

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

**WILLIAM F. BEUTEN and RENEE K.
BEUTEN, on behalf of themselves
and all similarly-situated individuals,**

Plaintiffs,

v.

Case No.:

OCWEN LOAN SERVICING, LLC,

Defendant.

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, WILLIAM F. BEUTEN and RENEE K. BEUTEN, files the following Class Action Complaint against OCWEN LOAN SERVICING, LLC, for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).

PRELIMINARY STATEMENT

1. Plaintiffs bring this class action against Defendant Ocwen, which is a servicer on the home loan and mortgage of their primary residence.
2. The loan giving rise to Plaintiffs’ claims was for their primary residence when they obtained the underlying loan at issue.
3. As a threshold matter, Ocwen, in order to bolster its claims for standing, has falsely claimed to assign purportedly defaulted mortgage loans to Fannie Mae. This false claim violates the FDCPA. Fannie Mae loan serving requirements prohibit the assignment of loans that are already in default, but that has not stopped Ocwen from falsely claiming to have made these prohibited assignments, including the attempted assignment of Plaintiffs’.
4. Indeed, Ocwen has repeatedly made false claims that it has made such prohibited

transfers on a massive scale since the real estate market collapse and, notwithstanding this illegal and invalid attempt assignment, Ocwen still attempts to foreclose on the very properties it illegal assigned.

5. More specifically, the assignment of mortgage underlying the putative substitution in the underlying foreclosure action giving rise to this lawsuit is there invalid as a matter of law, because the putative assignee has prohibited them, and Ocwen's claims to the contrary are therefore a false statement and a violation of the FDCPA.

6. Additionally, the second state court foreclosure action assesses charges against borrowers for serving process against "unknown tenants". Such process is as a matter of law a nullity, making these charges improper and, therefore, a violation of the FDCPA, including 15 U.S.C. § 1692e(2)(A), 15 U.S.C. § 1692e(10), and 15 U.S.C. § 1692f(1).

7. Finally, and most importantly, in violation of well-established cases like *GMAC Mortg., LLC v. Whiddon*, 164 So. 3d 97, 101, (Fla. 1st DCA 2015), and the newly decided Florida Supreme Court's decision in *Bartram v. U.S. Bank, N.A.*, 2016 Fla. LEXIS 2424, *5-6 (Fla. Nov. 3, 2016), the second foreclosure includes a default date of October 1, 2011. This is a violation of binding Florida precedent and the FDCPA because the first foreclosure case was dismissed on February 14, 2014. Per *Whiddon* and its progeny, the default date in the second foreclosure action must fall on a date **after** the date of dismissal order of the original foreclosure, meaning the second foreclosure should have utilized a default date post- February 14, 2014, rather than the October 1, 2011, date included in the second foreclosure complaint. This is a violation of the FDCPA, including 15 U.S.C. § 1692e(2)(A), 15 U.S.C. § 1692e(10), and 15 U.S.C. § 1692f(1).

JURISDICTION AND VENUE

8. Subject matter jurisdiction of this Court as to Plaintiff's FDCPA claims arises under 15 U.S.C. § 1692k(d), 28 U.S.C. §§ 1331 and 1337.

9. In personam jurisdiction exists and venue is proper as the Defendant regularly conducts business in this district.

10. Plaintiff is a resident of this district and the alleged violations occurred here. *See* 28 U.S.C. § 1391.

THE PARTIES

11. Plaintiffs are adult individual residing in Pasco County, Florida and within this Court's jurisdiction.

12. At all times material hereto, Plaintiffs were a member of each putative class he seeks to represent.

13. Plaintiffs and the putative class members are "consumers" as that term is contemplated in § 1692a of the FDCPA.

14. Defendant is a "debt collector" as that term is contemplated in §1692a(6) of the FDCPA.

SUPPORTING FACTS

15. Plaintiffs in 2009 originally incurred a primary residence mortgage obligation to an entity that is not part of this action.

16. On April 10, 2012, a non-party to this suit, "GMAC mortgage" filed suit on against Plaintiffs as they allegedly fell into arrears as to money owed under the mortgage obligation.

17. The foreclosure lawsuit was filed by GMAC mortgage in Pasco County, Florida.

18. The first foreclosure action was dismissed on February 14, 2014.

19. Defendant later allegedly obtained the note. Defendant filed a second state court foreclosure lawsuit against Plaintiffs, also in Pasco County, Florida, on July 16, 2015.

20. The second foreclosure action is currently pending in the Circuit Court in and for the Sixth Judicial Circuit in and for Pasco County. A copy of the second state court foreclosure Complaint is attached as Exhibit A. The second state court foreclosure action contains multiple violations of the FDCPA. As a threshold matter, the second state court foreclosure action assesses charges against borrowers for serving process against “unknown tenants #1 and #2”. Such process is as a matter of law a nullity, making these charges improper and, therefore, a violation of the FDCPA, including 15 U.S.C. § 1692e(2)(A), 15 U.S.C. § 1692e(10), and 15 U.S.C. § 1692f(1).

21. Additionally, in violation of well-established cases like *GMAC Mortg., LLC v. Whiddon*, 164 So. 3d 97, 101, (Fla. 1st DCA 2015), and the newly decided Florida Supreme Court’s decision in *Bartram v. U.S. Bank, N.A.*, 2016 Fla. LEXIS 2424, *5-6 (Fla. Nov. 3, 2016), the second foreclosure includes a default date of October 1, 2011. This is a violation of binding Florida precedent and the FDCPA because the first foreclosure case was dismissed on February 14, 2014. Per *Whiddon* and its progeny, the default date in the second foreclosure action must fall on a date **after** the date of dismissal order of the original foreclosure, meaning the second foreclosure should have utilized a default date post- February 14, 2014, rather than the October 1, 2011, date included in the second foreclosure complaint. This is a violation of the FDCPA, including 15 U.S.C. § 1692e(2)(A), 15 U.S.C. § 1692e(10), and 15 U.S.C. § 1692f(1).

22. Finally, Ocwen illegally assigned Plaintiffs’ mortgage to Fannie Mae, in violation of the FDCPA. Fannie Mae does not accept assignments of loans that are already in default, but that has not stopped Ocwen from the illegal assignments, including the attempted assignment of Plaintiffs’ here. This is a violation of the FDCPA, including 15 U.S.C. § 1692e(2)(A), 15 U.S.C.

§ 1692e(10), and 15 U.S.C. § 1692f(1).

CLASS ALLEGATIONS

23. Plaintiffs bring this action on their own behalf and on behalf of a class of persons similarly-situated pursuant to Fed.R.Civ.P. 23(a), 23(b)(3). Specifically, Plaintiffs seek to have certified the following FDCPA claims against Defendant.

24. First, Plaintiff asserts an FDCPA claim against Defendant 15 U.S.C. § 1692e(2)(A), 15 U.S.C. § 1692e(10), and 15 U.S.C. § 1692f(1), consisting of:

All persons in Florida, within the applicable FDCPA statute of limitations period, Defendant filed a lawsuit against seeking to collect on a debt assessing charges against borrowers for serving process against “unknown tenants.”

25. Second, Plaintiff asserts an FDCPA claim against Defendant 15 U.S.C. § 1692e(2)(A), 15 U.S.C. § 1692e(10), and 15 U.S.C. § 1692f(1), consisting of:

All persons in Florida, within the applicable FDCPA statute of limitations period, whom Defendant instituted a second foreclosure action following the dismissal of a first disclosure action in which the default date in the second foreclosure action precedes the date of the dismissal order from the first foreclosure action.

26. Third, Plaintiff asserts an FDCPA claim against Defendant 15 U.S.C. § 1692e(2)(A), 15 U.S.C. § 1692e(10), and 15 U.S.C. § 1692f(1), consisting of:

All persons in Florida, within the applicable FDCPA statute of limitations period, whom Defendant assigned an already-defaulted foreclosure to Fannie Mae.

RULE 23(a) PREREQUISITES

27. Numerosity: The Classes are so numerous that joinder of all members is impracticable. At this time, Plaintiffs do not know the exact size of the Classes. Based on information and belief, the Classes are comprised of at least hundreds of members and are geographically dispersed throughout the State as to render joinder of all Class Members

impracticable. The names and addresses of the Class members are identifiable through documents maintained by the Defendant, and the Class members may be notified of the pendency of this action by published and/or mailed notices.

28. Typicality: Plaintiffs' claims are typical of the other Class Members' claims. As described above, Defendant uses common practices and automated systems in committing the conduct that Plaintiffs allege damaged them and the Classes. Plaintiff seeks only statutory and damages for her classwide claims and, in addition, Plaintiff is entitled to relief under the same causes of action as the other members of the Class. Defendant uniformly breached the FDCPA by engaging in the conduct described above, and these violations had the same effect on each member of the Classes.

29. Adequacy: Plaintiffs will fairly and adequately protect the interests of the Putative Classes, and has retained counsel experienced in complex class action litigation.

30. Commonality: Common questions of law and fact exist as to all members of each Class. Without limitation, the total focus of the litigation will be Defendant's uniform conduct and procedures, whether Defendant's foreclosure actions violated the FDCPA. Even the appropriate amount of damages is a common question for members of each of the Classes.

RULE 23(b) PREREQUISITES

31. This case is maintainable as a class action under Fed. R. Civ. P. 23(b)(1) because prosecution of actions by or against individual members of the Putative Classes would result in inconsistent or varying adjudications and create the risk of incompatible standards of conduct for Defendant.

32. Further, adjudication of each individual Class member's claim as separate action would potentially be dispositive of the interest of other individuals not a party to such action,

impeding their ability to protect their interests.

33. This case is maintainable as a class action under Fed. R. Civ. P. 23(b)(2) because Defendant has acted or refused to act on grounds that apply generally to the Putative Classes, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Classes as a whole.

34. Class certification is also appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to the Putative Classes predominate over any questions affecting only individual members of the Putative Classes, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation. Defendant's conduct described in this Complaint stems from common and uniform policies and practices, resulting in common violations of the FDCPA.

35. Members of the Putative Classes do not have an interest in pursuing separate actions against Defendant, as the amount of each Class member's individual claims is small compared to the expense and burden of individual prosecution.

36. Class certification also will obviate the need for unduly duplicative litigation that might result in inconsistent judgments concerning Defendant's practices.

37. Moreover, management of this action as a class action will not present any likely difficulties. In the interests of justice and judicial efficiency, it would be desirable to concentrate the litigation of all Putative Class members' claims in a single forum.

38. Plaintiffs intend to send notice to all members of the Putative Classes to the extent required by Rule 23. The names and addresses of the Putative Class members are available from Defendant's records.

CLASS CLAIM I – FAIR DEBT COLLECTION PRACTICES ACT

Violation of 15 U.S.C. § 1692e(2)(A)

39. Defendant's above actions violate 15 U.S.C. § 1692e(2)(A) as to the first proposed putative class because Defendant is attempting to assess charges against borrowers – including Plaintiff -- for serving process against “unknown tenants”. Such process is, as a matter of law, a nullity meaning these charges are improper and, therefore unfair and deceptive and a violation of the FDCPA.

40. Defendant violated 15 U.S.C. § 1692e(2)(A) as to the second proposed putative class members by falsely claiming that Defendant's is entitled to set a default date in a second foreclosure action that includes a default date pre-dating the date of an order of dismissal in a preceding foreclosure action.

41. Defendant violated 15 U.S.C. § 1692e(2)(A) as to the third proposed putative class members by falsely claiming it had the right to assign Plaintiffs' note to Fannie Mae.

CLASS CLAIM II – FAIR DEBT COLLECTION PRACTICES ACT

Violation of 15 U.S.C. § 1692e(10)

42. Defendant's above actions violate 15 U.S.C. § 1692e(10) as to the first proposed putative class because Defendant is attempting to assess charges against borrowers -- including Plaintiff -- for serving process against “unknown tenants”. Such process is, as a matter of law, a nullity meaning these charges are improper and, therefore unfair and deceptive and a violation of the FDCPA. Thus, Defendant is utilizing false representations and deceptive means to collect or attempt to collect debts.

43. Defendant's above actions violate 15 U.S.C. § 1692e(10) as to the second proposed putative class because falsely claiming that Defendant is entitled to set a default date in a second foreclosure action that includes a default date pre-dating the date of an order of dismissal in a

preceding foreclosure action, Defendant is utilizing false representations and deceptive means to collect or attempt to collect debts.

44. Defendant violated 15 U.S.C. § 1692e(10) as to the third proposed putative class members by falsely claiming it had the right to assign Plaintiffs' note to Fannie Mae, thereby utilizing false representations and deceptive means to collect or attempt to collect debts.

CLASS CLAIM III – FAIR DEBT COLLECTION PRACTICES ACT

Violation of 15 U.S.C. § 1692f(1)

45. Defendant's above actions violate 15 U.S.C. § 1692f(1) as to the first proposed putative class because Defendant is attempting to assess charges against borrowers – including Plaintiff -- for serving process against “unknown tenants”. Such process is, as a matter of law, a nullity meaning these charges are improper and, as a result, Defendant is attempting to collect an amount not permitted by law.

46. Defendant's above actions violate 15 U.S.C. § 1692f(1) as to the second class because, by including a default date pre-dating a prior foreclosure action's dismissal order, Defendant is attempting to collect an amount not permitted by law.

FDCPA PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that judgment be entered for herself and the putative classes against Defendant, and that this Honorable Court order the following:

- A. Certification of this action to proceed as a class action;
- B. Award of statutory damages to the Plaintiff and the class as provided in 15 U.S.C. § 1692k(a)(2)(B);
- C. Entry of a Declaratory Judgment that the challenged practices herein violate the FDCPA;
- D. Costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k(a);
- E. Such other and further relief as the court deems just and equitable.

JURY DEMAND

Plaintiff and the putative class members demand trial by jury of all claims so triable.

Dated this 11th day of November, 2016.

Respectfully submitted,



LUIS A. CABASSA

Florida Bar Number: 053643

Direct No.: 813-379-2565

BRANDON J. HILL

Florida Bar Number: 37061

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WENZEL FENTON CABASSA, P.A.

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Attorneys for Plaintiff

EXHIBIT A

Filing # 29741167 E-Filed 07/16/2015 02:57:28 PM

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA

OCWEN LOAN SERVICING, LLC,

CASE NO.

Plaintiff(s),

DIVISION

vs.

WILLIAM F BEUTEN; RENEE K BEUTEN;
RIVIERA HOMEOWNERS ASSOCIATION
INC.; UNKNOWN TENANT 1; UNKNOWN
TENANT 2; UNKNOWN TENANT 3;
UNKNOWN TENANT 4;

Defendant(s).

VERIFIED COMPLAINT FOR FORECLOSURE OF MORTGAGE

Plaintiff, Ocwen Loan Servicing, LLC, ("Ocwen"), sues the Defendants and alleges:

COUNT I – MORTGAGE FORECLOSURE

1. This is an action to foreclose a mortgage on real property in Pasco County, Florida.
2. The Court has jurisdiction over the subject matter.
3. On or about April 13, 2009, William F Beuten and Renee K Beuten executed and delivered a promissory note. A copy of the note is attached hereto as Exhibit "A".
4. On or about April 13, 2009, William F Beuten and Renee K Beuten executed and delivered a mortgage securing payment of the note to Lewin and Associates, Inc. The mortgage was recorded on May 5, 2009, in Official Record Book 8077, at Page 686 of the Public Records of Pasco County, Florida, and encumbered the property described in the mortgage then owned by and in possession of the mortgagor, a copy of the mortgage being attached hereto as Exhibit "B".
5. The mortgage of Ocwen is a lien superior in dignity to any prior or subsequent right, title, claim, lien or interest arising out of mortgagor(s) or the mortgagor(s)' predecessor(s) in interest.
6. Ocwen is the holder of the original note secured by the mortgage and is entitled to foreclose pursuant to Florida Statute 673.3011(1).

7. Defendant(s) have defaulted under the note and mortgage by failing to pay the payment due as of November 1, 2011, and all subsequent payments.

8. Ocwen declares the full amount payable under the note and mortgage to be due, except to the extent any part of that amount is or would be subject to a statute of limitations defense.

9. Defendant(s) owe Ocwen \$399,316.00, that is due and owing on principal on the note and mortgage, plus interest from and after October 1, 2011, and title search expenses for ascertaining necessary parties to this action, pursuant to the documents attached, except for those defendants who have been discharged in bankruptcy.

10. In order to protect its security, Ocwen may have advanced and paid Ad Valorem Taxes, premiums on insurance required by the mortgage and other necessary costs, or may be required to make such advances during the pendency of this action. Any such sum so paid will be due and owing to Ocwen.

11. The property is now owned by Defendant(s) Renee K Beuten and William F Beuten, and the record legal title to said mortgaged property is now vested in Defendants(s), Renee K Beuten and William F Beuten.

12. All conditions precedent to the acceleration of this mortgage note and to foreclosure of the mortgage have occurred.

13. Ocwen is obligated to pay its attorneys a reasonable fee for their services. Ocwen is entitled to recover its attorneys' fees pursuant to the express terms of the note and mortgage.

14. Ocwen alleges that the claims of the remaining Defendants are secondary, junior, inferior and subject to the prior claim of Ocwen.

15. Defendant, UNKNOWN TENANT 1, UNKNOWN TENANT 2, UNKNOWN TENANT 3, UNKNOWN TENANT 4 may claim some right, title, or interest in the property herein sought to be foreclosed by virtue of homestead rights, possession or some other unknown interest, the exact nature of

which is unknown to Ocwen and not a matter of public record. However, said interest, if any, is subordinate, junior, and inferior to the lien of Ocwen's mortgage.

16. Defendant, RIVIERA HOMEOWNERS ASSOCIATION INC., may claim some right, title, or interest in the property herein sought to be foreclosed by virtue of unpaid dues, liens and/or assessments. However, said interest, if any, is subordinate, junior, and inferior to the lien of Ocwen's mortgage.

17. Any and all unknown parties claiming by, through, under, and against the herein named individual defendant(s) who are not known to be dead or alive, whether said unknown parties may claim an interest as spouses, heirs, devisees, grantees, or other claimants are joined as defendants herein. The claims of said defendants are subordinate, junior, and inferior to the interest of the Ocwen.

WHEREFORE, Ocwen demands judgment foreclosing the mortgage, for costs (and, when applicable, for attorneys' fees), and, if the proceeds of the sale are insufficient to pay Ocwen's claim, a deficiency judgment. Request that subject to any applicable statute of limitations, that the Court ascertain the amount due to Ocwen for principal and interest on the Mortgage and Note and for late charges, abstracting, taxes, expenses and costs, including attorney's fees, plus interest thereon; that if the sums due Ocwen under the Mortgage and Note are not paid immediately, the Court foreclose the Mortgage and the Clerk of the Court sell the Property securing the indebtedness to satisfy Ocwen's mortgage lien in accordance with the provisions of Florida Statutes §45.031 (2011); that the rights, title and interest of any Defendant, or any party claiming by, through, under or against any Defendant named herein or hereinafter made a Defendant be forever barred and foreclosed; that the Court appoint a receiver of the Property and of the rents, issues, income and profits thereof, or in the alternative, order sequestration of rents, issues, income and profits pursuant to Florida Statutes §697.07 (2006); and that the Court retain jurisdiction of this action to make any and all further orders and judgments as may be necessary and proper, including

the issuance of a writ of possession and the entry of a deficiency judgment decree, when and if such deficiency decree shall appear proper, if borrower(s) has not been discharged in bankruptcy.

VERIFICATION

Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged therein are true and correct to the best of my knowledge and belief.

Executed on this 10 day of July, 2015.

Ocwen Loan Servicing, LLC

By: Christopher Kelley Christopher Kelley
Its: Contract Management Coordinator

RE: Borrower: William F Beuten and Renee K Beuten
Address: 5856 Cachette De Riveria Court, New Port Richey, FL 34655
File #: 1221-12974B

Aldridge Pite, LLP
Attorney for Plaintiff(s)
1615 South Congress Avenue
Suite 200
Delray Beach, FL 33445

Telephone: 561.392.6391
Facsimile: 561.392.6965
Service Email: servicemail@aldridgepite.com

By: Tara Natasha Castillo
Attorney Tara Natasha Castillo
Florida Bar No. FBN: 722901
Communication Email:

PLEASE NOTE 15 U.S.C. § 1692(G)(d) OF THE FAIR DEBT COLLECTIONS PRACTICES ACT PROVIDES:

(d) Legal pleadings. A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (a) of this section.

CERTIFICATION OF POSSESSION PURSUANT TO FLA. STAT. 702.015(4)

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

BEFORE me, personally appeared Demiah Bascombe who, being of lawful age and after being first duly sworn, deposes and says:

1. I am a Servicing Operations Specialist for Ocwen Loan Servicing, LLC ("Ocwen"), Plaintiff in this action. In this capacity I have personal knowledge of the facts and matters stated herein, and I am authorized to execute this Certification on behalf of Ocwen. The information contained in this Certification is based on my personal knowledge
2. According to the Records, the promissory note at issue, dated April 13, 2009, was executed by William F Beuten and Renee K Beuten. A true and correct copy of the Note is attached to this Certification as Exhibit "A."
3. On June 25, 2015 at 1:10 PM, I obtained the original Note document at 5720 Premier Park Drive, West Palm Beach, FL 33407 and personally verified that Ocwen is in possession of the Note.

Prepared Date: June 25, 2015

Signature:

Demiah Bascombe

Date: June 25, 2015

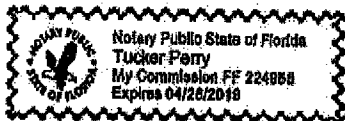
Print Name: Demiah Bascombe

Title: Servicing Operations Specialist

The foregoing instrument was acknowledged and sworn before me on June 25, 2015, by Demiah Bascombe as a Servicing Operations Specialist for Ocwen Loan Servicing, LLC., who is personally known to me (or who has produced the following identification: n/a).

Tucker Perry
Notary Public - State of Florida
Tucker Perry

Doc ID [REDACTED]



ke

Exhibit A ✓

Loan No: [REDACTED]
Borrower: WILLIAM F BEUTEN

Data ID: 593

NOTE ✓

April 13, 2009 ✓

NEW PORT RICHEY
[City]

FLORIDA
[State]

5856 CACHETTE DE RIVERIA CT ✓
NEW PORT RICHEY, FLORIDA 34655
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 417,000.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is LEWIN & ASSOCIATES, INC. I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 5.375%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the first day of each month beginning on June 1, 2009. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on May 1, 2039, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 2963 GULF TO BAY BLVD, SUITE 300, CLEARWATER, FLORIDA, 33759 or at a different place if required by the Note Holder.

FLORIDA FIXED RATE NOTE - Single Family - Fixed Rate/Fixed Rate Max UNIFORM INSTRUMENT

Form 3210 1/01
(Page 1 of 4 Pages)



INITIALS: [Handwritten initials]

Loan No: [REDACTED]

Date ID: [REDACTED]

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 2,335.08.

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.00 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

FLORIDA FIXED RATE NOTE - Single Family - Florida Mac/Residual Mac UNIFORM INSTRUMENT

Form 3210 1/01
(Page 2 of 4 Pages)



INITIALS: [Handwritten initials]

Loan No: [REDACTED]

Data ID: [REDACTED]

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

11. DOCUMENTARY TAX

The state documentary tax due on this Note has been paid on the mortgage securing this indebtedness.

FLORIDA FIXED RATE NOTE - Single Family - Florida Note/FixRate Note UNIFORM INSTRUMENT

Form 3210 1/01
(Page 3 of 4 Pages)



INITIALS: *[Handwritten initials]*

Loan No: [REDACTED]

Data ID: [REDACTED]

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

William F Deuten (Seal)
 WILLIAM F DEUTEN - Borrower

Renee K Beuten (Seal)
 RENEE K BEUTEN - Borrower

(Sign Original Only)

SEE ATTACHED ALLOUGE

PAY TO THE ORDER OF
GMAC MORTGAGE, LLC
WITHOUT RECOURSE

D. Chiodo ✓
 D. CHIODO
 ASSISTANT SECRETARY
 GMAC BANK ✓

PAY TO THE ORDER OF
Fannie Mae

WITHOUT RECOURSE

D. Chiodo ✓
 D. CHIODO
 LIMITED SIGNING OFFICER
 GMAC MORTGAGE, LLC *W/e*
 GMAC MORTGAGE CORPORATION

FLORIDA FIXED RATE NOTE - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

Form 321D 1/05
(Page 4 of 4 Pages)



ALLONGE

LOAN # [REDACTED]

BORROWER (S): WILLIAM F. BEUTEN AND RENEE K. BEUTEN ✓

PROPERTY ADDRESS: 5856 CACHETTE DE RIVERIA COURT ✓
NEW PORT RICHEY, FL 34865

NOTE DATE: APRIL 13, 2009 ✓

LOAN AMOUNT: \$417,000.00 ✓

PAY TO THE ORDER OF

GMAC Bank ✓
100 Witmer Road
Horsham, PA 19044 (1)

WITHOUT RECOURSE:

LEWIN & ASSOCIATES, INC. ✓


MICHAEL A. LEWIN, PRESIDENT

Correspondent # [REDACTED]

Servicer: [REDACTED]

ALLONGE TO NOTE

This Allonge is a permanent part of the Note referenced below:

NOTE DATE: 4/13/2009 ✓

LOAN AMOUNT: \$417,000.00 ✓

BORROWER NAME: WILLIAM F BEUTEN AND RENEE K BEUTEN ✓

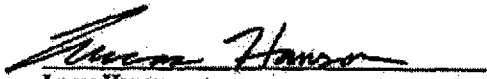
PROPERTY: 5856 CACHETTE DE RIVERIA CT, NEW PORT RICHEY, FL 34655 ✓

PAY TO THE ORDER OF:

(4)

WITHOUT RECOURSE

Fannie Mae (Federal National Mortgage Association) ✓



Lucas Hanson
Authorized Signer

Exhibit B



Repl: 1241566 Res: 103.50
DS: 1459.58 IT: 834.00
05/05/09 Dpty Clerk

DANA S. O'NEIL, PASCO CLERK & CONTROLLER
05/05/09 07:08am 1 of 12
CR BK 8077 PG 686

Return to: LEWIN & ASSOCIATES, INC.
ATTENTION: POST CLOSING DEPARTMENT
2963 GULF TO BAY BLVD, #300
CLEARWATER, FL 33759

Prepared under the supervision of:
Michael L. Riddle
Middleberg, Riddle & Glanna
717 N. Harwood, Suite 2400
Dallas, TX 75201

Folio: _____

[Space Above This Line For Recording Date]

Loan No: _____
Borrower: WILLIAM F BEUTEN

Data ID: _____

MORTGAGE

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 16, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated April 13, 2009, together with all Riders to this document.

(B) "Borrower" is WILLIAM F BEUTEN AND RENEE K BEUTEN, HUSBAND AND WIFE. Borrower is the mortgagor under this Security Instrument.

(C) "Lender" is LEWIN & ASSOCIATES, INC. Lender is a CORPORATION organized and existing under the laws of the State of FLORIDA. Lender's address is 2963 GULF TO BAY BLVD, SUITE 300 CLEARWATER, FL 33759. Lender is the mortgagee under this Security Instrument.

(D) "Note" means the promissory note signed by Borrower and dated April 13, 2009. The Note states that Borrower owes Lender FOUR HUNDRED SEVENTEEN THOUSAND and NO/100----Dollars (U.S. \$ 417,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than May 1, 2039.

(E) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(F) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.



OR BK 8077 Pd 687
2 of 12

Loan No: [REDACTED]

Data ID: [REDACTED]

(G) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower (check box as applicable):

- | | | |
|--|---|--|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input type="checkbox"/> Planned Unit Development Rider | |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider | |
| <input type="checkbox"/> Other(s) (specify) | | |

(H) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(J) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) "Escrow Items" means those items that are described in Section 3.

(L) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(P) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender, the following described property located in the County of PASCO:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

FLORIDA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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OR BK 8077 PG 688
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Loan No: [REDACTED]

Data ID: [REDACTED]

which currently has the address of 5856 CACHETTE DE RIVERIA CT,
NEW PORT RICHEY, FLORIDA (City) 34655 (Zip Code) ("Property Address")

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentally, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

FLORIDA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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Loan No: [REDACTED]

Data ID: [REDACTED]

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

FLORIDA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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Loan No: [REDACTED]

Date ID: [REDACTED]

5. **Property Insurance.** Borrower shall keep the Improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender: (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

FLORIDA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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Loan No: [REDACTED]

Data ID: [REDACTED]

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the Improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.



OR BK 8077 PG 692
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Loan No: [REDACTED]

Data ID [REDACTED]

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage Insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

FLORIDA - Single Family - Family Mac/Fixed Mac UNIFORM INSTRUMENT

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Loan No: [REDACTED]

Data ID: [REDACTED]

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successor in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

FLORIDA - Single Family - Fanale Mae/Fredde Mae UNIFORM INSTRUMENT

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OR BK 8077 PG 694
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Loan No: [REDACTED]

Data ID: [REDACTED]

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 explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. **Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

18. **Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. **Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentally or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. **Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

FLORIDA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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OR BK 8077 PG 695
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Loan No: [REDACTED]

Data ID: [REDACTED]

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to rehearse after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of this evidence.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Attorneys' Fees. As used in this Security Instrument and the Note, attorneys' fees shall include those awarded by an appellate court and any attorneys' fees incurred in a bankruptcy proceeding.

25. Jury Trial Waiver. The Borrower hereby waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Security Instrument or the Note.

FLORIDA - Single Family - Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

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OR BK 8077 PG 696
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Loan No: [REDACTED]

Data ID: [REDACTED]

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:

[Signature]
LAURA J. LUSH
Witness - Printed Name

[Signature]
MICHAEL A. LEVIN
Witness - Printed Name

[Signature]
WILLIAM F. BEUTEN - Borrower
[Signature]
RENEE K. BEUTEN - Borrower

(Space Below This Line For Acknowledgment)

State of FLORIDA 5
County of PINELLAS 6

The foregoing instrument was acknowledged before me this 13th day of April 2014, by WILLIAM F. BEUTEN AND RENEE K. BEUTEN who ~~state~~ the following that does not apply are personally known to me/have produced *PC* as Identification.

[Signature]
Notary Public

(Name of person taking acknowledgment Typed, Printed or Stamped)

My commission expires: _____



OR BK 8077 PG 697
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Loan No: [REDACTED]
Borrower: WILLIAM F BEUTEN

Data ID: [REDACTED]

LEGAL DESCRIPTION

Provide legal description here. Attach to the document to be recorded and file as one instrument.

Lot 30 of RIVIERA, according to the Plat thereof as recorded in Plat Book 28, Page(s) 23-27, of the Public Records of Pasco County, Florida. LESS AND EXCEPT the following described property:

The following described portion of Lot 30, of said RIVIERA, being more particularly described as follows: COMMENCE at the Southwesterly corner of said Lot 31, also being the Southeasterly corner of said Lot 30; thence run along the Northwesterly boundary line of said Lot 31, North 46 degrees 52' 18" East, 252.39 feet to the Point of Beginning; thence run North 46 degrees 19' 39" West, 123.56 feet; thence along the Northwesterly plat boundary line of said Riviera, North 57 degrees 50' 00" East, 10.50 feet; thence continue along said Northwesterly plat boundary line, North 48 degrees 43' 04" East, 50.01 feet; thence along the Northeasterly boundary line of said Lot 30, South 46 degrees 19' 39" East, 119.95 feet to the Northwesterly corner of said Lot 31; thence along the Northwesterly boundary line of said Lot 31, South 46 degrees 52' 18" West, 60.09 feet to the POINT OF BEGINNING.

(Page 1 of 1 Pages)



**IN THE CIRCUIT COURT FOR THE SIXTH CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION**

Case No.: 2105-CA-2219-WS

OCWEN LOAN SERVICING, LLC
Plaintiff

v.

WILLIAM F. BEUTEN,
et al.
Defendants.

HOMEOWNER'S MOTION TO DISMISS COMPLAINT

Defendants WILLIAM F. BEUTEN and RENEE K. BEUTEN, (collectively, "Homeowner") move this Court to dismiss the Complaint of Plaintiff OCWEN LOAN SERVICING, LLC (the "Bank") for failure to state a claim, due to failure to attach a sufficient, legible copy of the documents sued upon.

ALLEGATIONS OF THE COMPLAINT

The allegations in the Complaint, related to this Motion, are:

1. The Bank seeks to foreclose a Mortgage securing a Note. (Complaint, ¶¶ 1-3).
2. The Note is attached to the complaint, but portions of it are redacted. (Complaint, Composite Exhibit)

ARGUMENT

I. LEGAL STANDARD FOR A MOTION TO DISMISS

A. The Court considers only limited matters.

In considering a motion to dismiss, under Rule 1.140 (b), Fla. R. Civ. P., this Court may not consider matters beyond the four corners of the complaint. *Cazares v. Church of Scientology of California, Inc.* 444 So.2d 442 (Fla. 5th DCA 1983). Exhibits to a complaint are a part of the complaint for purposes of a motion to dismiss. Fla. R. Civ. P. 1.130 (b). If the facts revealed in a Plaintiff's exhibits are inconsistent with allegations in other portions of the complaint, those contradicting allegations are cancel each other out, rendering the pleading insufficient. *BAC Funding Consortium, Inc. v. Jean-Jaques*, 28 So. 3d 936 (Fla. 2d DCA 2010); citing *Hunt Ridge at Tall Pines, Inc. v. Hall*, 766 So. 2d 399, 401 (Fla. 2d DCA 2000) ("Where complaint allegations are contradicted by exhibits attached to the complaint, the plain meaning of the exhibits control..."); see also *Greenwald v. Triple D Properties, Inc.*, 424 So. 2d 185, 187 (Fla. 4th DCA 1983). If the facts alleged in the complaint and its exhibits show that the complaint fails to state a cause of action upon which relief may be had, the action should be dismissed. *Greenwald* at 187.

B. Conclusory language without supporting facts fails to state a claim.

A party does not state a cause of action by merely reciting legal conclusions or tracking statutory language, but must include factual allegations. *Ginsberg v. Lennar Fla. Holdings, Inc.*, 645 So. 2d 490, 501 (Fla. 3d DCA 1994); *Becerra v.*

Equity Imports, 551 So.2d 486, 487-88 (Fla. 3d DCA 1989). Failure to state sufficient factual allegations therefore requires dismissal of the claim.

C. Florida requires fact-pleading, not notice pleading.

Florida requires fact-pleading, not notice pleading. *Continental Baking Company v. Vincent*, 634 So.2d 242 (5th DCA 1994) (“Florida’s pleading rule forces counsel to recognize the elements of their cause of action and determine whether they have or can develop the facts necessary to support it, which avoids a great deal of wasted expense to the litigants and unnecessary judicial effort.”). A complaint that might survive a motion to dismiss in federal court “will commonly not approach the minimum pleading threshold required in our state courts.” *Id.* Accordingly, a mere “notice pleading” does not meet Florida’s pleading requirements and should be dismissed. *Horowitz v. Laske*, 855 So.2d 169, 173 (Fla. 5th DCA 2003).

II. WHERE THE COMPLAINT FAILS TO ATTACH LEGIBLE COPIES OF THE DOCUMENTS ON WHICH THE ACTION IS FOUNDED, IT FAILS TO STATE A CLAIM.

Rule 1.130 (a), Fla. R. Civ. P., requires that “...documents upon which action may be brought or defense made, or a copy thereof or a copy of the portions thereof material to the pleadings, shall be incorporated in or attached to the pleading.” This requirement has not been satisfied where the documents attached are illegible. *Contractors Unlimited v. Nortrax Equip. Co. Southeast*, 833 So.2d 286, 288 (Fla. 5th DCA 2002) (citing *Samuels v. King Motor Co. of Fort Lauderdale*, 782 So.2d 489 (Fla. 4th DCA 2001), and Fla. R. Civ. P.

1.130(a)).

In *Contractors Unlimited*, the Fifth DCA reversed a trial court's refusal to set aside a default against a defendant, where the Plaintiff "failed to provide a legible attachment to its amended complaint of the written instrument upon which it was suing..." *Id.* at 288. That court reasoned:

Florida law recognizes that a default should be set aside if the complaint upon which it is based fails to state a cause of action. *Myers v. Myers*, 652 So.2d 1214 (Fla. 5th DCA 1995). As Trawick explains, a default "does not admit facts not pleaded, not properly pleaded, or conclusions of law." Henry P. Trawick, *Florida Practice and Procedure*, § 25-4, at 412 (2001 ed.). A party seeking affirmative relief may not be granted relief that is not supported by the pleadings.... A complaint based on a written instrument does not state a cause of action until the instrument or an adequate portion thereof, is attached to or incorporated in the complaint.

Id.

In a foreclosure action, where the Plaintiff seeks to enforce a Note and Mortgage, it must attach both the Note and the Mortgage, or the complaint fails to state a cause of action. *Safeco Ins. Co. of America v. Ware*, 401 So.2d 1129, 1130 (Fla. 4th DCA 1981) ("In the case of a complaint based on a written instrument it does not state a cause of action until the instrument or an adequate portion thereof is attached to or incorporated in the pleading in question.")

See also Fla.R.Civ.P. 1.944 (Fla. Supreme Court states in comment that, in an action for foreclosure, "copies of the note and mortgage must be attached.") For purposes of this action, a modification of the loan underlying the security agreement is part of the "documents sued upon" and a legible copy thereof must be attached to the complaint in order to state a cause of action.

Here, where portions of the documents are redacted, the Plaintiff has failed to meet its attachment burden and therefore must amend.

CONCLUSION

The Bank failed to state a cause of action for foreclosure because it failed to attach a legible copy of the documents sued upon.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above pleading has been furnished, by email (unless otherwise indicated) to the parties or counsel indicated below, on November 18, 2015:

Aldridge Pite LLP
ServiceMail@aldridgepite.com

Respectfully submitted,
RICARDO & WASYLIK PL

/s/ Michael Alex Wasylik
Michael Alex Wasylik, Esq.
Fla. Bar No. 067504
P.O. Box 2245
Dade City, Florida 33526
Tel. 352-567-3173
Fax 352-567-3193
Email: service@ricardolaw.com
COUNSEL FOR HOMEOWNER

**IN THE CIRCUIT COURT FOR THE SIXTH CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA
CIVIL DIVISION**

Case No.: 15-CA-002219-WS

OCWEN LOAN SERVICING, LLC
Plaintiff,
v.

WILLIAM F. BEUTEN
et al.
Defendants.

HOMEOWNER'S ANSWER AND AFFIRMATIVE DEFENSES

Defendant WILLIAM F. BEUTEN, and RENEE K. BEUTEN ("Homeowner"),
by and through undersigned counsel, hereby submits this Answer and
Affirmative Defenses to the Complaint of Plaintiff OCWEN LOAN SERVICING,
LLC (the "Bank")¹.

GENERAL DENIAL AND ANSWER

Homeowner generally denies each and every allegation in the Complaint that
requires a response except those items specifically admitted herein. Homeowner
responds to each allegation of the Complaint as follows, with numbered
paragraphs corresponding to those of the Complaint.

COUNT I

1. Calls for a legal conclusion. To the extent a response is required, denied.
2. Calls for a legal conclusion. To the extent a response is required, denied.

¹ Since Ocwen filed its original Complaint, it has moved to substitute party Plaintiff. This document responds to the allegations in the original complaint, which have not been amended.

3. Calls for a legal conclusion. To the extent a response is required, denied.
4. Calls for a legal conclusion. To the extent a response is required, denied.
5. Calls for a legal conclusion. To the extent a response is required, denied.
6. Denied. Further, denied that substituted party Plaintiff, FNMA, holds the Note.
7. Calls for a legal conclusion. To the extent a response is required, denied.
8. Calls for a legal conclusion. To the extent a response is required, denied.
9. Calls for a legal conclusion. To the extent a response is required, denied.
10. Calls for a legal conclusion. To the extent a response is required, denied.
11. Admitted that Homeowner owns property in this county. Without knowledge, and therefore denied, as to whether that property is correctly described in the mortgage. Denied as to all other allegations.
12. Denied. Specifically, Plaintiff has failed to provide the Notice required by Paragraphs 20 and 22 of the Mortgage, prior to commencing this foreclosure action. Further denied that Plaintiff has complied with the pre-suit notice of assignment required by 15 USC § 1641 (g)(1), of the Truth In Lending Act, incorporated into loan agreement by Section 16 of the mortgage.
13. Calls for a legal conclusion. To the extent a response is required, denied.
14. Calls for a legal conclusion. To the extent a response is required, denied.

15. Calls for a legal conclusion. To the extent a response is required, denied. Specifically denied that claims against any fictitious defendants state a cause of action against any real party at interest.
16. Calls for a legal conclusion. To the extent a response is required, denied.
17. Calls for a legal conclusion. To the extent a response is required, denied. Specifically denied that claims against any fictitious defendants state a cause of action against any real party at interest.

AFFIRMATIVE DEFENSES

1. Each cause of action, claim, and item of damages did not accrue within the time prescribed by law for them before this action was brought. *See* Form 1.965, Fla. R. Civ.
2. Plaintiff is prohibited from foreclosure on a date of default that precedes the dismissal of a prior action. *See GMAC Mortg., LLC v. Whiddon*, 164 So.3d 97 (Fla. 1st DCA 2015).
3. Plaintiff's claims are barred because Plaintiff lacks standing to proceed. The Note is not a negotiable instrument because it is not an "unconditional promise to pay a fixed amount of money" as required by § 673.1041(1), Fla. Stat. *See Nagel v. Cronebaugh*, 782 So.2d 436, 439 (Fla. 5th DCA 2001), *review denied*, 816 So.2d 126 (Fla.2002); *GMAC v. Honest Air Conditioning and Heating*, 933 So.2d 34 (Fla. 2d DCA 2006). Because the note is not a promise to pay a "fixed amount of money", it is not negotiable and the underlying security interest therefore is not enforceable by a mere

possessor of the note who has failed to perfect the security interest as required by Article 9 of the Uniform Commercial Code, specifically § 679.203 (1)(b), which provides that the security interest may not be enforced unless the transferee has taken the instrument "for value."

4. Plaintiff's claims are barred because it lacks standing; where the putative substituted party Plaintiff, FNMA, does not accept assignments of loans that are already in default. The assignment of mortgage underlying the putative substitution is therefore a fraudulently-constructed document.
5. Plaintiff's claims are barred because the Note is not validly indorsed to Plaintiff. Plaintiff therefore lacks the right to enforce the Note under Chapter 673, Florida Statutes.
6. Pursuant to Florida Statutes § 673.3081 (1), authenticity of signatures appearing of a negotiable instrument are admitted unless specifically denied. Homeowner hereby denies the authenticity of each signature on the Note attached to the complaint, and demands strict proof hereof. In particular, Homeowner denies the signature of each person who is deceased or incompetent at time of trial.
7. Plaintiff's claims are barred because Plaintiff cannot produce the original Note that it alleges obligates the Defendant. Homeowner disputes that any document now or hereafter filed with this Court is the original Note and demands strict proof thereof.

8. Plaintiff's claims are barred because Plaintiff has failed to state a cause of action for which relief may be had. Plaintiff's standing allegations are mere legal conclusions and fail to state ultimate facts as required by Florida law.
9. Plaintiff's claims are barred because Homeowner has tendered payment of all amounts properly due under the Note, and Plaintiff has rejected, misapplied, or failed to properly calculate the credit for such payments.
10. Plaintiff's claim for a deficiency judgment is barred except to those parties obligated under the Note, because Plaintiff has no legal right to a deficiency judgment against any party not obligated under the Note.
11. Plaintiff's claims against the fictitious parties are barred because the complaint as to a fictitious defendant fails to state a cause of action against any real party at interest. *Grantham v. Blount, Inc.*, 683 So. 2d 538 (Fla. 2d DCA 1996). The claims serve no legitimate purpose, constitute a sham pleading, and exist for the sole purpose of inflating costs to be charged to borrowers for the profit of plaintiff and its agents.
12. Plaintiff's claims are barred because plaintiff has failed to perform conditions precedent to acceleration and foreclosure. Specifically, Plaintiff has failed to provide the Notice required by Paragraphs 20 and 22 of the Mortgage, prior to commencing this foreclosure action. In particular, plaintiff has alleged a mortgage that defines the timing and contents of the pre-suit notice:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

Plaintiff failed to give a notice, that suffices to "specify" the default, the action required to cure the default, a 30-day date on which the default must be cured, and that failure to cure may result in acceleration, foreclosure, and sale of the property. The parties intended that paragraph 22 would be strictly performed to the letter; the paragraph is entirely in bold print, lists the contents of the notice in great detail, and is the only portion of the mortgage protective of the borrower's rights as a mortgagee. The plain language of the contract reveals the parties' intent for strict performance of paragraph 22, and to the extent any ambiguity exists, it

should be construed against the lender, who drafted the contract, and liberally in favor of Florida's constitutional protection of homestead rights.

13. Plaintiff's claims are barred by laches. Plaintiff's lack of diligence in asserting these claims have prejudiced Defendants, because as time goes by, records are destroyed, essential evidence may become tainted or disappear, memories of witnesses fade, and witnesses may die or be otherwise unavailable. *See McCray v. State*, 699 So.2d 1366 (Fla. 1997)
14. Plaintiffs' claims are barred by the doctrine of unclean hands, because the acts and omissions alleged in the prior affirmative defenses were knowing and intentional, and bar Plaintiff's recovery under any theory of equitable relief, including foreclosure.
15. Plaintiffs' claims are barred by the doctrine of estoppel.
16. Plaintiff's claims are barred by waiver.
17. Defendants are entitled to an offset for any violations by Plaintiff of the federal Truth in Lending Act, the federal Home Ownership and Equity Protection Act, and the Florida Fair Lending Act.
18. Plaintiff's claims are barred by, and Defendants are entitled to an offset for, Plaintiffs' violations of the federal Fair Debt Collection Practices Act and the state Consumer Collection Practices Act, for attempting to collect a debt Plaintiff knew or should have known was not owed.
19. Defendants reserve the right to raise any other affirmative defenses that may be revealed through discovery.

JURY TRIAL DEMAND

The Homeowner demands trial by jury on all counts so triable.

PRAYER FOR ATTORNEY'S FEES

Homeowner has been required to retain the services of counsel to litigate this action and demands recoupment of reasonable costs incurred in this action, including attorneys' fees, pursuant to § 57.105 (7), Fla. Stat. and all other applicable law.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above pleading has been furnished, by email (unless otherwise indicated) to the parties or counsel indicated below, on August 17, 2016:

ALDRIDGE PITE, LLP
servicemail@aldridgepite.com

Respectfully submitted,
RICARDO & WASYLIK PL

/s/ Michael Alex Wasylik
Michael Alex Wasylik, Esq.
Fla. Bar No. 067504 P.O. Box 2245
Dade City, Florida 33526
Tel. 352-567-3173
Fax 352-567-3193
Email: service@ricardolaw.com
COUNSEL FOR HOMEOWNER

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS WILLIAM F. BEUTEN and RENEE K. BEUTEN</p> <p>(b) County of Residence of First Listed Plaintiff PASCO <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Brandon J. Hill, Wenzel Fenton Cabassa, P.A., 1110 N. Florida Ave., Ste. 300, Tampa, FL 33602</p>	<p>DEFENDANTS OCWEN LOAN SERVICING, LLC</p> <p>County of Residence of First Listed Defendant <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES				
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;">PERSONAL INJURY</td> <td style="width:50%;">PERSONAL INJURY</td> </tr> <tr> <td> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice </td> <td> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table>	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
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REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY				
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))				
			IMMIGRATION	FEDERAL TAX SUITS				
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609				

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation


VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
Fair Debt Collection Practices Act

Brief description of cause:
Violation of FDCPA

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE: 11.11.16 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Ocwen Loan Servicing Facing Debt Collection Class Action](#)
