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1 Timothy L. McCandless, Esq., SBN 147715
2 LAW OFFICES OF TIMOTHY L. MCCANDLESS
3 820 Main Street, Suite #1
4 P.O. Box 149
5 Martinez, California 94553

6 Telephone: (925) 957-9797
7 Facsimile: (925) 957-9799
8 Email: legal@prodefenders.com

9 Attorney for Defendant(s): Alexander B. Paragas

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF SAN MATEO**
12 **SOUTHERN BRANCH - HALL OF JUSTICE & RECORDS**

13 FEDERAL HOME LOAN MORTGAGE
14 CORPORATION, ITS ASSIGNEES
15 AND/OR SUCCESSORS,
16
17 Plaintiff(s),
18
19 VS.
20 ALEXANDER B. PARAGAS; PERLA O.
21 PARAGAS; and DOES 1 -10, Inclusive,
22
23 Defendant(s)

24 CASE NO: CLJ205995
25 MOTION IN LIMINE TO PRECLUDE THE
26 ADMISSION OF THE TRUSTEE'S DEED
27 UPON SALE
28
Hearing's:
Settlement Conference
Date : September 20, 2012
Time : 1:30 p.m.
Dept. : UDS
Reservation No.:

Hearing's:
Motion for Summary Judgment by Defendant
Date : September 21, 2012
Time : 9:00 a.m.
Dept. : Law and Motions
Reservation No.:

Hearing's:
Jury Trial
Date : September 24, 2012
Time : 9:00 a.m.
Dept. : UDS
Reservation No.:

1 To the Court, to Plaintiff FEDERAL HOME LOAN MORTGAGE CORPORATION, ITS
2 ASSIGNEES AND/OR SUCCESSORS; Defendant ALEXANDER B. PARAGAS hereby
3 submits his Motion In Limine to preclude the admission of the Trustee's Deed Upon Sale as
4 follows:

5
6 **I.**
INTRODUCTION

7 *Civil Code Section 2932.5* provides that the assignee of a negotiable secured instrument may
8 exercise the power of sale provided the assignment was properly acknowledge and recorded. In
9 this case, no recordation of the Receiver's Deed was ever properly accomplished.

10 Thus, there is a major substantive failure in the non-judicial foreclosure process and the
11 transaction cannot stand. In order for FEDERAL HOME LOAN MORTGAGE
12 CORPORATION, ITS ASSIGNEES AND/OR SUCCESSORS [hereinafter "FHLMC"] to have
13 proceeding the first instance under *Civil Code Section 2924 et seq.*, it was required to be record
14 owner, which is was not.

15 As such, Plaintiff FHLMC is not entitled to obtain possession of the Subject Property as such
16 evidence overcomes the rebuttable presumption of correctness of the sale.

17 Secured interests in real property are demonstrated by recordation so that the entire world will
18 know that a party maintains a secured interest therein. That's why interests in real property are
19 recorded and deeds are submitted as evidence to assert rights of interest and title.

20 It is a fundamental precept of property law that in order to enforce the power of sale, the
21 beneficiary of a deed of trust must be able to prove the existence of their secured interest in the
22 subject property. Here, FHLMC has never demonstrated that it ever had such a secured interest
23 and as such the Trustee's Deed Upon Sale must be excluded from admission as evidence.

24 **II.**
FACTUAL BACKGROUND OF THIS LITIGATION

25 ALEXANDER B. PARAGAS is the owner of the subject property located at 39 SANTA ANA
26 AVENUE, DALY CITY, CALIFORNIA 94015. The Plaintiff, FHLMC, filed its unlawful
27 detainer Complaint on or about May 16, 2012. The Complaint at its ¶11 proceeds upon a
28 Trustee's Deed that was issued after foreclosure of a Deed of Trust. It stated that, the property

1 was sold to Plaintiff in accordance with *Civil Code Section 2924 et seq.* under a power of sale
2 contained in a Deed of Trust.

3 In response to this allegation, Defendant in his Answer at ¶11 denies that the power of
4 extrajudicial sale was lawfully exercised. Defendant further specially denies any implied pleading
5 that the foreclosure sale was duly conducted in compliance with all of the applicable requirements
6 of the California Civil Code. Defendant admits that the Trustee's Deed has been publicly recorded
7 as alleged, but denies that the recording is valid.

8 The public records do not reflect that the Subject Property at issue in this case was ever
9 conveyed either by Plaintiff, and the public records of San Mateo County Recorder do not show
10 that an assignment of the Deed of Trust was ever properly executed and recorded.

11 The challenged foreclosure process is based upon several Assignments of DOT.

- 12 a) First assignment executed and effective January 3, 2011, See RJN Exhibit "1";
- 13 b) Second assignment executed and effective May 24, 2011, See RJN Exhibit "2";
- 14 and
- 15 c) Third assignment executed and effective October 31, 2011, See RJN Exhibit
- 16 "3".

17 Defendant further alleges and according the San Mateo County Recorder's Office, that first
18 assignment of DOT (*See* RJN Exhibit "1") was purportedly signed by Mr. BRIAN BURNETT as
19 the "Assistant Secretary" of MERS, Defendant believes and alleges that Mr. BRIAN BURNETT
20 was never, in any manner whatsoever, appointed as the "Assistant Secretary" by the Board of
21 Directors of MERS, as required by MERS' corporate by-laws and an adopted corporate resolution
22 by the Board of Directors of MERS. For that reason, Mr. BRIAN BURNETT never had, nor has,
23 any corporate or legal authority from MERS, or the lender's successors and assigns, to execute
24 the purported "Assignment." Furthermore Mr. BRIAN BURNETT purports to be ONEWEST's
25 "Assistant Vice President" according the Substitution of Trustee ("SOT") executed and effective
26 January 13, 2011 See RJN Exhibit "4"

27 This is a shell game where Mr. BRIAN BURNETT purports to be "Assistant Secretary" and
28 "Assistant Vice President" for two different entities at the same time, in reality Mr. BRIAN
BURNETT is an employee for ONEWEST, so that he can manufacture the paperwork necessary
for ONEWEST to hijack the mortgage and then foreclose on the property. Furthermore this is
example of how MERS is being used by its members to perpetrate a fraud.

1 On or about October 31, 2011 another MERS' employee Mrs. WENDY TRAXLER as
2 "Assistant Secretary" once again assigned same DOT to ONEWEST (See RJN Exhibit "3").

3 Defendant alleges that employees of same entity, in this case MERS', Mr. BRIAN BURNETT
4 and Mrs. WENDY TRAXLER, both "Assistant Secretaries", did not communicated as to the
5 Defendant's Note and DOT before the execution of the assignments, or it appears that MERS'
6 employees preparing and signing off on foreclosures without reviewing them, as the law requires.

7 It has been widely reported in the media that mortgage servicers, lenders, and major banks
8 have suspended over a hundred thousand foreclosures because relevant documents may not have
9 been properly prepared by ROBO-SIGNERS. Typically, the ROBO-SIGNERS were given phony
10 titles such as "Vice President" and "Assistant Secretary" to make it appear that they were bank
11 officers. In reality, ROBO-SIGNERS were typically, teens, hair stylists, Wal-Mart workers,
12 students, and unemployed persons of varying backgrounds.

13 The ROBO-SIGNING of affidavits and Assignments of Mortgage and all other mortgage
14 foreclosure documents served to cover up the fact that loan servicers cannot demonstrate the facts
15 required to conduct a lawful foreclosure.

16 Here in this instant case have been several assignments of Defendant's Note and DOT; this has
17 created several wild deeds, that is to say deeds recorded outside of the chain of the title. Mr.
18 BRIAN BURNETT assigned DOT from MERS to ONEWEST on or about January 3, 2011 (See
19 RJN Exhibit "1"), on or about May 24, 2011 Mrs. MOLLIE SCHIFFMAN an "Assistant Vice
20 President" of ONEWEST assigned interest of Defendant's Note and DOT to the Plaintiff (See
21 RJN Exhibit "2"), yet on or about October 31, 2011 Mrs. WENDY TRAXLER once again assigns
22 same Note and DOT from MERS to ONEWEST (See RJN Exhibit "3"), this fabricated
23 assignments of DOT is nothing more than an attempt of Plaintiff and its agents to hijack the
24 mortgage and then foreclose on the property, in violation of California Civil Law.

25 Defendant further alleges that purported assignments of his Note and DOT, is attempt to pave
26 the way for Plaintiff to be able to claim an estate or interest in the Property adverse to that of
27 Defendant.

28 The ability to enforce the power of sale of a secured instrument in real property is controlled by
29 *Civil Code Section 2932.5*, which allows an assignee to proceed with a non-judicial foreclosure
30 providing that the assignment is properly acknowledged and recorded. Plaintiff did not maintain a
31 properly acknowledged and recorded security instrument in the Subject Property, at any time

1 during the non-judicial foreclosure process. Further, Plaintiff's only claim in the Subject Property
2 is the Trustee's Deed After Sale.

3 Plaintiff failed to comply with *California Civil Code Section 2923.5*, by failing to contact
4 Defendant to assess his options to foreclosure prior to selling the Subject Property.

5 Given all the foregoing, the non-judicial foreclosure of the Subject Property was invalid,
6 Plaintiff FHLMC is not the lawful owner of the Subject Property, and Plaintiff FHLMC is not
7 entitled to obtain possession of the Subject Property pursuant to *Code of Civil Procedure Section*
8 *1161a*.

9 III.

10 LEGAL ANALYSIS

11 ISSUES OF TITLE CAN BE CHALLENGED IN AN 12 UNLAWFUL DETAINER PROCEEDING.

13 As a threshold matter, we note an unlawful detainer action "is a summary proceeding, the
14 primary purpose of which is to obtain the possession of real property in the situations specified by
15 statute. [Citations.] ... [Citation.] The sole issue before the court is the right to possession; ..."
16 *Vasey v. California Dance Co.*, (1977) 70 Cal.App.3d 742, 746-747, 139 Cal.Rptr. 72. With
17 certain exception, "title cannot be tried in an unlawful detainer action." *Greenhut v. Wooden*,
18 (1982) 129 Cal.App.3d 64, 69 [180 Cal.Rptr. 786. This case is one of those exceptions in which
19 the issue of title can be tried.

20 IV.

21 PLAINTIFF FHLMC BANK CANNOT LAY SUFFICIENT EVIDENTIARY 22 FOUNDATION FOR ADMISSION OF THE TRUSTEE'S DEED UPON SALE.

23 Given the irregularities of the foreclosure process, the alleged beneficiary did not have the
24 power of sale. Such irregularities should constitute sufficient grounds to set aside the entire non-
25 judicial foreclosure process. Therefore, the Trustee's Deed Upon Sale should not be admitted, as
26 no lawful basis exists for its execution. The purpose of a Motion in Limine is to avoid attempting
27 to "unrig the bell". In as much as no lawful basis exists for admission of the Trustee's Deed Upon
28 Sale, the document should be excluded.

Evidence Code Section 350 provides: "No evidence is admissible except relevant evidence."

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1 In this case, the Trustee's Deed Upon Sale is not relevant to prove ownership of the property
2 given the irregularities in the break of title from INDYMAC BANK, F.S.B., to ONEWEST
3 BANK, FSB and to FHLMC, if in fact the Subject Property was ever conveyed to FHLMC.

4 Namely the evidence of a gap in title and security interest from its original lenders to Plaintiff
5 during the time of the foreclosure proceeding, as well as missing evidence to show whether the
6 Trustee, was authorized to act as Plaintiff's agent in continuing to pursue the sale once
7 INDYMAC BANK, F.S.B. had lost its security interest...."

8 Unless FHLMC can produce sufficient evidence of the "gap in title and security interest" then
9 FHLMC cannot establish that it ever was a holder in due course and entitled to proceed as a
10 beneficiary with the foreclosure. As such, Plaintiff cannot furnish sufficient evidence to form an
11 evidentiary foundation that the Trustee's Deed Upon Sale is a relevant document. If the
12 irregularities of the sale are not cured...then the Trustee's Deed Upon Sale must fail, and not be
13 admitted.

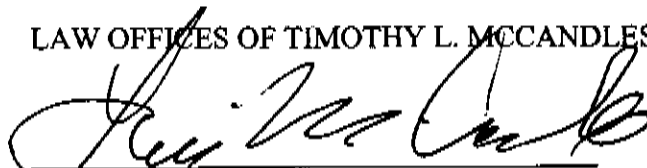
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V.
CONCLUSION

Defendant ALEXANDER B. PARAGAS respectfully requests that the court grant the Motion
in Limine to preclude the admission of Plaintiff's Trustee's Deed Upon Sale, in the absence of
more and further evidence to support that Plaintiff was a lawful holder in due course during the
foreclosure, admissible evidence that Plaintiff FHLMC was lawfully authorized to proceed with
the foreclosure.

Respectfully submitted;

DATED: September 14, 2012 LAW OFFICES OF TIMOTHY L. MCCANDLESS



Timothy L. McCandless, Esq.
Attorney for Defendant(s): Alexander B. Paragas

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14 CORPORATION, ITS ASSIGNEES
15 AND/OR SUCCESSORS,

16 Plaintiff(s),

17 VS.

18 ALEXANDER B. PARAGAS; PERLA O.
19 PARAGAS; and DOES 1 -10, Inclusive,

20 Defendant(s)

CASE NO: CLJ205995

REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION IN LIMINE TO
PRECLUDE THE ADMISSION OF THE
TRUSTEE'S DEED UPON SALE

Hearing's:

Settlement Conference

Date : September 20, 2012

Time : 1:30 p.m.

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Reservation No.:

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Jury Trial

Date : September 24, 2012

Time : 9:00 a.m.

Dept. : UDS

Reservation No.:

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Pursuant to *Code of Civil Procedure Section 430.70, Evidence Code Sections 452-453*, Defendant ALEXANDER B. PARAGAS, respectfully request that Court takes judicial notice of the following attached documents:

Exhibit 1: A true and correct copy of the Assignment of Deed of Trust dated January 3, 2011, recorded on January 12, 2011 as Instrument No.: 2011-003967 in San Mateo County Recorder's Office.

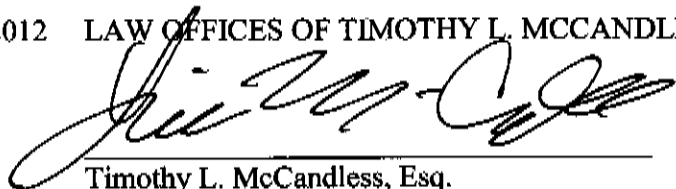
Exhibit 2: A true and correct copy of the Assignment of Deed of Trust dated May 24, 2011, recorded on May 4, 2012 as Instrument No.: 2012-063386 in San Mateo County Recorder's Office.

Exhibit 3: A true and correct copy of the Corporate Assignment of Deed of Trust dated October 31, 2011, recorded on recorded November 28, 2011 as Instrument No.: 2011-143641 in San Mateo County Recorder's Office.

Exhibit 4: A true and correct copy of the Substitution of Trustee dated January 13, 2011, recorded on January 28, 2011 as Instrument No.: 2011-010335 in San Mateo County Recorder's Office.

Respectfully submitted;

DATED: September 14, 2012 LAW OFFICES OF TIMOTHY L. MCCANDLESS




Timothy L. McCandless, Esq.
Attorney for Defendant(s): Alexander B. Paragas

Exhibit 1

J

Recording requested by:

When recorded mail to:
OneWest Bank, FSB
888 East Walnut Street
Pasadena, CA 91101

2011-003967
8:50 am 01/12/11 AT Fee: 18.00
Count of Pages 2
Recorded in Official Records
County of San Mateo
Mark Church
Assessor-County Clerk-Recorder

* R 0 0 0 1 1 1 8 8 2 1 *

TS #: CA-10-414171-LL
Order #: 100790477-CA-GTI
MERS MIN No.: 100065401289199871

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29

Assignment of Deed of Trust

APN #: 008-336-260-8

For value received, the undersigned corporation hereby grants, assigns, and transfers to

OneWest Bank, FSB

all beneficial interest under that certain Deed of Trust dated 1/24/2008 executed by **ALEXANDER B PARAGAS AND PERLA O PARAGAS HUSBAND AND WIFE AS JOINT TENANTS**, as Trustor(s) to **CHICAGO TITLE INSURANCE CO**, as Trustee and recorded as Instrument No. **2008-010367**, on 1/31/2008, in Book xxx, Page xxx, of Official Records, in the office of the County Recorder of **SAN MATEO** County, CA.

TS #: CA-10-414171-LL
Page 2

Date: JAN 03 2011

**MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC., AS NOMINEE FOR INDYMAC
BANK, F.S.B., A FEDERALLY CHARTERED
SAVINGS BANK A FEDERAL SAVINGS BANK**

By: Brian Burnett Assistant Secretary

State of: Texas

County of: Travis

On JAN 03 2011 before me, Sharon Renee McClendon a notary public, personally appeared Brian Burnett, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)

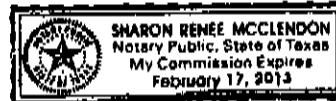


Exhibit 2

Recording requested by:

When recorded mail to:
OneWest Bank, FSB
888 East Walnut Street
Pasadena, CA 91101

2012-063386

12:40 pm 05/04/12 AT Fee: 18.00

Count of Pages 2

Recorded In Official Records

County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



TS #: CA-10-414171-LL
Order #: 100780477-CA-GTI
MERS MIN No.: 10006640128919871

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Assignment of Deed of Trust

APN #: 008-336-260-8

For value received, the undersigned corporation hereby grants, assigns, and transfers to

Federal Home Loan Mortgage Corporation

all beneficial interest under that certain Deed of Trust dated 1/24/2008 executed by **ALEXANDER B PARAGAS AND PERLA O PARAGAS HUSBAND AND WIFE AS JOINT TENANTS**, as Trustor(s) to **CHICAGO TITLE INSURANCE CO**, as Trustee and recorded as Instrument No. **2008-010367**, on 1/31/2008, in Book xxx, Page xxx, of Official Records, in the office of the County Recorder of **SAN MATEO** County, CA.

TS #: CA-10-414171-LL
Page 2

Date:

MAY 24 2011

OneWest Bank, FSB



By: Mollie Schlarman Assistant Vice President

State of: Texas

County of: Tech

On MAY 24 2011 before me, Stacey F. Jones a notary public, personally appeared Mollie Schlarman, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Stacey F Jones (Seal)



Exhibit 3

2011-143641

11:07 am 11/28/11 AT Fee: 19.00
Count of Pages 1
Recorded in Official Records
County of San Mateo

Mark Church
Assessor-County Clerk-Recorder



Prepared By: John Gagnon (AR)
OneWest Bank, PSB
2900 Esperanza Crossing, 4th floor
Austin, TX 78758
(512) 506-6931

When recorded, mail to:
ORION FINANCIAL GROUP, THE
400 WILSON
2000 ESTACADO BLVD SUITE 100
SOUTH SAN FRANCISCO, CA 94080

SPACE ABOVE THIS LINE FOR RECORDER'S USE

OneWest Bank #: 1010929407
MIN #: 100055401289199871

PIN #: 008-336-260
MERS Phone: 1.888.679.6377

California Assignment of Deed of Trust

For value received, the undersigned, whose address is 1901 East Voorhees Street Suite C, Danville, IL 61834, hereby grants, assigns and transfers to OneWest Bank, FSB herein called "Assignee", whose address is 888 East Walnut Street, Pasadena, CA 91101 all beneficial interest under that certain Deed of Trust dated January 24th, 2008 executed by Alexander B. Paragas and Perla O. Paragas Husband and Wife as Joint Tenants, to beneficiary noted on Deed of Trust, Mortgage Electronic Registration Systems, Inc. (MERS) solely as nominee for IndyMac Bank, F.S.B., a federally chartered savings bank in the amount of \$417,000.00, and recorded on January 31st, 2008 in/under Book , Volume or Liber, Page . Instrument number 2008-010367, of Official Records in the County Recorder's Office of San Mateo County, California, having a Property Address of 39 Santa Ana Avenue, Daly City, California 94015, as described per said Deed of Trust of Record, together with the Note therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Deed of Trust, this Assignment dated October 31st, 2011.

Mortgage Electronic Registration Systems, Inc. (MERS)
solely as nominee for IndyMac Bank, F.S.B., a federally chartered savings bank

Orion Financial Group Inc.

PARAGAS, ALEXANDER *11001435*
NBS/ONEWEST/OPD
ONEWEST BANK, FSB

Wendy Traxler
Assistant Secretary

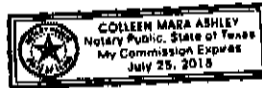
STATE OF TEXAS
COUNTY OF TRAVIS

On October 31st, 2011, before me, Colleen Mara Ashley, Notary Public, the undersigned, personally appeared, Wendy Traxler, Assistant Secretary, who is personally known to me to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, she, the individual, or the entity upon behalf of which the individual acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Colleen Mara Ashley, Notary Public



My Commission Expires: 7/25/2015

Exhibit 4

16

Recording requested by:

When recorded mail to:

Quality Loan Service Corp.
2141 5th Avenue
San Diego, CA 92101
619-645-7711

2011-010335
9:49 am 01/28/11 ST Fee: 18.00
Count of Pages 2
Recorded in Official Records
County of San Mateo
Mark Church
Assessor-County Clerk-Recorder
* R 0 0 0 1 1 2 7 1 9 3 *

TS #: CA-10-414171-LL
Order #: 100790477-CA-GTI
MERS MIN No.: 100055401289189871

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Substitution of Trustee

WHEREAS, **ALEXANDER B PARAGAS AND PERLA O PARAGAS HUSBAND AND WIFE AS JOINT TENANTS** was the original Trustor, **CHICAGO TITLE INSURANCE CO** was the original Trustee, and **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR INDYMAC, F.S.B., A FEDERALLY CHARTERED SAVINGS BANK A FEDERAL SAVINGS BANK** was the original Beneficiary under that certain Deed of Trust dated **1/24/2008** and recorded on **1/31/2008** as Instrument No. **2008-010387**, in book xxx, page xxx. of Official Records of **SAN MATEO** County, CA; and

WHEREAS, the undersigned is the present Beneficiary under said Deed of Trust, and

WHEREAS, the undersigned desires to substitute a new Trustee under said Deed of Trust in place and stead of said original Trustee, or Successor Trustee, thereunder, in the manner provided for in said Deed of Trust,

NOW, THEREFORE, the undersigned hereby substitutes **QUALITY LOAN SERVICE CORPORATION**, as Trustee under said Deed of Trust.

Whenever the context hereof so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

Substitution of Trustee - CA
TS #: CA-10-414171-LL
Page 2

Dated: 01/13/11

OneWest Bank, FSB

By: 
Brian Burnett
Assistant Vice President

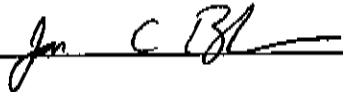
State of: Texas
County of: Travis

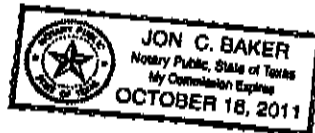
Jon C. Baker

On this JAN 13 2011 date before me, _____ personally appeared Brian Burnett, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



1 Timothy L. McCandless, Esq., SBN 147715
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8 Email: legal@prodefenders.com

9 Attorney for Defendant(s): Alexander B. Paragas

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12 **SOUTHERN BRANCH - HALL OF JUSTICE & RECORDS**

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20 Defendant(s)

CASE NO: CLJ205995

[PROPOSED] ORDER AFTER HEARING ON
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MOTION IN LIMINE TO PRECLUDE THE
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LAW OFFICES OF TIMOTHY L. MCCANDLESS
820 Main Street, Suite #1
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NOTICE IS HEREBY GIVEN that on September 20, 2012, at 1:30 p.m. a.m. in Department UDS, Defendant ALEXANDER B. PARAGAS moved the court for an Order precluding admission of Plaintiff's Exhibit Trustee's Deed After Sale.

Attorney Timothy L. McCandless appeared on behalf of Defendant ALEXANDER B. PARAGAS, _____ appeared on behalf of Plaintiff FEDERAL HOME LOAN MORTGAGE CORPORATION, ITS ASSIGNEES AND/OR SUCCESSORS.

The court having reviewed the moving papers and after oral argument granted Defendant's Motion in Limine.

ORDER

IT IS THEREFORE ORDERED that the Trustee's Deed Upon Sale being offered by the Plaintiff is inadmissible, is irrelevant and an insufficient evidentiary foundation exists for its admission, and will not be admitted into evidence during trial of this matter.

IT IS SO ORDERED.

Dated: _____

THE HONORABLE JUDGE
OF THE SUPERIOR COURT

1 Timothy L. McCandless, Esq., SBN 147715
2 LAW OFFICES OF TIMOTHY L. MCCANDLESS
3 820 Main Street, Suite #1
4 P.O. Box 149
5 Martinez, California 94553

6 Telephone: (925) 957-9797
7 Facsimile: (925) 957-9799
8 Email: legal@prodefenders.com

9 Attorney for Defendant(s): Alexander B. Paragas

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF SAN MATEO**
12 **SOUTHERN BRANCH - HALL OF JUSTICE & RECORDS**

13 FEDERAL HOME LOAN MORTGAGE
14 CORPORATION, ITS ASSIGNEES
15 AND/OR SUCCESSORS,

16 Plaintiff(s),

17 VS.

18 ALEXANDER B. PARAGAS; PERLA O.
19 PARAGAS; and DOES 1 -10, Inclusive,

20 Defendant(s)

CASE NO: CLJ205995

PROOF OF SERVICE RE MOTION IN
LIMINE TO PRECLUDE THE ADMISSION
OF THE TRUSTEE'S DEED UPON SALE

Hearing's:
Settlement Conference

Date : September 20, 2012
Time : 1:30 p.m.
Dept. : UDS

Hearing's:
Motion for Summary Judgment by Defendant

Date : September 21, 2012
Time : 9:00 a.m.
Dept. : Law and Motions

Hearing's:
Jury Trial

Date : September 24, 2012
Time : 9:00 a.m.
Dept. : UDS

1 I am resident of the State of California, over the age of eighteen years, and not a party to the
2 within action. My business address is LAW OFFICES OF TIMOTHY L. MCCANDLESS, 820
3 Main Street, Suite #1, Martinez, California 94553. On September 14th, 2012, I served the
4 following document(s) by the method indicated below:

5 **MOTION IN LIMINE TO PRECLUDE THE ADMISSION OF THE**
6 **TRUSTEE'S DEED UPON SALE**

7 **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION IN LIMINE**
8 **TO PRECLUDE THE ADMISSION OF THE TRUSTEE'S DEED UPON SALE**

9 **[PROPOSED] ORDER AFTER HEARING ON DEFENDANT ALEXANDER B.**
10 **PARAGAS' MOTION IN LIMINE TO PRECLUDE THE ADMISSION OF THE**
11 **TRUSTEE'S DEED UPON SALE**

12 [] by transmitting via facsimile on this date from fax number (925) 957-9799 the
13 document(s) listed above to fax number(s) set forth below. The transmission was
14 completed before 5:00 PM and was reported complete and without error. The
15 transmission report, which is attached to this proof of service, was properly issued by
16 the transmitting fax machine. Service by fax was made by agreement of the parties,
17 confirmed in writing. The transmitting fax machine complies with Cal.R.Ct 2003(3).

18 [] by placing the document(s) listed above in a sealed envelope with postage thereon
19 fully prepaid, in the United States mail at Martinez, California addressed as set forth
20 below. I am readily familiar with the firm's practice of collection and processing of
21 correspondence for mailing. Under that practice, it would be deposited with the U.S.
22 Postal Service on that same day with postage thereon fully prepaid in the ordinary
23 course of business. I am aware that on motion of the party served, service is presumed
24 invalid if the postal cancellation date or postage meter date is more that one day after
25 the date of deposit for mailing in this Declaration.

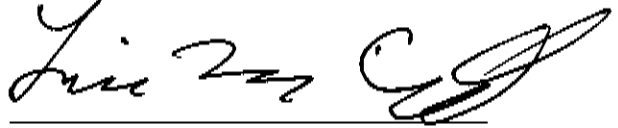
26 [] by placing the document(s) listed above in a sealed envelope(s) and by causing
27 personal delivery of the envelope(s) to the person(s) at the address(es) set forth
28 below. A signed proof of service by the process server or delivery service will be
filed shortly.

[] by personally delivering the document(s) listed above to the person(s) set forth below.

[X] by placing the document(s) listed above in a sealed envelope(s) and consigning it to
an express mail service for guaranteed delivery on the next business day following
the date of consignment to the address(es) set forth below. A copy of the consignment
slip is attached to this proof of service.

Mishaela J. Graves, Esq.
MCCARTHY & HOLTHUS, LLP
1770 Fourth Avenue
San Diego, California 92101
Attorney(s) for Plaintiff: FEDERAL HOME LOAN MORTGAGE
CORPORATION, ITS ASSIGNEES AND/OR SUCCESSORS

1 I declare under penalty of perjury under the laws of the State of California that the above is true
2 and correct. Executed on September 14, 2012 at Martinez, California

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5 Timothy L. McCandless, Esq.
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