

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 01/31/12

DEPT. EA G

HONORABLE SALVATORE T. SIRNA

JUDGE

R. BARNHART

DEPUTY CLERK

HONORABLE
03

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

N. JUSTI, C.A.

Deputy Sheriff

K. MULLIS, 10667

Reporter

8:30 am KC062236

Plaintiff

Counsel

MIGUEL A. CABRERA

NO APPEARANCES

VS

Defendant

UNIVERSAL AMERICAN

Counsel

10-03-11 AO

NATURE OF PROCEEDINGS:

DEMURRER OF DEFENDANT WELLS FARGO BANK, N.A., TO COMPLAINT;

The matter is called for hearing.

The Court finds that the plaintiff filed a First Amended Complaint on 1/25/12. The Court deems the Demurrer moot and the matter is taken off calendar.

Counsel are telephonically notified of the Court's order.

DEPARTMENT G - LAW AND MOTION RULINGS

The Court may change tentative rulings at any time. Therefore, counsel are advised to check this website periodically to determine whether any changes or updates have been made to the tentative ruling.

Counsel may submit on the tentative rulings by calling the clerk in Department G at (909) 620-3071 prior to 8:30 a.m. the morning of the hearing.

Case Number: KC062236 **Hearing Date:** January 31, 2012 **Dept:** G

RE: Cabrera v. Universal American Mortgage Company of California, et al.

Case Number: KC 062 236

Trial: None Set (CMC Set for February 21, 2012)

DEMURRER

Moving Party: Defendant Wells Fargo Bank, N.A.

Responding Party: None on File

PROPOSED RULING

SUSTAIN

ANALYSIS

Defendant Wells Fargo Bank, N.A. ("defendant") demurs to the complaint on the grounds that only cause of action asserted in the complaint, for quiet title, fails to state facts sufficient to constitute a cause of action against defendant.

Plaintiff, however, filed a first amended complaint on January 25, 2012. Therefore the demurrer is moot.

FILED
Los Angeles Superior Court

JAN 31 2012

John A. Clarke, Clerk
Robin Barnhart
By: Robin Barnhart

[Tentative Rulings - Main Menu](#) [Home](#)

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):</p> <p>LAW OFFICES of "WEST & ASSOCIATES" 700 N PACIFIC COAST HWY #201 REDONDO BEACH, CA 90277</p> <p>TELEPHONE NO: 319.372.2192 FAX NO (Optional): 310.372.4137</p> <p>E-MAIL ADDRESS (Optional):</p> <p>ATTORNEY FOR (Name): PLAINTIFFS (CABRERA, MIGUEL A.)</p>	<p>FOR COURT USE ONLY</p> <p>FILED</p> <p>LOS ANGELES SUPERIOR COURT</p> <p>JAN 27 2012</p> <p>JOHN A. CLARKE, CLERK <i>[Signature]</i> BY E. FREGOSO, DEPUTY</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF POMONA</p> <p>STREET ADDRESS: 400 CIVIC CENTER PLAZA</p> <p>MAILING ADDRESS: 400 CIVIC CENTER PLAZA</p> <p>CITY AND ZIP CODE: POMONA, CA 94903</p> <p>BRANCH NAME: EAST BRANCH DISTRICT</p>	<p>CASE NUMBER: KC062236</p>
<p>PLAINTIFF/PETITIONER: CABRERA, MIGUEL A.</p> <p>DEFENDANT/RESPONDENT: UNIVERSAL AMERICAN, et al.</p>	
<p>CASE MANAGEMENT STATEMENT</p> <p>(Check one): <input checked="" type="checkbox"/> UNLIMITED CASE <input type="checkbox"/> LIMITED CASE (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)</p>	
<p>A CASE MANAGEMENT CONFERENCE is scheduled as follows:</p> <p>Date: 21 FEB '12 Time: 8:30 AM Dept.: EA G Div.: Room:</p> <p>Address of court (if different from the address above):</p> <p><input checked="" type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): AL WEST</p>	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. This statement is submitted by party (name): **PLAINTIFF(S) : CABRERA, MIGUEL A.**
 - b. This statement is submitted jointly by parties (names):

2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date): **3 OCT '11**
 - b. The cross-complaint, if any, was filed on (date):

3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
UnNamed and UnKnown Defendants enumerated in Attachment "1" to Summons
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**
 - a. Type of case in complaint cross-complaint (Describe, including causes of action):
QUIET TITLE

PLAINTIFF/PETITIONER: CABRERA, MIGUEL A.	CASE NUMBER:
DEFENDANT/RESPONDENT: UNIVERSAL AMERICAN, et al.	KC062236

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

Instant action is an "In Rem" Quiet Title action based upon a single and sole cause of action sounding in Quiet Title brought by Plaintiffs as against specifically named Defendants and as against any and all Unnamed and Unknown potential Defendants pursuant to Cal. Civil Code Sec.762.060a.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. **Trial date**

a. The trial has been set for (date):

b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. **Estimated length of trial**

The party or parties estimate that the trial will take (check one):

a. days (specify number): 5

b. hours (short causes) (specify):

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference (specify code section):

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

PLAINTIFF/PETITIONER: CABRERA, MIGUEL A. DEFENDANT/RESPONDENT: UNIVERSAL AMERICAN, et al.	CASE NUMBER: KC062236
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

PLAINTIFF/PETITIONER: CABRERA, MIGUEL A. DEFENDANT/RESPONDENT: UNIVERSAL AMERICAN, et al.	CASE NUMBER: KC062236
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11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
PLAINTIFFs propounded to DEFENDANTs	Request for Admissions Interrogatories Notice to Produce	Not yet set

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER: CABRERA, MIGUEL A.	CASE NUMBER KC062236
DEFENDANT/RESPONDENT: UNIVERSAL AMERICAN, et al.	

17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):
Hearing on Demurrer is currently set for 31 Jan '12, however first Amended Complaint has been filed.

19. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
Demurrer Hearing at this time is pending.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: **JAN 26 2012**
Al West
ATTORNEY AT LAW

 (TYPE OR PRINT NAME)

▶ 

 (SIGNATURE OF PARTY OR ATTORNEY)

 (TYPE OR PRINT NAME)

▶ _____
 (SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing _____ and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner _____ a _____ of

_____ a party to this action, and am authorized to make this verification for an on its behalf, and I make this verification for that reason. I have read the foregoing document and know its contents. The matters stated in it are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for _____ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I have read the foregoing document and know its contents. I am informed and believe and on that ground allege that the matters stated in it are true.

Executed on _____ 20____ at _____ California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature

ACKNOWLEDGEMENT OF RECEIPT OF DOCUMENT

(Other than Summons and Complaint)

Receive copy of document described as _____ on _____ 20____.

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of LOS ANGELES, State of California

I am over the age of 18 and not a party to the within action; my business address is:

700 N PACIFIC COAST HWY #201, REDONDO BEACH, CALIF. 90277

On JAN 26 2012 20____, I served the foregoing document described as

CMC STATEMENT

_____ on DEFENDANT

in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at:

addressed as follows: : DREYFUSS FIRM

7700 IRVINE CENTR DR #710

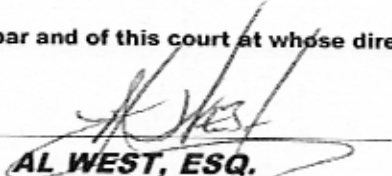
IRVINE, CA 92618

(BY MAIL) I caused such envelope and postage thereon fully prepaid to be placed in the United States mail. Executed on JAN 26 2012, 20____, at REDONDO BEACH, California.

(BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of addressee. Executed on _____, 20____, at _____, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar and of this court at whose direction the these documents were served.


AL WEST, ESQ.