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U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
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SOUTHERN DISTRICT
OF INDIANA
LAURA A. ERIGGS
CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

DWAYNE RANSOM DAVIS and MELISA
DAVIS, on behalf of themselves and all others
similarly-situated,

Plaintiffs,

vs.

COUNTRYWIDE HOME LOANS, INC.; BANK
OF AMERICA, N.A.; BAC GP, LLC; and BAC
HOME LOANS SERVICING, LP,

Defendants.

Case No. _____

CLASS ACTION

JURY TRIAL DEMANDED

1 : 10-cv- 1303 Jms-DML

**CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

Plaintiffs Dwayne Ransom Davis and Melisa Davis, individually and as representatives of the Class defined herein, by and through their undersigned counsel, for their Class Action Complaint for Violations of the Racketeer Influenced and Corrupt Organizations Act against Defendants, allege as follows:

I. INTRODUCTION

1. The protection of individual property rights is a cornerstone of American society and its jurisprudence. These rights are protected by well-established laws that provide the necessary checks and balances to ensure that these rights are not violated.

2. Ignoring fundamental rights of property ownership, the Defendants and their cohorts engaged in a pattern of racketeering activity in which they routinely and repeatedly

prepared perjured affidavits in order to rapidly churn foreclosures of the Plaintiffs' and other Class members' mortgages without the necessary information and documentation.

3. These perjured affidavits were signed by so-called "robo-signers" who often signed hundreds per day and had no personal knowledge of their contents or accuracy. The perjured affidavits were submitted to courts and sent through interstate mails and wires, all in furtherance and perpetuation of the fraud. The robo-signers perjured themselves at the Defendants' direction by swearing that they had personal knowledge of information contained in the affidavits that they did not even read.

4. The Defendants' and their enterprise's activities amounted to a conspiracy to undermine the justice system in foreclosure proceedings. This foreclosure churning apparatus, through its multiple parts, allowed the Defendants to operate the Mortgage Foreclosure Mill Enterprise, throwing families from their homes with callous disregard for the basic protections of the law and established American notions of justice.

5. As set forth below, the Plaintiffs and Class members are entitled to actual and statutorily-enhanced damages caused by the Defendants' fraudulent activities under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-68. Plaintiffs and the Class members are also entitled to damages for Defendants' violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692.

6. Although the fraudulent activity occurred in foreclosure proceedings, the Plaintiffs and Class do not seek to reopen or disturb the judgments in those foreclosures, and instead seek only monetary damages as a result of being prematurely evicted from their houses based on perjured affidavits.

II. PARTIES

7. Plaintiff Dwayne Ransom Davis and Melisa Davis are residents of the State of Indiana who in March 2007 mortgaged their home located in Knightstown, Indiana, to Defendant Countrywide Home Loans, Inc.

8. Defendant Countrywide Home Loans, Inc. ("Countrywide") is a Delaware corporation with its principal offices located in Calabasas, California. Countrywide's registered agent for service in the State of Indiana is CT Corporation System, 251 E. Ohio St., Ste. 1100, Indianapolis, IN 46204.

9. Defendant Bank of America, N.A. ("Bank of America") is a North Carolina corporation with its principal offices located in Charlotte, North Carolina. Bank of America's registered agent for service in the State of Indiana is CT Corporation System, 251 E. Ohio St., Indianapolis, IN 46204.

10. Defendant BAC GP, LLC, is a Nevada limited liability company with its principal offices located in Calabasas, California. BAC GP, LLC is not registered with the Indiana Secretary of State; the address of its principal office is 4500 Park Granada, Calabasas, CA 91302.

11. Defendant BAC Home Loans Servicing, LP is a California Limited Partnership, with its principal offices located in Woodland Hills, California, whose registered agent for service in the State of Indiana is CT Corporation System, 251 E. Ohio St., Ste. 1100, Indianapolis, IN 46204

12. In July 2008, Bank of America acquired Countrywide.

III. JURISDICTION AND VENUE

13. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2), because the matter in controversy exceeds the sum or value of \$5 million, exclusive of interest and costs, and it is a class action brought by a citizen of a State that is different from the State where at least one Defendant is incorporated or does business.

14. Jurisdiction is also appropriate under 28 U.S.C. § 1331, because the claims asserted by Plaintiffs arise under the laws of the United States of America.

15. This Court's venue over this action is proper under 28 U.S.C. § 1391(a)(2) because the events or omissions giving rise to the claims asserted herein occurred in this district.

IV. CLASS ACTION ALLEGATIONS

16. Plaintiffs bring this action on behalf of themselves and all others similarly situated, who are members of a Class composed of:

All persons and entities whose property was foreclosed upon by the Defendants during the Class Period of October 18, 2006 to present.

(the "Class"). Excluded from the Class are:

- A. The officers and directors of the Defendants;
- B. Any robo-signers who participated in any way in foreclosures by Defendants;
- C. Any lawyers or law firms who represented Defendants in any foreclosure proceedings;
- D. Any judge or judicial officer assigned to this matter and his or her immediate family; and

E. Any legal representative, successor, or assign of any excluded persons or entities.

17. Plaintiffs' claims are made on behalf of themselves and all others similarly-situated under Rule 23 of the Federal Rules of Civil Procedure.

18. Plaintiffs do not know the exact size of the Class but allege that the number of Class members numbers in the thousands so that joinder of all members is impracticable.

19. There are questions of law and fact common to the Class, as set forth more particularly below.

20. Plaintiffs are members of the Class, and their claims are typical of the claims of Class members generally. Plaintiffs' claims arise from the same conduct giving rise to the claims of the Class, and the relief Plaintiffs seek is common to the Class.

21. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs are represented by competent counsel experienced in the prosecution of class action litigation. Plaintiffs' interests coincide with, and are not antagonistic to, those of the Class.

22. Questions of law and fact common to all class members predominate over any questions affecting only individual class members. Predominating common questions include, without limitation:

A. Whether Defendants participated in an association in fact and enterprise with the robo-signers and Defendants' lawyers in the Defendants' foreclosure actions;

B. Whether one of the enterprise's fundamental purposes was to undermine the justice system through the use of perjured affidavits to prematurely deprive Plaintiffs of the ownership and use of their homes;

C. Whether the enterprise engaged in a pattern of racketeering activity;

D. Whether the enterprise committed acts of fraud on the courts, wire fraud, and mail fraud;

E. Whether the enterprise knowingly prepared and submitted perjured affidavits to courts;

F. Whether the enterprise's pattern of racketeering activity affected interstate commerce;

G. Whether the Plaintiffs and Class members were harmed by Defendants' and the enterprise's wrongful acts; and

H. The amount of any damages to which the Plaintiffs and Class are entitled in this action.

23. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Without a class action, individual Class members would face burdensome litigation expenses, deterring them from bringing suit or adequately protecting their rights. Absent class treatment, Plaintiffs and Class members are unlikely to receive damages or other relief from the Defendants' unlawful and wrongful conduct.

24. The consideration of common questions of fact and law will conserve judicial resources and promote a fair and consistent resolution of these claims.

V. FACTUAL ALLEGATIONS

25. By now, everyone is all too familiar with the rapid growth and eventual burst of the housing bubble over the past decade and the resulting erosion of the American economy. It is no secret that this devastating financial crisis was the result, in part, of irresponsible and opportunistic lending practices by the nation's biggest lenders, which resulted in a record number of foreclosures over the past several years.

26. The Defendants' fraudulent conduct alleged in this Complaint traces its roots to the boom years of the housing market, when home prices were soaring and lenders pursued profit while paying little attention to the details and proper documentation of mortgage transfers and loan servicing.

27. In their zeal to maximize profits from the soaring housing market, lenders and mortgage loan services—including Defendants—cut corners in the way they did business, ignoring and/or attempting to surreptitiously rewrite the most fundamental rules of how mortgages and promissory notes were generated, assigned, and recorded. The ultimate goal was to "securitize" these mortgages by bundling them by the thousands into investment vehicles for Wall Street's consumption.

28. While lenders and hedge fund managers were busy gambling with securitized blocks of ordinary peoples' mortgages, the bubble rapidly expanded and eventually burst, leaving in its wake thousands of borrowers with negative equity and unfavorable loans for which they were unable to make monthly payments.

A. MERS

29. One of the primary tools used by banks to shortcut traditional laws and procedures regarding mortgages, and to quickly transfer, bundle, and securitize mortgage loans, was the Mortgage Electronic Registration System ("MERS") that is owned and operated by MERSCORP, Inc., a Delaware corporation.

30. MERS is owned by the country's biggest lenders, lender associations, and other industry giants, including the Mortgage Bankers Association of America, Fannie Mae, Freddie Mac, American Land Title Association, and various other mortgage companies, title insurers, and mortgage insurers. In addition to the capital contributed by the shareholders, MERS has a

committed line of credit from Bank of America, guaranteed by the Mortgage Bankers Association of America, Fannie Mae, and Freddie Mac.

31. MERS describes itself as “an innovative process that simplifies the way mortgage ownership and servicing rights are originated, sold and tracked. Created by the real estate finance industry, MERS eliminates the need to prepare and record assignments when trading residential and commercial mortgage loans.” This is a fancy way of saying MERS is a tool to bypass the established laws governing mortgage transfers and recording.

32. According to its website, www.mersinc.org:

MERS was created by the mortgage banking industry to streamline the mortgage process by using electronic commerce to eliminate paper. Our mission is to register every mortgage loan in the United States on the MERS® System.

Beneficiaries of MERS include mortgage originators, servicers, warehouse lenders, wholesale lenders, retail lenders, document custodians, settlement agents, title companies, insurers, investors, county recorders and consumers.

MERS acts as nominee in the county land records for the lender and servicer. Any loan registered on the MERS® System is inoculated against future assignments because MERS remains the nominal mortgagee no matter how many times servicing is traded. MERS as original mortgagee (MOM) is approved by Fannie Mae, Freddie Mac, Ginnie Mae, FHA and VA, California and Utah Housing Finance Agencies, as well as all of the major Wall Street rating agencies.

33. The mortgage bankers’ impetus for creating MERS was a desire to save literally hundreds of millions of dollars by shortcutting the long-established requirements for assignments and recording of mortgages—which are in place to protect the property rights of borrowers/mortgagors, as well as subsequent purchasers. The ultimate objective was to make it easier to serially transfer mortgages for eventual bundling and securitization without regard to whether these transfers were legally or properly done.

34. The *MERS Integration Handbook Volume One* laments the costs and hassles of complying with the legal protections of private property rights established by law:

In today's mortgage banking industry, a costly, time-consuming and paperintensive environment exists for all those involved in transferring and tracking mortgage rights. Investors transfer mortgage ownership rights using the same process as required by seventeenth century real property law. Note endorsements, mortgage assignments, and satisfaction documents must be prepared, verified, and delivered, and mortgage assignments and releases must be recorded. This process is cumbersome and paper-intensive, costing the mortgage industry hundreds of millions of dollars each year.

35. MERS claimed to have "solved the problem" of complying with the bothersome "real property law" which requires that note endorsements and mortgage assignments "must be prepared, verified, and delivered ... and must be recorded." According to the *MERS Integration Handbook Volume One*:

In recent years, the mortgage banking industry has used information technology to reduce costs for "back-office" and retail operations, but it continues to use paper-based methods to record and track mortgage rights. The tremendous amount of required manual intervention and paper processing that currently exists also perpetuates significant inefficiencies in document custody, loan and pool certification, and lien release processing activities.

Based upon benefits realized from registry systems in other industries and validation that benefits are also realizable from a registry system in the mortgage banking industry, representatives from all participants in the mortgage industry concluded that an industry utility should be developed to electronically track the ownership of mortgage rights.

MERSCORP, Inc., which owns and operates a national electronic registry called the MERS® System to track ownership and changes to ownership of mortgage rights, and Mortgage Electronic Registration Systems, Inc., its wholly owned and bankruptcy remote subsidiary which acts as the mortgagee of record in the public land records and as nominee for the lender and its successors and assigns, are referred to collectively as "MERS." When MERS is the mortgagee of record, MERS eliminates the

need for mortgage assignments, thereby improving the process and reducing the cost to transfer and track the ownership of mortgage rights and increasing the efficiency of the lien release process.

36. However, the mere fact that MERS managed to come up with a convenient way for mortgage banks to avoid the legal methods of assigning and recording mortgage transfers, does not make that system legal or effective.

37. In fact, as has been widely reported throughout the mortgage industry and popular press, the MERS system was poorly conceived and sloppily run, and it routinely lost track of mortgage ownership and vital documentation, including mortgages and promissory notes.

38. As a result of the use of the faulty MERS system, lenders wishing to foreclose on mortgages found that it was frequently difficult, if not impossible, to accurately identify the holders of mortgages and notes, or to locate documents that were essential to initiating and pursuing foreclosure proceedings.

B. The Defendants' Frauds

39. When borrowers began to default in droves, banks found themselves in a never-ending game of catch-up, unable to devote enough manpower to modify, or ease the terms of, loans to millions of customers on the verge of losing their homes. Simply put, banks were and are completely unprepared to deal with either working out problems with delinquent homeowners or the foreclosure process itself.

40. As the number of borrowers defaulting on their mortgages steadily rose, the Defendants were faced with the dilemma of how to foreclose on these mortgages in light of the mess created by the use of the MERS system in particular, and more generally by the Defendants' writing and assigning more mortgages than they could keep up with.

41. The Defendants recognized that actually determining the correct holders of the mortgages and notes, locating the mortgage and note documents, ensuring that the mortgages and notes were properly and legally assigned to the holders, and ensuring that all proper information and documentation was accurately assembled before initiating foreclosure proceedings, was not cost-effective for them. Considering the sheer volume of mortgages at issue and the complexity of the iterative assignments and bundling of these mortgages, the task of sorting out the Defendants' tangled web was daunting.

42. The Defendants did not have nearly enough qualified and experienced personnel to undertake this task, so the Defendants hired workers with minimal qualifications or work experience—what one industry insider characterized as the “Burger King kids.” Many of the workers did not understand basic concepts of mortgage lending, barely understood what a mortgage was, did not know what an affidavit was, and did not know what was meant by real property.

43. The result was chaos, with Defendants often failing to identify the holders of mortgages and notes, or failing to locate essential documents related to mortgage transactions.

44. However, the Defendants did not let their inability to locate essential information and documents stop them from promptly initiating foreclosure proceedings against the Plaintiffs and the Class members. Instead, the Defendants directed their inexperienced and unqualified employees to prepare documents that were submitted in foreclosure proceedings, including without limitation affidavits containing essential allegations concerning the Defendants' purported mortgage rights.

45. These affidavits were hastily prepared by the stack and eventually found their way to designated “robo-signers,” who purported to sign the affidavits on behalf of the Defendants.

46. In actuality, and as has been widely reported and admitted during depositions by the robo-singers themselves, robo-signers signed the affidavits by hundreds, and had no actual knowledge of the facts contained therein.

47. Based on the sheer volume of affidavits being signed by these individuals, it would have been physically impossible for the robo-singers to actually review the information and documents that they swore to in their affidavits.

48. The Defendants knew that the affidavits were perjured, but nevertheless submitted the affidavits to courts in foreclosure proceedings around the country, using these fraudulent documents to take people's homes prematurely in disregard for their private property rights.

49. In each instance that perjured affidavits were submitted to courts in foreclosure proceedings, those affidavits were submitted by lawyers for the Defendants, who knew that the affidavits were perjured at the time of such submissions.

50. The purpose of Defendants' fraud was to undermine the administration of justice so as to allow them to circumvent the problems created by their use of MERS and to, illegally, allow them to foreclose upon property more quickly and cheaply than they otherwise would have been able.

C. The Plaintiffs' Mortgage and Foreclosure Based on Defendants' Frauds

51. In March 2007, Plaintiffs mortgaged their property located in Knightstown, Indiana, to "Mortgage Electronic Registration Systems, Inc. ('MERS'), (solely as nominee for lender), as hereinafter defined, and Lender's successors and assigns, as mortgagee." The mortgage instrument defined the "Lender" as Countrywide Home Loans, Inc.

52. After Plaintiffs allegedly defaulted on their monthly payments, Countrywide on January 30, 2008 filed a Complaint to Foreclose Mortgage in the Rush County, Indiana, Superior

Court under Case Number 70D01-0802-MF-017 (the "Davis Foreclosure Case"). A copy of that Complaint is attached as Exhibit A.

i. The Perjured Selman Affidavit

53. On April 4, 2008, Countrywide filed a Motion for Summary Judgment in the Davis Foreclosure Case. Among the attachments to that Motion for Summary Judgment was an Affidavit of Mortgagee and Non-Military Affidavit executed by Keri Selman on March 17, 2008 (the "Selman Affidavit"), which is attached as Exhibit B.

54. The Selman Affidavit provided as follows:

I, Keri Selman, being first duly sworn on oath, depose and state as follows:

1. I am Assistant Vice President of the Plaintiff-Mortgagee herein and in that capacity am familiar with the books and records of Plaintiff, have personally examined the same, and am duly authorized to make this affidavit on behalf of Plaintiff and, if sworn as a witness, could competently testify to the facts contained herein.

2. I have read the allegations in the Complaint, examined all exhibits, have personal knowledge of the facts stated therein and state that all of the allegations of the Complaint are true of my own personal knowledge.

3. The Plaintiff is the holder of the promissory note sued upon and of the mortgage given as security thereof.

4. The default of said Mortgagors occurred on the 1st day of October, 2007 and that said default has not been cured and Plaintiff has elected to claim the entire balance due in accordance with the terms of the mortgage and promissory note, and that there is now due and owing the Plaintiff the following sums plus attorney fees and court costs: [figures omitted]

5. The mortgage lien and interest of the Plaintiff is prior to and superior to the lien and interest of all Defendants herein.

6. To the best of affiant's knowledge, information and belief no defendant in said cause is now, nor was at the time of the filing

of this action, engaged in any branch of the military or naval service of the United States.

I affirm, under the penalties for perjury, that the foregoing representations are true.

/s/ Keri Selman

Keri Selman, Assistant Vice President

[NOTARIZATION]

55. Selman is a nationally known robo-signer, and, in fact, has been called a “robo-signer extraordinaire.”

56. Robo-signers such as Selman are essential in executing the conspiracy underlying Defendants’ racketeering activity.

57. Selman has signed affidavits in support of foreclosures on behalf of numerous lenders and other entities, representing herself as a Vice President of Countrywide Home Loans, Inc.; a Vice President of Wells Fargo Bank, N.A.; an Attorney in Fact for Bank of New York; and an Assistant Vice President of Mortgage Electronic Registration Systems, Inc.

58. Selman’s prolific career signing affidavits as a supposed vice president for so many entities led Judge Arthur M. Schack of the Supreme Court of the State of New York to remark in a court order that “Ms. Selman is a milliner’s delight by virtue of the number of hats she wears.” Judge Selman noted that “Plaintiff’s application is the third application for an order of reference received by me in the past several days that contain an affidavit from Keri Selman ...” Judge Schack said he was concerned that Ms. Selman might be engaged in a subterfuge, wearing various corporate hats, and ordered that, before he would grant an application for an order of reference, Selman would be required to submit another affidavit describing her employment for the last three years. Selman never submitted such an affidavit.

59. Given the volume of such affidavits that Selman and other robo-signers executed on a daily basis, the statements in the Selman Affidavit are necessarily perjured. It would be impossible, for example, for Selman to actually read the allegations in the complaint in the Davis Foreclosure Case and to and examine all of the exhibits thereto, which collectively span 15 pages—as she swore she did in paragraph 2 of the Selman Affidavit—and still read all of the accompanying documentation to all of the other affidavits she signed that same day. The allegation in paragraph 2 was false, and Selman knew it was false when she made it.

60. It would also be impossible for Selman to have personal knowledge of the facts stated in the complaint and attached exhibits in the Davis Foreclosure Case—as she swore she did in paragraph 2 of the Selman Affidavit—and to also have such personal knowledge as to the matters referenced in all the other affidavits she signed that same day.

61. The Plaintiffs and the Court in the Davis Foreclosure Case relied on the statements in the Selman Affidavit at the time Defendants were foreclosing on their property. The Plaintiffs and the Court had no way of knowing at the time that Selman was a robo-signer, that it would have been impossible for Selman to review the documents and information as described in her affidavit, and that the statements in her affidavit were otherwise perjured.

ii. The Perjured Viveros Affidavit

62. On July 20, 2009, Defendants filed an Updated Affidavit of Mortgage and Non-Military Affidavit executed by Melissa Viveros on July 2, 2009 (“Viveros Affidavit”) in the Davis Foreclosure Case, which is attached as Exhibit C. The Viveros Affidavit as part of Defendants’ request that the Plaintiffs’ home be sold at a sheriff’s sale and that a deficiency judgment be entered against Plaintiffs.

63. The Viveros Affidavit, which is essentially identical to the Selman Affidavit, provided as follows:

I, Melissa Viveros, being first duly sworn on oath, depose and state as follows:

1. I am Vice President of the Plaintiff-Mortgagee herein and in that capacity am familiar with the books and records of Plaintiff, have personally examined the same, and am duly authorized to make this affidavit on behalf of Plaintiff and, if sworn as a witness, could competently testify to the facts contained herein.

2. I have read the allegations in the Complaint, examined all exhibits, have personal knowledge of the facts stated therein and state that all of the allegations of the Complaint are true of my own personal knowledge.

3. The Plaintiff is the holder of the promissory note sued upon and of the mortgage given as security thereof.

4. The default of said Mortgagors occurred on the 1st day of May, 2008 and that said default has not been cured and Plaintiff has elected to claim the entire balance due in accordance with the terms of the mortgage and promissory note, and that there is now due and owing the Plaintiff the following sums plus attorney fees and court costs: [figures omitted]

5. The mortgage lien and interest of the Plaintiff is prior to and superior to the lien and interest of all Defendants herein.

6. To the best of affiant's knowledge, information and belief no defendant in said cause is now, nor was at the time of the filing of this action, engaged in any branch of the military or naval service of the United States.

I affirm, under the penalties for perjury, that the foregoing representations are true.

/s/ Melissa Viveros
Melissa Viveros, Vice President

[NOTARIZATION]

64. The Viveros Affidavit was perjured on its face in a number of ways. First of all, contrary to her sworn statement, Viveros was not a vice president of the Plaintiff-Mortgagee—i.e. Countywide Home Loans, Inc.—at the time she signed this affidavit in July 2009, nor was she even employed by Countrywide at that time. Rather, she has been employed by BAC GP, LLC as General Partner of BAC Home Loans Servicing, LP, since July 2007.

65. The Viveros affidavit was also perjured because she did not and could not have actually personally examined the books related to the Plaintiffs' loan, and could not have read the allegations in the Complaint, examined all exhibits, or had personal knowledge of the facts stated therein. Contrary to her sworn statement, "all of the allegations of the Complaint" were *not* "true of my own personal knowledge." Viveros Affidavit, ¶ 2.

66. Like Selman, Melissa Viveros is a known robo-signer. She discloses publicly on her LinkedIn profile that she manages a team of 340 foreclosure specialists for Bank of America, and handles "a portfolio size of approximately 140,000 specialty, subprime, VA, FHA accounts ensuring that state foreclosure timelines were met accordingly."

67. Given the sheer volume of foreclosures and affidavits Viveros handles, the statements in the Viveros Affidavit are necessarily perjured. It would be impossible for Viveros to actually read the allegations in the complaint in the Davis Foreclosure Case and to examine all of the exhibits thereto, which collectively span 15 pages—as she swore she did in paragraph 2 of her affidavit—and still read all of the accompanying documents to all of the other affidavits she signed that same day. The allegation in paragraph 2 was false, and Viveros knew it was false when she made it.

68. It would also be impossible for Viveros to have personal knowledge of the facts stated in the complaint and attached exhibits in the Davis Foreclosure Case—as she swore she

did in paragraph 2 of the Viveros Affidavit—and to also have such personal knowledge as to the matters referenced in all the other affidavits she signed that same day.

69. The Plaintiffs and the Court in the Davis Foreclosure Case relied on the statements in the Viveros Affidavit at the time Defendants were foreclosing on their property. The Plaintiffs and the Court had no way of knowing at the time that Viveros was a robo-signer, that it would have been impossible for Viveros to review the documents and information as described in her affidavit, and that the statements in her affidavit were otherwise false.

70. Robo-signers such as Viveros are essential in executing the conspiracy underlying the Defendants' racketeering activities.

71. As a result of the Plaintiffs' and Court's reliance on the statements in the Selman and Viveros Affidavits, the Plaintiffs' property was foreclosed upon and eventually sold in a sheriff's sale. The Plaintiffs lost their home in disregard of the law.

VI. FIRST CLAIM FOR RELIEF – VIOLATIONS OF RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 19 U.S.C. § 1961, *et seq.*

A. The Enterprise

72. At all times relevant to this Complaint and its allegations, Defendants; the individual robo-signers who signed affidavits in support of Defendants' foreclosure actions against the Plaintiffs and the Class members; and the law firms who submitted the perjured affidavits to courts in those foreclosure proceedings, associated in fact and constituted an enterprise (the "Mortgage Foreclosure Mill Enterprise") within the meaning of 18 U.S.C. § 1961(a)(4).

73. The members of the Mortgage Foreclosure Mill Enterprise associated for the purposes of undermining the justice system by churning out mortgage foreclosures in the quickest and cheapest manner possible, without regard for compliance with the law, and

conducted their activities through a pattern of racketeering activity involving repeated and systematic frauds on courts, mail fraud, and wire fraud.

B. Effect on Interstate Commerce

74. The Mortgage Foreclosure Mill Enterprise engaged in and affected interstate and foreign commerce, including, but not limited to: the sale, transfer, and foreclosure of real property affecting interstate commerce; the sale, transfer, and assignment of notes in interstate commerce; and the creation and sale of securities in interstate commerce.

C. Racketeering Activity

75. In furtherance of its illicit purposes, the Enterprise conducted and participated in a pattern of racketeering activity, including fraud on the courts handling foreclosure proceedings against the Plaintiffs and the Class Members, and mail and wire fraud in furtherance of these frauds on the courts and the Plaintiffs.

76. In order to further their goal of cheaply and quickly foreclosing on the Plaintiffs' and Class members' mortgages, the Defendants, through the Mortgage Foreclosure Mill Enterprise, developed an intentional scheme to defraud the Plaintiffs and Class members by submitting perjured affidavits to support foreclosures.

77. Specifically, the affiants in their perjured affidavits claimed to have personal knowledge of the facts averred to in the affidavits, when in reality the affiants had neither read nor had personal knowledge of the facts contained therein.

78. Moreover, the Defendants had full knowledge of the deficiencies in the MERS system, the confusion caused by the repeated transfers and assignments of mortgages and promissory notes, the bundling and securitization of mortgages, and ultimately their own

inability to accurately determine the proper holders of mortgages and notes and to locate documentation sufficient to lawfully foreclose on the Plaintiffs' and Class members' properties. Despite the knowledge that they often did not have the requisite information and documentation to lawfully pursue foreclosures, the Defendants, through and in furtherance of the Mortgage Foreclosure Mill Enterprise, developed a system to pursue foreclosures using knowingly perjured affidavits, which were submitted to Courts and sent through interstate mails and over interstate wires.

79. Defendants' attorneys in the foreclosure actions in which these perjured affidavits were submitted were aware of the fraud on the court by way of their assistance in conveying affidavits to the court with knowledge or reckless disregard for the truth that the affidavits in question were perjured.

80. Defendants' attorneys' knowledge of the perjury supporting the affidavits that they submitted to the courts is evidenced by the fact that:

A. Defendants' attorneys knew that it was impossible for the individuals signing the affidavits in question to have read and have personal knowledge of the number of affidavits submitted.

B. Defendants' attorneys were intrinsically connected to the services offered by Defendants.

C. Defendants' attorneys were made aware of several individual instances wherein an affiant did not have personal knowledge of the substance of the affidavit in question.

D. Defendants' attorneys knew that the promissory notes referenced in the affidavit were not endorsed.

E. Defendants' attorneys assisted Defendants in creating promissory notes when foreclosures were challenged.

81. As a result of Defendants' fraud on the courts, Defendants undermined the procedural protections surrounding foreclosure proceedings and were able to foreclose on property much more rapidly, and at a much lower cost, than they otherwise would have been able to.

82. Plaintiffs and the members of the Class did not have a reasonable opportunity to uncover or expose the fraud committed by way of this racketeering activity.

83. The Mortgage Foreclosure Mill Enterprise used these perjured affidavits to minimize expenses, and thereby increase profits, by reducing the costs of time and effort for the affiants to locate, verify, and gain personal knowledge of the facts to which they swore, and to increase the speed at which Defendants could foreclose upon the Plaintiffs' and Class members' properties.

84. These affidavits were signed by "robo-signers," who would routinely sign as many as hundreds of affidavits and other documents in furtherance of foreclosure proceedings in a single day, even though the robo-signers did not personally prepare the affidavits, did not review the affidavits, did not review any of the documentation supporting the statements in the affidavits, and otherwise had absolutely no knowledge of the accuracy of the representations in the affidavits.

85. For example, on or about April 4, 2008, the Mortgage Foreclosure Mill Enterprise filed the perjured and fraudulent Selman Affidavit in the Davis Foreclosure Case, Indiana, Superior Court, and on or about July 20, 2009, the Mortgage Foreclosure Mill Enterprise filed the perjured and fraudulent Viveros Affidavit in the Davis Foreclosure Case

86. Defendants and the other members of the Mortgage Foreclosure Mill Enterprise knew that the representations in the Selman and Viveros Affidavits were false at the time of such filing, filed the Affidavits with intent to defraud, and intended the Court and Plaintiffs to rely on the Selman and Viveros Affidavits.

87. The Mortgage Foreclosure Mill Enterprise's racketeering activity was facilitated by the use of the mails and electronic wire systems, in that they used the mails to file and serve complaints and other court documents, and used mail, email, and phone communications with one another to facilitate their scheme.

88. The Mortgage Foreclosure Mill Enterprise's racketeering activities had the same or similar purposes, results, participants, victims, and methods of commission, and were interrelated by distinguishing characteristics and not isolated events. The entire course of the Mortgage Foreclosure Mill Enterprise's racketeering activities was to conduct the business of the Mortgage Foreclosure Mill Enterprise through illegal means to increase profits and to churn foreclosures more quickly than they otherwise could have through legal means.

89. The Mortgage Foreclosure Mill Enterprise's racketeering activities have extended over a substantial period of time and have harmed thousands of victims.

D. Pattern

90. The Mortgage Foreclosure Mill Enterprise's racketeering activity was carried out hundreds of times a month over the last several years and constitutes an on-going activity.

91. The Mortgage Foreclosure Mill Enterprise will continue to engage in such activity until it is otherwise precluded from doing so.

E. Injury to Business and Property

92. As a result of the Mortgage Foreclosure Mill Enterprise's conduct, the Plaintiff and Class members have been injured in their business and property by being deprived of the use, value, rent, and income of the mortgaged properties that were fraudulently and prematurely foreclosed upon.

93. The Defendants, through their participation in the Mortgage Foreclosure Mill Enterprise and its racketeering activities, caused injury to the Plaintiffs' and Class' business and property by depriving Plaintiffs and the Class of the use, value, rent, and income of the mortgaged properties that were fraudulently and prematurely foreclosed upon.

VII. SECOND CLAIM FOR RELIEF – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT (“FDCPA”), 15 U.S.C. § 1692

94. Defendants are “debt collectors” as defined by 15 U.S.C. § 1692a(6).

95. Defendants filed false, deceptive, misleading, and perjured affidavits in connection with the collections of debts in violation of 15 U.S.C. § 1692e.

96. Plaintiffs and the members of the Class suffered actual damages from these violations.

97. Pursuant to 15 U.S.C. § 1692k, Plaintiffs and the members of the Class are entitled to actual damages, statutory damages as set forth therein, and reasonable attorney's fees and costs.

98. Because the conduct of Defendants was frequent and persistent, because the nature of the violations of the FDCPA were so egregious, because the FDCPA violations were part of a deliberate scheme, Plaintiffs and the Class are entitled to the maximum possible relief permitted under 15 U.S.C. § 1692k(a).

VIII. FRAUDULENT CONCEALMENT

99. Throughout the Class Period, the Mortgage Foreclosure Mill Enterprise intended to and did affirmatively and fraudulently conceal their wrongful conduct and the existence of their enterprise and racketeering activity from Plaintiffs and other members of the Class, and intended that the enterprise be kept secret from the Plaintiffs and the Class.

100. The Mortgage Foreclosure Mill Enterprise's improper practices and frauds were, by their nature, inherently self-concealing, and the affirmative actions of the Mortgage Foreclosure Mill Enterprise were wrongfully concealed and carried out in a manner that precluded detection.

101. By virtue of the fraudulent concealment by the Mortgage Foreclosure Mill Enterprise, the running of any statute of limitations has been tolled and suspended with respect to any claims that Plaintiffs and the other Class members have as a result of the Mortgage Foreclosure Mill Enterprise's wrongful conduct alleged in this Complaint.

102. Plaintiffs and members of the Class could not have discovered the Mortgage Foreclosure Mill Enterprise's improper conduct and frauds alleged herein at any earlier date by the exercise of reasonable due diligence, because of the deceptive practices and techniques of secrecy employed by the Mortgage Foreclosure Mill Enterprise to avoid detection of and affirmatively conceal their actions.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Class Members demand judgment against Defendants as follows:

- A. An order certifying the Class as set forth herein, appointing Plaintiffs as Class Representatives, and appointing undersigned counsel as counsel for the Class;

- B. Threefold damages caused by violations of RICO pursuant to 18 U.S.C. § 1964(c);
- C. Costs and attorneys' fees pursuant to 18 U.S.C. § 1964(c);
- D. Actual and statutory damages for violations of FDCPA pursuant to 15 U.S.C. § 1692k;
- E. Costs and attorneys' fees pursuant to 15 U.S.C. § 1692k;
- F. Pre-judgment and post-judgment interest at the maximum rate allowable by law;
- G. Such other and further relief available under all applicable state and federal laws and any relief the Court deems just and appropriate.

X. DEMAND FOR JURY TRIAL

Pursuant to Rule 38(a) of the Federal Rules of Civil Procedure, Plaintiffs demand a jury trial as to all issues triable by a jury.

DATED: October 19, 2010

Respectfully submitted,

By: _____


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Eric S. Pavlack
Vess A. Miller
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Counsel for the Plaintiffs and Proposed Class

STATE OF INDIANA)
)
COUNTY OF RUSH)
)
COUNTRYWIDE HOME LOANS, INC.)

IN THE Sup COURT OF
RUSH COUNTY
RUSHVILLE, INDIANA

70001-0802MF 017

PLAINTIFF)

vs)

DWAYNE RANSON DAVIS; MELISA DAVIS;)

DEFENDANTS)

FILED

JAN 30 2008

RUSH COUNTY CLERK
RUSHVILLE, IN

COMPLAINT TO FORECLOSE MORTGAGE

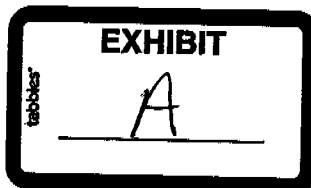
Now comes the Plaintiff, Countrywide Home Loans, Inc., by and through its attorneys, Unterberg & Associates, P.C., and in support of its cause of action alleges and states as follows:

1. The Plaintiff, Countrywide Home Loans, Inc., is real party in interest as set forth herein.
2. On or about March 16, 2007, the Defendants, Dwayne Ranson Davis and Melisa Davis, mortgaged and conveyed to Mortgage Electronic Registration Systems, Inc. as nominee for Countrywide Home Loans, Inc. the following described real estate including any improvements and fixtures thereon:

A part of the Southwest Quarter of Section Twelve (12), Township Fifteen (15) North, Range Nine (9) East and being more particularly described as follows, to-wit:

Commencing at the Southwest corner of said Southwest Quarter and running thence approximately North along the centerline of County Road 200 West Three hundred fifty-seven and seven tenths (357.7) feet to the intersection of the centerlines of County Road 200 West and County Road 1015 North; thence running approximately South Eighty-two (82) degrees zero (00) minutes East along the centerline of County Road 1015 North Three hundred sixty-three (363.0) feet to the point of beginning, said point being witnessed by an iron pipe set North Five (05) degrees eight (08) minutes East and Twenty (20) feet away; thence running North Five (05) degrees eight (08) minutes East a distance of One hundred eighty-six and two tenths (186.2) feet to an iron pipe; thence running Southeasterly two hundred ten and eight tenths (210.8) feet to an iron pipe; thence running Southwesterly One hundred ninety-eight and two tenths (198.2) feet to the centerline of County Road 1015 North; thence running approximately North Eighty-two (82) degrees zero (00) minutes West along the centerline of County Road 1015 North Two hundred six and one tenths (206.1) feet to the point of beginning, containing Ninety-two hundredths (0.92) acre, more or less, Rush County, Indiana.

Commonly known as: 1906 West 1000 North, Knightstown, IN 46148-9208.



Said property was mortgaged and conveyed by a mortgage (Exhibit Attached) executed on or about March 16, 2007 and recorded on or about March 23, 2007 as Document No. 200700000821 in the office of the Recorder for Rush County, Indiana.

3. The aforesaid mortgage was given to secure a promissory note executed by Dwayne Ranson Davis and Melisa Davis to Mortgage Electronic Registration Systems, Inc. as nominee for Countrywide Home Loans, Inc. in the principal amount of \$83,965.00 at 6.250% interest with monthly principal and interest payments to be paid each and every subsequent month until said note is fully satisfied.
4. The subject Mortgage is a valid and subsisting lien and security interest in the subject real estate and is superior to the claims, liens and interests of all other Defendants and as to any unknown claimants.
5. The present owners of the subject real estate are Dwayne Ranson Davis and Melisa Davis.
6. The Defendants have failed to tender the monthly payment as required by the subject mortgage and note with the initial default occurring for the month of October, 2007. Plaintiff has elected to declare the entire balance to be due and owing pursuant to the terms of the subject mortgage note.
7. As of January 30, 2008, the following sums remain due and owing the Plaintiff:
 - a. A principal balance on the note of \$83,323.25.
 - b. Accrued interest at 6.250% from October, 2007 to January 30, 2008 totaling \$2,168.69.
 - c. Reasonable attorney fees, title charges and court costs for pursuing its remedies as provided for in the Mortgage and Note.
 - d. Accrued late charges as provided for in the Note and Mortgage.
 - e. All funds expended by Plaintiff prior to and subsequent to the filing of this Complaint for payment of real estate taxes, insurance, and any other necessary repairs, maintenance, assessments and costs.

In addition, Plaintiff is entitled to interest at 6.250% from January 30, 2008, all reasonable costs and attorney fees incurred, and any advances made by the Plaintiff for real estate taxes, insurance and to preserve its security for the debt. Pursuant to the terms of the Mortgage and Note, all aforesaid sums shall become part of the debt secured by the Mortgage.

8. The following are made parties Defendant by virtue of their interests as set forth below.

Dwayne Ranson Davis is joined in this action to assert any interest in the subject property including that interest based on record ownership of the property.

Dwayne Ranson Davis is joined in this action to assert any interest in the subject property including that interest based on the record, that this party was an original mortgagor and signator on the note.

Melisa Davis is joined in this action to assert any interest in the subject property including that interest based on record ownership of the property.

Melisa Davis is joined in this action to assert any interest in the subject property including that interest based on the record, that this party was an original mortgagor and signator on the note.


9. The terms of the Note and Mortgage authorize the foreclosure of said mortgage in accordance with law in the event of the breach of the terms of said Note and Mortgage as set forth above.

WHEREFORE, the Plaintiff, Countrywide Home Loans, Inc., respectfully prays as follows:

- a. For Entry of an In Rem Judgment in favor of the Plaintiff in the sum of \$85,491.94 which is the principal balance and interest through January 30, 2008 plus reasonable attorney fees, costs, accrued late charges, advances and interest at the rate of 6.250%, plus advances and costs continually accruing from January 30, 2008 without relief from valuation or appraisal laws;
- b. That this court find that the real estate by definition includes all property secured by the mortgage, and any and all fixtures and improvements pursuant to the mortgage and Indiana property law;
- c. That this Court declare Plaintiff's Mortgage to be a valid, first and subsisting lien on the subject real estate and property secured by the mortgage prior to and superior to all claims, liens or interests asserted against the subject real estate;
- d. For entry of an order foreclosing the Mortgage of the Plaintiff on the subject real estate and foreclosing the Defendant's equity of redemption and interest in the subject real estate, forever barring the rights in and equity of redemption of all Defendants in the subject property.
- e. For entry of an order directing the sale of the subject real estate to pay and satisfy Plaintiff's claim and debt; that at such sale Plaintiff be empowered to bid for the subject real estate or any part thereof with the full indebtedness owed to the Plaintiff to be credited with any amount bid by the Plaintiff;
- f. For entry of an order enjoining all Defendants and those taking under them from committing waste upon the subject property or otherwise impairing the Plaintiff's security interest;
- g. For entry of an order that, upon expiration of the statutory redemption period and the execution of the Sheriff of Rush County, Indiana of the conveyance of the subject property sold hereunder, that the Defendants in this action who may be in possession of the subject real estate or any part thereof, shall surrender to the holder of said deed the full and peaceful possession of the property and that, upon failure to surrender such possession, the Sheriff of Rush County, Indiana be directed to forthwith enter the subject property and eject and remove such persons therefrom and to put the party holding said Sheriff's Deed or their assignee(s) in full, peaceful and quiet possession of the subject property without delay; and

h. For such other and further relief as this court deems just.

Unterberg & Associates, P.C.

By: 
Brian C. Berger 19753-45

Attorney for Plaintiff
Unterberg & Associates, P.C.
8050 Cleveland Place
Merrillville, IN 46410
(219) 736-5579
Atty: 9956774

**This communication is from a Debt Collector.
This is an attempt to collect a debt and any information obtained will be used for that purpose.**

NOTICE REQUIRED BY STATE LAW

Mortgage foreclosure is a complex process. People may approach you about "saving" your home. You should be careful about any such promises. There are government agencies and nonprofit organizations you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Indiana housing and community development authority.

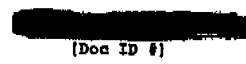


200700000821
Filed for Record in
RUSH COUNTY, INDIANA,
SALLY NIEDENTHAL
03-23-2007 At 01:14 pm.
MORTGAGES 28.00
DR Book 20 Page 2865 - 2872
Instrument Book Page
200700000821 DR 20 2865

Return To:
COUNTRYWIDE HOME LOANS, INC.
MS SV-79 DOCUMENT PROCESSING
P.O.Box 10423
Van Nuys, CA 91410-0423

0
Filed for Record in
RUSH COUNTY, INDIANA,
SALLY NIEDENTHAL
03-23-2007 At 01:14 pm.
OVERAGE AMT 1.00

[Space Above This Line For Recording Data]



State of Indiana

MORTGAGE

FHA Case No.
[Redacted]

THIS MORTGAGE ("Security Instrument") is given on MARCH 16, 2007
The Mortgagor is
DWAYNE RANSON DAVIS, AND MELISA DAVIS

("Borrower"). This Security Instrument is given to Mortgage Electronic Registration Systems, Inc. ("MERS"), (solely as nominee for Lender, as hereinafter defined, and Lender's successors and assigns), as mortgagee. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS. COUNTRYWIDE HOME LOANS, INC.

("Lender") is organized and existing under the laws of NEW YORK, and has an address of 4500 Park Granada MSN# SVB-314, Calabasas, CA 91302-1613. Borrower owes Lender the principal sum of EIGHTY THREE THOUSAND NINE HUNDRED SIXTY FIVE and 00/100

Dollars (U.S. \$ 83,965.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on APRIL 01, 2037. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) 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 MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns to MERS, the

EXHIBIT

FHA Indiana Mortgage with MERS - 4/96

VMP -4N(IN) (0604)

CHL (04/05)(d)

Page 1 of 7
VMP Mortgage Solutions, Inc.

Amended 2/01



DRD mo

following described property located in RUSH County, Indiana:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF. MAKE:COMMODORE HOMES
MODEL: EE350A VIN: NT35832AB "which is affixed and attached to the land and is
part of the real property."

Parcel ID Number: 002-32573-00
which has the address of

1906 W 1000 N, KNIGHTSTOWN
(Street, City)
Indiana 46148 ("Property Address");
(Zip Code)

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 understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument; but, if necessary to comply with law or custom, MERS, (as nominee for Lender and Lender's successors and assigns), has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing or canceling this Security Instrument.

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.

Borrower and Lender covenant and agree as follows:

UNIFORM COVENANTS.

1. Payment of Principal, Interest and Late Charge. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and late charges due under the Note.

2. Monthly Payment of Taxes, Insurance and Other Charges. Borrower shall include in each monthly payment, together with the principal and interest as set forth in the Note and any late charges, a sum for (a) taxes and special assessments levied or to be levied against the Property, (b) leasehold payments or ground rents on the Property, and (c) premiums for insurance required under paragraph 4. In any year in which the Lender must pay a mortgage insurance premium to the Secretary of Housing and Urban Development ("Secretary"), or in any year in which such premium would have been required if Lender still held the Security Instrument, each monthly payment shall also include either: (i) a sum for the annual mortgage insurance premium to be paid by Lender to the Secretary, or (ii) a monthly charge instead of a mortgage insurance premium if this Security Instrument is held by the Secretary, in a reasonable amount to be determined by the Secretary. Except for the monthly charge by the Secretary, these items are called "Escrow Items" and the sums paid to Lender are called "Escrow Funds."

Lender may, at any time, collect and hold amounts for Escrow Items in an aggregate amount not to exceed the maximum amount that may be required for Borrower's escrow account under the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. Section 2601 et seq. and implementing regulations, 24 CFR Part 3500, as they may be amended from time to time ("RESPA"), except that the cushion or reserve permitted by RESPA for unanticipated disbursements or disbursements before the Borrower's payments are available in the account may not be based on amounts due for the mortgage insurance premium.

If the amounts held by Lender for Escrow Items exceed the amounts permitted to be held by RESPA, Lender shall account to Borrower for the excess funds as required by RESPA. If the amounts of funds held by Lender at any time are not sufficient to pay the Escrow Items when due, Lender may notify the Borrower and require Borrower to make up the shortage as permitted by RESPA.

The Escrow Funds are pledged as additional security for all sums secured by this Security Instrument. If Borrower tenders to Lender the full payment of all such sums, Borrower's account shall be credited with the balance remaining for all installment items (a), (b); and (c) and any mortgage insurance premium installment that Lender has not become obligated to pay to the Secretary, and Lender shall promptly refund any excess funds to Borrower. Immediately prior to a foreclosure sale of the Property or its acquisition by Lender, Borrower's account shall be credited with any balance remaining for all installments for items (a), (b), and (c).

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3. Application of Payments. All payments under paragraphs 1 and 2 shall be applied by Lender as follows: First, to the mortgage insurance premium to be paid by Lender to the Secretary or to the monthly charge by the Secretary instead of the monthly mortgage insurance premium;

Second, to any taxes, special assessments, leasehold payments or ground rents, and fire, flood and other hazard insurance premiums, as required;

Third, to interest due under the Note;

Fourth, to amortization of the principal of the Note; and

Fifth, to late charges due under the Note.

4. Fire, Flood and Other Hazard Insurance. Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order in paragraph 3, and then to prepayment of principal, or (b) to the restoration or repair of the damaged Property. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments which are referred to in paragraph 2, or change the amount of such payments. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument (or within sixty days of a later sale or transfer of the Property) and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or abandoned Property. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation, are hereby assigned and shall be paid to Lender to the extent of the full amount of the indebtedness that remains unpaid under the Note and this Security Instrument. Lender shall apply such proceeds to the reduction of the indebtedness under the Note and this Security Instrument, first to any delinquent amounts applied in the order provided in paragraph 3, and then to prepayment of principal. Any application of the proceeds to the principal shall not extend or postpone the due date of the monthly payments, which are referred to in paragraph 2, or change the amount of such payments. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

7. Charges to Borrower and Protection of Lender's Rights in the Property. Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments or the payments required by paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in paragraph 2.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this Security Instrument. These amounts shall bear interest from the date of disbursement, at the Note rate, and at the option of Lender, shall be immediately due and payable.

Handwritten initials: JLO

Handwritten initials: MD

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; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; 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 may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

8. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) Default. Lender may, except as limited by regulations issued by the Secretary, in the case of payment defaults, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) Borrower defaults by failing to pay in full any monthly payment required by this Security Instrument prior to or on the due date of the next monthly payment, or
- (ii) Borrower defaults by failing, for a period of thirty days, to perform any other obligations contained in this Security Instrument.

(b) Sale Without Credit Approval. Lender shall, if permitted by applicable law (including Section 341(d) of the Garn-St. Germain Depository Institutions Act of 1982, 12 U.S.C. 1701j-3(d)) and with the prior approval of the Secretary, require immediate payment in full of all sums secured by this Security Instrument if:

- (i) All or part of the Property, or a beneficial interest in a trust owning all or part of the Property, is sold or otherwise transferred (other than by devise or descent), and
- (ii) The Property is not occupied by the purchaser or grantee as his or her principal residence, or the purchaser or grantee does so occupy the Property but his or her credit has not been approved in accordance with the requirements of the Secretary.

(c) No Waiver. If circumstances occur that would permit Lender to require immediate payment in full, but Lender does not require such payments, Lender does not waive its rights with respect to subsequent events.

(d) Regulations of HUD Secretary. In many circumstances regulations issued by the Secretary will limit Lender's rights, in the case of payment defaults, to require immediate payment in full and foreclose if not paid. This Security Instrument does not authorize acceleration or foreclosure if not permitted by regulations of the Secretary.

(e) Mortgage Not Insured. Borrower agrees that if this Security Instrument and the Note are not determined to be eligible for insurance under the National Housing Act within 60 days from the date hereof, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to 60 days from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. Reinstatement. Borrower has a right to be reinstated if Lender has required immediate payment in full because of Borrower's failure to pay an amount due under the Note or this Security Instrument. This right applies even after foreclosure proceedings are instituted. To reinstate the Security Instrument, Borrower shall tender in a lump sum all amounts required to bring Borrower's account current including, to the extent they are obligations of Borrower under this Security Instrument, foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure proceeding. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the lien created by this Security Instrument.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time of payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successor in interest. Lender shall not be required to commence proceedings against any successor in interest or 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 Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 9(b). Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower'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 may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without that Borrower's consent.

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13. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. Governing Law; Severability. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. 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. To this end the provisions of this Security Instrument and the Note are declared to be severable.

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

16. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. 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.

Borrower shall promptly give Lender written notice of 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. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 16, "Hazardous Substances" are those substances defined as toxic or hazardous substances 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. As used in this paragraph 16, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

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

17. Assignment of Rents. Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notice of breach to Borrower; (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by the Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this paragraph 17.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by the Security Instrument is paid in full.

18. Foreclosure Procedure. If Lender requires immediate payment in full under paragraph 9, Lender may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If the Lender's interest in this Security Instrument is held by the Secretary and the Secretary requires immediate payment in full under Paragraph 9, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 *et seq.*) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph 18 or applicable law.

19. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument without charge to Borrower.

20. Waiver of Valuation and Appraisalment. Borrower waives all right of valuation and appraisalment.

Handwritten initials: DRD, MD

21. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

[Check applicable box(es)].

- Condominium Rider
 - Growing Equity Rider
 - Other [specify]
 - Planned Unit Development Rider
 - Graduated Payment Rider
- AFFIXATION AFFIDAVIT

BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Dwayne Ranson Davis (Seal)
 DWAYNE RANSON DAVIS -Borrower

Melisa Davis (Seal)
 MELISA DAVIS -Borrower

____ (Seal)
 -Borrower

____ (Seal)
 -Borrower

DRS MO

STATE OF INDIANA, KUSH County ss: _____
 On this 16th day of MARCH, 2007, before me, the
 undersigned, a Notary Public in and for said County, personally appeared _____
DWAYNE RANSON DAVIS AND MELISA DAVIS

 _____, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal.

My Commission Expires:

April 4, 2012

 Notary Public

Notary Public Seal
 State of Indiana
 LEA ANN GRADY
 County of Residence - Madison
 My Commission Expires - April 4, 2012

This instrument was prepared by:

NANCY FISHKIN
 COUNTRYWIDE HOME LOANS, INC.
 6440 SOUTHPOINT PARKWAY #300, JACKSONVILLE, FL 32216

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Nancy Fishkin

DPS MD

EXHIBIT A

Situate in RUSH County, Indiana:

A PART OF THE SOUTHWEST QUARTER OF SECTION TWELVE (12), TOWNSHIP FIFTEEN (15) NORTH, RANGE NINE (9) EAST AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER AND RUNNING THENCE APPROXIMATELY NORTH ALONG THE CENTERLINE OF COUNTY ROAD 200 W THREE HUNDRED FIFTY-SEVEN AND SEVEN TENTHS (357.7) FEET TO THE INTERSECTION OF THE CENTERLINES OF COUNTY ROAD 200 W AND COUNTY ROAD 1015 N; THENCE RUNNING APPROXIMATELY SOUTH EIGHTY-TWO (82) DEGREES ZERO (00) MINUTES EAST ALONG THE CENTERLINE OF COUNTY ROAD 1015 N THREE HUNDRED SIXTY-THREE (363.0) FEET TO THE POINT OF BEGINNING, SAID POINT BEING WITNESSED BY AN IRON PIPE SET NORTH FIVE (05) DEGREES EIGHT (08) MINUTES EAST AND TWENTY (20) FEET AWAY; THENCE RUNNING NORTH FIVE (05) DEGREES EIGHT (08) MINUTES EAST A DISTANCE OF ONE HUNDRED EIGHTY-SIX AND TWO TENTHS (186.2) FEET TO AN IRON PIPE; THENCE RUNNING SOUTHEASTERLY TWO HUNDRED TEN AND EIGHT TENTHS (210.8) FEET TO AN IRON PIPE; THENCE RUNNING SOUTHWESTERLY ONE HUNDRED NINETY-EIGHT AND TWO TENTHS (198.2) FEET TO THE CENTERLINE OF COUNTY ROAD 1015 N; THENCE RUNNING APPROXIMATELY NORTH EIGHTY-TWO (82) DEGREES ZERO (00) MINUTES WEST ALONG THE CENTERLINE OF COUNTY ROAD 1015 N TWO HUNDRED SIX AND ONE TENTH (206.1) FEET TO THE POINT OF BEGINNING, CONTAINING NINETY-TWO HUNDREDTHS (0.92) ACRE, MORE OR LESS.

Prepared by: NANCY FISHKIN

led to be true and correct copy

Multistate

NOTE

FHA Case No.

MARCH 16, 2007
[Date]

1906 W 1000 N, KNIGHTSTOWN, IN 46148
[Property Address]

1. PARTIES

"Borrower" means each person signing at the end of this Note, and the person's successors and assigns. "Lender" means COUNTRYWIDE HOME LOANS, INC. and its successors and assigns.

2. BORROWER'S PROMISE TO PAY; INTEREST

In return for a loan received from Lender, Borrower promises to pay the principal sum of EIGHTY THREE THOUSAND NINE HUNDRED SIXTY FIVE and 00/100

Dollars (U.S. \$ 83,965.00), plus interest, to the order of Lender. Interest will be charged on unpaid principal, from the date of disbursement of the loan proceeds by Lender, at the rate of SIX & ONE-QUARTER percent (6.250 %) per year until the full amount of principal has been paid.

3. PROMISE TO PAY SECURED

Borrower's promise to pay is secured by a mortgage, deed of trust or similar security instrument that is dated the same date as this Note and called the "Security Instrument." The Security Instrument protects the Lender from losses which might result if Borrower defaults under this Note.

4. MANNER OF PAYMENT

(A) Time

Borrower shall make a payment of principal and interest to Lender on the first day of each month beginning on MAY 01, 2007. Any principal and interest remaining on the first day of APRIL, 2037, will be due on that date, which is called the "Maturity Date."

(B) Place

Payment shall be made at P.O. Box 660694, Dallas, TX 75266-0694 or at such place as Lender may designate in writing by notice to Borrower.

(C) Amount

Each monthly payment of principal and interest will be in the amount of U.S. \$ 516.99. This amount will be part of a larger monthly payment required by the Security Instrument, that shall be applied to principal, interest and other items in the order described in the Security Instrument.

(D) Allonge to this Note for payment adjustments

If an allonge providing for payment adjustments is executed by Borrower together with this Note, the covenants of the allonge shall be incorporated into and shall amend and supplement the covenants of this Note as if the allonge were a part of this Note. [Check applicable box]

Graduated Payment Allonge Growing Equity Allonge Other [specify]

5. BORROWER'S RIGHT TO PREPAY

Borrower has the right to pay the debt evidenced by this Note, in whole or in part, without charge or penalty, on the first day of any month. Lender shall accept prepayment on other days provided that Borrower pays interest on the amount prepaid for the remainder of the month to the extent required by Lender and permitted by regulations of the Secretary. If Borrower makes a partial prepayment, there will be no changes in the due date or in the amount of the monthly payment unless Lender agrees in writing to those changes.

EXHIBIT



STATE OF INDIANA)
) SS: IN THE SUPERIOR COURT OF
 COUNTY OF RUSH) RUSH COUNTY
 RUSHVILLE, INDIANA

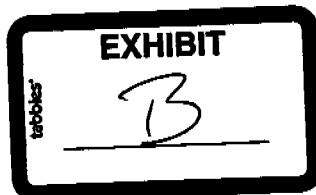
COUNTRYWIDE HOME LOANS, INC.)
) CAUSE NO. 70D01-0802-MF-017
 PLAINTIFF)
 vs)
 DWAYNE RANSON DAVIS; MELISA DAVIS;)
 DEFENDANTS)
)
)
)

AFFIDAVIT OF MORTGAGEE AND NON-MILITARY AFFIDAVIT

I, KERISEWAN, being first duly sworn on oath, depose and state as follows:

1. I am ASSISTANT VICE PRESIDENT of the Plaintiff-Mortgagee herein and in that capacity am familiar with the books and records of Plaintiff, have personally examined the same, and am duly authorized to make this affidavit on behalf of Plaintiff and, if sworn as a witness, could competently testify to the facts contained herein.
2. I have read the allegations in the Complaint, examined all exhibits, have personal knowledge of the facts stated therein and state that all of the allegations of the Complaint are true of my own personal knowledge.
3. The Plaintiff is the holder of the promissory note sued upon and of the mortgage given as security thereof.
4. The default of said Mortgagors occurred on the 1st day of October, 2007 and that said default has not been cured and Plaintiff has elected to claim the entire balance due in accordance with the terms of the mortgage and promissory note, and that there is now due and owing the Plaintiff the following sums plus attorney fees and court costs:

Principal Balance		\$83,323.25
Interest through March 21, 2008		3,037.86
Late Charges		76.80
Advances made by Plaintiff		
Real Estate Tax	485.23	
Mortgage Insurance	102.87	
Title Charges	350.00	
Property Maintenance	45.00	
Total Advances		983.10
	TOTAL	\$87,421.01



- 5. The mortgage lien and interest of the Plaintiff is prior to and superior to the lien and interest of all Defendants herein.
- 6. To the best of affiant's knowledge, information and belief no defendant in said cause is now, nor was at the time of the filing of this action, engaged in any branch of the military or naval service of the United States.

I affirm, under the penalties for perjury, that the foregoing representations are true.

Further, affiant sayeth not.

Keri Selman
KERI SELMAN, ASSISTANT VICE PRESIDENT

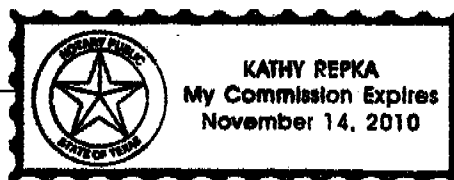
Subscribed and Sworn to before me, a Notary Public, in and for the State of TEXAS, County of COLLIN, this 17 day of MAR 2008, 2008.

Kathy Repka
 NOTARY PUBLIC

Printed Name: KATHY REPKA

County of Residence: DENTON

My Commission Expires: 11-14-2010



Atty File: 9956774
Ref Name: Davis

Attorney for Plaintiff
 Unterberg & Associates, P.C.
 8050 Cleveland Place
 Merrillville, IN 46410
 (219) 736-5579

**This communication is from a Debt Collector.
 This is an attempt to collect a debt and any information obtained will be used for that purpose.**

STATE OF INDIANA)
) SS: IN THE SUPERIOR COURT OF
 COUNTY OF RUSH) RUSH COUNTY
 RUSHVILLE, INDIANA

COUNTRYWIDE HOME LOANS, INC.)
) CAUSE NO. 70D01-0802-MF-017
 PLAINTIFF)
 vs)
 DWAYNE RANSON DAVIS; MELISA DAVIS;)
 DEFENDANTS)

FILED
 IN OPEN COURT
 JUL 20 2009

UPDATED AFFIDAVIT OF MORTGAGEE AND NON-MILITARY AFFIDAVIT

I, Melissa Viveros, being first duly sworn on oath, depose and state as follows:

RUSH SUPERIOR COURT

1. I am Vice President of the Plaintiff-Mortgagee herein and in that capacity am familiar with the books and records of Plaintiff, have personally examined the same, and am duly authorized to make this affidavit on behalf of Plaintiff and, if sworn as a witness, could competently testify to the facts contained herein.
2. I have read the allegations in the Complaint, examined all exhibits, have personal knowledge of the facts stated therein and state that all of the allegations of the Complaint are true of my own personal knowledge.
3. The Plaintiff is the holder of the promissory note sued upon and of the mortgage given as security thereof.
4. The default of said Mortgagors occurred on the 1st day of May, 2008 and that said default has not been cured and Plaintiff has elected to claim the entire balance due in accordance with the terms of the mortgage and promissory note, and that there is now due and owing the Plaintiff the following sums plus attorney fees and court costs:

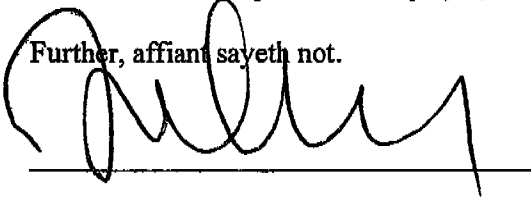
Principal Balance		\$82,732.99
Interest through July 20, 2009		6,894.40
Advances made by Plaintiff		
Real Estate Tax	633.26	
Mortgage Insurance	535.75	
Hazard Insurance	568.76	
Title Charges	425.00	
Property Maintenance	15.00	
Suspense Credit Balance	-600.00	
Escrow Credit Balance	-79.13	
Total Advances		1,498.64
	TOTAL	\$91,126.03



5. The mortgage lien and interest of the Plaintiff is prior to and superior to the lien and interest of all Defendants herein.
6. To the best of affiant's knowledge, information and belief no defendant in said cause is now, nor was at the time of the filing of this action, engaged in any branch of the military or naval service of the United States.

I affirm, under the penalties for perjury, that the foregoing representations are true.

Further, affiant sayeth not.



Melissa Viveros, Vice President

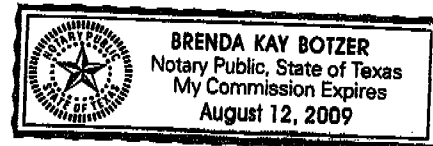
Subscribed and Sworn to before me, a Notary Public, in and for the State of Texas, County of Tarrant, this 2nd day of July, 2009.

Brenda Kay Botzer
NOTARY PUBLIC

Printed Name: Brenda Kay Botzer

County of Residence: Tarrant

My Commission Expires: 8/12/09



Atty File: 9956774

Ref Name: Davis

Attorney for Plaintiff
Unterberg & Associates, P.C.
8050 Cleveland Place
Merrillville, IN 46410
(219) 736-5579

**This communication is from a Debt Collector.
This is an attempt to collect a debt and any information obtained will be used for that purpose.**