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2 LAW OFFICES OF TIMOTHY L. MCCANDLESS  
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4 Victorville, California 92392

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7 Attorneys for Defendants,  
8 Michelle Cabezas and Leticia Edillo

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **IN AND FOR THE COUNTY OF SOLANO**  
11 **SOLANO JUSTICE CENTER**

12 FANNIE MAE A/K/A FEDERAL  
13 NATIONAL MORTGAGE  
14 ASSOCIATION,

15 Plaintiff,

16 vs.

17 MICHELLE CABESAS AND LETICIA  
18 EDILLO, and DOES I through X, Inclusive

19 Defendant(s).

Case No.: VCM106610

DEFENDANT'S FIRST AMENDED ANSWER  
TO UNLAWFUL DETAINER COMPLAINT

20  
21 **TO THE COURT, ALL PARTIES HEREIN, AND THEIR ATTORNEYS**  
22 **OF RECORD:**

23  
24 Defendants Michelle Cabezas and Leticia Edillo hereby answers the complaint of Fannie Mae  
25 A/K/A Federal National Mortgage Association and admits, denies and alleges as follows:

- 26 1. Defendant generally and specifically denies each and every allegation in paragraph 1  
27 of the complaint.  
28

- 1 2. Defendant admits the allegations in paragraph 2 of the complaint.
- 2 3. Defendant admits the allegations in paragraph 3 of the complaint.
- 3 4. Defendant admits the allegations in paragraph 4 of the complaint.
- 4 5. Defendant generally and specifically denies each and every allegation in paragraph 5
- 5 of the complaint.
- 6 6. Defendant generally and specifically denies each and every allegation in paragraph 6
- 7 of the complaint.
- 8 7. Defendant generally and specifically denies each and every allegation in paragraph 7
- 9 of the complaint.
- 10 8. Defendant generally and specifically denies each and every allegation in paragraph 8
- 11 of the complaint.
- 12
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- 14

15 **AFFIRMATIVE DEFENSES**

16 **First Affirmative Defense**

17 Fails To State Sufficient Facts

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19 9. Each purported cause of action fails to state facts sufficient to constitute a basis for

20 relief against these answering Defendants.

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22 **Second Affirmative Defense**

23 Waiver

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25 10. The claims being advanced by Plaintiffs are barred by virtue of the Plaintiff's acts

26 and/or omissions that amount to a waiver, including but, not limited to attempting to enforce a

27 non-negotiable promissory note by way of an invalid non-judicial foreclosure sale.

28



1 the doctrine of unclean hands.

2 **Eighth Affirmative Defense**

3 Standing

4 16. This answering defendant alleges that the Plaintiff does not have standing because  
5 Plaintiff's standing is based solely upon an invalid Trustee's Deed After Sale, which was based  
6 upon the enforcement of a promissory note that was not negotiable pursuant to California  
7 Commercial Code section 3203 et seq.  
8

9 **Ninth Affirmative Defense**

10 Violation of Statute

11 17. This answering defendant alleges that this action is barred by Plaintiff or Plaintiff's  
12 predecessor to comply with Civil Code section 2923.5, and as such the Notice of Default is void,  
13 and defendant was not required to tender payment of the indebtedness.  
14

15 **Tenth Affirmative Defense**

16 Violation of Statute

17 18. This answering defendant alleges that this action is barred by Plaintiff or Plaintiff's  
18 predecessor to comply with Civil Code section 2934a, in that Plaintiff failed to record the  
19 necessary affidavit of service on substitution of trustee.  
20

21 **Eleventh Affirmative Defense**

22 Violation of Statute

23 19. This answering defendant alleges that this action is barred by Plaintiff or Plaintiff's  
24 predecessor to comply with Civil Code section 2932.5, in that the power of sale was  
25 extinguished by failure to record prior assignments of the deed of trust.  
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**Twelfth Affirmative Defense**

Reservation of Defendants

20. Defendant hereby reserves all defenses unknown at the time of filing this response.

Dated: June 29, 2010

**LAW OFFICES OF  
TIMOTHY L. MCCANDLESS**

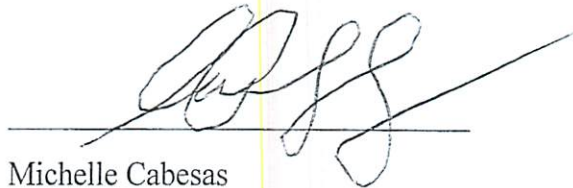


Timothy L. McCandless, Esq.  
Attorney for Defendant,  
Michelle Cabelas and Leticia Edillo

**VERIFICATION**

I, Michelle Cabelas, declare:

I am a defendant in the above-entitled matter, am familiar with the facts alleged herein, and do verify the truth thereof, could and would competently testify thereto if called upon to do so, and execute this document here this 29<sup>th</sup> day of June, 2010, in Vallejo, California



Michelle Cabelas

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am over the age of 18 and not a party to this action. My business address is 13240 Amargosa Road, Victorville, California 92392, which is located in the county where the mailing described took place.

On June 29, 2010, I served the foregoing document(s) described: **DEFENDANT'S ANSWER TO UNLAWFUL DETAINER COMPLAINT**

Which were served upon:

**ATTORNEYS FOR PLAINTIFF:**

**JAMES T. LEE**  
917 S. Village Oaks Drive, Suite 200  
Covina, CA 91724

xx I deposited the foregoing documents in the United States Postal Service. Executed on: June 29, 2010, in Victorville, California. *AND FAX TO*

*626-915-0289 -*

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

(Federal)      I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

           BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee(s) above.

*[Handwritten Signature]*  
**TIM M. CANDLESS**