| 2 | MARK JOSEPH KENNEY (State Bar No. 87345) DAVID E. PINCH (State Bar No. 124851) dep@severson.com SEVERSON & WERSON A Professional Corporation One Embarcadero Center, Suite 2600 San Francisco, California 94111 Telephone: (415) 398-3344 Facsimile: (415) 956-0439 | | | |
|----------------------|---|--|--|--|
| 6 | Attorneys for Defendant, RECONTRUST COMPANY, N.A. | | | |
| 8 | SUPERIOR COUR | T OF CALIFORNIA | | |
| 9 | COUNTY OF | SANTA CRUZ | | |
| 10 | | | | |
| 11 | KIMBERLY COX, | Case No. CV174201 | | |
| 12 | Plaintiff, | NOTICE OF RECONTRUST | | |
| 13 | vs. | COMPANY'S DEMURRER AND DEMURRER TO COMPLAINT OF KIMBERLY COX | | |
| 14 15 16 17 | RECONTRUST COMPANY, N.A.; all persons known or unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in this Complaint adverse to COX's title or any cloud upon COX's title thereto; and DOES 1-100 inclusive, | (Filed concurrently with Memorandum of Points and Authorities on Demurrer; Request to Take Judicial Notice) Date: July 18, 2012 Time: 8:30 a.m. | | |
| 18 | Defendants. | Dept.: 4 | | |
| 19 | | Action Filed: May 24, 2012 Trial Date: none set | | |
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| 22 | NOTICE OF DEMURRER | | | |
| 23 | PLEASE TAKE NOTICE that on July 18, 2012, at 8:30 a.m., or as soon thereafter as the | | | |
| 24 | matter may be heard in Department 4 of the above-entitled Court located at 701 Ocean Street, | | | |
| 25 | Santa Cruz, California 95060, a hearing will be held on Defendant Recontrust Company, N.A.'s | | | |
| 26 | demurrer to Plaintiff Kimberly Cox's Complaint. | | | |
| 27 | The Demurrer is based on this Notice, the Memorandum of Points and Authorities, the | | | |
| 28 | concurrently filed Request for Judicial Notice, the pleadings and papers on file in this case, and | | | |
| | 70000.0782/2244537.1 NOTICE OF RECONTRUST COM. | CV174201 PANY'S DEMURRER AND DEMURRER TO COMPLAINT | | |

| 1 | upon such other oral argument and documentary evidence which may be presented prior to or at | |
|----------|--|--|
| 2 | the hearing of this Demurrer. | |
| 3 4 5 | DATED: June 15, 2012 SEVERSON & WERSON A Professional Corporation | |
| 6 | DAVID E. PINCH | |
| 7 | Attorneys for Defendants RECONTRUST COMPANY, N.A. | |
| 8 | RECONTRUST COMPANY, N.A. | |
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| | 70000,0782/2244537.1 2 CV174201 NOTICE OF RECONTRUST COMPANY'S DEMURRER AND DEMURRER TO COMPLAINT | |
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<u>DEMURRER</u>

Defendant Recontrust Company, N.A., files this Demurrer to Plaintiff Kimberly Cox's Complaint on the following grounds:

- 1. Defendants generally demurrer to the entire complaint because Plaintiff lacks standing to bring this action. (CCP ¶ 430.10(a) and (b).)
- 2. Defendants generally demurrer to the entire complaint because Plaintiff's complaint are barred by the doctrine of issue preclusion as her claims have previously been denied before the United States Bankruptcy Court. (CCP ¶ 430.10(a) and (b).)
- 3. Plaintiff's first cause of action for "Defective Note and Deed of Trust" fails to state facts sufficient to constitute a cause of action. ((See Code Civ. Proc., §430.10(e).)
- 4. Plaintiff's second cause of action for "Defective Substitution of Trustee and Notice of Default and Notice of Sale" fails to state facts sufficient to constitute a cause of action. (*Id.*)
- 5. Plaintiff's third cause of action for "Injunctive Relief" fails to state facts sufficient to constitute a cause of action. (*Id.*)
- 6. Plaintiff's fourth cause of action for "Violation of Unfair Business Practices" fails to state facts sufficient to constitute a cause of action. (*Id.*)
- 7. Plaintiff's fifth cause of action for "Slander of Title" fails to state facts sufficient to constitute a cause of action. (*Id.*)
- 8. Plaintiff's sixth cause of action for "Quiet Title" fails to state facts sufficient to constitute a cause of action. (*Id.*)

DATED: June 15, 2012

SEVERSON AND WERSON, A Professional Corporation

DAVID E. PINCH

Attorneys for Defendants RECONTRUST COMPANY, N.A.

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PROOF OF SERVICE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is One Embarcadero Center, Suite 2600, San Francisco, CA 94111.

On June 15, 2012, I served true copies of the following document(s):

NOTICE OF RECONTRUST COMPANY'S DEMURRER AND DEMURRER TO COMPLAINT OF KIMBERLY COX

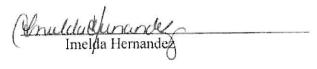
on the interested parties in this action as follows:

| Timothy Y. Fong, Esq. 3333 Bowers Avenue, Suite 130 Santa Clara, CA 95054 | Attorney for Plaintiff, Kimberly Cox |
|---|--------------------------------------|
| Phone: 408.627.7810 Fax: 408.457.9417 Email: tyfong919@gmail.com | |

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Severson & Werson's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on June 15, 2012, at San Francisco, California.



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NOTICE OF RECONTRUST COMPANY'S DEMURRER AND DEMURRER TO COMPLAINT