

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 03/15/12

DEPT. EA G

HONORABLE SALVATORE T. SIRNA

JUDGE

R. BARNHART

DEPUTY CLERK

HONORABLE
01

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

N. JUSTI, C.A.

Deputy Sheriff

K. MULLIS, 10667

Reporter

8:30 am

KC062236

Plaintiff

WILLIAM TORTU (X)

Counsel

(VIA COURT CALL)

MIGUEL A. CABRERA

VS

Defendant

LAWRENCE DREYFUSS (X)

UNIVERSAL AMERICAN

Counsel

(VIA COURT CALL)

10-03-11 AO

NATURE OF PROCEEDINGS:

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

CASE MANAGEMENT CONFERENCE;

The matter is called for hearing.

Pursuant to request of moving party, the Demurrer is
taken off calendar.

The plaintiff files a Dismissal with prejudice as to
defendant Wells Fargo Bank only.

The plaintiff requests that this matter be set for a
Default Prove Up hearing.

The Court sets this matter for Default/ Default Prove
Up hearing for the remaining defendants on 4/27/12
at 8:30 a.m. in Department EA G.

Counsel for plaintiff is to give notice.

π - PLAINTIFF

Δ - DEFENDANT

BUSINESS CARDS THIS SIDE

BUSINESS CARDS THIS SIDE

Law Offices of Allen D. West
310-372-2192

~~Allen D. West~~
Plaintiff(s), Cabrera

WILLIAM TORTU ✓

The Dreyfuss Firm
(949) 727-0977

~~Bruce W. Dannemeyer~~
Defendant(s), Wells Fargo Bank

*LAWRENCE
TREYFUSS* ✓

~ATTORNEY CHECK IN~

PLEASE REQUEST ONE BUSINESS CARD FROM EACH ATTORNEY WITH PARTY THEY REPRESENT AND CALENDAR # WRITTEN ON CARD WHEN ALL PARTIES ARE CHECKED IN AND GIVE SHEET TO CLERK

3-15
Dem

1 Lawrence J. Dreyfuss, Bar No. 76277
2 Bruce W. Dannemeyer, Bar No. 107243
3 THE DREYFUSS FIRM
4 A Professional Law Corporation
5 7700 Irvine Center Drive, Suite 710
6 Irvine, California 92618
7 (949) 727-0977; Facsimile (949) 450-0668
8 Attorneys for defendant WELLS FARGO BANK, N.A.

FILED
LOS ANGELES SUPERIOR COURT

MAR 09 2012
JOHN A. CLARKE, CLERK
Oliver
BY E. LEON, DEPUTY

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, EAST DISTRICT

CABRERA, MIGUEL A.,

Plaintiff,

vs.

UNIVERSAL AMERICAN MORTGAGE
COMPANY OF CALIFORNIA; WELLS
FARGO BANK, N.A.; and all persons or
entities unknown, claiming any legal or
equitable right, title, estate, lien or interest in
the property described in this Complaint
adverse to Plaintiff's title, or any cloud upon
Plaintiff's title thereto; and DOES 1 through
25,

Defendants.

) Case No.: KC 062236
) Judge Salvatore Sima
) Department G

)
) REPLY OF WELLS FARGO BANK, N.A.
) BASED UPON NON-OPPOSITION TO
) DEMURRER TO FIRST AMENDED
) COMPLAINT

)
) DATE: March 15, 2012
) TIME: 8:30 a.m.
) DEPT: G

The hearing on the demurrer of Wells Fargo Bank, N.A. is set for March 15, 2012.

Pursuant to CCP § 1005, any opposition papers were due to be served and filed on or before
March 2, 2012, nine court days prior to the hearing. No such opposition has been received.

Since the demurrer is well founded and unopposed, it should be sustained.

DATED: March 7, 2012

THE DREYFUSS FIRM, plc

By: *Bruce Dannemeyer*

BRUCE DANNEMEYER

Attorneys for defendant WELLS FARGO BANK,
N.A.

1 PROOF OF SERVICE (By Mail)
2 (CCP Section 1013a(3))

3 I am over the age of 18, and I am not a party to the within action. I am employed by THE
4 DREYFUSS FIRM. PLC, in the County of Orange, at 7700 Irvine Center Drive, Suite 710,
Irvine, CA 92618.

5 On March 7, 2012, I served the attached: **Reply of Wells Fargo Bank based upon non-**
6 **opposition to demurrer to first amended complaint** on the interested parties in this action by
placing true copies thereof in sealed envelopes, addressed as follows:

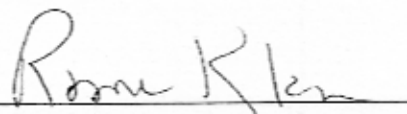
7 **Al West**
8 **Law Offices of West & Associates**
9 **700 N. Pacific Coast Highway, Ste. 201**
10 **Redondo Beach, CA 90277**
11 **Attorneys for Plaintiffs**

12 **(By Mail)** I placed said envelopes for collection and mailing, following ordinary
13 business practices, at the business offices of THE DREYFUSS FIRM, PLC at the address set
14 forth above, for deposit in the United States Postal Service. I am readily familiar with the
15 practice of THE DREYFUSS FIRM, PLC for collection and processing of correspondence for
16 mailing with the United States Postal Service, and said envelopes will be deposited with the
United States Postal Service on said date in the ordinary course of business. I am aware that on
17 motion of the party served, service is presumed invalid if postal cancellation date or postage
meter date is more than one day after date of deposit for mailing in affidavit.

18 **(By Facsimile Transmission)** I served the above-described document on the
19 interested parties in this action by sending a true copy thereof by facsimile transmission
20 pursuant to California rules of Court, Rule 2009(i)2, from facsimile machine number (949)
450-0668. The facsimile machine I used complied with California Rules of Court, Rule
21 2003(3), and no error was reported by the machine. Pursuant to Rule 2009(i)4, I caused the
machine to print a transmission record of the transmission

22 I declare that I am employed in the office of a member of the Bar of this Court at whose
23 direction the service was made. I declare, under penalty of perjury under the laws of the State
of California, that the above is true and correct.

24 Executed on March 7, 2012, at Irvine, California.

25 
26 _____
27 Roma Klein
28

MAR 07 2012

JOHN A. CLARKE, CLERK

BY E: MASCORRO, DEPUTY

**RECORDING REQUESTED BY
AND WHEN RECORDED PLEASE MAIL TO:**

Law offices of "WEST & ASSOCIATES"

AL WEST Esq Sbn 134456
700 N Pacific Coast Hwy #201
Redondo Beach, Calif. 90277
310.374.4141 * 310.372.4137 Fx
WestandAssociates1@GMail.Com

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - EAST BRANCH DISTRICT**

Case # KC062236 G

CABRERA, MIGUEL A.
Plaintiff(s)

VS

NOTICE OF LIS PENDENS

**UNIVERSAL AMERICAN MORTGAGE COMPANY
OF CALIFORNIA; WELLS FARGO BANK, N.A.;**

and "all persons or entities unknown,
claiming any legal or equitable right, title,
estate, lien or interest in the property
described in this Complaint adverse to
Plaintiff's title, or any cloud upon Plaintiff's
title thereto" Defendants and Does 1 to 25.

Notice is hereby given that the above-entitled action was filed in the above-entitled Court on **3 OCTOBER, 2011** by all Plaintiff(s) named above as against all Defendant(s) named above relative to and that which affects TITLE to subject real property as identified and described in the COMPLAINT therein in said Action.

The specific Real Property relative to and affected by said Action and its location is within the County **LOS ANGELES**, Calif. and is Legally described as follows

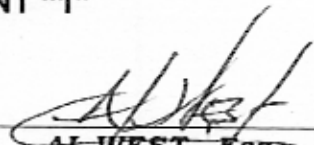
PARTIES :

PLAINTIFF : CABRERA, MIGUEL A.

**DEFENDANT'S : UNIVERSAL AMERICAN MORTGAGE COMPANY
OF CALIFORNIA; WELLS FARGO BANK, N.A.;**

PROPERTY LEGAL DESCRIPTION : ATTACHMENT "1"

Dated : FEB 3 2012


AL WEST Esq
ATTORNEY FOR PLAINTIFF

3-15
Down

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 23 2012 20____, I served the foregoing document described as

1st AMENDED COMPLAINT

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 23 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.

Charles Kaimikaua
CHARLES KAIMIKAUA

ATTACHMENT "1"

Attachment 1^o



Property Report

Order No: 12-247291

Property Address: 103 CRABAPPLE DR, POMONA, CA 91767

Name: MIGUEL A. CABRERA

Legal Description:

All that certain lot or parcel of land situated in the City of POMONA, County of LOS ANGELES, State of CA, and being more particularly described as follows:

PARCEL NO. 1.

LOT 117 OF TRACT NO. 54003, AS SHOWN ON A MAP RECORDED IN BOOK 1288, PAGES 87 THROUGH 92 OF MISCELLANEOUS MAPS, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, CALIFORNIA.

RESERVING UNTO GRANTOR, ITS SUCCESSORS AND ASSIGNS, TOGETHER WITH THE RIGHT TO GRANT AND TRANSFER ALL OR A PORTION OF THE SAME, AS FOLLOWS:

ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS, NATURAL GAS RIGHTS, AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE PARCEL OF LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THOSE HEREINABOVE DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETURNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED.

EXCEPTING AND RESERVING THEREFROM UNTO GRANTOR HEREIN, AND ITS SUCCESSORS AND ASSIGNS, WITH THE RIGHT TO GRANT AND TRANSFER ALL OR A PORTION OF THE SAME, TO THE EXTENT NOT GRANTED HEREIN, ALL EASEMENTS AND RIGHTS FOR ACCESS, INGRESS, EGRESS, ENCROACHMENT, MAINTENANCE, DRAINAGE, SUPPORT, AND FOR OTHER PURPOSES, RESERVED TO GRANTOR AS SET FORTH IN THE DECLARATION DESCRIBED HEREINBELOW.

FURTHER RESERVING THEREFROM, FOR THE BENEFIT OF GRANTOR, THE RIGHT TO ENTER THE PROPERTY CONVEYED HEREBY FOR A TERM OF TWELVE (12) MONTHS FOLLOWING THE RECORDATION DATE OF THIS GRANT DEED, TO COMPLETE AND REPAIR ANY IMPROVEMENTS



OR LANDSCAPING LOCATED THEREON AS DETERMINED NECESSARY BY GRANTOR, IN ITS SOLE DISCRETION, IN ORDER TO COMPLY WITH REQUIREMENTS FOR THE RECORDATION OF THE FINAL TRACT MAP, THE GRADING OF SAID TRACT AND/OR IN COMPLIANCE WITH THE REQUIREMENTS OF APPLICABLE GOVERNMENTAL AGENCIES. ANY SUCH ENTRY BY GRANTOR SHALL BE PRECEDED BY REASONABLE ADVANCE NOTICE TO GRANTEE. IF THIS RESERVATION OF RIGHT OF ENTRY IS NOT COMPLIED WITH BY GRANTEE, GRANTOR MAY ENFORCE THIS RIGHT OF ENTRY IN A COURT OF LAW. GRANTEE SHALL BE RESPONSIBLE FOR ALL DAMAGES ARISING OUT OF SAID BREACH INCLUDING ATTORNEYS FEES AND COURT COSTS. THIS RESERVATION OF RIGHT OF ENTRY SHALL AUTOMATICALLY EXPIRE TWELVE (12) MONTHS FROM THE RECORDATION OF THIS GRANT DEED.

PARCEL NO. 2.

NONEXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS, MAINTENANCE, REPAIR, REPLACEMENT, DRAINAGE, ENCROACHMENT, SUPPORT, AND FOR OTHER PURPOSES ALL AS DESCRIBED IN THE DECLARATION DESCRIBED HEREINBELOW. THIS EASEMENT IS APPURTENANT TO PARCEL 1 ABOVE.

PARCEL NO. 3.

A NON-EXCLUSIVE EASEMENT ON AND OVER THE COMMON AREA AS SUCH TERM IS DEFINED IN THE DECLARATION DESCRIBED HEREINBELOW, FOR ACCESS, USE, OCCUPANCY, ENJOYMENT, INGRESS AND EGRESS TO THE AMENITIES LOCATED THEREON SUBJECT TO THE TERMS AND PROVISIONS OF THE DECLARATION, DESCRIBED HEREINBELOW. THIS EASEMENT IS APPURTENANT TO PARCEL 1 ABOVE.

As of this date, **07/19/2011**, and at your request, we have checked the records on the above described property since **10/29/2004**. We find the following:

Deed from **GREYSTONE HOMES, INC., A DELAWARE CORPORATION AND LENNAR SALES CORP., A CALIFORNIA CORPORATION**, grantor to **MIGUEL A. CABRERA, A SINGLE MAN**, grantee, recorded 10/29/2004.10/29/2004.

Tax ID: 8370-024-125

1st half Real Estate Taxes for the year 2010 in the amount of \$2,569.20 are PAID.

2nd half Real Estate Taxes for the year 2010 in the amount of \$2,569.19 are PAID.

- a. **DEED OF TRUST** from **MIGUEL A. CABRERA, A SINGLE MAN** to **UNIVERSAL AMERICAN MORTGAGE COMPANY, LLC AS TRUSTEE FOR MERS, INC., AS NOMINEE FOR UNIVERSAL AMERICAN MORTGAGE COMPANY OF CALIFORNIA**, dated **10/19/2004**, recorded **10/29/2004** as Document No. **04-2801028**, in the original stated principal amount of **\$390,700.00**.



- b. from MIGUEL A. CABRERA, A SINGLE MAN to AMERICAN SECURITIES COMPANY AS TRUSTEE FOR WELLS FARGO BANK, N.A., dated 12/21/2005, recorded 01/25/2006 as Document No. 06-0184438, in the original stated principal amount of \$81,000.00.

abstract continuation or title insurance commitment. We make no representation as to the legal or merchantable quality of title. Except for those listed above, we have not examined any documents recorded prior to the initial date of our search.

This property report contains land title information for the sole use and benefit of the applicant only and may not be relied upon by any other party. Shown herein are those liens found only in the office of the register of deeds, county treasurer and clerk of circuit court which were filed and recorded during the search period. No search has been made for bankruptcy proceedings, unfiled construction lien claims, special assessments, Uniform Commercial Code financing statements or for any other conveyances, liens or encumbrances which are not property indexed. This report does not show any provisions or recitals contained in instruments nor any proceedings affecting the title. We make no representations as to the legal or merchantable quality of the title, which can be determined only by a complete abstract of title and attorney's opinion or a policy of title insurance. The applicant agrees that, as part of the consideration which the applicant gives for the issuance of this report and in recognition of the relative risks, rewards and benefits thereof, the risks have been allocated such that the Company shall be liable to the applicant as a direct result of an error or omission, provided, however, that in no event shall the liability of the Company arising from any cause or causes exceed the cost of the actual property report search.

Thank you for letting us be of service.

New Millennium Title Group



This page is part of your document - DO NOT DISCARD



20120216524



Pages:
0008

Recorded/Filed in Official Records
Recorder's Office, Los Angeles County,
California

02/07/12 AT 03:58PM

FEES:	36.00
TAXES:	0.00
OTHER:	0.00
PAID:	36.00



LEADSHEET



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SEQ:
01

DAR - Counter (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

RECORDING REQUESTED BY

West & Associates

WHEN RECORDED MAIL TO

NAME Law Offices of West &
Associates

MAILING 700 N. Pacific Coast Hwy
#201

CITY, STATE ZIP CODE

Redondo Beach CA 90277

02/07/2012



20120216524

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

Notice of Lis Pendens - Proof of Service

Cabrera, Miguel A.

vs.

Universal American Mortgage Co of California

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)
LAW OFFICES OF "WEST & ASSOCIATES"
AL WEST SB# 134456
700 N. PACIFIC COAST HWY., #201
REDONDO BEACH, CA 90277
TELEPHONE NO.: 310-374-4141 FAX NO. (Optional): 310-372-4137
E-MAIL ADDRESS (Optional):
ATTORNEY FOR (Name): PLAINTIFF (CABRERA, A. MIGUEL)

FOR COURT USE ONLY
FILED
LOS ANGELES SUPERIOR COURT
MAR 07 2012
JOHN A. CLARKE, CLERK
BY S.C. JUSTI, DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 400 CIVIC CENTER PLAZA
MAILING ADDRESS: SAME
CITY AND ZIP CODE: POMONA, CA 91766
BRANCH NAME: EAST BRANCH DISTRICT

PLAINTIFF/PETITIONER: CABRERA, A. MIGUEL
DEFENDANT/RESPONDENT: UNIVERSAL AMERICAN MORTGAGE, et, al.

REQUEST FOR DISMISSAL
 Personal Injury, Property Damage, or Wrongful Death
 Motor Vehicle Other
 Family Law Eminent Domain
 Other (specify): QUIET TITLE

CASE NUMBER:
KC 062236 *GH*

- A conformed copy will not be returned by the clerk unless a method of return is provided with the document. -

1. TO THE CLERK: Please dismiss this action as follows:

- a. (1) With prejudice (2) Without prejudice
- b. (1) Complaint (2) Petition
- (3) Cross-complaint filed by (name): on (date):
- (4) Cross-complaint filed by (name): on (date):
- (5) Entire action of all parties and all causes of action
- (6) Other (specify):* As to WELLS FARGO BANK, N.A. only

2. (Complete in all cases except family law cases.)

Court fees and costs were waived for a party in this case. (This information may be obtained from the clerk. If this box is checked, the declaration on the back of this form must be completed).

Date: MAR 06 2012 *Al West*
..... ATTORNEY - AT - LAW
(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

If dismissal requested is of specified parties only of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

Al West
(SIGNATURE)
Attorney or party without attorney for:
 Plaintiff/Petitioner Defendant/Respondent
 Cross-Complainant

RECEIVED
MAR 07 2012
EAST DISTRICT 7

3. TO THE CLERK: Consent to the above dismissal is hereby given.**

Date:

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

(SIGNATURE)
Attorney or party without attorney for:
 Plaintiff/Petitioner Defendant/Respondent
 Cross-Complainant

** If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581 (i) or (j).

(To be completed by clerk)

- 4. Dismissal entered as requested on (date): MAR 07 2012 as listed above.
- 5. Dismissal entered on (date): as to only (name):
- 6. Dismissal not entered as requested for the following reasons (specify):

- 7. a. Attorney or party without attorney notified on (date):
- b. Attorney or party without attorney not notified. Filing party failed to provide a copy to be conformed means to return conformed copy

Date: MAR 07 2012 Clerk, by *S.C. Justi*, Deputy

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 MAR 06 2012 20____, I served the foregoing document described as _____

REQUEST FOR DISMISSAL

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

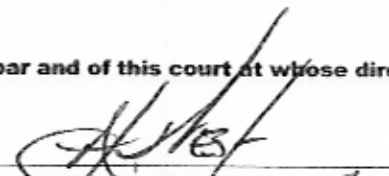
IRVINE, CA 92618

(BY MAIL) I caused such envelope and postage thereon fully prepaid to be placed in the United States mail. Executed on MAR 06 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

KC062236

RECORDING/FILING REQUESTED BY AND MAIL TO:
Law Offices of West & Associates
700 N Pacific Coast Hwy
Redondo Beach, CA 90277

23-05
FILED
LOS ANGELES SUPERIOR COURT

MAR 01 2012

JOHN A. CLARKE, CLERK
L. Freese
BY L. FREESE, DEPUTY

PROOF OF PUBLICATION
(California Code of Civil Procedure 2010, 2015.5)

STATE OF CALIFORNIA
County of Los Angeles

I am a citizen of the United States and a resident of the aforesaid County. I am over the age of eighteen years (18) years, and not a party to or interested in the above-entitled matter. I am the Principal Clerk of the printer of the **LOS ANGELES TIMES**, a newspaper of general circulation, printed and published DAILY in the City of Los Angeles, County of Los Angeles and which newspaper was adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under the date of April 28, 1952, Case Number 598599.

The notice, a true and correct copy of which is annexed, has been published in each regular and entire issue of said newspaper on the following dates, to wit:

FRIDAY; NOVEMBER 18, 2011, FRIDAY; NOVEMBER 25, 2011
FRIDAY; DECEMBER 02, 2011, FRIDAY; DECEMBER 09, 2012

I certify (or declare) under penalty of perjury under the laws of the State that the foregoing is true and correct.

Dated at Los Angeles, California,

This 20th day of FEBRUARY 2012

Va Chavez

Signature

Veronica Chavez

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
UNIVERSAL AMERICAN MORTGAGE COMPANY OF CALIFORNIA.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTA DEMANDANDO EL DEMANDANTE):
CABRERA, MIGUEL A.

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web Site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información continuación.

Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandado. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov) o contactando en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos extras por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES - EAST BRANCH DISTRICT
400 CIVIC CENTER PLAZA, POMONA, CA 91766

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandado, o del demandante que no tiene abogado, es):
Law Offices of West & Assoc' 700 N. Pacific Coast Hwy
201, Redondo Beach, CA 90277 (310-544-0141)

Date: October 3, 2011
(Fecha)

John A. Clarke, Clerk
(Secretario)
by: B. Pomera, Deputy
(Ayudante)

3-15
Dane

FILED
LOS ANGELES SUPERIOR COURT

FEB 03 2012

JOHN A. CLARKE, CLERK

BY S. SERDA, DEPUTY

1 Lawrence J. Dreyfuss, Bar No. 76277
2 Bruce W. Dannemeyer, Bar No. 107243
3 THE DREYFUSS FIRM
4 A Professional Law Corporation
5 7700 Irvine Center Drive, Suite 710
6 Irvine, California 92618
7 (949) 727-0977; Facsimile (949) 450-0668

8 Attorneys for defendant WELLS FARGO BANK, N.A.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES, EAST DISTRICT

11 CABRERA, MIGUEL A.,
12 Plaintiff,
13 vs.

14 UNIVERSAL AMERICAN MORTGAGE
15 COMPANY OF CALIFORNIA; WELLS
16 FARGO BANK, N.A.; and all persons or
17 entities unknown, claiming any legal or
18 equitable right, title, estate, lien or interest in
19 the property described in this Complaint
20 adverse to Plaintiff's title, or any cloud upon
21 Plaintiff's title thereto; and DOES 1 through
22 25,
23 Defendants.

) Case No.: KC 062236
) Judge Salvatore Sirna
) Department G
)
) NOTICE OF HEARING ON DEMURRER
) OF DEFENDANT WELLS FARGO BANK,
) N.A. TO FIRST AMENDED COMPLAINT;
) DEMURRER TO FIRST AMENDED
) COMPLAINT; MEMORANDUM OF
) POINTS AND AUTHORITIES
)
) DATE: March 15, 2012
) TIME: 8:30 a.m.
) DEPT: G
)
)
)

24 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

25 PLEASE TAKE NOTICE that on March 15, 2012 at 8:30 a.m. or as soon thereafter as
26 the matter may be heard in Department G of the Los Angeles County Superior Court located at
27 400 Civic Center Plaza, Pomona, California, a hearing will be held on the demurrer of defendant
28 Wells Fargo Bank, N.A. to plaintiff's first amended complaint.

The demurrer will be based upon this notice, the accompanying demurrer and
memorandum of points and authorities, the pleadings on file in this action, including the first

RECEIVED # : POM469046051
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FANSE: \$0.00
SPD: \$0.00

CIT/CASE: KC062236
LEA/DEF#:

1 amended complaint, and upon such further evidence and argument as may be presented at or
2 before the hearing.

3 DATED: February 1, 2012

THE DREYFUSS FIRM
a professional law corporation

5 By: 

6 BRUCE DANNEMEYER

7 Attorneys for defendant WELLS FARGO BANK,
8 N.A.

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DEMURRER TO FIRST AMENDED COMPLAINT

Defendant Wells Fargo Bank, N.A. ("Wells Fargo") demurs to the first amended complaint on the following grounds:

- 1. The only cause of action, for quiet title, fails to state facts sufficient to constitute a cause of action against Wells Fargo. (Code Civ. Proc., § 430.10, subd. (c)).

DATED: February 1, 2012

THE DREYFUSS FIRM
a professional law corporation

By:  _____

BRUCE DANNEMEYER

Attorneys for defendant WELLS FARGO BANK,
N.A.

1 intended to bilk investors and borrowers. (*Id.* at pp. 865-866.) It has been the centerpiece of
2 attempts to enjoin foreclosures. (*Ibid.*)

3 California courts, however, have universally rejected efforts stop foreclosure because of
4 securitization. In fact, those lawsuits have been dismissed at the pleading stage. In *Bank of*
5 *America Corp. v. Superior Court, supra*, the appellate court issued a writ directing the trial court
6 to sustain a demurrer without leave to amend. With respect to securitization, the court held the
7 lender “had no independent duty to disclose to its borrowers its alleged intent to defraud its
8 investors by selling them mortgage pools at inflated values.” (*Id.* at pp. 872-873.) In *Robinson*
9 *v. Countrywide Home Loans, Inc.* (2011) 199 Cal.App.4th 42, 46, the court affirmed the
10 sustaining of a demurrer without leave to amend, citing *Gomes v. Countrywide Home Loans,*
11 *Inc.* (2011) 192 Cal.App.4th 1149 for the proposition that concerns about securitization and the
12 inability to identify the holder of a deed of trust, as a matter of law, do not give rise to a cause of
13 action challenging the right to foreclose. A demurrer also was sustained without leave to amend
14 in *Fontenot v. Wells Fargo Bank, N.A.* (2011) 198 Cal.App.4th 256, 272, which centered its
15 challenge of the lender’s right to foreclose on securitization and the lender’s use of MERS
16 (Mortgage Electronic Registration System), which facilitated the transfer of interests in deeds of
17 trust and prevented a borrower from knowing who owned the loan.

18 The first amended complaint is virtually identical to the original complaint. Wells Fargo
19 filed a demurrer to the complaint. Plaintiff did not file opposition to the demurrer. Instead, he
20 filed his first amended complaint shortly before the hearing on the demurrer. The first amended
21 complaint still has only one cause of action – for quiet title – and bases its claim on the
22 securitization process. The first amended complaint does not contain any facts that
23 distinguishes plaintiff’s loan from any other securitized loan. Like the original complaint, the
24 first amended complaint raises solely an issue of law. The first amended complaint confirms
25 that in paragraph 12, asserting the deed of trust is “null and void by operation of law.” This case
26 does not turn on anything unique to plaintiff’s deed of trust. To plaintiff it doesn’t matter who
27 the eventual assignee of the loan was, how many times it was assigned, or any of the particulars
28 about the assignment. To plaintiff the securitization process, applicable to any loan sold on

1 Wall Street, extinguished his loan. This action is based on a broad issue applicable to any loan,
2 not the facts particular to plaintiff's loan.

3 No California court has recognized plaintiff's only theory for relief. As a matter of law,
4 securitization does not invalidate a deed of trust. Leave to amend will serve no purpose.
5 Plaintiff already amended once and did not add any facts that might distinguish plaintiff's loan.
6 The issue raised in this action is strictly legal. As all courts that have considered this issue in
7 the recent past have done, this Court should sustain the demurrer without leave to amend.

8
9 Dated: February 1, 2012

Respectfully submitted,

THE DREYFUSS FIRM, plc

10 BY: 
11

BRUCE DANNEMEYER

12 Attorneys for defendant WELLS FARGO BANK,
13 N.A.
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1 PROOF OF SERVICE (By Mail)
2 (CCP Section 1013a(3))

3 I am over the age of 18, and I am not a party to the within action. I am employed by THE
4 DREYFUSS FIRM, PLC, in the County of Orange, at 7700 Irvine Center Drive, Suite 710,
5 Irvine, CA 92618.

6 On February 1, 2012, I served the attached: **Notice of hearing on demurrer to First
7 Amended Complaint** on the interested parties in this action by placing true copies thereof in
8 sealed envelopes, addressed as follows:


9 **AI West**
10 **Law Offices of West & Associates**
11 **700 N. Pacific Coast Highway, Ste. 201**
12 **Redondo Beach, CA 90277**
13 **Attorneys for Plaintiffs**

14 **(By Mail)** I placed said envelopes for collection and mailing, following ordinary
15 business practices, at the business offices of THE DREYFUSS FIRM, PLC at the address set
16 forth above, for deposit in the United States Postal Service. I am readily familiar with the
17 practice of THE DREYFUSS FIRM, PLC for collection and processing of correspondence for
18 mailing with the United States Postal Service, and said envelopes will be deposited with the
19 United States Postal Service on said date in the ordinary course of business. I am aware that on
20 motion of the party served, service is presumed invalid if postal cancellation date or postage
21 meter date is more than one day after date of deposit for mailing in affidavit.

22 **(By Facsimile Transmission)** I served the above-described document on the
23 interested parties in this action by sending a true copy thereof by facsimile transmission
24 pursuant to California rules of Court, Rule 2009(i)2, from facsimile machine number (949)
25 450-0668. The facsimile machine I used complied with California Rules of Court, Rule
26 2003(3), and no error was reported by the machine. Pursuant to Rule 2009(i)4, I caused the
27 machine to print a transmission record of the transmission

28 I declare that I am employed in the office of a member of the Bar of this Court at whose
direction the service was made. I declare, under penalty of perjury under the laws of the State
of California, that the above is true and correct.

Executed on February 1, 2012, at Irvine, California.


Roma Klein