Myles and Venita Tortel

11565 N 5th W

Idaho Falls, ID 83401

Telephone: (208) 313-5634

Petitioners

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

Myles Tortel, an Individual; ) CASE NO.

Venita Tortel, an Individual; )

)

Petitioners, )

) VERIFIED

vs. ) COMPLAINT

)

WELLS FARGO BANK NA; )

WELLS FARGO HOME MORTGAGE; )

FEDERAL HOME LOAN MORTGAGE )

CORPORATION, AKA FREDDIE MAC; )

NORTH WEST TRUSTEE SERVICES, INC; )

SPECIALIZED LOAN SERVICING LLC. ; )

CARRINGTON MORTGAGE SERVICES LLC; )

and JOHN DOES 1-10; )

)

Respondents ) Filing Fee: $221.00

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INTRODUCTION

COMES NOW The Petitioners, Myles and Venita Tortel et. al., residing in Bonneville County and the owners of the real property located at 11565 N. 5th W. Idaho Falls, Idaho 83401 (herein after referred to as “the Property’) brings this action against Respondents WELLS FARGO HOME MORTGAGE, WELLS FARGO BANK NA, NORTH WEST TRUSTEE SERVICES, INC, FREDDIE MAC; SPECIALIZED LOAN SERVICING LLC., CARRINGTON MORTGAGE SERVICES LLC, and JOHN DOES 1-10, for damages for Respondents violations of the Fair Debt Collection Practices Act, *15 U.S.C. § 1692*, *et seq.* (hereinafter "FDCPA") and the Idaho Consumer Protection Act, 48 § 601 *et seq.* (hereinafter, "State Act"), which prohibit debt collectors from Engaging in abusive, deceptive, harassing and unfair practices and fraud.

The Petitioners as unschooled in law cannot be held to the same standards as a Bar Card carrying Attorney as per *Haines v. Kerner, 404 U.S. 520 (1971).*

JURISDICTION, VENUE, AND PARTIES

1. Jurisdiction of this Court arises under *Idaho Code Sections 5-514, 67-2755*, and 30-14-610.
2. Venue in this District is proper in that the Respondents transact business here and the property is in Idaho, and the conduct complained of occurred here. Petitioners are natural persons, who are the owners of the Real Property at 11565 N 5th W Idaho Falls, ID 83401, (here in after referred to as the Property) and at all times relevant to this complaint.
3. Upon information and belief, Respondent WELLS FARGO BANK N.A. (here in after referred to as Wells Fargo), ­collecting debts in this state of Idaho with its principal place of business located at 1919 Douglas, Omaha NE 68101, and is the Servicer for the Respondent Trust.
4. Upon information and belief Respondent WELLS FARGO HOME MORTGAGE (here in after referred to as “WFHM”), individually, is engaged in the business of banking, and collecting debts in this state of Idaho and is a subsidiary of Wells Fargo Bank, located at One Home Campus, MAC # X2401-049 Des Moines, IA 50328, claiming to be the Servicer for Wells Fargo Bank.
5. Upon information and belief Respondent FEDERAL HOME LOAN MORTGAGE CORPORATION (Here in after referred to as “FREDDIE MAC”), is the Creator of the FREDDIE MAC TRUST FHLMC-3521 (Here in after referred to as “the Trust”), and are located at 8200 Jones Branch Drive, McLean, VA 22102.
6. Upon information and belief Respondent NORTH WEST TRUSTEE SERVICES, INC; (Herein after referred to as “North West Trustee”) is claiming to be the current Trustee, currently conducting a foreclosure sale on the property that is to be held on August 18, 2017. North West Trustee is located at 13555 SE 36th Street, Suite 100, Bellevue, WA 98006.Upon information and belief Respondent SPECIALIZED LOAN SERVICING LLC. (Herein after referred to as “Specialized Loan”), is a home mortgage servicing company, claiming to own the Deed and is located at 8742 Lucent Blvd., Suite 300 Highlands Ranch, CO 80129.
7. CARRINGTON MORTGAGE SERVICES, LLC. (here in after referred to as “Carrington Services”) is a home mortgage servicing company, claiming to be the new servicer of the Note and is located at PO Box 5001 Westfield, IN 46074.
8. Respondents are "debt collectors" as defined by the *FHCPA*, *15 U.S.C. § 1692a(6)* because they sold the note and therefore are not original creditors.
9. Respondents are "persons" as defined by the *Idaho Consumer Protection Act, 48 § 601* et seq.
10. John Doe Respondents are unknown at this time, and Petitioners reserve the right to amend pleadings when their identities become known.

FACTUAL ALLEGATIONS

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 11 above.
2. The ORIGINATOR/LENDER is Wells Fargo Bank. *(Exhibit A page 1 section 1)*
3. The INVESTING BANK is WFHM *(Exhibit A page 1 section 1 paragraph 3)* and purported to be the successor Trustee under the Deed of Trust. However no assignment of Successor Trustee is recorded at Bonneville County and therefore Petitioners dispute validity of assignment.
4. Pioneer Title Company is located at 8151 W. Rifleman St., Boise, ID 83704 and is the alleged Trustee under the Deed of Trust. *.(Exhibit A page 2 (D) ).*
5. On April 10th, 2009, according to the Date Stamped by the Notary, Myles B. Tortel and Venita Tortel, autographed the Deed of Trust (Here in after referred to as “the Deed”), however the Deed was never dated by Petitioners, in which Defendant Wells Fargo Bank, NA was the lender and/or the Beneficiary with the Property as collateral for the loan. *(Exhibit A page 1).*
6. The date of the Deed *(Exhibit A page 1)* was allegedly April 8th, 2009.
7. The Deed of Trust, (instrument number 132963) was recorded in Bonneville County in the State of Idaho, on April 15, 2009. *(Exhibit A).*
8. The Note and the Deed both list the amount of $225,000.00 US Dollars “Aka Federal Reserve Notes” to be paid to Wells Fargo Bank. (*Exhibit B, Page 1 section 1) (Exhibit A, Page 3 section (P)).*
9. The Note is a Negotiable Instrument under the Idaho Uniform Commercial Code ("UCC") and the transfer of such is subject to the strict requirements of the UCC. *See I.C. § 28-3-201.*
10. The copy of the Note *(Exhibit B)* that Wells Fargo furnished has no notary endorsement or witness signature and was never recorded in Bonneville County in violation of Idaho *Uniform Commercial Code ("UCC")*.
11. Wells Fargo sold the Deed on May 12th 2009 to Freddie Mac. *(Exhibit C)*

The sale of the Deed was never recorded in Bonneville County.

In early 2013 a MORTGAGE COMPLIANCE INVESTIGATOR, CHAIN OF TITLE ANALYSIS & MORTGAGE FRAUD INVESTIGATION *(Exhibit D)* was prepared for: Myles B. & Venita Tortel Real Property Located at: 11565 N 5th W Idaho Falls, ID 83401.

1. The Analysis was prepared by: Mortgage Compliance Investigators 7901 Cameron Rd #317 Austin, TX 78759. Private Investigation License # A18306 *(Exhibit D).*
2. Freddie Mac purchased an interest in the Tortel Mortgage Loan and delivered that interest in the Tortel Mortgage Loan into FHLMC-3521 Trust *(Exhibit D Page 4)* and claims to have control of the Tortel Note and the Tortel Deed of Trust. Freddie Mac states in its Freddie Mac Document, *Custodian Procedures Handbook* *(see Exhibit E Chapter 3; page 2)*

*Chapter 3; page 2:*

*“Document Custodians are responsible for verifying certain information contained in the Notes and related documents for the Mortgages sold to Freddie Mac and for certifying that you have performed those verifications and that the original documents are in your possession.*

1. The ISSUING ENTITY is Freddie Mac, and they **UNLAWFULLY** transferred the Petitioners property into Multiple Classes of the Freddie Mac Multiclass Certificates, series 3521 FHLMC-3521 Trust on April 30, 2009. *(Exhibit D page 9)* CUSIP-#31398chl5 *(Exhibit D page 11 of 29)*.
2. The MASTER SERVICER is Wells Fargo Bank. (*see Exhibit D Section 3 page 4 of 29)*
3. The CUSTODIAN is Unknown. *(see Exhibit D Section 3 page 4 of 29)*
4. By multiple classes of the Trust purchasing the Tortel Intangible Obligation the Trust was exercising rights of ownership over the Tortel Mortgage Loan and the payment stream. By exercising rights of ownership over the Tortel Mortgage Loan multiple classes of the Trust made a claim of rights to all three parts of the Tortel Mortgage Loan *(see Exhibit D Section 3 page 5-7 of 29).*
5. The Tortel Mortgage Loan only exists through the tangible instruments creating it, the Note and the Deed. The sale of the Tortel Intangible Obligation to the Trust, without stripping away the rights to the Tortel Intangible Obligation from the rights to the Note, could only be accomplished with the accompanying negotiation of the Note and the accompanying assignment of the Deed *(see Exhibit D Section 3 page 5-7 of 29).*
6. Negotiation of the Note was never properly done; The Deed was never properly assigned.
7. Multiple classes of the Trust own the Tortel Intangible Obligation, and exercises that claim. To exercise the claim of rights to the Tortel Intangible Obligation, an assignment of the Deed should have been accomplished. Multiple classes of the Trust are acting as if an assignment of the Deed has been accomplished, which it wasn’t, as noted above *(Exhibit D Section 3 page 5-7 of 29).*
8. The negotiation of the Note to Freddie Mac is required both by Freddie Mac's own requirements and Idaho State Law. Freddie Mac's own Freddie Mac Document “*Requirements for Document* *Custodians, Chapter 3; Page 3”:* *(Exhibit E)*

Upon receipt of a delivery of Notes from the Seller, you must verify the data.

*The information on each Note must match the corresponding information in the Selling System.*

*Verify the Note. The Note must be original and complete. The Note must also be originated on a Fannie Mae/Freddie Mac, a Freddie Mac, or a Fannie Mae Uniform Instrument. See Guide Exhibit 4 for a complete list of current Uniform Instruments.*

*Verify the chain of endorsements (Note).*

*Verify the chain of assignments (security instrument).*

1. The Trust owns the Tortel Intangible Obligation. However the transfer of rights to either of the two tangible parts of the security instrument that evidence the Tortel Intangible Obligation from Wells Fargo Bank to the Trust is not memorialized in the Bonneville County Record as required by Idaho Law and Federal Law.
2. Under the *Consumer Credit Protection Act* *Title 15 USC Chapter 41 § 1641(g)*: any transfers of the Tortel Mortgage Loan to the Trust would be in violation of Federal Statute, if those transfers had not been recorded in the Bonneville County Record within 30 days along with notification of Petitioners Myles B. & Venita Tortel that the transfers had occurred. There are no recorded assignments of the Deed to the Trust in Bonneville County within 30 days of April 08, 2009 and there was no notice sent to the Petitioners. Therefore there has been a violation of Federal Law and the Trust requirements. The owners of the Tortel Intangible Obligation, are not the owners of either the Note or the Deed.

*Title 15 USC Chapter 41 § 1641(g)*

*(g) Notice of new creditor*

*(1) In general*

*In addition to other disclosures required by this subchapter, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—*

1. *the identity, address, telephone number of the new creditor;*
2. *the date of transfer;*
3. *how to reach an agent or party having authority to act on behalf of the new creditor;*
4. *the location of the place where transfer of interest in the debt is recorded; and*
5. *any other relevant information regarding the new creditor.*
6. There has been no assignment of the Deed to Freddie Mac recorded in the Bonneville County Record. Although both the Idaho Law and Freddie Mac’s own Freddie Mac Document: *Custodian Procedures Handbook* *(Exhibit E Chapter 3; page 17)* require it.

*Freddie Mac Document Custodian Procedures Handbook Chapter 3; page 17;*

*You must receive an original assignment of the Security Instrument that has been recorded from the original mortgagee on the Security Instrument to the Seller or, if there is a concurrent Transfer of Servicing, to the Servicer (NOT to Freddie Mac). An officer of the transferring institution must sign the assignment, and the assignment must contain the officer’s name and title. You must verify that there is no break in the assignment chain. Assignments of the Security Instrument must begin with the original mortgagee (the payee on the Note) and continue unbroken to the Seller,*

1. Any electronic transfers of the Deed that may have been executed were done so without recording within the Bonneville County Record are void under:

*Uniform Electronic Transactions Act (UETA) (Exhibit G):*

*Title 15 USC Chapter 96 § 1-7003:*

*(a) Excepted requirements*

*The provisions of section 7001 of this title shall not apply to a contract or other record to the extent it is governed by —*

*(3) the Uniform Commercial Code, as in effect in any State, other than sections 1– 107 and 1–206 and Articles 2 and 2A.*

1. The Trust is the owner of the Tortel Intangible Obligation, however, according to Idaho State Law; the Trust can only be entitled to enforce the Deed if it took the Deed by way of assignments pursuant to Idaho Code section 45-1003:

*I.C. § 45-1003. Acknowledgment and Recordation.*

*Mortgages, and deeds of trust or transfers in trust of real property may be acknowledged or proved, certified and recorded, in like manner and with like effect as grants and conveyances thereof.*

*I.C. § 28-3-203. Transfer of instrument--Rights acquired by transfer*

*(1)An instrument is transferred when it is delivered by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the instrument.*

*(2)Transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument, including any right as a holder in due course, but the transferee cannot acquire rights of a holder in due course by a transfer, directly or indirectly, from a holder in due course if the transferee engaged in fraud or illegality affecting the instrument.*

*(3)Unless otherwise agreed, if an instrument is transferred for value and the transferee does not become a holder because of lack of indorsement by the transferor, the transferee has a specifically enforceable right to the unqualified indorsement of the transferor, but negotiation of the instrument does not occur until the indorsement is made.*

*(4)If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this chapter and has only the rights of a partial assignee.*

1. No constructive notice was given to the Petitioners in disregard of The Recording Statute. Thus the chain of title of the Deed is subject to fraud. *(Exhibit D section 3 Mortgage fraud investigation, paragraph 16).*
2. Assignments of the Deed must be accompanied by parallel endorsements of the Note for the Tortel Mortgage Loan to remain secured by the Tortel Property. No evidence is available to evidence negotiations of the Note to the Trust. This requires indorsements and proper negotiations of the Note from Wells Fargo Bank, to the Trust, including any intervening claims of ownership.
3. The Tortel Mortgage Loan can no longer be a secured loan, as there were not assignments of transfers of the beneficial interest of the Deed, concurrent with negotiations that needed to be entered into public record in Bonneville County.
4. Presentment of the Note (even if shown to be the original), is not in itself proof of an equitable transfer of the Tortel Loan along with its Security Instrument. This demonstration of possession may be sufficient to enforce the Note, but carries no indicia of ownership or intent to transfer the Tortel Mortgage Loan. *The Uniform Commercial Code (“UCC”)* consecrates a preference in commercial transactions for simple possession of indorsed instruments over proof of actual ownership.
5. A noteholder bringing forth an action on the Note, is entrenched in commercial law. However, the taking of the Tortel Home by foreclosure is an equitable remedy, and equity does not allow a “thief” to use a stolen Tortel Note to foreclose on the Tortel Mortgage lien.
6. The Trust, who owns the Tortel Intangible Obligation, cannot show that accompanied negotiations of the rights to the Note and accompanied transfers of the rights to the Deed have occurred. The rights to the Tortel Intangible Obligation have been stripped from the rights to the Note and the rights to the Deed.
7. **There is no assignment of the Deed** in the Records of Bonneville County other than the original *(exhibit A)* until the CORPORATE ASSIGNMENT OF DEED OF TRUST (Exhibit J)that is disputed in validity by The Petitioner.
8. The performance requirements that need to be followed before a Trustee Sale can be held have not been met. In *IDAHO CODE 45-1505(2),(3) TITLE 45 LIENS, MORTGAGES AND PLEDGES CHAPTER 15 TRUST DEEDS* 45-1505(2).

*(2)  There is a default by the grantor or other person owing an obligation the performance of which is secured by the trust deed or by their successors in interest with respect to any provision in the deed which authorizes sale in the event of default of such provision; and*

*(3)  The trustee or beneficiary shall have (a) filed for record in the office of the recorder in each county wherein the trust property, or some part or parcel, is situated, a notice of default identifying the deed of trust by stating the name or names of the trustor or trustors and giving the book and page where the same is recorded, or a description of the trust property, and containing a statement that a breach of the obligation for which the transfer in trust is security has occurred, and setting forth the nature of such breach and his election to sell or cause to be sold such property to satisfy such obligation; and (b) mailed a copy of such notice by registered or certified mail, return receipt requested, to any person requesting such notice of record as provided in section*[*45-1511*](https://legislature.idaho.gov/statutesrules/idstat/Title45/T45CH15/SECT45-1511)*, Idaho Code. Service by mail in accordance with this subsection (3) shall be deemed effective at the time of mailing. In addition, the trustee shall mail the notice required in this section to any individual who owns an interest in property which is the subject of this section.*

1. The Petitioner sent a Notice of Dispute letter *(Exhibit F)* to North West Trustee Services on May 28th 2013 and has received no response.
2. The Petitioner again sent a Notice of Dispute letter *(Exhibit L)* to North West Trustee Services on May 13th 2017 and has received no response.
3. Under the *Federal and State Fair Debt Collection Practices Acts* and the *Fair Credit Reporting Act*, because the Tortel’s have disputed the debt in writing North West Trustee must obtain verification of the debt.
4. North West Trustee cannot add interest or fees except those allowed by the original contract or state law.
5. Any attempt to collect this debt without validating it violates the FDCPA.
6. Until the debt is validated, the information concerning this debt is assumed to be inaccurate.
7. The original lender, Wells Fargo Bank, gave all rights of the Tortel Intangible Obligation to the Trust, shortly after signing. Once Wells Fargo Bank, gave up the rights to the Tortel Intangible Obligation, the rights to the Tortel Intangible Obligation were stripped away from the rights to the Note and the rights to the Deed.
8. The Deed is without an Intangible Obligation to enforce conditions against it.
9. Wells Fargo Bank, is the servicer of the Tortel Intangible Obligation to the Trust. Wells Fargo Bank, by continuing to claim interest in the Deed is a violation under the *Consumer Credit Protection Act Title* *15 USC Chapter 41 § 1641(f),and* .
10. Wells Fargo Bank was not the Owner of the Tortel Intangible Obligation. By claiming rights to the Tortel Intangible Obligation through the Deed they are either committing a fraudulent claim or the Assignee actions under the claim of ownership are in violation of Federal Law.
11. *SC Chapter 41 § 1641(f) Treatment of servicer*
12. ***In general***

*A servicer of a consumer obligation arising from a consumer credit transaction shall not be treated as an assignee of such obligation for purposes of this section unless the servicer is or was the owner of the obligation.*

1. ***Servicer not treated as owner on basis of assignment for administrative convenience***

*A servicer of a consumer obligation arising from a consumer credit transaction shall not be treated as the owner of the obligation for purposes of this section on the basis of an assignment of the obligation from the creditor or another assignee to the servicer solely for the administrative convenience of the servicer in servicing the obligation. Upon written request by the obligor, the servicer shall provide the obligor, to the best knowledge of the servicer, with the name, address, and telephone number of the owner of the obligation or the master servicer of the obligation.*

1. There is a document purporting to be an “Appointment of Substitute Trustee” *(Exhibit H)* dated June 13, 2011 recorded June 15, 2011 in the Official Records of Bonneville County, as instrument #1393147. This document is lacking a true signature and is notarized June 13, 2011 by Sayra Nichole Modes, *(Exhibit D Section 3 paragraph 26)* a Washington State notary who is not listed on the Washington State Department of Licensing *(Exhibit I).* This document purports to show Wells Fargo Bank, as beneficiary of the Deed of Trust, substituting Northwest Trustee Services, as trustee of the Deed.
2. Wells Fargo Bank, Under Federal Law cannot be the beneficiary of the Deed, as Wells Fargo Bank has no rights or interests in the Deed.
3. Neither Wells Fargo Bank, nor any of its agents has any right to Substitute Northwest Trustee Services as Trustee to the Deed. *(see Exhibit D Section 3 page 12 & 13)*
4. The “Appointment of Substitute Trustee” dated June 13, 2011 is invalid asan Appointment of Substitute Trustee since Wells Fargo had no authority to appoint a trustee*. (see Exhibit D Section 3 page 22 & 23 paragraph 26 & 27 )*
5. The Note has not been indorsed by Wells Fargo Bank, the original lender. This evidences that no negotiation under UCC Article 3 concerning negotiable instruments has occurred. Wells Fargo Bank, has released none of its interest in the Note.

*I.C. § 28-7-501. Form of negotiation and requirements of due negotiation*

*(a) The following rules apply to a negotiable tangible document of title:*

*If the document's original terms run to the order of a named person, the document is negotiated by the named person's indorsement and delivery.**After the named person's indorsement in blank or to bearer, any person may negotiate the document by delivery alone; (emphasis added)*

1. Wells Fargo Bank transferred its rights to the Tortel Intangible Obligation to the Trust and retained its rights to the Note. The rights to the Tortel Intangible Obligation were transferred to the Trust and ownership of the Note remained with Wells Fargo Bank, without the rights, to the Tortel Intangible Obligation.
2. **The Terms of the Deed have been violated and the Deed is unenforceable.**
3. The Deed is governed by Idaho Law. Idaho Law and Federal Law recognize and require proper recordation of assignment to transfer ownership of the Deed.

From The Deed: *(Exhibit A)*

*16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might be explicitly or implicitly allow the parties to agree by contract or might be silent, but such silence shall not be construed to be a prohibition against agreement by contract.*

1. Wells Fargo Bank, purported to transfer less than the entire instrument of the Tortel Loan.
2. Under *UUC I.C. § 28-3-203(4)* a negotiation of the Tortel Note or a negotiation of the Tortel Loan cannot occur without the transfer of the entire interest in the Tortel Note or transfer of the entire interest in the Tortel Loan.

*I.C. § 28-3-203Transfer of instrument--Rights acquired by transfer*

*(4) If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this article and has only the rights of a partial assignee.*

1. When Wells Fargo Bank, retained the Note yet released the Tortel Intangible Obligation to multiple classes of the MBS Name Trust or FHLMC-3521 Trust, Wells Fargo Bank, purported to transfer less than the entire instrument, Negotiation of the Note did not occur.
2. Wells Fargo Bank, must have an entire interest in the Note for a negotiation to occur.
3. Wells Fargo Bank, N.A. can no longer claim an entire interest in the Note.
4. Wells Fargo Bank, N.A. cannot accomplish a negotiation of the Note.
5. Wells Fargo Bank, is the only party that could accomplish a negotiation of the Note. Yet Under *I.C. § 28-3-203(4)* Wells Fargo Bank, cannot accomplish a negotiation until they regain the entire interest in the Note.

*I.C. § 28-3-203Transfer of instrument--Rights acquired by transfer*

*(4) If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this article and has only the rights of a partial assignee.*

1. The unenforceable rights to the Note remain with Wells Fargo Bank, while the rights to the Deed have been released.
2. The Deed is an unenforceable contract, no longer tied to an obligation to enforce its contractual terms over.
3. Under long existing contract law, if the terms of a contract are violated affecting the conditions under which the Payor is obligated, without the properly evidenced consent of the Payor, that contract is void and cannot be returned to without the consent of the Payor
4. Even if ownership of the Note and the Deed could be rejoined, the Deed, as a now unenforceable contract, no longer being tied to an obligation to enforce its contractual terms over, cannot be an enforceable contract without consent of Petitioners Myles B. & Venita Tortel.
5. Interest in the Tortel Intangible Obligation **cannot be rejoined** to Interest in the Note or the Deed.
6. Multiple classes of The FHLMC-3521 Trust have rights to the Tortel Intangible Obligation and all must be named as payee on the Tortel Note.
7. Due to incomplete listing of the payee’s there can be no rights to the Tortel Note.
8. For the FHLMC-3521 Trust to gain rights to the Note, the FHLMC-3521 Trust would have to have each and all owners be named payee and have their consent.
9. Because the rights to the Deed have been separated from rights to the Tortel Intangible Obligation, and will remain separate, the Deed is left with no way to enforce its conditions over the obligation which should be evidenced by the Note; making the Deed an unenforceable contract.
10. With Interest in the Tortel Intangible Obligation Stripped Away and No Way to Enforce the Conditions under the Deed of Trust the Mortgage Contract is a Nullity.
11. Wells Fargo Bank retained no beneficial interest in the Tortel Intangible Obligation after selling the Tortel Intangible Obligation to the FHLMC-3521 Trust shortly after signing.
12. No acceptable assignments of the Deed to anyone was recorded into the Bonneville County Recorder’s Office.
13. There is no evidence of negotiations of the Note to the FHLMC-3521 Trust.
14. With no properly recorded owner of the Deed there is no one to enforce the conditions over the Tortel Intangible Obligation.
15. Having no specific properly secured owner of the limited beneficial interest of the Note there is no way to enforce the stripped away Tortel Intangible Obligation through the Note.
16. On October 3rd 2016 a CORPORATE ASSIGNMENT OF DEED OF TRUST Instrument # 1535981 *(Exhibit J)* dated September 16th 2016, was recorded in Bonneville County Idaho for Wells Fargo. Wells Fargo acting as the Assignor made SPECIALIZED LOAN SERVICING LLC the Assignee.
17. Memorializing this new sale to SPECIALIZED LOAN SERVICING LLC, Wells Fargo acted as if Wells Fargo was the current owner of the Deed and the Note, even though they have repeatedly admitted in writing to Petitioners that they sold the Deed and the Note to Freddie Mac on May 12, 2009. *(Exhibit C, Q, and R)*
18. No constructive notice was given to the Petitioners in disregard of The Recording Statute. Thus the chain of title of the Deed is subject to fraud. *(Exhibit D section 3 Mortgage fraud investigation, paragraph 16).*
19. Notice of Instrument # 1535981 was never sent to the Petitioners, however it was sent to an Attorney that the Petitioners have hired in the past even though Wells Fargo and Specialized Loan both had the Petitioners correct address as it is the same address that the foreclosure papers *(Exhibit K)* and the multiple Qualified Written Requests (here in after referred to as QWR) *(Exhibit F)* had listed to respond to, that were sent to the Respondents.
20. None of the QWR’s were properly responded to in the time and/or completely, as required by Law.
21. Respondents failed to send correspondence of any kind to Petitioners from Oct 3, 2016 until Notice of Trustee sale sent on April 13, 2017 in violation of RESPA.
22. On April 20, 2017 Petitioners were served Notice of Trustee sale *(Exhibit K)* by North West Trustee who is a questionable trustee.
23. Petitioners were never noticed by Wells Fargo Bank or Specialized Loan of the Corporate Assignment of the Deed *(Exhibit J)* prior to Notice of Trustee sale.
24. Petitioners sent a Notice of Dispute to North West Trustee and Specialized Loan on May 13, 2017. *(Exhibit L)*
25. Petitioners have not received any response to Notice of Dispute.
26. This is the second Notice of Dispute that has remained unanswered from the creation of the Deed.
27. On June 26, 2017, Petitioners sent a QWR *(Exhibit M)* to North West Trustee, Specialized Loan, and Wells Fargo. This was done due to lack of response to the Notice of Dispute *(Exhibit L)*.
28. On July 5, 2017 Petitioners received an acknowledgment concerning the QWR from Wells Fargo *(Exhibit N).*
29. On Wednesday July 5, 2017 Petitioners received a disturbing voice mail message from someone stating he was Steve Laroy from Wells Fargo, in violation of *15 U.S.C. § 1692c(c*) by contacting the Petitioners after the Petitioners had requested the Respondents cease telephone communication with the Petitioners.
30. On Friday July 7, 2017 Petitioners received the second disturbing voice mail message from the same man, Steve Laroy.
31. On July 7, 2017 Petitioners sent a letter to Wells Fargo, in response to the disturbing phone messages *(Exhibit O).*
32. On July 14, 2017 Petitioners answered a call from Steve Laroy. He asked for Verification of Borrower and Loan #. Petitioners informed him that they had previously requested the Respondents cease telephone communication with the Petitioners and to communicate in writing only.
33. Petitioners have continued to Pay Property Tax and Insurance on the property *(Exhibit P).*
34. Petitioners received a letter from WFHM stating that they are the Current Servicer and that Freddie Mac is the Owner of the Note and the Security Instrument dated March 20th, 2013 *(Exhibit Q page 1 section Note and Security Instrument).*
35. Petitioners received a letter confirming that Freddie Mac is the owner/assignee dated, July 13, 2017 and Received on July 18, 2017. *(Exhibit R page 1 section Investor Information).*
36. Through Wells Fargo’s own correspondence *(Exhibit Q & R)* and the MCI investigation *(Exhibit D pages 9- 12 & 14)*, and Freddie Mac’s own website *(Exhibit C)*, on May 12th 2009, the Deed was transferred to Freddie Mac.
37. Wells Fargo does not own the Deed and Note, and thus has no rights to transfer, assign, or convey ANY interest or rights to anyone after May 12th 2009.
38. Securitized Loan has no rights to the Deed and/or the Note. Thus they have no rights to direct North West Trustee to perform a foreclosure sale on the Petitioners property.
39. Dated July 14, 2017 and received July 20, 2017. Petitioners received a Status update for the QWR that was sent to from WFHM on June 26th, 2017 *(Exhibit S)*.
40. Dated on July 18, 2017, and received on July 28, 2017, Petitioners received a Resolution for the QWR from Wells Fargo, stating that the Servicer of the Account changed on September 16, 2016 *(Exhibit R).*
41. Additional Information that was sent from the *Resolution packet (Exhibit S)* included:
    1. Security Instrument and Assignments
    2. Promissory Note and Riders
    3. Loan Information report
    4. Goodbye letter for transfer
    5. UCC Financing Statement

FIRST CAUSE OF ACTION

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

(Wells Fargo Bank, & Wells Fargo Home Mortgage)

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 110 above.
2. Respondents violated the FDCPA. Respondents' violations include, but are not limited to, the following: The Respondents violated *15 U.S.C. § 1692c(c)* by contacting the Petitioners after the Petitioners had requested the Respondents cease telephone communication with the Petitioners.
3. As a result of the above violations of the FDCPA, the Respondents are liable to the Petitioners for declaratory judgment that Respondents' conduct violated the FDCPA, and Petitioners' actual damages, statutory damages, and costs and attorney fees.
   * 1. **SECOND CAUSE OFACTION**

**VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**

**(All Respondents)**

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 113 above.
2. Respondents violated the FDCPA *15 U.S.C. § 1692f* by using unfair or unconscionable means to collect or attempt to collect any debt from Petitioners.
3. As a result of the above violations of the FDCPA, the Respondents are liable to the Petitioners for declaratory judgment that Respondents' conduct violated the FDCPA, and Petitioners' actual damages, statutory damages, and costs and attorney fees.

THIRD CAUSE OFACTION

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

(All Respondents)

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 116 above.
2. The Respondents repeatedly violated *15 U.S.C. § 1692g(b)* by failing to provide verification of the debt and continuing its debt collection efforts after the Petitioners had disputed the debt in writing within thirty days of receiving notice of the 15 U.S.C. § 1692g debt validation rights.
3. As a result of the above violations of the FDCPA, the Respondents are liable to the Petitioners for declaratory judgment that Respondents' conduct violated the FDCPA, and Petitioners' actual damages, statutory damages, and costs and attorney fees.

FOURTH CAUSE OFACTION

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

(All Respondents)

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 119 above.
2. The Respondents violated *Idaho Code § 48-603* by engaging in any “act or practice which is otherwise misleading, false, or deceptive to the consumer by illegally and fraudulently securitizing the interest in this property.”
3. As a result of the above violations of the FDCPA, the Respondents are liable to the Petitioners for declaratory judgment that Respondents' conduct violated the FDCPA, and Petitioners' actual damages, statutory damages, and costs and attorney fees.

FOURTH CAUSE OFACTION

VIOLATION OF IDAHO CODE § 48-603C

(All Respondents)

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 122 above.
2. The Respondents violated Idaho Code § 48-603C by engaging in unconscionable methods, acts or practices in the conduct of commerce by illegally and fraudulently securitizing the interest in the property. Respondents' acts as described above were done intentionally with the purpose of coercing Petitioners to pay the alleged debt or to obtain the property under false pretenses.
3. As a result of the above violations of the *Idaho Code*, the Respondents are liable to the Petitioners for declaratory judgment that Respondents' conduct violated the *Idaho Code*, and Petitioners' actual damages, statutory damages, and costs and attorney fees.

FITH CAUSE OFACTION

VIOLATION OF THE IDAHO STATUTE TILTE 45. LIENS,

MORTGAGES AND PLEDGES 1504

**(All Respondents)**

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 125 above.
2. The Respondents violated *Idaho Code § IC 45-1504 (2):* as no notice and or record of the Trustee resigning pursuant to *IC 45-1504 (2):*

*(2) The trustee may resign at its own election or be replaced by the beneficiary. The trustee shall give prompt written notice of its resignation to the beneficiary. The resignation of the trustee shall become effective upon the recording of the notice of resignation in each county in which the deed of trust is recorded. If a trustee is not appointed in the deed of trust, or upon the resignation, incapacity, disability, absence, or death of the trustee, or the election of the beneficiary to replace the trustee, the beneficiary shall appoint a trustee or a successor trustee. Upon recording the appointment of a successor trustee in each county in which the deed of trust is recorded, the successor trustee shall be vested with all powers of an original trustee.*

The substitution of Trustee was made to enrich the Respondents while depriving the Petitioner of the real Property.

1. As a result of the above violations of *Idaho Code*, the Respondents are liable to the Petitioners for declaratory judgment that Respondents' conduct violated the *Idaho Code*, and Petitioners' actual damages, statutory damages, and costs and attorney fees.

SIXTH CAUSE OFACTION

VIOLATION OF THE IDAHO STATUTE TILTE 45. LIENS,

MORTGAGES AND PLEDGES 1505

(All Respondents)

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 128 above.
2. The Respondents violated *Idaho Code § IC 45-1505:* and committed fraud when they filed the Notice of Successor Trustee as they had no Lawful right to do so as Wells Fargo is not the correct beneficiary.
3. The item that was recorded as the Notice of Successor Trustee did not have the a Notice of Default previously filed or give a description of the trust property or contain the location of the book and page where the same is recorded, or contain a statement of the breach of the obligation for which the transfer in trust is security.
4. As a result of the above violations of *Idaho Code*, the Respondents are liable to the Petitioners for declaratory judgment that Respondents' conduct violated the *Idaho Code*, and Petitioners' actual damages, statutory damages, and costs and attorney fees.

XI. SEVENTH CAUSE OFACTION

VIOLATION OF THE IDAHO STATUTE TILTE 45. LIENS,

MORTGAGES AND PLEDGES 1505

(All Respondents)

1. Petitioners repeats and re-alleges and incorporates by reference paragraphs 1 through 132 above.
2. Petitioner is informed and believes and thereon alleges that it is clear, specifically in this case, that there can be no valid non-judicial foreclosure where the trustee under the original deed of trust allegedly acting on behalf of the encumbrancer of Petitioners real property is not properly substituted with a "recorded" document. Furthermore, all beneficiaries, known and unknown, did not effectively execute the Substitution of Trustee. Therefore, any trustee's sale is void.
3. As a result of the above violations of *Idaho Code*, the Respondents are liable to the Petitioners for declaratory judgment that Respondents' conduct violated the *Idaho Code*, and Petitioners' actual damages, statutory damages, and costs and attorney fees.

EIGHTH CAUSE OF ACTION

QUITE TITLE

(All Respondents)

1. Petitioner refers to and incorporate herein as though fully set forth herein below the allegations contained hereinabove in paragraphs 1 through 135, inclusive.
2. Petitioner is and at all times herein mentioned is the owner and/or entitled to possession of the real property located at 11565 N 5th W Idaho Falls, Idaho 83420.
3. Petitioner is informed and believes and thereupon alleges that Respondents, and each of them, claim an interest in the property adverse to Petitioner herein. However, the claim of said Respondents is without any right whatsoever, and said Respondents have no legal or equitable right, claim, or interest in said property.
4. Petitioner therefore seeks a declaration that the title to the subject property is vested in Petitioner alone and that the Respondents herein, and each of them, be declared to have no estate, right, title or interest in the subject property and that said Respondents, and each of them, be forever enjoined from asserting any estate, right, title or interest in the subject property adverse to Petitioner herein.
   * + 1. ***NINETH CUASE OFACTION***

***DECLARATORY RELIEF***

***(All Respondents)***

1. Petitioner refers to and incorporates herein as though fully set forth herein below the allegations contained hereinabove in paragraphs 1 through 142, inclusive.
2. This is an action for declaratory relief which is brought pursuant to *Idaho Code §10-1201 et seq.,* which provides that any persons interested under a written instrument or a contract who desires a declaration of their rights or duties with respect to another or in respect to property may, in the case of an actual controversy relating to the legal rights and duties of the parties, bring an original action in the court for a declaration of their rights or duties in the premises, including a determination of any question of construction or validity arising under the instrument or contract, with the declaration having the force and effect of a final judgment and which may be had before there has been any breach of the obligation in respect to which the declaration is sought.
3. Petitioners are each a "person" within the meaning and intent of Idaho Code §10- 1202 and 10-1213.
4. There is an actual controversy, as Respondents are conducting an illegal foreclosure on Petitioners' real property. Petitioner has never been provided with any evidence that any of the Respondents has full and unencumbered legal title to both the Note and Deed of Trust and there is no evidence of any effective assignment of either the Note or the Deed of Trust by the original lender to any entity.
5. Idaho Code §10-1201 et seq. provides that the remedies provided by the chapter are cumulative and shall not be construed as restricting any remedy, and further this chapter shall not preclude any party from obtaining additional relief based on the same facts.
6. In that the Respondents have illegal and fraudulently started a Trustee's Sale of the Property, and unless restrained, Respondents will sell Petitioners property, or cause it to be sold, to Petitioners great and irreparable injury, for which pecuniary compensation would not afford adequate relief. Petitioners require that a determination of their rights be made by this court so that the Petitioners do not suffer irreparable harm.

TENTH CAUSE OFACTION

PRELIMINARY AND PERMANENT INJUNCTION

(All Respondents)

1. Petitioners refer to and incorporates herein as though fully set forth herein below the allegations contained hereinabove in paragraphs 1 through 145, inclusive.
2. As set forth hereinabove, Petitioners real property is being wrongfully foreclosed upon, which Property is unique to Petitioner.
3. Idaho law provides that an injunction may be granted when it appears by the complaint that the Petitioner is entitled to the relief, or any part thereof, and the relief consists in restraining the commission or continuance of the act complained of, either for a limited period of time or perpetually.
4. Petitioner is entitled to the relief demanded in this Complaint including the restraining and enjoining of the Respondents' taking collection action against Petitioner in regard to the Property and an order to Respondents that the entire foreclosure should be unwound as it was unlawful.
5. This court may also issue an injunction when it appears by the complaint or affidavits that the commission or continuance of some act during litigation would produce waste, or great or irreparable injury, to a party to the action.
6. As set forth hereinabove, the continuance of any actions or proceedings by Respondents, during this litigation could produce irreparable harm to the Petitioner consisting of the loss of their unique real property.
7. This court may also issue an injunction when it appears, during litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action, and rendering the judgment of this Court ineffectual.
8. This court may also issue an injunction when it appears, during litigation, that a party to the action is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action, and rendering the judgment of this Court ineffectual.
9. As Respondents have not, and cannot, demonstrate any harm, damages, or impairment of any interest with the granting of the requested relief, as Respondents have not demonstrated interest in either the Note or DEED and have instituted a fraudulent foreclosure, no bond should be required of Petitioners' as a prerequisite to this Court's granting of the relief requested herein.
10. Petitioners further request this Court to issue a temporary restraining order as well as a preliminary injunction prohibiting Respondents or any of them from reporting Petitioners as delinquent on their mortgage to any and all Credit Reporting Agencies.

ELEVENTH CAUSE OFACTION

CANCELLATION OF WRITTEN INSTRUMENT

(All Respondents)

1. Petitioner refers to and incorporates herein as though fully set forth herein below the allegations contained hereinabove in paragraphs 1 through 155, inclusive.
2. Idaho law provides that a written instrument, in respect to which there is a reasonable apprehension that, if left outstanding, it may cause serious injury to a person against whom it is void or voidable, may, on that person's application, be so adjudged and ordered to be delivered up or canceled."
3. Petitioner is informed and believes and thereon alleges that the written instruments affecting Petitioners real property have become a nullity and that if left outstanding they could cause injury to Petitioner, or may be used vexatiously against them.
4. Petitioner is further informed and believes that they are entitled to equitable relief from this court in the form of having the aforesaid written instruments delivered up and canceled when the evidence to impeach or invalidate the aforesaid written instruments is lost or may throw a cloud of suspicion over Petitioners title.
5. At the time the Petitioners executed the Deed and Note, said documents appeared to be valid as uniform instruments related to real property transactions.
6. Petitioner herein seek to cancel the Deed and Note, resulting from the fraudulent activity of Respondents herein, activity that has caused an irreparable cloud on the title to Petitioners real property.
7. Petitioner alleges that Respondents not only are unable to show clean, properly recorded and uninterrupted assignments of the Note and Deed to them, entitling Respondents to make any claim against Petitioners' real property.
8. Petitioner states the fact that the clear chain of title DOES NOT rest with the Respondents, as stated by the Respondents themselves.
9. As a result of the above, the Respondents are liable to the Petitioners for Petitioners' actual damages, statutory damages, and costs and attorney fees.

TWELVETH CAUSE OFACTION

UNJUST ENRICHMENT

(All Respondents)

1. Petitioner refers to and incorporates herein as though fully set forth herein below the allegations contained herein above in paragraphs 1 through 164, inclusive.
2. Respondents have claimed rights to payments on Petitioners Note, and right to foreclose.
3. Petitioners have in fact made payments to Respondents pursuant to and in reliance upon Respondents' claim to rights to such payments.
4. Petitioner has also attempted to refinance the loan, to no avail. As alleged hereinabove, Respondents do not have rights to such payments.
5. Respondents had knowledge of such circumstances giving rise to unjust enrichment at the time of claiming rights to payment from Petitioner on the Note.
6. Respondents knowingly acquired a benefit at the expense of Petitioner without Petitioners knowledge.
7. Respondents, and each of them, received a benefit from Petitioner of money had and received.
8. It is unjust for Respondents to retain the benefit at the expense of Petitioner. The true amount to the extent to which the Respondents, and each of them, have been unjustly enriched is unknown to Petitioner at this time but the amount is believed to be within the jurisdictional limits of this court.
9. When the true amount, is known Petitioner will either seek leave of court to amend this complaint or else present proof of same at the time of trial.
10. Petitioner is informed and believes and thereon alleges that the Respondents, and each of them, have no rights to the payments that Petitioner made on the Note and that the same, with interest at the legal rate, should be refunded to Petitioner.
11. As a result of the above, the Respondents are liable to the Petitioners for Petitioners' actual damages, statutory damages, and costs and attorney fees.

THIRTEENTH CAUSE OFACTION CLOUDING OF TITLE

(Against all Respondents)

1. Petitioner refers to and incorporates herein as though fully set forth herein below the allegations contained hereinabove in paragraphs 1 through 175, inclusive.
2. Because of the multiple transfers of the Note and Deed there is no way to determine who has the rights to the property owned by the Petitioners.
3. Since there is no valid owner of the Note and the Deed, the title is clouded and should be revised in favor of the Petitioners
4. The act of Respondent WELLS FARGO as alleged servicer had no authority to make any assignment of the Note and nullifying the Deed of Trust. This constitutes a Clouding of Title.
   1. *Under 15 USC Chapter 41 § 1641(f)*

*Treatment of servicer In general A servicer of a consumer obligation arising from a consumer credit transaction shall not be treated as an assignee of such obligation for purposes of this section unless the servicer is or was the owner of the obligation.*

* 1. *Servicer not treated as owner on basis of assignment for administrative convenience*

*A servicer of a consumer obligation arising from a consumer credit transaction shall not be treated as the owner of the obligation for purposes of this section on the basis of an assignment of the obligation from the creditor or another assignee to the servicer solely for the administrative convenience of the servicer in servicing the obligation. Upon written request by the obligor, the servicer shall provide the obligor, to the best knowledge of the servicer, with the name, address, and telephone number of the owner of the obligation or the master servicer of the obligation.*

1. As a result of the above, the Respondents are liable to the Petitioners for Petitioners' actual damages, statutory damages, and costs and attorney fees.

FOURTEENTH CAUSE OF ACTION FRAUD

(Against All Respondents)

1. Petitioner refers to and incorporates herein as though fully set forth herein below the allegations contained hereinabove in paragraphs 1 through 180, inclusive.
2. The Respondents made a representation of fact regarding the Trustee the Servicer, who actually owned the Note and the Deed.
3. These representations were false.
4. These representations were material facts.
5. The Respondents knew that they were false.
6. The Respondents intended the Petitioners to rely on the false material facts.
7. The Petitioners were unaware of the falsity of the statement when the statements were made.
8. The Petitioners relied on those false statements of material facts
9. The reliance by the Petitioners was justifiable.
10. The Petitioners suffered injury due to the fraudulent acts of the Respondents.
11. As a result of the above, the Respondents are liable to the Petitioners for Petitioners' actual damages, statutory damages, and costs and attorney fees.
12. **DAMAGES**

(Against All Respondents)

1. Petitioner refers to and incorporate**s** herein as though fully set forth herein below the allegations contained hereinabove in paragraphs 1 through 191, inclusive.
2. As a direct and proximate result of Respondents' conduct, Petitioners suffered the following injuries and damages:

Actual damages

Loss of Property

Physical pain and mental anguish in the past and present.

Lost earnings.

Loss of earning capacity.

Future and statutory damages.

Future and statutory damages.

Punitive damages.

Attorney fees and court costs as determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Petitioners prays for judgment against the Respondents and each of them as hereinafter set forth:

QUIET TITLE

A. For an order compelling said Respondents, and each of them, to transfer legal title and possession of the subject property to Petitioner herein;

B. For a declaration and determination that Petitioner is the rightful holder of title to the property and that Respondents herein, and each of them, be declared to have no estate, right, title or interest in said property; and

1. For a judgment forever enjoining said Respondents, and each of them, from claiming any estate, right, title or interest in the subject property;

DECLARATORY RELIEF

1. Declaratory judgment that Respondents' conduct violated the FDCPA, and declaratory and injunctive relief for the Respondents' violations of the state Act.
2. Statutory damages pursuant to 15 U.S.C. § 1692k at $1,000.00 per violation against the Respondent or each individual employee thereof, or such actual damages as may be proven at court, whichever is greater,
3. For a declaration that there was never any proper legal assignment of the full and unencumbered legal interest in both the Note and Deed from the original lender to any Respondent herein or any entity;
4. For a declaration that none of the Respondents have any legal rights in either the Note or Deed; and
5. For a declaration that the Substitution of Trustee, the Assignment of the Deed of Trust, the Default/Foreclosure Notices, Trustee's Deed upon Sale are fraudulent and invalid documents and must be removed from the public record;

I. For a declaration that the Respondents have no standing and legal right to have instituted any foreclosure proceedings against Petitioners real property; and

1. For a declaration that the foreclosure by Respondents against Petitioners real property is illegal and said transactions be unwound by Respondents.

INJUNCTIVE RELIEF

1. Petitioners respectfully request that this court issue a Temporary Restraining Order and Preliminary and Permanent Injunction enjoining any foreclosure efforts or activity pending the full disposition of the action on the merits including stopping the illegal Trustee sale that is scheduled by the Respondents and for permanent injunctive relief, should Petitioner prevails on the merits, forever precluding Respondents from continuing with any other action against Petitioner regarding subject property.
2. Petitioners further request the court to issue a Temporary Restraining Order and Preliminary and Permanent Injunction enjoining the Respondents and each of them from filing or communicating any information about the Petitioner to the Credit Reporting Agencies.

CANCELLATION OF INSTRUMENTS

1. Petitioners further pray that the court issue an Order and Decree canceling the Note and Deed of Trust, finding that the same are void as to Petitioner and that the court instructs the clerk to execute a full deed of re-conveyance of the Deed of Trust in favor of Petitioner.

VIOLATION OF IDAHO CODE §§45-1500 et seq.

1. Statutory damages pursuant to Idaho Code §§ 48-601 et seq. per violation against the Respondent or each individual employee thereof, or such actual damages as may be proven at court, whichever is greater.
2. That the court issue its finding that:
   * + 1. There is no proper legal assignment of the full and unencumbered legal interest in both the Notes and Deed of Trust to any of the Respondents;
       2. Respondents have no legal right in either the Note or the Deed of Trust
       3. The Substitution of Trustee, the Assignment of Deed of Trust, the Default/Foreclosure Notices and Trustee's Deed Upon Sale are fraudulent and invalid documents such that the foreclosure action is unlawful; and
       4. Respondents have no standing and legal right to institute any foreclosure proceedings.

UNJUST ENRICHMENT

1. For a finding that the Respondents and each of them have been unjustly enriched in an amount according to proof and that the same, with interest at the legal rate, shall be reimbursed to Petitioner;
2. Actual damages of to be determined at trial.
3. For general and special damages according to proof;
4. For all costs and fees, including prejudgment and post judgment interest.
5. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and Idaho Code §§ 12- 120 and 12-121, in the sum of $3,000.00 for attorney fees, plus costs if judgment is entered by default, and for such other and further relief as may be just and equitable. If the matter be contested, Petitioners requests attorney fees in such amount as determined to be reasonable by the Court.
6. Punitive damages in an amount to be determined by a trier of fact.
7. For such other and further relief as the court deems just and proper.

A JURY TRIAL IS REQUESTED IN THIS MATTER.

1. Petitioner reserves the right to amend Complaint as needed.

Dated this 11TH day of August 2017.

Venita Tortel, being first duly sworn, deposes and says: That she is Petitioner in the above-entitled matter; that she has read the above and foregoing document, knows the contents thereof, and that she believes the facts stated therein to be true and agrees to be bound thereby.

VERIFICATION

State of Idaho )

) ss.

County of Bonneville)

On this 14th day of August, 2017, before me, the undersigned, a Notary Public, in and for Idaho, personally appeared the above natural state citizen on Idaho, by autograph known to me to be the one whose name is appears on this instrument, and has acknowledged to me that he has executed the same by his Freewill, Act and Deed, swears said document to be the truth to the best of his knowledge and ability, under pains and penalties of perjury.

Signed:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Venita Tortel

Seal

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I reside in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ­­coun­­­­­­­ty.

My Commission Expires:\_\_\_\_\_\_\_\_\_\_\_\_\_ .…......................... Affiant's Initials **CERTIFICATE OF SERVICE**

**ORIGINAL** and **ONE COPY** delivered to DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE this 14th day of August, 2017.

I HEREBY CERTIFY that a true and correct copy of the above MOTION has been furnished by certified U.S. Mail on this 14th day of August, 2017 to:

WELLS FARGO BANK N.A Certified Mail 7016 2710 0000 4533 5734

ATTN: Legal Dept.

1919 Douglas

Omaha, NE 68101

WELLS FARGO HOMEMORTGAGE Certified Mail 7016 2710 0000 4533 5741

ATTN: Legal Dept.

P.O. Box 10335

Des Moines, IA 50306-0335

NORTHWEST TRUSTEE SERVICES INC. Certified Mail 7016 2710 0000 4533 5758

ATTN: Legal Dept.

P.O. Box 997

Bellevue, WA 98009-997

SPECIALIZED LOAN SERVICING LLC. Certified Mail 7016 2710 0000 4533 5789

ATTN: Legal Dept.

8742 Lucent Boulevard Suite 300

Highlands Ranch, CO 80129

CARRINGTON MORTGAGE SERVICES, LLC Certified Mail 7016 2710 0000 4533 5796

ATTN: Legal Dept.

P.O. Box 5001

Westfield, IN 46074

FREDDIE MAC Certified Mail 7016 2710 0000 4533 5802

8200 Jones Branch Dr

McLean, VA 22101-3110

BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Petitioner

Venita Tortel, *Petitioner*

Signed reserving all my rights at UCC 1-207