸

45. Bank of America's and Countrywide Home Loans, Inc.'s partial motion for summary judgment orders were interlocutory because they not dispose of all parties and claims pending in the record. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 205 (Tex. 2001). (In a summary judgment proceeding, a judgment is not final for purposes of appeal "unless it actually disposes of every pending claim and party or unless it clearly and unequivocally states that it finally disposes of all claims and all parties.")

46. Bank of America's and Countrywide Home Loans, Inc.'s interlocutory severance order was non-appealable because it did not dispose of all parties and claims pending in the lawsuit. *Beckham Group, PC v. Snyder*, 315 S.W.3d 244 (Tex. App. 2010) (A severance order that does not dispose of all parties and claims

⁶ Ex. 6, 02-19-00085-CV-Trial Court Case 048-304598-18, Memorandum Opinion, December 31, 2019

⁷ Ex. 7, 02-19-00085-CV-Trial Court Case 048-304598-18, Judgment, December 31, 2019

⁸ Ex. 8, 048-286132-16, Final Judgment, February 19, 2020

is a non-appealable interlocutory order.)

V. Second Court of Appeals' Judgment in case 02-19-00085-CV is Void for Lack of Jurisdiction

Under Texas law, a state court judgment must be defective for at least one of the following four reasons to be collaterally attacked in federal court: (1) the state court lacked jurisdiction over the party or his property; (2) the state court lacked jurisdiction over the subject matter of the suit; (3) the state court lacked jurisdiction to enter the particular judgment rendered; or (4) the state court lacked the capacity to act as a court. *Steph*, 840 F.2d at 270.

The Fifth Circuit has explained:

The treatment of a “void” judgment differs from that of a “voidable” judgment. A void judgment is subject to both direct and collateral attack, while a judgment that is merely voidable must be corrected through ordinary appellate or other direct procedures. *Browning v. Placke*, 698 S.W.2d 362, 363 (Tex. 1985). A judgment is void only when it is shown that the court had no jurisdiction over the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, or lacked capacity to act as a court. *Id.*; *Cook v. Cameron*, 733 S.W.2d 137, 139 (Tex. 1987).

Matter of Gober, 100 F.3d 1195, 1202 (5th Cir. 1996); *Burciaga v. Deutsche Bank Nat'l Tr. Co.*, 871 F.3d 380, 386 (5th Cir. 2017) (Under Texas Law, and we have said that Rooker-Feldman does not preclude review of void state court judgments.) *United States v. Shepherd*, 23 F.3d 923, 925 (5th Cir. 1994) (observing that the Rooker-Feldman doctrine would likely not bar federal court review of void

state court judgments, although it would still preclude jurisdiction to review voidable state court judgments).

47. Appellate jurisdiction is never presumed. *Brashear v. Victoria Gardens of McKinney, L.L.C.*, 302 S.W.3d 542, 546 (Tex.App.-Dallas 2009, no pet.). Unless the record affirmatively shows the propriety of appellate jurisdiction, the appellate court must dismiss. *Id.*

48. The Second Court of Appeals' jurisdiction is established exclusively by constitutional and statutory enactments. See, e.g., Tex. Const. art. V, § 6; Tex. Gov't Code Ann. § 22.220 (Vernon Supp.2009). Unless one of the sources specifically authorizes an interlocutory appeal, [Second Court of Appeals] only have jurisdiction over an appeal taken from a final judgment. *Lehmann v. Har-Con Corp.*, 39 S.W.3d 191, 195 (Tex.2001).

49. Texas appellate courts have jurisdiction to determine its own jurisdiction. *Consol. Healthcare Servs., LLC v. Mainland Shopping Ctr., Ltd.*, 589 S.W.3d 915, 920 (Tex. App.-Houston [14th Dist.] 2019, no pet.); *In re Doe*, 397 S.W.3d 847, 849 (Tex. App.-Fort Worth 2013, no pet.). An appellate court must always consider if jurisdiction is proper, even if it is not raised by the parties. *N.Y. Underwriters Ins. Co. v. Sanchez*, 799 S.W.2d 677, 679 (Tex. 1990). A court may not address the merits of a claim if it lacks jurisdiction to do so. *State v. Ninety Thousand Two Hundred Thirty-Five Dollars & No Cents in U.S. Currency (\$90,235)*, 390 S.W.3d 289, 291-92 (Tex. 2013). If the record does not conclusively

establish the appellate court's jurisdiction, the appeal must be dismissed. *Pipes v. Hemingway*, 358 S.W.3d 438, 445 (Tex. App.-Dallas 2012, no pet.); see Tex. R. App. P. 42.3(a).

50. The Second Court of Appeals assumption of appellate jurisdiction over Bank of America, N.A.'s and Countrywide Home Loans, Inc.'s interlocutory summary judgment and severance orders in case number 02-19-00085-CV was fundamental error. *New York Underwriters Ins. Co. v. Sanchez*, 799 S.W.2d 677, 679 (Tex. 1990). (It is jurisdictional fundamental error for a court of appeals to assume appellate jurisdiction over an interlocutory order when not expressly authorized to do so by statute.)

51. The Second Court of Appeals lacked jurisdiction over Bank of America, N.A.'s and Countrywide Home Loans, Inc.'s interlocutory summary judgment and severance orders in case number 02-19-00085-CV. *New York Underwriters*, 799 S.W.2d at 678-79 ("In the absence of a special statute making an interlocutory order appealable, a judgment must dispose of all issues and parties in the case, including those presented by counterclaim or cross action, to be final and appealable.")

52. [A] judgment is void when it is shown that the court had no jurisdiction of the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act as a court. *Browning v. Navarro*, 887 F.2d 553, 563 (5th Cir. 1989) (a judgment is void only

when it is shown that the court had no jurisdiction of the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act as a court.); *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271, 130 S.Ct. 1367, 176 L.Ed.2d 158 (2010). ("[A] judgment is void because of a jurisdictional defect [only in the] exceptional case in which the court that rendered judgment lacked even an `arguable basis' for jurisdiction.").

53. Chief Justice Stayton who in 1888, speaking for the Supreme Court of Texas in *Stuart v. Anderson*, 70 Tex. 588, 8 S.W. 295, 299, wrote, "The exercise or assumption of a power when a fact necessary to its existence is wanting, is usurpation."

54. As Justice Frankfurter indicated, litigants are not left helpless before usurping courts. If a court deliberately ignores the legislative mandate and usurps power to impose its will in a particular way, then the judgment would be void in any case, since due process requires an impartial tribunal. Note, *Filling the Void: Jurisdictional Power and Jurisdictional Attacks on Judgements*, 87 Yale L.J. 164 (1977)

55. The Supreme Court made clear in *Cohens v. Virginia*, 19 U.S 264, 404 (1821) (Marshall, C.J.) "We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.", and has continued to reiterate the principle this year in *Texas v. California*, 141 S. Ct. 1469 (U.S. 2021).

VI. Declaratory Relief

56. Harriet Nicholson respectfully requests that this Court declare the Second Court of Appeals' Judgment in Case No. 02-19-00085-CV styled Harriet Nicholson v. Bank of America, N.A. and Countrywide Home Loans, Inc. is void for lack of jurisdiction and not binding on the parties. This request for declaratory relief is made subject to and without waiver of Harriet Nicholson's rights.

VII. Conclusion

57. The Second Court of Appeals' Judgment in case 02-19-00085-CV is void because it had no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, and no capacity to act. See *Travelers Ins. Co. v. Joachim*, 315 S.W.3d 860, 863 (Tex. 2010) (quoting *Browning v. Prostok*, 165 S.W.3d 336, 346 (Tex. 2005) ("A judgment is void only when it is apparent that the court rendering judgment had no jurisdiction of the parties or property, no jurisdiction of the subject matter, no jurisdiction to enter the particular judgment, or no capacity to act."))

VIII. Prayer

WHEREFORE, Harriet Nicholson prays that BANK OF AMERICA, N.A. and COUNTRYWIDE HOME LOANS, INC. be cited to appear and answer, and the Court declare and Harriet Nicholson have judgment:

- 1) the Second Court of Appeals' Judgment rendered on December 31, 2019, in case numbered 02-19-00085-CV styled Harriet Nicholson v. BANK OF AMERICA, N.A. and COUNTRYWIDE HOME LOANS, INC. is null and void for lack of jurisdiction; and
- 2) the Second Court of Appeals' Judgment rendered on December 31, 2019, in case numbered 02-19-00085-CV styled Harriet Nicholson v. BANK OF AMERICA, N.A. and COUNTRYWIDE HOME LOANS, INC. is not binding on the parties and;
- 3) the Second Court of Appeals' Judgment rendered on December 31, 2019, in case numbered 02-19-00085-CV styled Harriet Nicholson v. BANK OF AMERICA, N.A. and COUNTRYWIDE HOME LOANS, INC. is VACATED; and
- 4) Awarding Harriet Nicholson such other and further relief to which she may be entitled, including attorney's fees, costs, and expenses in prosecuting this action.

Respectfully submitted,
By: /s/Harriet Nicholson
Harriet Nicholson
2951 Santa Sabina Drive
Grand Prairie, Texas 75052
817-217-0245
harrietnicholson@yahoo.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served on Connie Flores Jones, counsel of record, by the court's electronic filing system and/or email on September 13, 2021.

/s/ Harriet Nicholson

EX. 1



048-286132-16

FILED
TARRANT COUNTY
6/11/2018 4:45 PM
THOMAS A. WILDER
DISTRICT CLERK

CAUSE NO. 048-286132-16

HARRIET NICHOLSON,
Plaintiff
v.
DAVID STOCKMAN AND ET AL,
DEFENDANTS



IN THE 48TH DISTRICT COURT

TARRANT COUNTY, TEXAS

PLAINTIFF'S EIGHTH AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, HARRIET NICHOLSON, Plaintiff, complaining of David Stockman, Recontrust Company, NA, Nationstar Mortgage, Company, Countrywide Home Loans, Inc., Harvey Law Group, Bank of America, The Bank of New York Mellon, Donna Stockman, Denise Boerner, William Viana, and Trefe Trekle Defendants in this her EIGHTH AMENDED Complaint, and for cause of action would respectfully show unto the Court as follows, to wit:

PARTIES

1. Plaintiff is a natural person and is a resident and citizen of the State of Texas and of the United States.
2. Defendant, David Stockman, is a natural person and is a resident and citizen of the State of Texas and of the United States has been served and appeared.
3. Defendant, Recontrust Company, NA, may be served by serving its registered agent CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, TX 75201 by certified mail.
4. Nationstar Mortgage, Company may be served by serving any Corporate Officer at 8950 Cypress Waters Boulevard, Dallas, Texas by constable.
5. Defendant, Countrywide Home Loan has been served and appeared.
6. Defendant, Harvey Law Group, may be served by serving any corporate officer (president, vice-president, secretary, or treasurer) at 1126 West Gray, Houston, Texas 77019 by constable.
7. Defendant, Bank of America, has appeared.
8. Defendant, Bank of New York Mellon, has been served.
9. Donna Stockman, is a natural person, resident and citizen of the of the State of Texas and the United States and may be served wherever she is found.

10. Denise Boerner , is a natural person, resident and citizen of the of the State of Texas and the United States and may be served wherever she is found.
11. William Viana, is a natural person, resident and citizen of the of the State of Texas and the United States and may be served wherever he is found.
12. Terefe Tekle, is a natural person, resident and citizen of the of the State of Texas and the United States and may be served wherever he is found.

DISCOVERY CONTROL PLAN LEVEL

13. Plaintiff intends that discovery be conducted under Discovery Level 3. TRCP 190.4.

AGENCY AND RESPONDEAT SUPERIOR

14. Whenever in this petition it is alleged that a Defendant did, or failed to do, any act, thing and/or omission, it is meant that Defendant itself or its agents, officers, servants, employees, vice principals, or representatives either did or failed to do such act, thing and/or omission, and it was done with the full authorization or ratification of Defendant, and/or done in the normal routine, course and scope of the agency or employment of Defendant or its agents, officers, servants, employees, vice principals, or representatives and/or with actual and/or apparent authority of Defendant.

JURISDICTION AND VENUE

15. The amount in controversy exceeds the minimum jurisdictional limits of this Court; and the Court has jurisdiction over the subject matter.
16. This Court has jurisdiction over the Defendants in that the Defendants are a resident and citizen and doing business in the State of Texas.

STATEMENT OF THE CASE

17. Defendants devised a scheme or artifice to defraud Plaintiff and the courts and executed this scheme or artifice by recording Instrument D214164490 in the Tarrant County, Texas Real Property records to defeat Plaintiff's claims in a pending lawsuit,(Nicholson v. Bank of New York Mellon and others, 342-262692-12, "*Nicholson 1*") for wrongful foreclosure and wrongful post-

foreclosure eviction that was filed by Barrett, Daffin, Frappier, Turner and Engle in the Justice of Peace Courts on September 5, 2012. Defendants have committed fraud upon the courts and sought to defraud Plaintiff.

18. Defendants devised or intended to devise a scheme or artifice to defraud Plaintiff and this court and executed this scheme or artifice by recording Instrument D214164490 in the Tarrant County, Texas Real Property records to reinstate Plaintiff's loan.
19. Defendants filed fraudulent documents in the Tarrant County, Texas real property records purporting to create a lien, claim, or an interest in Plaintiff's property; clouding her title after the foreclosure sale to further harass Plaintiff.
20. On December 1, 2014, Bank of America allegedly transferred servicing of Plaintiff's loan after recording the Notice of Rescission to Nationstar Mortgage, LLC, thereafter, Nationstar Mortgage, LLC pursued aggressive debt collection activity, threaten a subsequent foreclosure, and damaged Plaintiff's credit worthiness by reporting incorrect adverse account information to the credit repositories after recording the "Rescission Deed."
21. On January 17, 2015 Plaintiff filed a second lawsuit, Nicholson v. Nationstar Mortgage, LLC, 048-276347-15 (Nicholson2) complaining of Nationstar Mortgage, LLC's deceptive collection practices, harassment, and to enjoin a subsequent wrongful foreclosure.
22. Plaintiff complained to the Consumer Financial Protection Bureau regarding Defendants' unreasonable conduct more than eighty times over the past four years. Nevertheless, responded to each complaint and continued their fraud and harassment.¹

FACTUAL ALLEGATIONS

23. On **August 2, 2012**, David Stockman executed Instrument **D212187326**, Substitute Trustee's Deed, conveying title to the Bank of New York Mellon and divesting Plaintiff of title to her property without selling Plaintiff's property as noticed.
24. On September 5, 2012, Barrett, Daffin, Frappier, Turner and Engle filed an eviction suit to evict Plaintiff and all occupants from the Property in the Tarrant County Justice of the Peace, Number 7 Court on behalf of the Bank of New York Mellon.

25. On September 20, 2012, the Bank of New York Mellon was granted Judgment of Possession in the eviction suit as the legal titleholder after proffering the Substitute Trustee's Deed as the legal title holder.
26. On November 5, 2012, Plaintiff filed suit (Nicholson 1) to enjoin a wrongful post-foreclosure eviction and suit to set aside sale, cancel substitute trustee's deed, and recover title in the 342nd District Court, Tarrant County, Texas whereby, the case is currently pending numbered 342-262692-12.
27. On December 6, 2012 Plaintiff filed a Lis Pendens recording the pending of the lawsuit referencing the title dispute on her property after the invalid foreclosure sale.
28. On March 23, 2013, a Temporary Injunction hearing was heard in the 342nd Court, whereby the Bank of New York Mellon's counsel admitted the lawsuit was initiated to enjoin an eviction.
29. On April 21, 2014 Plaintiff filed CFPB complaint numbered 140421-000784 complaining of Bank of America sending post-foreclosure emails indicating Plaintiff's loan was active. Plaintiff filed the following complaint.

I was being assessed for a loan modification, however, Bank of America kept advising me my loan was in the bankruptcy division. Notwithstanding, I did not have an active Bankruptcy Case. After convincing them I wasn't in Bankruptcy and them contacting the lawyer on file, they moved my account from Bankruptcy Division to Foreclosure Department. They alleged they never received the documentations to assess me for a modification. Nevertheless, they conveyed a substitute trustee's deed to the alleged investor without conducting an auction of the property at the scheduled foreclosure sale. To add on, Bank of America, the servicer has shown my account active since the foreclosure date. Since we're litigating, there's a cease and desist on my account with Bank of America and they will not discuss anything with me. Apparently, there's a disconnect somewhere. Bank of New York Mellon/Bank of America allegedly foreclosed but they're showing the account active through the date of this complaint. We're currently litigating in the US District Court Northern District of Texas styled Nicholson V. Bank of New York Mellon and others, No. 4:13-cv-310. I've contacted the Texas Attorney General, Tarrant County Commissioners, Congressman Joe Barton- Texas, and FHA/HUD to assist me in this matter.

30. On 5/14/2014, Kevin Castro, Office of the CEO and President of Bank of America, responded to CFPB complaint numbered 140421-000784 advising the foreclosure sale remained in place and the notices and alerts were sent in error.
31. On July 15, 2014 Bank of America filed a counterclaim seeking to reform the Substitute Trustee's Deed due to a scrivener's error during the pendency of the Nicholson 1 in the federal court;

however, Bank of America withdrew motion prior to determination.

32. On August 20, 2014 David Stockman, Bank of America's attorney, advised Plaintiff via email the foreclosure sale was no good.
33. On August 2, 2014, unbeknowst to Plaintiff and in the midst of Plaintiff's litigation in the case styled Harriet Nicholson v. Bank of New York Mellon and others, numbered 342-262692-12, to enjoin a post-foreclosure eviction, set aside wrongful foreclosure sale, cancel trustee's deed and recover title; David Stockman (in his alleged capacity as an alleged "Substitute Trustee") and Recontrust Company (Defendant in pending case 342-262692-12) conspired to commit fraud upon the Court and Plaintiff by executing, recording, and filing Instrument D214164490, Notice of Rescission of Sale and Cancellation of Substitute Trustee's Deed purporting to cancel Instrument D212187326, Substitute Trustee's Deed.
34. On December 19, 2014 Plaintiff filed CFPB complaint numbered 141219-000354 against Bank of America protesting the transfer of the alleged reinstated stated loan to Nationstar Mortgage to collect. Plaintiff filed the following complaint.

Bank of America allegedly conducted a foreclosure sale of my home, the Substitute Trustee was not present at the Courthouse to auction my property. As a result of fighting and litigating self represented for over two years, the Substitute Trustee rescinded the sale. To date we're currently litigating this wrongful foreclosure. On December 1, 2014, Banking of America transferred servicing of the loan to Nationstar Mortgage. We've been litigating this wrongful foreclosure lawsuit for over two years. As a result, another party has been added to this confusion.

35. On December 31, 2014, Nationstar Mortgage, LLC sent Plaintiff a Notice of Default advising plaintiff's loan was more than \$80,000 dollars in default and threatening a subsequent foreclosure.
36. On January 16, 2015 Bank of America responded to CFPB complaint 141219-000354 advising they had a right to transfer servicing of loan to Nationstar. (See Ex. A)
37. On February 9, 2015 Plaintiff filed a CFPB complaint numbered 150209-002008 against Nationstar Mortgage concerning the failure to validate debt they were pursuing collection. Plaintiff filed the following complaint.

Nationstar Mortgage, LLC has alleged they're the servicer for my investor. I've requested documents pursuant to RESPA and FDCPA. Nationstar Mortgage, LLC has not acknowledged they've received the documents.

38. On February 11, 2015 Nationstar responded to CFPB complaint 150209-002008 advising they had authority to service the loan on behalf of Bank of New York Mellon and the loan was contractually

39. On January 17, 2015, Plaintiff filed a lawsuit against Nationstar Mortgage to enjoin post-foreclosure collection, a subsequent foreclosure after the recording of the “Rescission Deed”, and to enjoin harassing home inspections by Nationstar Mortgage, LLC numbered 048-276347-15.
40. On February 17, 2015 Document D215032449, Corporate Assignment Deed of Trust was filed in the Tarrant County, Texas Real Property records. Countrywide Home Loans (defunct entity) allegedly assigned Plaintiff’s Deed of Trust, D201015378, to Bank of New York Mellon. Nationstar Mortgage served in the dual capacity as Power of Attorney for Countrywide Home Loans and servicer for Bank of New York Mellon.
41. Around March 2015 Nationstar Mortgage reported incorrect adverse information to the credit repositories damaging Plaintiff’s credit worthiness.
42. On April 2015, Kelly Harvey, Nationstar Mortgage, LLC’s attorney, sent Plaintiff correspondence advising her loan was more than \$80,000 delinquent and Bank of New York Mellon was the investor of her alleged reinstated loan.
43. On December 25, 2015 Plaintiff filed CFPB Complaint numbered 1512225-000105 complaining of Nationstar Mortgage causing the fraudulent Corporate Assignment Deed of Trust to be filed in the Tarrant County, Texas real property records. Plaintiff filed the following complaint.

On February 17, 2015, Nationstar Mortgage executed and recorded a fraudulent instrument (ASSIGNMENT OF DEED OF TRUST) in Tarrant County Texas Recorder's office declaring they were assigning a deed of trust on behalf of Assignor-Countrywide Home Loans, defunct entity, as attorney-in-fact to Bank of New York Assignee. On February 8, 2015, Nationstar responded to a QWR via a CFPB complaint declaring they were servicing the note on behalf of Bank of New York the assignee of the Assignment. The recorded instrument contradicts this reply and is fraudulent and false.

44. On February 12, 2016 Nationstar Mortgage responded to CFPB complaint 1512225-000105 advising they had the right to service Plaintiff’s loan and acknowledged the pending lawsuit against Bank of America and others. (See Ex. C)
45. On April 19, 2016, the Harvey Law Group, in its capacity as a debt collector post-foreclosure, sent Plaintiff an “Abandonment of Acceleration” letter to gain an advantage in Plaintiff’s Lawsuit 1. However, this letter contradicted Kelly Harvey’s advisement a year prior.
46. The Harvey Law Group is not registered with the Secretary of State as a third party debt collector, thereby violating Section 392.101 of the Texas Finance Code which prohibits a third-party debt

collector or credit bureau from engaging in debt collection in Texas unless the third-party debt collector or credit bureau has obtained a surety bond and filed a copy of the bond with the Office of the Secretary of State.

47. On June 5, 2016 Plaintiff filed CFPB complaint numbered 160605-000073 against contesting the debt collection activity of Nationstar Mortgage and Bank of America . Plaintiff filed the following complaint.

Nationstar continues to pursue debt collection activity on a debt without validation and reporting false and incorrect information to all three credit bureaus. Nationstar has responded to multiple complaints referencing I have filed a suit against their predecessor and them. However, Nationstar highlights they were granted a No-evidence motion for summary judgment and a pending lawsuit against their predecessor, Bank of America, validates their debt collection activity. Nationstar claims they can't verify or validate their debt collection activity until the lawsuit against their predecessor is adjudicated. Bank of America's summary judgment was denied on 14 out of 16 claims including fraud. Nationstar should not be able to pursue debt collection activity until the lawsuit against their predecessor is adjudicated. Nationstar only has the right to pursue collection on what their predecessor had to transfer. Bank of America has not proven any right to collect the debt that was transferred. At the time Bank of America transferred the debt to Nationstar, Bank of America NEVER denied an allegations in the lawsuit that was filed on November 5, 2012. Bank of America sought to file an answer to the lawsuit in OCTOBER 2015. The Court's decision granting Bank of America to answer the lawsuit almost two years late is pending in the 5th COA. However, Bank of America transferred the ZERO balanced debt to Nationstar on December 2014, 23 months after the lawsuit was filed against them.

48. On June 20, 2016 Plaintiff filed CFPB complaint numbered 160620-0001499 complaining of Nationstar's debt collection activity and the adverse credit reporting to the credit bureaus. Plaintiff filed the following complaint.

On July 3, 2012, Bank of America's agent foreclosed on my house. After the completed foreclosure sale, the substitute trustee executed a trustee's deed to the Bank of New York Mellon. BONY filed an eviction suit and was awarded Judgment of Possession. On November 5, 2012, I filed a lawsuit to stop a post-foreclosure wrongful eviction. This lawsuit 4:13-cv-310-Y is currently pending in the Fifth Circuit Court of Appeals because the Defendants (Bank of New York Mellon and Bank of America) was granted leave to file an answer to the complaint more than two years late. On OCTOBER 16, 2015, Bank of America and Bank of New York filed a late answer to the lawsuit and included the following affirmative defense: 207. Should Plaintiff be awarded any damages, Defendants are entitled to offset and recoupment in the amount the funds due and owing at the time of the foreclosure sale plus reasonable market value rent from the date of foreclosure until the service release of the loan to non-party Nationstar Mortgage, LLC. As per the aforementioned defense, Nationstar's predecessor, Bank of America, is asking for rent after the foreclosure sale on October 16, 2015 in their answer. However, Nationstar contends I

owe them more than \$117,000 for the same loan their predecessor foreclosed on. I have not executed any loan agreements to Bank of America or Nationstar since the foreclosure sale on July 3, 2012. Nationstar is reporting this fraudulent, incorrect, and false information to a third party, the credit bureaus (Equifax, Experian, and Transunion.) Bank of America is claiming the house was foreclosed and they are seeking rent post foreclosure. Nationstar is claiming I contractually owe them from April 2011. To add on, Nationstar is reporting to HUD, that the loan is a contested foreclosure. Nationstar is reporting contradictory and false information to HUD, the credit bureaus, and me. Nationstar has not been able to validate their debt collection activity. Bank of America and Nationstar are colluding and harassing me to collect a loan that was satisfied from foreclosure proceeds four years ago. I will be filing this complaint with the HUD Inspector General's Office, Mr. David A. Montonya; since my loan was HUD insured loan. I've included the following documents to substantiate my claims: 1. The Defendants' Late Answer excerpts (Doc. 136-1) 2. The most recent docket entry of the pending lawsuit, Doc. 167; Order Continuing Stay dated May 19, 2016 These are records that are documented in the Federal Court that are undisputed.

49. On June 20, 2016 Recontrust, BOA, and BONY's attorney responded to CFPB complaint numbered 160605-000073 advising the Notice of Rescission reinstated the lien and the balance of debt and direct further inquiries to Nationstar Mortgage, LLC, my new servicer. (See Ex. D)
50. On June 29, 2016 Nationstar responded to 160620-0001499 relying on the Notice of Rescission to collect the debt and report adverse credit information to credit bureaus. (See Ex. E)
51. On June 23, 2017, Bank of New York's attorney, R. Dwayne Danner, conceded the Substitute Trustee's Deed" and "Rescission Deed" were both invalid to circumvent an adverse ruling against them in Nicholson's Lawsuit 1.
52. Plaintiff has suffered severe emotional distress which manifested in the form of tension, loss of enjoyment of life, nervousness, lack of concentration, inability to perform at work, anxiety, depression, inability to sleep, hospitalization, crying spells, panic attacks, nausea, humiliation, fright, embarrassment, and thoughts of suicide.
53. Plaintiff have suffered severe emotional stress damage as a result of the ongoing harassment and reckless disregard, and intentional conduct by Defendants. Plaintiff is no longer able to work full time due to chronic depression and anxiety. Plaintiff was terminated from her employment due to excessive absences due to the stress of this case. Plaintiff also lost out on a full-time position making \$75,000.00 a year in November 2015. Plaintiff is a 30-year accountant and compliance analyst, but due to being overwrought with stress and fighting to keep her home, losing the home, execution of Substitute Trustee's Deed without selling property, Defendants' clandestine attempt to cancel trustees deed during pending litigation, reinstating the debt without authority, Bank of America transferring the debt to Nationstar Mortgage to collect without authority, and Defendants continuous litigation as though the sale was valid. Plaintiff is unable to perform on a full-time job. Plaintiff have received therapy associated

54. Defendants wrongful acts in the instant case began after they sought to rescind the foreclosure sale secretly to gain an advantage in the pending Lawsuit 1 for wrongful foreclosure and coerce Plaintiff to start repayment of loan to resurrect contractual obligations.
55. Plaintiff has incurred significant life threatening experiences due to stress, harassment, reckless disregard of Defendant. These medical expenses are continuing and currently exceeds \$30,000. Plaintiff's medical issues are directly related to the wrongful acts of Defendants. Defendants' wrongful, reckless and intentional acts are continuing to date. Plaintiff suffers depression, anxiety, sleepless nights and headaches due to the actions of the Defendants and the vexing litigation.
56. Plaintiff has suffered severe emotional distress, heart attack like symptoms, and medical expenses related to the egregious conduct of the Defendants. Plaintiff is incapacitated to work full-time due to the related emotional distress and severe chronic depression associated with Defendants' egregious conduct.
57. Plaintiff has litigated two legal proceedings in the Tarrant County Justice of the Peace Court Number 7, 1 legal proceeding in the County Court at Law Number 1, four Federal proceedings, six Tarrant County District Court State proceedings, two Fifth Circuit Court of Appeals proceedings, filed eighty-five Consumer Financial Protection Bureau complaints, HUD Inspection General complaint, and one Texas Attorney General Complaint seeking justice to remedy Defendants' wrongs and stop Defendants' ongoing fraudulent activities. Plaintiff has lost more than 13,000 hours of time trying to defend her home against the false encumbrances of the Defendants and their fraudulent acts for the past six years.
58. On **December 17, 2017** Document **D217291711**, Corporate Assignment of Deed of Trust, recorded by Nationstar Mortgage, LLC allegedly assigning Plaintiff's Deed of Trust from Bank of New York Mellon to Nationstar Mortgage, LLC.
59. It is beyond cavil that Bank of America, as a sophisticated party (indeed, one of the most sophisticated creditors operating in the United States economy), knew and knows the black-letter statutory law and the concomitant case law.
60. Bank of America and its agents actions, however, tell a story that smacks of cynical disregard for the law when dealing with the Plaintiff and the Courts.
61. Defendants intentionally disregarded the law in the course of the Plaintiff's saga by the following:
 - a) Knowing of the existence of non-compliance with Texas statutory laws to effectuate a valid non-judicial foreclosure, **David Stockman nevertheless foreclosed on the Plaintiff residence.**

- b) Knowing of the existence of non-compliance with Texas statutory laws to effectuate a valid non-judicial foreclosure, *David Stockman and Recontrust Company nevertheless recorded a trustee's deed transferring title to The Bank of New York Mellon.*
- c) Knowing of the existence of an invalid substitute trustee's deed, Barrett, Daffin, Frappier, Turner and Engle, *The Bank of New York Mellon's attorneys, nevertheless filed an unlawful detainer action in state court.*
- d) Knowing of the existence of non-compliance with Texas statutory laws to effectuate a valid non-judicial foreclosure and the pendency of lawsuit for wrongful foreclosure; *Barrett, Daffin, Frappier, Turner and Engle, York Mellon's attorneys, nevertheless gave notices in the state-court unlawful detainer action consistent with imminent eviction.*
- e) Knowing that the foreclosure was void as a violation Texas statutory laws to effectuate a valid non-judicial foreclosure, and the pendency of lawsuit for wrongful foreclosure *Bank of America nevertheless failed to inform the Plaintiff before she filed a lawsuit to enjoin a wrongful post-foreclosure eviction.*
- f) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory laws to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Bank of America nevertheless failed to inform either the Plaintiff or the Courts during the pendency of Lawsuit 1 to enjoin a wrongful post-foreclosure eviction.*
- g) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory laws to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Bank of America nevertheless failed to inform Plaintiff and the Courts they filed Notice of Rescission.*
- h) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory law to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Bank of America nevertheless failed to vacate the state-court unlawful detainer action seeking to enforce the void foreclosure.*
- i) Knowing that the foreclosure was void as a violation Texas statutory laws to effectuate a valid non-judicial foreclosure and the pendency of lawsuit for wrongful foreclosure, *Bank of America nevertheless committed fraud upon the Courts and maliciously prosecuted the pending wrongful foreclosure lawsuit, as though the foreclosure sale was valid.*
- j) Knowing that the foreclosure was void as a violation Texas statutory laws to effectuate a valid non-judicial foreclosure and the pendency of lawsuit for wrongful foreclosure, *Bank of America nevertheless secretly sought to rescind the foreclosure sale, reinstate the title, and reinstate the debt without any authority.*
- k) Knowing that the foreclosure was void as a violation Texas statutory laws to effectuate a valid non-judicial foreclosure and the pendency of lawsuit for wrongful foreclosure, *Bank of America nevertheless allegedly transferred the servicing of the reinstated debt to Nationstar Mortgage, LLC to collect.*
- l) Knowing of the existence of non-compliance with Texas statutory laws to effectuate a valid non-

judicial foreclosure and the pendency of lawsuit for wrongful foreclosure, *Nationstar Mortgage, LLC, nevertheless conducted open and notorious harassing inspections of the Plaintiff's residence after the alleged transferred of servicing.*

- m) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory law to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Nationstar Mortgage, LLC, Bank of America's alleged successor, nevertheless pursued aggressive debt collection activity and threaten a subsequent foreclosure.*
- n) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory law to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Nationstar Mortgage, LLC and Bank of America sought to coerce Plaintiff to pay on loan to reinstate debt; advising the "Notice of Rescission" reinstated the lien and the debt.*
- o) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory law to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Nationstar Mortgage, LLC, Bank of America's alleged successor, nevertheless, reported derogatory credit information to the credit repositories referencing the alleged reinstated debt after the foreclosure sale damaging Plaintiff's creditworthiness.*
- p) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory law to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Nationstar Mortgage, LLC, Bank of America's alleged successor, acting in the capacity as Power of Attorney for Countrywide Home Loans, Inc., nevertheless executed and filed a Corporation Assignment of Deed of Trust from Countrywide Home Loans, Inc. (defunct since 2008) to Bank of New York Mellon on February 17, 2015 in the Tarrant County, Texas real property records.*
- q) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory law to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Nationstar Mortgage, LLC, Bank of America's alleged successor, nevertheless executed and filed a Corporation Assignment of Deed of Trust from Bank of New York Mellon to Nationstar Mortgage, LLC on December 17, 2017 in the Tarrant County, Texas real property records.*
- r) Knowing that the foreclosure was void as a result of non-compliance with Texas statutory law to effectuate a valid foreclosure and the pendency of lawsuit for wrongful foreclosure, *Harvey Law Group's managing attorney and officer of the Court, nevertheless provided inconsistent statements of material fact under oath to gain an advantage in an official proceeding thereby perjuring herself.*

62. For these reasons, Bank of America has been acting toward the Plaintiff in knowing and cynical disregard for the law.

63. In the calculus of reprehensibility, Bank of America's intentional conduct adds up to reckless and callous disregard for the rights of others. It has been wanton and oppressive. This equates with a high degree of reprehensibility.
64. Defendants have slandered Plaintiff's title thereby depriving her of the right to sell her property, redeem her equity therein and impeded the vendibility.
65. Defendants, all sophisticated parties, knowledgeable in business matters and represented by counsel, for the purpose of escaping liability, cannot be heard to say, that they have not done what they intended to do, and what, on the face of the record, appear to have done.
66. Ultimately the Defendants' "No Harm, No Foul," argument is a claim that rules of law should yield to banks' convenience.

CAUSES OF ACTION

I. VIOLATIONS OF § 12 OF THE TEXAS CIVIL PRACTICE & REMEDIES CODE (ALL DEFENDANTS)

Plaintiff hereby adopts by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.

67. Section 12.002 of the TEXAS CIVIL PRACTICE & REMEDIES CODE ("CPRC") provides:
68. A person may not make, present, or use documents or other record with:
 - a. knowledge that the document or other record is a fraudulent court record or a fraudulent lien or claim against real or personal property or an interest in real or personal property;
 - b. intent that the document or other record be given the same legal effect as a court record or document of a court created by or established under the constitution or laws of this state or the United States or another entity listed in Section 37.01, Penal Code, evidencing a valid lien or claim against real or personal property or an interest in real or personal property; and
 - c. intent to cause another person to suffer:
 - physical injury;
 - financial injury; or
 - mental anguish or emotional distress.

69. A person who violates Subsection (a) or (a-1) is liable to each injured person for:
 - a. the greater of:
 - (A) \$10,000; or

(B) the actual damages caused by the violation;

- b. court costs;
- c. reasonable attorney's fees; and
- d. exemplary damages in an amount determined by the court.

TEX. CIV. PRAC. & REM. CODE § 12.002.

70. Defendants made, presented, or used documents or other record with knowledge that the document or other record is a fraudulent court record or a fraudulent lien or claim against real property or an interest in real property.
- a) *On July 31, 2014, Document **D214164490**, Notice of Rescission of Foreclosure Sale and Cancellation of Substitute Trustee's Deed purporting to reinstate lien on Plaintiff's property after invalid foreclosure sale.*
 - b) *On February 17, 2015, Document **D215032449**, Corporate Assignment of Deed of Trust, Countrywide Home Loans, Inc., Assignor, purporting to assign Plaintiff's Deed of Trust to The Bank of New York Mellon, Assignee*
 - c) *On December 17, 2017, Document **D217291711**, Corporate Assignment of Deed of Trust, The Bank of New York Mellon, Assignor, purporting to assign Plaintiff's Deed of Trust to Nationstar Mortgage, LLC, Assignee*
71. Defendants made, presented, or used documents or other record with intent that the document or other record be given the same legal effect as a court record or document of a court created by or established under the Texas constitution or laws of the State of Texas, evidencing a valid lien or claim against real property or an interest in real property.
72. The documents or records filed or caused to be filed by Defendants, falsely represent Defendants' interest in the real property that is the subject of such instruments, causing damages and injuries to Plaintiff.
73. Defendants knew at the time of such filing the instruments falsely represented Defendants' interest in the real property that is the subject of such instruments.
74. Defendants made, presented, or used documents or other record with intent to cause Plaintiff to suffer financial injury, mental anguish, or emotional distress.
75. Defendants' conduct and actions violated TEX. CIV. PRAC. & REM. CODE § 12.002 on *July 24, 2014, February 17, 2015, and December 17, 2017*, for which Plaintiff seeks

judgment against Defendants, jointly and severally, equal to the greater amount of \$10,000 per violation, or actual damages caused by each violation, together with attorney's fees, court costs, and exemplary damages in an amount determined by the Court. There are breaks in Plaintiff's Chain of Title. (See Ex. I)

A. Violation of 12.002 by filing D214164490 in the Tarrant County real property records on 7/31/14 (David Stockman, Donna Stockman, Denise Boerner, and Recontrust Company)

Plaintiff hereby adopts by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.

David Stockman, Donna Stockman, Denise Boerner and Recontrust Company executed, signed, and filed a fraudulent document in the Tarrant County, Texas real property records purporting to reinstate a lien, give it legal effect and knew the harmful effect it would have on Plaintiff's title. Defendants knew or should have known the Notice of Rescission was fraudulent claim or interest in Plaintiff's property.

Defendants David Stockman, Donna Stockman, Denise Boerner and Recontrust Company were knowledgeable of the facts that a foreclosure sale had been performed and substitute trustee's deed executed in 2012, the purchaser/grantee at the foreclosure had been granted Judgment of Possession in 2012, the foreclosure sale was invalid; Plaintiff had initiated a lawsuit to enjoin a wrongful post-foreclosure eviction in 2012; Plaintiff filed a lis pendens in Tarrant County, Texas real property records noticing lawsuit and Defendants failure to notify Plaintiff of the Rescission should have caused Defendants to make an inquiry that would have lead to a discovery of fraud. Knowledge of the facts that would cause a reasonably prudent person to make inquiry which if pursued would lead to a discovery of fraud is in law equivalent to knowledge of the fraud. *Glenn v. Steele*, 141 Tex. 565, 61 S.W.2d 810; *Wise v. Anderson*, 163 Tex. 608, 359 S.W.2d 876.

Assuming arguendo, David Stockman, Donna Stockman, Denise Boerner and Recontrust Company were acting in the capacity of substitute trustees under Plaintiff's Deed of Trust. When exercising a power contained in a deed of trust, the trustee becomes a special agent for both parties, and he must act with absolute impartiality and with fairness to all concerned in order to achieve the objective of the trust. See *Hammonds v. Holmes*, 559 S.W.2d 345, 347 (Tex.1977); *First Federal Sav. & Loan Ass'n v. Sharp*, 359 S.W.2d 902, 904 (Tex.1962). David Stockman, Recontrust Company, Donna Stockman, and Denise Boerner failed to notify Plaintiff of the execution or filing of the Notice of the Rescission purportedly reinstating Plaintiff's lien and cancelling the substitute trustee's deed. When

the particular circumstances impose on a person a duty to speak and he deliberately remains silent, his silence is equivalent to a false representation. *Smith v. National Resort Communities, Inc.*, 585 S.W.2d 655, 658 (Tex.1979).

Texas courts have interpreted the "intent" element to require only that the person filing the fraudulent lien be aware of the harmful effect that filing such a lien could have on a landowner. *Taylor Elec. Services, Inc. v. Armstrong Elec. Supply Co.*, 167 S.W.3d 522, 531-32 (Tex. App.-Ft. Worth 2005)

David Stockman and Recontrust Company, sophisticated industry professionals, understood that Plaintiff was likely to incur financial injury (and perhaps mental anguish or emotional distress) as a result of the filing the Notice of Rescission purportedly reinstating the lien on Plaintiff's property clouding her title, seeking to affect the outcome of *Nicholson 1* and reinstating loan for transfer and collection by Nationstar Mortgage. David Stockman and Recontrust Company, knew they had no authority to rescind an invalid foreclosure sale extra-judicially two years after the foreclosure sale and Bank of New York Mellon's being awarded Judgment of Possession and knew of the harmful effect of filing the Notice of Rescission without notifying Plaintiff.

Since intent to defraud is not susceptible to direct proof, it invariably must be proven by circumstantial evidence. *Maulding v. Niemeyer*, 241 S.W.2d 733, 737 (Tex.Civ.App.-El Paso 1951) (orig. proceeding); *Turner v. Biscoe*, 171 S.W.2d at 119.

Circumstantial evidence of fraud may also be used to support a finding of fraudulent intent. See *Spoljaric v. Percival Tours, Inc.*, 708 S.W.2d 432, 435 (Tex.1986).

Defendants David Stockman, Donna Stockman, Denise Boerner, and Recontrust Company knew they were filing a fraudulent record in the Tarrant County, Texas real property records to give it legal effect to cause financial injury perhaps mental anguish and emotional distress.

B. Violations of 12.002 by filing D215032449 in the Tarrant County, Texas real property records on 2/17/15 (CHLI, Nationstar, William Viana, Assistant Secretary, Bank of New York as Trustee for Reperforming Trust, 500 Grant Street, Pittsburgh, PA)

Plaintiff hereby adopts by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.

On **February 17, 2015** Nationstar Mortgage executed and presented the “Corporate Assignment of Deed of Trust” to Tarrant County Texas real property records to be filed and recorded. Countrywide Home Loans , Assignor, caused Nationstar Mortgage to execute, file and record a fraudulent claim or interest in Plaintiff’s property to BONY Grant street (different trust add in). Countrywide Home Loans, Inc has been defunct since the July 2008 acquisition by Bank of America. Defunct CHLI had no interest in Plaintiff’s property to assign. Nevertheless, CHLI secured execution of documents by deception, violating Texas Penal Code 32.46.

On **1/27/15** Plaintiff filed a lawsuit complaining of Nationstar’s aggressive deceptive collections activity, harassment, threatening a subsequent foreclosure and filing the fraudulent Corporate Assignment of Deed of in the Tarrant County real property records styled Nicholson v. Nationstar numbered 048-276347-15.

On **2/9/15** Nationstar Mortgage sent Plaintiff a letter advising they were allegedly servicing account number 0619301724 for the Bank of New York Mellon and the account was 47 months in arrears.

On **2/17/16** in open court Nationstar’s attorney advised the Court, Nationstar Mortgage was not a party to the assignment. (embed transcript snippet) However, the seller’s account servicing number 0619301724 referenced on the Corporation Assignment Deed of Trust was allegedly being serviced by Nationstar Mortgage on behalf of the BONY as trustee for certificateholders of CWMBS.....

On **December 25, 2015** Plaintiff filed a CFPB complaint against Nationstar complaining of the fraudulent Corporate Assignment of Deed of Trust filed and recorded in the Tarrant County, Texas real property recorded on 2/17/15. (embed complaint) Nationstar acknowledged receipt of the December 25, 2015 complaint on December 30, 2015.

On **February 19, 2016** Nationstar responded to Plaintiff’s December 25,2015 complaint advising they had the right to service loan. Plaintiff complained to the CFPB referencing the derogatory credit reporting by Nationstar Mortgage to the credit repositories on May 29, 2016, May 31, 2016, June 4, 2016, June 19, 2016 and June 20, 2016; requesting removal of the derogatory marks affecting her credit worthiness.

On **June 29, 2016** Nationstar Mortgage acknowledged receipt of the credit reporting complaints from May 29, 2016 through June 20, 2016; advising they will continue to report the adverse information to the credit repositories relying on the Notice of Rescission.

On **September 13, 2016** Plaintiff sent Nationstar Mortgage, LLC a certified letter, return

receipt requested, putting Nationstar Mortgage “on notice” that the filing of Instrument D215032449, Corporate Assignment of Deed of Trust, was a fraudulent claim against Plaintiff’s property and requested a release of Instrument D215032449, the 2/17/15 Assignment. The return receipt shows the letter was delivered on September 16, 2016. Nevertheless, Instrument D215032449 was not purged from the Tarrant County, Texas real property records. Nevertheless, the Corporate Assignment of Deed of Trust filed on February 17, 2015 was not purged from the Tarrant County, Texas real property records within 21 days, thereby intending to harm or defraud Plaintiff pursuant to Texas Penal Code 32.49.

On **June 21, 2017** Plaintiff sent Bank of New York a certified letter, return receipt requested, putting BONY “on notice” that the filing of Instrument D215032449, Corporate Assignment of Deed of Trust, was a fraudulent claim against Plaintiff’s property and requested a release of Instrument D215032449, the 2/17/15 Assignment. The return receipt shows delivery on June 24, 2017 to 500 Grant Street, Pittsburgh, PA 15258. Nevertheless, BONY failed to execute a release of the fraudulent interest from the Tarrant County, Texas real property records within 21 days; thereby intending to harm or defraud Plaintiff pursuant to Texas Penal 32.49.

Under Texas law, an assignment is a manifestation by the owner of a right to transfer such right to the assignee. *Hermann Hosp. v. Liberty Life Assur. Co.*, 696 S.W.2d 37, 44 (Tex. App.-Houston [14th Dist.] 1985, writ ref’d n.r.e.). An existing right is a precondition for a valid assignment. *Pain Control Institute, Inc. v. GEICO Gen. Ins. Co.*, 447 S.W.3d 893, 899 (Tex. App.-Dallas 2014, no pet.). An assignee stands in the shoes of the assignor but acquires no greater right than the assignor possessed. *John H. Carney & Assocs. v. Texas Prop. & Cas. Ins. Guar. Ass’n*, 354 S.W.3d 843, 850 (Tex. App.-Austin 2011, pet. denied). An assignment cannot be made by a dead man; it is a transfer by one existing party to another existing party of some valuable interest. *Pool v. Sneed*, 173 S.W.2d 768, 775 (Tex. Civ. App.-Amarillo 1943, writ ref’d w.o.m.).

Knowledgeable of the facts that would cause a reasonably prudent person to make inquiry which if pursued would lead to a discovery of fraud is in law equivalent to knowledge of the fraud. *Glenn v. Steele*, 141 Tex. 565, 61 S.W.2d 810; *Wise v. Anderson*, 163 Tex. 608, 359 S.W.2d 876. Nationstar, Countrywide, and William Viana were knowledgeable of the facts which if were pursued would lead to a discovery a fraud.

Texas courts have interpreted the "intent" element to require only that the person filing the

fraudulent lien be aware of the harmful effect that filing such a lien could have on a landowner. Taylor Elec. Services, Inc. v. Armstrong Elec. Supply Co., 167 S.W.3d 522, 531-32 (Tex. App.-Ft. Worth 2005)

Nationstar Mortgage, sophisticated creditor and industry professional represented by counsel, understood that Plaintiff was likely to incur financial injury (and perhaps mental anguish or emotional distress) as a result of the filing the Corporate Assignment Deed of Trust on 2/17/15, refusing to purge the Corporate Assignment of Deed of Trust from the real property records creating a cloud/burden on Plaintiff's title, and refusing to remove the disputed derogatory credit marks damaging her credit worthiness. Since intent to defraud is not susceptible to direct proof, it invariably must be proven by circumstantial evidence. Maulding v. Niemeyer, 241 S.W.2d 733, 737 (Tex.Civ.App.-El Paso 1951) (orig. proceeding); Turner v. Biscoe, 171 S.W.2d at 119. Circumstantial evidence of fraud may also be used to support a finding of fraudulent intent. See Spoljaric v. Percival Tours, Inc., 708 S.W.2d 432, 435 (Tex.1986). Intent may also be inferred from a party's subsequent actions. Spoljaric, 708 S.W.2d at 434.

On May 11, 2017 the Harvey Law Group, Nationstar's attorney, sent a letter advising Plaintiff they would continue to report adverse credit information to the credit repositories. (See Ex. F)

On June 23, 2017 Nationstar sent Plaintiff letter advising the payment history has been reported correctly to the credit repositories. (See Ex. G)

On June 28, 2017 Nationstar sent Plaintiff a letter advising they would report the credit information as disputed to the credit repositories. (See Ex. H)

Nationstar Mortgage knew the harmful effect the Corporate Assignment of Deed of Trust would have on Plaintiff's title and the adverse credit reporting to the credit repositories would have on Plaintiff's creditworthiness. Nationstar intended to cause Plaintiff financial injury and perhaps mental anguish and emotional distress.

On April 2016 and July 2017 Plaintiff received offers for more than \$200,000 on her property, however, the Corporate Assignment Deed of Trust filed on 2/17/15 and the Notice of Rescission filed on July 31, 2014 impeded the vendibility of Plaintiff's property. The cloud of the 2/17/15 Assignment and the July 2014 Notice of Rescission slandered Plaintiff's title and thereby deprived of her right to sell the property and redeem her equity therein.

On May 2016 and June 2016, Plaintiff sought to purchase an automobile. Plaintiff was

denied a favorable credit approval due to the derogatory credit marks by Nationstar on her credit report.

Defendants Countrywide Home Loans, Nationstar, and William knew they were filing a fraudulent claim/interest in the Tarrant County records to give it legal effect to harm Plaintiff financially, mentally, and emotionally. Defendants' egregious conduct is relentless.

(C) Violation of 12.002 by filing D217291711 in the Tarrant County, Texas real property records on 12/17/17 (Nationstar Bank, THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWMBS., CWMBS REFORMING LOAN REMIC TRUST CERTIFICATES, SERIES 2005-R2, Trefe Tekle, President)

Plaintiff hereby adopts by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.

On **July 3, 2012** the Bank of New York Mellon Trustee for the Certificateholders was conveyed title to Plaintiff's property via a Substitute Trustee's Deed, thereby divesting Plaintiff of her title. On September and November 2012 the Bank of New York Mellon was granted Judgment of Possession. And until a court sets a deed aside, it remains "valid and represents prima facie evidence of title." *Lance v. Robinson*, Tex: Supreme Court (March 2018), citing *Nobles v. Marcus*, 533 S.W.2d 923 (Tex. 1976) at 926; see also *Morlock, L.L.C. v. Bank of N.Y.*, 448 S.W.3d 514, 517 (Tex. App.-Houston [1st Dist.] 2014, pet. denied) Plaintiff has adversely possessed the property under color of title since July 3, 2012.

Specifically with respect to mortgagors in default who claim adverse possession, the statutory period does not begin to run until title to the property passes at the foreclosure sale. *Warnecke v. Broad*, 161 S.W.2d 453, 455 (Tex. 1942). The Texas Civil Practice and Remedies Code provides, "A person must bring suit to recover real property held by another in peaceable and adverse possession under title or color of title not later than three years after the day the cause of action accrues. TEX. CIV. PRAC. REM.CODE ANN. § 16.024 (West 2002). "If an action for the recovery of real property is barred under [chapter 16], the person who holds the property in peaceable and adverse possession has full title, precluding all claims." *Id.* § 16.030(a). Plaintiff has resided on the property in peaceable and adverse possession since July 3, 2012. As a matter of law, Plaintiff had full title, precluding all claims effective July 3, 2015.

On **December 17, 2017** Nationstar Mortgage executed, presented, and filed a Corporate Assignment of Deed of Trust from the Bank of New York Mellon to Nationstar Mortgage in the Tarrant County real property records to give it legal effect. The Bank of New York Mellon had no interest in Plaintiff's property to assign to Nationstar Mortgage.

Alternatively, Plaintiff's Deed of Trust is void since Plaintiff's mortgage loan has been accelerated since April 24, 2012 more than four years pursuant to Texas Civil Remedies and Practices Code 16.035.

Under Texas law, an assignment is a manifestation by the owner of a right to transfer such right to the assignee. *Hermann Hosp. v. Liberty Life Assur. Co.*, 696 S.W.2d 37, 44 (Tex. App.-Houston [14th Dist.] 1985, writ ref'd n.r.e.). An existing right is a precondition for a valid assignment. *Pain Control Institute, Inc. v. GEICO Gen. Ins. Co.*, 447 S.W.3d 893, 899 (Tex. App.-Dallas 2014, no pet.). An assignee stands in the shoes of the assignor but acquires no greater right than the assignor possessed. *John H. Carney & Assocs. v. Texas Prop. & Cas. Ins. Guar. Ass'n*, 354 S.W.3d 843, 850 (Tex. App.-Austin 2011, pet. denied). Nationstar Mortgage now serves as the alleged servicer from the Bank of New York Mellon and the Assignee in the Corporation Assignment of Deed of Trust.

Knowledge of the facts that would cause a reasonably prudent person to make inquiry which if pursued would lead to a discovery of fraud is in law equivalent to knowledge of the fraud. *Glenn v. Steele*, 141 Tex. 565, 61 S.W.2d 810; *Wise v. Anderson*, 163 Tex. 608, 359 S.W.2d 876. Bank of New York Mellon was knowledgeable of the facts that if pursued would have lead to a discovery of fraud.

Nationstar Mortgage, sophisticated creditor and industry professional, that has been represented by counsel in another related suit, understood that Plaintiff is likely to incur financial injury (and perhaps mental anguish or emotional distress) as a result of the filing the Corporate Assignment Deed of Trust on December 17, 2017 in the Tarrant County records to give it legal effect to further cloud Plaintiff's property and harass.

Since intent to defraud is not susceptible to direct proof, it invariably must be proven by circumstantial evidence. *Maulding v. Niemeyer*, 241 S.W.2d 733, 737 (Tex.Civ.App.-El Paso 1951) (orig. proceeding); *Turner v. Biscoe*, 171 S.W.2d at 119. Circumstantial evidence of fraud may also be used to support a finding of fraudulent intent. See *Spoljaric v. Percival Tours, Inc.*, 708 S.W.2d 432, 435 (Tex.1986). Intent may also be inferred from a party's subsequent actions. *Spoljaric*, 708 S.W.2d at 434.

Defendants Bank of New York, Nationstar, and Trefle knew they were filing a fraudulent

claim/interest in the Tarrant County records to give it legal effect to harm Plaintiff financially, mentally, and emotionally. Defendants' egregious conduct is relentless.

II. NEGLIGENCE PER SE (ALL DEFENDANTS)

Plaintiff hereby adopt by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.

72. Defendants were negligent per se in the misconduct alleged herein. Such negligence per se included, but was and is not limited to:

a. violation of section 12.002 of the TEXAS CIVIL PRACTICE & REMEDIES CODE by filing false and deceptive record in the deed record of Texas on July 24, 2014 (D214164490), February 17, 2015 (D215032449), and December 17, 2017 (D217291711)

b. The negligence per se of Defendant set forth herein was a proximate cause of damages to Plaintiff for which she seeks judgment of the Court.

III. GROSS NEGLIGENCE PER SE (ALL DEFENDANTS)

Plaintiff hereby adopt by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.

73. Defendants were grossly negligent per se in the misconduct alleged herein. Such gross negligence per se included, but was and is not limited to:

a. violation of section 12.002 of the TEXAS CIVIL PRACTICE & REMEDIES CODE by filing false and deceptive records in the deed records of Texas on **July 24, 2014 (D214164490), February 17, 2015(D214032449), and December 17, 2017 (D217291711)**

b. The gross negligence per se of Defendants set forth herein was a proximate cause of damages to Plaintiff for which she seeks judgment of the Court.

76. On **July 24, 2014, February 17, 2015, and December 17, 2017**, Defendants made, presented, or used documents or other record with knowledge that the document or other record is a fraudulent court record or a fraudulent lien or claim against real property or an interest in real property intending to cause Plaintiff financial injury.

77. Pursuant to TEX. CIV. PRAC. & REM. CODE § 37, Plaintiff seeks declaratory judgment that D215032449 and D217291711 are null and void and should be purged from the Tarrant County, Texas Real Property records.
78. Pursuant to TEX. CIV. PRAC. & REM. CODE § 37, Plaintiff seeks a declaratory judgment that Defendants made, presented, or used documents or other record with knowledge that the document or other record is a fraudulent court record or a fraudulent lien or claim against real property or an interest in real property in violation of TEX. CIV. PRAC. & REM. CODE § 12.002 specifically D214164490, D215032449, and D217291711.
79. Pursuant to TEX. CIV. PRAC. & REM. CODE § 37, Plaintiff seeks a declaratory judgment that Defendants made, presented, or used documents or other record with intent that the document or other record be given the same legal effect as a court record or document of a court created by or established under the Texas constitution or laws of the State of Texas, evidencing a valid lien or claim against real property or an interest in real property in violation of TEX. CIV. PRAC. & REM. CODE § 12.002 specifically D214164490, D215032449, and D117291711.
80. Pursuant to TEX. CIV. PRAC. & REM. CODE § 37, Plaintiff seeks a declaratory judgment that documents or records filed or caused to be filed by Defendants, falsely represent Defendants' interest in the real property that is the subject of such instruments in violation of TEX. CIV. PRAC. & REM. CODE § 12.002 specifically D214164490, D215032449, and D217291711.
81. Pursuant to TEX. CIV. PRAC. & REM. CODE § 37, Plaintiff seeks a declaratory judgment that documents or records filed or caused to be filed by Defendants with the intent cause Plaintiff financial injury, mental anguish and emotional distress in violation of TEX. CIV. PRAC. & REM. CODE § 12.002 specifically D214164490, D215032449, and D217291711.
82. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that THE BONY was conveyed title to Plaintiff's property on August 2, 2012;
83. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Plaintiff was divested of title to her property on August 2, 2012;
84. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Plaintiff's Deed of Trust, D201015378, was wiped out on August 2, 2012;

85. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Plaintiff had no contractual obligations under Deed of Trust, D201015378 after August 2, 2012;
86. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that David Stockman, Donna Stockman, Denise Berner, and Recontrust Company weren't substitute trustee's under Plaintiff's Deed of Trust, D201015378 after August 2, 2012;
87. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Plaintiff was an adverse possessor of her property at 2951 Santa Sabina Drive, Grand Prairie, Texas 75052 after August 2, 2012;
88. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that David Stockman, Donna Stockman, Denise Boerner, or Recontrust Company had no interest in Plaintiff's property, title, or lien to grant, convey, or reinstate on July 24, 2014;
89. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Instrument D214164490, Notice of Rescission, was an artifice and stratagem that was filed in the Tarrant County, Texas real property record;
90. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Countrywide Home Loans was a non-existent entity on February 17, 2015;
91. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Countrywide Home Loans had no interest in Plaintiff's property on February 17, 2015;
92. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Nationstar Mortgage had no authority to act in the capacity as attorney-in-fact for Countrywide Home Loans, Inc. in Instrument D215032449;
93. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that BONY as assignee, Instrument D215032449, was a non-existent entity on February 17, 2015;
94. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Instrument D215032449, Assignment, did not convey any interest in Plaintiff's property to the Bank of New York Mellon, Pittsburgh, PA because Countrywide Home Loans had no such interest to convey;
95. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Instrument D217291711, Assignment, did not convey any interest in Plaintiff's property to Nationstar Mortgage/Mr. Cooper, because THE BONY had no such interest to convey;
96. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that David Stockman, Donna Stockman, Denise Berner, Recontrust, and Bank of America made,

presented, or used Instrument D214164490, Notice of Rescission with knowledge that the

document or other record is a fraudulent court record or a fraudulent lien or claim against real or personal property or an interest in real or personal property;

97. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that David Stockman, Donna Stockman, Denise Boerner, Recontrust, and Bank of America intended that the document , Instrument D214164490 or other record be given the same legal effect as a court record or document of a court created by or established under the constitution or laws of this state or the United States or another entity listed in Section 37.01, Penal Code, evidencing a valid lien or claim against real or personal property or an interest in real or personal property;
98. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that David Stockman, Donna Stockman, Denise Berner, Recontrust, and Bank of America intended to cause Plaintiff physical injury, financial injury or mental anguish or emotional distress by recording Instrument D214164490 in the Tarrant County, Texas real property records;
99. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Countrywide Home Loans, Nationstar Mortgage, LLC, William Viana and Bank of New York Mellon made, presented, or used used a document, instrument D215032449, Assignment with knowledge that the document or other record is a fraudulent court record or a fraudulent lien or claim against real or personal property or an interest in real or personal property;
100. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Countrywide Home Loans, Nationstar Mortgage, LLC, William Viana, and Bank of New York Mellon intended that the document , Instrument D215032449, Assignment to be given the same legal effect as a court record or document of a court created by or established under the constitution or laws of this state or the United States or another entity listed in Section 37.01, Penal Code, evidencing a valid lien or claim against real or personal property or an interest in real or personal property;
101. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Countrywide Home Loans, Nationstar Mortgage, LLC, William Viana, and Bank of New York Mellon intended to cause Plaintiff physical injury, financial injury or mental anguish or emotional distress by recording Instrument D215032449 , Assignment in the Tarrant County, Texas real property records;
102. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that BONY, Terefe Trekle, and Nationstar Mortgage/Mr. Cooper made, presented, or used used Instrument D217291711, Corp Assignment of Deed of Trust with knowledge that the document or

other record is a fraudulent court record or a fraudulent lien or claim against real or personal property or an interest in real or personal property;

103. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that BONY, Terefe Trekle, and Nationstar Mortgage/Mr. Cooper, intended that Instrument D217291711, Corp Assignment of Deed of Trust be given the same legal effect as a court record or document of a court created by or established under the constitution or laws of this state or the United States or another entity listed in Section 37.01, Penal Code, evidencing a valid lien or claim against real or personal property or an interest in real or personal property;
104. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that BONY, Terefe Trekle and Nationstar Mortgage/Mr. Cooper intended to cause Plaintiff physical injury, financial injury or mental anguish or emotional distress by recording Instrument D217291711 in the Tarrant County, Texas real property records;
105. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Instrument D217291711 is an "invalid cloud and burden" on the Plaintiff's property;
106. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Instrument D215032449 is an "invalid cloud and burden" on the Plaintiff's property;
107. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Instrument D214164490 is a "deed or other record" under Chapter 12;
108. Pursuant to TEX. CIV. PRAC. & REM CODE § 37, Plaintiff seeks declaratory judgment that Instrument D215032449 is a "deed or other record" under Chapter 12;
109. Pursuant to TEX. CIV. PRAC. & REM CODE § 37 Plaintiff seeks declaratory judgment that Instrument D217291711 is a "deed or other record" under Chapter 12;
110. Pursuant to TEX. CIV. PRAC. & REM. CODE § 37.009, Plaintiff seeks recovery of costs and fees.

IV. CIVIL CONSPIRACY TO COMMIT FRAUD UPON THIS HONORABLE COURT AND PLAINTIFF (ALL DEFENDANTS)

Plaintiff hereby adopts by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.

111. The elements of civil conspiracy are (1) a combination of two or more persons; (2) the objective to be accomplished is an unlawful purpose or a lawful purpose by unlawful means; (3) a meeting of minds on the object or course of action; (4) one or more unlawful, overt

acts; and (5) damages as the proximate result. *Ins. Co. of N. Am. v. Morris*, 981 S.W.2d 667, 675 (Tex. 1998). Civil conspiracy requires specific intent. *Triplex Commc=ns Inc. v. Riley*, 900 S.W.2d 716, 719 (Tex. 1995). For a civil conspiracy to arise, the parties must be aware of the harm or wrongful conduct at the inception of the combination or agreement. *Id.* Because liability depends on participation in some underlying tort, conspiracy is considered a derivative tort. *Baty*, 63 S.W.3d at 864 (citing *Tilton v. Marshall*, 925 S.W.2d 672, 681 (Tex. 1996)). Therefore, to prevail on a civil conspiracy claim, the plaintiff must show the defendant was liable for some underlying tort. *Id.* (citing *Trammell Crow Co. No. 60 v. Harkinson*, 944 S.W.2d 631, 635(Tex. 1997)). Proof of a civil conspiracy may be, and usually must be, made by circumstantial evidence.

112. On August 2, 2012 David Stockman executed a Substitute Trustee's Deed conveying Plaintiff's title to the Bank of New York Mellon. And until a court sets a deed aside, it remains "valid and represents prima facie evidence of title." *Lance v. Robinson*, Tex: Supreme Court (March 2018), citing *Nobles v. Marcus*, 533 S.W.2d 923 (Tex. 1976) at 926; see also *Morlock, L.L.C. v. Bank of N.Y.*, 448 S.W.3d 514, 517 (Tex. App.-Houston [1st Dist.] 2014, pet. denied)
113. On October 31, 2012 Bank of New York Mellon was awarded Judgment of Possession after an invalid foreclosure sale of Plaintiff's property.
114. On November 5, 2012 Plaintiff filed a lawsuit to enjoin a wrongful post-foreclosure eviction in the 342nd Court styled *Nicholson v. Bank of New York Mellon* numbered 324-262692-12. (*Nicholson I*)
115. On December 6, 2012 Plaintiff filed a Lis Pendens in the Tarrant County real property records to put the public on notice of the pending 342nd lawsuit referencing title and eviction. Bank of America sent Plaintiff alerts 2012-2014 post-foreclosure advising payments on her account that was allegedly foreclosed and assigning a new Customer Service Manager, Maria Ivarra during the pendency of (*Nicholson I*)
116. On January 24, 2014 Bank of America sent Plaintiff a letter advising the payoff on her account was more than \$212,000 during the pendency of (*Nicholson I*)
117. On April 20, 2014 Plaintiff filed a CFPB complaint complaining of the alerts and letters post-foreclosure referencing the account being active.
118. On May 6, 2014 Kevin Castro, Bank of America Office of the President sent Plaintiff a letter advising the January 24, 2014 was sent as informational purposes only, the foreclosure remained in place, and there had been no charges assessed after the foreclosure sale.
119. On May 28,2014 Defendants responded to Request for Admissions admitting the foreclosure sale

120. On July 24, 2014 David Stockman, Recontrust Company, Donna Stockman and Denise Boerner, clandestinely executed and filed a Notice of Rescission purportedly reinstating the lien on Plaintiff's property and cancelling the substitute trustee's deed in the Tarrant County real property records to give it legal effect and cause harm to Plaintiff. The Notice of Rescission was filed:
121. After the purchaser was granted Judgment of Possession in the Justice of the Peace and County Court at Law on **September 20, 2012** and **November 1, 2012** respectively
122. After the execution of the substitute trustee's deed that was filed on **August 2, 2012**
123. After Plaintiff filed a lawsuit to enjoin a wrongful post-foreclosure eviction on **November 5, 2012**
124. After Plaintiff filed a Lis Pendens on **December 6, 2012 to publicly notice title suit**
125. After Recontrust Company and others advised the Court they would not evict Plaintiff during the pendency of *Nicholson 1* on **March 21, 2013**
126. After Kevin Castro, Bank of America's Office of the President, Plaintiff's servicer pre-foreclosure, sent Plaintiff a letter advising the foreclosure sale remained in place on **May 20, 2014**
127. After Bank of America admitted the foreclosure sale did not comply with the Texas statutory laws to effectuate a valid foreclosure sale on **May 28, 2014**
128. After Recontrust Company and others sought to file a counterclaim in *Nicholson 1* to reform the substitute trustee's deed due to scrivener's error on **July 15, 2014**

Subsequent Actions after filing the Notice of Rescission on July 31, 2014 in the Tarrant County real property records

129. Defendant Recontrust Company's attorney, McGlinchey Stafford Law Firm (David Romness, Nathan Anderson, R. Dwayne Danner) failed to notify the Court during the pendency of *Nicholson 1* of the filing of the Notice of Rescission executed by its client pursuant to Rule 3.3 of the Model Rules of Professional Conduct and Rule 3.03 of the Texas Rules of Professional Conduct so that Plaintiff would not incur unnecessary time and expense associated with the ongoing litigation of the invalid foreclosure sale and the subsequent fraudulent acts
130. Recontrust Company's attorney, David Romness, advised Plaintiff the foreclosure sale was invalid on **August 8, 2014** via email
131. Recontrust and others withdrew their counterclaim on **August 23, 2014** after full briefing in *Nicholson 1*

132. Recontrust and others filed a Motion for Summary Judgment judicially admitting Bank of America and Bank of New York had the right to foreclose appending an affidavit from Recontrust Company **September 15, 2014**
133. Bank of America, Plaintiff's servicer pre-foreclosure, relied on the Notice of Rescission to reinstate Plaintiff's loan without notifying Plaintiff or the Court
134. Bank of America, Plaintiff's servicer pre-foreclosure, allegedly transferred servicing of the reinstated loan to Nationstar Mortgage to service and collect
135. Nationstar Mortgage threaten a subsequent foreclosure on **December 31, 2014**
136. Nationstar Mortgage relied on the Notice of Rescission to service the alleged reinstated loan, pursue debt collection on contractual past due payments, and report derogatory credit activity to the credit repositories
137. Countrywide Home Loans, Inc (defunct entity) relied on Notice of Rescission to allegedly assign Plaintiff's Deed of Trust to Bank of New York Mellon as Trustee on **February 17, 2015**
138. Recontrust and others in *Nicholson I* filed their answer in *Nicholson I* alleging they were entitled to rent after the foreclosure sale up to transferring to Nationstar on **December 30, 2015**
139. Nationstar Mortgage sought to coerce Plaintiff to reaffirm debt by deception relying on the Notice of Rescission
140. Recontrust's attorney, Richard Danner sent Plaintiff correspondence advising Plaintiff's lien and debt were reinstated the balance on Plaintiff's loan relying on the Notice of Rescission **June 20, 2016**²
141. Richard Danner, Defendants' attorney in *Nicholson I* conceded the Notice of Rescission was invalid in Responses to Request for Disclosures on **February 24, 2017**
142. Harvey Law Group, Nationstar's attorney, sent Plaintiff a letter entitled "Abandonment of Acceleration" on **April 20, 2016** contradicting information Nationstar had been providing to Plaintiff for more than a year earlier indicating Plaintiff's loan was contractually due for forty-seven payments since April 2011 with more than \$80,000 in arrears.
143. Assuming arguendo, David Stockman, Donna Stockman, Denise Boerner and Recontrust Company were acting in the capacity of substitute trustees under Plaintiff's Deed of Trust. Although not a fiduciary duty, a trustee has a duty in connection with a foreclosure sale to act with "'absolute impartiality and fairness' to all concerned, including the mortgagor." See *Peterson v. Black*, 980 S.W.2d 818, 822 (Tex.App.-San Antonio 1998, no pet.); *First State Bank v. Keilman*, 851 S.W.2d 914, 925 (Tex.App.-Austin 1993, writ denied) (citing *Hammonds v. Holmes*, 559 S.W.2d 345, 347 (Tex.1977)). A trustee fulfills the duty of impartiality and fairness by "strictly complying with the

terms of the deed of trust." *Keilman*, 851 S.W.2d at 925. David Stockman, Recontrust Company, Donna Stockman or Denise Boerner failed to notify Plaintiff (mortgagor) of the execution or filing of the Notice of the Rescission purportedly reinstating Plaintiff's lien and canceling substitute trustee's deed, nevertheless, the mortgagee pre-foreclosure was notified and took subsequent actions including allegedly reinstating the debt and transferring servicing agreements to Nationstar Mortgage to collect, harass, and deceive Plaintiff to reaffirm by misrepresenting the Notice of Rescission reaffirmed the debt. When the particular circumstances impose on a person a duty to speak and he deliberately remains silent, his silence is equivalent to a false representation. *Smith v. National Resort Communities, Inc.*, 585 S.W.2d 655, 658 (Tex.1979).

144. Texas courts have long adhered to the view that fraud vitiates whatever it touches, and have consistently held that a party will not be permitted to avail himself of the protection of a limitations statute when by his own fraud has prevented the other party from seeking redress within the period of limitations. To reward a wrongdoer for his own fraudulent contrivance would make the statute a means of encouraging rather than preventing fraud. *Estate of Stonecipher v. Estate of Butts*, 591 S.W.2d at 809; *Ruebeck v. Hunt*, 142 Tex. 167, 176 S.W.2d 738, 739 (1943); *Glenn v. Steele*, 141 Tex. 565, 61 S.W.2d 810, 810 (1933); *Port Arthur Rice Milling Co. v. Beaumont Rice Mills*, 105 Tex. 514, 522, 143 S.W. 926, 929 (1912); *Heirs of Brown v. Brown*, 61 Tex. 45, 59 (1884); *Munson v. Hallowell*, 26 Tex. 475, 484 (1863).
145. Defendants devised a scheme or artifice to defraud Plaintiff and the courts and executed this scheme or artifice by recording Instrument D214164490 in the Tarrant County, Texas Real Property records to defeat Plaintiff's claims in a pending lawsuit, (*Nicholson v. Bank of New York Mellon and others*, 342-262692-12, "*Nicholson I*"). Defendants, David Stockman and Recontrust Company recorded the instrument to reinstate Plaintiff's lien and debt. Then, Bank of America allegedly reinstated the debt and transferred the servicing to Nationstar Mortgage to pursue collection activity, Nationstar Mortgage pursued debt collection and sought to coerce Plaintiff to reinstate contractual obligations, Countrywide Home Loans recorded a fraudulent claim interest to BONY, and BONY recorded a fraudulent claim/interest/to Nationstar Mortgage to further harass.
146. Defendants devised or intended to devise a scheme or artifice to defraud Plaintiff and this court and executed this scheme or artifice by recording Instrument D214164490 in the Tarrant County, Texas Real Property records to coerce Plaintiff to start loan repayment to reinstate loan contract by deception.

V.FRAUD (ALL DEFENDANTS)

A. Plaintiff hereby adopts by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.

147. The elements of fraud are: (1) that a material representation was made; (2) the representation was false; (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; (4) the speaker made the representation with the intent that the other party should act upon it; (5) the party acted in reliance on the representation; and (6) the party thereby suffered injury. In re FirstMerit Bank, N A., 52 S.W.3d 749 (Tex. 2001); Formosa Plastics Corp. v. Presidio Eng'rs. & Contractors, Inc., 960 S.W.2d 41, 47 (Tex.1998).
148. On July 24, 2014 David Stockman, Recontrust Company, Donna Stockman and Denise Boerner, clandestinely executed and filed a Notice of Rescission purportedly reinstating the lien on Plaintiff's property and cancelling the substitute trustee's deed in the Tarrant County real property records to give it legal effect and cause harm to Plaintiff.
149. Defendant Recontrust Company's attorney, McGlinchey Stafford Law Firm (David Romness, Nathan Anderson, R. Dwayne Danner) failed to notify the Court during the pendency of *Nicholson I* of the filing of the Notice of Rescission executed by its client pursuant to Rule 3.3 of the Model Rules of Professional Conduct and Rule 3.03 of the Texas Rules of Professional Conduct so that Plaintiff would not incur unnecessary time and expense associated with the ongoing litigation of the invalid foreclosure sale and the subsequent fraudulent acts.
150. Recontrust Company's attorney, David Romness, advised Plaintiff the foreclosure sale was invalid on **August 8, 2014** via email
151. Bank of America, Plaintiff's servicer pre-foreclosure, relied on the Notice of Rescission to reinstate Plaintiff's loan without notifying Plaintiff or the Court
152. Bank of America, Plaintiff's servicer pre-foreclosure, allegedly transferred servicing of the reinstated loan to Nationstar Mortgage to service and collect
153. Nationstar Mortgage threaten a subsequent foreclosure on **December 31, 2014**

154. Nationstar Mortgage relied on the Notice of Rescission to service the alleged reinstated loan, pursue debt collection on contractual past due payments, and report derogatory credit activity to the credit repositories
155. Countrywide Home Loans, Inc (defunct entity) relied on Notice of Rescission to allegedly assign Plaintiff's Deed of Trust to Bank of New York Mellon as Trustee on **February 17, 2015**
156. Recontrust and others in *Nicholson I* filed their answer in Nicholson 1 alleging they were entitled to rent after the foreclosure sale up to transferring to Nationstar on **December 30, 2015**
157. Nationstar Mortgage sought to coerce Plaintiff to reaffirm debt by deception relying on the Notice of Rescission
158. Recontrust's attorney, Richard Danner sent Plaintiff correspondence advising Plaintiff's lien and debt were reinstated the balance on Plaintiff's loan relying on the Notice of Rescission **June 20, 2016,** misrepresenting the effect of the Notice of Rescission.
159. Richard Danner, Defendants' attorney in *Nicholson I* conceded the Notice of Rescission was invalid in Responses to Request for Disclosures on **February 24, 2017**
160. Harvey Law Group, Nationstar's attorney, sent Plaintiff a letter entitled "Abandonment of Acceleration" on **April 20, 2016** contradicting information Nationstar had been providing to Plaintiff for more than a year earlier indicating Plaintiff's loan was contractually due for forty-seven payments since April 2011 with more than \$80,000 in arrears.
161. Defendants, BONY, BOA, Recontrust Company, and Melanie Cowan secretly sought to rescind sale, cancel trustee's deed and reinstate lien without any authority
162. BONY, BOA, Recontrust Company, and Melanie Cowan pursued litigation of wrongful foreclosure lawsuit for more than five years as though foreclosure sale was valid
163. BOA misrepresented to Plaintiff the Notice of Rescission reinstated the lien and debt
164. Nationstar misrepresented to Plaintiff the Notice of Rescission reinstated the debt to coerce Plaintiff to reaffirm debt by deception.
165. On April 2016 and July 2017 Plaintiff received offers for more than \$200,000 on her property, however, the Corporate Assignment Deed of Trust filed on 2/17/15 and the Notice of Rescission filed on July 31, 2014 impeded the vendibility of Plaintiff's property. The cloud of the 2/17/15 Assignment and the July 2014 Notice of Rescission slandered Plaintiff's title and thereby deprived of her right to sell the property and redeem her equity therein.
166. On May 2016 and June 2016, Plaintiff sought to purchase an automobile. Plaintiff was denied a favorable credit approval due to the derogatory credit marks by Nationstar on her credit report.

167. BONY, BOA, Recontrust Company, Nationstar, Countrywide Home Loans, Harvey Law Group, and David Stockman made material representations ; the representation were false; when the representations were made the speakers knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion; the speakers made the representation with the intent that the Plaintiff should act upon it; the Plaintiff acted in reliance on the representation; and Plaintiff suffered injury.

CLAIM FOR RESPONDEAT SUPERIOR

168. Paragraphs 1 through 167 above are incorporated by reference as if set forth in full herein.
169. Defendants David Stockman, Donna Stockman, Denise Boerner, and Recontrust Company, tortfeasors, conspired to commit fraud upon the Court and defraud Plaintiff, violated 12.002 of TCPRC, Fraud, Negligence Per Se and Gross Negligence per se against Plaintiff.
170. Civil Conspiracy, Violation of 12.002, Fraud, Negligence Per Se and Gross Negligence Per se are torts.
171. The Civil Conspiracy, Violation of 12.002, Fraud, Negligence Per Se and Gross Negligence Per se were committed while David Stockman, Donna Stockman, Denise Boerner, and Recontrust were acting within the scope of agents for Bank of America.
172. Bank of America is liable to Plaintiff for her injuries under the theory of Respondeat Superior.

CLAIM FOR RESPONDEAT SUPERIOR

173. Paragraphs 1 through 167 above are incorporated by reference as if set forth in full herein.
174. Defendants Nationstar Mortgage and William Viana, tortfeasors, conspired to commit fraud upon the Court and defraud Plaintiff , violated 12.002 of TCPRC, Fraud, Negligence Per Se and Gross Negligence per se against Plaintiff.
175. Civil Conspiracy, Violation of 12.002, Fraud, Negligence Per Se and Gross Negligence Per se are torts.
176. Civil Conspiracy, Violation of 12.002, Fraud, Negligence Per Se and Gross Negligence Per se were committed while Nationstar Mortgage and William ere acting within the scope of agents

177. Countrywide Home Loans is liable to Plaintiff for her injuries under the theory of Respondeat Superior.

CLAIM FOR RESPONDEAT SUPERIOR

178. Paragraphs 1 through 167 above are incorporated by reference as if set forth in full herein.
179. Defendants Nationstar Mortgage and Trefle Tekle, tortfeasors, conspired to commit fraud upon the Court and defraud Plaintiff, violated 12.002 of TCPRC, Fraud, Negligence Per Se and Gross Negligence per se against Plaintiff.
180. Civil Conspiracy, Violation of 12.002, Fraud, Negligence Per Se and Gross Negligence Per se are torts.
181. Civil Conspiracy, Violation of 12.002, Fraud, Negligence Per Se and Gross Negligence Per se were committed while Nationstar Mortgage and Trefle were acting within the scope of agents for the Bank of New York Mellon.
182. The Bank of New York Mellon is liable to Plaintiff for her injuries under the theory of Respondeat Superior.

VII. DAMAGES

183. As a proximate result of the above, Plaintiffs have incurred, or will incur the following actual damages:
- a) A. Reasonable and necessary attorney's fees and costs in the proceedings before this court, and those fees required for any appeal to the Court of Appeals, and thereafter to the Supreme Court;
 - b) The loss of creditworthiness and the stigma of foreclosure;
 - c) Mental anguish and acute psychic trauma;
 - d) The loss of title to her home;
 - a. The value of the time lost in attempting to correct Defendants' errors; and
 - e) Exemplary damages.
 - f) Plaintiff seeks monetary relief more than \$1,000,000.

VI. EXEMPLARY DAMAGES

184. Plaintiff hereby adopt by reference each and every paragraph of the Facts and allegations stated in this Amended Petition as if fully and completely set forth herein.
185. On *July 24, 2014, February 17, 2015, and December 17, 2017*; Defendants made, presented, or used documents or other record with knowledge that the document or other record is a fraudulent court record or a fraudulent lien or claim against real property or an interest in real property.
186. The conduct of Defendants as set forth herein constituted fraud, malice, or gross negligence such that Defendants are liable for exemplary damages for which Plaintiff seeks judgment of the Court.
187. Plaintiff' injuries and damages resulted from Defendants' gross negligence, malice, or actual fraud, which entitles Plaintiff to exemplary damages under TEXAS CIVIL PRACTICE & REMEDIES CODE § 41.003(a), TEX. CIV. PRAC. & REM. CODE § 12.002, and Texas common law fraud.
188. The conduct of Defendants' actions or omissions described above, when viewed from the standpoint of Defendants at the time of the act or omission, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Plaintiff and others.
189. Defendants had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff and others.
190. Plaintiff intends to show that the factors the jury may consider in determining the amount of exemplary damages which should be awarded include:
- a. the nature of the wrong committed by Defendants;
 - b. the character of Defendants' conduct;
 - c. the degree of culpability of Defendants;
 - d. the situation and sensibilities of the parties concerned; and
 - e. the extent to which Defendants' conduct offends a public sense of justice and propriety.

191. Based on the facts stated herein, Plaintiff requests exemplary damages be awarded to Plaintiff from Defendants, jointly and severally.

VII. JURY DEMAND

192. Plaintiff demanded a jury trial and previously tendered the appropriate fee.

VIII. CONDITIONS PRECEDENT

193. All conditions precedent have been performed or have occurred pursuant to Rule 54 of the TEXAS RULES OF CIVIL PROCEDURE.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff pray for:

- Judgment in favor of Plaintiff on all Counts;
- Pre-judgment and post judgment interest on such monetary relief;
- An award of Plaintiff's fees and costs; and
- Such other and further relief as the nature of the case may require or as may be determined to be just, equitable, and proper by this Court.
- The Court finds that the conduct of the Defendants was so deplorable that Plaintiff is entitled to exemplary damages.
- Plaintiff recovers her actual damages, out-of-pocket damages, including but not limited to damages for clouding the title/slander of title concerning said residence, harm to credit reputation, credit worthiness, and credit history, medical expenses, mental anguish, emotional distress, anxiety, depression, humiliation, and the value of time lost trying to remedy the problem, and investigative services against Defendants.
- Plaintiff recovers punitive damages.
- Plaintiffs' attorneys have costs of court and reasonable and necessary attorneys fees resulting from writs or appeals, and the same be taxed as costs and ordered paid directly to Plaintiffs' attorneys, who may enforce the order for fees in their own name.
- That the Court finds that the fraudulent documents D215032449 and D217291711 complained of in the instant case be declared null and void and purged from the Tarrant County, Texas real property records.

Respectfully Submitted,
/s/ Harriet Nicholson
Harriet Nicholson

2951 Santa Sabina Drive

Grand Prairie, Texas 75052

harrietnicholson@yahoo.com

817-217-0245

CERTIFICATE OF SERVICE

By the execution of my signature below, I certify that a true and correct copy of Plaintiff's Eighth Amended Petition has been served to all counsel of record on the 11th day of June, 2018 pursuant to rule 21(a) of the TEXAS RULES OF CIVIL PROCEDURE:

/s/ Harriet Nicholson

EX.

A

Office of the Chairman and CEO
Enterprise Customer Relations

Ms. Harriet H. Nicholson
2951 Santa Sabina Drive
Grand Prairie, TX 75052

Correspondence received on: December 19, 2014

Dear Ms. Nicholson:

I am responding to the correspondence we received on your behalf from the Consumer Financial Protection Bureau (CFPB).

Bank of America understands the importance of listening to our customers. We appreciate the time you took to share your concerns. Please find a summary of our research and the response to the concerns below.

We are responding to your request for a loan modification or other home retention assistance with respect to your mortgage loan secured by the above-referenced property.

Nothing contained herein is intended to be, nor shall anything herein be construed as: (a) the commencement or continuation of any action to recover a claim against you that arose prior to the filing of your bankruptcy case, (b) an effort to obtain possession of any property in your bankruptcy estate, (c) any other action in violation of the automatic stay that may be in effect in your bankruptcy case, or (d) any violation of any discharge injunction that may have been entered as a result of your bankruptcy case. This letter is solely a response to your request for mortgage assistance and is not a demand for payment or an attempt to collect a debt. You are not obligated to enter into a modification or other workout agreement. Please inform your bankruptcy counsel, if you have one, that you have requested a loan modification or other workout assistance from Bank of America. In addition, any workout assistance that you may be eligible for may require bankruptcy court approval before going into effect.

Summary of research

According to our records, on April 2, 2003 you filed a voluntary petition under Chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court. Our records indicate that the Chapter 13 Bankruptcy was discharged on February 21, 2007 and subsequently closed on September 22, 2006. Please note this information is as of the service transfer date of December 1, 2014.

Our records show that on December 1, 2014, your loan was transferred to Nationstar Mortgage LLC, and is no longer being serviced by Bank of America. We notified you of this change in the enclosed letter dated November 12, 2014. If you need more information about the current servicing of your loan, please contact Nationstar Mortgage, LLC, at

January 16, 2015

Contact Us:
1.877.471.4367,
extension 436617

Loan Ending:
5134

Service Request Number:
1-535744815

Page 1 of 2

For more information about help for homeowners, visit bankofamerica.com/homeloanhelp or makinghomeaffordable.gov

To check on the status of a loan modification, go to bankofamerica.com/loanhelpstatus

Bank of America, NCI-007-5816
100 N Tryon Street, Charlotte, NC 28255-0001

1.877.372.0512, extension 21, Monday through Thursday from 8:00 a.m. to 8:00 p.m., Friday from 8:00 a.m. to 6:00 p.m., and Saturday from 8:00 a.m. to 2:00 p.m. Central.

January 16, 2015
Page 2 of 2

Please know that in the mortgage lending industry, the transfer or sale of loan servicing to other institutions is a common practice and is in accordance with the loan documents. Therefore, we must respectfully decline your request to transfer the servicing of your loan back to Bank of America.

Documents enclosed

- Service transfer letter dated November 12, 2014

If you have any questions

Thank you for bringing the concerns to our attention. We understand that this may not be the result or resolution you were hoping for, but I hope we have been able to clarify matters in a way that enhances your understanding of the reasons for our decision. If you have any questions or would like to discuss further, my phone number is 1.877.471.4367, extension 436617, and I'm available Monday through Friday from 8:00 a.m. to 4:30 p.m. Pacific.

Sincerely,



Thelma Monterrosa
Customer Advocate
Office of the Chairman and CEO

cc: Consumer Financial Protection Bureau, case number 141219-000354

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 applicable bankruptcy law, this notice is for information 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.

Mortgages funded and administered by an  Equal Housing Lender.
 Protect your personal information before recycling this document.

EX.

B



February 11, 2015

Harriet H. Nicholson
2951 Santa Sabina Drive
Grand Prairie, TX 75052

RE: Nationstar Reference Number – NSM-01-15-00866
NSM-02-15-04561
Mortgagor – Harriet H. Nicholson
Property Address – 2951 Santa Sabina Drive, Grand Prairie, TX 75052
Loan Number – 0619301724
CFPB Case Number – 150209-002008

Dear Harriet H. Nicholson:

Nationstar Mortgage LLC (Nationstar) is in receipt of your correspondence, dated January 5, 2015, and the correspondence submitted through the Consumer Financial Protection Bureau (CFPB) on February 2, 2015, regarding the mortgage loan account described above. We appreciate you bringing this to our attention, as we take all matters such as this seriously.

We have conducted an investigation and corrected the error asserted within the received correspondence. Due to the litigation on the account, Nationstar was unable to determine the correct party to address our acknowledgement letter to. Accordingly Nationstar did not acknowledge the receipt of your mailed complaint dated January 5, 2015, until February 9, 2015. We sincerely apologize for this error and appreciate your patience during this process. The effective date of the correction is February 9, 2015.

In regards to your request for information and the allegations presented in your correspondences, we have determined the following. Some information you have requested does not pertain directly to the servicing of the loan, does not identify any specific servicing errors, and/or is considered proprietary and confidential. Therefore, this information is considered outside the scope of information that must be provided. However, the information below and enclosed documents should address any of your relevant questions and requests. You have the right to access the documents relied upon in this investigation. We have included those documents for your records. Enclosed, you will find the following documents:

- Note and Security Instrument
 - The Note and Security Instrument will validate the above-mentioned loan. These documents will explain our rights to:
 - Collect any remaining debt owed under the Note and Security Instrument
 - Assess fees and costs to the loan as necessary, including late fees if a payment is received after the specified grace period and legal fees if a loan is in default.

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only





- Inspect the property and charge applicable fees
 - Purchase lender placed insurance
 - Pay taxes on the mortgagor's behalf
- Payment History
 - The Payment History reflects a complete history for the period Nationstar has serviced the loan. Late fees are assessed any time the contractual payment is received after the grace period, as indicated in the Note. Please note, late fees are not considered interest and are not reported to the IRS on IRS form 1098. If a payment was applied to the suspense account, it will be indicated in the code description column. Payments can be applied to the suspense account if the funds received do not represent the full monthly mortgage payment due or if Nationstar is not informed of where the payment is to be applied. Furthermore, this Payment History reflects:
 - When payments were received
 - How the payments were applied to the loan
 - Any disbursements made from the loan, including, but not limited to, disbursements for taxes, insurance, property inspections, brokers price opinions (BPOs), and legal fees.
 - A description for each transaction, with running balances of the unpaid principal and escrow accounts
 - The date fees and charges were assessed, if any
 - Any amounts paid towards fees
 - Any waivers/reversals of fees
 - Notice of Servicing Transfer, also known as Welcome Letter
 - The Servicing Transfer Notice will detail the date and terms of the service transfer from the prior servicer to Nationstar. This document evidences Nationstar's right to service the loan.
 - Most Recent Escrow Analysis Statement
 - The Escrow Analysis will provide a detailed description of all disbursements made from the escrow account as well as any payments towards the escrow account for the prior year. It will also provide a breakdown of how the current escrow payment has been calculated, including any shortages that may exist.

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only





- Payoff Quote
 - The Payoff Quote will include the full amount necessary to pay the loan in full. You may have received a copy of the Payoff Quote under separate cover. This document is sent for informational purposes only and is no way a demand to pay the loan in full and will not result in any additional fees being assessed to the loan.

Furthermore, our records indicate **The Bank of New York as Trustee for CWMBS 2005-R2 is** the current owner of the Note. As requested, we have provided the address and phone number below:

The Bank of New York / Mellon Corp
101 Barclay St - 8th Floor West
New York, NY 10286
212.815.8184

Please note that Nationstar is the servicer of the loan, and therefore will be responsible for responding to any concerns regarding the servicing of the loan. Servicing matters include but are not limited to the following: payment assistance and modifications, payment posting, validation of the debt, foreclosure proceedings, and payment adjustments. As such, please direct any correspondence related to these matters to Nationstar.

Additionally, the owner of the mortgage Note is the note holder of the loan Note. However, there are some circumstances where the owner has given temporary possession of the loan note to the servicer. The owner does this in order to ensure that the servicer is able to perform the services and duties incident to the servicing of the mortgage loan, such as foreclosure actions, bankruptcy cases, and other legal proceedings.

Upon receipt of this correspondence, the above-mentioned loan and related documents were reviewed and found to comply with all state and federal guidelines that regulate them. As such, the above mentioned loan account will continue to be serviced appropriate to its status.

Furthermore, the Payment History appears to be reported accurately to the main credit repositories. If you have documentation that substantiates that any of the information reported by Nationstar on the credit report is incorrect, please provide the detailed information for review.

As of the date of this correspondence, the account is approximately 47 payments delinquent and contractually due for the April 1, 2011, monthly installment. Should there be any questions or concerns regarding the account, or if you would like to discuss available payment assistance options including modification, liquidation, or reinstatement, you may work directly with:

Single Point of Contact (SPOC) Information:

Name: Garian Lucas
Phone Number: 469.549.3085

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only





At Nationstar, customer concerns are important to us. Should you have any questions, please contact me directly; or, if you have general questions regarding the account, please contact:

Loss Mitigation Department

Monday through Thursday, 7 a.m. to 8 p.m. CDT

Friday, 7 a.m. to 5 p.m. CDT

Saturday, 8 a.m. to 2 p.m. CDT

Toll-free number: 877.783.7491

Sincerely,

A handwritten signature in black ink, appearing to read "Alison Mayou".

Alison Mayou
Customer Relations Specialist
Nationstar Mortgage LLC
P.O. Box 630348
Irving, TX 75063
phone: 480.467.0769
facsimile: 469.312.4552
e-mail: alison.mayou@nationstarmail.com

Enclosures 6
By United States Postal Service

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only



EX.

C



February 12, 2016

Harriet H. Nicholson
2951 Santa Sabina Drive
Grand Prairie, TX 75052

RE: Nationstar Reference Number – CN-12-15-36514
Mortgagor – Harriet H. Nicholson
Property Address – 2951 Santa Sabina Drive, Grand Prairie, TX 75052
Loan Number – 0619301724
CFPB Case Number – 151225-000105

Dear Harriet H. Nicholson,

Thank you for reaching out to us. We received your letter on December 30, 2015, and have put together this letter with information that I hope will alleviate your concerns.

1. **Foreclosure**

In response to your letter, we have conducted an investigation and below is our response to each concern.

1. **Foreclosure**

Ms. Nicholson has filed a lawsuit against Nationstar Mortgage LLC, in cause number 048-276347-15, in the 48th District Court of Tarrant County Texas, concerning the above referenced loan. I have attached her Fourth Amended Petition and our First Amended Answer for your review. Additionally, Ms. Nicholson has sued the previous servicer of the loan, Bank of America N.A, as well as the Bank of New York Mellon, as Trustee. That case is pending in federal court, under case number 4:13-CV-00310-Y, in the United States District Court for the Northern District of Texas, Ft. Worth Division. I have attached a copy of Ms. Nicholson's complaint filed in the federal case for your records. According to our records, the foreclosure sale in July 2012 was rescinded due to a publication error.

Additionally enclosed with this letter is a copy of the Note, Amended and Restated Note, Deed of Trust and Correction Deed of Trust. These documents will validate the above mentioned loan and explain our rights to collect any remaining debt owed under the loan documents. They will validate our right to assess fees and costs to the loan as necessary, including late fees if a payment is received after the specified grace period, and legal fees if the loan is in default. They will also validate our right to inspect the property and charge applicable fees, purchase lender placed insurance, and pay taxes on the mortgagor's behalf.

Upon receipt of this correspondence, the above-mentioned loan and related documents were reviewed and found to comply with all state and federal guidelines that regulate them. As such, the above-mentioned loan account will continue to be serviced appropriate to its status.

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only.





Should you have any questions or concerns regarding the account, or if you would like to discuss available payment assistance options including modification, reinstatement, or liquidation, you may work directly with:

Single Point of Contact (SPOC)

Name: Blake Waldrum

Phone Number: 972.956.6214

We were not able to identify an error on the account. You have the right to access the documents relied upon in this investigation. We have included those documents for your records.

If you have any general questions other than those referenced in your correspondence, please contact:

Loss Mitigation Department

Monday through Thursday, 7 a.m. to 10 p.m. Central

Friday, 7 a.m. to 8 p.m. Central

Toll-free Number: 1.888.850.9398

I hope this information is helpful and addresses your concerns. If you have any questions about the information I have provided, please contact me directly.

Sincerely,

A handwritten signature in black ink that reads "K. Brinkley".

Kimberly Brinkley

Customer Relations Specialist

Nationstar Mortgage LLC

P.O. Box 619098

Dallas, TX 75261-9741

phone: 972.894.1598

facsimile: 214.488.1993

e-mail: kimberly.brinkley@nationstarmail.com

Enclosures 7

By CFPB Portal

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only.



EX.

D



100 N TRYON STREET
CHARLOTTE, NC 28255-0001

Ms. Harriet Nicholson
2951 Santa Sabina Drive
Grand Prairie, TX 75052

Correspondence received on: May 22, 2016
File number: 160613-000257, 160614-001285, and 160620-001498

Dear Ms. Nicholson:

Our Enterprise Customer Care Resolution team received correspondence sent on your behalf from the Consumer Financial Protection Bureau (CFPB). Every customer is important to us, and we appreciate the opportunity to address the concerns presented.

Bank of America has responded through our legal counsel, Mr. R. Dwayne Danner of McGlinchey Stafford, PLLC to your concerns under separate cover, dated June 20, 2016. I have enclosed a copy of the letter for your reference. Please note that the letter from Mr. R. Dwayne Danner references the first 12 CFPB cases numbers. Please accept that the letter enclosed is also in response to the CFPB cases listed above as well.

Summary of enclosures

Enclosed is a copy of our letter for your reference.

- Response Letter and enclosures dated June 20, 2016

If you have any questions or would like to discuss further, Mr. R. Dwayne Danner can be contacted at 214.445.2445.

Sincerely,

Jennifer Burrows
Resolution Specialist
Enterprise Customer Care Resolution

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.

Equal Housing Lender.

Protect your personal information before recycling this document.

Loan Ending:
5134

June 20, 2016

Service Request Number:
1-581739216

Page 1 of 1

For more information about help for homeowners, visit bankofamerica.com/homeloanhelp or makinghomeaffordable.gov

To check on the status of a loan modification, go to bankofamerica.com/loanhelpstatus



R. DWAYNE DANNER
Direct: (214) 445-2408
ddanner@mcglinchey.com

ATTORNEYS AT LAW

CALIFORNIA FLORIDA LOUISIANA MISSISSIPPI NEW YORK OHIO TEXAS

June 20, 2016

Certified Mail RRR
No. 9414 7266 9904 2022 7469 85
and Regular Mail

Ms. Harriett Nicholson
2951 Santa Sabina Drive
Grand Prairie, Texas 75052

RE: Consumer Financial Protection Bureau (“CFPB”) Complaint Nos.:

- 160525-001071
- 160525-001724
- 160527-000546
- 160529-000060
- 160529-000082
- 160530-000196
- 160531-001218
- 160525-001570
- 160601-002264
- 160522-000072
- 160605-000073
- 160605-000319

Dear Ms. Nicholson:

Bank of America N.A (“Bank of America”) is in receipt of your twelve (12) CFPB complaints and this letter will respond to all current complaints. While each of your complaints contains some slight difference in facts, all appear to be related to the fact that there was a prior foreclosure, a rescission of that foreclosure, and subsequently a rescission of the acceleration. Your complaints appear to question why there was a zero balance at one point in time on your account and now there is again a balance with the new servicer, Nationstar Mortgage, LLC, and various complaints related to the credit reporting.

Ms. Harriett Nicholson
CFPB Complaints
June 20, 2016
Page 2

Enclosed for your review are copies of the following documents:

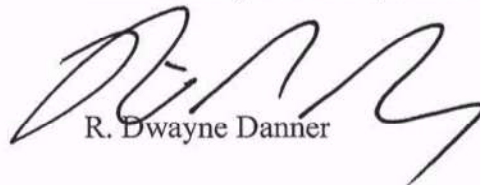
- 1) Letter to you related to prior CFPB complaints and Exhibits A through G thereto, dated May 6, 2014 (Exhibit 1);
- 2) Service release letter, dated November 12, 2014 (Exhibit 2);
- 3) Rescission of Substitute Trustee's Sale and Cancellation of Substitute Trustee's Deed, recorded in Tarrant County on July 31, 2014 (Exhibit 3).

As indicated in the attached service release letter, Bank of America ceased servicing your loan on December 1, 2014. Subsequent to that point, Nationstar Mortgage, LLC has been the servicer of your loan. The reason there was at one time a zero balance on your loan was because of the July 3, 2012, foreclosure. After the foreclosure the loan would have been moved to a zero balance due to the loan being foreclosed. Subsequently, on July 24, 2014, the rescission was filed, reinstating the lien on the property and you as the owner of the property. It would be at that time that the loan would again have a balance. Bank of America has no further interest in your loan and has not since December 1, 2014. You will need to discuss these issues with the current servicer.

Finally, as you are aware, you have a current lawsuit against Bank of America, styled *Harriet Nicholson v. Bank of America, N.A., Bank of New York Mellon, ReconTrust Company N.A.; and Melanie Cowan*, Cause No. 4:13-cv-00310-Y, pending in the United States District Court for the Northern District of Texas, Fort Worth Division. This lawsuit deals with issues related to the servicing of the loan prior to the above-referenced service transfer. Due to this matter being involved in litigation, please direct any further inquiries regarding issues that transpired prior to the service transfer date to the undersigned.

Sincerely,

McGlinchey Stafford, PLLC



R. Dwayne Danner

Enclosures

cc: **Certified Mail RRR**
No. 9414 7266 9904 2022 7469 92
Consumer Financial Protection Bureau
PO Box 4503
Iowa City, IA 52244

May 6, 2014

Ms. Harriet Nicholson
2951 Santa Sabina Drive
Grand Prairie, Texas 75052

Bank of America account ending: 5134
CFPB Complaint number(s): 140421-000784 and 140422-000733
Inquiry received date: April 21, 2014 and April 22, 2014

Dear Ms. Nicholson:

We are writing to inform you that Bank of America, N.A. ("Bank of America") has received your inquiries submitted to the Consumer Financial Protection Bureau related to the above referenced account. As you are aware, your dispute with Bank of America is the subject of a lawsuit currently pending in the United States District Court for the Northern District of Texas styled *Harriet Nicholson v. Bank of America, N.A., et al*, under Civil Action No. 4:13-CV-00310-Y in which Bank of America's motion to dismiss your amended complaint is currently pending ruling from the court (the "Current Litigation").

Background

Based upon Bank of America's review of its records, you obtained a purchase money loan on January 16, 2001 in the amount of \$125,048.00¹ which was secured by a lien on your home in Grand Prairie, Texas.² Under the terms of the promissory note, your monthly principal and interest payment was \$827.75.³ On May 16, 2012, your mortgage was assigned to The Bank of New York Mellon, as Trustee for the Certificateholders of CWMBS Reforming Loan REMIC Trust Certificate Series 2005-R2 (the "Bank of New York").⁴ Bank of America acts as a mortgage servicer for the Bank of New York.

Beginning in July, 2004, you became delinquent on your monthly mortgage payments. Consequently, on or about November 22, 2006 you obtained a loan modification which allowed you to capitalize the amount then due on your mortgage of \$15,223.12 (the "First Modification"). After the First Modification was put into place, the unpaid principal balance on your mortgage was \$146,335.14. You failed to adhere to the terms of the First Modification by timely making the required payments. Specifically, beginning in February 2007 you began failing to timely make your modified monthly payments under the First Modification.

¹ See Promissory Note attached hereto as **Exhibit "A"**.

² See Deed of Trust attached hereto as **Exhibit "B"**.

³ See **Exhibit "A"**.

⁴ See Assignment attached hereto as **Exhibit "C"**.

You then entered into a second loan modification with Bank of America on or about September 25, 2009 (the "Second Modification"). Under the terms of the Second Modification, you were allowed to capitalize the amount then due on your mortgage of \$13,967.45. After the Second Modification was put into place, the unpaid principal balance on your mortgage was \$166,925.13. You then failed to adhere to the terms of the Second Modification by timely making the required payments. Specifically, beginning in May 2010 you began failing to timely make your modified monthly payments under the Second Modification.

As a result of your default under the Second Modification, Bank of America notified you on or about June 6, 2011 that you were in default of your repayment obligations, that the total amount needed to bring your account current was \$4,762.63 which was due on or before July 11, 2011, and that your failure to tender this amount would result in the acceleration of your loan in full and the commencement of the foreclosure process.⁵ You failed to tender the amount due and owing, and Bank of America notified you on or about June 12, 2012 that your property was posted for foreclosure on July 3, 2012.⁶ On July 3, 2012, the foreclosure occurred and the Bank of New York purchased the property.⁷ At the time of the July 3, 2012 foreclosure, your account was paid through March, 2011.

Response to Your Allegations

On or about January 24, 2014, Bank of America sent you a notification which stated the amount needed to pay your account in full was \$212,584.52.⁸ This notification was sent to you in error and the July 3, 2012 foreclosure remains in place. **Your account is not considered active and has not been assessed with any late fees or penalties that would have accrued after the July 3, 2012 foreclosure.** Additionally, the January 24, 2014 correspondence indicates the notice was for informational purposes only and was not a request for payment from you.

Because you have initiated litigation against Bank of America, any inquiries must be sent to our counsel of record, Mr. Nathan T. Anderson, McGlinchey Stafford, PLLC, 2711 N. Haskell Ave., Suite 2750, LB 38 Dallas, Texas 75204. Please direct any and all future inquiries to our attorney of record.

Bank of America provided you with two modifications of your loan – one on November 22, 2006 and the other on September 25, 2009. You failed to adhere to the terms of both of these modifications when you failed to timely make the monthly payments. As a result of your default, Bank of America was authorized to enforce the terms of your loan by foreclosing upon the property on July 3, 2012.

⁵ See Notice of Default attached hereto as **Exhibit "D"**.

⁶ See Sale Notice attached hereto as **Exhibit "E"**.

⁷ See Trustee's Deed attached hereto as **Exhibit "F"**.

⁸ See January 24, 2014 Correspondence attached hereto as **Exhibit "G"**.

Sincerely,

Kevin Castro
Customer Advocate
Office of the CEO and President

cc: Consumer Financial Protection Bureau (CFPB), Case numbers: 140421-000784 and
140422-000733

EX.

E



June 29, 2016

Harriet H. Nicholson
2951 Santa Sabina Drive
Grand Prairie, TX 75052

RE: Nationstar Reference Numbers – CN-06-16-16504, 17761, 17663, 17778, 17236, & 17666
Mortgagor – Harriet H. Nicholson
Property Address – 2951 Santa Sabina Drive, Grand Prairie, TX 75052
Loan Number – 0619301724
CFPB Case Numbers – 160529-000081
160531-001217
160614-001286
160619-000231
160619-000228
160620-002056
160620-001499

Dear Harriet H. Nicholson,

Nationstar Mortgage LLC (“Nationstar”) is in receipt of your Complaints referenced above, submitted through the Consumer Financial Protection Bureau (CFPB). We appreciate you bringing this to our attention, as we take matters such as this seriously.

As you are aware, Bank of America transferred the above referenced loan to Nationstar in November of 2014. Prior to the transfer, as you mentioned in several of the Complaints, you filed suit against Bank of America for wrongful foreclosure, breach of contract and several other claims and causes of action regarding a foreclosure sale instituted by Bank of America that occurred in July of 2012. You have resided at the property since the date of the foreclosure sale. This lawsuit was removed to federal court. Your claim for wrongful foreclosure was dismissed with prejudice (because you still reside at the property and one cannot maintain a suit for wrongful foreclosure under such circumstances). However, your other claims regarding the foreclosure sale are still pending. According to a review of the file, there was an irregularity in the Notice of Foreclosure Sale. It did not indicate the sale was to be held in Tarrant County but in Dallas County. The subject property is located in Tarrant County. Additionally, the Substitute Trustee recorded a Cancellation and Rescission of the foreclosure sale due to the discrepancy in the Notice of Sale. You have consistently maintained in your pleadings that the foreclosure sale was invalid. Consequently, the issues regarding the foreclosure sale are still pending judicial review.

In regard to the credit reporting issue, you stated in Complaint 160529-000081 that you attached the most recent update from Bank of America. We assume you mean the most recent update to your Equifax report. However, the Equifax report does not appear to have been attached when submitting the Complaint so we are unable to review it. Nevertheless, we assume that if Bank of America is reporting a \$0.00 balance on the loan, then they are assuming that the foreclosure sale was valid. As you are aware, the foreclosure sale is under judicial review and you have maintained that the sale was invalid; therefore,

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only





the issue of the foreclosure sale is unresolved. We will continue to monitor the litigation and will provide the credit reporting agencies updates as needed.

At Nationstar, customer concerns are important to us. Should you have any general questions other than those referenced in the correspondence, please contact:

Loss Mitigation Department

Monday through Thursday, 7:00 a.m. to 10:00 p.m. Central

Friday, 7:00 a.m. to 8:00 p.m. Central

Toll-free Number: 1.888.850.9398

Sincerely,

A handwritten signature in black ink that reads "K. Brinkley".

Kimberly Brinkley

Customer Relations Specialist

Nationstar Mortgage LLC

P.O. Box 619098

Dallas, TX 75261-9741

phone: 972.894.1598

facsimile: 214.488.1993

e-mail: kimberly.brinkley@nationstarmail.com

Enclosures 7

By CFPB Portal

cc: Consumer Financial Protection Bureau

Are you experiencing a financial hardship? Our local non-profit partners can help with financial counseling and other services. Please visit these websites for assistance:

- Hud.gov
- Neighborworks.org

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only



NY: New York City Department of Consumer Affairs License Number: 1392003

NC: Nationstar Mortgage LLC is licensed by the North Carolina Commissioner of Banks, Mortgage Lender License L-103450. Nationstar Mortgage LLC is also licensed by the North Carolina Department of Insurance, Permit Number 105369.

TX: COMPLAINTS REGARDING THE SERVICING OF YOUR MORTGAGE SHOULD BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING, 2601 NORTH LAMAR, SUITE 201, AUSTIN, TX 78705. A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT 877-276-5550.

A complaint form and instructions may be downloaded and printed from the Department's website located at www.sml.texas.gov or obtained from the department upon request by mail at the address above, by telephone at its toll-free consumer hotline listed above, or by email at smlinfo@sml.texas.gov.

Nationstar is a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you are currently in bankruptcy or have received a discharge in bankruptcy, this communication is not an attempt to collect a debt from you personally to the extent that it is included in your bankruptcy or has been discharged, but is provided for informational purposes only

EX.

F



KELLY HARVEY P.C.

P.O. Box
131407

Houston, Texas
77219

P:(832) 922-
4000

F:(832) 922-
6262

May 11, 2017

Harriet H. Nicholson
2951 Santa Sabina Drive
Grand Prairie, TX 75052

RE: Mortgagor – Harriet H. Nicholson
Property Address – 2951 Santa Sabina Drive, Grand Prairie, TX 75052
Last 4 digits of Loan Number – 1724
CFPB Case Numbers – 170426-2041406
170402-000103

**** This communication is from a debt collector and this is an attempt to collect a debt and any information obtained will be used for that purpose. ****

Dear Ms. Nicholson:

Nationstar Mortgage LLC (Nationstar) is in receipt of your Complaints referenced above submitted through the Consumer Financial Protection Bureau (CFPB) and directly to Nationstar.

As you are well aware, Bank of America transferred the above referenced loan to Nationstar in November of 2014. Prior to the transfer, as you mentioned in your Complaints, you filed suit against Bank of America for wrongful foreclosure, breach of contract and several other claims and causes of action regarding a foreclosure sale instituted by Bank of America that occurred in July of 2012. You have resided at the property since the date of the foreclosure sale. Your claim for wrongful foreclosure was dismissed with prejudice (because you still reside at the property and one cannot maintain a suit for wrongful foreclosure under such circumstances) however your other claims regarding the foreclosure sale are still pending. According to a review of the file, there was an irregularity in the notice of foreclosure sale. It did not indicate the sale was to be held in Tarrant County but in Dallas County. The subject property is located in Tarrant County. Additionally, the substitute trustee recorded a cancellation and rescission of the foreclosure sale due to the discrepancy in the notice of sale. You have consistently maintained in your pleadings that the foreclosure sale was invalid. Consequently, all of these issues regarding the foreclosure sale are still pending judicial review. Nationstar will continue to monitor this pending suit and make any adjustments to its records and any credit reporting in accordance with the judgment that is rendered. In the meantime, Nationstar is reporting the account as disputed.

Furthermore your claims alleged against Nationstar in your Complaints allude to claims of fraud, negligence, negligent misrepresentation, violations of the Texas Debt Collection Act, and violations of the Texas Deceptive Trade Practices Act, as well as several other claims. As you are aware, these claims were dismissed on summary judgment granted in cause number 048-

Sincerely,

/s/ Kelly J. Harvey

EX.

G



June 23, 2017

Harriet H. Nicholson
 2951 Santa Sabina Drive
 Grand Prairie, TX 75052

RE: Nationstar Reference Number – LB-05-17-00838
 Mortgagor – Harriet H. Nicholson
 Property Address – 2951 Santa Sabina Drive, Grand Prairie, TX 75052
 Loan Number – 0619301724
 CFPB Case Number – 170427-2043264

Dear Harriet H. Nicholson,

Thank you for reaching out to us. We are looking forward to helping you.

Why am I receiving this letter?

We received your correspondence from the Consumer Financial Protection Bureau (CFPB) on May 10, 2017, and have put together this reply with information that we hope will alleviate your concerns. Below are the concerns mentioned in your correspondence:

Credit Reporting

We looked into the concern you expressed and after an investigation, we are sharing with you what we found.

After reviewing your account, our research indicates the payment history appears to be reported accurately to the main credit repository agencies (Transunion, Experian, Innovis and Equifax). Please be advised that under section 15 U.S.C. 1681s-2(a)(1) of the Fair Credit Reporting Act (FCRA), Nationstar is required to report complete and accurate information to all credit bureaus. If you have information in which state otherwise, please submit applicable proof using the contact information below and we will investigate those concerns.

Nationstar Mortgage, LLC
 Attention: Research Department
 8950 Cypress Waters Boulevard
 Coppell, TX 75019

Overall, we could not find any errors on our part in regards to your concerns. However, you have the right to access the documents we used in this investigation, and we have included those documents in this letter for your records.

- Detailed Transaction History

Your Loan Summary

<u>UPB</u>	<u>Monthly Payment</u>	<u>Due Date</u>	<u>Escrow Balance</u>	<u>Last Payment Received</u>
\$161,098.95	\$1,741.11	April 1, 2011	-\$37,232.51	August 1, 2012

NATIONSTAR IS A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. HOWEVER, IF YOU ARE CURRENTLY IN BANKRUPTCY OR HAVE RECEIVED A DISCHARGE IN BANKRUPTCY, THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY TO THE EXTENT THAT IT IS INCLUDED IN YOUR BANKRUPTCY OR HAS BEEN DISCHARGED, BUT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY.





If you have any questions regarding payment assistance or the status of the account, your Dedicated Loan Specialist is Blake Waldrum and can be reached at 1.972.956.6214.

If you have any general questions, please call our Loss Mitigation Department at 1.866.316.2432. Our hours of operation are 8 a.m. to 8 p.m. (CT), Monday through Thursday, 8 a.m. to 6 p.m. (CT), Friday, and 8 a.m. to 12 p.m. (CT) on Saturday.

I hope this information is helpful and addresses your concerns. If you have any specific questions about the information I have provided, please contact me directly, using the information below.

Sincerely,

A handwritten signature in black ink that reads "Lovett C. Johnson".

Lovett C. Johnson
Customer Relations Specialist
Nationstar Mortgage LLC
P.O. Box 619098
Dallas, TX 75261-9741
Phone: 1.877.783.7480
E-mail: lovett.johnson@nationstarmail.com

Enclosure
By CFPB Portal

Are you experiencing a financial hardship? Our local non-profit partners can help with financial counseling and other services. Please visit these websites for assistance:

- Hud.gov
- Neighborworks.org



Hawaii Residents: If you believe a loss mitigation option request has been wrongly denied, you may file a complaint with the state division of financial institutions at 808-586-2820 or <http://cca.hawaii.gov/dfi/>.

New York Residents: Nationstar Mortgage LLC is licensed by the New York City Department of Consumer Affairs License Number: 1392003. **If you believe a Loss Mitigation request has been wrongly denied, you may file a complaint with the New York State Department of Financial Services at 1-800-342-3736 or www.dfs.ny.gov.**

New York Residents Income Disclosure: If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt: supplemental security income (SSI); social security; public assistance (welfare); spousal support, maintenance (alimony) or child support; unemployment benefits; disability benefits; workers' compensation benefits; public or private pensions; veterans' benefits; federal student loans, federal student grants, and federal work study funds; and ninety percent of your wages or salary earned in the last sixty days.

Oregon Residents: There are government agencies and nonprofit organizations that can give you information about foreclosure and help you decide what to do. For the name and telephone number of an organization near you, please call 211 or visit www.oregonhomeownersupport.gov. If you need help finding a lawyer, consult the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling 503-684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at 800-452-7636. Free legal assistance may be available if you are very low income. For more information and a directory of legal aid programs, go to www.oregonlawhelp.org.

North Carolina Residents: Nationstar Mortgage LLC is licensed by the North Carolina Commissioner of Banks, Mortgage Lender License L-103450. Nationstar Mortgage LLC is also licensed by the North Carolina Department of Insurance, Permit Number 105369, 112715, 105368, 111828, 112953, and 112954. **If you believe a Loss Mitigation request has been wrongly denied, you may file a complaint with the North Carolina Office of the Commissioner of Banks website www.nccob.gov.**

Texas Residents: COMPLAINTS REGARDING THE SERVICING OF A MORTGAGE SHOULD BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING, 2601 NORTH LAMAR, SUITE 201, AUSTIN TX 78705. A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT 877-276-5550. A complaint form and instructions may be downloaded and printed from the Department's website located at www.sml.texas.gov or obtained from the department upon request by mail at the address above, by telephone at its toll-free consumer hotline listed above, or by email at smlinfo@sml.texas.gov.

EX.

H

June 28, 2017

Harriet H. Nicholson
2951 Santa Sabina Drive
Grand Prairie, TX 75052

RE: Nationstar Reference Number – LB-05-17-01164
Mortgagor – Harriet H. Nicholson
Property Address – 2951 Santa Sabina Drive, Grand Prairie, TX 75052
Loan Number – 0619301724
CFPB Case Number – 170511-2082404

Dear Harriet H. Nicholson,

Thank you for reaching out to us. We are looking forward to helping you.

Why am I receiving this letter?

We received your letter on May 17, 2017, via the Consumer Financial Protection Bureau (CFPB), and have put together this reply with information that we hope will alleviate your concerns.

Below is the concern mentioned in your letter:

Previous Response

We looked into the concern you expressed and after an investigation, we are sharing with you what we found.

Under the Real Estate Settlement Procedures Act (RESPA) and Regulation X, Nationstar is not required to respond to requests for information that are duplicative and substantially the same as previous requests. After reviewing your correspondence, we found that the asserted errors are substantially the same as errors previously asserted, for which our attorney previously complied with its obligation to respond on May 11, 2017. Unless there is new and material information that has not been provided to Nationstar for investigation, Nationstar considers this matter resolved. Additionally, Nationstar is reporting the account as disputed to the credit bureaus.

Overall, no account errors were found regarding your concerns. However, you have the right to access the documents we used in this investigation, and we have included those documents with this letter for your records.

Your Loan Summary

<u>UPB</u>	<u>Monthly Payment</u>	<u>Due Date</u>	<u>Escrow Balance</u>	<u>Last Payment Received</u>
\$161,098.95	\$1,741.11	April 1, 2011	-\$37,232.51	August 1, 2012

NATIONSTAR IS A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. HOWEVER, IF YOU ARE CURRENTLY IN BANKRUPTCY OR HAVE RECEIVED A DISCHARGE IN BANKRUPTCY, THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT A DEBT FROM YOU PERSONALLY TO THE EXTENT THAT IT IS INCLUDED IN YOUR BANKRUPTCY OR HAS BEEN DISCHARGED, BUT IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY.



If you have any questions regarding payment assistance or the status of the account, you can contact Blake Waldrum, the assigned Single Point of Contact (SPOC), directly, at 1.972.956.6214.

If you have any general questions, please call our Loss Mitigation Department at 1.866.316.2432. Our hours of operation are 8 a.m. to 8 p.m. (Central), Monday through Thursday, 8 a.m. to 6 p.m. (Central), Friday, and 8 a.m. to 12 p.m. (Central), Saturday.

I hope this information is helpful and addresses your concerns. If you have any questions about the information I have provided, please contact me directly.

Sincerely,

A handwritten signature in black ink that reads "K. Brinkley".

Kimberly Brinkley
Customer Relations Specialist
Nationstar Mortgage LLC
P.O. Box 619098
Dallas, TX 75261-9741
phone: 972.894.1598
facsimile: 214.488.1993
e-mail: kimberly.brinkley@nationstarmail.com

Enclosure
By CFPB Portal

Are you experiencing a financial hardship? Our local non-profit partners can help with financial counseling and other services. Please visit these websites for assistance:

- Hud.gov
- Neighborworks.org



Hawaii Residents: If you believe a loss mitigation option request has been wrongly denied, you may file a complaint with the state division of financial institutions at 808-586-2820 or <http://cca.hawaii.gov/dfi/>.

New York Residents: Nationstar Mortgage LLC is licensed by the New York City Department of Consumer Affairs License Number: 1392003. If you believe a Loss Mitigation request has been wrongly denied, you may file a complaint with the New York State Department of Financial Services at 1-800-342-3736 or www.dfs.ny.gov.

New York Residents Income Disclosure: If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt: supplemental security income (SSI); social security; public assistance (welfare); spousal support, maintenance (alimony) or child support; unemployment benefits; disability benefits; workers' compensation benefits; public or private pensions; veterans' benefits; federal student loans, federal student grants, and federal work study funds; and ninety percent of your wages or salary earned in the last sixty days.

Oregon Residents: There are government agencies and nonprofit organizations that can give you information about foreclosure and help you decide what to do. For the name and telephone number of an organization near you, please call 211 or visit www.oregonhomeownersupport.gov. If you need help finding a lawyer, consult the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling 503-684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at 800-452-7636. Free legal assistance may be available if you are very low income. For more information and a directory of legal aid programs, go to www.oregonlawhelp.org.

North Carolina Residents: Nationstar Mortgage LLC is licensed by the North Carolina Commissioner of Banks, Mortgage Lender License L-103450. Nationstar Mortgage LLC is also licensed by the North Carolina Department of Insurance, Permit Number 105369, 112715, 105368, 111828, 112953, and 112954. If you believe a Loss Mitigation request has been wrongly denied, you may file a complaint with the North Carolina Office of the Commissioner of Banks website www.nccob.gov.

Texas Residents: COMPLAINTS REGARDING THE SERVICING OF A MORTGAGE SHOULD BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING, 2601 NORTH LAMAR, SUITE 201, AUSTIN TX 78705. A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT 877-276-5550. A complaint form and instructions may be downloaded and printed from the Department's website located at www.sml.texas.gov or obtained from the department upon request by mail at the address above, by telephone at its toll-free consumer hotline listed above, or by email at smlinfo@sml.texas.gov.

EX.

I

4/26/2018

Full Search | Mega Search



COUNTY CLERK

"Harriet Nicholson" or "Harriet H. Nicholson" or D201015378

If you use quotes around your search criteria the system will return only exact matches. To see all results please remove quotes.

Total Matches: 14

Time Taken: 62 ms

Page 1 of 2

Sort By:

If the **T** Text Excerpt contains some unreadable words, please click on the document link to view a PDF file that is more legible.

Document D201015373

T Text Excerpt

- Dy %4j- ;v : frOO-O3-3â€™ .-eaJ After Recording Return To: Loan No. 10001258 **Harriet H. Nicholson** 2951 Santa Sabina Drive Grand Prairie, TEXAS 75052 TEXAS GENERAL WARRANTY DEED With Vendorâ€™s Lien Effective Date: JANUARY 16. 2001 Grantor (whether one or more): Centex Homes , a Nevada General Partnership Grantee (whether one or more): **Harriet H. Nicholson** ,an unmarried person Granteeâ€™s Mailing

Document Info

4/26/2018

Full Search | Mega Search

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
WARRANTY DEED	1/23/2001	1/18/2001	D201015373	14697	23	3

Grantors
CENTEX HOMES

Grantees
NICHOLSON HARRIET H

Legal			
Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

Document D201015378

Add To Cart

Text Excerpt


Recording Data) _____ F-HA Case No. State of Texas 492-5968619-703 - 203(b) DEED OF TRUST " THIS DEED OF TRUST (Security Instrument) is made on January 16,2001. The Grantor is **Harriet H. Nicholson**, an unmarried person (Borrower). The trustee is Jeffrey E. Bode (Trustee). The beneficiary is Mortgage Electronic Registration Systems, Inc. (MERS), (solely as nominee for Lender, as

Document Info

4/26/2018

Full Search | Mega Search

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
DEED OF TRUST	1/23/2001	1/18/2001	D201015378	14697	28	7

 Grantors

NICHOLSON HARRIET H

 Grantees

MID AMERICA MTG INC

 Legal

Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

Document D202032012 

Add To Cart 

 Text Excerpt

OF TRUST FHA Case No. 492-5968619-703 - 203(b) THIS DEED OF TRUST (â€œSecurity Instrumentâ€œ) is made on January 16,2001. The Grantor is **Harriet H. Nicholson**, an unmarried person (â€œBorrowerâ€œ). The trustee is Jeffrey E. Bode (â€œTrusteeâ€œ). The beneficiary is Mortgage Electronic Registration Systems, Inc. (MERSIt), (solely as nominee for Lender, as hereinafter defined, and Lenderâ€™s successors and assigns

 Document Info

4/26/2018

Full Search | Mega Search

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
DEED OF TRUST	2/4/2002	1/18/2001	D202032012	15443	52	10

Grantors
NICHOLSON HARRIET H

Grantees
MID AMERICA MTG INC

Legal								
<table border="1"> <thead> <tr> <th>Addition</th> <th>Lot</th> <th>Block</th> <th>Freeform</th> </tr> </thead> <tbody> <tr> <td>MIRABELLA VIL</td> <td>22</td> <td>D</td> <td></td> </tr> </tbody> </table>	Addition	Lot	Block	Freeform	MIRABELLA VIL	22	D	
Addition	Lot	Block	Freeform					
MIRABELLA VIL	22	D						

Document D202169952 

Add To Cart 

T Text Excerpt


650, Plano, TEXAS 75093, acting herein by and through a duly authorized officer, the owner and holder of one certain promissory note for the sum executed by **Harriet H. Nicholson**, an unmarried person payable to the order of Mid America Mortgage, Inc., and secured by a Deed of Trust even date therewith to Jeffrey E. Bode 1eceLpt i/ 2021429J8 5900W. Plano Parkway, Suite 650, Plano, Coihn County TEXAS

D Document Info

4/26/2018

Full Search | Mega Search

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
ASSIGNMENT	6/20/2002	1/16/2001	D202169952	15762	32	2

 Grantors

MID AMERICA MTG INC


 Grantees

COUNTRYWIDE HOME LOANS

 Legal

Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

Document D212122006 

Add To Cart 

 Text Excerpt

DATED 01/16/2001, EXECUTED BY: **HARRIET H. NICHOLSON**, AN UNMARRIED PERSON, TRUSTOR: TO JEFFERY F. BODE, AS TRUSTEE AND RECORDED AS INSTRUMENT NO. **D201015378** ON 0/23/2001, AND RE-RECORDED ON 02/04/2002 AS INSTRUMENT NO. D202032012 OF OFFICIAL RECORDS IN THE COUNTY RECORDERS OFFICE OF DALLAS COUNTY, IN THE STATE OF TEXAS. THE LAND AFFECTED BY THIS ASSIGNMENT IS LOCATED IN DALLAS COUNTY, THE STATE OF TEXAS

 Document Info

4/26/2018

Full Search | Mega Search

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
ASSIGNMENT	5/22/2012	5/16/2012	D212122006			1

 Grantors

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC

 Grantees

BANK OF NEW YORK MELLON

 Legal

Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

Document D212130550 

Add To Cart 

 Text Excerpt

BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATE-HOLDERS OF CWMBS, INC.. CWMBS REFORMING LOAN REMIC TRUST CERTIFICATES, SERIES 2005-R2 ALL BENEFICIAL INTEREST UNDER THAT CERTAIN DEED OF TRUST DATED 01/16/2001, EXECUTED BY: HARRIET FL NICHOLSON, AN UNMARRIED PERSON, TRUSTOR; TO JEFFERY S BODE, AS TRUSTEE AND RECORDED AS INSTRUMENT NO. **D201015378** ON 01/23/2001, AND RE

4/26/2018

Full Search | Mega Search

 Document Info

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
ASSIGNMENT	5/31/2012	5/23/2012	D212130550			2

 Grantors

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC

 Grantees

BANK OF NEW YORK MELLON

 Legal

Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

Document D212130551 

Add To Cart 

 Text Excerpt

Page 1 of 1 Electronically Recorded Tarrant County Texas Official Public Records 5/31/2012 3:43 PM D212130551 TS#: .PGS 1 \$16.00 TSG#: 09.&33746S.04lary Louise Garcia Submitter: SIMPLIFILE APPOINTMENT OF SUBSTITUTE TRUSTEE DEED OF TRUST DATED: January 16,2001 GRANTOR(S): **HARRIET H, NICHOLSON**, AN UNMARRIED PERSON ORIGINAL MORTGAGEE: MORTGAGE ELECTRONIC REGISTRATION SYSTEM, TNC. CURRENT MORTGAGEE

4/26/2018

Full Search | Mega Search

 Document Info

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
APPOINTMENT OF TRUSTEE	5/31/2012	5/23/2012	D212130551			1

 Grantors

BANK OF NEW YORK MELLON

 Grantees

STOCKMAN DAVID
 LEE BOB
 URBANCZYK JANA
 RECONTRUST CO
 BOERNER DENISE
 STOCKMAN DONNA

 Legal

Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

Document D212187326 

Add To Cart ▼

 Text Excerpt

1816

4/26/2018

Full Search | Mega Search

with respect to the foreclosure of that certain Deed of Trust dated January 16,2001, recorded on January 23, 2001, as Clerk's File No. 0201015378, and re-recorded on February 4, 2002 as Clerk's File No. D202032012, Real Property Records, Tarrant County, Texas, executed by **HARRIET H. NICHOLSON; AN UNMARRIED PERSON** to JEFFERY E. BODE, original Trustee(s), in favor of. MORTGAGE ELECTRONIC REGISTRATION

 Document Info

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
TRUSTEES DEED	8/2/2012	7/31/2012	D212187326			3

 Grantors

NICHOLSON HARRIET H
STOCKMAN DAVID

 Grantees

BANK OF NEW YORK MELLON

 Legal

Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

Document D212299642 

Add To Cart 

4/26/2018

Full Search | Mega Search

T Text Excerpt

Page 1 of 2 NOTICE OF LIS PENDENS STATE OF TEXAS TARRANT COUNTY TEXAS COUNTY OF TARRANT 2912 DEC -7 All jO: 22 i L3U!E COUNTY C NOTICE IS HEREBY GIVEN that Cause No. 342 262692 12, styled **Harriet Nicholson** v. THE BANK OF NE W YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICA TEHOLDERS OF CWMS, INC., WMSFORMTNc7LDANREMIC TRUST CERTIFICA TES SERIES 2005-R2, commenced in the 342

D Document Info

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
LIS PENDENS	12/7/2012	12/6/2012	D212299642			2

≡ Grantors

BANK OF NEW YORK MELLON

≡ Grantees

NICHOLSON HARRIET

🔗 Legal

Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

Document D214164490 

Add To Cart 

4/26/2018

Full Search | Mega Search

T Text Excerpt

, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN CABINET A, SLIDE 5197 OF THE PLAT RECORDS OF TARRANTY COUNTY, TEXAS. 2. Based upon information provided by Bank of America, N.A., Bank of America, NA. is the Mortgage Servicer of a promissory note dated January 16, 2001 in the original principal amount of \$125,048.00 from **HARRIET H. NICHOLSON**, AN UNMARRIED PERSON to MORTGAGE ELECTRONIC

D Document Info

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
NOTICE	7/31/2014	7/24/2014	D214164490			2

≡ Grantors

RECONTRUST CO

≡ Grantees

NICHOLSON HARRIET H

🔗 Legal

Addition	Lot	Block	Freeform
MIRABELLA VIL	22	D	

4/26/2018

Full Search | Mega Search

4/26/2018

Full Search | Mega Search



COUNTY CLERK

"Harriet Nicholson" or "Harriet H. Nicholson" or D201015378

If you use quotes around your search criteria the system will return only exact matches. To see all results please remove quotes.

Total Matches: 14

Time Taken: 16 ms

Page 2 of 2

Sort By:

If the **T** Text Excerpt contains some unreadable words, please click on the document link to view a PDF file that is more legible.

Document D215032449

T Text Excerpt


â€" 1000, PITTSBURGH, PA 15258 Executed By: **HARRIET H. NICHOLSON**, AN UNMARRIED PERSON To: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. AS NOMINEE FOR MID AMERICA MORTGAGE, INC. A CORPORATION Date of Deed of Trust: 01/16/2001 Recorded: 01/23/2001 as Instrument No.: **D201015378** ReRecorded 02/04/2002 as Instrument No.2 D202032012 In the County of Tarrant, State of Texas. Property Address: 2951 SANTA

Document Info

4/26/2018

Full Search | Mega Search

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
ASSIGNMENT	2/17/2015	2/17/2015	D215032449			2

 Grantors

COUNTRYWIDE HOME LOANS

 Grantees

BANK OF NEW YORK MELLON

 Legal

Addition	Lot	Block	Freeform
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Document D217191934 

Add To Cart ▾

 Text Excerpt

Page 1 of 3 3 Li 342-262692-12 **hARRIET NICHOLSON**, Â§ IN TIIE I)STRICCT COURT Â§ Plaintiff, Â§ Â§ Â§ OF TARRANT COUNTY, TEXAS Â§ TIIE BANK OF NEW YORK MELLON Â§ FKA TIIE BANK OF NEW YORK AS Â§ TRUSTEE FOR THE Â§ CERTJFJCATEBOLDERS OF CWMBBS, Â§ INC., CWMBBS REFORMING LOAN Â§ REMJC TRUST CERTIFICATES Â§ SERIES 2005-R2, et al. Â§ Â§ Defendants. Â§ 342nd JUDICIAL DISTRICT ORDER GRANTING IN PART AND DENYING IN Iâ€™ART

 Document Info

4/26/2018

Full Search | Mega Search

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
ORDER	8/18/2017	8/18/2017	D217191934			3

 Grantors

TARRANT COUNTY DISTRICT COURT
TARRANT COUNTY DISTRICT COURT
TARRANT COUNTY DISTRICT COURT
TARRANT COUNTY DISTRICT COURT

 Grantees

NICHOLSON HARRIET
NICHOLSON HARRIET
BANK OF NEW YORK MELLON
BANK OF NEW YORK MELLON
BANK OF NEW YORK
BANK OF NEW YORK
CWMB5 INC
CWMB5 INC
CWMB5 REFORMING LOAN REMIC TRUST CERTIFICATES SERIES 2005-R2 ETAL

 Legal

Addition	Lot	Block	Freeform
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[Document D217208101](#) 

Add To Cart ▾

4/26/2018

Full Search | Mega Search

T Text Excerpt

Nos. D212187326 and D214164490 are both invalid, and this order may be filed in the Real Property Records of Tarrant County, Texas; ON %JtI11,ALLSVEDV1A HANDELRYUJÄ§ fl)ctNL(ä€" FAX _____ ä€" ,r,, ,,- rs ä€" 1â€™ **HARRIET NICHOLSON**, Plaintiff, Â§ Â§ Â§ Â§ Â§ Â§ Â§ Â§ Â§ EMA1LED I1chk.r Page 2 of 3 The remainder of Plaintiffâ€™s Motion is meritless and should be DENIED. It is therefore, ORDERED, ADJUDGED, and

D Document Info

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
JUDGMENT	9/7/2017	8/18/2017	D217208101			3

≡ Grantors

TARRANT COUNTY DISTRICT COURT

≡ Grantees

NICHOLSON HARRIET
BANK OF NEW YORK MELLON

🔗 Legal

Addition	Lot	Block	Freeform

Document D217291711

Add To Cart

4/26/2018

Full Search | Mega Search

T Text Excerpt

,TX 75019 Assignee; NATIONSTAR MORTGAGE LLC 0/WA MR. COOPER at 8950 CYPRESS WATERS BLVD., COPPELL, TX 75019 Executed By: **HARRIET H. NICHOLSON**, AN UNMARRIED PERSON To: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR MID AMERICA MORTGAGE, INC. A CORPORATION Date of Deed of Trust: O111612OJ1 Recorded: 0112312001 in Book/Reel/Liber 14697 Page/Follo: 26 as Instrument No.: 0201016378

D Document Info

Doc Type	Recorded	Doc Date	Doc Num	Book	Page	Num Pages
ASSIGNMENT	12/20/2017	12/12/2017	D217291711			1

≡ Grantors

BANK OF NEW YORK MELLON

≡ Grantees

NATIONSTAR MORTGAGE LLC
MR COOPER

🔗 Legal

Addition	Lot	Block	Freeform
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4/26/2018

Full Search | Mega Search

EX. 2



048-286132-16

CAUSE NO. 048-286132-16

HARRIET NICHOLSON,

Plaintiff,

v.

DAVID STOCKMAN, ET AL.,

Defendants.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

48th JUDICIAL DISTRICT

**ORDER GRANTING DEFENDANT COUNTRYWIDE HOME LOANS, INC.'S
CORRECTED MOTION FOR SUMMARY JUDGMENT**

On this day, the Court considered Defendant Countrywide Home Loans, Inc. ("CHLI" or "Defendant") Corrected Motion for Summary Judgment (the "Motion"). The Court, having considered the Motion, objection(s) and responses thereto, and argument of counsel, if any, finds the Motion has merit and should be GRANTED.

It is therefore ORDERED, ADJUDGED, and DECREED that CHLI is entitled to summary judgment on all claims asserted by Plaintiff Harriet Nicholson ("Plaintiff") in her June 11, 2018 Eighth Amended Petition (the "Pet.") and that the Motion is GRANTED.

It is further ORDERED, ADJUDGED, and DECREED that Plaintiff take nothing on any of her claims against Defendant CHLI and that all costs of Court are taxed against Plaintiff.

It is further ORDERED, ADJUDGED, and DECREED that all of the claims asserted by Plaintiff against Defendant CHLI in this lawsuit are hereby DISMISSED with prejudice.

SIGNED this 30th day of October, 2018.



JUDGE PRESIDING

MAILED COPY TO ALL ATTORNEYS
AND PRO SE PARTIES OF RECORD
10-30-18



E-MAILED
10-30-18

EX. 3

048-286132-16

CAUSE NO. 048-286132-16

HARRIET NICHOLSON,

Plaintiff,

v.

DAVID STOCKMAN, ET AL.,

Defendants.

§
§
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§
§
§
§
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§
§

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

48th JUDICIAL DISTRICT

ORDER GRANTING DEFENDANT BANK OF AMERICA, N.A.'S MOTION FOR SUMMARY JUDGMENT

On this day, the Court considered Defendant Bank of America, N.A. ("BANA" or "Defendant") Motion for Summary Judgment (the "Motion"). The Court, having considered the Motion, objection(s) and responses thereto, and argument of counsel, if any, finds the Motion has merit and should be GRANTED.

It is therefore ORDERED, ADJUDGED, and DECREED that BANA is entitled to summary judgment on all claims asserted by Plaintiff Harriet Nicholson ("Plaintiff") in her June 11, 2018 Eighth Amended Petition (the "Pet.") and that the Motion is GRANTED.

It is further ORDERED, ADJUDGED, and DECREED that Plaintiff take nothing on any of her claims against Defendant BANA and that all costs of Court are taxed against Plaintiff.

It is further ORDERED, ADJUDGED, and DECREED that all of the claims asserted by Plaintiff against Defendant BANA in this lawsuit are hereby DISMISSED with prejudice.

SIGNED this 30th day of October, 2018.



JUDGE PRESIDING

MAILED COPY TO ALL ATTORNEYS
AND PRO SE PARTIES OF RECORD
10.30.18




E-MAILED
10.30.18

EX. 4



This judgment finally disposes of all claims by Plaintiff against BANA and CHLI and is appealable.

SIGNED this the 24th day of November, 2018.



JUDGE PRESIDING

(cc: M-PTF Harriet Nicholson)

Order Granting Bank of America, N.A. and
Countrywide Home Loans, Inc.'s Motion to Sever – Page 2

EX. 5



[Nicholson v. Bank of America, NA, No. 02-19-00085-CV \(Tex. App. Dec. 31, 2019\).](#)

Case:

02-19-00085-CV

Date Filed:

03/08/2019

Case Type:

Miscellaneous/other civil

Style:

Harriet Nicholson

v.:

Bank of America, N.A. and Countrywide Home Loans, Inc.

Orig Proc:

No

Transfer From:

Transfer In:

Transfer Case:

Transfer To:

Transfer Out:

Pub Service:

West Publishing

APPELLATE BRIEFS

<u>Date</u>	<u>Event Type</u>	<u>Description</u>	Document
12/03/2019	Supplemental brief filed	Appellant	[PDF/770 KB] Supplement

<u>Date</u>	<u>Event Type</u>	<u>Description</u>	<u>Document</u>
11/05/2019	Electronic reply brief filed	Appellant	[PDF/530 KB] Brief [PDF/89 KB] Notice
10/16/2019	Electronic brief filed - oral argument not requested	Appellee	[PDF/460 KB] Brief [PDF/90 KB] Notice
09/16/2019	Amended brief filed	Appellant	[PDF/3.00 MB] Brief [PDF/103 KB] Notice
07/31/2019	Electronic brief filed - oral argument requested	Appellant	[PDF/102 KB] Notice

CASE EVENTS

<u>Date</u>	<u>Event Type</u>	<u>Disposition</u>	<u>Document</u>
09/01/2020	Mandate issued	Affirmed	[PDF/102 KB] Notice [PDF/141 KB] Notice [PDF/197 KB] Notice
08/11/2020	Order entered		
07/10/2020	Petition for review disposed by Supreme Court		

<u>Date</u>	<u>Event Type</u>	<u>Disposition</u>	<u>Document</u>
05/03/2020	Petition for review filed in Supreme Court		
04/08/2020	Motion for extension of time to file petition for review disposed by Supreme Court	Motion or Writ Granted	
04/08/2020	Motion to consolidate disposed	Motion or Writ Granted	
03/31/2020	Motion for extension of time to file petition for review filed in Supreme Court		
03/05/2020	Motion for extension of time to file petition for review disposed by Supreme Court	Motion or Writ Granted	
02/28/2020	Fee requested		
02/28/2020	Fee requested		
02/27/2020	Motion for extension of time to file		

<u>Date</u>	<u>Event Type</u>	<u>Disposition</u>	<u>Document</u>	
	petition for review filed in Supreme Court			
01/29/2020	Motion disposed	Motion or Writ Denied	[PDF/96 KB]	Notice
01/24/2020	Motion filed		[PDF/284 KB]	Motion
01/23/2020	Motion for en banc reconsideration disposed	Motion or Writ Denied	[PDF/95 KB]	Notice
01/19/2020	Letter received		[PDF/634 KB]	Letter
01/13/2020	Motion for en banc reconsideration filed		[PDF/697 KB]	Motion
01/09/2020	Motion for rehearing disposed	Motion or Writ Denied	[PDF/96 KB]	Notice
01/02/2020	Motion for rehearing filed		[PDF/395 KB]	Motion
01/02/2020	Motion for rehearing filed		[PDF/1.07 MB]	Motion
12/31/2019	Memorandum opinion issued	Affirmed	[PDF/119 KB]	Judgment
			[PDF/178 KB]	Memorandum Opinion
			[PDF/91 KB]	Notice
12/23/2019	Submitted			
12/09/2019	Letter received		[PDF/22 KB]	Letter
12/03/2019	Supplemental brief filed		[PDF/770 KB]	Supplement

<u>Date</u>	<u>Event Type</u>	<u>Disposition</u>	<u>Document</u>	
12/03/2019	Motion disposed	Motion or Writ Granted	[PDF/93 KB]	Notice
12/02/2019	Set for submission on briefs - oral argument denied		[PDF/116 KB]	Notice
11/21/2019	Motion filed		[PDF/767 KB]	Motion
11/05/2019	Electronic reply brief filed		[PDF/530 KB] [PDF/89 KB]	Brief Notice
10/16/2019	Case ready to be set			
10/16/2019	Electronic brief filed - oral argument not requested		[PDF/460 KB] [PDF/90 KB]	Brief Notice
09/25/2019	Motion to stay disposed	Motion or Writ Denied	[PDF/93 KB]	Notice
09/16/2019	Amended brief filed		[PDF/3.00 MB] [PDF/103 KB]	Brief Notice
09/11/2019	Motion to stay filed		[PDF/221 KB]	Motion
08/30/2019	Motion to file amended brief disposed	Motion or Writ Granted	[PDF/98 KB]	Notice
08/29/2019	Letter filed		[PDF/264 KB]	Letter

<u>Date</u>	<u>Event Type</u>	<u>Disposition</u>	<u>Document</u>
08/28/2019	Motion to file amended brief filed		[PDF/257 KB] Motion
08/21/2019	Record checked out		[PDF/12 KB] Other
08/15/2019	Electronic Supplemental Clerks Record Filed		[PDF/89 KB] Notice
08/05/2019	Appearance of counsel		[PDF/49 KB] Notice
07/31/2019	Electronic brief filed - oral argument requested		[PDF/102 KB] Notice
07/03/2019	Motion for extension of time to file brief disposed	Motion or Writ Granted	[PDF/96 KB] Notice
07/02/2019	Electronic Supplemental Clerks Record Filed		[PDF/89 KB] Notice
07/01/2019	Motion for extension of time to file brief filed		[PDF/271 KB] Motion
06/05/2019	Motion for extension of time to file brief disposed	Motion or Writ Granted	[PDF/97 KB] Notice

<u>Date</u>	<u>Event Type</u>	<u>Disposition</u>	<u>Document</u>
06/04/2019	Motion for extension of time to file brief filed		[PDF/364 KB] Motion
05/24/2019	Record Sent		
05/08/2019	Electronic Supplemental Clerks Record Filed		[PDF/89 KB] Notice
05/06/2019	Record Sent		
05/03/2019	Electronic Supplemental Clerks Record Filed		[PDF/96 KB] SUPP CLK RECORD FLD CV_FILECOPY
05/02/2019	Record checked out		
05/02/2019	Telephone call received		
05/01/2019	No reporters record filed in civil case		[PDF/98 KB] Letter
05/01/2019	Electronic Clerks Record Filed		[PDF/130 KB] Notice
04/02/2019	Motion to stay disposed	Motion or Writ Denied	[PDF/93 KB] Notice
04/01/2019	Letter issued by the court		[PDF/129 KB] LTR CT APP_FILECOPY
03/25/2019	Docketing statement filed		

<u>Date</u>	<u>Event Type</u>	<u>Disposition</u>	<u>Document</u>
03/21/2019	Motion to stay filed		[PDF/274 KB] Motion
03/21/2019	Statement of inability to afford costs filed in the trial court		[PDF/673 KB] Other
03/20/2019	Response filed		[PDF/117 KB] Response
03/15/2019	Document Received		
03/14/2019	Appellant notified that notice of appeal late/show grounds to continue		[PDF/121 KB] LATE NOA NOTICE CV_FILECOPY
03/08/2019	Notice of appeal filed in court of appeals		

CALENDARS

Set Date	Calendar Type	Reason Set
09/01/2020	Case Stored	Case stored

PARTIES

Party	PartyType	Representative
Nicholson, Harriet	Appellant	Harriet Nicholson
Countrywide Home Loans, Inc.	Appellee	Connie Flores Jones Kathryn B. Davis
Bank of America, N.A.	Appellee	Kathryn B. Davis Connie Flores Jones

TRIAL COURT INFORMATION

Court
48th District Court
County
Tarrant
Court Judge
Honorable David L. Evans
Court Case
048-304598-18
Reporter
Court Reporter, 48th District Court
Punishment

EX. 6



doctrine. It further moved for summary judgment on each of Nicholson's claims on the grounds that it was entitled to judgment "as a matter of law and undisputed fact" and that "Plaintiff cannot prove with competent summary judgment evidence each element of her claim."³ Countrywide moved for summary judgment on identical grounds.

The trial court granted Countrywide's and BoA's summary judgment motions without specifying the grounds and subsequently granted their motions to sever. Nicholson filed a motion for new trial, which the trial court denied. Nicholson now appeals.

Discussion

I. This court has jurisdiction over both of Nicholson's issues.

We begin by considering Appellees' argument that we do not have jurisdiction over Nicholson's first issue. *See In re City of Dallas*, 501 S.W.3d 71, 73 (Tex. 2016) (orig. proceeding) (per curiam). They argue that this court should dismiss Nicholson's

³Appellees did not specify whether they sought summary judgment under Rule of Civil Procedure 166a(c), Rule 166a(i), or both. *See* Tex. R. Civ. P. 166a(c) (traditional summary judgment standard). Rather, they moved for summary judgment generally under Rule 166a. Further, for each of Nicholson's claims, Appellees asserted both that they were entitled to judgment "as a matter of law and undisputed fact" and that "Plaintiff cannot prove with competent summary judgment evidence each element of her claim." *See* Tex. R. Civ. P. 166a(c), (i). In her brief, Nicholson characterizes Appellees' motions as including both traditional and no-evidence grounds. Appellees argue that they did not move for no-evidence summary judgment. For purposes of this appeal, whether the motions were traditional motions or combined traditional and no-evidence motions makes no difference to our disposition.

first issue “in which she attempts to challenge the [summary judgment orders],” because in the section of her notice of appeal listing the date of the orders from which she appealed, she listed only the dates of the severance order—which rendered the summary judgments final—and the order denying her motion for new trial. We disagree.

Under the Texas Rules of Appellate Procedure, a notice of appeal must “state the date of the judgment or order appealed from.” Tex. R. App. P. 25.1(d)(2). However, “[t]he requirement in Rule 25.1(d) that the notice of appeal must state the date of the judgment or order appealed from does not . . . limit what trial court rulings may be challenged on appeal,” but rather “is used to determine whether the appeal is timely.” *Anderson v. Long*, 118 S.W.3d 806, 810 (Tex. App.—Fort Worth 2003, no pet.). Nicholson’s notice of appeal invoked this court’s jurisdiction over Appellees, and Rule 25.1 does not limit the issues that Nicholson may bring on appeal. *See id.* at 809 (stating that “Anderson’s timely filing of her notice of appeal invoked our jurisdiction over the Longs, who were parties to the order sustaining the plea to the jurisdiction” and that “[n]othing in [Texas Rule of Appellate Procedure] 25.1 limits the issues that Anderson, having properly invoked our jurisdiction, may raise on appeal”). We have jurisdiction over both of Nicholson’s issues.

II. The trial court did not err by granting summary judgment.

In her first issue, Nicholson challenges the trial court’s summary judgment orders. However, her entire argument for that issue is as follows:

EX. 7



EX. 8



CAUSE NO. 048-286132-16

HARRIET NICHOLSON
Plaintiff

§
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§
§
§
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§
§
§
§

IN THE DISTRICT COURT OF

VS.

TARRANT COUNTY, TEXAS

DAVID STOCKMAN, et al
Defendant

48TH JUDICIAL DISTRICT

FILED
TARRANT COUNTY
2020 FEB 19 AM 11:53
THOMAS A. WILDER
DISTRICT CLERK


FINAL JUDGMENT

Came on for consideration the First Amended Motion for Summary Judgment filed by the Defendant Harvey Law Group (the “Motion”) against the Plaintiff. The Court entered an order granting the Motion on March 20, 2019. The Court additionally granted the Defendants Nationstar Mortgage LLC’s and the Bank of New York Mellon’s Motions for Summary Judgment on March 21, 2019 and those orders are incorporated herein. The Court further entered an order of Non-Suit as to Defendants Trefe Trekel and William Viana on March 26, 2019 which is incorporated herein and all other parties have been severed from this cause.

The Court further ORDERS, ADJUDGES and DECREES that Plaintiff shall take nothing on her claims against Defendant Harvey Law Group and said claims are dismissed with prejudice;

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Harvey Law Group is awarded \$11,700.00 against Plaintiff, Harriet Nicholson, as its reasonable and necessary attorney’s fees on its counterclaim for attorney fees and costs pursuant to the Texas Declaratory Judgment Act.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Harvey Law Group is awarded \$22,500.00 as reasonable and necessary attorney’s fees in the event of an unsuccessful appeal to the Court of Appeals, in addition to necessary costs; and an additional

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AND PRO SE PARTIES OF RECORD
2-19-2020

\$22,500.00 as reasonable and necessary attorney's fees in the event of an unsuccessful petition for review in the Supreme Court of Texas, in addition to necessary costs.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that this judgment disposes of all claims and parties and is a final appealable judgment.

Signed this 19 of February 2020.

A handwritten signature in black ink, appearing to read "D. Evans", written over a horizontal line.

David Evans, Presiding Judge

From: [Brandye L. Kear](#)
To: KELLY@KELLYHARVEY.COM; harrietcholson@yahoo.com
Subject: 04828613216000598.PDF
Date: Wednesday, February 19, 2020 3:01:00 PM
Attachments: [04828613216000598.PDF](#)
[image001.png](#)

Please find the attached Final Judgment for the above referenced cause.

Thank you,

Brandye Kear

Associate Clerk-48th Court
Tarrant County District Clerk
100 N. Calhoun St.-2nd Floor
Fort Worth, TX 76196
817-884-2554
blkear@tarrantcounty.com





TARRANT COUNTY
THOMAS A. WILDER
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