

2015 WL 1876930 (Mo.Cir.) (Trial Motion, Memorandum and Affidavit)
Circuit Court of Missouri.
Clinton County

DAVID and Crystal Holm, Plaintiffs,
v.
WELLS FARGO HOME MORTGAGE INC. and Federal Home
Loan Mortgage Corporation (Freddie Mac), Defendants.

No. 08CN-CV00944.
January 20, 2015.

Plaintiffs' Memorandum in Support of Judgment

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Division 2

Plaintiffs have submitted a proposed Judgment to the Court. In what follows, plaintiffs demonstrate the legal and factual basis for each part of the proposed Judgment, including quiet title relief, compensatory damages, and punitive damages.

I. PLAINTIFFS ARE ENTITLED TO JUDGMENT FOR QUIET TITLE

Plaintiffs established at trial that they possessed title to the property until the date of the foreclosure sale. See Plaintiffs' Deed of Trust, received as Exhibit 1. No evidence was submitted to the contrary. Further, no evidence was submitted demonstrating that any other party had a superior claim to title. Based on plaintiffs' uncontroverted evidence, David and Crystal Holm, husband and wife, are entitled to the quiet title relief set forth in the Judgment.

Quieting title is a separate and distinct remedy from the tort of wrongful foreclosure, and is not inconsistent with money damages arising from a wrongful foreclosure sale. Count II addresses the status of *title*, not the lawfulness of the foreclosure sale. A party's right to title is distinct and consistent with a party's right to damages arising from a wrongful foreclosure sale. The evidence submitted at trial establishes plaintiffs' right to seek money damages as well as quiet title relief.

Defendants erroneously suggest that quiet title relief is inconsistent with a wrongful foreclosure judgment in favor of plaintiffs because they ignore the following legal principle: "what constitutes a 'wrongful foreclosure' sufficient to set aside a sale and what constitutes a 'wrongful foreclosure' sufficient to recover damages in tort are not the same." [Dobson v. Mort. Elec. Registration Sys.](#), 259 S.W.3d 19, 22 (Mo. Ct. App. 2008). A tort action for wrongful foreclosure seeks money damages and is available to mortgagors when there is no right to foreclose. *Id.* Here, defendants had no right to foreclose because the evidence demonstrated that plaintiffs were not in default and defendants lacked a right to enforce the note.

Plaintiffs proved at trial that the promissory note sent to plaintiffs on June 26, 2008 (Exhibit 26), and described by Kozeny & McCubbin as evidence to "verify the debt which is owed," was in fact *not enforceable* by Wells Fargo or Freddie Mac under Chapter 400.3-301. The note was a promise to pay the original lender, Commercial Federal Mortgage Corp., and contained no endorsements, either in blank or to a specific party. Based on these undisputed facts, neither Wells Fargo nor Freddie Mac had a right to enforce the note. *See* Chapter 400.3-301. The Supreme Court of Missouri held that there "are numerous circumstances that may render a foreclosure sale void," including "where the foreclosing party does not hold title to the secured note." [Williams](#)

v. Kimes, 996 S.W.2d 43, 45 (Mo. 1999). Where the party lacks a right to enforce the note and proceeds with the foreclosure sale, “no title is conveyed through the sale.” *Id.*

Therefore, a separate and additional reason that plaintiffs are entitled to quiet title relief is that Freddie Mac did not obtain title “through the sale,” since neither Wells Fargo nor Freddie Mac had a right to enforce the *unendorsed* note incorrectly described by Kozeny & McCubbin as evidence to “verify the debt which is owed.” Plaintiffs David and Crystal Holm, husband and wife, respectfully request that the Court quiet title in their name as set forth in the proposed Judgment.

II. PLAINTIFFS ARE ENTITLED TO COMPENSATORY DAMAGES IN THE AMOUNT OF \$339,632.00

Plaintiffs stated a tort claim for wrongful foreclosure and are entitled to all damages that fairly and justly compensate them. In Missouri, the traditional policy of tort law has been stated as follows:

The traditional and foremost policy of the tort law is to deter harmful conduct and to ensure that innocent victims of that conduct will have redress. Cognate principles of equity and economic efficiency also inform that policy: *that the costs of the pervasive injury ... shall be borne by those who can control the danger and make equitable distribution of the losses, rather than by those who are powerless to protect themselves.*

Blanks v. Flour Corp., 2014 Mo. App. LEXIS 1013, at *147 (Mo. Ct. App. 2014) (quoting *Elam v. Alcolac, Inc.*, 765 S.W.2d 42, 176 (Mo. App. W.D. 1988)) (emphasis added).

MAI 4.01 is instructive on damages allowable in a tort case:

If you find in favor of the plaintiff, then you must award plaintiff such sum as you believe will fairly and justly compensate plaintiff for any damages you believe plaintiff sustained and is reasonably certain to sustain in the future as a direct result of the occurrence mentioned in the evidence.

In other words, plaintiffs are entitled to “any damages” they sustained and are reasonably certain to sustain in the future, and to damages that will “fairly and justly compensate” them for wrongful foreclosure. It is well-established that there is no “distinction, as it relates to the measure of damages, between this [foreclosure] action and other actions for damages.” *Edwards v. Smith*, 322 S.W.2d 770, 777 (Mo. 1959). Further, the costs of the tort injury should be paid by those - Wells Fargo in this case - who can control and distribute the costs, rather than by those - David and Crystal Holm - who are powerless to protect themselves. *Elam*, 765 S.W.2d at 176. Applying this measuring rod, plaintiffs submitted the following evidence.

A. Lost Value of the Home

Plaintiffs presented evidence that their home has declined in value in the amount of \$89,762.30. On August 15, 2008 Freddie Mac paid \$141,762.30 to purchase plaintiffs' home. Exhibit 3 (Successor Trustee Deed). David Holm testified that the current value of the home is \$52,000. Mr. Holm's testimony was uncontroverted. The difference in value is \$89,762.30, which constitutes the reasonable lost value of plaintiffs' home. A “before and after” measurement of the lost value of property is an approved means of ascertaining tort damages involving land. See *Bower v. Hog Builders, Inc.*, 461 S.W.2d 784, 797-798 (Mo. 1970) (in nuisance case relating to lost value of property adjacent to hog farms, Supreme Court of Missouri approved the difference between the values of the property before and after the relevant event as the measure of damage that would fairly and justly compensate plaintiffs).

Defendants' counsel argued that the measure of damages should be more limited. On several occasions during trial, defendants' counsel cited what the undersigned believes is the following sentence from the *Missouri Foreclosure Manual* (“MFM”), Vol. 38 of the Missouri Practices Series, written by Stephen Max Todd (p. 155): “The measure of damages in such a case is the

difference between the reasonable market value of the property and the aggregate amount of liens thereon as of the foreclosure.” As the following analysis demonstrates, however, defendants have misunderstood the passage relied upon.

The case cited in the MFM by Mr. Todd for the quotation above is [Adkison v. Hannah](#), 475 S.W.2d 39 (Mo. 1972). *Adkison* was a conspiracy case. More importantly, plaintiffs in *Adkison* alleged that the object of the conspiracy was “to force the defendants into default under the deed of trust,” enabling the conspirators to purchase the property at the foreclosure sale. Under these unique circumstances, the court identified the measure of damages “at the date of the foreclosure sale” as quoted above. Further, the *Adkison* court found *insufficient evidence* to support the damages sought, and did not make a broader ruling regarding the types of damages allowable in a wrongful foreclosure case. *Id.* at 42 (“We do find merit in appellants’ point that there is no substantial evidence of damages which respondents claim to have sustained.”)

The facts of this case are very different. Plaintiffs claim that because of the wrongful foreclosure, the value of their home has subsequently declined over the past 6.5 years. Plaintiffs contend that they have lost value in their home between the date of the foreclosure in August of 2008 and the present. Regarding that claim, plaintiffs are surely not limited - as defendants repeatedly argued during trial - to “the difference between the reasonable market value of the property and the aggregate amount of liens thereon *as of the foreclosure*.” (emphasis added) Such a measure of damages in this case does not make sense since it fails to account for the specific damage alleged by plaintiffs (6.5 years of declining value). Defendants have misread the quotation from Todd’s MFM. In addition, and in further contrast to the facts in *Adkison*, plaintiffs presented sufficient evidence of their damages to support the amounts requested. *See, e.g.*, Exhibits 40 and 41.

Finally, the lost value of their home is an item of damage necessary to “fairly and justly compensate” plaintiffs for their injury. *See also Edwards*, 322 S.W.2d at 777 (Mo. 1959) (“We fail to see any distinction, as it relates to the measure of damages, between this [foreclosure] action and other actions for damages.”)

B. Past Home Repairs

Plaintiffs established at trial that they suffered damages for past home repairs in the amount of \$6,150. David Holm testified that he repaired his home in order to prevent further deterioration of the property. Mr. Holm made the repairs himself and paid for the necessary materials. The cost of past home repairs to prevent additional loss of the value of his home was \$6,150. Exhibit 40 was received as additional evidence of the cost of past home repairs. Crystal Holm testified to her role in preparing Exhibit 40, and to the accuracy of the costs identified.

This Court is aware of a pending unlawful detainer suit against David and Crystal Holm. *See* Case No. 14CN-CV00501. An unlawful detainer case was initially filed by Freddie Mac against David and Crystal Holm on September 8, 2008, less than one month following the foreclosure sale. *See* Case No. 08CN-CV00729. Mr. and Mrs. Holm have been under the threat of eviction for more than six years.

Damages for the prevention of waste are recoverable in a wrongful foreclosure case, as well as to avoid the imposition of additional damages in suit by a landlord. *See Adkison*, 475 S.W.2d at 41 (in action on redemption bond following foreclosure, the “jury apparently did find that plaintiffs suffered damages for waste”); *see also Enchanted Hills, Inc. v. Medlin*, 892 S.W.2d 722, 724 (Mo. Ct. App. 1994) (“We hold, then, that upon a showing of negligence, it is also possible for a tenant to be found liable for waste.”).

Finally, the cost of past home repairs is an item of damage necessary to “fairly and justly compensate” plaintiffs for their injury. *See also Edwards*, 322 S.W.2d at 777 (“We fail to see any distinction, as it relates to the measure of damages, between this [foreclosure] action and other actions for damages.”)

C. Future Home Repairs

Plaintiffs established at trial that they suffered damages for future home repairs in the amount of \$43,720. The testimony of David Holm included the cost of future home repairs arising from the diminished condition of the property. Mr. Holm testified that these future home repairs are necessary to bring the property to a reasonable state of habitability. The cost of future home repairs is \$43,720. Exhibit 41 was received as further evidence of these costs.

Plaintiffs' evidence was that the cost of future home repairs is necessitated by the diminution in value caused by the wrongful foreclosure. The Court will recall the testimony that the lives of plaintiffs have been "put on hold" and their fear of losing the home caused them to refrain from making substantial investments in home maintenance. But for the wrongful foreclosure, plaintiffs would have more aggressively invested in home maintenance. Plaintiffs reasonably refrained from investing in home repairs that might benefit Freddie Mac or Wells Fargo, rather than themselves.

The cost of future home repairs arises directly from the wrongful foreclosure and should be awarded to plaintiffs as an item of damage necessary to "fairly and justly compensate" plaintiffs for their injury. *See also Edwards, 322 S.W.2d at 777* ("We fail to see any distinction, as it relates to the measure of damages, between this [foreclosure] action and other actions for damages.")

D. Emotional Distress

Plaintiffs established at trial their right to obtain damages for emotional distress. The evidence established that plaintiffs suffered considerable emotional distress and mental and physical anxiety. David Holm suffered panic attacks, heart problems requiring a heart monitor, [high blood pressure](#), and daily anxiety due to the circumstances relating to the wrongful foreclosure. Crystal Holm testified regarding her "fear" of losing her family's home, and the impact of such a loss on her 12-year daughter, Liberty, and family. Mrs. Holm recounted her loss of optimism regarding a property that she hoped would be populated by horses and other animals. Both Mr. and Mrs. Holm testified about the substantial stress on their marriage resulting from the defendants' predatory conduct.

Recovery for emotional distress and mental anxiety in the modest amounts of \$100,000 each for Mr. and Mrs. Holm is permitted by the legal principles underlying MAI 4.01. *See Medlock v. Farmers State Bank, 696 S.W.2d 873, 878-881 (Mo. Ct. App. 1985)* (emotional distress damages are available in wrongful foreclosure action, but not when wrongful foreclosure is attempted but not undertaken); *see also Dobson, 259 S.W.3d at 21* (in wrongful foreclosure case, trial court awarded emotional distress damages in the amount of \$300,000 but judgment reversed due to failure to plead absence of default). Absent damages for emotional distress for the more than six years of hell inflicted on plaintiffs by Wells Fargo, there will be no fair and just compensation to David and Crystal Holm. The amount requested - a total of \$200,000 - is reasonable based on the record.

III. PLAINTIFFS ARE ENTITLED TO PUNITIVE DAMAGES IN THE AMOUNT OF \$16,700,000.00

Plaintiffs proved at trial that defendant Wells Fargo i) committed outrageous and reprehensible actions injuring plaintiffs, ii) earns \$3.7 million per hour, and that iii) plaintiffs are entitled to punitive damages.

A. Plaintiffs Proved That Wells Fargo's Conduct Was Outrageous and In Disregard of David and Crystal Holm's Rights

Plaintiffs' evidence established that Wells Fargo intentionally promised a reinstatement to plaintiffs, and told David Holm that no foreclosure sale would take place if he accepted the reinstatement. Mr. Holm immediately accepted the offer, but Wells Fargo deliberately ignored the reinstatement deal and, in an egregious and deceitful manner, intentionally foreclosed on David and Crystal Holm's family home. Wells Fargo acted dishonestly in order to obtain reimbursement of fees it charged against the Holm's note. In other words, Wells Fargo knowingly inflicted a severe injury on David and Crystal Holm in order to satisfy its

insatiable appetite for more fees. Acceptance of an offer to reinstate or modify a home mortgage loan is an enforceable contract under Missouri law. *Topchian v. JP Morgan Chase Bank, N.A.*, 760 F.3d 843, 852 (8th Cir. 2014) (oral acceptance of offer to modify loan states claim for breach of contract).

Through its agent Kozeny & McCubbin, Wells Fargo received a facsimile copy of plaintiffs' reinstatement check on the date of the foreclosure sale. Kozeny & McCubbin received the physical reinstatement check on August 16, 2008. Plaintiffs fully and completely complied with the instructions provided by Wells Fargo and Kozeny & McCubbin regarding payment of the reinstatement check. Freddie Mac's witness, Dean Meyer, testified that there is nothing in the Freddie Mac servicing guide stating that a reinstatement check must be received before the foreclosure sale. See Exhibit 68 at 18-24; 89-90. This is particularly true when the servicer and trustee make explicit promises to a borrower that they will not foreclose.

Notwithstanding these promises, contracts and commitments to plaintiffs, Wells Fargo refused to stop the foreclosure. Further, Wells Fargo refused to cash the reinstatement check and reinstate plaintiffs' loan. Wells Fargo's decisions to renege on its promises and contract, and to deceive plaintiffs with the pledge to cancel the foreclosure sale, is outrageous and reprehensible for several reasons.

First, Wells Fargo's used deceit in its dealings with David and Crystal Holm. Wells Fargo's deceptive and intentional conduct displayed a complete and total disregard for the rights of David and Crystal Holm. Mr. and Mrs. Holm had a right to reinstatement, but Wells Fargo demonstrated reckless indifference to that right.

Second, Wells Fargo could easily have kept its word and reinstated the loan. No major hurdles were required to say "yes" rather than "no." For example, Freddie Mac testified that it considered reinstatement of the Holm note to be the most desirable of all possible outcomes. Freddie Mac's servicing guide champions reinstatement, and requires that servicers comply with its guidelines. Freddie Mac demands that its servicers must go "the extra mile" to obtain a reinstatement whenever possible. See Exhibit 68, at 85. Wells Fargo willfully disregarded Freddie Mac's guidelines in order to pursue its quest for more fees by foreclosing on the Holm property.

Third, the result of Wells Fargo's egregious conduct was to impose approximately 6.5 years of uncertainty, lost optimism, emotional distress, and family paralysis on David, Crystal and Liberty Holm. The evidence demonstrated clearly and convincingly that a substantial personal toll has been taken on the Holm family. Whether the Holm family will fully recover is unknown.

Fourth, the evidence established that Wells Fargo's intentional choice to foreclose arose from its own **financial** incentives. Dr. Kurt Krueger testified that Wells Fargo had **financial** incentives to seek reimbursement of its fees at a foreclosure sale. This economic motivation collided with the well-being of David and Crystal Holm, and was contrary to the interests of Freddie Mac. In other words, in this case, a powerful **financial** company exerted its will over a **financially** distressed family in Clinton County, Missouri. The result is predictable. The plaintiffs were severely damaged; Wells Fargo took its money and moved on, in complete disregard of the human damage it left in its wake.

Fifth, Wells Fargo is an experienced servicer of home loans. Wells Fargo knew that its decision to foreclose after reinstatement was accepted would inflict a devastating injury on the Holm family. Wells Fargo's actions were knowing, intentional and injurious.

Sixth, Wells Fargo operated from a position of superiority provided by its enormous wealth. Wells Fargo's decision took advantage of an obviously **financially** vulnerable family.

Seventh, Wells Fargo has shown no remorse for the harm it caused to David and Crystal Holm.

Eighth, Wells Fargo must be deterred from such conduct in the future. This Court has the power to say with its Judgment that Wells Fargo must not ever again treat a Clinton County family in the egregious way it treated David and Crystal Holm. The level of the Court's disapproval, expressed through its punitive damages Judgment, must be significant or risk having little or no effect on a company making \$3.7 million per hour.

B. The Amount of Punitive Damages Should Reflect the Enormity of the Offense

Regarding the amount of punitive damages, *Lewellen v. Franklin*, 441 S.W.3d 136 (Mo. 2014) is instructive. This Court is not limited by the statutory cap of \$500,000 or five times the judgment, since RSMo. 510.265 is an unconstitutional cap on damages in a case such as this. *Id.*

The purpose of punitive damages is to deter wrongful conduct. To that end, “the award must be enough to ensure that the tortfeasor is adequately punished and deterred from future similar conduct; yet, the award must not be grossly excessive.” *Fireworks Restoration Co., L.L.C. v. Hosto*, 371 S.W.3d 83, 91 (Mo. Ct. App. 2012) (citing *BMW of N. Am. v. Gore*, 517 U.S. 559, 568 (1996)).

Punitive damages “should reflect the enormity of the offense.” *Blanks*, 2014 Mo. App. LEXIS 1013, at *252 (citing *BMW*, 517 U.S. at 575). “Some wrongs are more blameworthy than others. *Id.* For instance, ‘trickery and deceit’ are more reprehensible than negligence.” *Id.* (citing *BMW*, 517 U.S. at 575). Missouri case law also recognizes that larger awards are appropriate when a party uses its superior position to harm a **financially** vulnerable person. See *Peel v. Credit Acceptance Corp.*, 408 S.W.3d 191, 214 (Mo. Ct. App. 2013) (higher punitive damage award justified when Credit Acceptance Company used its superior position to make misrepresentations).

Two other legal principles justify a higher punitive damage award in this case. One, Wells Fargo has shown no remorse for its egregious conduct causing harm to David and Crystal Holm. Wells Fargo did not even have a corporate representative attend trial. The case opened with only legal counsel appearing on behalf of either defendant. The Court will recall the lack of remorse and humanity illustrated by the testimony of Wells Fargo's corporate representative: “I'm not here as a human being. I'm here as a representative of Wells Fargo.” In such a case, this Court is entitled to find that a higher ratio is appropriate. *Estate of Overbey v. Chad Franklin Nat'l Auto Sales North, L.L.C.*, 361 S.W.3d 364, 374 (Mo. 2012) (“Mr. Franklin did not appear or testify at trial or otherwise express remorse, nor did he make his victims whole, but instead he continued to deny his fault through his counsel, who appeared for him at trial.”).

Two, Wells Fargo knew that its conduct would cause severe harm to David and Crystal Holm. Wells Fargo is an experienced servicer of mortgage loans. Wells Fargo participates in foreclosures in Missouri and elsewhere on a regular basis, and has done so for many years. Wells Fargo's experience with foreclosures means that its conduct in this case was undertaken “knowing that a high probability existed that [its] actions would result in injury.” *Blanks*, 2014 Mo. App. LEXIS 1013, at *233. In other words, Wells Fargo knew that David and Crystal Holm would suffer harm from Wells Fargo's misrepresentations regarding the reinstatement, and from Wells Fargo's refusal to honor its promises and legal commitments to reinstate the loan. Despite its knowledge that David and Crystal Holm would suffer, Wells Fargo proceeded to *knowingly inflict terrible injury*. Knowing, intentional infliction of harm warrants a higher punitive damage award. *Id.*

C. Plaintiffs' Request for Punitive Damages in the Amount of \$16.7 Million Is Well Within The Acceptable Ratio in Missouri

Regarding due process considerations, the “Supreme Court has explicitly refused to establish a bright-line ratio that a punitive damages award cannot exceed due to the Supreme Court's reluctance to recognize concrete limits imposed by due process.” *Id.* at 144. The “precise award in any case ... must be based upon the facts and circumstances of the defendant's conduct and the harm to the plaintiff.” *Id.* (quoting *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 425 (2003)).

In *Lewellen*, the Supreme Court of Missouri considered the subject of an appropriate ratio on a punitive damages case. *Lewellen*, 441 S.W. 3d at 147-148. Ratios greater than single-digit ratios comport with due process where “a particularly egregious act has resulted in only a small amount of economic damages.” *Id.* at 147 (quoting *State Farm*, 538 U.S. at 425).

Lewellen discusses punitive damages cases involving the exploitation of financially vulnerable people. *Id.* at 147. The lesson is that when a company shows no remorse for its misconduct, and when financially vulnerable people suffer the harmful consequences of a wealthy company's outrageous actions, the die is cast for a punitive damage award well in excess of a single-digit ratio. *Id.* In *Lewellen*, a 40:1 ratio was “not grossly excessive considering their intentional and flagrant trickery and deceit employed to target a financially vulnerable person causing her to lose her means of transportation, subject her to suit, and damage her credit.” *Id.* at 148. *Lewellen* approvingly cites cases in which the ratio of punitive damages to actual damages are 526:1 (*TXO Prod. Corp. v. Alliance Res. Corp.*, 509 U.S. 443, 459-60 (1993)), 27:1 (*Krysa v. Payne*, 176 S.W.3d 150, 162-3 (Mo. Ct. App. 2005)), 111:1 (*Estate of Overbey v. Chad Franklin Nat'l Auto Sales North, LLC*, 361 S.W.3d 364, 374 (Mo. 2012)), and 66:1 (*Weaver v. African Methodist Episcopal Church, Inc.*, 54 S.W.3d 575, 589 (Mo. Ct. App. 2001)). *Id.* at 148; see also *Fireworks*, 371 S.W.3d at 93, fn. 4 (listing cases from Missouri and elsewhere allowing punitive damage awards exceeding a single-digit ratio).

Double-digit ratios are particularly appropriate in cases involving smaller compensatory damages awards, since a single-digit punitive damage award will be insufficient to deter reprehensible conduct. For example, in *Fireworks*, only \$1 was awarded in actual damages. The court observed that as a result of a “very small” award, “adherence to a single-digit ratio would have been patently insufficient to adequately deter and punish Defendant for his conduct.” *Id.* at 92 (citing *Gore*, 517 U.S. at 568).

The ratio sought by plaintiffs is within the scope of the ratios mentioned in *Lewellen* and warranted in cases concerning harms to financially vulnerable citizens. See *Overbey*, 361 S.W.3d at 374 (citing cases); *Krysa*, 176 S.W.3d at 162-3 (citing cases); and *Fireworks*, 371 S.W.3d at 93, fn. 4 (citing cases). If the Court enters Judgment for actual damages in the amount requested (\$339,632), then a punitive damage award of \$16.7 million will be less than a 50:1 ratio. A 50:1 ratio is clearly within the limits allowed by the Supreme Court of Missouri in a case involving egregious harm to financially vulnerable citizens. See *id.*

A punitive damage award creating a 50:1 ratio is not excessive and is within the Court's discretion. *Id.* This is especially true because the evidence proved that Wells Fargo used deceit regarding the availability of a reinstatement, lacked remorse, acted from a superior position of wealth against a financially vulnerable family, and knew that there was a high probability that David and Crystal Holm would suffer harm from Wells Fargo's evil and reckless conduct. Under these circumstances, a punitive damage award of substantially less than plaintiffs' request risks forfeiting the deterrence functions of exemplary damages.

IV. PLAINTIFFS RESPECTFULLY REQUEST ENTRY OF THEIR PROPOSED JUDGMENT

The foreclosure of David and Crystal Holm's property occurred at the height of the worst economic and financial crisis in the United States since the Great Depression. Although the economic and housing crisis had many causes, the role of servicers pushing millions of homeowners into foreclosure based on inadequate documentation (e.g., an unendorsed note) or sloppy paperwork (e.g., absence of default or defaults induced by inflated charges) has been identified as a contributing factor. See *The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States*, (Public Affairs: 2011), at 407-8.

The costs of the recent economic crisis “have caused pain largely borne by individual homeowners ...” *Id.* at 410. David and Crystal Holm have submitted clear and convincing evidence that Wells Fargo was the source of their pain arising from Wells Fargo's callous indifference to the well-being of the Holm family. David and Crystal Holm request that this Court now speak with strength, and in a clear and powerful voice to redress the appalling wrongs done to them and to others by Wells Fargo.

WHEREFORE, plaintiffs David and Crystal Holm respectfully request that this Court enter Judgment in their favor for compensatory damages in the amount of \$339,632.00, and punitive damages in the amount of \$16,700,000.00, and for such additional relief as the Court may deem appropriate.

RESPECTFULLY SUBMITTED,

GREGORY LEYH, P.C.

<<signature>>

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