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Superior Court of California,
County of Orange

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Clerk of the Superior Court
By Loc Nguyen, Deputy Clerk

Attorney for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

GERMAN SALGADO, an individual;
GUILLERMO DIAZ, an individual; TINA
TRUONG, an individual; GREGORY
GANTER, an individual; JANEATTE
GANTER, an individual,

Plaintiffs,

vs.

WESTERN PROGRESSIVE, LLC, FAY
SERVICING, LLC, OCWEN LOAN
SERVICING, LLC, and DOES 1-100,

Defendants.

Case No.: 30-2016-00854281-CU-OR-CJC

COMPLAINT FOR: Judge Randall J. Sherman

1. **INTENTIONAL
MISREPRESENTATION**
2. **NEGLIGENT
MISREPRESENTATION**
3. **VIOLATION OF
CALIFORNIA HOMEOWNER
BILL OF RIGHTS
CALIFORNIA CIVIL CODE
§2924.17**
4. **VIOLATION OF
CALIFORNIA HOMEOWNER
BILL OF RIGHTS
CALIFORNIA CIVIL CODE
§2923.55**
5. **UNFAIR, UNLAWFUL, AND
FRAUDULENT BUSINESS
PRACTICES (VIOLATION OF
CALIFORNIA BUS & PROF.
CODE §17200, ET. SEQ.)**
6. **WRONGFUL FORECLOSURE**

JURY TRIAL DEMANDED

1 **TO THE COURT AND ALL PARTIES HERETO AND THEIR COUNSEL:**

2 Plaintiffs GERMAN SALGADO, GUILLERMO DIAZ, TINA TRUONG, GREGORY
3 GANTER, and JANEATTE GANTER (hereinafter “Plaintiffs”) bring this action against WESTERN
4 PROGRESSIVE, LLC, FAY SERVICING, LLC, OCWEN LOAN SERVICING, LLC, and DOES 1-
5 100 (hereinafter “Defendants”) for Intentional Misrepresentation, Negligent Misrepresentation,
6 Violation of California Civil Code § 2924.17, Violation of Cal. Civil Code Section 2923.55, Unfair,
7 Unlawful, And Fraudulent Business Practices (Violation Of California Bus & Prof. Code §17200, *et*.
8 *seq.*), and Wrongful Foreclosure.

9 Plaintiffs reserve his right to join necessary parties to this action under California Civil
10 Procedure § 378 as those unknown parties become known to Plaintiffs. Plaintiffs shall request leave of
11 Court for such joinder matters.

12 **I. PARTIES**

13 1. Plaintiff, German Salgado is a resident of California. The property he owns and has
14 equitable possession of is located at: 925 East Hunter Ave., Santa Ana, California 92701 (The subject
15 property). The property is currently scheduled to be foreclosed on July 5, 2016.

16 2. Plaintiff, Guillermo Diaz is a resident of California. The property he owned and has
17 equitable possession of is located at: 4422 Towne Ave, Los Angeles, CA 90011 (The subject property).
18 The property was sold at foreclose on November 20, 2015.

19 3. Plaintiff, Tina Truong is a resident of California. The property she owns and has
20 equitable possession of is located at: 6395 Fairwind Cir, Huntington Beach, CA 92648-6714 (The
21 subject property).

22 4. Plaintiffs, Gregory and Janeatte Ganter are residents of California. The property they
23 own and have equitable possession of is located at: 26531 Valpariso Drive, Mission Viejo, CA 92691
24 (The subject property).

25 5. Defendant Western Progressive, LLC is a California Foreign corporation file on
26 December 12, 2008. The company’s filing status is listed as active and its File Number is
27 200835710284. The Registered Agent on file for this company is CT Corporation System and is located
28 at 818 W Seventh St. Suite 930, Los Angeles, CA 90017. The company’s principal address is 40 Ave.

1 Monterey, Luxembourg City L-2163, Luxembourg. Western Progressive, LLC is a wholly owned
2 subsidiary of Altisource Portfolio Solutions, S.A.

3 6. Defendant Fay Servicing, LLC (“FAY”) is a California Foreign Limited Liability
4 Company filed on April 25th, 2008. The company’s filing status is listed as ACTIVE and its File
5 Number is 200811910013. The Registered Agent on file for this company is Registered Agent
6 Solutions, Inc. (C2392069) but specifies no address. Registered Agent Solutions, Inc. has an agent for
7 service of process of Ricardo Orozco at 1220 ‘S’ Street, Suite 150 Sacramento, CA 95811. FAY’s
8 principal address is 440 S LaSalle St., 20 Floor, Chicago, IL, 60605-5011. Defendant FAY has been
9 doing business in the territorial jurisdiction of this court and all acts complained of herein were within
10 those same boundaries.

11 7. Defendant Ocwen Loan Servicing, LLC (“OCWEN”) is a California Domestic Limited
12 Liability Company filed on May 15, 2002. The company’s filing status is ACTIVE and its File Number
13 is 200213810063. The Registered Agent on file for this company is a Corporation Service Company,
14 which will do business in California, located “AS CSC-Lawyers Incorporating Service,” (C1592199).
15 The company’s principal address is 1661 Worthington Rd, Suite 100, West Palm Beach, FL, 33209.
16 Defendant OCWEN is a wholly owned subsidiary of Ocwen Financial Corporation. Defendant
17 OCWEN has been doing business in the territorial jurisdiction of this court and all acts complained of
18 herein were within those same boundaries.

19 8. The true names and capacities of defendants sued herein as DOES 1 through 100 are
20 unknown to Plaintiffs, who therefore sue said defendants by such fictitious names. Plaintiffs are
21 informed and believe, and based thereon allege, that each of the fictitiously named defendants was
22 responsible in some manner for the events and happenings referred to, and thereby proximately caused
23 injuries and damages to Plaintiffs. Plaintiffs are informed and believe, and thereon allege, that the acts
24 and/or omissions of Defendants, including those named as DOES, were authorized and/or ratified by
25 officers, directors, and/or managing agents of defendants, and each of them. Plaintiffs are informed and
26 believe, and based thereon allege that potential DOES may include, but are not limited to, other entities
27 alleging beneficial interest or ownership in the property and/or any debt. Plaintiffs are informed and
28 believe, and based thereon allege, that each of the fictitiously named defendants was responsible in

1 some manner for the events and happenings referred to, and thereby proximately caused injuries and
2 damages to Plaintiffs. Plaintiffs will amend this complaint to show defendants' true names and
3 capacities when ascertained.

4 **II. JURISDICTION**

5 9. The predicate acts complained of herein did occur within the territorial boundaries of
6 this court, and the corpus of the complaint centers on state law questions. Thus, jurisdiction is proper in
7 this court.

8 **III. VENUE**

9 10. Venue of this action is proper in this County because three of the four residential real
10 properties that is the subject of this action are situated in Orange County and the Defendants' acts
11 complained of occurred in California.

12 **IV. FACTUAL BACKGROUND**

13 **A. General**

14 11. Defendant, Western Progressive, and Servicer Defendants Ocwen and Fay Servicing,
15 acting as the trustee and the servicers for various mortgages and mortgage-back securities, have filed
16 countless foreclosure actions in state and federal courts in California, including against the Plaintiffs,
17 under false pretenses, alleging to be the owner or the holder of the underlying notes and mortgages
18 when in fact it is not, and without complying with California law governing its activities. Ocwen and
19 Fay Servicing may be referred collectively to as "Servicer Defendants." These filings represent a
20 pattern of corrupt and illegal activity as defined by California law through which the Defendants have
21 charged thousands in fees, court costs, and other expenses against the Plaintiffs.

22 12. Defendants are lacking possession of requisite legally enforceable, recorded
23 assignments, and Defendants are unable to verify and demonstrate the chain of ownership and
24 assignment of the mortgages from the actual mortgagee. Further, Defendants are lacking sufficient
25 evidence to support the claims of a default. Thus, Defendants' pattern and practice of filing foreclosure
26 actions in state and federal courts while clearly lacking the right to do so is a clear violation of
27 Plaintiffs' rights.

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1 **B. German G. Salgado**

2 **a. Deed of Trust**

3 13. On August 23, 2006, Plaintiff signed a deed of trust (the “deed of trust”) for the subject
4 property located at 925 East Hunter Ave., Santa Ana, California 92701. (Exhibit 1.) According to the
5 deed of trust, Plaintiff was the “borrower,” and Mortgageit, Inc. was the “lender,” MERS was named
6 the “beneficiary,” and Fidelity National Title Company was the “trustee.” (*Id.* at 2) The loan was an
7 adjustable rate mortgage in the amount of \$468,000

8 14. Paragraph twenty-two of the deed of trust explains the procedures required for the lender
9 to accelerate Plaintiff’s amount due under the loan and the lender’s other remedies. This section states
10 that, in the event of Plaintiff’s default, *the lender* must give Plaintiff notice of Plaintiff’s default and the
11 lender’s intent to accelerate, *prior to acceleration.* (*Id.* at 13).

12 The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a
13 date, not less than 30 days from the date the notice is given to Borrower, by which the
14 default must be cured; and (d) that failure to cure the default on or before the date
15 specified in the notice may result in acceleration of the sums secured by this Security
16 Instrument and sale of the Property. *The notice shall further inform Borrower of the
right to reinstate after acceleration and the right to bring a court action to assert the
non-existence of a default or any other defense of Borrower to acceleration and sale.*

17 15. Only after such notice is given, does the deed of trust entitle the lender to accelerate
18 Plaintiff’s amount due and invoke the lender’s power of sale.

19 16. Paragraph fifteen of the deed of trust requires that, “[a]ll notices given by Borrower or
20 Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in
21 connection with this Security Instrument shall be deemed to have been given to Borrower when mailed
22 by first class mail or when actually delivered to Borrower’s notice address if sent by other means.” (*Id.*
23 at 10).

24 17. Additionally, paragraph twenty-four of the deed of trust allows the lender to appoint a
25 successor trustee only “by an instrument executed and acknowledged by Lender and recorded in the
26 office of the Recorder of the county in which the Property is located. The instrument shall contain the
27 name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument
28 is recorded and the name and address of the successor trustee.” (*Id.* at 13.)

1 **b. Proceeding Events**

2 18. On May 14, 2012, an Assignment of Deed of Trust was signed by MERS, which stated
3 that MERS “grant[ed], assign[ed], transfer[ed] to Mastr Adjustable Rate Mortgages Trust... all
4 beneficial interest under that certain Deed of Trust dated August 22, 2006”

5 19. Plaintiff alleges that a loan contract and real property has been falsely encumbered by an
6 unlawful lien through the use of an alleged void assignment of Plaintiff’s deed of trust by both
7 Defendants.

8 20. Plaintiff alleges that Defendants are claiming to be agents, purchasers and assignees of a
9 fictitious payee of the subject debt obligation.

10 21. This Deed of Trust was later assigned to U.S. Bank National Association by U.S.
11 National Bank. U.S. Bank National Association signed the assignment on April 30, 2014.

12 22. Western Progressive, LLC recorded a Notice of Default (“NOD”) on September 8,
13 2014.

14 23. The NOD indicated that Ocwen Loan Servicing, LLC. U.S. Bank National Association
15 was the servicer of the loan. Western Progressive stated that, Plaintiff only has the “legal right to bring
16 [the] account in good standing by paying all of [the] past due payments plus permitted costs and
17 expenses within the time permitted by law for reinstatement of [the] account.”

18 24. Nowhere in Western Progressive’s NOD did Western Progressive state that Plaintiff had
19 the right to bring a court action to dispute the default as required by paragraph twenty-two of the deed
20 of trust.

21 25. Plaintiff alleges that Defendants unlawfully, and with full knowledge and intent,
22 intentionally interfered with the subject contract promissory note and deed of trust for their own gain
23 and at the expense and detriment of Plaintiff. Plaintiff denies and refutes that Defendants are a valid
24 beneficiary or agent for beneficiary, a lawful assignee or entitled in any way under the contract deed of
25 trust and further alleges that both Defendants claim to be entitled in some way under the contract
26 without lawful or contractual authority.

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1 26. Defendants both are experienced and sophisticated real estate professionals as trustees,
2 servicers, lenders, beneficiaries, and/or investors who have a duty of due diligence to investigate title
3 issues prior to sale.

4 27. Plaintiff alleges that all Defendants worked together in a scheme to convert a personal
5 Instrument (Promissory Note) and subsequently real property to their own possession without lawful
6 authority.

7 28. A Notice of Trustee's Sale (NOS) was then signed and recorded by Western
8 Progressive, LLC on February 26, 2016.

9 29. Plaintiff alleges that any and all recorded instruments, including Notice of Default and
10 Notice of Trustee Sale are void because their purported authority flows from the void assignment
11 instruments as fully examined and alleged above.

12 30. Plaintiff's home is scheduled to be foreclosed upon on May 6, 2016. Plaintiff brings the
13 present claim disputing Defendants' rights to Plaintiff's deed of trust and property.

14 31. Plaintiff alleges that a controversy exists as to whether or not all Defendants acquired
15 any rights to the loan contract. Defendants claim a beneficial or purchase interest in the contract and
16 real property at this time.

17 32. Plaintiff alleges Defendant OCWEN is instructing Western Progressive to foreclose and
18 sell Plaintiffs home without valid authority and is not the beneficiary.

19 33. Plaintiff alleges that Western Progressive is willfully, negligently, and with malice
20 aforethought proceeding with foreclosure sales without information from the beneficiary.

21 34. Despite repeated requests for documentation proving the existence of the rights and
22 authority of the trustee and servicers claimed by Defendants and the authority to instruct and move
23 forward with foreclosure sales, the requests have been denied and/or information that was provided did
24 not conform to the requirements of California law. Instead, Western Progressive instructed Plaintiff to
25 contact OCWEN to request information and refused to provide the information Western Progressive
26 relied on to proceed with the pending foreclosure sale.

27 35. Plaintiff alleges that all Defendants willfully, negligently and with malice aforethought,
28 filed, negligently relied upon or caused to be filed, a series of public documents known by both

1 Defendants to be false at the time of the execution and filing of the instruments in the public record
2 against public policy and against Plaintiffs' contract and property interests.

3 36. Defendants claim an interest that is adverse to Plaintiff's by intentionally interfering
4 with a contract without such authority, and by failing to evidence, after notice by Plaintiff and request
5 for such evidence, any document executed by the true beneficiary of the debt obligation, which
6 authenticates Defendant's assertions that they are acting as bona fide agents and/or assignees for an
7 authenticated beneficiary to Plaintiff's debt obligation.

8 37. Plaintiff alleges that he has rights to disclosures under Cal. Civ. Code §§ 2924.17(a),
9 2924.17(b). Plaintiff alleges that Defendants, as purported agent for the beneficiary and loan servicer,
10 had a duty to provide Plaintiff: "... the mortgage servicer will ensure that the document is accurate and
11 complete and supported by competent and reliable evidence." Section 2924.17(a) states, "the mortgage
12 servicer shall ensure that it has reviewed competent and reliable evidence to substantiate the borrowers
13 default and the right to foreclose." Furthermore, 2924.17(b) states, "A beneficiary, or his or her
14 authorized agent, shall, within 21 days of the receipt of a written demand by an entitled person or his or
15 her authorized agent, prepare and deliver to the person demanding it a true, correct, and complete copy
16 of the note or other evidence of indebtedness with any modification thereto, and a beneficiary
17 statement." Civil Code § 2943(b)(1).

18 38. Plaintiff alleges that Defendants did not perform any of the above described duties.
19 Plaintiff alleges that because of Defendants' acts and omissions, Plaintiff has been harmed and
20 prejudiced.

21 39. As a direct and proximate result of Defendants acts and omissions, Plaintiff's loan
22 obligation has been accelerated by an unlawful means, forcing her to pay the entirety of his debt at one
23 time. Her credit has been damaged along with her ability to seek alternative financing. His loan
24 obligation has not been verified as to whom the payments are actually due and what exact amounts are
25 due, thus exposing her to duplicative payments. He is at immediate risk of losing possession to
26 Defendants due to an illegal and oppressive sale by Defendant's acts and omissions; the property is
27 encumbered by who have no lawful interest in the loan contract or real property. He has suffered
28 emotional damages due to constant worry about whether or not the wrong party is going to dispossess

1 her of her home. He cannot negotiate the contract with a party that has been authenticated as the lawful
2 beneficiary to the debt obligation; he has been subjected to a wrongful foreclosure sale at the direction
3 and execution of all Defendants named herein.

4 40. Plaintiff alleges that he is not seeking a “free house”, as will undoubtedly be claimed by
5 the Defendants in the typical foreclosure mill style that has plagued this, and all California courts, for
6 eight years now.

7
8 **C. Guillermo Diaz**

9 **a. Deed of Trust**

10 41. On October 11, 2006, Plaintiff signed a deed of trust (the “deed of trust”) for the subject
11 property located at 4422-4424-4424 1/2 Towne Ave, Los Angeles, CA 90011. (Exhibit 2.) According
12 to the deed of trust, Plaintiff was the “borrower,” and Right-Away Mortgage, Inc. was the “lender,”
13 MERS was named the “beneficiary,” and LandAmerica Commonwealth was the “trustee.” (*Id.* at 2)
14 The loan was an adjustable rate mortgage in the amount of \$526,500

15 42. Paragraph twenty-two of the deed of trust explains the procedures required for the lender
16 to accelerate Plaintiff’s amount due under the loan and the lender’s other remedies. This section states
17 that, in the event of Plaintiff’s default, *the lender* must give Plaintiff notice of Plaintiff’s default and the
18 lender’s intent to accelerate, *prior to* acceleration. (*Id.* at 13).

19 The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a
20 date, not less than 30 days from the date the notice is given to Borrower, by which the
21 default must be cured; and (d) that failure to cure the default on or before the date
22 specified in the notice may result in acceleration of the sums secured by this Security
23 Instrument and sale of the Property. *The notice shall further inform Borrower of the
right to reinstate after acceleration and the right to bring a court action to assert the
non-existence of a default or any other defense of Borrower to acceleration and sale.*

24 43. Only after such notice is given, does the deed of trust entitle the lender to accelerate
25 Plaintiff’s amount due and invoke the lender’s power of sale.

26 44. Paragraph fifteen of the deed of trust requires that, “[a]ll notices given by Borrower or
27 Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in
28 connection with this Security Instrument shall be deemed to have been given to Borrower when mailed

1 by first class mail or when actually delivered to Borrower’s notice address if sent by other means.” (*Id.*
2 at 10).

3 45. Additionally, paragraph twenty-four of the deed of trust allows the lender to appoint a
4 successor trustee only “by an instrument executed and acknowledged by Lender and recorded in the
5 office of the Recorder of the county in which the Property is located. The instrument shall contain the
6 name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument
7 is recorded and the name and address of the successor trustee.” (*Id.* at 13.)
8

9 **b. Proceeding Events**

10 46. On February 5, 2007, an Assignment of Deed of Trust was signed by MERS, which
11 stated that MERS “assign[ed] and transfer[ed] to Option One Mortgage Corporation... all its right, title
12 and interest in and to a certain Deed of Trust executed by Guillermo Diaz...bearing the date of the 6th
13 of October 2006.”

14 47. A second Assignment of the Deed of Trust was signed by American Home Mortgage
15 Servicing, Inc. on 1/23/2009. This Assignment transferred interest in the Deed of Trust from American
16 Home Mortgage Servicing, Inc. to Wells Fargo Bank, N.A.

17 48. The third Assignment of the Deed of Trust was signed by Sand Canyon Corporation
18 FKA Option One Mortgage Corporation on 4/8/2011. This Assignment transferred interest in the Deed
19 of Trust from Wells Fargo Bank, N.A. to LandAmerica Commonwealth.

20 49. Plaintiff alleges that a loan contract and real property has been falsely encumbered by an
21 unlawful lien through the use of an alleged void assignment of Plaintiff’s deed of trust by both
22 Defendants.

23 50. Plaintiff alleges that Defendants are claiming to be agents, purchasers and assignees of a
24 fictitious payee of the subject debt obligation.

25 51. Western Progressive recorded a Notice of Default (“NOD”) on March 2, 2015.

26 52. The NOD indicated that OCWEN Loan Servicing, LLC was the servicer of the loan.
27 Western Progressive stated that, Plaintiff only has the “legal right to bring [the] account in good
28

1 standing by paying all of [the] past due payments plus permitted costs and expenses within the time
2 permitted by law for reinstatement of [the] account.”

3 53. Nowhere in the NOD did Western Progressive state that Plaintiff had the right to bring a
4 court action to dispute the default as required by paragraph twenty-two of the deed of trust.

5 54. Plaintiff alleges that Defendants unlawfully, and with full knowledge and intent,
6 intentionally interfered with the subject contract promissory note and deed of trust for their own gain
7 and at the expense and detriment of Plaintiff. Plaintiff denies and refutes that Defendants are a valid
8 beneficiary or agent for beneficiary, a lawful assignee or entitled in any way under the contract deed of
9 trust and further alleges that both Defendants claim to be entitled in some way under the contract
10 without lawful or contractual authority.

11 55. Defendants both are experienced and sophisticated real estate professionals as trustees,
12 servicers, lenders, beneficiaries, and/or investors who have a duty of due diligence to investigate title
13 issues prior to sale.

14 56. Plaintiff alleges that all Defendants worked together in a scheme to convert a personal
15 Instrument (Promissory Note) and subsequently real property to their own possession without lawful
16 authority.

17 57. A Notice Of Trustee’s Sale (NOS) was then signed on October 21, 2015 and recorded by
18 Western Progressive, LLC.

19 58. Plaintiff alleges that any and all recorded instruments, including Notice of Default and
20 Notice of Trustee Sale are void because their purported authority flows from the void assignment
21 instruments as fully examined and alleged above.

22 59. Western Progressive, LLC foreclosed upon plaintiff’s home on November 30, 2015.
23 Plaintiff brings the present claim disputing Defendants’ rights to Plaintiff’s deed of trust and property.

24 60. Plaintiff alleges that a controversy exists as to whether or not all Defendants acquired
25 any rights to the loan contract. Defendants claim a beneficial or purchase interest in the contract and
26 real property at this time.

27 61. Plaintiff alleges Defendant OCWEN is instructing Western Progressive to foreclose and
28 sell Plaintiffs home without valid authority and is not the beneficiary.

1 62. Plaintiff alleges that Western Progressive is willfully, negligently, and with malice
2 aforethought proceeding with foreclosure sales without information from the beneficiary.

3 63. Despite repeated requests for documentation proving the existence of the rights and
4 authority of the trustee and servicers claimed by Defendants and the authority to instruct and move
5 forward with foreclosure sales, the requests have been denied and/or information that was provided did
6 not conform to the requirements of California law. Instead, Western Progressive instructed Plaintiff to
7 contact OCWEN to request information and refused to provide the information Western Progressive
8 relied on to proceed with the pending foreclosure sale.

9 64. Plaintiff alleges that all Defendants willfully, negligently and with malice aforethought,
10 filed, negligently relied upon or caused to be filed, a series of public documents known by both
11 Defendants to be false at the time of the execution and filing of the instruments in the public record
12 against public policy and against Plaintiffs' contract and property interests.

13 65. Defendants claim an interest that is adverse to Plaintiff's by intentionally interfering
14 with a contract without such authority, and by failing to evidence, after notice by Plaintiff and request
15 for such evidence, any document executed by the true beneficiary of the debt obligation, which
16 authenticates Defendant's assertions that they are acting as bona fide agents and/or assignees for an
17 authenticated beneficiary to Plaintiff's debt obligation.

18 66. Plaintiff alleges that he has rights to disclosures under Cal. Civ. Code §§ 2924.17(a),
19 2924.17(b). Plaintiff alleges that Defendants, as purported agent for the beneficiary and loan servicer,
20 had a duty to provide Plaintiff: "... the mortgage servicer will ensure that the document is accurate and
21 complete and supported by competent and reliable evidence." Section 2924.17(a) states, "the mortgage
22 servicer shall ensure that it has reviewed competent and reliable evidence to substantiate the borrowers
23 default and the right to foreclose." Furthermore, 2924.17(b) states, "A beneficiary, or his or her
24 authorized agent, shall, within 21 days of the receipt of a written demand by an entitled person or his or
25 her authorized agent, prepare and deliver to the person demanding it a true, correct, and complete copy
26 of the note or other evidence of indebtedness with any modification thereto, and a beneficiary
27 statement." Civil Code § 2943(b)(1).

28 //

1 67. Plaintiff alleges that Defendants did not perform any of the above described duties.
2 Plaintiff alleges that because of Defendants' acts and omissions, Plaintiff has been harmed and
3 prejudiced.

4 68. As a direct and proximate result of Defendants acts and omissions, Plaintiff's loan
5 obligation has been accelerated by an unlawful means, forcing her to pay the entirety of his debt at one
6 time. Her credit has been damaged along with her ability to seek alternative financing. His loan
7 obligation has not been verified as to whom the payments are actually due and what exact amounts are
8 due, thus exposing her to duplicative payments. He is at immediate risk of losing possession to
9 Defendants due to an illegal and oppressive sale by Defendant's acts and omissions; the property is
10 encumbered by who have no lawful interest in the loan contract or real property. He has suffered
11 emotional damages due to constant worry about whether or not the wrong party is going to dispossess
12 her of her home. He cannot negotiate the contract with a party that has been authenticated as the lawful
13 beneficiary to the debt obligation; he has been subjected to a wrongful foreclosure sale at the direction
14 and execution of all Defendants named herein.

15 69. Plaintiff alleges that he is not seeking a "free house", as will undoubtedly be claimed by
16 the Defendants in the typical foreclosure mill style that has plagued this, and all California courts, for
17 eight years now.

18
19 **D. Tina Truong**

20 **a. Deed of Trust**

21 70. On August 13, 2007, Plaintiff signed a deed of trust (the "deed of trust") for the subject
22 property located at 6395 Fairwind Cir, Huntington Beach, CA 92648-6714. (Exhibit 3.) According to
23 the deed of trust, Plaintiff was the "borrower," and Countrywide Bank, FSB was the "lender." MERS is
24 named the "beneficiary," and Recontrust Company, N.A. was the "trustee." (*Id.* at 2). The loan was an
25 adjustable rate mortgage in the amount of \$1,500,000.

26 71. Paragraph twenty-two of the deed of trust explains the procedures required for the lender
27 to accelerate Plaintiff's amount due under the loan and the lender's other remedies. This section states
28

1 that, in the event of Plaintiffs' default, *the lender* must give Plaintiffs notice of Plaintiffs' default and
2 the lender's intent to accelerate, *prior to* acceleration. (*Id.* at 13).

3 The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a
4 date, not less than 30 days from the date the notice is given to Borrower, by which the
5 default must be cured; and (d) that failure to cure the default on or before the date
6 specified in the notice may result in acceleration of the sums secured by this Security
7 Instrument and sale of the Property. *The notice shall further inform Borrower of the
8 right to reinstate after acceleration and the right to bring a court action to assert the
9 non-existence of a default or any other defense of Borrower to acceleration and sale.*

10 72. Only after such notice is given, does the deed of trust entitle the lender to accelerate
11 Plaintiffs' amount due and invoke the lender's power of sale.

12 73. Paragraph fifteen of the deed of trust requires that, "[a]ll notices given by Borrower or
13 Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in
14 connection with this Security Instrument shall be deemed to have been given to Borrower when mailed
15 by first class mail or when actually delivered to Borrower's notice address if sent by other means." (*Id.*
16 at 10).

17 74. Additionally, paragraph twenty-four of the deed of trust allows the lender to appoint a
18 successor trustee only "by an instrument executed and acknowledged by Lender and recorded in the
19 office of the Recorder of the county in which the Property is located. The instrument shall contain the
20 name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument
21 is recorded and the name and address of the successor trustee." (*Id.* at 13.)

22 **b. Proceeding Events**

23 75. On April 13, 2011, an Assignment of Deed of Trust was signed by MERS, which stated
24 that MERS made the decision to "grant, sell, assign, transfer, and convey unto BAC Home Loans
25 Servicing, LP... all beneficial interest" under Plaintiff's Deed of Trust.

26 76. A second Assignment of the Deed of Trust was signed by Bank of America, N.A. on
27 2/14/2014. This Assignment transferred interest in the Deed of Trust from Bank of America, N.A. to
28 Christiana Trust.

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1 77. The third Assignment of the Deed of Trust was signed by Bank of America, N.A. on
2 4/10/2014. This Assignment transferred interest in the Deed of Trust from Bank of America, N.A. to
3 Christiana Trust.

4 78. Plaintiff alleges that a loan contract and real property has been falsely encumbered by an
5 unlawful lien through the use of an alleged void assignment of Plaintiff's deed of trust by both
6 Defendants.

7 79. Plaintiff alleges that Defendants are claiming to be agents, purchasers and assignees of a
8 fictitious payee of the subject debt obligation.

9 80. Western Progressive recorded a Notice of Default ("NOD") on March 27, 2014.

10 81. The NOD indicated that OCWEN Loan Servicing, LLC Christiana Trust was the
11 servicer of the loan. Western Progressive stated that, Plaintiff only has the "legal right to bring [the]
12 account in good standing by paying all of [the] past due payments plus permitted costs and expenses
13 within the time permitted by law for reinstatement of [the] account."

14 82. Nowhere in the NOD did Western Progressive state that Plaintiff had the right to bring a
15 court action to dispute the default as required by paragraph twenty-two of the deed of trust.

16 83. Plaintiff alleges that Defendants unlawfully, and with full knowledge and intent,
17 intentionally interfered with the subject contract promissory note and deed of trust for their own gain
18 and at the expense and detriment of Plaintiff. Plaintiff denies and refutes that Defendants are a valid
19 beneficiary or agent for beneficiary, a lawful assignee or entitled in any way under the contract deed of
20 trust and further alleges that both Defendants claim to be entitled in some way under the contract
21 without lawful or contractual authority.

22 84. Defendants both are experienced and sophisticated real estate professionals and
23 investors who have a duty of due diligence to investigate title issues prior to sale.

24 85. Plaintiff alleges that all Defendants worked together in a scheme to convert a personal
25 Instrument (Promissory Note) and subsequently real property to their own possession without lawful
26 authority.

27 86. A Notice Of Trustee's Sale (NOS) was then signed on July 29, 2014 and recorded by
28 Western Progressive.

1 87. Plaintiff alleges that any and all recorded instruments, including Notice of Default and
2 Notice of Trustee Sale are void because their purported authority flows from the void assignment
3 instruments as fully examined and alleged above.

4 88. Plaintiff brings the present claim disputing Defendants' rights to Plaintiff's deed of trust
5 and property.

6 89. Plaintiff alleges that a controversy exists as to whether or not all Defendants acquired
7 any rights to the loan contract. Defendants claim a beneficial or purchase interest in the contract and
8 real property at this time.

9 90. Plaintiff alleges Defendant OCWEN is instructing Western Progressive to foreclose and
10 sell Plaintiffs home without valid authority and is not the beneficiary.

11 91. Plaintiff alleges that Western Progressive is willfully, negligently, and with malice
12 aforethought proceeding with foreclosure sales without information from the beneficiary.

13 92. Despite repeated requests for documentation proving the existence of the rights and
14 authority of the trustee and servicers claimed by Defendants and the authority to instruct and move
15 forward with foreclosure sales, the requests have been denied and/or information that was provided did
16 not conform to the requirements of California law. Instead, Western Progressive instructed Plaintiff to
17 contact OCWEN to request information and refused to provide the information Western Progressive
18 relied on to proceed with the pending foreclosure sale.

19 93. Plaintiff alleges that all Defendants willfully, negligently and with malice aforethought,
20 filed, negligently relied upon or caused to be filed, a series of public documents known by both
21 Defendants to be false at the time of the execution and filing of the instruments in the public record
22 against public policy and against Plaintiffs' contract and property interests.

23 94. Defendants claim an interest that is adverse to Plaintiff's by intentionally interfering
24 with a contract without such authority, and by failing to evidence, after notice by Plaintiff and request
25 for such evidence, any document executed by the true beneficiary of the debt obligation, which
26 authenticates Defendant's assertions that they are acting as bona fide agents and/or assignees for an
27 authenticated beneficiary to Plaintiff's debt obligation.

28

1 95. Plaintiff alleges that he has rights to disclosures under Cal. Civ. Code §§ 2924.17(a),
2 2924.17(b). Plaintiff alleges that Defendants, as purported agent for the beneficiary and loan servicer,
3 had a duty to provide Plaintiff: "... the mortgage servicer will ensure that the document is accurate and
4 complete and supported by competent and reliable evidence." Section 2924.17(a) states, "the mortgage
5 servicer shall ensure that it has reviewed competent and reliable evidence to substantiate the borrowers
6 default and the right to foreclose." Furthermore, 2924.17(b) states, "A beneficiary, or his or her
7 authorized agent, shall, within 21 days of the receipt of a written demand by an entitled person or his or
8 her authorized agent, prepare and deliver to the person demanding it a true, correct, and complete copy
9 of the note or other evidence of indebtedness with any modification thereto, and a beneficiary
10 statement." Civil Code § 2943(b)(1).

11 96. Plaintiff alleges that Defendants did not perform any of the above described duties.
12 Plaintiff alleges that because of Defendants' acts and omissions, Plaintiff has been harmed and
13 prejudiced.

14 97. As a direct and proximate result of Defendants acts and omissions, Plaintiff's loan
15 obligation has been accelerated by an unlawful means, forcing her to pay the entirety of his debt at one
16 time. Her credit has been damaged along with her ability to seek alternative financing. His loan
17 obligation has not been verified as to whom the payments are actually due and what exact amounts are
18 due, thus exposing her to duplicative payments. He is at immediate risk of losing possession to
19 Defendants due to an illegal and oppressive sale by Defendant's acts and omissions; the property is
20 encumbered by who have no lawful interest in the loan contract or real property. He has suffered
21 emotional damages due to constant worry about whether or not the wrong party is going to dispossess
22 her of her home. He cannot negotiate the contract with a party that has been authenticated as the lawful
23 beneficiary to the debt obligation; he has been subjected to a wrongful foreclosure sale at the direction
24 and execution of all Defendants named herein.

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1 **E. Gregory And Janeatte Ganter**

2 **a. Deed of Trust**

3 98. On September 8, 2007, Plaintiffs signed a deed of trust (the “deed of trust”) for the
4 subject property located at 26531 Valpariso Drive, Mission Viejo, CA 92691. (Exhibit 4.) According
5 to the deed of trust, Plaintiffs were the “borrower,” and Countrywide Bank, N.A. was the “lender.”
6 MERS is named the “beneficiary,” and CTC Real Estate Services was the “trustee.” (*Id.* at 2). The loan
7 was an adjustable rate mortgage in the amount of \$600,000.

8 99. Paragraph twenty-two of the deed of trust explains the procedures required for the lender
9 to accelerate Plaintiff’s amount due under the loan and the lender’s other remedies. This section states
10 that, in the event of Plaintiffs’ default, *the lender* must give Plaintiffs notice of Plaintiffs’ default and
11 the lender’s intent to accelerate, *prior to* acceleration. (*Id.* at 13).

12 The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a
13 date, not less than 30 days from the date the notice is given to Borrower, by which the
14 default must be cured; and (d) that failure to cure the default on or before the date
15 specified in the notice may result in acceleration of the sums secured by this Security
16 Instrument and sale of the Property. *The notice shall further inform Borrower of the
right to reinstate after acceleration and the right to bring a court action to assert the
non-existence of a default or any other defense of Borrower to acceleration and sale.*

17 100. Only after such notice is given, does the deed of trust entitle the lender to accelerate
18 Plaintiffs’ amount due and invoke the lender’s power of sale.

19 101. Paragraph fifteen of the deed of trust requires that, “[a]ll notices given by Borrower or
20 Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in
21 connection with this Security Instrument shall be deemed to have been given to Borrower when mailed
22 by first class mail or when actually delivered to Borrower’s notice address if sent by other means.” (*Id.*
23 at 10).

24 102. Additionally, paragraph twenty-four of the deed of trust allows the lender to appoint a
25 successor trustee only “by an instrument executed and acknowledged by Lender and recorded in the
26 office of the Recorder of the county in which the Property is located. The instrument shall contain the
27 name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument
28 is recorded and the name and address of the successor trustee.” (*Id.* at 13.)

1 **b. Proceeding Events**

2 103. On April 12, 2011, an Assignment of Deed of Trust was signed by MERS, which stated
3 that MERS made the decision to “grant, sell, assign, transfer, and convey unto BAC Home Loans
4 Servicing, LP... all beneficial interest” under Plaintiff’s Deed of Trust.

5 104. A second Assignment of the Deed of Trust was signed by MERS on March 24, 2014.
6 This Assignment transferred interest in the Deed of Trust from MERS to OCWEN Loan Servicing,
7 LLC.

8 105. The third Assignment of the Deed of Trust was signed by OCWEN Loan Servicing,
9 LLC on April 4, 2014. This Assignment transferred interest in the Deed of Trust from OCWEN Loan
10 Servicing, LLC to Christiana Trust.

11 106. Plaintiffs allege that a loan contract and real property has been falsely encumbered by an
12 unlawful lien through the use of an alleged void assignment of Plaintiffs’ deed of trust by both
13 Defendants.

14 107. Plaintiffs allege that Defendants are claiming to be agents, purchasers and assignees of a
15 fictitious payee of the subject debt obligation.

16 108. Western Progressive recorded a Notice of Default (“NOD”) under the Deed of Trust on
17 August 19, 2015. (Exhibit 5).

18 109. Western Progressive’s NOD indicated that OCWEN was the servicer of the loan.
19 Western Progressive stated that, Plaintiff only has the “legal right to bring [the] account in good
20 standing by paying all of [the] past due payments plus permitted costs and expenses within the time
21 permitted by law for reinstatement of [the] account.” *id.*

22 110. In recording the NOD, Western Progressive relied on a declaration from Ocwen Loan
23 Servicing, over one year old! *Id.* at 4. Western Progressive, whom Keisha Lyons signed on behalf of on
24 August 14, 2015, recorded the NOD based on the declaration that Ocwen contacted Plaintiffs in regard
25 to their financial situation that Matthew Owens, on behalf of Ocwen, supposedly signed and dated on
26 July 17, 2014. *Id.* at 3-4. If Western Progressive truly followed California law, Western Progressive
27 would have relied upon a declaration made by Fay Servicing, whom servicing was transferred to
28 starting June 25, 2015. (Transfer letter attached hereto as Exhibit 6). Although Fay Servicing was to

1 begin servicing the loan on or about June 25, 2015, Fay did not send a notice to the Ganters until about
2 July 6, 2015 according to the letter sent to the Ganters. *id.*

3 111. Nowhere in Western Progressive’s NOD did Western Progressive state that Plaintiffs
4 had the right to bring a court action to dispute the default as required by paragraph twenty-two of the
5 deed of trust.

6 112. Plaintiffs allege that Defendants unlawfully, and with full knowledge and intent,
7 intentionally interfered with the subject contract promissory note and deed of trust for their own gain
8 and at the expense and detriment of Plaintiffs. Plaintiffs deny and refutes that Defendants are a valid
9 beneficiary or agent for beneficiary, a lawful assignee or entitled in any way under the contract deed of
10 trust and further alleges that both Defendants claim to be entitled in some way under the contract
11 without lawful or contractual authority.

12 113. Defendants both are experienced and sophisticated real estate professionals as trustees,
13 servicers, lenders, beneficiaries, and/or investors who have a duty of due diligence to investigate title
14 issues prior to sale.

15 114. Plaintiffs allege that all Defendants worked together in a scheme to convert a personal
16 Instrument (Promissory Note) and subsequently real property to their own possession without lawful
17 authority.

18 115. A Notice of Trustee’s Sale (NOS) was then signed on December 4, 2015 and recorded
19 by Western Progressive.

20 116. Although Western Progressive claims in the NOS, “the beneficiary of the Deed of Trust
21 has executed and delivered to the undersigned a written request to commence foreclosure, and the
22 undersigned caused a Notice of Default and Election to Sell to be recorded in the county where the real
23 property is located,” Fay Servicing expressly states in a January 13, 2016 to Ganters’ counsel, “Bear in
24 mind that the investor has no access related to the administration of the account and would not be able
25 to answer most account-related questions.” (Exhibit 7). If this statement is in fact correct, how did
26 Western Progressive receive a written request from the beneficiary to commence foreclosure? Ganters
27 allege and thereon believe Western Progressive in fact never received such written instructions.

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1 117. Plaintiffs allege that any and all recorded instruments, including Notice of Default and
2 Notice of Trustee Sale are void because their purported authority flows from the void assignment
3 instruments as fully examined and alleged above.

4 118. Plaintiffs allege that a controversy exists as to whether or not all Defendants acquired
5 any rights to the loan contract. Defendants claim a beneficial or purchase interest in the contract and
6 real property at this time.

7 119. As alleged in detail above, Plaintiffs allege Defendant Fay Servicing previously
8 instructed Western Progressive to foreclose and sell Plaintiffs home without valid authority and is not
9 the beneficiary.

10 120. Plaintiffs allege that Western Progressive is willfully, negligently, and with malice
11 aforethought proceeding with foreclosure sales without information from the beneficiary.

12 121. Despite repeated requests for documentation proving the existence of the rights and
13 authority of the trustee and servicers claimed by Defendants and the authority to instruct and move
14 forward with foreclosure sales, the requests have been denied and/or information that was provided did
15 not conform to the requirements of California law. Instead, Western Progressive instructed Plaintiffs to
16 contact Fay Servicing to request information and refused to provide the information Western
17 Progressive relied on to proceed with the pending foreclosure sale. In fact, Plaintiffs made a request in
18 December 2015, which Fay Servicing acknowledged in a letter dated January 13, 2016. (Ex. 7)

19 122. Plaintiffs allege that all Defendants willfully, negligently and with malice aforethought,
20 filed, negligently relied upon or caused to be filed, a series of public documents known by both
21 Defendants to be false at the time of the execution and filing of the instruments in the public record
22 against public policy and against Plaintiffs' contract and property interests.

23 123. Defendants claim an interest that is adverse to Plaintiffs' by intentionally interfering
24 with a contract without such authority, and by failing to evidence, after notice by Plaintiffs and request
25 for such evidence, any document executed by the true beneficiary of the debt obligation, which
26 authenticates Defendant's assertions that they are acting as bona fide agents and/or assignees for an
27 authenticated beneficiary to Plaintiffs' debt obligation.

28 //

1 124. Plaintiffs allege that Plaintiffs have rights to disclosures under Cal. Civ. Code §§
2 2924.17(a), 2924.17(b). Plaintiffs allege that Defendants, as purported agent for the beneficiary and
3 loan servicer, had a duty to provide Plaintiffs: "... the mortgage servicer will ensure that the document
4 is accurate and complete and supported by competent and reliable evidence." Section 2924.17(a) states,
5 "the mortgage servicer shall ensure that it has reviewed competent and reliable evidence to substantiate
6 the borrowers default and the right to foreclose." Furthermore, 2924.17(b) states, "A beneficiary, or his
7 or her authorized agent, shall, within 21 days of the receipt of a written demand by an entitled person or
8 his or her authorized agent, prepare and deliver to the person demanding it a true, correct, and complete
9 copy of the note or other evidence of indebtedness with any modification thereto, and a beneficiary
10 statement." Civil Code § 2943(b)(1).

11 125. On January 13, 2016, the Compliance Department at Fay Servicing, LLC responded to a
12 letter sent by Plaintiffs requesting validation of the authority under which default notification has been
13 provided to the borrowers. Fay Servicing responded in the following manner, "Fay is the servicer of the
14 account as of June 25, 2015 under agreement with the investor, Christiana Trust, a division of
15 Wilmington Savings...Bear in mind that the investor has no access related to the administration of the
16 account and would not be able to answer most account-related questions." (Ex. 7)

17 126. The servicer admits that the beneficiary has no access to the administration of the
18 account and that Christiana Trust would not even be able to answer most account related questions. *Id.*
19 However, in order for Fay Servicing to have the valid authority to proceed with the foreclosure process,
20 it has to be able to show that, as the servicer of the debt, it has reviewed competent and reliable
21 evidence to substantiate the borrowers default and the right to foreclose. *Id.* Plaintiffs allege that
22 Defendant has relied upon information provided by a non-contract, third party, with no personal, first-
23 hand knowledge of the facts.

24 127. Plaintiffs allege that Defendants were under a duty to make a reasonable inquiry as to
25 the source, veracity, and truthfulness of the statements contained within the documents they have
26 recorded in regard to this deed of trust. Specific documents that have been executed by the beneficiary
27 are required to verify the beneficiary's accounting for each payment received and applied, regardless of
28 the source of the payment, pursuant to the strict language of the Deed of Trust and Note.

1 128. Plaintiffs allege that neither Defendant performed any of the above described duties.
2 Plaintiffs allege that because of Defendants' acts and omissions has been harmed and prejudiced.

3 129. As a direct and proximate result of Defendants acts and omissions, Plaintiffs' loan
4 obligation has been accelerated by an unlawful means, forcing them to pay the entirety of their debt at
5 one time. Their credit has been damaged along with their ability to seek alternative financing. Their
6 loan obligation has not been verified as to whom the payments are actually due and what exact amounts
7 are due, thus exposing them to duplicative payments. They have lost possession to Defendants due to
8 an illegal and oppressive sale by Defendant's acts and omissions; the property is encumbered by who
9 have no lawful interest in the loan contract or real property. They have suffered emotional damages due
10 to constant worry about whether or not the wrong party is going to dispossess her of her home. They
11 cannot negotiate the contract with a party that has been authenticated as the lawful beneficiary to the
12 debt obligation; they have been subjected to a wrongful foreclosure sale at the direction and execution
13 of all Defendants named herein.

14 130. Plaintiffs allege that they are not seeking a "free house", as will undoubtedly be claimed
15 by the Defendants in the typical foreclosure mill style that has plagued this, and all California courts,
16 for eight years now.

17
18 **V. CAUSES OF ACTION**

19 **FIRST CAUSE OF ACTION**
20 **INTENTIONAL MISREPRESENTATION**

21 (Salgado, Diaz, and Truong Against Defendants Western Progressive and Ocwen)

22 131. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of
23 the subsequent causes of action as though fully set forth herein.

24 132. For the purposes of Paragraphs 131-159, Plaintiffs shall mean Plaintiffs Salgado, Diaz,
25 and Truong only, and shall not include Plaintiffs Gregory and Janeatte Ganter.

26 133. Defendants Western Progressive and Ocwen, their principals, agents, and/or employees,
27 and each of them acted to deceive Plaintiffs Salgado, Diaz, and Truong in the manner and by the
28 misrepresentations and statements identified and set forth herein.

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1 134. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege,
2 that Defendants Western Progressive and Ocwen 1) made representations of facts as true, 2) the
3 representations were not true, 3) Western Progressive and Ocwen knew the statements were false, or
4 made recklessly without regard for their truth, 4) with the intent that Plaintiffs Salgado, Diaz, and
5 Truong rely on these representations, 5) that Plaintiffs Salgado, Diaz, and Truong were ignorant of
6 the falsity of the representations and reasonably relied on the representations, 6) Plaintiffs were
7 harmed, and 7) Plaintiffs Salgado, Diaz, and Truong’s reliance on Western Progressive and Ocwen’s
8 representations was a substantial factor, if not a “but for” cause, in causing Plaintiffs’ harm.

9 135. Defendants Western Progressive and Ocwen made numerous misrepresentations orally,
10 verbally, written, and/or by their nonverbal conduct, including but not limited to publicly recorded
11 documents, written and oral communications to Plaintiffs Salgado, Diaz, and Truong, website postings,
12 and other affirmative actions taken by Defendants.

13 136. Defendants Western Progressive and Ocwen’s statements were not mere opinions under
14 the conditions and should be treated as a statement of fact. A statement will be considered a statement
15 of fact when (1) Western Progressive and Ocwen held himself out to be specifically qualified and the
16 Plaintiffs Salgado, Diaz, and Truong were in a position to reasonably rely upon their knowledge; (2)
17 Western Progressive and Ocwen made the statements were typically in fiduciary and/or trusted
18 positions; and (3) depending on the circumstance, Western Progressive and Ocwen either made the
19 statements as an existing fact or implied the facts in such a manner that justified a belief in the truth of
20 the opinion.

21 137. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege
22 that Western Progressive and Ocwen made numerous misrepresentations as alleged herein.

23 138. Plaintiffs Salgado, Diaz, and Truong specifically allege that Western Progressive and
24 Ocwen represented they were indeed valid servicers and/or trustees with valid authority to foreclose.

25 139. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege
26 Western Progressive and Ocwen represented they had valid authority to foreclose based on information
27 and instructions from the beneficiary. However, despite numerous requests for the beneficiary
28 statements, Western Progressive and Ocwen have refused to provide the requested information. Instead,

1 if and when information is provided, the information is from the servicer and/or trustee records, not the
2 beneficiary.

3 140. Defendants Western Progressive and Ocwen represented they are the holders of the
4 notes and deeds of trust and that they were operating under a valid power from the current holders of
5 the notes and deeds of trust and therefore had the right to proceed with the foregoing foreclosures.

6 141. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege,
7 Western Progressive and Ocwen knew these representations to be false, or made the representations
8 without regard for their truth.

9 142. Western Progressive and Ocwen knew these representations were false as they knew
10 they were no longer the note holders and/or made the representations recklessly without regard to the
11 truth because they do not know who actually owns the notes and deeds and do not know who holds or
12 held the valid power to foreclose on Plaintiffs Salgado, Diaz, and Truong. Western Progressive and
13 Ocwen represented that they were the owners despite recording assignments and transfers in public
14 records that were to the contrary, inaccurate, and/or incomplete.

15 143. Plaintiffs Salgado, Diaz, and Truong based thereon allege Western Progressive and
16 Ocwen do not have the information and/or instructions from the current beneficiary and/or did not have
17 the information, documentation, or otherwise at the time they represented to be the valid trustees and/or
18 servicers with authority to foreclose.

19 144. Plaintiffs Salgado, Diaz, and Truong, based on the information herein, allege that
20 Western Progressive and Ocwen did not have the information, instructions, documentations, or
21 otherwise from the actual beneficiary at the time NDSC filed publicly recorded documents, including
22 the Notice of Trustee Sale.

23 145. Plaintiffs Salgado, Diaz, and Truong allege that Defendants, without this information,
24 filed false, misleading, and/or inaccurate public documents in violation of California law.

25 146. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege
26 Defendants, each individually and/or collectively, cannot determine the actual beneficiary, both
27 presently and/or at the time of the public filings referenced herein.

28 //

1 147. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege,
2 Western Progressive and Ocwen knowingly relied on information they knew was false to file publicly
3 recorded documents and/or filed the documents recklessly without regard to the truth or willfully acted
4 blindly in filing the documents. Western Progressive and Ocwen did not act reasonably in determining
5 the validity of the information they relied on to file the publicly recorded documents.

6 148. Western Progressive and Ocwen made the misrepresentations with the intent of inducing
7 Plaintiffs Salgado, Diaz, and Truong to rely upon the misrepresentations alleged herein.

8 149. Western Progressive and Ocwen intended for Plaintiffs Salgado, Diaz, and Truong and
9 the general public to rely upon any and all instruments by placing it into the records of the respective
10 County's Recorder's Office.

11 150. Defendants intended for Plaintiffs Salgado, Diaz, and Truong and the general public to
12 rely upon the false utterances in the public record for all person to rely.

13 151. Plaintiffs Salgado, Diaz, and Truong reasonably relied upon those statements as true and
14 had cause to rely on those statements by virtue of the sanctity of public records and the presumption
15 that no party would knowingly make and publish such false representations intentionally.

16 152. Plaintiffs Salgado, Diaz, and Truong reasonably relied on Western Progressive and
17 Ocwen's statements, oral, written, conduct, or otherwise, in regards to Western Progressive and
18 Ocwen's authority, status, and relationship or partnership as to the other Western Progressive and
19 Ocwen and Plaintiffs Salgado, Diaz, and Truong as referenced herein.

20 153. Plaintiffs Salgado, Diaz, and Truong were harmed by the misrepresentations made by
21 Western Progressive and Ocwen.

22 154. Plaintiffs Salgado, Diaz, and Truong made substantial monthly payments to a party who
23 had no authority to accept those payments on behalf of a *bona fide* beneficiary to her loan contract.

24 155. Plaintiffs Salgado, Diaz, and Truong allege that the supposed beneficiary has received
25 payments, whether from the Plaintiffs Salgado, Diaz, and Truong themselves or another entity.
26 Plaintiffs Salgado, Diaz, and Truong were harmed by Western Progressive and Ocwen's false
27 utterances by enduring the unlawful acceleration of their debt and by a party not authorized under her
28

1 contract publishing false statements leading Plaintiffs Salgado, Diaz, and Truong to an unlawful
2 invocation of California's non-judicial foreclosure statute.

3 156. Plaintiffs Salgado, Diaz, and Truong were wrongfully foreclosed upon based on Western
4 Progressive and Ocwen' misrepresentations.

5 157. Plaintiffs Salgado, Diaz, and Truong reliance on Western Progressive and Ocwen'
6 representation was a substantial factor in causing their harm.

7 158. As a result of such intentional misrepresentations Plaintiffs Salgado, Diaz, and Truong
8 were damaged as described herein. Without limiting the damages as described herein, Plaintiffs
9 Salgado, Diaz, and Truong damages arose directly from the misrepresentations, or at the very least, the
10 misrepresentations were a substantial factor in causing the damages alleged herein, including but not
11 limited to the loss of equity in their house, loan payments falsely represented to be much lower than
12 what they truly were, growth in their loan balances which Western Progressive and Ocwen represented
13 would not occur, costs and expenses related to protecting themselves, reduced credit scores,
14 unavailability of credit, increased costs of credit, reduced availability of goods and services tied to
15 credit ratings, increased costs of those services, as well as fees and costs, including, without limitation,
16 attorneys' fees and costs.

17 159. Western Progressive and Ocwen' intentional, wide-scale, fraudulent conduct merits the
18 imposition of punitive damages.

19 **FIRST CAUSE OF ACTION**
20 **INTENTIONAL MISREPRESENTATION**

21 (Ganter Against Defendants Western Progressive and Fay Servicing)

22 160. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of
23 the subsequent causes of action as though fully set forth herein.

24 161. For the purposes of Paragraphs 160-187, Plaintiffs shall mean Gregory and Janeatte
25 Ganter (collectively "Ganters") solely, and shall not include Plaintiffs Salgado, Plaintiff Diaz or
26 Plaintiff Truong.

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1 162. Defendants Western Progressive and Fay Servicing, their principals, agents, and/or
2 employees, and each of them acted to deceive Plaintiffs in the manner and by the misrepresentations
3 and statements identified and set forth herein.

4 163. Ganters are informed and believe, and based thereon allege, that Defendants Western
5 Progressive and Fay Servicing 1) made representations of facts as true, 2) the representations were
6 not true, 3) Western Progressive and Fay Servicing knew the statements were false, or made
7 recklessly without regard for their truth, 4) with the intent that Ganters rely on these
8 representations, 5) that Ganters were ignorant of the falsity of the representations and reasonably
9 relied on the representations, 6) Ganters were harmed, and 7) Ganters' reliance on Western
10 Progressive and Fay Servicing's representations was a substantial factor, if not a "but for" cause, in
11 causing Ganters' harm.

12 164. Defendants Western Progressive and Fay Servicing made numerous misrepresentations
13 orally, verbally, written, and/or by their nonverbal conduct, including but not limited to publicly
14 recorded documents, written and oral communications to Ganters, website postings, and other
15 affirmative actions taken by Defendants.

16 165. Defendants Western Progressive and Fay Servicing's statements were not mere opinions
17 under the conditions and should be treated as a statement of fact. A statement will be considered a
18 statement of fact when (1) Western Progressive and Fay Servicing held himself out to be specifically
19 qualified and the Plaintiffs were in a position to reasonably rely upon their knowledge; (2) Western
20 Progressive and Fay Servicing made the statements were typically in fiduciary and/or trusted positions;
21 and (3) depending on the circumstance, Western Progressive and Fay Servicing either made the
22 statements as an existing fact or implied the facts in such a manner that justified a belief in the truth of
23 the opinion.

24 166. Ganters are informed and believe, and based thereon allege, that Western Progressive
25 and Fay Servicing made numerous misrepresentations as alleged herein.

26 167. Ganters specifically allege that Western Progressive and Fay Servicing represented they
27 were indeed valid servicers and/or trustees with valid authority to foreclose.

28 //

1 168. Ganters are informed and believe, and based thereon allege, Western Progressive and
2 Fay Servicing represented they had valid authority to foreclose based on information and instructions
3 from the beneficiary. However, despite numerous requests for the beneficiary statements, Western
4 Progressive and Fay Servicing have refused to provide the requested information. Instead, if and when
5 information is provided, the information is from the servicer and/or trustee records, not the beneficiary.

6 169. Defendants Western Progressive and Fay Servicing represented they are the holders of
7 the notes and deeds of trust and that they were operating under a valid power from the current holders
8 of the notes and deeds of trust and therefore had the right to proceed with the foregoing foreclosures.

9 170. Ganters are informed and believe, and based thereon allege, Western Progressive and
10 Fay Servicing knew these representations to be false, or made the representations without regard for
11 their truth.

12 171. Western Progressive and Fay Servicing knew these representations were false as they
13 knew they were no longer the note holders and/or made the representations recklessly without regard to
14 the truth because they do not know who actually owns the notes and deeds and do not know who holds
15 or held the valid power to foreclose on Ganters. Western Progressive and Fay Servicing represented
16 that they were the owners despite recording assignments and transfers in public records that were to the
17 contrary, inaccurate, and/or incomplete.

18 172. Ganters based thereon allege Western Progressive and Fay Servicing do not have the
19 information and/or instructions from the current beneficiary and/or did not have the information,
20 documentation, or otherwise at the time they represented to be the valid trustees and/or servicers with
21 authority to foreclose.

22 173. Ganters, based on the information herein, allege that Western Progressive and Fay
23 Servicing did not have the information, instructions, documentations, or otherwise from the actual
24 beneficiary at the time NDSC filed publicly recorded documents, including the Notice of Trustee Sale.

25 174. Ganters allege that Defendants, without this information, filed false, misleading, and/or
26 inaccurate public documents in violation of California law.

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1 175. Ganters are informed and believe, and based thereon allege Defendants, each
2 individually and/or collectively, cannot determine the actual beneficiary, both presently and/or at the
3 time of the public filings referenced herein.

4 176. Ganters are informed and believe, and based thereon allege, Western Progressive and
5 Fay Servicing knowingly relied on information they knew was false to file publicly recorded
6 documents and/or filed the documents recklessly without regard to the truth or willfully acted blindly in
7 filing the documents. Western Progressive and Fay Servicing did not act reasonably in determining the
8 validity of the information they relied on to file the publicly recorded documents.

9 177. Western Progressive and Fay Servicing made the misrepresentations with the intent of
10 inducing Ganters to rely upon the misrepresentations alleged herein.

11 178. Western Progressive and Fay Servicing intended for Ganters and the general public to
12 rely upon any and all instruments by placing it into the records of the respective County's Recorder's
13 Office.

14 179. Defendants intended for Ganters and the general public to rely upon the false utterances
15 in the public record for all person to rely.

16 180. Ganters reasonably relied upon those statements as true and had cause to rely on those
17 statements by virtue of the sanctity of public records and the presumption that no party would
18 knowingly make and publish such false representations intentionally.

19 181. Ganters reasonably relied on Western Progressive and Fay Servicing's statements, oral,
20 written, conduct, or otherwise, in regards to Western Progressive and Fay Servicing's authority, status,
21 and relationship or partnership as to the other Western Progressive and Fay Servicing and Ganters as
22 referenced herein.

23 182. Ganters were harmed by the misrepresentations made by Western Progressive and Fay
24 Servicing.

25 183. Ganters made substantial monthly payments to a party who had no authority to accept
26 those payments on behalf of a *bona fide* beneficiary to her loan contract.

27 184. Ganters allege that the supposed beneficiary has received payments, whether from the
28 Ganters themselves or another entity. Ganters were harmed by Western Progressive and Fay

1 Servicing's false utterances by enduring the unlawful acceleration of their debt and by a party not
2 authorized under her contract publishing false statements leading Plaintiffs to an unlawful invocation of
3 California's non-judicial foreclosure statute.

4 185. Ganters were wrongfully foreclosed upon based on Western Progressive and Fay
5 Servicing's misrepresentations.

6 186. Ganters' reliance on Western Progressive and Fay Servicing's representation was a
7 substantial factor in causing their harm.

8 187. As a result of such intentional misrepresentations Ganters were damaged as described
9 herein. Without limiting the damages as described herein, Ganters' damages arose directly from the
10 misrepresentations, or at the very least, the misrepresentations were a substantial factor in causing the
11 damages alleged herein, including but not limited to the loss of equity in their house, loan payments
12 falsely represented to be much lower than what they truly were, growth in their loan balances which
13 Western Progressive and Fay Servicing represented would not occur, costs and expenses related to
14 protecting themselves, reduced credit scores, unavailability of credit, increased costs of credit, reduced
15 availability of goods and services tied to credit ratings, increased costs of those services, as well as fees
16 and costs, including, without limitation, attorneys' fees and costs. Western Progressive and Fay
17 Servicing's intentional, wide-scale, fraudulent conduct merits the imposition of punitive damages.

18
19 **SECOND CAUSE OF ACTION**
20 **NEGLIGENT MISREPRESENTATION**

21 (Salgado, Diaz, and Truong Against Defendants Western Progressive and Ocwen)

22 188. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of
23 the subsequent causes of action as though fully set forth herein.

24 189. For the purposes of Paragraphs 188-202, Plaintiffs shall mean Plaintiffs Salgado, Diaz,
25 and Truong only, and shall not include Plaintiffs Gregory and Janeatte Ganter. Additionally,
26 Defendants shall mean Western Progressive and Ocwen only, and shall not include Fay Servicing.

27 190. Plaintiffs Salgado, Diaz, and Truong again allege, that Defendants made representations
28 of facts as true there were not true, and now states that although Defendants may have honestly

1 believed the representation was true, Defendants had not reasonable grounds for believing the
2 representation was true when the representations were made. Plaintiffs Salgado, Diaz, and Truong
3 allege Defendants made the representations with the intent that Plaintiffs Salgado, Diaz, and Truong
4 rely on these representations, that Plaintiffs Salgado, Diaz, and Truong were ignorant of the falsity
5 of the Defendants' representations and reasonably relied on the representations, Plaintiffs Salgado,
6 Diaz, and Truong were harmed, and Plaintiffs Salgado, Diaz, and Truong's reliance on Defendants'
7 representations was a substantial factor in causing their harm.

8 191. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege
9 Defendants made representations described herein, and more fully set forth in First Cause of Action,
10 without exercising reasonable care.

11 192. Defendants are required to exercise reasonable care when filing publicly recorded
12 documents and knowing the information utilized to file the documents.

13 193. Defendants, and each of them, have an independent duty to exercise reasonable care and
14 may not eliminate this duty by relying upon others.

15 194. Defendants both are experienced and sophisticated real estate professionals as trustees,
16 servicers, lenders, beneficiaries, and/or investors who have a duty of due diligence to investigate title
17 issues prior to sale.

18 195. Defendants then made, or negligently relied upon, false statements that are admitted
19 (also by silence where Defendants had a duty to speak) as being false and executed by persons without
20 personal, first-hand knowledge of the facts contained within the instruments at issue here or by failing
21 to record necessary instruments.

22 196. Defendants are responsible for knowing the false representations contained in
23 communications, oral and written, publicly recorded instruments, and otherwise, known to be false by
24 Defendants, which led to the unlawful acceleration of debt instrument securing Plaintiffs Salgado, Diaz,
25 and Truong's real property, and willfully oppressive sale of Plaintiff Diaz's real property, and the
26 inevitably willfully oppressive sale on Plaintiffs Salgado and Truong's real property by use of known
27 and intentionally false and omitted information contained within those recorded instruments.

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1 197. Defendants knowingly and with willful intent prepared, negligently relied upon,
2 executed and published the instruments without lawful authority.

3 198. Defendants intended for Plaintiffs Salgado, Diaz, and Truong and the general public to
4 rely on the recorded instruments and notices filed, relied upon and executed by Defendants.

5 199. Plaintiffs Salgado, Diaz, and Truong did in fact rely on the representations, and did so in
6 a reasonable manner.

7 200. Plaintiffs Salgado, Diaz, and Truong were harmed by the unauthorized acceleration of
8 the debt and loss of their real property interest. Defendants all were unjustly enriched by previously
9 accepting payments from Plaintiffs Salgado, Diaz, and Truong. Defendants were unjustly enriched by
10 garnering profits, real property and fees from Plaintiffs Salgado, Diaz, and Truong to their detriment.
11 Plaintiffs Salgado, Diaz, and Truong have suffered legal costs incurred due to Defendants' acts and
12 omissions, loss of wages from personal time spent defending her real property under her contractual
13 duties and emotional distress and humiliation.

14 201. Plaintiffs Salgado, Diaz, and Truong's justifiable reliance on Defendants' predicate acts
15 or material representations and omissions was a substantial factor in causing the harms herein. Public
16 records are considered as sacred and Defendants, as the authors, or in negligent reliance upon the
17 instruments at issue, bear the burden of proof over real property records sanctity.

18 202. Defendants' actions were a substantial factor, if not the direct cause, of the harms
19 alleged and suffered herein as a result of Plaintiffs Salgado, Diaz, and Truong's reliance.

20
21 **SECOND CAUSE OF ACTION**
22 **NEGLIGENT MISREPRESENTATION**
23 (Ganter Against Defendants Western Progressive and Fay Servicing)

24 203. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of
25 the subsequent causes of action as though fully set forth herein.

26 204. For the purposes of Paragraphs 203-216, Plaintiffs shall mean Gregory and Janeatte
27 Ganter (collectively "Ganters") solely, and shall not include Plaintiff Salgado, Plaintiff Diaz or
28

1 Plaintiffs Truong. Additionally, Defendants shall mean Western Progressive and Fay Servicing, and
2 shall not include Defendant Ocwen.

3 205. Ganters again allege, that Defendants made representations of facts as true there were
4 not true, and now states that although Defendants may have honestly believed the representation
5 was true, Defendants had not reasonable grounds for believing the representation was true when
6 the representations were made. Ganters allege Defendants made the representations with the intent
7 that Ganters rely on these representations, that Ganters were ignorant of the falsity of the
8 Defendants' representations and reasonably relied on the representations, Ganters were harmed,
9 and Ganters' reliance on Defendants' representations was a substantial factor in causing Ganters'
10 harm.

11 206. Ganters are informed and believe, and based thereon allege Defendants made
12 representations described herein, and more fully set forth in First Cause of Action, without exercising
13 reasonable care.

14 207. Defendants are required to exercise reasonable care when filing publicly recorded
15 documents and knowing the information utilized to file the documents.

16 208. Defendants, and each of them, have an independent duty to exercise reasonable care and
17 may not eliminate this duty by relying upon others.

18 209. Defendants both are experienced and sophisticated real estate professionals as trustees,
19 servicers, lenders, beneficiaries, and/or investors who have a duty of due diligence to investigate title
20 issues prior to sale.

21 210. Defendants then made, or negligently relied upon, false statements that are admitted
22 (also by silence where Defendants had a duty to speak) as being false and executed by persons without
23 personal, first-hand knowledge of the facts contained within the instruments at issue here or by failing
24 to record necessary instruments.

25 211. Defendants are responsible for knowing the false representations contained in
26 communications, oral and written, publicly recorded instruments, and otherwise, known to be false by
27 Defendants, which led to the unlawful acceleration of debt instrument securing Ganters' real property,
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1 and inevitably the willfully oppressive sale of Ganters' real property by use of known and intentionally
2 false and omitted information contained within those recorded instruments.

3 212. Defendants knowingly and with willful intent prepared, negligently relied upon,
4 executed and published the instruments without lawful authority.

5 213. Defendants intended for Ganters and the general public to rely on the recorded
6 instruments and notices filed, relied upon and executed by Defendants.

7 214. Ganters did in fact rely on the representations, and did so in a reasonable manner.

8 215. Ganters were harmed by the unauthorized acceleration of the debt and loss of their real
9 property interest. Defendants all were unjustly enriched by previously accepting payments from
10 Ganters. Defendants were unjustly enriched by garnering profits, real property and fees from Ganters to
11 their detriment. Ganters have suffered legal costs incurred due to Defendants' acts and omissions, loss
12 of wages from personal time spent defending her real property under her contractual duties and
13 emotional distress and humiliation.

14 216. Ganters' justifiable reliance on Defendants' predicate acts or material representations
15 and omissions was a substantial factor in causing the harms herein. Public records are considered as
16 sacred and Defendants, as the authors, or in negligent reliance upon the instruments at issue, bear the
17 burden of proof over real property records sanctity. Defendants' actions were a substantial factor, if not
18 the direct cause, of the harms alleged and suffered herein as a result of Ganters' reliance.

19
20 **THIRD CAUSE OF ACTION**
21 **VIOLATION OF CALIFORNIA HOMEOWNER BILL OF RIGHTS**
22 **CALIFORNIA CIVIL CODE §2924.17**
(Salgado, Diaz, and Truong Against Defendants Western Progressive and Ocwen)

23 217. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of
24 the subsequent causes of action as though fully set forth herein.

25 218. For the purposes of Paragraphs 217-248, Plaintiffs shall mean Plaintiffs Salgado, Diaz,
26 and Truong only, and shall not include Plaintiffs Gregory and Janeatte Ganter. Additionally,
27 Defendants shall mean Western Progressive and Ocwen only, and shall not include Fay Servicing.

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1 219. Section 2924.17(a) imposes a duty on all mortgage servicers and those acting on their
2 behalf to ensure that all documents, including a notice of default, notice of sale, assignment of the deed
3 of trust, or substitution of trustee, filed in connection with a foreclosure subject to the requirements of
4 section 2924 “shall be accurate and complete and supported by competent and reliable evidence.”

5 220. As such, Defendants and each of them had an independent duty to ensure that all of the
6 documents referenced herein and filed on their behalf were “accurate and complete and supported by
7 competent and reliable evidence.”

8 221. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege
9 Defendants, their principals, agents, and/or employees, and each of them willfully or negligently
10 violated California Civil Code section 2924.17 in each and every document they publicly recorded
11 herein by filing publicly recorded instruments related to a foreclosure proceeding without being
12 “accurate and complete and supported by competent and reliable evidence.

13 222. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege
14 Defendants breached this duty in each and every document publicly recorded herein and subject to
15 section 2924.17.

16 223. Plaintiffs Salgado, Diaz, and Truong bring this action pursuant to Cal. Civ. Code section
17 2924.12(a)-(b) to enjoin material violations under section 2924.17.

18 224. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege
19 Defendants has filed inaccurate and/or incomplete documents, with falsities and alleges the documents
20 are void as forgeries.

21 225. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege the
22 documents filed by Defendants were not supported by competent and reliable evidence, and instead
23 filed by individuals with no personal knowledge of Plaintiffs Salgado, Diaz, and Truong’s property,
24 loan status, and/or alleged default.

25 226. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege
26 Defendants filed documents electronically, commonly called “Robo-signing,” with no review of
27 whether the evidence is competent and/or reliable. Plaintiffs Salgado, Diaz, and Truong allege
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1 Defendants' standard business practice is to record public documents without competent and reliable
2 evidence in violation of Cal Civ. Code § 2924.17(b).

3 227. Section 2924.17(b) places the burden directly on mortgage servicers as follows:

4 “(b) Before recording or filing any of the documents described in subdivision (a), a
5 mortgage servicer shall ensure that it has reviewed competent and reliable evidence to
6 substantiate the borrower's default and the right to foreclose, including the borrower's
7 loan status and loan information.”

8 228. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege that
9 Defendants did not review their own right to foreclose and acted without regard to the truth they had no
10 authority from the beneficiary to foreclose.

11 229. Assignees and their agents of the original debt obligation and the security instrument are
12 necessarily required to provide a competent evidentiary foundation that the note and deed were lawfully
13 sold, transferred and accepted by the assignee.

14 230. As alleged previously, Plaintiffs Salgado, Diaz, and Truong allege that Defendants hold
15 no beneficial interest in the property and have no valid authority or right to foreclose on Plaintiff's
16 property. Plaintiffs Salgado, Diaz, and Truong allege Defendants did not act on behalf of the
17 beneficiary and do not have evidence to support such claim.

18 231. Plaintiffs Salgado, Diaz, and Truong have repeatedly notified Defendants they lack the
19 authority to foreclose, lack the authority to file publicly recorded documents against his property
20 interest, and that the presently recorded documents need to be rescinded.

21 232. However, Defendants continue to file publicly recorded documents in violation of
22 section 2924(a)(6), which states as follows:

23 “No entity shall record or cause a notice of default to be recorded or otherwise initiate
24 the foreclosure process unless it is the holder of the beneficial interest under the
25 mortgage or deed of trust, the original trustee or the substituted trustee under the deed of
26 trust, or the designated agent of the holder of the beneficial interest. No agent of the
27 holder of the beneficial interest under the mortgage or deed of trust, original trustee or
28 substituted trustee under the deed of trust may record a notice of default or otherwise
commence the foreclosure process except when **acting within the scope of authority
designated by the holder of the beneficial interest.**” [emphasis added].

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1 233. Plaintiffs Salgado, Diaz, and Truong again allege that Defendants do not have the
2 authority to commence the foreclosure process as they have not yet been able to prove they have the
3 authority from the beneficial interest to foreclose.

4 234. Defendants are legally obligated to ensure that all facts contained within all material
5 instruments in the chain of title are true, correct and are verifiable by competent and reliable evidence
6 to support those facts. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon
7 allege that Defendants have willfully or at the least negligently breached their duty.

8 235. All assignments and all recorded instruments must contain truthful statements and facts
9 that are authenticated or verified by evidence and by a person with personal first-hand knowledge, or
10 the instrument is void.

11 236. Substantial competent and reliable evidence must be offered upon a challenge by the
12 borrower to support the recitals contained within all instruments that affect their title. Plaintiffs
13 Salgado, Diaz, and Truong have invoked such a right under statute and deed of trust contract wherein it
14 states that the borrower has a duty to defend title against all others.

15 237. Plaintiffs Salgado, Diaz, and Truong allege that Ocwen had a duty which it has violated
16 by failing to ensure that documents (NOD, Substitution of Trustee, Notice of Trustee Sale, and
17 Assignments of Deed) were complete and supported by admissible, reliable evidence by persons with
18 personal first-hand knowledge of the facts contained within. Ocwen's violations of Section 2924.17 are
19 willful.

20 238. Defendants failed to produce evidence, upon request by the borrower, that a *bona fide*
21 beneficiary has directed the *valid* trustee to execute the acceleration of debt and that the *bona fide*,
22 authenticated beneficiary has executed and delivered a written "Declaration of Default and Demand for
23 Sale," as stated in the NOD.

24 239. Ocwen also failed to record a valid substitution of trustee granting NDSC the power of
25 sale contained as a clause in Plaintiffs Salgado, Diaz, and Truong's loan contracts.

26 240. Defendants also failed to produce competent and reliable evidence, upon request by
27 Plaintiffs that all assignments of the deed of trust were executed by valid parties and that valuable
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1 consideration was paid for each “grant” of interest (assignment) in the debt obligation. *See* Cal. Civ.
2 Code § 1066.

3 241. All documents executed and recorded by Defendants are alleged as being void and as
4 being forgeries by Plaintiffs Salgado, Diaz, and Truong.

5 242. Plaintiffs Salgado, Diaz, and Truong repudiate and refute the validity, truthfulness and
6 accuracy of all statements made by Defendants within the four corners of all instruments recorded
7 and/or discussed herein.

8 243. Plaintiffs Salgado, Diaz, and Truong allege that Defendants have made, or negligently
9 relied upon, false and misleading statements within assignment instruments, notice of default,
10 substitutions of trustee and notice of sale documents exhibited by Plaintiffs Salgado, Diaz, and Truong.
11 The falsity of those statements is alleged above in Plaintiffs’ opening statement of facts.

12 244. Plaintiffs Salgado, Diaz, and Truong allege that Ocwen caused his loan obligation to be
13 unlawfully accelerated.

14 245. Plaintiffs Salgado, Diaz, and Truong allege that Defendant Western Progressive has
15 placed known false, forged instruments into the permanent records of the respective counties.

16 246. Plaintiffs Salgado, Diaz, and Truong have been damaged as a result of Defendant’s
17 violations in that their credit has been destroyed, has suffered emotional distress and humiliation, and
18 lost ownership and equitable possession of Plaintiffs’ real property due to the actions of Defendants.

19 247. Plaintiffs Salgado, Diaz, and Truong allege Defendants have made multiple and repeated
20 uncorrected violations of section 2924.17(b) and are subject to civil penalties in an action by the
21 government under section 2924.17(c).

22 248. Plaintiffs Salgado, Diaz, and Truong allege that Ocwen directed the sale of the
23 respective properties. Defendant Western Progressive substantially relied upon, and directed, Notice of
24 Trustee Sale without being substituted as trustee and recording such authoritative instrument.

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THIRD CAUSE OF ACTION
VIOLATION OF CALIFORNIA HOMEOWNER BILL OF RIGHTS
CALIFORNIA CIVIL CODE §2924.17

(Ganter Against Defendants Western Progressive and Fay Servicing)

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249. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of the subsequent causes of action as though fully set forth herein.

250. For the purposes of Paragraphs 249-280, Plaintiffs shall mean Gregory and Janeatte Ganter (collectively “Ganters”), and shall not include Plaintiff Salgado, Plaintiff Diaz or Plaintiffs Truong. Additionally, Defendants shall mean Western Progressive and Fay Servicing, and shall not include Ocwen.

251. Section 2924.17(a) imposes a duty on all mortgage servicers and those acting on their behalf to ensure that all documents, including a notice of default, notice of sale, assignment of the deed of trust, or substitution of trustee, filed in connection with a foreclosure subject to the requirements of section 2924 “shall be accurate and complete and supported by competent and reliable evidence.”

252. As such, Defendants and each of them had an independent duty to ensure that all of the documents referenced herein and filed on their behalf were “accurate and complete and supported by competent and reliable evidence.”

253. Ganters are informed and believe, and thereon allege Defendants, their principals, agents, and/or employees, and each of them willfully or negligently violated California Civil Code section 2924.17 in each and every document they publicly recorded herein by filing publicly recorded instruments related to a foreclosure proceeding without being “accurate and complete and supported by competent and reliable evidence.

254. Ganters are informed and believe, and thereon allege Defendants breached this duty in each and every document publicly recorded herein and subject to section 2924.17.

255. Ganters bring this action pursuant to Cal. Civ. Code section 2924.12(a)-(b) to enjoin material violations under section 2924.17.

256. Ganters are informed and believe, and thereon allege Defendants has filed inaccurate and/or incomplete documents, with falsities and alleges the documents are void as forgeries.

1 257. Ganters are informed and believe, and thereon allege the documents filed by Defendants
2 were not supported by competent and reliable evidence, and instead filed by individuals with no
3 personal knowledge of Ganters' property, loan status, and/or alleged default.

4 258. Ganters are informed and believe, and thereon allege Defendants filed documents
5 electronically, commonly called "Robo-signing," with no review of whether the evidence is competent
6 and/or reliable. Ganters allege Defendants' standard business practice is to record public documents
7 without competent and reliable evidence in violation of Cal Civ. Code § 2924.17(b).

8 259. Section 2924.17(b) places the burden directly on mortgage servicers as follows:

9 “(b) Before recording or filing any of the documents described in subdivision (a), a
10 mortgage servicer shall ensure that it has reviewed competent and reliable evidence to
11 substantiate the borrower's default and the right to foreclose, including the borrower's
12 loan status and loan information.”

13 260. Ganters are informed and believe, and thereon allege that Defendants did not review
14 their own right to foreclose and acted without regard to the truth they had no authority from the
15 beneficiary to foreclose.

16 261. Assignees and their agents of the original debt obligation and the security instrument are
17 necessarily required to provide a competent evidentiary foundation that the note and deed were lawfully
18 sold, transferred and accepted by the assignee.

19 262. As alleged previously, Ganters allege that Defendants hold no beneficial interest in the
20 property and have no valid authority or right to foreclose on Ganters' property. Ganters allege
21 Defendants did not act on behalf of the beneficiary and do not have evidence to support such claim.

22 263. Ganters have repeatedly notified Defendants they lack the authority to foreclose, lack the
23 authority to file publicly recorded documents against his property interest, and that the presently
24 recorded documents need to be rescinded.

25 264. However, Defendants continue to file publicly recorded documents in violation of
26 section 2924(a)(6), which states as follows:

27 “No entity shall record or cause a notice of default to be recorded or otherwise initiate
28 the foreclosure process unless it is the holder of the beneficial interest under the
mortgage or deed of trust, the original trustee or the substituted trustee under the deed of

1 trust, or the designated agent of the holder of the beneficial interest. No agent of the
2 holder of the beneficial interest under the mortgage or deed of trust, original trustee or
3 substituted trustee under the deed of trust may record a notice of default or otherwise
4 commence the foreclosure process except when **acting within the scope of authority
5 designated by the holder of the beneficial interest.**” [emphasis added].

6 265. Ganters again allege that Defendants do not have the authority to commence the
7 foreclosure process as they have not yet been able to prove they have the authority from the beneficial
8 interest to foreclose.

9 266. Defendants are legally obligated to ensure that all facts contained within all material
10 instruments in the chain of title are true, correct and are verifiable by competent and reliable evidence
11 to support those facts. Ganters are informed and believe, and thereon allege that Defendants have
12 willfully or at the least negligently breached their duty.

13 267. All assignments and all recorded instruments must contain truthful statements and facts
14 that are authenticated or verified by evidence and by a person with personal first-hand knowledge, or
15 the instrument is void.

16 268. Substantial competent and reliable evidence must be offered upon a challenge by the
17 borrower to support the recitals contained within all instruments that affect their title. The Ganters have
18 invoked such a right under statute and deed of trust contract wherein it states that the borrower has a
19 duty to defend title against all others.

20 269. Ganters allege that Servicer Defendants had a duty which it has violated by failing to
21 ensure that documents (NOD, Substitution of Trustee, Notice of Trustee Sale, and Assignments of
22 Deed) were complete and supported by admissible, reliable evidence by persons with personal first-
23 hand knowledge of the facts contained within. Fay’s violations of Section 2924.17 are willful.

24 270. Defendants failed to produce evidence, upon request by the borrower, that a *bona fide*
25 beneficiary has directed the *valid* trustee to execute the acceleration of debt and that the *bona fide*,
26 authenticated beneficiary has executed and delivered a written “Declaration of Default and Demand for
27 Sale,” as stated in the NOD.

28 271. Fay also failed to record a valid substitution of trustee granting Western Progressive the
power of sale contained as a clause in Ganters’ loan contract.

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1 272. Defendants also failed to produce competent and reliable evidence, upon request by
2 Ganters that all assignments of the deed of trust were executed by valid parties and that valuable
3 consideration was paid for each “grant” of interest (assignment) in the debt obligation. *See* Cal. Civ.
4 Code § 1066.

5 273. All documents executed and recorded by Defendants are alleged as being void and as
6 being forgeries by Ganters.

7 274. Ganters repudiate and refute the validity, truthfulness and accuracy of all statements
8 made by Defendants within the four corners of all instruments recorded and/or discussed herein.

9 275. Ganters allege that Defendants have made, or negligently relied upon, false and
10 misleading statements within assignment instruments, notice of default, substitutions of trustee and
11 notice of sale documents exhibited by Ganters. The falsity of those statements is alleged above in
12 Ganters’ opening statement of facts.

13 276. Ganters allege that Fay caused his loan obligation to be unlawfully accelerated.

14 277. Ganters allege that Defendant Western Progressive has placed known false, forged
15 instruments into the permanent records of the respective counties.

16 278. Ganters have been damaged as a result of Defendant’s violations in that their credit has
17 been destroyed, has suffered emotional distress and humiliation, and lost ownership and equitable
18 possession of Ganters’ real property due to the actions of Defendants.

19 279. Ganters allege Defendants have made multiple and repeated uncorrected violations of
20 section 2924.17(b) and are subject to civil penalties in an action by the government under section
21 2924.17(c).

22 280. Ganters allege that Fay directed the sale of the respective properties. Defendant Western
23 Progressive substantially relied upon, and directed, Notice of Trustee Sale without being substituted as
24 trustee and recording such authoritative instrument.

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FOURTH CAUSE OF ACTION
VIOLATION OF CALIFORNIA CIVIL CODE § 2923.55
(Salgado, Diaz, and Truong Against Defendants Western Progressive and Ocwen)

281. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of the subsequent causes of action as though fully set forth herein.

282. For the purposes of Paragraphs 281-299, Plaintiffs shall mean Plaintiffs Salgado, Diaz, and Truong only, and shall not include Plaintiffs Gregory and Janeatte Ganter. Additionally, Defendants shall mean Western Progressive and Ocwen only, and shall not include Fay Servicing.

283. Pursuant to Cal. Civil Code section 2923.55 a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent may not record a notice of default until it satisfies the requirements of section 2924 and sends the required information detailed in section 2923.55 (a)-(b).

284. Section 2923.55 (b)(1)(B)(iii) states a borrower may request “[a] copy of any assignment, if applicable, of the borrower’s mortgage or deed of trust required to demonstrate the right of the mortgage servicer to foreclose.”

285. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege Defendants, their principals, agents, and/or employees, and each of them acted in violation of California Civil Code section 2923.55 by filing publicly recorded documents without the required information. Additionally, the documents should never have been filed because Defendants did not have the required information at the time of filing due to the fact Defendants were never in possession of the assignments required to demonstrate the right of the servicer to foreclose.

286. Plaintiffs Salgado, Diaz, and Truong have requested the documents repeatedly from Defendants and are informed and believe, and thereon allege that Defendants do not presently have the required documents to demonstrate the right of the servicer to foreclose.

287. Additionally, Cal. Civil Code section 2924(a)(1) requires the trustee, mortgagee, or beneficiary, or any of their authorized agents to file a notice of default within the county of the property. Pursuant to Cal. Civil Code section 2924(a)(1)(C) notice of default shall include all of the following:

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1 “(C) A statement setting forth the nature of each breach *actually known to the*
2 *beneficiary* and of his or her election to sell or cause to be sold the property to satisfy
3 that obligation and any other obligation secured by the deed of trust or mortgage that is
4 in default.” (*Id.*) (emphasis added).

5 288. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege that
6 Defendants never had this statement as required. Plaintiffs believe that any statement alleged to satisfy
7 the above requirements was a forgery and/or made by someone without personal knowledge of the
8 “breach known to the beneficiary.”

9 289. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege that
10 Defendants conduct in violating the requirements of sections 2923.55 and 2924 was willful and
11 material. Defendants were placed on notice numerous times and did not provide the requested
12 documentation, the “statement setting forth the nature of each breach actually known to the
13 beneficiary” and/or the documents proving the right of the Defendants to foreclose on Plaintiffs
14 Salgado, Diaz, and Truong’s property. Defendants continued to record other public documents in
15 addition to the Notice of Deed, including assignments and Notices of Sale. Defendants willfully relied
16 on false information, even after repeated notice of the falsity, to file documents in furtherance of the
17 foreclosure process.

18 290. As alleged above, Defendants continued to file publicly recorded documents in violation
19 of the California Homeowners Bill of Rights despite being placed on notice of the violations and in
20 direct conflict with section 2924(a)(6). Defendants had no authority to foreclose as alleged herein.

21 291. It bears repeating that after the Notice of Default, Defendants continued to file publicly
22 recorded documents in violation of the California Homeowners Bill of Rights despite being placed on
23 notice of the violations. Pursuant to section 2924(a)(6):

24 “No entity shall record or cause a notice of default to be recorded or otherwise initiate
25 the foreclosure process unless it is the holder of the beneficial interest under the
26 mortgage or deed of trust, the original trustee or the substituted trustee under the deed of
27 trust, or the designated agent of the holder of the beneficial interest. No agent of the
28 holder of the beneficial interest under the mortgage or deed of trust, original trustee or
substituted trustee under the deed of trust may record a notice of default or otherwise
commence the foreclosure process except when acting within the scope of authority
designated by the holder of the beneficial interest.”

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1 292. Plaintiffs Salgado, Diaz, and Truong again allege that Defendants do not have the
2 authority to commence the foreclosure process as they have not yet been able to prove they have the
3 authority from the beneficial interest to foreclose.

4 293. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and thereon allege
5 Defendants continue to willfully and blindly act in their own self-interest to foreclose on Plaintiffs
6 Salgado, Diaz, and Truong's property without proper authority. Instead, Defendants look to each other
7 as servicer and trustee to instruct each other in the process, acting in complete disregard for the law and
8 the necessity of authority from the beneficial interest.

9 294. Even when Plaintiffs Salgado, Diaz, and Truong contact Defendants, and each of them,
10 refer to the other entity for information, skirting the law and attempting to put Plaintiffs Salgado, Diaz,
11 and Truong in limbo as to whom must answer questions relating to his foreclosure. Meanwhile.
12 Defendants proceed with the foreclosure process without the necessary information, statements, and/or
13 documentation required proving both the default and the right to foreclose, both of which Plaintiffs
14 Salgado, Diaz, and Truong contend Defendants do not hold.

15 295. Defendants' violations of the sections herein has been willful, material, repeated, and
16 with malice to Plaintiffs Salgado, Diaz, and Truong. Defendants have acted in self-interest without
17 regard to the law and/or Plaintiff's rights.

18 296. Defendants and each of them are not entitled to immunity from liability under Cal. Civil
19 Code section 2924(b) because Defendants have not acted in good faith. Defendants have not relied on
20 information "provided in good faith by the beneficiary regarding the nature and the amount of the
21 default under the secured obligation, deed of trust, or mortgage." Instead, Defendants have relied on
22 information from one another, relied on patently false information, filed false information in publicly
23 recorded documents, and/or simply do not have information or instructions from the beneficiary as
24 required.

25 297. Plaintiffs Salgado, Diaz, and Truong pursue this action under Cal. Civil Code section
26 2924.12(a)-(b) for an injunction for Defendants to remedy the violations and damages resulting from
27 Defendants' actions in pursuing foreclosure without the required statements and authority to foreclose.

28 //

1 298. Defendants have improperly collected payments, fees, fines, principal, and Plaintiffs
2 Salgado, Diaz, and Truong have incurred loss of credit, equity, increased expenses for credit, loss of
3 availability of credit, and loss of his property due to Defendants' actions. Defendants ignored Plaintiffs
4 Salgado, Diaz, and Truong's numerous requests for information and acted in complete disregard for the
5 law.

6 299. Plaintiffs Salgado, Diaz, and Truong are entitled to an injunction for Defendants to
7 remedy and/or rescind the improperly filed documents, damages, statutory or treble damages pursuant
8 to section 2924.12 (b) and for attorney's fees and costs pursuant to section 2924.12(i).

9
10 **FOURTH CAUSE OF ACTION**
11 **VIOLATION OF CALIFORNIA CIVIL CODE § 2923.55**
12 **(Ganter Against Defendants Western Progressive and Fay Servicing)**

13 300. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of
14 the subsequent causes of action as though fully set forth herein.

15 301. For the purposes of Paragraphs 300-318, Plaintiffs shall mean Gregory and Janeatte
16 Ganter (collectively "Ganters"), and shall not include Plaintiff Salgado, Plaintiff Diaz or Plaintiffs
17 Truong. Additionally, Defendants shall mean Western Progressive and Fay Servicing, and shall not
18 include Ocwen.

19 302. Pursuant to Cal. Civil Code section 2923.55 a mortgage servicer, mortgagee, trustee,
20 beneficiary, or authorized agent may not record a notice of default until it satisfies the requirements of
21 section 2924 and sends the required information detailed in section 2923.55 (a)-(b).

22 303. Section 2923.55 (b)(1)(B)(iii) states a borrower may request "[a] copy of any
23 assignment, if applicable, of the borrower's mortgage or deed of trust required to demonstrate the right
24 of the mortgage servicer to foreclose."

25 304. Ganters are informed and believe, and thereon allege Defendants, their principals,
26 agents, and/or employees, and each of them acted in violation of California Civil Code section 2923.55
27 by filing publicly recorded documents without the required information. Additionally, the documents
28 should never have been filed because Defendants did not have the required information at the time of

1 filing due to the fact Defendants were never in possession of the assignments required to demonstrate
2 the right of the servicer to foreclose.

3 305. Ganters have requested the documents repeatedly from Defendants and are informed and
4 believe, and thereon allege that Defendants do not presently have the required documents to
5 demonstrate the right of the servicer to foreclose.

6 306. Additionally, Cal. Civil Code section 2924(a)(1) requires the trustee, mortgagee, or
7 beneficiary, or any of their authorized agents to file a notice of default within the county of the
8 property. Pursuant to Cal. Civil Code section 2924(a)(1)(C) notice of default shall include all of the
9 following:

10 “(C) A statement setting forth the nature of each breach *actually known to the*
11 *beneficiary* and of his or her election to sell or cause to be sold the property to satisfy
12 that obligation and any other obligation secured by the deed of trust or mortgage that is
in default.” (*Id.*) (emphasis added).

13 307. Ganters are informed and believe, and thereon allege that Defendants never had this
14 statement as required. Ganters believe that any statement alleged to satisfy the above requirements was
15 a forgery and/or made by someone without personal knowledge of the “breach known to the
16 beneficiary.”

17 308. Ganters are informed and believe, and thereon allege that Defendants conduct in
18 violating the requirements of sections 2923.55 and 2924 was willful and material. Defendants were
19 placed on notice numerous times and did not provide the requested documentation, the “statement
20 setting forth the nature of each breach actually known to the beneficiary” and/or the documents proving
21 the right of the Defendants to foreclose on Ganters’ property. Defendants continued to record other
22 public documents in addition to the Notice of Deed, including assignments and Notices of Sale.
23 Defendants willfully relied on false information, even after repeated notice of the falsity, to file
24 documents in furtherance of the foreclosure process.

25 309. As alleged above, Defendants continued to file publicly recorded documents in violation
26 of the California Homeowners Bill of Rights despite being placed on notice of the violations and in
27 direct conflict with section 2924(a)(6). Defendants had no authority to foreclose as alleged herein.

28 //

1 310. It bears repeating that after the Notice of Default, Defendants continued to file publicly
2 recorded documents in violation of the California Homeowners Bill of Rights despite being placed on
3 notice of the violations. Pursuant to section 2924(a)(6):

4 “No entity shall record or cause a notice of default to be recorded or otherwise initiate
5 the foreclosure process unless it is the holder of the beneficial interest under the
6 mortgage or deed of trust, the original trustee or the substituted trustee under the deed of
7 trust, or the designated agent of the holder of the beneficial interest. No agent of the
8 holder of the beneficial interest under the mortgage or deed of trust, original trustee or
9 substituted trustee under the deed of trust may record a notice of default or otherwise
10 commence the foreclosure process except when acting within the scope of authority
11 designated by the holder of the beneficial interest.”

12 311. Ganters again allege that Defendants do not have the authority to commence the
13 foreclosure process as they have not yet been able to prove they have the authority from the beneficial
14 interest to foreclose.

15 312. Ganters are informed and believe, and thereon allege Defendants continue to willfully
16 and blindly act in their own self-interest to foreclose on Ganters’ property without proper authority.
17 Instead, Defendants look to each other as servicer and trustee to instruct each other in the process,
18 acting in complete disregard for the law and the necessity of authority from the beneficial interest.

19 313. Even when Ganters contact Defendants, and each of them, refer to the other entity for
20 information, skirting the law and attempting to put Ganters in limbo as to whom must answer questions
21 relating to his foreclosure. Meanwhile. Defendants proceed with the foreclosure process without the
22 necessary information, statements, and/or documentation required proving both the default and the right
23 to foreclose, both of which Plaintiffs contend Defendants do not hold.

24 314. Defendants’ violations of the sections herein has been willful, material, repeated, and
25 with malice to Ganters. Defendants have acted in self-interest without regard to the law and/or Ganters’
26 rights.

27 315. Defendants and each of them are not entitled to immunity from liability under Cal. Civil
28 Code section 2924(b) because Defendants have not acted in good faith. Defendants have not relied on
information “provided in good faith by the beneficiary regarding the nature and the amount of the
default under the secured obligation, deed of trust, or mortgage.” Instead, Defendants have relied on

1 information from one another, relied on patently false information, filed false information in publicly
2 recorded documents, and/or simply do not have information or instructions from the beneficiary as
3 required.

4 316. Ganters pursue this action under Cal. Civil Code section 2924.12(a)-(b) for an injunction
5 for Defendants to remedy the violations and damages resulting from Defendants' actions in pursuing
6 foreclosure without the required statements and authority to foreclose.

7 317. Defendants have improperly collected payments, fees, fines, principal, and Ganters have
8 incurred loss of credit, equity, increased expenses for credit, loss of availability of credit, and loss of his
9 property due to Defendants' actions. Defendants ignored Ganters' numerous requests for information
10 and acted in complete disregard for the law.

11 318. Ganters are entitled to an injunction for Defendants to remedy and/or rescind the
12 improperly filed documents, damages, statutory or treble damages pursuant to section 2924.12 (b) and
13 for attorney's fees and costs pursuant to section 2924.12(i).

14 **FIFTH CAUSE OF ACTION**
15 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200, ET. SEQ.**
16 **UNFAIR COMPETITION LAW**
17 (Salgado, Diaz, and Truong Against Defendants Western Progressive and Ocwen)

18 319. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of
19 the subsequent causes of action as though fully set forth herein.

20 320. For the purposes of Paragraphs 319-338, Plaintiffs shall mean Plaintiffs Salgado, Diaz,
21 and Truong only, and shall not include Plaintiffs Gregory and Janeatte Ganter. Additionally,
22 Defendants shall mean Western Progressive and Ocwen only, and shall not include Fay Servicing.

23 321. California's Unfair Competition Law (UCL) prohibits any unfair competition defined as
24 any "unlawful, unfair, or fraudulent business act or practice." Bus. & Prof. Code § 17200.

25 322. Defendants have engaged in unlawful business practices as described above and herein,
26 by conducting business practices that are unlawful. *See Olszewski v. Scripps Health* (2003) 30 Cal.4th
27 798, 135 Cal. Rptr.2d 1 ("A business practice is unlawful 'if it is forbidden by any law'")

28 //

1 323. Defendants violated various state and federal laws, including but not limited to those
2 alleged herein. Defendants provided false and/or misleading information in response to Plaintiffs
3 Salgado, Diaz, and Truong’s complaints, providing false or misleading information, and failing to
4 honor proper state law mandated foreclosure proceedings. These violations are standard practice for
5 Defendants and are intended to deceive and harm Plaintiffs Salgado, Diaz, and Truong and the general
6 public.

7 324. Defendants have *clearly* violated the unfair business practices prong of the UCL as set
8 forth in the Complaint and herein.

9 325. Courts have defined “unfair” as a practice that offends public policy or is immoral,
10 unethical, oppressive, unscrupulous or substantially injurious to consumers or required courts to weigh
11 the utility of Defendants’ conduct against the gravity of the harm to the alleged victim. *Graham v. Bank*
12 *of America* (2014) 226 Cal.App.4th 594, 612. Plaintiffs alleging an unfair business practice must show
13 Defendants’ conduct is tethered to an underlying constitutional, statutory, or regulatory provision or
14 that it threatens an incipient violation of an antitrust law, or violates the policy or spirit of an antitrust
15 law. *Id.* at 613.

16 326. Defendants’ acts alleged herein are unfair insofar as they intentionally failed to properly
17 notify Plaintiffs Salgado, Diaz, and Truong of their rights to dispute an alleged default per the signed
18 Deed of Trust, California law, and California public policy, cure the alleged default in a timely manner,
19 notify and allow Plaintiffs Salgado, Diaz, and Truong to seek legally permissible alternatives to
20 foreclosure, and wrongful foreclosure. Plaintiffs were forced to watch as Defendants claimed rights to
21 issue Notices of Default, Notices of Sale, and authority to sell Plaintiffs Salgado, Diaz, and Truong’s
22 respective property.

23 327. Defendants’ acts are unfair insofar as they failed to record Substitutions of Trustee, not
24 only for Plaintiffs Salgado, Diaz, and Truong, but for a large part of the general public, as required by
25 the Deed of Trust, California law, and California public policy. This failure deceives Plaintiffs
26 Salgado, Diaz, and Truong and the general public as to the identity of the true Trustee and/or true
27 holder of the note.

28 //

1 328. Defendants’ acts are unfair insofar as they failed to notify Plaintiffs Salgado, Diaz, and
2 Truong of the acceleration of Plaintiffs Salgado, Diaz, and Truong’s debt as required by the Deed of
3 Trust, California law, and California public policy, not only for Plaintiffs Salgado, Diaz, and Truong,
4 but for many individuals in the general public, as this is standard practice for Defendants.

5 329. Defendants unfairly held themselves out as having proper authority to file publicly
6 recorded documents and foreclose on Plaintiffs Salgado, Diaz, and Truong’s respective property.
7 Although Plaintiffs Salgado, Diaz, and Truong relied on this apparent authority, Plaintiffs Salgado,
8 Diaz, and Truong and the general public were ignorant of the fact that Defendants did not own the notes
9 and were not lawful agents, beneficiaries, or trustees for the true and legal owner of the note.
10 Consequently, Plaintiffs Salgado, Diaz, and Truong unfortunately relied on this improper authority.

11 330. Defendants continuously engaged in fraudulent business practices pursuant to section
12 17200. In order to show fraudulent business practices, Plaintiffs “need only show that members of the
13 public are *likely* to be deceived.” *Bank of the West v. Sup. Ct.* (1992) 2 Cal.4th 1254, 1267.

14 331. Defendants acted fraudulently in a manner that was likely to not only deceive Plaintiffs
15 Salgado, Diaz, and Truong, but was likely to deceive the general public, including but not limited to
16 making material misrepresentations or omissions, knowingly filing false instruments for the general
17 public to view, knowingly filing false instruments without required declarations, failing to properly
18 notify Plaintiffs Salgado, Diaz, and Truong of their rights to dispute alleged defaults and wrongful
19 foreclosure in a manner that constitutes fraudulent business acts and practices as prohibited by Cal.
20 Bus. & Prof. Code § 17200, *et. seq.*

21 332. Defendants unlawfully filed public documents including Notices of Default and Notices
22 of Trustee’s Sale without the authority to do so as the Defendants were not owners of the note or lawful
23 trustees, beneficiaries, or agents for the true and legal owner of the note at the time of filing.

24 333. Defendants fraudulently continued this scheme of filing false documents and attempting
25 to sell property in order to profit, knowing their actions were illegal, unfair, and fraudulent but acting
26 with complete disregard to Plaintiffs Salgado, Diaz, and Truong, along with numerous homeowners
27 throughout California.

28 //

1 334. Defendants’ unlawful, unfair, and fraudulent business practices are alleged throughout
2 this complaint and it is plainly clear that at the very least, Plaintiffs Salgado, Diaz, and Truong and the
3 public was likely to be deceived by Defendants’ practices.

4 335. Business & Professions Code Section 17204 provides a private right of action for a
5 person who is injured and lost money or property as a result of the unfair competition.

6 336. Plaintiffs Salgado, Diaz, and Truong “may pursue representative claims or relief on
7 behalf of others” according to Business & Professions Code Section 17203.

8 337. Business & Professions Code Section 17205 provides that “the remedies or penalties
9 provided by this chapter are cumulative to each other and to the remedies or penalties available under
10 all other laws of this state.”

11 338. Plaintiffs Salgado, Diaz, and Truong request that this Court enter such orders or
12 judgments as may be necessary to enjoin Defendants from continuing its “unlawful, unfair, and/or
13 fraudulent business act or practices” and to restore Plaintiffs any money or property which Defendants
14 acquired by such unfair competition under California Business & Professions Code Section 17200, *et.*
15 *seq.*

16
17 **FIFTH CAUSE OF ACTION**
18 VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17200, ET. SEQ.
19 UNFAIR COMPETITION LAW

20 (Ganter Against Defendants Western Progressive and Fay Servicing)

21 339. Plaintiffs incorporate all preceding paragraphs of the Complaint and the paragraphs of
22 the subsequent causes of action as though fully set forth herein.

23 340. For the purposes of Paragraphs 339-358, Plaintiffs shall mean Gregory and Janeatte
24 Ganter (collectively “Ganters”), and shall not include Plaintiff Salgado, Plaintiff Diaz or Plaintiffs
25 Truong. Additionally, Defendants shall mean Western Progressive and Fay Servicing, and shall not
26 include Ocwen.

27 341. California’s Unfair Competition Law (UCL) prohibits any unfair competition defined as
28 any “unlawful, unfair, or fraudulent business act or practice.” Bus. & Prof. Code § 17200.

1 342. Defendants have engaged in unlawful business practices as described above and herein,
2 by conducting business practices that are unlawful. *See Olszewski v. Scripps Health* (2003) 30 Cal.4th
3 798, 135 Cal. Rptr.2d 1 (“A business practice is unlawful ‘if it is forbidden by any law’”)

4 343. Defendants violated various state and federal laws, including but not limited to those
5 alleged herein. Defendants provided false and/or misleading information in response to Ganters’
6 complaints, providing false or misleading information, and failing to honor proper state law mandated
7 foreclosure proceedings. These violations are standard practice for Defendants and are intended to
8 deceive and harm Ganters and the general public.

9 344. Defendants have *clearly* violated the unfair business practices prong of the UCL as set
10 forth in the Complaint and herein.

11 345. Courts have defined “unfair” as a practice that offends public policy or is immoral,
12 unethical, oppressive, unscrupulous or substantially injurious to consumers or required courts to weigh
13 the utility of Defendants’ conduct against the gravity of the harm to the alleged victim. *Graham v. Bank*
14 *of America* (2014) 226 Cal.App.4th 594, 612. Plaintiffs alleging an unfair business practice must show
15 Defendants’ conduct is tethered to an underlying constitutional, statutory, or regulatory provision or
16 that it threatens an incipient violation of an antitrust law, or violates the policy or spirit of an antitrust
17 law. *Id.* at 613.

18 346. Defendants’ acts alleged herein are unfair insofar as they intentionally failed to properly
19 notify Ganters of their rights to dispute an alleged default per the signed Deed of Trust, California law,
20 and California public policy, cure the alleged default in a timely manner, notify and allow Ganters to
21 seek legally permissible alternatives to foreclosure, and wrongful foreclosure. Ganters were forced to
22 watch as Defendants claimed rights to issue Notices of Default, Notices of Sale, and authority to sell
23 Ganters property.

24 347. Defendants’ acts are unfair insofar as they failed to record Substitutions of Trustee, not
25 only for Plaintiffs, but for a large part of the general public, as required by the Deed of Trust, California
26 law, and California public policy. This failure deceives both Ganters and the general public as to the
27 identity of the true Trustee and/or true holder of the note.

28 //

1 348. Defendants' acts are unfair insofar as they failed to notify Ganters of the acceleration of
2 Ganters' debt as required by the Deed of Trust, California law, and California public policy, not only
3 for Ganters, but for many individuals in the general public, as this is standard practice for Defendants.

4 349. Defendants unfairly held themselves out as having proper authority to file publicly
5 recorded documents and foreclose on Ganters' property. Although Ganters relied on this apparent
6 authority, Ganters and the general public were ignorant of the fact that Defendants did not own the
7 notes and were not lawful agents, beneficiaries, or trustees for the true and legal owner of the note.
8 Consequently, Ganters unfortunately relied on this improper authority.

9 350. Defendants continuously engaged in fraudulent business practices pursuant to section
10 17200. In order to show fraudulent business practices, Plaintiffs "need only show that members of the
11 public are *likely* to be deceived." *Bank of the West v. Sup. Ct.* (1992) 2 Cal.4th 1254, 1267.

12 351. Defendants acted fraudulently in a manner that was likely to not only deceive Ganters,
13 but was likely to deceive the general public, including but not limited to making material
14 misrepresentations or omissions, knowingly filing false instruments for the general public to view,
15 knowingly filing false instruments without required declarations, failing to properly notify Ganters of
16 their rights to dispute alleged defaults and wrongful foreclosure in a manner that constitutes fraudulent
17 business acts and practices as prohibited by Cal. Bus. & Prof. Code § 17200, *et. seq.*

18 352. Defendants unlawfully filed public documents including Notices of Default and Notices
19 of Trustee's Sale without the authority to do so as the Defendants were not owners of the note or lawful
20 trustees, beneficiaries, or agents for the true and legal owner of the note at the time of filing.

21 353. Defendants fraudulently continued this scheme of filing false documents and attempting
22 to sell property in order to profit, knowing their actions were illegal, unfair, and fraudulent but acting
23 with complete disregard to Ganters, along with numerous homeowners throughout California.

24 354. Defendants' unlawful, unfair, and fraudulent business practices are alleged throughout
25 this complaint and it is plainly clear that at the very least, Ganters and the public was likely to be
26 deceived by Defendants' practices.

27 355. Business & Professions Code Section 17204 provides a private right of action for a
28 person who is injured and lost money or property as a result of the unfair competition.

1 356. Ganters “may pursue representative claims or relief on behalf of others” according to
2 Business & Professions Code Section 17203.

3 357. Business & Professions Code Section 17205 provides that “the remedies or penalties
4 provided by this chapter are cumulative to each other and to the remedies or penalties available under
5 all other laws of this state.”

6 358. Ganters request that this Court enter such orders or judgments as may be necessary to
7 enjoin Defendants from continuing its “unlawful, unfair, and/or fraudulent business act or practices”
8 and to restore Ganters any money or property which Defendants acquired by such unfair competition
9 under California Business & Professions Code Section 17200, *et. seq.*

10
11 **SIXTH CAUSE OF ACTION**
12 **WRONGFUL FORECLOSURE**

13 (Salgado, Diaz, and Truong Against Defendants Western Progressive and Ocwen)

14 359. Plaintiffs incorporate all preceding and subsequent paragraphs of the Complaint as
15 though fully set forth herein.

16 360. For the purposes of Paragraphs 359-377, Plaintiffs shall mean Plaintiffs Salgado, Diaz,
17 and Truong only, and shall not include Plaintiffs Gregory and Janeatte Ganter. Additionally,
18 Defendants shall mean Western Progressive and Ocwen only, and shall not include Fay Servicing.

19 361. Defendants and DOES (unknown beneficiary) have claimed an interest in Plaintiffs
20 Salgado, Diaz, and Truong’s contract note and deed of trust.

21 362. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege
22 Defendants are not the holders of the notes and deeds of trust and are not operating under a valid power
23 from the current holders of the notes and deeds of trust, Defendants did not have the right to proceed
24 with the foregoing foreclosures.

25 363. Plaintiffs Salgado, Diaz, and Truong allege that Defendants have no right, title, or
26 interest in his deed of trust or his real property; thus, a controversy exists.

27 364. Defendants are alleged to have used false statements contained within recorded
28 instruments as fully alleged herein.

1 365. Plaintiffs Salgado, Diaz, and Truong are informed and believe, and based thereon allege
2 Defendants' Instruments as being forgeries.

3 366. The burden of proving an assignment falls upon the party asserting rights thereunder. In
4 an action by an assignee to enforce an assigned right the evidence must not only be sufficient to
5 establish the fact of assignment when that fact is in issue, but the measure of sufficiency requires that
6 the evidence of assignment be clear and positive to protect an obligor from any further claim by the
7 primary obligee. *See Cockerell v. Title Ins. & Trust Co.*, 42 Cal. 2d 284, 292, 267 P.2d 16, 21 (1954).

8 367. Defendants have unlawfully invoked Cal. Civ. Code § 2924 for non-judicial foreclosure
9 by using or relying upon known forgeries in recorded instruments and without contractual or lawful
10 authority.

11 368. Under the Uniform Commercial Code, a negotiable instrument, such as a promissory
12 note secured by a mortgage, may only be enforced by the holder or a person with the rights of a holder.
13 Com. Code §3-301. For instruments payable to an identified person, such as a lender, a holder is
14 generally recognized as the payee or one to whom the negotiable instrument has been negotiated. This
15 requires transfer of possession and endorsement by the prior holder. Com. Code §3-201. Unless the
16 parties otherwise provide, the mortgage follows the note. Cal. Civ. Code §2936.

17 369. Though in California, the assignment of a note generally carries with it an assignment of
18 the mortgage, it is still required in California that the holder of the note or a person operating with
19 authority from that holder be the foreclosing party and that the mortgage not have been assigned away
20 from that note.

21 370. Defendants no longer own the notes it originated and there is just no way of knowing
22 who now owns the Plaintiffs Salgado, Diaz, and Truong's mortgages because the Defendants do not
23 know who owns these mortgages. Indeed, the Defendants do not know where it is that they obtained
24 their alleged rights to collect money from Plaintiffs Salgado, Diaz, and Truong thereunder.

25 371. Once separated from the note, the trust deed is unenforceable and of no legal value. For
26 negotiable instruments payable to an identified person, such as a lender, a holder is generally
27 recognized as the payee or one to whom the negotiable instrument has been negotiated. This requires
28 transfer of possession and endorsement by the prior holder. (Com. Code §3-201). Unless the parties

1 otherwise provide, the mortgage follows the note. (Civ. Code §2936; *see also Carpenter v. Longan*
2 (1872) 83 U.S. 271, 275).

3 372. Cal. Civil Code §2936 provides: “the assignment of a debt secured by mortgage carries
4 with it the security.” Defendants have no evidence that they own the notes or have any power to
5 enforce them from the rightful owners.

6 373. Plaintiffs Salgado, Diaz, and Truong have sufficiently alleged and incorporated herein
7 that the recorded Assignment of Deed of Trust, Substitution of Trustee, Notice of Trustee Sale, Notice
8 of Default, and any other recorded documents contain false statements that were memorialized by
9 Defendants against the interests of Plaintiffs Salgado, Diaz, and Truong.

10 374. Plaintiffs Salgado, Diaz, and Truong allege Defendant had a duty of care to verify all
11 facts contained in those instruments but failed to fulfill those duties.

12 375. Defendants acted repeatedly to violate Plaintiffs Salgado, Diaz, and Truong’s rights
13 under California law as alleged herein, despite repeated attempts by Plaintiffs to request legally
14 required documentation from Defendants and Defendants repeatedly refuse to provide documentation,
15 affidavits, and/or otherwise to prove authority, status, and/or rights to foreclose on Plaintiffs Salgado,
16 Diaz, and Truong.

17 376. Defendants acted outrageously and persistently with actual malice in performing the acts
18 alleged in this cause of action. Accordingly, Plaintiffs Salgado, Diaz, and Truong are entitled to
19 exemplary and punitive damages in a sum according to proof and to such other relief as is set forth
20 below in the section captioned Prayer for Relief which is by this reference incorporated herein.

21 377. Plaintiffs Salgado, Diaz, and Truong allege that he has been harmed as a direct and
22 proximate result of Defendants’ acts and omissions and Plaintiffs substantially relied on Defendants’
23 acts and omissions to his detriment.

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**SIXTH CAUSE OF ACTION
WRONGFUL FORECLOSURE**

(Ganter Against Defendants Western Progressive and Fay Servicing)

1
2
3 378. Plaintiffs incorporate all preceding and subsequent paragraphs of the Complaint as
4 though fully set forth herein.

5 379. For the purposes of Paragraphs 378-396, Plaintiffs shall mean Gregory and Janeatte
6 Ganter (collectively “Ganters”), and shall not include Plaintiff Salgado, Plaintiff Diaz or Plaintiffs
7 Truong. Additionally, Defendants shall mean Western Progressive and Fay Servicing, and shall not
8 include Ocwen.

9 380. Defendants and DOES (unknown beneficiary) have claimed an interest in Plaintiffs
10 Ganters’ contract note and deed of trust.

11 381. Ganters are informed and believe, and based thereon allege Defendants are not the
12 holders of the notes and deeds of trust and are not operating under a valid power from the current
13 holders of the notes and deeds of trust, Defendants did not have the right to proceed with the foregoing
14 foreclosures.

15 382. Ganters allege that Defendants have no right, title, or interest in his deed of trust or his
16 real property; thus, a controversy exists.

17 383. Defendants are alleged to have used false statements contained within recorded
18 instruments as fully alleged herein.

19 384. Ganters are informed and believe, and based thereon allege Defendants’ Instruments as
20 being forgeries.

21 385. The burden of proving an assignment falls upon the party asserting rights thereunder. In
22 an action by an assignee to enforce an assigned right the evidence must not only be sufficient to
23 establish the fact of assignment when that fact is in issue, but the measure of sufficiency requires that
24 the evidence of assignment be clear and positive to protect an obligor from any further claim by the
25 primary obligee. *See Cockerell v. Title Ins. & Trust Co.*, 42 Cal. 2d 284, 292, 267 P.2d 16, 21 (1954).

26 386. Defendants have unlawfully invoked Cal. Civ. Code § 2924 for non-judicial foreclosure
27 by using or relying upon known forgeries in recorded instruments and without contractual or lawful
28 authority.

1 387. Under the Uniform Commercial Code, a negotiable instrument, such as a promissory
2 note secured by a mortgage, may only be enforced by the holder or a person with the rights of a holder.
3 Com. Code §3-301. For instruments payable to an identified person, such as a lender, a holder is
4 generally recognized as the payee or one to whom the negotiable instrument has been negotiated. This
5 requires transfer of possession and endorsement by the prior holder. Com. Code §3-201. Unless the
6 parties otherwise provide, the mortgage follows the note. Cal. Civ. Code §2936.

7 388. Though in California, the assignment of a note generally carries with it an assignment of
8 the mortgage, it is still required in California that the holder of the note or a person operating with
9 authority from that holder be the foreclosing party and that the mortgage not have been assigned away
10 from that note.

11 389. Defendants do not own the note and allege Defendants do not truly know who now owns
12 the Ganters' mortgage. Indeed, the Defendants do not know where it is that they obtained their alleged
13 rights to collect money from Ganters thereunder.

14 390. Once separated from the note, the trust deed is unenforceable and of no legal value. For
15 negotiable instruments payable to an identified person, such as a lender, a holder is generally
16 recognized as the payee or one to whom the negotiable instrument has been negotiated. This requires
17 transfer of possession and endorsement by the prior holder. (Com. Code §3-201). Unless the parties
18 otherwise provide, the mortgage follows the note. (Civ. Code §2936; *see also Carpenter v. Longan*
19 (1872) 83 U.S. 271, 275).

20 391. Cal. Civil Code §2936 provides: "the assignment of a debt secured by mortgage carries
21 with it the security." Defendants have no evidence that they own the notes or have any power to
22 enforce them from the rightful owners

23 392. Ganters have sufficiently alleged and incorporated herein that the recorded Assignment
24 of Deed of Trust, Substitution of Trustee, Notice of Trustee Sale, Notice of Default, and any other
25 recorded documents contain false statements that were memorialized by Defendants against the
26 interests of Ganters.

27 393. Ganters allege Defendant had a duty of care to verify all facts contained in those
28 instruments but failed to fulfill those duties.

1 394. Defendants acted repeatedly to violate Ganters' rights under California law as alleged
2 herein, despite repeated attempts by Ganters to request legally required documentation from Defendants
3 and Defendants repeatedly refuse to provide documentation, affidavits, and/or otherwise to prove
4 authority, status, and/or rights to foreclose on Ganters.

5 395. Defendants acted outrageously and persistently with actual malice in performing the acts
6 alleged in this cause of action. Accordingly, Ganters are entitled to exemplary and punitive damages in
7 a sum according to proof and to such other relief as is set forth below in the section captioned Prayer
8 for Relief which is by this reference incorporated herein.

9 396. Ganters allege that he has been harmed as a direct and proximate result of Defendants'
10 acts and omissions and Plaintiffs substantially relied on Defendants' acts and omissions to his
11 detriment.

12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, Plaintiffs pray for judgment against the Defendants and each of them as set
14 forth below:

15 First Cause of Action: Intentional Misrepresentation

- 16 1. For general and special damages in an amount according to proof at trial.
17 2. For punitive and exemplary damages in an amount appropriate to punish Defendants and
18 deter others from engaging in similar conduct.

19 Second Cause of Action: Negligent Misrepresentation

- 20 3. For general and special damages in an amount according to proof at trial.
21 4. For punitive and exemplary damages in an amount appropriate to punish Defendants and
22 deter others from engaging in similar conduct.

23 Third Cause of Action: Violation of California Homeowner Bill of Rights, California Civil
24 Code section 2924.17

- 25 5. For general and special damages in an amount according to proof at trial.
26 6. For a finding and determination that Plaintiffs are the rightful holders of the title to their
27 respective properties and that Defendants herein, and each of them, have no estate, right, title, lien or
28 interest in said properties.

1 7. For immediate rescission of all instruments exhibited herein and injunctive relief
2 enjoining Defendants from any act in furtherance of rights under Plaintiffs' contract deed of trust and
3 real property.

4 8. For cancellation/rescission of the Assignments of Deed of Trust, Notices of Trustee Sale
5 and/or Notices of Default.

6 9. For the maximum penalties allowed per false filing of publicly recorded documents.

7 10. For a judgment that not one of the Defendants has any unencumbered legal interest in
8 the notes and/or deeds of trust.

9 11. For Court Order and Decree cancelling Defendants' recordings and for the court to
10 execute full deed of reconveyance of the deed of trust in favor of Plaintiffs.

11 12. For reasonable attorney's fees and costs pursuant to section 2924.12(i) upon injunction
12 and/or damages.

13 13. For punitive and exemplary damages in an amount appropriate to punish Defendants and
14 deter others from engaging in similar conduct.

15 Fourth Cause of Action: Violation of California Civil Code section 2923.55

16 14. For general and special damages in an amount according to proof at trial.

17 15. For a finding and determination that Plaintiffs are the rightful holder of the title to their
18 respective properties and that Defendants herein, and each of them, have no estate, right, title, lien or
19 interest in said properties.

20 16. For a judgment that not one of the Defendants has any unencumbered legal interest in
21 the notes and/or deeds of trust.

22 17. For Court Order and Decree cancelling Defendants' recordings and for the court to
23 execute full deed of reconveyance of the deed of trust in favor of Plaintiffs.

24 18. Enjoining any trustee sale contemplated against Plaintiffs' respective properties until a
25 determination is made that the violations of the statute have been remedied.

26 19. For statutory damages to the fullest extent of the law if any of the Defendants records a
27 Trustee's Deed Upon Sale against Plaintiffs' interests without correcting the violations described
28 herein.

1 20. For reasonable attorney's fees and costs pursuant to section 2924.12(i) upon injunction
2 and/or damages.

3 21. For punitive and exemplary damages in an amount appropriate to punish Defendants and
4 deter others from engaging in similar conduct.

5 Fifth Cause of Action: Unfair, Unlawful, And Fraudulent Business Practices (Violation Of
6 California Bus & Prof. Code §17200, et. Seq.)

7 22. For general and special damages in an amount according to proof at trial.

8 23. For restitution to restore to Plaintiffs any, and all, monies and property acquired by
9 means of Defendants' unlawful/unfair/fraudulent conduct.

10 24. For a permanent injunction pursuant to Business and Professions Code section 1703
11 restraining and enjoining Defendants from conducting or attempting to conduct foreclosure
12 proceedings, foreclosure attempts, communications regarding foreclosure, and/or publicly recording
13 Notices of Default and/or Notices of Trustee Sale.

14 25. During the pendency of this action, a preliminary injunction issued pursuant to Business
15 and Professions Code section 17203 to enjoin and restrain Defendants from the acts of unfair
16 competition set forth above.

17 26. For restitution to restore other victims any, and all, monies and properties acquired by
18 means of Defendants' conduct.

19 27. For such orders or judgment as may be necessary to prevent the
20 unlawful/unfair/fraudulent practices which constitute unfair competition.

21 28. For punitive and exemplary damages in an amount appropriate to punish Defendants and
22 deter others from engaging in similar conduct.

23 Sixth Cause of Action: Wrongful Foreclosure

24 29. For general and special damages in an amount according to proof at trial.

25 30. For restitution to restore to Plaintiffs any, and all, monies and property acquired by
26 means of Defendants conduct.

27 31. The unwinding of Defendants' wrongful foreclosure sales, and return of title to
28 Plaintiffs.

1 32. For a finding and determination that Plaintiffs are the rightful holders of the title to their
2 respective properties and that Defendants herein, and each of them, have no estate, right, title, lien or
3 interest in said properties.

4 33. For a judgment that not one of the Defendants has any unencumbered legal interest in
5 the notes and/or deeds of trust.

6 34. For Court Order and Decree cancelling Defendants' recordings and for the court to
7 execute full deed of reconveyance of the deed of trust in favor of Plaintiffs.

8 35. For a permanent injunction enjoining Defendants from conducting or attempting to
9 conduct foreclosure proceedings, foreclosure attempts, communications regarding foreclosure, and/or
10 publicly recording Notices of Default and/or Notices of Trustee Sale related to said properties.

11 36. For punitive and exemplary damages in an amount appropriate to punish Defendants and
12 deter others from engaging in similar conduct.

13 37. For reasonable attorney's fees.


14 38. For costs of suit herein.

15 39. For such other and further relief as the court deems just and proper.

16
17
18
19 Dated: May 23, 2016

Respectfully submitted,

BROOKSTONE LAW, PC

20
21
22 By: 
23 Jonathan Tarkowski
24 Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH PARTY:

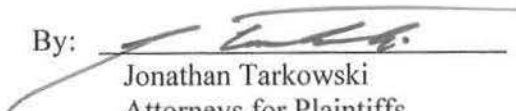
Plaintiffs hereby demand a jury trial in the above-entitled action.

Dated: May 23, 2016

Respectfully submitted,

BROOKSTONE LAW, PC

By:



Jonathan Tarkowski
Attorneys for Plaintiffs