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2 15647 Village Drive
3 Victorville, California 92394

4 Tel: (760) 951-3663
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6 Attorney for Plaintiffs,
7 HERMENEGILDO J. CAPARAS;
8 JUANITA R. CAPARAS

FILED

2009 SEP 21 A 11:20

CLERK OF SUPERIOR COURT
COUNTY OF CONTRA COSTA
F.Y.

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF CONTRA COSTA**

12 HERMENEGILDO J. CAPARAS AND
13 JUANITA R. CAPARAS,

14 Plaintiff (s),

15 VS.

16 WMC MORTGAGE CORPORATION;
17 REGIONAL TRUSTEE SERVICES
18 CORPORATION; HOMEQ SERVICES;
19 MORTGAGE ELECTRONIC REGISTRATION
20 SYSTEMS, INC.,

21 Defendant (s),

Case No.: C 09-02048

NOTICE OF MOTION AND
MOTION TO CONSOLIDATE (Filed
Concurrently with Memorandum of
points and authorities)

Date of Hearing: 11-19-09

Time of Hearing: 8:30 A

Department: 07

22 Notice of Motion

23
24 TO THE HONORABLE JUDGE/COMMISSIONER OF THE SUPERIOR COURT
25 AND ALL PARTIES IN INTEREST:

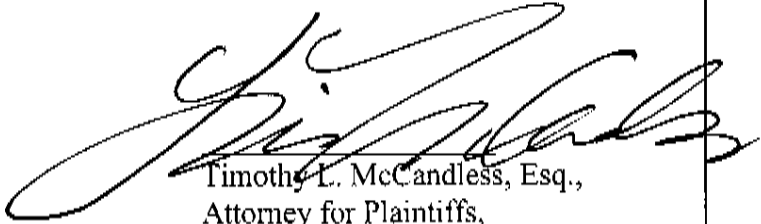
26 **YOU AND EACH OF YOU PLEASE TAKE NOTICE THAT** on date and time mentioned
27 above at the department of the above-entitled Court, Hermenegildo J. Caparas and Juanita R.
28

1 Caparas ("Plaintiffs"), will appear pursuant to **California Code of Civil Procedure Section**
2 **1048(a)** to move the Court for an order Consolidating the case before the Limited court with this
3 case. This motion will be made on the grounds that the Complaint filed by Plaintiff herein, and
4 the defense of Plaintiff in the Unlawful detainer require that both cases be consolidated for trial.
5 This Motion is further made and based on the ground that the facts of the one case and the
6 defenses of the other are similar and dependant on each other including (1) the identity of the
7 issues, procedures and parties before the Court; (2) the convenience of the Court and the parties;
8 (3) judicial economy, and (4) the avoidance of duplicative and possibly inconsistent adjudications.
9 (5) The lack of this courts Jurisdiction to hear and consider Plaintiff's Claim of Fraud in the
10 foreclosure itself, and as a defense to this Unlawful Detainer, and the damages that Dcfendant is
11 seeking in the Unlimited Superior Court Case, which exceeds the Jurisdictional limit of the
12 Limited Court.

13
14
15 This motion will be based on this Notice of Motion and Motion for consolidation
16 the supporting Statement of Facts and Memorandum of Points and Authorities, the court records in
17 this case, and such other and further evidence that shall be presented at the time of the hearing.

18 **NOTICE- IF YOU FAIL TO FILE A WRITTEN RESPONSE OR OPPOSITION TO THIS**
19 **MOTION WITH THIS COURT BEFORE THE TIME SET FOR THE HEARING, IT IS**
20 **LIKELY THAT THE COURT WILL GRANT ALL THAT THE DEFENDANT HAS**
21 **REQUESTED HEREIN.**

22
23 Dated September 10, 2009

24
25 
26 Timothy L. McCandless, Esq.,
27 Attorney for Plaintiffs,
28 HERMENEGILDO J. CAPARAS and
JUANITA R. CAPARAS

1 TIMOTHY L. MCCANDLESS, ESQ. SBN 147715
 2 15647 Village Drive
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6 Attorney for Plaintiffs,
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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF CONTRA COSTA**

11 HERMENEGILDO J. CAPARAS AND
 12 JUANITA R. CAPARAS,

13 Plaintiff (s),

14 VS.

15 WMC MORTGAGE CORPORATION;
 16 REGIONAL TRUSTEE SERVICES
 17 CORPORATION; HOMEQ SERVICES;
 18 MORTGAGE ELECTRONIC REGISTRATION
 19 SYSTEMS, INC.,

20 Defendants.

CASE NO. C 09-02048

Points and authorities in support of
 motion to consolidate (filed concurrent
 with Notice of Motion and Motion to
 Consolidate)

Date:
 Time:
 Place:

21
 22 **POINTS AND AUTHORITIES**

23 **I Background**

24 **A LIMITED CASE IS NOT THE CORRECT VENUE**
 25 **WHERE AS HERE, THE DAMAGES EXCEED THE**
 26 **JURISDICTIONAL LIMITS OF THE COURT**
 27

28 Plaintiff is seeking monetary damages arising from the fraudulent foreclosure of their
 personal residence valued in excess of \$1,000,¹000. Additionally, plaintiff is seeking punitive

Motion to Consolidate

1 damages for fraud, as against all defendants for violation of an agreement to refinance the Subject
2 Property in order to reduce monthly payments, and to forebear and/or delay a foreclosure
3 proceeding. In addition the Defendants after failing to honor their agreement failed to abide by the
4 requirements of Cal. Civ. Code Section 2932.5 which provides in Black Letter law a requirement
5 of an assignee of a Trust Deed and Note, 2932-5 creates a mandatory condition precedent to
6 initiating the foreclosure, an assignee, **MUST ACKNOWLEDGE AND RECORD THE**
7 **ASSIGNMENT PRIOR TO COMMENCING THE PROCEDURE LEADING TO THE**
8 **FORECLOSURE.** Cal. Civ. Code Section 2932.5 states:

9
10 **2932.5.** Where a power to sell real property is given to a
11 mortgagee, or other encumbrancer, in an instrument intended to secure
12 the payment of money, the power is part of the security and vests in
13 any person who by assignment becomes entitled to payment of the
14 money secured by the instrument. The power of sale may be exercised
15 by the assignee if the assignment is duly **acknowledged and recorded**.
16 (emphasis added)

17
18 In the case before the court defendants failed to record their assignment prior to
19 commencing the foreclosure and the sale was taken by Fraud.

20
21 The Fourth District Court of Appeal stated in Asuncion v. Superior Court of the City of
22 San Diego (1980) 108 Cal.App.3d 141, 144, 166 Cal.Rptr. 306, 308, in pertinent part: Stated

23
24 “It is generally recognized the summary unlawful detainer action is not a suitable vehicle
25 to try complicated ownership issues involving assertions of fraud and deceptive practices such as
26 the Asuncions allege here”.

27
28 In the Instant matter Plaintiffs entered into a loan agreement with WMC Mortgage
Corporation. On or about July 7, 2006. The Adjustable Rate Note was based upon a “LIBOR”
six-month adjustable rate.

Plaintiff alleges that Defendants and each of them neither explained the workings of the
rate, how it is computed nor its inherent volatility.

Further, on information and belief, Plaintiff alleges that the Defendants charged and

1 obtained improper fees for the placement of their loan as "sub-prime" when they qualified for a
2 prime rate mortgage which would have generated less in fees and interest.

3
4 Additionally Regional Trustee Services and HomeQ Services foreclosed on Plaintiff's
5 property without a recorded assignment as required by Cal. Civ. Code Section 2932.5, in addition
6 to the fraud actually committed by the Trustee who alleged on the Notice of Default:

7 That by reason thereof of the present Beneficiary under such deed of
8 Trust has executed and delivered to said duly appointed Trustee a
9 written Declaration of Default and Demand for Sale and has
10 deposited with said duly appointed Trustee such Deed of Trust and
11 all documents evidencing obligations secured thereby and has
12 declared and does hereby declared all sums secured thereby
13 immediately due and payable and has elected and does hereby elect
14 to cause the trust property to be sold to satisfy the obligations served
15 thereby.

16 NO documents were provided to the trustee that evidenced the ownership of the
17 Deed of Trust and Note in the Name of Regional Trustee Services and HomeQ Services, in short
18 there was No original Note provided to the Trustee which showed the endorsements on the note to
19 defendants.

20 You may have the right to cure the default hereon and reinstate the
21 one obligation secured by such Deed of Trust above described.
22 Section ... permits certain defaults to be cured upon the Payment of
23 the amounts required by that statutory section without requiring
24 payment of that portion of principal and interest which would not be
25 due had no default occurred. Where reinstatement is possible, if the
26 default is not cured within 35 days following the recording and
27 mailing of this Notice to Trustor or Trustor's successor in interest,
28 the right of reinstatement will terminate and the property may
thereafter be sold.

29 NONE of these defendants including Regional Trustee Services and HomeQ Services own
30 these loans and courts all across the Country are beginning to take a second look at "Parties" in
31 Particular with a view to Fraud. Regional Trustee Services and HomeQ Services has bluffed their

1 way through the foreclosure because under Cal. Civ. Code Sec 2924 the parties foreclosing on a
2 Note and Trust Deed are not required to prove to anyone that they have a right to foreclose. This
3 has allowed a flurry of fraudulent foreclosures to occur. This foreclosure was accomplished by
4 deception, as none of these defendants had the Note including Regional Trustee Services and
5 HomeQ Services, nor did any of them have an endorsement to them for that Note and did not pay
6 any consideration for that note.

7 "Fraud" and "dishonesty" are closely synonymous, and "fraud" may consist in
8 misrepresentation or concealment of material facts or statement of fact made with the
9 consciousness of its falsity. Fort v. Board of Medical Quality Assurance of State of Cal. (1982)
10 136 Cal.App.3d 12, 185 Cal.Rptr. 836.

11 The law is well settled that 'representations made to one person with intention that they
12 will be repeated to another and acted upon by him and which are repeated and acted upon to his
13 injury gives the person so acting the same right to relief as if the representations had been made to
14 him directly. . . No reason appears why this same rule should not be applicable to nondisclosures
15 as well as misrepresentations. Massei v. Lettunich (1967) 56 Cal.Rptr. 232, 235.

16 A duty of disclosure in a fraud context is one which may exist when one party to a
17 transaction has sole knowledge or access to material facts and knows that such facts
18 are not known to or reasonably discoverable by the other party. Goodman v. Kennedy (1976) 18
19 Cal.3d 335, 134 Cal.Rptr. 375.

20 A duty to disclose arises, even in absence of a fiduciary or confidential relationship, if
21 material facts are known only to defendant and defendant knows that plaintiff does not know or
22 cannot reasonably discover undisclosed facts. Karoutas v. HomeFed Bank (1991) 232 Cal.App.3d
23 767, 283 Cal.Rptr. 809.

24 In Asuncion supra., the Fourth District Court of Appeal further stated in pertinent
25 part at page 146: As we see it, after the eviction is transferred to the superior court, a number of
26 procedural devices exist to facilitate accommodating the eviction action with the fraud action
27 which the Asuncions separately filed. A possibility, which we understand is frequently utilized in
28

1 other counties, is for the superior court to stay the eviction proceedings until trial of the fraud
2 action, based on the authority of Code of Civil Procedure section 526 which permits a preliminary
3 injunction to preserve the status quo on such grounds as irreparable injury, multiplicity of legal
4 actions, or unconscionable relative hardship. . . We hold only, the Asuncions are entitled to
5 defend this eviction action based on the claims of fraud and related causes which they have
6 asserted, and accordingly the action necessarily exceeds the jurisdiction of the municipal court and
7 cannot be tried there.

8
9 In the Asuncion Matter, supra. the Asuncions in 1971 obtained a purchase money
10 mortgage on the property of \$19,800 with monthly payments of \$149. In 1978 they executed a
11 second trust deed on an obligation of \$3,500, with payments of \$64.84, they missed two payments
12 on the second trust deed in June and July 1979. The beneficiary of the second trust deed filed a
13 notice of default to commence foreclosure on July 12. On July 19 representatives of Financial
14 contacted the Asuncions. The Asuncions signed papers on that date which they were told were
15 necessary to prevent foreclosure on their home. The legal effect of those papers was, among other
16 things, to grant title to the property to Financial, subject to a 45-day option to reacquire the
17 property by executing in Financial's favor a \$12,000 promissory note at 18 percent "or more"
18 payable in three years. Financial in return, promised to retire a furniture company debt in the sum
19 of \$1,126.36 and to pay the second trust deed of approximately \$3,500. Financial recorded the
20 grant deed immediately after its execution on July 19. On October 15, 1979, it commenced the
21 unlawful detainer action alleging expiration of the option on September 3, 1979, resulting in
22 ownership of the property in Financial.

23 The net effect of the parties' dealings is, financial has loaned the Asuncions about \$4,800
24 for 45 days, in return for real property having an equity in excess of \$20,000. Plaintiff alleged that
25 such a loan may be usurious, as well as fraudulent and in violation of a number of laws, both state
26 and federal.

1 The amount in controversy exceeds the jurisdictional limits of the Municipal Court, now
2 the limited court, of \$25,000, in that Plaintiff is seeking recovery of damages exceeding \$25,000,
3 and the imposition of punitive damages in a substantially greater amount.

4 California Code of Civil Procedure section 86 provides in pertinent part as follows:

5 (a) The following civil cases and proceedings are limited civil
6 cases:

7 (1) Cases at law in which the demand, exclusive of interest, or
8 the value of the property in controversy amounts to twenty-five
9 thousand dollars (\$25,000) or less.

10 (4) Proceedings in forcible entry or forcible or unlawful detainer
11 where the whole amount of damages claimed is twenty-five thousand dollars
12 (\$25,000) or less.

13 (5) Actions to enforce and foreclose liens on personal property where
14 the amount of the liens is twenty-five thousand dollars
15 (\$25,000) or less.

16 Thus, the Limited Court lacks subject matter jurisdiction, where as here, the
17 amount in controversy exceeds \$25,000, to wit, \$500,000 in quantifiable compensatory damages.

18 California Code of Civil Procedure 85 provides:

19 An action or special proceeding shall be treated as a limited civil case if all of the following
20 conditions are satisfied, and, notwithstanding any statute that classifies an action or special
21 proceeding as a limited civil case, an action or special proceeding shall not be treated as a limited
22 civil case unless all of the following conditions are satisfied: (a) The amount in controversy does
23 not exceed twenty-five thousand dollars (\$25,000). As used in this section, "amount in
24 controversy" means the amount of the demand, or the recovery sought, or the value of the
25 property, or the amount of the lien, that is in controversy in the action, exclusive of attorneys' fees,
26 interest, and costs. (b) The relief sought is a type that may be granted in a limited civil case. (c)
27 The relief sought, whether in the complaint, a cross-complaint, or otherwise, is exclusively of a
28 type described in one or more statutes that classify an action or special proceeding as a limited
civil case or that provide that an action or special proceeding is within the original jurisdiction of
the municipal court. Thus any action which is based on the same facts and issues whether as a
Claim or counterclaim would require the Limited Court of to transfer Jurisdiction and for the
unlimited court to assume Jurisdiction.

 A court has no jurisdiction to hear or determine a case where type of proceeding or
amount in controversy is beyond jurisdiction defined for that particular court by statute or

1 constitutional provision. Workmen's Compensation Appeals Bd. v. Small Claims Court of
2 Alameda County (1973) 35 Cal.App.3d 643, 111 Cal.Rptr. 6.

3 Therefore, the Municipal Court is devoid of jurisdiction to continue and the matter
4 must be transferred to the Superior Court.

5
6 **PLAINTIFF FILED AN ANSWER TO THE UNLAWFUL DETAINER COMPLAINT**
7 **CHALLENGING THE SUFFICIENCY OF TITLE**

8 Plaintiff filed an answer in the action, and a complaint in the Superior Court which wholly
9 challenged the lawfulness of Defendant's claim to title in the unlawful detainer complaint and the
10 procedures utilized in the non-judicial foreclosure action.

11 Given such actions on the part of defendant, movant assumes Defendant has abandoned
12 this issue entirely.

13
14 **THE LIMITED COURT LACKS JURISDICTION TO**
15 **RENDER A JUDGMENT AS TO THE LAWFULNESS**
16 **OF CLAIMS TO TITLE BY DEFENDANT**

17 Defendant contends that if the Limited Court lacks jurisdiction given the amount in
18 controversy, that is, the sum over \$25,000 plus punitive damages, then the court lacks jurisdiction
19 over any issues therein.

20 As set forth in the Asuncion matter, supra, the traditional approach in these cases, is given
21 the allegations of fraud being made by Defendant, to transfer the matter to Superior Court and for
22 the higher court to impose a stay of the unlawful detainer action pending resolution of the fraud
23 issues. Lacking jurisdiction over the present issues by virtue of the amount in controversy, the
24 Limited court must and should order the instant matter to be transferred to Superior Court.

25
26 **CONCLUSION**

27 For all pleadings filed in this matter, the memorandum of points and authorities, and other
28 and further oral and documentary evidence to be adduced at the hearing of this matter, Defendant

1 respectfully requests that the court grant the motion and Consolidate the Limited case with this
2 case

3 Dated September 10, 2009

4



Timothy I. McCandless Esq

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Proof of Service

I, Fransisco Vizcarra, declare:

I am a citizen of the United States and I am employed in the County of San Bernardino, State of California; I am over the age of 18 years and not a party to this action; my business address is 13240 Victorville, California 92392.

On September 14, 2009, I served the foregoing document(s) described:

Notice Of Related Case

Motion to Consolidate

Which were served upon:

Rosenthal, Withem, & Jeff

16027 Ventura Blvd. #201

Encino, CA 91436

Street Services Corporation

616 First Ave. Suite 500

Seattle, WA 98104

Law Offices of Glen H. Wechester- Lawrence D. Harris

1655 North Main Street, Suite 230

Walnut Creek, CA 94596

Agent Sales & Posting

3210 El Camino # 200

Irvine, CA 92602

1 **In the following manner of service:**

2 **BY PERSONAL SERVICE.**

3 I personally delivered the documents to the persons at the address(s) listed above. (1) For a party
4 represented by an attorney, delivery was made to the attorney or at the attorney's office by
5 leaving the documents, in an envelope or package clearly labeled to identify the attorney being
6 served, with a receptionist or an individual in charge of the office, between the hours of nine in
7 the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving
8 the documents at the party's residence with some person not younger than 18 years of age
9 between the hours of eight in the morning and six in the evening.

10
11 **BY UNITED STATES MAIL.**

12 I enclosed the documents in a sealed envelope or package addressed to the person(s) above.

13 deposited the sealed envelope with the United States Postal Service, with the postage fully
14 prepaid.

15 placed the envelope for collection and mailing, following our ordinary business
16 practices. I am readily familiar with this business's practice for collecting and processing
17 correspondence for mailing. On the same day that correspondence is placed for collection and
18 mailing, it is deposited in the ordinary course of business with the United States Postal Service,
19 in a sealed envelope with postage fully prepaid.

20
21 **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

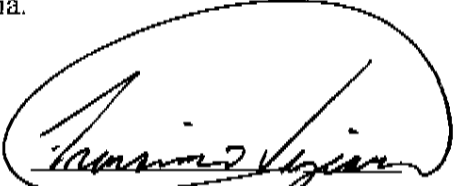
22 I enclosed the documents in a sealed envelope or package addressed to the person(s) above. I
23 deposited these papers with the United States Postal Service, in a sealed envelope with postage
24 fully prepaid. I am a resident of or employed in the county where the notice was mailed. I used
25 certified mail and requested a return receipt.
26
27
28

1 BY FAX TRANSMISSION.

2 Based on an agreement of the parties to accept service by fax transmission, I faxed the
3 documents to the person(s) at the fax numbers listed above. No error was reported by the fax
4 machine that I used. A copy of the record of the fax transmission, which I printed out, is
5 attached.

6
7
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10
11 I declare under penalty of perjury under the laws of the State of California that the above
12 is true and correct.

13
14 Executed on September 14, 2009, at Victorville, California.

15
16
17 

18 Francisco Vizcarra

CM-015

| | | |
|---|--|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): The Law Offices of Timothy L. McCandless Timothy L. McCandless, Esq. (SBN. 147715) 13240 Amargosa Rd Victorville, CA 92392 TELEPHONE NO.: 760-951-3663 FAX NO. (Optional): 909-382-9956 E-MAIL ADDRESS (Optional): tmvictorvillelaw@gmail.com ATTORNEY FOR (Name): Plaintiff | | FOR COURT USE ONLY FILED 2009 SEP 21 A 11:18 |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Contra Costa STREET ADDRESS: 725 Court Street MAILING ADDRESS: Same CITY AND ZIP CODE: Martinez 94553 BRANCH NAME: Martinez Courthouse | | K. DE... SUPERIOR COURT BY... |
| PLAINTIFF/PETITIONER: Hermenegildo J. Caparas and Juanita DEFENDANT/RESPONDENT: WMC Mortgage Corporation et. al. | | CASE NUMBER: C 09-02048 JUDICIAL OFFICER: |
| NOTICE OF RELATED CASE | | DEPT.: |

Identify, in chronological order according to date of filing, all cases related to the case referenced above.

1.
 - a. Title: Deutsche Bank National Trust Company vs Caparas
 - b. Case number: PS 09-1331
 - c. Court: same as above
 other state or federal court (name and address): Superior Court of Contra Costa; Pittsburg Court
 - d. Department:
 - e. Case type: limited civil unlimited civil probate family law other (specify): Unlawful Deta
 - f. Filing date: **July 7, 2009**
 - g. Has this case been designated or determined as "complex?" Yes No
 - h. Relationship of this case to the case referenced above (check all that apply):
 - involves the same parties and is based on the same or similar claims.
 - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
 - involves claims against, title to, possession of, or damages to the same property.
 - is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
 - Additional explanation is attached in attachment 1h
 - i. Status of case:
 - pending
 - dismissed with without prejudice
 - disposed of by judgment
2.
 - a. Title: WMC Mortgage Corporation; Regional Trustee vs Caparas
 - b. Case number: C 09-02048
 - c. Court: same as above
 other state or federal court (name and address):
 - d. Department:

COPY

CM-015

| | |
|---|--------------|
| PLAINTIFF/PETITIONER: Hermenegildo J. Caparas and Juanita | CASE NUMBER: |
| DEFENDANT/RESPONDENT: WMC Mortgage Corporation et. al. | C 09-02048 |

2. (continued)

- e. Case type: limited civil unlimited civil probate family law other (specify):
- f. Filing date: July 21, 2009
- g. Has this case been designated or determined as "complex?" Yes No
- h. Relationship of this case to the case referenced above (check all that apply):
- involves the same parties and is based on the same or similar claims.
- arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- involves claims against, title to, possession of, or damages to the same property.
- is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
- Additional explanation is attached in attachment 2h
- i. Status of case:
- pending
- dismissed with without prejudice
- disposed of by judgment

3. a. Title:

b. Case number:

- c. Court: same as above
 other state or federal court (name and address):

d. Department:

e. Case type: limited civil unlimited civil probate family law other (specify):

f. Filing date:

g. Has this case been designated or determined as "complex?" Yes No

h. Relationship of this case to the case referenced above (check all that apply):

- involves the same parties and is based on the same or similar claims.
- arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- involves claims against, title to, possession of, or damages to the same property.
- is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
- Additional explanation is attached in attachment 3h

i. Status of case:

- pending
- dismissed with without prejudice
- disposed of by judgment

4. Additional related cases are described in Attachment 4. Number of pages attached: _____

Date: September 10, 2009

Timothy L. McCandless, Esq.

(TYPE OR PRINT NAME OF PARTY OR ATTORNEY)



(SIGNATURE OF PARTY OR ATTORNEY)

CM-015

| | |
|---|--------------|
| PLAINTIFF/PETITIONER: Hermenegildo J. Caparas and Juanita | CASE NUMBER: |
| DEFENDANT/RESPONDENT: WMC Mortgage Corporation et. al. | C 09-02048 |

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF RELATED CASE**

(NOTE: You cannot serve the Notice of Related Case if you are a party in the action. The person who served the notice must complete this proof of service. The notice must be served on all known parties in each related action or proceeding.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (*specify*):

13240 Amargosa Road,
Victorville, CA 92392

2. I served a copy of the *Notice of Related Case* by enclosing it in a sealed envelope with first-class postage fully prepaid and (*check one*):
- a. deposited the sealed envelope with the United States Postal Service.
- b. placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
3. The *Notice of Related Case* was mailed:
- a. on (*date*): 09/14/2009
- b. from (*city and state*): Victorville, CA

4. The envelope was addressed and mailed as follows:

a. Name of person served:
Rosenthal, Withem, & Jeff
Street address: 16027 Ventura Blvd, #201
City: Encino
State and zip code: CA 91436

c. Name of person served:
Street Services Corporation
Street address: 616 First Ave, Suite 500
City: Seattle
State and zip code: WA 98104

b. Name of person served:
Agent Sales & Posting
Street address: 3210 El Camino # 200
City: Irvine
State and zip code: CA 92602

d. Name of person served:
Law Offices of Glen H. Wechester- Lawrence D. Harris
Street address: 1655 North Main Street, Suite 230
City: Walnut Creek
State and zip code: CA 94596

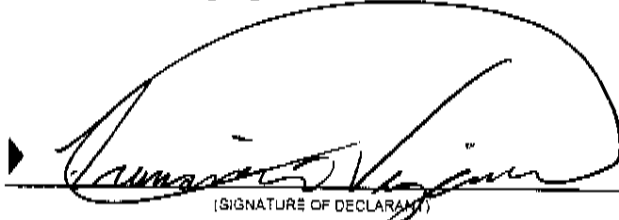
Names and addresses of additional persons served are attached. (*You may use form POS-030(P).*)

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

Date: September 14, 2009

Francisco P. Vizcarra

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

1 TIMOTHY L. MCCANDLESS, ESQ. SBN 147715
2 15647 Village Drive
3 Victorville, California 92394

4 Tel: (760) 952-4664
5 Fax: (909) 382-9956

6 Attorney for *Plaintiffs*
7 HERMENEGILDO J. CAPARAS;
8 JUANITA R. CAPARAS

RECEIVED
SEP 21 2009

By _____, Deputy Clerk
SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

9 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
10 IN AND FOR COUNTY OF CONTRA COSTA

11 HERMENEGILDO J. CAPARAS AND
12 JUANITA R. CAPARAS,

13 Plaintiff (s),

14 VS.

15 WMC MORTGAGE CORPORATION;
16 REGIONAL TRUSTEE SERVICES
17 CORPORATION; HOMEQ SERVICES;
18 MORTGAGE ELECTRONIC
19 REGISTRATION SYSTEMS, INC.,

20 Defendants.

CASE NO: C 09-02048

[PROPOSED] ORDER RE NOTICE OF
MOTION AND MOTION TO
CONSOLIDATE

DATE:
TIME:
DEPT:

21 ORDER

22
23 **PLAINTIFFS HERMENEGILDO J. CAPARAS and JUANITA R. CAPARAS, filed**
24 **his Motion to Consolidate at the SUPERIOR COURT OF THE STATE OF CALIFORNIA**
25 **in and for the County of Contra Costa. IT IS HEREBY ORDERED THAT: Case Number**
26 **PS 09-1331 is now consolidated with the case filed at Superior Court of California – County**
27 **of Contra Costa Case Number C 09-02048.**
28

IT IS SO ORDERED.

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Dated: _____

THE HONORABLE JUDGE
OF THE SUPERIOR COURT