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**IN THE THIRD JUDICIAL DISTRICT COURT—TOOELE DEPARTMENT
IN AND FOR TOOELE COUNTY, STATE OF UTAH**

<p>DARCEL BLACK, an individual,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>CITYWIDE HOME LOANS, a Utah Corporation; STEVE GOORMAN, an individual; EDWIN B. PARRY, P.C., a Utah Professional Corporation; AMERICAN PENSION SERVICES, INC., a Utah Corporation; DPW ENTERPRISES, LLC, and JOHN DOES I-X;</p> <p style="text-align: center;">Defendants.</p>	<p>COMPLAINT</p> <p>(ALLEGING TIER II DAMAGES)</p> <p>Case No. _____</p> <p>Judge _____</p>
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Plaintiff Darcel Black, by and through undersigned counsel, hereby files the following Complaint against the above-named Defendants, and for cause of action states as follows:

PARTIES, JURISDICTION, AND DAMAGES TIER

1. Plaintiff is a resident of the United States of America and the State of California, and the former owner of a certain parcel of land (the “Property”) located in Tooele County, Utah.
2. Defendant Citywide Home Loans is a Utah Corporation with its principal place of business in Salt Lake County, State of Utah.

3. Defendant Steve Goorman is an individual residing in Salt Lake County, Utah, and the President of Citywide Home Loans.
4. Defendant Edwin B. Parry, P.C., is a Utah professional corporation and an attorney licensed to practice in the State of Utah, and acted as the Trustee conducting a trustee sale of Plaintiff's property pursuant to a deed of trust she executed on March 24, 2008.
5. Defendant American Pension Services, Inc., is a Utah Corporation with its principal place of business in Salt Lake County, Utah.
6. Defendant DPW Enterprises, LLC, is a Utah limited liability company doing business in Tooele County, Utah, and the purchaser at a foreclosure sale of the real property at issue herein.
7. Defendants John Does I – X are persons whose identities are not presently known, but which will be included in amended pleadings once they become known, and who are responsible for the unlawful acts or omissions that have caused Plaintiff the damages set forth in this Complaint.
8. This Court has jurisdiction under Utah Code Ann. § 78A-5-102(1).
9. Venue is appropriate under Utah Code Ann. §§ 78B-3-301 (because the subject real property is located in Tooele County) and 78B-3-307(1) (because the cause of action arose in Tooele County).
10. Plaintiff is seeking damages amounting to Tier II damages according to Utah R. Civ. P. 26(c)(5).

GENERAL ALLEGATIONS

11. Plaintiff owned the home located on the Property, but took out from Defendant Citywide a hard money loan against it secured by a Trust Deed dated March 24, 2008, for \$50,000.00.
12. Plaintiff made her monthly payments of \$1,000.00 under that loan and Trust Deed from its initiation until she sustained an injury at work on October 11, 2010.
13. On June 1, 2011, via email, Plaintiff contacted Defendant Citywide through Defendant Goorman, requesting assistance with alternative terms for fulfilling her obligation under the loan.
14. That request was refused.
15. On August 2, 2011, Defendants began the process of foreclosing Plaintiff's property, by recording a notice of default and election to sell.
16. However, Defendants had failed to credit and account for every payment that Plaintiff had made towards the loan, overstating both the amount of arrearage and the total balance owing on the loan.
17. Plaintiff brought those discrepancies to the attention of Defendants, and even produced documentation showing the payments that she had made, but Defendants refused to resolve those errors.
18. Defendants scheduled a trustee's (non-judicial foreclosure) sale of Plaintiff's property for December 8, 2011.
19. Under the pressure of an impending foreclosure sale, Defendants pressured Plaintiff into accepting a new loan against the property, in the amount of \$60,000.00, at 12% interest in order to prevent the foreclosure sale.

20. Despite all of the \$1,000 monthly payments that Plaintiff had made to Defendants, at the time of the new loan, Defendants claimed, wrongly, that Plaintiff owed them \$69,000.00, but that they would accept \$56,000 from the loan proceeds as settlement for the original loan.
21. The foreclosure sale was postponed a week to allow the closure of the new loan.
22. However, after several delays, the new loan did not close or fund, and eventually another foreclosure sale date was set.
23. The property was sold at a foreclosure sale on May 21, 2012.
24. At the time of the foreclosure sale, the property had a fair market value of \$119,000.
25. At the time of the foreclosure sale, Defendants overstated the amount owing on the Property.
26. The property sold for \$77,506.
27. The Trustee conducting the sale failed to pay the Homeowner Association Dues that that organization claims were owing at the time of the foreclosure sale, and which should have been satisfied from the proceeds of the foreclosure sale.

I.

FIRST CAUSE OF ACTION: BREACH OF CONTRACT

(Against Citywide Home Loans, Mr. Goorman, and American Pension Services)

28. Plaintiff incorporates by reference all preceding paragraphs as if set forth fully herein.
29. Plaintiff and Defendants entered into a binding contractual obligation, as set forth in Deed of Trust and promissory note.
30. Plaintiff performed her obligations under the deed of trust and promissory note by paying her monthly payments as agreed.

31. Defendants, as the originator, holder, and servicers of the promissory note, breached their obligations to Plaintiff by failing to properly credit Plaintiff for the payments that she made under the promissory note and deed of trust, and by wrongfully causing Plaintiff's property to be sold at a foreclosure sale.
32. Defendants' duty to accurately and correctly account for Plaintiff's payments under the promissory note and deed of trust was a condition precedent to Defendants' ability to cause Plaintiff's property to be sold at a foreclosure sale in accordance with the deed of trust; as a result of Defendants' failure to accurately account for Plaintiff's monthly payments towards the promissory note, Defendants were not entitled to cause Plaintiff's property to be sold at the foreclosure sale.
33. Nonetheless, Defendants caused Plaintiff's property to be sold at the foreclosure sale.
34. As a result of Defendants' breach of their contractual obligations to Plaintiff, she suffered damages in an amount to be proven at trial, but which she contends should be not less than \$100,000.00.

II.
SECOND CAUSE OF ACTION: BREACH OF CONTRACT
(Against Edwin B. Parry, P.C.)

35. Plaintiff incorporates by reference the above paragraphs as if set forth fully herein.
36. Plaintiff entered into a binding and enforceable contract with the trustee of the deed of trust.
37. As successor trustee under the deed of trust, Edwin B. Parry, P.C. assumed all of the obligations that the trustee had to Plaintiff under the deed of trust.

38. Plaintiff performed her obligation by conveying her property to the trustee in trust, as set forth in the deed of trust.
39. Defendants' duty to accurately and correctly account for Plaintiff's payments under the promissory note and deed of trust was a condition precedent to Defendants' ability to cause Plaintiff's property to be sold at a foreclosure sale in accordance with the deed of trust; as a result of Defendants' failure to accurately account for Plaintiff's monthly payments towards the promissory note, Defendants were not entitled to cause Plaintiff's property to be sold at the foreclosure sale.
40. Edwin B. Parry, P.C. breached its obligation to Plaintiff by causing the property to be sold at a foreclosure sale, in contravention of the provisions of the deed of trust.
41. Edwin B. Parry, P.C. breached its obligation to Plaintiff by failing to properly account for the proceeds of the sale of Plaintiff's property and by failing to verify that Defendants' accounting of the arrearage and balance on the loan were accurate.
42. As a result of Edwin B. Parry, P.C.'s breach of its contractual obligations to Plaintiff, Plaintiff suffered damages in an amount to be proven at trial, but which Plaintiff contends should be not less than \$100,000.00.

III.
THIRD CAUSE OF ACTION: BREACH OF FIDUCIARY DUTY
(Against Edwin B. Parry, P.C.)

43. Plaintiff incorporates by reference all preceding paragraphs as if set forth fully herein.
44. Plaintiff entrusted Edwin B. Parry, P.C. as trustee of the deed of trust and owner of Plaintiff's property in trust, to hold it as security for Plaintiff's obligations under the promissory note.

45. As a result of the special trust and confidence that Plaintiff placed in Edwin B. Parry, P.C. as trustee to hold Plaintiff's property in trust as security for the loan and promissory note, Edwin B. Parry, P.C. was in a position that it owed Plaintiff a fiduciary duty to act with the utmost good faith and diligence in dealing with Plaintiff and Plaintiff's property in strict agreement with the terms of the deed of trust.
46. Defendants' duty to accurately and correctly account for Plaintiff's payments under the promissory note and deed of trust was a condition precedent to Defendants' ability to cause Plaintiff's property to be sold at a foreclosure sale in accordance with the deed of trust; as a result of Defendants' failure to accurately account for Plaintiff's monthly payments towards the promissory note, Defendants were not entitled to cause Plaintiff's property to be sold at the foreclosure sale.
47. Edwin B. Parry, P.C. breached its fiduciary duty to Plaintiff by causing the property to be sold wrongfully at a foreclosure sale in contravention of the terms of the deed of trust when Defendants had failed to properly credit Plaintiff for the payments she had made against the promissory note and deed of trust; Edwin B. Parry, P.C. should have verified that the accounting that Defendants provided was accurate before causing Plaintiff's property to be sold at a foreclosure sale.
48. Edwin B. Parry, P.C. breached his obligation to Plaintiff by failing to properly account for the proceeds of the sale of Plaintiff's property and by failing to verify that Defendants' accounting of the arrearage and balance on the loan were accurate.

49. As a result of Edwin B. Parry, P.C.'s breach of his fiduciary duties to Plaintiff, she suffered damages in an amount to be proven at trial, but which Plaintiff contends should be not less than \$100,000.00.

IV.
FOURTH CAUSE OF ACTION: CONVERSION
(Against DPW Enterprises, LLC, and John Does I-V)

50. Plaintiff incorporates by reference all preceding paragraphs as if set forth fully herein.

51. Defendant DPW Enterprises, LLC, purchased Plaintiff's property at the wrongful foreclosure sale.

52. Defendant DPW Enterprises, LLC, took possession of Plaintiff's property following the wrongful foreclosure sale.

53. Defendant DPW Enterprises, LLC, communicated with Plaintiff and agreed that DPW Enterprises, LLC, attempted to work out an agreement by which Plaintiff could purchase the property from Defendant DPW Enterprises, LLC.

54. Contrary to that agreement and without giving Plaintiff a reasonable opportunity to recover her personal property from the premises of her real property, Defendant DPW Enterprises permanently deprived Plaintiff of the use and enjoyment of her personal property, causing Plaintiff damages, which Plaintiff contends should be not less than \$50,000.00.

55. In the alternative, Defendant DPW Enterprises should be ordered to allow Plaintiff to enter upon the premises and recover her property.

56. In the alternative, Defendant DPW Enterprises should be ordered to return Plaintiff's property to Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against the defendants, and each of them, jointly and severally as follows:

1. For equitable relief in the form of an order mandating that Plaintiff's personal property be returned to her or that she be allowed to recover it from the premises of the real property at issue, or from whatever its present location is.
2. For general damages in an amount to be determined at trial for each count;
3. For compensatory damages in an amount to be determined at trial for each count;
4. For punitive damages for each count allowable;
5. For reasonable attorneys fees incurred;
6. For costs of suit incurred herein; and
7. For such additional and further relief and this Court may deem just and equitable under the circumstances.

DATED this 21st day of May, 2013.

JLJ LAW GROUP, PLLC

_____/s/ Hal Armstrong_____
By: Hal Armstrong
Attorney for Plaintiffs