

2011 WL 5595837 (Ga.Super.) (Trial Pleading)  
Superior Court of Georgia.  
Fulton County

**Sandra Jackson SHEPPARD, Plaintiff,**

v.

BANK OF AMERICA, NA, Countrywide Home Loans, Inc., a subsidiary of Bank of America, N.A., d/b/a America's Wholesale Lender, BAC Home Loans Servicing, LP, Mortgage Electronic Registration Systems, Inc., a subsidiary of Merscorp, Inc., the Bank of New York Mellon Corporation f/k/a the Bank of New York as Trustee for the Certificateholders of the Crabs, Inc., Asset-backed Certificates, Series 2005-4, CWABS, Inc., a Delaware corporation; and Gary Arthur Goldman, individually and in his capacity as agent, employee and/or business partner for Stohr Capital Group, Inc. d/b/a a Source Finance, America One Finance, Inc., and/or Countrywide Home Loans, Inc. Defendants.

No. 2011CV208239.  
November 16, 2011.

Jury Trial Demanded

### Complaint

**Sandra Jackson Sheppard, Sheppard** & Associates, Law Office, P.C., Georgia Bar No. 641967, 455 Park Avenue, S.E., Atlanta, Georgia 30312, (404) 622-5777, (404) 622-5577 Fax, sjs@sheppardlawpc.com.

COMES NOW, the **Plaintiff, Sandra Jackson Sheppard**, and files this Complaint against Bank Of America, Na, Countrywide Home Loans, Inc., A Subsidiary Of Bank Of America, N.A., D/B/A America's Wholesale Lender, BAC Home Loans Servicing, LP, A Limited Partnership, F/K/A Mortgage Electronic Registration Systems, Inc., A Subsidiary Of MERSCORP, Inc., The Bank Of New York Mellon Corporation F/K/A The Bank Of New York As Trustee For The Certificateholders Of The CWABS, INC., Asset-Backed Certificates, Series 2005-4, CWABS, INC., A Delaware Corporation; And Gary Arthur Goldman, Individually And In His Capacity As Agent, Employee And/Or Business Partner For Stohr Capital Group, Inc. D/B/A Source Finance, America One Finance, Inc., and Countrywide Home Loans, Inc. **Plaintiff** is suing under Georgia law for fraud and deceptive trade practices against elder person.

### INTRODUCTION

This matter involves Countrywide committing fraudulent acts against **Plaintiff** directly and/or through a network of people who acted individually and/or in concert with each other and who are part of the real estate and/or mortgage industry. The acts were designed to prey upon the ignorance and the dream of home ownership of potential unwary borrowers, such as the **Plaintiff**, an African American and elder person under O.C.G.A. § 10-1-850, et seq., by not disclosing Countrywide's goal to build a large pool of toxic subprime mortgage loans for Countrywide to use to attract investors to its mortgage-backed securities market. The fraudulent acts were carried out in a manner to make it appear as if **Sheppard** were committing fraudulent acts in the loan application process when, in fact, Countrywide directly and/or through its Business Partners Goldman and America One fabricated information, without **Sheppard's** prior knowledge or approval, and used these loan applications to put **Sheppard** in one of the most toxic mortgage product on the market, the 80/20 Subprime Mortgage Loan. Greed was the common factor. Countrywide and its Business Partners, without regard to the economic and noneconomic devastation to **Sheppard**, or borrowers and investors, blatantly ignored Countrywide's underwriting guidelines with full knowledge that such recklessness opened the door for rogue production of mortgages. The components of Countrywide's asset-backed securities mega market are

the Certificates, Depositor, Sellers, Master Servicer, Trustee, Lender and related subsidiaries and affiliates, Business Partners and/or Mortgage Brokers, Investors, MERS, and unwary Borrowers. If Countrywide had properly informed borrowers, such as **Plaintiff**, of its goal, few borrowers, and in particular, this **Plaintiff**, would voluntarily sign up for a mortgage doomed to end in foreclosure from inception, with no equity or means to grow any when burdened under fraudulent high-risk loan features, interest only, prepayment penalty, adjustable rates at will, excessive fees and mortgage payments, any other scheme or artifice they choose to use to get their profits from **Plaintiff** and other such borrowers and investors.

### *PARTIES*

1. The **Plaintiff** is **Sandra Jackson Sheppard**. She is an African American female citizen of the State of Georgia, and, at the time of Closing on April 5, 2005, she was 60 years old, and is presently 66 years old, living in Fulton County, Georgia and is subject to the jurisdiction of this Court.

2. BANK OF AMERICA, NA (“Countrywide/BOFA” or “Countrywide” or “BOFA”), operates in the State of Georgia doing the general business of Banking including Home Loans products through its various subsidiaries, affiliates, and/or business partners, and is subject to the jurisdiction of this Court and can be served through its Registered Agent CT Corporation System/Shakinah Edwards, 1201 Peachtree St. NE, Atlanta, Georgia 30361.

3. COUNTRYWIDE HOME LOANS, INC., is a subsidiary of BANK OF AMERICA, N.A., d/b/a AMERICA'S WHOLESALE LENDER (“Countrywide/BOFA” or “Countrywide” or “BOFA”), and is the party who originated and/or approved and/or adopted the origination of its business partners of the toxic 80/20 Subprime Mortgage that they duped and/or steered or otherwise placed the **Plaintiff** into using fraudulent and/or deceptive and/or unlawful trade practices and also who provided the underwriting of these toxic 80/20 Subprime products to **Plaintiff**, and is subject to the jurisdiction of this Court and can be served through its Registered Agent C. T. Corporation System, 1201 Peachtree St, N.E., Atlanta, Georgia 30361.

3. BAC HOME LOANS SERVICING, LP, f/k/a Countrywide Home Loans Servicing, L.P. (“Countrywide/BOFA” or “Countrywide” or “BOFA”), as of July 1, 2011 merged into Bank of America, N.A., is the party who collects home loan payments and related functions on behalf of Bank of America, N.A., Countrywide Home Loans, Inc., dba America's Wholesale Lender, and for the Bank of New York Mellon f/k/a the Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-backed Certificates, Series 2005-4 and is subject to the jurisdiction of this Court and can be served through its Registered Agent CT Corporation System/Shakinah Edwards, 1201 Peachtree St. NE, Atlanta, Georgia 30361.

4. MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., a subsidiary of MERSCORP, INC. (“MERS”), is a foreign corporation that does business in the State of Georgia, participated in the fraudulent acts and/or deceptive and/or unlawful trade practices that were used against **Plaintiff**, and is subject to the jurisdiction of this Court and can be served through Bill Beckmann, President and CEO of MERSCORP, Inc. and its subsidiary, Mortgage Electronic Registration Systems, 1818 Library Street, Suite 300, Reston, VA 20190.

5. THE BANK OF NEW YORK MELLON CORPORATION f/k/a THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2005-4, CWABS, INC., a Delaware corporation, is a foreign corporation that does business in the State of Georgia, participated in the fraudulent acts and/or deceptive and/or unlawful trade practices that were used against **Plaintiff** and currently attempting to carry out an unlawful foreclosure based on fraudulent Assignment of Security Deed with a revoked power of sale/attorney from MERS, is subject to the jurisdiction of this Court and can be served through its Chairman, President, and CEO Gerald Hassell, One Wall Street, New York, New York 10286, County of New York.

6. GARY ARTHUR GOLDMAN, individually and in his capacity as agent, employee and/or business partner for STOHR CAPITAL GROUP, INC. d/b/a SOURCE FINANCE, AMERICA ONE FINANCE, INC., and Bank of America, N.A.,

Countrywide Home Loans, Inc., dba America's Wholesale Lender, initiated and/or participated in the fraudulent acts and/or deceptive and/or unlawful trade practices that were used against **Plaintiff** to put her into the toxic 80/20 Subprime mortgage loans, and is subject to the jurisdiction of this Court and can be served at 6476 Bellevue Dr., S.W., Conyers, Georgia 30094.

### *JURISDICTION AND VENUE*

7. Jurisdiction and venue are proper in this Court pursuant to the Georgia Constitution and as the **Plaintiff's** property is located in Fulton County.

### *FACTUAL ALLEGATIONS*

8. Countrywide misled **Sheppard** into believing that it “constantly look for new ways to simplify the home loan process to save you time and to minimize the stress of getting a loan,” and **Sheppard** relied on Countrywide to do what it said in its “Home Loan Application Disclosure Handbook.” However, subsequent to the Closing on April 5, 2005, **Sheppard** learned Countrywide directly and/or through its Business Partners Goldman and America One, individually and in concert, had used fraudulent practices to dupe **Sheppard** into one of the most toxic mortgages product on the market, the 80/20 Subprime Mortgage Loan.

9. Countrywide failed to make relevant disclosures before the Closing of April 5, 2005 to aid **Sheppard** in making an informed decision about the type of mortgage loans she should become indebted for the next 30 or more years.

10. Countrywide failed to disclose its affiliation, connection, or association with or certification of the contents of mortgages, such as the toxic 80/20 subprime mortgage designed for **Sheppard**, to fit the specifications of mortgages needed by CWAB, Inc.'s to be used in forming asset-backed securities to be sold to CWAB, Inc., a subsidiary of Countrywide Financial Corporation.

11. THE CERTIFICATES referred to in this lawsuit are the Asset-Backed Certificates, Series 2005-4, which represent undivided beneficial ownership interests in a trust fund. The trust fund consists primarily of a pool of fixed and adjustable rate, credit blemished mortgage loans that are secured by first liens on one- to four-family residential properties and certain other property and assets described in this prospectus supplement. See (CWABS, Inc., Asset-Backed Securities, Prospectus Supplement SEC File No. 333-125164 (“CWABS 2005-4”).

12. Countrywide failed to disclose its affiliation, connection, or association with the Depositor for CWABS 2005-4 who is CRABS, Inc., a Delaware Corporation and a limited purpose finance subsidiary of Countrywide Financial Corporation, a Delaware corporation.

13. Countrywide failed to disclose to **Sheppard** that her mortgage was specially designed to meet its goal as a Seller of mortgages to CWAB, Inc. The Sellers for CWABS 2005-4 is Countrywide Home Loans, Inc. and one or more special purpose entities established by Countrywide Financial Corporation or one of its subsidiaries. The one or more special purpose entities previously acquired the mortgage loans they are selling directly from Countrywide Home Loans, Inc. See (CWABS 2005-4, Summary).

14. Countrywide failed to disclose to **Sheppard** that her mortgage was to be serviced by the Master Servicer for the CWABS 2005-4 asset-backed securities, to advance the profit goals of CWABS 2005-4 to its investors and Countrywide beyond mere value of **Sheppard's** loan, without **Sheppard** having any share in excess profits.

15. Countrywide failed to disclose to **Sheppard** that her mortgage was to be part of a Trust under TRUSTEE/CO-trustee The Bank of New York, a New York banking corporation for CWABS 2005-4, to advance the profit goals of CWABS 2005-4 to its investors and Countrywide beyond mere value of **Sheppard's** loan, without **Sheppard** having any share in excess profits.

16. Although the sellers, the master servicer, the depositor, the trustee and the co-trustee have a pooling and servicing agreement among themselves dated as of June 1, 2005, Countrywide did not disclose to **Sheppard** this affiliation and connection among themselves, and that they had made decisions prior to the shaping of the 80/20 subprime mortgage for **Sheppard** to be used by Countrywide and/or its business partners Goldman and America One to fit the specifications of Loan group 2 and/or Loan group 3 of the mortgage pool for CWABS 2005-4. See (CWABS 2005-4).

17. Countrywide's goal was to put borrowers, such as **Sheppard**, into high interest rates loans with other revenue enhancing terms, such as excessive fees and escrow charges, so they could carved out various certificates to earn a certain level of profit for investors yet not exceed the interest charged on the loan to the borrower, and still have part of the interest for Countrywide plus profits from investors. For example, interest rates for investors range from 4.322% to

6.279%, while the interest rates for **Sheppard** could never be lower than 7.550% and allegedly capped at 14.550% for the life of the loan.

18. The key for Countrywide to get borrowers burdened with these high interest rates is the use of its own employees and/or business partners such as Goldman and America One.

19. **Plaintiff** is an African American who is presently 66 years old. At the time Countrywide committed its fraudulent and/or criminal acts against **Plaintiff** in April of 2005, **Plaintiff** was 60 years old. Countrywide was aware of **Plaintiff's** age through its own fraudulent loan application process.

20. In or about October of 2004, **Plaintiff** decided she wanted to purchase a home in the City of Atlanta where she could both live and practice her profession of law. **Plaintiff** had obtained her VA Loan Eligibility Certificate back in 1990 and now wanted to use it. (Ex. 1, VA Eligibility Certificate 06/14/1990).

21. **Plaintiff** contacted a long-time friend, Patricia Greene ("Greene"), who is also a real estate agent; **Plaintiff** had known her since about 1985, having met her through her mother who was **Plaintiff** first office assistant, and they became family friends with children around same ages.

22. Greene began taking **Plaintiff** around various parts of Atlanta looking at neighborhoods and homes for sale.

23. Because of her limited knowledge about mortgage products and their associated financing, **Plaintiff** asked Greene to recommend a reputable mortgage broker who **Plaintiff** could trust and rely on to help her find the best mortgage suitable for her under the VA Loan benefits.

24. Greene told **Plaintiff** she knew of several mortgage brokers but there was one in particular who she had worked with that she felt knew the mortgage industry better than the rest, and that he was honest. Greene gave **Plaintiff** the name of Gary Arthur Goldman ("Goldman"). Greene assured **Plaintiff** that based on her experience with Goldman he is both trustworthy and highly knowledgeable about mortgages and lenders.

25. On or about November 8, 2004, Greene initially introduced **Plaintiff** to Goldman, who represented himself as an independent mortgage broker with his own business. Goldman seemed quite knowledgeable about mortgages and their financing, and after assuring **Plaintiff** that he would be representing her interest only when looking for the right mortgage that would fit within her VA Loan benefits, **Plaintiff** agreed to let him be her exclusive mortgage broker. Goldman did not reveal his affiliation and/or connection to Source Financial, America One, or Countrywide.

26. However, upon information and belief, **Plaintiff** no longer believes Goldman was an independent mortgage broker at the time he represented himself to her as such, because **Plaintiff** could not find him listed as a mortgage broker with the Georgia Department of Banking and Finance; but, instead, **Plaintiff** contends Goldman was either an employee and/or agent for Source

Financial, America One and/or Countrywide at varying times or at all times during the mortgage process, while purporting to be **Plaintiff's** mortgage broker.

27. Nevertheless, both Greene and Goldman were aware of the fact that **Plaintiff** was a solo attorney doing employment discrimination cases, was working under heavy litigation deadlines, and because she admitted that she was not sophisticated in mortgages and needed help in this area, would be relying heavily on their advice and guidance.

28. The only prior experience **Plaintiff** had was the knowledge of the fixed-rate mortgage that her parents had in Houston, Texas from the 1950's and VA Loans benefits to veterans; **Plaintiff** was not familiar with asset-backed securities and had no investments in stocks or bonds or other associations that would have given her knowledge of Countrywide's securities business.

29. On or about November B, 2004, Goldman had **Plaintiff** to complete a loan application that he said he would be presenting to various lenders; Goldman did not identify which lenders. (Ex. 2, Goldman/Source Financial Loan Application 11/08/2004). However, upon information and belief, **Plaintiff** now believes this first loan application was part of the overall plan to put **Plaintiff** into Countrywide's toxic 80/20 subprime mortgage product.

30. The Source Financial loan application contained a "Purchase Application Checklist" which indicates Source Financial was providing loan application services(*Id.*); **Plaintiff** later learned in or about February 15, 2008 that any purported services and documents by Source Financial were bogus. The Georgia Department of Banking & Finance records show Source Financial was a "dba" for Stohr Capital Group, Inc., and that its Lender license had been withdrawn since June 1, 2004. (Ex. 3, Source Financial Withdrawn Lender License 06/01/2004).

31. **Plaintiff** contends Countrywide knew, or should have known, some of its agents, employees or business affiliates, business partners, such as Goldman and America One, or otherwise independent mortgage brokers were out there committing fraudulent acts to the benefit of Countrywide and themselves to induce unwary consumers, such as **Plaintiff**, into these toxic subprime loans that were designed to fail.

32. Under the name of Source Financial, Goldman committed a number of fraudulent acts. For example, Goldman gave **Plaintiff** a bogus Statement of Credit Denial, Termination, or Change form to make her credit appear blemished, claiming "Value or Type of Collateral not Sufficient" and that " 'As is' property unacceptable." Blemished credit was one of Countrywide's specification for mortgages in Loan group 2 and Loan group 3 for its CWABS 2005-4 certificates. (Ex. 4, Source Financial Credit Denial 03/01/2005).

33. **Plaintiff** contends Goldman, as an agent, employee, or business partner of America One and/or Countrywide, sent **Plaintiff** the bogus credit denial as part of Countrywide's toxic 80/20 subprime mortgage process.

34. Although **Plaintiff** did not know Goldman was providing her with a bogus loan application process with Source Financial, **Plaintiff** completed the forms with truthful information, including providing a copy of her Georgia Driver's License that shows her birth month February and year 1945. **Plaintiff** also revealed that her law practice at that time was averaging about \$5,500.00 monthly. (Ex. 2, Goldman/Source Financial Loan Application 11/08/2004).

35. Regarding the item "Present Address," **Plaintiff** explained to Goldman that she was living with her son in Lithonia, Georgia and was not paying any rent, that, however, she was leasing office space at 1401 Peachtree St., Suite 500, Atlanta, Georgia, paying monthly about \$1,200.00. Goldman told **Plaintiff** to list the law office address to show her habit of paying monthly rent instead of her son's address. (*Id.* at p. 3).

36. Regarding checking and savings accounts, **Plaintiff** listed the only two accounts she had, her Wachovia business operating and IOLTA accounts. At that time, **Plaintiff** only had a balance of about \$2,333.00 in her operating account. The IOLTA account had \$3,200.00 in clients' funds. **Plaintiff** had no savings account. (*Id.* at p. 4).

37. However, on or about March 23, 2010, and again on or about April 28, 2010, **Plaintiff** saw among the documents sent to her by BOFA a Uniform Residential Loan Application different from the one presented to her at the Closing on April 5, 2005 or the bogus Goldman/Source Financial loan application. (Ex. 5, Goldman/America One Loan Application 03/11/2005).

38. Although **Plaintiff's** signature appears on -he forms, in four places, without a date next to it, none of the handwritten information placed on the form is in **Plaintiff's** handwriting. **Plaintiff** contends Goldman, America One and/or Countrywide were responsible for the information written in someone else's handwriting on the alleged loan application.

39. The Goldman/America One application form further shows Gary Goldman as the Interviewer, with his signature dated as 3/11/05 and his employer as America One Finance, Inc.

40. The Goldman/America One application form shows further fraudulent information for "Source of Down Payment, Settlement Charges and/or Subordinate Financing (explain)" stating that **Plaintiff** has "Savings" and an account with "Bank of America," and "Gross Monthly Income" as "\$12,988.00." Goldman, America One, and/or Countrywide fabricated this information without **Plaintiff's** knowledge or consent. (Ex. 5, Goldman/America One Loan Application 03/11/2005).

41. Countrywide/BOFA denied in its letter dated March 17, 2010 to being the originator of the toxic 80/20 Subprime mortgage loan in which they put **Sheppard**. (Ex. 6, Countrywide/BOFA Letter 03/17/2010).

42. However, this denial is contrary to the Uniform Residential Loan Application taken by Goldman over telephone with **Plaintiff** on or about March 25, 2005, but not presented to **Plaintiff** until during the Closing on April 5, 2005. Goldman/Countrywide had fraudulent information on it that **Plaintiff** did not noticed until she reviewed the paperwork in 2007. (Ex. 7, Goldman/Countrywide/BOFA Loan Application 03/25/2005).

43. Goldman indicated fraudulent information for "Source of Down Payment, Settlement Charges and/or Subordinate Financing (explain)" stating that **Plaintiff** has "Savings/Checking, Savings/Checking," and no listing of any bank accounts, "Gross Monthly Income" as "\$12,988.00." **Sheppard** did not provide this false information to Goldman. (*Id.* at pp. 1-2).

44. Goldman signed this loan application in the capacity of an "Interviewer" working as an employee of Countrywide. (*Id.* at p. 3).

45. **Plaintiff** contends that Goldman, America One, and/or Countrywide fabricated this information without **Plaintiff's** knowledge or consent as part of their scheme to get **Sheppard** into the toxic 80/20 Subprime Mortgage product.

46. Goldman, America One, and/or Countrywide used various other deceptive trade practices to further take advantage of **Plaintiff** as an elder person.

47. Specifically, on March 11, 2005, Goldman presented **Plaintiff** with two vague good faith estimates, with handwritten words "1<sup>st</sup> Draft" for first and second<sup>1</sup> mortgages (Ex. 8, Goldman/America 1<sup>st</sup>/2<sup>nd</sup> Mortgages Good Faith Estimates 03/11/2005) and two Truth In Lending Disclosure Statement for 1<sup>st</sup> and 2<sup>nd</sup> mortgages with box marked "Preliminary" and statement that says "This is neither a contract nor a commitment to lend." (Ex. 9, Goldman/America 1<sup>st</sup>/2<sup>nd</sup> Truth In Lending Disclosures 03/11/2005).

48. **Plaintiff** remembers this occasion because Goldman was rapidly explaining the documents he held in his hands while at the same time making handwritten changes on the documents.

49. It was impossible for **Plaintiff** to follow what Goldman was saying as he skipped about on the page rapidly marking through figures and inserting new figures as he talked hurriedly, and having her to sign documents also.

50. Because Goldman was supposed to be looking out for **Plaintiff's** best interest in the mortgage deal, **Plaintiff** trusted Goldman to tell her the truth about the mortgage process and the documents he was presenting to her for her signature on that occasion, as the mortgage process was moving faster than before.

51. On or about March 15, 2005, Goldman told **Plaintiff** that the interest rate might change to a less favorable rate because of a negative credit report showing a couple of late payments 30 days late and that **Sheppard** had about two weeks to get those matters cleared from her credit history. However, **Sheppard** was only able to get one of the matters removed, and Goldman told **Plaintiff** there would be a few changes but not to worry about it.

52. On or about March 25, 2005, **Sheppard** received a telephone call from Goldman saying he needed to do another loan application for her. Goldman said that he could use most of the information from the loan application **Sheppard** completed in November 2004. **Sheppard** offered to send updated bank records but Goldman said he could use what he already had. The only new piece of information Goldman asked her about was whether she wanted to list her ethnic affiliation. However, Goldman did not send a copy of the loan application for **Sheppard's** signature.

53. On or about March 31, 2005, **Sheppard** received a package from Countrywide/BOFA with various disclosures; however, the Loan Application Goldman took over the telephone on 03/25/2005 was not in the package.

54. In the package, Countrywide included two vague good faith estimates for first and second mortgages, where no loan origination fee was listed but an underwriting fee of \$995.00 and a broker full appraisal fee of \$450.00 and indicating Type of Loan as "Subprime - BC." (Ex. 10, Countrywide/BOFA 1<sup>st</sup>/2<sup>nd</sup> Good Faith Estimates 03/25/2005), while Goldman/America One good faith estimate for first mortgage indicated Loan program as "Conventional 5 Yr Int Only/1 Yr Arm" and two Truth In Lending Disclosure Statements showing Type of Loan as "Subprime - B/C 3 Yr Fixed, 27 Yr ARM Libor IO" (Ex. 11a, Countrywide/BOFA 1<sup>st</sup>/2<sup>nd</sup> Truth In Lending Disclosures 03/25/2005).

55. The first time **Sheppard** saw the Countrywide/BOFA 03/25/2005 loan application was at the Closing on April 5, 2005, when the application was presented among other papers for **Sheppard** to sign. **Sheppard** signed the application with the current date of April 5, 2005, to indicate when she first saw it. (Ex. 7, Goldman/Countrywide/BOFA Loan Application 03/25/2005, Signed 04/05/2005).

56. On two different occasions, Countrywide directly produced two fabricated uniform residential loan applications, one received by **Plaintiff** on April 5, 2005 (Ex. 7) and the one referred to above completed by Goldman and America One and received by **Plaintiff** on or about April 26, 2010 (Ex. 5).

57. **Plaintiff** contends that the Countrywide/BOFA Application dated 03/25/2005 shows Countrywide originated the toxic 80/20 Subprime loan, which shows in the section entitled "Mortgage Applied for:... Subprime -B/C ARM," in contrast to the Goldman/America One Application shows a "Conventional ARM," contrary to Countrywide/BOFA's statement that "As you know, Countrywide/Bank of America did not originate the subject loan (please refer to the loan documents provided under separate cover). As the purchaser of a closed loan, Countrywide/Bank of America is not responsible for any misunderstanding or lack of communication between you and the originating entity." (Ex. 6, BOFA Response 03/17/2010).

58. Goldman/America One never gave **Sheppard** any notice of a closing for first and second mortgages, or otherwise disbursed any funds to **Sheppard** and/or on her behalf, and if they did, they did so without **Sheppard's** knowledge and/or consent.

59. Moreover, Countrywide/BOFA contradicts their own letter dated 03/25/2005 to **Plaintiff** in which they state "Thank you for your recent loan application. We received this loan information from our Business Partner AMERICA ONE FINANCE" and refer to Goldman as a "loan consultant" who assisted **Sheppard**; there is no disclosure of America One being the "purchaser of a closed loan." Ex. 13, Countrywide/BOFA Letter 03/25/2005).

60. Goldman/America One and/or Countrywide used other fraudulent practices against **Sheppard**. For example, they, individually and/or in concert, put together a scheme to increase the purchase price of the property twice solely to enable themselves to make more profit at **Sheppard's** expense.

61. **Plaintiff** contends Countrywide was so in control that it dictated to Goldman/America One to raise the purchase price on two different occasions and Goldman told **Plaintiff** that this was the only way Countrywide would approve the loans. The first increase was from \$445,000.00 to \$449,000.00 on or about March 21, 2005 and again on the day of Closing, April 5, 2005 from \$449,000.00 to \$450,000.00, all to the benefit of the Sellers, real estates agents, Goldman and Countrywide and to **Sheppard's** detriment.

62. **Plaintiff** discovered that on or about May 2, 2011 Countrywide/BOFA and MERS engaged in fraudulent and/or deceptive practices when Countrywide/BOFA requested, ordered, or otherwise allowed MERS to pass itself off as the Noteholder and/or as the owner of “all beneficial interest” under the Security Deed together “with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Security Deed” by making the alleged Assignment of Security Deed to BONY. (Ex. 11, MERS/BONY Assignment 05/02/2011).

63. However, Countrywide/BOFA made a fraudulent disclosures about MERS in the “Disclosure Statement About MERS” given to **Sheppard** at Closing on April 5, 2005. (Ex. 13, Countrywide/MERS Disclosure 04/05/2005).

64. The Disclosure Statement about MERS states: “Mortgage Electronic Registration Systems, Inc. (MERS) is named on your mortgage as the mortgagee in a nominee capacity for AMERICA'S WHOLESALE LENDER (Lender).” (Id.)

65. The Disclosure Statement about MERS further states: “MERS is a company separate from your lender that operates an electronic tracking system for mortgage rights.” (Id.)

66. The Disclosure Statement about MERS further states: “MERS is not your lender; it is a company that provides an alternative means of registering the mortgage lien in the public records.” (Id.)

67. The Disclosure Statement about MERS further states: “MERS maintains a database of all the loans registered with it, including the name of the lender on each loan.” (Id.)

68. The Disclosure Statement about MERS further states: “Your lender has elected to name MERS as the mortgagee in a nominee capacity and record the mortgage in the public land records to protect its lien against your property.” (Id.)

69. The Disclosure Statement about MERS further states: “Naming MERS as the mortgagee and registering the mortgage on the MERS electronic tracking system does not affect your obligation to your Lender, under the Promissory Note.” (Id.)

70. However, Countrywide failed to disclose to **Plaintiff** on or prior to April 5, 2005, or subsequent to that date, that MERS was the new NoteHolder for “all beneficial interest” under the Security Deed together “with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Security Deed,” such that MERS could make a lawful assignment to BONY beyond the assignment of the legal title with a revoked power of sale/attorney. There is no assignment and/or endorsement from Countrywide to MERS of the beneficial interest in **Sheppard's** property.

71. Furthermore, Countrywide/BOFA made the choice to omit placing the “power of sale/attorney” in the first mortgage Note thereby waiving their right to enforce the Security Deed through power of sale.



72. Moreover, by MERS executing the “Assignment of the Security Deed” to BONY, MERS could not assign more rights than it had under its Agreement with Countrywide/BOFA as a member of the Mortgage Electronic Registration Systems, Inc.

73. BONY is not a bona fide purchaser and/or Noteholder because **Sheppard** gave notice to public of her revocation of the power of sale/attorney and MERS' assignment cannot passed what has been revoked.

74. To deceive **Sheppard** by misrepresenting the ownership of the “beneficial interest”, that is the “owner of the Note,” Countrywide/BOFA, MERS, and BONY fraudulently put together the “Assignment of Security Deed” from MERS to BONY in violation of an existing Pooling Agreement with a term that requires the original Mortgage Note, endorsed by manual or facsimile signature in blank in the following form:

“(i) the original Mortgage Note, endorsed by manual or facsimile signature in blank in the following form: “Pay to the order of without recourse”, with all intervening endorsements that show a complete chain of endorsement from the originator to the Person endorsing the Mortgage Note (each such endorsement being sufficient to transfer all right, title and interest of the party so endorsing, as noteholder or assignee thereof, in and to that Mortgage Note), or, if the original Mortgage Note has been lost or destroyed and not replaced, an original lost note affidavit, stating that the original Mortgage Note was lost or destroyed, together with a copy of the related Mortgage Note;

(Ex 14, Excerpt from CWABS, INC., Pooling And Servicing Agreement, June 1, 2005, ASSET-BACKED CERTIFICATES, SERIES 2005-4, p. 64).

75. The endorsement on the copy of the Note provided to **Sheppard** by Countrywide/BOFA does not show MERS as an endorser or noteholder or anywhere in the chain of endorsements as a Noteholder, therefore, MERS could not have lawfully assigned “all beneficial interest under that certain Security Deed described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Security Deed.” (Ex 15, Countrywide/BOFA Note with Endorsement).

76. Under [O.C.G.A. § 44-14-60](#), MERS neither loaned nor advanced any money to **Plaintiff**, as there has never been creditor/debtor transaction, whether real or personal property, between **Plaintiff** and MERS, or any other debt whatsoever, and Countrywide never otherwise assigned, sold, transferred or otherwise endorsed the Note over to MERS. Therefore, MERS never acquired the whole interest as represented by the Note and Security Deed.

77. Because MERS does not meet the criteria in [O.C.G.A. § 44-14-60](#), no court in Georgia can hold the Security Deed to the subject property to be an absolute conveyance.

78. By Countrywide having MERS's name inserted as the Grantee in the Subject Security Deed, neither MERS nor Countrywide has any interest in the legal title to **Plaintiff's** property. Countrywide chose to waive its right to a power of sale in the Note and Security Deed. MERS was never part of the Note or a beneficiary of the Note, and gave nothing of value to **Plaintiff**, therefore the Security Deed in MERS's favor is not a valid contract and fails for lack of consideration.

79. According to the Georgia Court of Appeals, [O.C.G.A. § 9-2-20\(b\)](#) provides that the beneficiary of a contract made between other parties for the beneficiary's benefit may maintain an action against the promisor on the contract. The Court further defined a “third-party beneficiary contract” as “one in which the promisor engages to the promisee to render some performance to a third person.”

80. Furthermore, “A third party has standing to enforce [such] a contract ... if it clearly appears from the contract that it was intended for his benefit; the mere fact that he would benefit from performance of the contract is insufficient.” [Starrett v. Commercial Bank of Georgia, 486 S.E.2d 923, 925 226 Ga.App. 598 \(Ga. App., 1997\)](#)

81. Countrywide failed to insert a clause in the Note to make MERS the beneficiary of the loan or any future advances to entitle MERS to enforce the Security Deed in its own name or to have all beneficial interest together with notes and obligations or the money due or to become due with interest and all rights accrued or to accrue under the Note or Security Deed.

82. Therefore, as the Note is written by Countrywide/BOFA, **Plaintiff** made no promise to Countrywide/BOFA to confer such beneficial interests benefits on MERS.

83. **Plaintiff** contends MERS is without authority under Georgia law to receive anything of value as a holder of the Security Deed in its nominee's capacity for the subject property because MERS is not in compliance with [O.C.G.A. § 44-14-60](#) and [O.C.G.A. § 9-2-20\(b\)](#) does not apply.

84. Therefore, since, under [O.C.G.A. § 13-3-1](#), MERS gave nothing of value to **Plaintiff**, **Plaintiff** and Countrywide did not agree to bestow anything of value out of the Note to MERS, MERS is not a beneficiary to the subject Note and not a proper grantee with the authority to enforce the terms of the Security Deed.

85. MERS cannot grant, sell, assign, transfer and/or convey beneficial interest with notes and obligations therein and money due and to become due thereon with interest and all rights accrued or to accrue under the subject Security Deed because MERS never owned them in the first instance.

86. Neither Countrywide nor MERS is compliance with [O.C.G.A. § 44-14-2](#). Countrywide is not the Grantee of the subject Security Deed, therefore, did not perfect its interest in securing the repayment of the subject Note; and MERS, as the Grantee and/or holder of a deed to secure debt, is not due any sums without which MERS's secured position as a nominee would be jeopardized.

87. According to Georgia case law, "Although a mere recital in a power of sale, contained in a mortgage given to secure the payment of money, that such power is coupled with an interest, would not of itself make it such a power, yet where the mortgagor plainly and unequivocally stipulated in the mortgage itself that the power of sale should be irrevocable, and thus, upon a valuable consideration, made the power a part of the contract given as security for a debt, and conferred it for the purpose of effectuating that security, he was bound by the terms of this contract, and could not himself revoke the power of sale. This is true, irrespective of the question whether, in the absence of such a stipulation, the power would be irrevocable by the mortgagor while in life, or whether it would, by his death, be ipso facto revoked." *Ray v. Hemphill*, 97 Ga. 563 (1895) and reiterated in *Alderman v. Cargo Craft, Inc.*, 573 S.E.2d 108, 110 258 Ga. App. 84 (Ga. App., 2002).

88. Countrywide/BOFA of its own free will chose to forego its power of sale as a principal to sell the **Plaintiff's** property upon **Plaintiff's** default on the Note, by not making the power of sale irrevocable as a part of the Security Deed or in the Note, therefore the power of sale is revocable and **Sheppard** properly revoked the power of sale on or about February 24,

2010.

89. Because the power of sale given by **Plaintiff** to MERS was revocable, **Plaintiff** properly revoked the power of sale (Exhibits 17 and 18) because of Countrywide/BOFA and MERS's fraudulent actions in obligating **Plaintiff**, an elder person under Georgia law, to a toxic 80/20 subprime mortgage that was doomed to fail from the beginning, despite **Plaintiff's** best efforts to pay unlawful and/or excessive payments and/or fees and/or escrow charges.

90. **Plaintiff** further contends that by MERS's fraudulent assignment to BONY, MERS is helping Countrywide/BOFA to further perpetrate fraud upon **Sheppard** and upon courts of law to aid Countrywide/BOFA in their fraudulent debt collection of the Note against **Plaintiff** through BONY subsequent to her valid Chapter 7 Discharge on or about August 22, 2006 in the U. S. Bankruptcy Court for the Northern District of Georgia.

91. Countrywide/BOFA received actual notice of **Plaintiff's** Chapter 7 Bankruptcy action in May of 2006 and actual notice of **Plaintiff's** discharge. At no time during the Bankruptcy proceeding did Countrywide/BOFA or MERS file any claim or otherwise participate in the action.

92. **Plaintiff** was fully discharged of liability on the subject Note, and because Countrywide/BOFA waived their right to be grantee to the Security Deed, they stood as unsecured creditors in the Bankruptcy proceeding, and as such, the indebtedness as represented in the Note is discharged in its entirety, and they have no legal right to foreclose or otherwise maintain a cloud on **Sheppard's** Title as a Fee Simple owner with valid Warranty Deed. (Ex 16, Warranty Deed 05/05/2005).

93. **Plaintiff** asserts BONY cannot be the true Noteholder of both the beneficial interest and the legal title because MERS could not assign the beneficial interest and Countrywide did not; therefore, BONY is claiming the right to foreclose in disregard of the requirements of law and/or those of the Note and Security Deed themselves and of the Pooling Agreement, and BONY's noncompliance is prejudicial to the **Plaintiff** and for the foregoing reasons, a sale so conducted may be restrained or set aside in equity.

94. Georgia law authorizes the secured creditor, the holder of the obligation, to exercise a power of sale. See [O.C.G.A. §§ 44-14-162 et seq.](#), and since there was no actual assignment of the Note from Countrywide/BOFA to BONY, BONY never became the secured creditor and neither is BONY purporting to be acting on behalf of Countrywide/BOFA, therefore, the attempted foreclosure is null and void. *In re Cummings*, 173 B.R. 959, 963 (N.D. GA 1994).

95. Because of the conduct of Countrywide/BOFA, MERS, and BONY, the proposed foreclosure should be enjoined where there is a question of fact concerning the course of conduct of the lender and a waiver of power of sale right, both of which, if proved, could constitute a waiver of strict performance of the deed to secure debt. *Atlanta Dwellings, Inc. v. Wright*, 272 Ga. 231, 527 S.E.2d 854 (2000).

96. **Plaintiff** further assert that the proposed foreclosure should be enjoined because the sum of damages caused by the conduct of Countrywide/BOFA, BONY, and MERS, individually and collectively, including violations of Georgia Article 31, Unfair or Deceptive Practices Toward the Elderly, will greatly exceed the value of the alleged indebtedness that is subject of the proposed foreclosure.

97. Furthermore, Countrywide/BOFA committed fraudulent practices against **Plaintiff** subsequent to the Closing on April 5, 2005 and continued these fraudulent practices into the present.

98. For example, in the Note, Countrywide/BOFA misrepresented a crucial term of the Note, namely, that "The interest rate I **[Plaintiff]** will pay may change on the first day of May, 2008, and on that day every sixth month thereafter. Each date on which my interest rate could change is called a 'Change Date.'" See (Exhibit 15, Countrywide/BOFA Note at p. 1, 4 (A)). However, Countrywide fraudulently increased the monthly payment before the first day of May, 2008, thereby causing economic and noneconomic harm to **Sheppard**.

99. In 2005, **Plaintiff** paid her regular interest only ("IO") payment of \$2265.00 for October 2005 deducted from her bank account on October 6, 2005 by Automated Debit Countrywide Home Online Pmt Co.

100. In 2005, **Plaintiff** paid her regular IO payment of \$2265.00 for November 2005 deducted from her bank account on November 22, 2005 by Automated Debit Countrywide Home Online Pmt Co., after late penalty period in effect.

101. However, Countrywide shows **Plaintiff** making a regular payment of \$2,265.00 on November 16, 2005, which **Sheppard** did not make.

102. On November 18, 2005, Countrywide/BOFA did a Payment Reversal for October, 2005 for \$2,265.00, leaving the record to show two payments for November and no payment for October.

103. Countrywide/BOFA provided no explanation to **Plaintiff** for reversing October's payment and made no accounting of what happened to the \$2,265.00 paid on October 6, 2005.

104. In 2005, **Plaintiff** paid her regular IO payment of \$2265.00 for December 2005 and the November 2005 late fee of \$113.25 deducted from her bank account on December 12, 2005 by Automated Debit Countrywide Home Online Pmt Co., after late penalty period in effect.

105. In Countrywide/BOFA's Initial Escrow Account Disclosure Statement dated April 5, 2005, Countrywide indicates that it required at closing the amount of \$6,106.30 to establish account. See (Exhibit 17, Initial Escrow Account Disclosure Statement 04/05/2005). However, Countrywide/BOFA knew **Sheppard** only had \$4,000.00 and could not, and did not, establish this escrow account on April 5, 2005 or any subsequent date thereafter.

106. Countrywide/BOFA further states that "Your first monthly mortgage payment for the coming year will be \$2,894.45 of which \$2,265.00 will be for Initial Interest Only and \$629.45 will go into your escrow account." (Id.).

107. However, on April 5, 2005, Countrywide/BOFA stated in its New Loan Payment Form that **Plaintiff's** first monthly payment will be due on June 1, 2005 and indicated that she was to send in the amount of \$2,265.00, even if she does not receive a payment coupon booklet prior to first payment due date. See (Exhibit 18, New Loan Payment Form 04/05/2005).

108. In a Security Deed Countrywide/BOFA deceptively and fraudulently procured from **Plaintiff**, MERS states, "Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; See (Exhibit 19, Security Deed, p. 4, ¶ 3).

109. However, in the first monthly statement received by **Plaintiff**, Countrywide/BOFA states, "Beginning June 1, 2005, your payment of \$2,265.00 should be mailed to Countrywide," and in the section "Escrow account expenses," Countrywide states "We are responsible for the payment of the following escrow items with the exception of the items marked with an asterisk (\*). The payment of the items marked with an asterisk (\*) are the responsibility of the homeowner," showing with (\*) next to Homeowners Insurance purchased by **Plaintiff** from Liberty Mutual Insurance Company. See (Exhibit 7, Monthly Home Loan Statement 04/11/2005).

110. Countrywide/BOFA further states, "Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items." See (Exhibit 19, Security Deed, p. 4, 1 3).

111. From June 2005 until the Monthly Home Loan Statement dated August 30, 2006, the Escrow section of mortgage statement shows Countrywide/BOFA waived **Plaintiff's** obligation to pay funds for all escrow items other than homeowner insurance, "We are responsible for the payment of the following escrow items with the exception of the items marked with an asterisk (\*). The payment of the items marked with an asterisk (\*) are the responsibility of the homeowner," which shows **Plaintiff** is responsible for homeowner's insurance, and Countrywide did not seek any escrow payments from **Plaintiff**. However, with this August statement, Countrywide/BOFA began its deceptive and fraudulent practices of charging taxes, fees, assessments, and other charges unknown, to the Escrow Account after it already had acknowledged repeatedly, and continued to so acknowledge, as its obligation and for which it had waived **Sheppard's** obligation to pay in accordance with the SD. See (Exhibit 20, Monthly Home Loan Statement 08/30/2006).

112. Countrywide/BOFA used its deceptive and fraudulent practice to charge **Plaintiff** from about August 17, 2006 to August 25, 2006 the amount of \$11,952.03. (Id., p. 2).

113. On or about August 22, 2006, **Plaintiff** received a Discharge in her Chapter 7 Bankruptcy action filed May 12, 2006, which Countrywide/BOFA received notice of filing and discharge. (Exhibit 21, Bankruptcy Discharge 08/22/2006).

114. In Monthly Home Loan Statement dated September 13, 2006, Countrywide/BOFA used its deceptive and fraudulent practices to change **Plaintiff's** monthly IO payment from \$2,265.00 to \$4,020.45, to be effective November 2006, thereby increasing **Plaintiff's** interest rate to about 13.4%, instead of

7.55% for \$2,265.00 and violating the Note at ¶ 4(A) and (G). See (Exhibit 22, Monthly Home Loan Statement 09/13/2006, p. 3).

115. In that same Monthly Home Loan Statement dated September 13, 2006, Countrywide/BOFA used its deceptive and fraudulent practice to increase escrow charges to \$13,560.99 with a bill to **Plaintiff** due November 1, 2006. See (Id.).

116. Countrywide/BOFA continued its deceptive and fraudulent practices in its letter dated October 18, 2006 by allegedly obtaining lender placed fire insurance coverage for \$2,196.00 and adding it to the already fraudulent escrow account, when **Plaintiff** already had such coverage at a lower cost. (Exhibit 23, Countrywide/BOFA Certificate of Insurance Coverage 10/18/2006).

117. In a statement entitled "For Information Purposes" dated October 30, 2006, Countrywide/BOFA revealed its knowledge of **Plaintiff's** bankruptcy discharge by making a deceptive statement about the purpose of its correspondence, "The Impact of the Bankruptcy: Our records indicate that in the past you received a discharge of this debt in a bankruptcy case."

118. Countrywide/BOFA further states, "[Section 524 of the Bankruptcy Code](#) tells us the discharge of this debt means you have no personal obligation to repay it.

119. Countrywide/BOFA further states, "The discharge also protects you from any efforts by anyone to collect this discharged debt as a personal liability of the debtor."

120. Countrywide/BOFA further states, "You cannot be pressured to repay this debt."

121. Countrywide/BOFA further states, "On the other hand, the security agreement allows foreclosure if the requirements under the loan documents are not met."

122. Countrywide/BOFA further states, "We also need to tell you that this communication is from a debt collector."

123. Countrywide/BOFA further states, "We received a number of calls from homeowners disturbed that they were receiving this message, as their bankruptcy occurred some time ago. Others called asking for detailed information about the home loan. Therefore, we are providing detailed loan information as a courtesy to you."

124. Countrywide/BOFA further states, "This is not an attempt to collect a debt that has been discharged. This is not a demand for payment. The coupon below and the envelope are provided as a courtesy to you."

125. Countrywide/BOFA further states, "The loan documents provide that if we do not receive the next scheduled home loan payment by 11/16/2006, the loan may be assessed a late charge of \$113.25. \_\_\_" (Exhibit 24, For Information Purposes Statement 10/30/2006). However, **Plaintiff** felt intimidated by the deceptive collection tactic and made the payment as instructed.

126. In that same For Information Purposes Statement, Countrywide/BOFA used its deceptive and fraudulent practice to increase escrow charges to \$14,148.03, as shown in Statement. (Id.).

127. Countrywide/BOFA promised to distribute **Plaintiff's** payments as follows: “All accepted payment of principal and interest will be applied to the longest outstanding installment due, unless otherwise expressly prohibited or limited by law.”

128. Countrywide/BOFA further promised that “ If you submit an additional principal amount, an additional escrow amount and/or ‘other’ amount with your regular home loan payment of principal and interest, Countrywide/BOFA will first apply your home loan payment before any additional amount is applied.”

129. Countrywide/BOFA further promised that “If your home loan payments are not current, Countrywide/BOFA will first apply any additional principal amount and/or additional escrow amount to outstanding principal and interest payments due before either additional amount is applied.”

130. Countrywide/BOFA further promised that “Any additional amount specified as ‘other’ will be applied first to past due principal and interest payments, then escrow deficiencies, then late charges, then fees and costs due, then outstanding principal.” See (Monthly Home Loan Statement 07/15/2005)

131. Countrywide/BOFA intentionally misrepresented the monthly payment. By Countrywide/BOFA' s actions, it never intended for **Plaintiff** to pay taxes and waived this obligation for **Plaintiff** under ¶ 3 of SD (Ex. 19, Security Deed). In the Initial Escrow Account Disclosure Statement (Ex. 17, Initial Escrow Account Disclosure Statement 04/05/2005), Countrywide states **Sheppard's** monthly payment will be \$2,894.45, of which \$2,265.00 will be interest. However, in the New Loan Payment Form, Countrywide expressly indicated **Plaintiff** will be paying \$2,265.00 (Ex. 18, New Loan Payment) and directed her to send in that amount only.

132. On or about August 30, 2006, Countrywide again reiterated that they are responsible for the payment of taxes and instructed **Plaintiff** that “When you receive your tax bill, please write your account number on your original bill and mail it immediately to Countrywide to prevent interest and penalty charges from accruing ... If your property is located in Atlanta City, ... Fulton ... County, please retain the original bill for your records, as Countrywide will receive your tax information from another source,” and Countrywide indicated **Sheppard's** Total monthly home loan payment remains \$2,265.00 See (Ex. 20, MHLS, p. 2).

133. Despite waiving this tax obligation, Countrywide/BOFA proceeded to set up escrow charges, showing for 08/25/2006 County tax payment of \$4882.13, City tax payment of \$1772.54 (Ex. 20, MHLS, p. 2; Ex. 25, Bank of America Transaction History 04/26/2010, p. 3), both showing on a Detailed Tax Summary for City of Atlanta/Fulton County. See (Ex. 26, Detailed Tax Summary 2006).

134. However, Countrywide/BOFA added additional taxes that do not appear on the Detailed Tax Summary for 2006, that is, Special assessment tax of \$381.37, County tax payment of \$507.67, and a City tax payment of \$4,408.32, making escrow charges fraudulently increase to \$11,952.03, \$5,297.36 above tax records, as of August 30, 2006, and **Plaintiff** continued trying to pay Countrywide/BOFA e's monthly collections demand to her detriment suffering both economically and noneconomically.

135. Countrywide/BOFA began sending confusing and misleading statements entitled “For Information Purposes” (“FIPS”), which, in fact, were designed to pressure **Plaintiff** into paying the discharged Note on whatever terms Countrywide/BOFA dictated. In a FIPS dated September 28, 2006, Countrywide/BOFA states, “This statement is being furnished for informational purposes only and should not be construed as an attempt to collect against you personally. While your obligation to Countrywide may not be discharged, by operation of law, Countrywide has retained the ability to enforce its rights against the property securing this loan should there be a default.” See (Ex. 27, For Information Purposes Statement (“FIPS”) 09/28/2006).

136. In or about August of 2006, Countrywide/BOFA was notified of an alleged impending lapse in **Plaintiff's** homeowners insurance and could have paid the outstanding premium; but, instead, on or about October 16, 2006, Countrywide/BOFA chose

to obtain its own policy at a high premium of \$2,196.00 and charged the excessive fee to **Plaintiff**. (Ex. 25, Bank of America Transaction History 04/26/2010, p. 3).

137. Countrywide/BOFA sent more confusing and misleading statements in a FIPS dated October 30, 2006, pretending that it was not trying to collect a debt and additional increased fraudulent escrow expenses of \$14,148.03 with a notice of collection as a debt collector, and **Plaintiff** continued trying to pay Countrywide/BOFA's monthly collections demand to her detriment suffering both economically and noneconomically. See (Ex. 24, FIPS 10/30/2006).

138. Despite the notice in FIPS dated December 29, 2006, Countrywide/BOFA proceeded to pressured **Plaintiff** by stating, "We also need to tell you that this communication is from a debt collector," and increased its fraudulent monthly demand to \$4316.30 with fraudulent interest of 14.39%, which includes fraudulent escrow balance of \$14,148.03 and outstanding payment of \$4,316.30, and **Plaintiff** continued trying to pay Countrywide's monthly collections demand to her detriment suffering both economically and noneconomically. See (Ex. 28, FIPS, p. 1, 12/29/2006).

139. According to FIPS dated January 19, 2007, Countrywide/BOFA assumed responsibility for the Homeowners insurance with Liberty Mutual Ins. Co., without any prior explanation to **Plaintiff** and continued its collections of fraudulent demand of \$4,316.30 at interest rate of 14.39% and escrow balance of \$13,562.03 with a notice of collection as a debt collector.. See (Ex. 29, FIPS, p. 2 01/19/2007).

140. In a Notice dated February 8, 2007, Countrywide/BOFA continued its collections efforts by stating, "We have received your payment in the amount of \$2,265.00. This amount is less than your current monthly payment of \$4,316.30. We have applied this payment to your account. However, future payments that are less than the total amount due each month will be returned to you. Full payments are due by the date specified on your original loan documents. Late charges are assessed if payments are not received by the due date. In addition to incurring late fees, your credit history may be affected if full payments are not received before the due date. Please send the total amount due in order to avoid any further collection activity and negative payment records on your account." See (Ex. 30, Important Message About Your Loan, February 8, 2007).

141. In FIPS dated February 27, 2007, Countrywide/BOFA continued its efforts to collect on the Note including fraudulent escrow and other expenses with a notice of collection as a debt collector, and **Plaintiff** continued trying to pay Countrywide's fraudulent monthly collections demand of \$4,316.30 at interest rate of 14.39% and escrow and other fees of \$13,562.03, outstanding escrow of \$2,051.32, outstanding payments of \$8,632.60 to her detriment suffering both economically and noneconomically. (Ex. 31, FIPS 02/27/2007).

142. In FIPS dated March 7, 2007, Countrywide/BOFA continued its efforts to collect on the Note including fraudulent escrow and other expenses with a notice of collection as a debt collector, and **Plaintiff** continued trying to pay Countrywide/BOFA's fraudulent monthly collections demand of \$4,316.30 at interest rate of 14.39% and escrow balance of \$13,562.03, to her detriment suffering both economically and noneconomically. (Ex. 32, FIPS 03/07/2007).

143. In a Notice dated March 19, 2007, Countrywide/BOFA continued its collections efforts stating, "We have received your payment in the amount of \$2,265.00. However, this payment is less than your current monthly payment of \$4,316.30.... At this time, Countrywide has decided not to accept payments from you that are less than the total amount due. Accordingly, we are returning your latest payment," which refund to **Plaintiff's** checking account occurred on March 23, 2007. Countrywide/BOFA further stated, "Please send the total amount due in order to avoid any further collection activity on your account." (Ex. 33, Countrywide Notice March 19, 2007).

144. Pursuant to Countrywide/BOFA's collections efforts, on or about April 4, 2007, **Plaintiff** paid the fraudulent demand of \$4,316.30 at interest rate of 14.39% to Countrywide, as noted in FIPS dated April 27, 2007 with a notice of collection as a debt collector. (Ex. 34, FIPS 04/27/2007).

145. In addition, Countrywide/BOFA gave notice of a new fraudulent monthly demand of \$3,854.44 at interest rate of 12.85% for May 1, 2007. (Id.).

146. However, during this period, **Plaintiff's** law practice had not earned sufficient funds at that time to make any further demand of fraudulent payments but was working on settling a case and notified Countrywide/BOFA of facts and Countrywide/BOFA agreed to wait before taking further action.

147. However, despite its promises to wait, Countrywide/BOFA continued its collections efforts by having its attorneys, McCalla Raymer, LLC ("McClla") to send two copies of the same letter dated May 15, 2007 to **Plaintiff** stating, "PLEASE BE ADVISED THAT THIS IS AN ATTEMPT TO COLLECT A DEBT, ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE." See (Ex. 35, McClla May 15, 2007).

148. Countrywide/BOFA continued its collections efforts by having its attorneys, McCalla to send two copies of the same letter dated May 22, 2007 by regular mail and two by certified mail to **Sheppard** stating, "THIS IS AN ATTEMPT TO COLLECT A DEBT, ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE." See (Ex. 36, McClla May 22, 2007).

149. Countrywide/BOFA continued its collections efforts by sending its Notice dated May 31, 2007 stating, "Because your home loan is delinquent, it has been referred to Countrywide Foreclosure Management for review," after already receiving letters from their foreclosure attorney McClla. See (Ex. 37, Countrywide Notice May 31, 2007).

150. Countrywide continued its collections efforts by having its attorneys, McCalla to send three copies of the same letter dated July 3, 2007 by regular mail and two by certified mail to **Sheppard** referring to its May 15, 2007 letter and stating, "THIS IS AN ATTEMPT TO COLLECT A DEBT, ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE." See (Ex. 38, McClla July 3, 2007).

151. Immediately upon settling her client's case, **Sheppard** communicated with Countrywide by telephone and Countrywide told **Sheppard** she was required to send the fraudulent demand of \$26,237.55 to stop the foreclosure collections action.. On July 19, 2007, **Sheppard** obtained a Wachovia Official Check for \$26,237.55 and sent it to Countrywide. (Ex. 39, Wachovia Official Check 07/19/2007).

152. In Bank of America's transactions history prepared April 26, 2010, Countrywide/BOFA indicates six transactions for July 20, 2007 that include fraudulent escrow and other expenses: (1) Regular Payment at \$4,316.30 at interest rate of 14.39% for 02/2007; (2) Regular Payment at \$4,316.30 at interest rate of

14.39% for 03/2007; (3) Regular Payment at \$4,316.30 at interest rate of 14.39% for 04/2007; (4) Regular Payment at \$4,316.30 at interest rate of 14.39% for 05/2007; (5) Regular Payment at \$4,316.30 at interest rate of 14.39% for 06/2007; and (6) Regular Payment at \$4,656.05 at interest rate of 15.52% for 07/2007. See (Ex. 25, BOFA Transaction History 04/26/2010).

153. Specifically, Countrywide/BOFA in its May 1, 2007 Notice informed **Plaintiff** of Countrywide/BOFA's new fraudulent monthly demand of \$3,854.44 at interest rate of 12.85%; however, Countrywide charged **Plaintiff** a higher fraudulent amount of \$4,316.30 at interest rate of 14.39%. (Ex. 34, FIPS 04/27/2007).

154. Specifically, Countrywide/BOFA in its May 1, 2007 Notice informed **Plaintiff** of her new fraudulent monthly demand of \$3,854.44 at interest rate of 12.85%; however, Countrywide /BOFA charged **Plaintiff** the fraudulent amount of \$4,316.30 at interest rate of 14.39%. (Ex. 25, BOFA Transaction History 04/26/2010).

155. Countrywide/BOFA also charged **Plaintiff** the fraudulent amount of \$4,316.30 at interest rate of 14.39% for June 2007. (Id.).



156. Countrywide also charged **Sheppard** the fraudulent amount of \$4,656.05 at interest rate of 15.52% for July 2007. (Id.).

157. In addition, Countrywide/BOFA fraudulently made \$2,051.30 disappear from the Escrow Balance for July 20, 2007. For 06/2007, Countrywide/BOFA shows escrow payment of \$2,051.30 with escrow balance of \$1,254.23, leaving a difference of positive balance of \$797.07. For 07/2007, Countrywide/BOFA shows escrow payment of \$2,051.30 with previous balance of \$797.07. However, on August 6, 2007, Countrywide/BOFA made a "Misc Posting" of "-339.75" but the Escrow Balance only shows the \$797.07 and the \$2,051.30 evaporates without explanation. (Id.).

158. For August 2007, Countrywide/BOFA charged **Plaintiff** the fraudulent monthly demand of \$3,628.82 at interest rate of 12.10%, which **Plaintiff** paid from her bank account on August 8, 2007 and received by Countrywide/BOFA on August 9th. (Ex. 25, BOFA Transaction History 04/26/2010).

159. For September 2007, Countrywide/BOFA charged **Plaintiff** the fraudulent monthly demand of \$3,291.32 at interest rate of 10.97%, which **Plaintiff** paid from her bank account on September 12, 2007 and received by Countrywide/BOFA on September 12th. (Id.).

160. For October 2007, Countrywide/BOFA charged **Sheppard** the fraudulent monthly demand of \$3,291.32 at interest rate of 10.97%, which **Plaintiff** paid from her bank account on October 12, 2007 and received by Countrywide/BOFA on October 12th. (Id.).

161. For November 2007, Countrywide charged **Plaintiff** the fraudulent monthly demand of \$3,291.32 at interest rate of 10.97%, which **Plaintiff** paid from her bank account on November 14, 2007 and received by Countrywide on November 14th. (Ex. 25, BOFA Transaction History 04/26/2010; Ex. 40, FIPS 10/16/2007).

162. In addition to the fraudulent November 2007 monthly demand, Countrywide charged **Plaintiff** with fraudulent fees for \$2,246.40 without any explanation for such fees, and fraudulent escrow expenses of \$4,541.24 and sent a notice of collection as a debt collector. (Ex. 40, FIPS 10/16/2007).

163. For December 2007, Countrywide/BOFA charged **Plaintiff** the fraudulent monthly demand of \$3,291.32 at interest rate of 10.97% and sent a notice of collection as a debt collector. (Ex. 41, FIPS 11/16/2007).

164. Countrywide/BOFA continued its fraudulent practices by sending a Notice of Default and Acceleration dated January 2, 2008 showing **Plaintiff** owed for December 2007 \$6,582.64 at interest rate of 10.97%, with Uncollected Costs for \$2,157.40, without any explanation for the increased monthly demand or uncollected costs. (Ex. 42, Notice of Default and Acceleration 01/02/2008).

165. On or about January 14, 2008, **Plaintiff** made a payment from her bank account to Countrywide/BOFA for the fraudulent monthly demand of \$3,291.32 at interest rate of 10.97% and received by Countrywide/BOFA on same date. (Ex. 25, BOFA Transaction History 04/26/2010).

166. On or about February 19, 2008, **Plaintiff** made a payment from her bank account to Countrywide/BOFA for the fraudulent amount of \$3,291.32 at interest rate of 10.97% and received by Countrywide/BOFA on same date. (Ex. 25, BOFA Transaction History 04/26/2010).

167. In a Notice dated March 5, 2008, Countrywide/BOFA informed **Plaintiff** of the new fraudulent monthly demand of \$3,528.12 at interest rate of 11.76% effective May 2008, with no mentioning of the first change date for interest rate in Note set for the first day of May, 2008 (Ex. 1, p.1), with a notice of collection as a debt collector. (Ex. 43, Important Notice 03/05/2008).

168. On or about March 4, 2008, **Plaintiff** made a payment from her bank account to Countrywide for the fraudulent monthly demand of \$3,291.32 at interest rate of 10.97% and received by Countrywide on same date. (Ex. 25, BOFA Transaction History 04/26/2010).

169. In a Notice dated April 2, 2008, Countrywide indicated: "IMPORTANT MESSAGE ABOUT YOUR LOAN Enclosed please find your Adjustable Rate Mortgage (ARM) Payment Adjustment Notice ('Notice') for your Interest-Only loan. Your new payment is still an Interest-Only payment. This is because you are still within the Interest-Only Period of this loan. This also means that you are not repaying any principal with this payment--the amount you borrowed. The enclosed Notice only addresses the payment of interest due each month, and does not include the additional amounts outlined below, which make up your total monthly payment Your total Interest-Only payment amount is changing to \$4,238.97 effective 06/01/2008," which includes fraudulent escrow payment of \$1,263.12 with new fraudulent interest rate at 9.050%; however, the new fraudulent interest is actually 14.13%. (Ex. 44, Important Notice 04/02/2008).

170. However, the fraudulent Note provided that **Plaintiff's** monthly payment will be "\$2,265.00 before the First Principal and Interest Payment Due Date, and thereafter will be in an amount sufficient to repay the principal and interest at the rate determined as described in Section 4 of this Note in substantially equal installments by the Maturity Date." Countrywide fraudulently changed the terms of the fraudulent Note without **Sheppard's** knowledge and approval. (Ex. 15, Note p. 1 ¶ 3(B), 04/05/2005).

171. Countrywide/BOFA further stated in the fraudulent Note that changes in **Plaintiff's** "monthly payment will reflect changes in the unpaid Principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note." However, Countrywide/BOFA fraudulently changed **Plaintiff's** interest rate and monthly payment at will without regard to Section 4 of the Note. (Ex. 15, Note p. 1 ¶ 3(C), 04/05/2005).

172. Countrywide/BOFA further stated in Section 4(A) of the fraudulent Note that "The interest rate I will pay may change on the first day of MAY, 2008, and on that day every sixth month thereafter. Each date on which my interest rate could change is called a 'Change Date.'" However, Countrywide/BOFA fraudulently changed **Plaintiff's** interest rate and monthly payment at will without regard to Section 4 of the Note. (Ex. 15, Note p. 1 ¶ 4(A), 04/05/2005).

173. Countrywide/BOFA further stated in Section 4(E) of the fraudulent Note that **Plaintiff's** "new interest rate will become effective on each Change Date. I (**Plaintiff**) will pay The amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again." However, Countrywide/BOFA fraudulently changed **Plaintiff's** interest rate and monthly payment at will without regard to Section 4 of the Note. (Ex. 15, Note p. 1 ¶ 4(E), 04/05/2005).

174. Countrywide/BOFA further stated in Section 4(G) of the fraudulent Note that "The date of my [**Plaintiff's**] first payment consisting of both principal and interest on this Note (the 'First Principal and Interest Payment Due Date') shall be the first monthly payment date after the first Change Date." However, Countrywide/BOFA fraudulently changed **Plaintiff's** interest rate and monthly payment at will without regard to Section 4 of the Note. (Ex. 15, Note p. 1 S 4(G), 04/05/2005).

175. Countrywide/BOFA used a "bait and switch" scheme to defraud **Plaintiff**. In its Note, Countrywide/BOFA wrote the fraudulent term "The date of my first payment consisting of both principal and interest on this Note (the 'First Principal and Interest Payment Due Date') shall be the first monthly payment date after the first Change Date." (Ex. 15, p. 2 ¶ 4(G)). The Note dictated first "Change Date" as "May, 2008" (Ex. 15, p. 1 ¶ 4(A))making June 2008 the first date of principal and interest in monthly payment. However, Countrywide/BOFA never intended for that to happen, but, instead, switched back to what it disclosed in its "Home Loan Application Disclosure Handbook," that "How Your Interest Rate Can Change," stating "Your monthly payments will cover interest only for the first 10 years of your loan. This means that your regular monthly payments will not reduce your loan balance. (Ex. 45, Countrywide ARM Disclosure 2005, p.32). The switch occurred in Countrywide's Notice dated 04/02/2008 stating "Your new payment is still an Interest-Only payment. This is because you are still within the

Interest-Only Period of this loan. This also means that you are not repaying any principal with this payment-the amount you borrowed.” (Ex. 44, Important Notice 04/02/2008).

176. Moreover, in the “Interest Only Feature Disclosure” dated 04/05/2005, Countrywide/BOFA states that “You have applied for a loan that provides for scheduled monthly payments of interest only during the first 3 years, followed by scheduled monthly payments of principal and interest for the remaining years of the loan.” (Ex. 45, Countrywide Disclosures, p. 32 04/05/2005).

177. On April 29, 2008, **Plaintiff** made a payment from her bank account to Countrywide/BOFA for the fraudulent monthly demand of \$3,291.32 and received by Countrywide/BOFA on same date. (Ex. 25, BOFA Transaction History 04/26/2010).

178. On June 16, 2008, **Plaintiff** filed her first lawsuit against Countrywide/BOFA in an effort to stop Countrywide's fraudulent practices against her, and on a renewed motion to dismiss, the court dismissed Countrywide from the lawsuit on December 16, 2009.

179. After filing the above lawsuit, Countrywide/BOFA continued its fraudulent collections practices by sending another debt collection communication dated 07/30/2008 for its fraudulent demand of \$3,870.91 at interest rate of 12.90%, with no amount of it allotted to the principal in accordance with the fraudulent Note and other fraudulent charges such as unexplained fees of \$2,227.40, escrow balance of \$590.36, past due payment of \$16,481.38, and late fee of \$113.25. (Ex. 46, Important Notice 07/30/2008).

180. Countrywide/BOFA continued its fraudulent collections practices by sending another debt collection communication dated 08/28/2008 for its fraudulent demand of \$3,870.91 at interest rate of 12.90%, with no amount of it allotted to the principal in accordance with the fraudulent Note and other fraudulent charges such as unexplained fees of \$2,227.40, escrow balance of \$590.36, past due payment of \$21,299.49, and late fee of \$113.25. (Ex. 47, Important Notice 08/28/2008).

181. Countrywide/BOFA continued its fraudulent collections practices by sending another debt collection communication dated 09/29/2008 for its fraudulent demand of \$3,870.91 at interest rate of 12.90%, with no amount of it allotted to the principal in accordance with the fraudulent Note and other fraudulent charges such as unexplained fees of \$2,241.40, escrow balance of \$208.99, past due payment of \$26,354.40, and late fee of \$113.25. (Ex. 48, Important Notice 09/29/2008).

182. Countrywide/BOFA continued its fraudulent collections practices by sending another debt collection communication dated 10/30/2008 for its fraudulent demand of \$3,870.91 at interest rate of 12.90%, with no amount of it allotted to the principal in accordance with the fraudulent Note and other fraudulent charges such as unexplained fees of \$2,269.40, fraudulent escrow expenses of \$7,918.85, past due payment of \$31,646.11, and late fee of \$113.25. (Ex. 49, Important Notice 10/30/2008).

183. Countrywide/BOFA continued its fraudulent collections practices by sending another debt collection communication dated 11/26/2008 for its fraudulent demand of \$3,870.91 at interest rate of 12.90%, with no amount of it allotted to the principal in accordance with the fraudulent Note and other fraudulent charges such as unexplained fees of \$2,269.40, escrow expenses of \$7,918.85, past due payment of \$37,174.62, and late fee of \$113.25. (Ex. 50, Important Notice 11/26/2008).

184. Countrywide/BOFA continued its fraudulent collections practices by sending another debt collection communication dated 12/31/2008 for its fraudulent demand of \$3,870.91 at interest rate of 12.90%, with no amount of it allotted to the principal in accordance with the fraudulent Note and other fraudulent charges such as unexplained fees of \$2,283.40, escrow expenses of \$7,918.85, past due payment of \$42, 939.93, and late fee of \$113.25. (Ex. 51, Important Notice 12/31/2008).

185. Countrywide/BOFA continued its fraudulent collections practices by sending another debt collection communication dated 02/26/2009 for its fraudulent demand of \$3,870.91 at interest rate of 12.90%, with no amount of it allotted to the principal in accordance with the fraudulent Note and other fraudulent charges such as unexplained fees of \$2,325.40, escrow expenses of \$7,918.85 and past due payment amount of \$55,180.95, and late fee of \$113.25. (Ex. 52, Important Notice 02/26/2009).

186. Countrywide/BOFA continued its fraudulent collections practices by sending another fraudulent Escrow Account Review dated 03/30/2009 showing new total monthly home loan payment effective 05/2009 for \$2,974.10 at interest rate of 9.91%. (Ex. 53, Escrow Review 03/30/2009).

187. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 04/29/2009, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$7,918.85, past due payment amount as \$47,293.97, fees as \$2,353.40, and late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 54, BOFA Important Notice 04/29/2009).

188. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 05/28/2009, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$7,918.85, past due payment amount as \$50,610.86, fees as \$2,353.40, late fee of \$113.25 with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 55, BOFA Important Notice 05/28/2009).

189. Bank of America continues Countrywide's fraudulent collections practices by stating in its Important Notice dated 06/29/2009, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$7,918.85, past due payment amount as \$53,927.75, fees as \$2,367.40, late fee of \$113.25 with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 56, BOFA Important Notice 06/29/2009).

190. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 07/30/2009, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$8,300.22, past due payment amount as \$57,244.64, fees as \$2,381.40, late fee of \$113.25 with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 57, BOFA Important Notice 07/30/2009).

191. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 08/28/2009, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$8,300.22, past due payment amount as \$60,561.53, fees as \$2,395.40, late fee of \$113.25 with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 58, BOFA Important Notice 08/28/2009).

192. Bank of America continues Countrywide's fraudulent collections practices by stating in its Important Notice dated 09/29/2009, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action

until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law,” showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$8,300.22, past due payment amount as \$63,878.42, fees as \$2,409.40, late fee of \$113.25 with notice stating “INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)”. However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 59, BOFA Important Notice 09/29/2009).

193. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 10/29/2009, “Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law,” showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$8,300.22, past due payment amount as \$67,195.31, fees as \$2,423.40, late fee of \$113.25 with notice stating “INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)”. However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 60, BOFA Important Notice 10/29/2009).

194. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 11/27/2009, “Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law,” showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$14,299.04, past due payment amount as \$70,512.20, fees as \$2,451.40, late fee of \$113.25 with notice stating “INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)”. However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 61, BOFA Important Notice 11/27/2009).

195. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 12/31/2009, “Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law,” showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$16,091.51, past due payment amount as \$73,829.09, fees as \$2,465.40, late fee of \$113.25 with notice stating “INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)”. However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 62, BOFA Important Notice 12/31/2009).

196. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 01/28/2010, “Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law,” showing fraudulent total payment amount as \$3,430.14 at interest rate of 11.43% while showing only 7.55%, escrow balance as \$16,091.51, past due payment amount as \$77,145.98, fees as \$2,479.40, late fee of \$113.25, lender placed insurance for \$1,949.00 with notice stating “INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)”. However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 63, BOFA Important Notice 01/28/2010).

197. Due to Countrywide fraudulent practices, the value of **Plaintiff's** property that is the subject of this lawsuit dropped from Countrywide's fraudulent appraisal of \$450,000.00 to \$271,000.00 as of July 19, 2011. (Ex. 64, Excerpts from 2011 Appraisal).

198. In a letter dated February 25, 2010, **Plaintiff** notified Bank of America that she revoked her power of sale/attorney to Mortgage Electronic Registration Systems, Inc. (“MERS”) due to fraudulent practices used by Countrywide/BOFA prior to and subsequent to placing **Plaintiff** in the toxic 80/20 Subprime Mortgage with concomitant fraudulent security deed to MERS. (Ex. 65, Letter with Revocation 02/24/2010).

199. In response to **Plaintiff's** February 25, 2010 letter, Bank of America sent what it purports to be a breakdown of the escrow as of February 24, 2010, effective April 1, 2010, shows the new monthly payment as \$2,978.74 at interest rate of 9.93% with

no showing of interest rate, and table of fees from November 16, 2005 to March 1, 2010 for \$2,493.40. (Ex. 6, BOFA Response 03/17/2010), Despite the Note, BOFA fails to break down monthly payment to show separately the amount for interest and for principal, contrary to terms of Note.

200. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 03/30/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$16,091.51, past due payment amount as \$87,269.18, fees as \$2,493.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 66, BOFA Important Notice 03/30/2010).

201. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 04/29/2010 showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$16,091.51, past due payment amount as \$90,590.71, fees as \$2,531.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 67, BOFA Important Notice 04/29/2010).

202. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 05/28/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$16,091.51, past due payment amount as \$93,912.24, fees as \$2,545.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 68, BOFA Important Notice 05/28/2010).

203. Bank of America continues Countrywide's fraudulent collections practices by stating in its Important Notice dated 06/29/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$16,091.51, past due payment amount as \$97,233.77, fees as \$2,545.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 69, BOFA Important Notice 06/29/2010).

204. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 07/29/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$16,091.51, past due payment amount as \$555.30, fees as \$2,545.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 70, BOFA Important Notice 07/29/2010).

205. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 08/30/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%,

escrow balance as \$16,530.88, past due payment amount as \$3,876.83, fees as \$2,545.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 71, BOFA Important Notice 08/30/2010).

206. Bank of America continues Countrywide's fraudulent collections practices by stating in its Important Notice dated 09/29/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$16,530.88, past due payment amount as \$7,198.36, fees as \$2,545.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 72, BOFA Important Notice 09/29/2010).

207. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 10/28/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$21,855.40, past due payment amount as \$10,519.89, fees as \$2,615.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 73, BOFA Important Notice 10/28/2010).

208. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 11/29/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$21,855.40, past due payment amount as \$13,841.42, fees as \$2,615.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 74, BOFA Important Notice 11/29/2010).

209. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 12/31/2010, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$21,855.40, past due payment amount as \$17,162.95, fees as \$2,615.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 75, BOFA Important Notice 12/31/2010).

210. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 01/28/2011, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,434.78 at interest rate of 11.45% while showing only 7.55%, escrow balance as \$21,855.40, past due payment amount as \$20,484.48, fees as \$2,615.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 76, BOFA Important Notice 01/28/2011).

211. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its escrow analysis dated 02/17/2011 that the new monthly home loan payment effective 04/2011 would be \$2,745.32 at interest rate of 9.15%. (Ex. 77, Escrow Analysis dated 02/17/2011),

204. Bank of America continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 04/28/2011, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,201.36 at interest rate of 10.67% while showing only 7.55%, escrow balance as \$21,855.40, past due payment amount as \$33,966.61, fees as \$2,545.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 78, BOFA Important Notice 04/28/2011).

212. BOFA continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 05/27/2011, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law, " showing fraudulent total payment amount as \$3,201.36 at interest rate of 10.67% while showing only 7.55%, escrow balance as \$21,855.40, past due payment amount as \$37,054.72, fees as \$2,545.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 79, BOFA Important Notice 05/27/2011).

213. BOFA continues Countrywide/BOFA's fraudulent collections practices by sending a debt collections notice as a debt collector claiming **Sheppard** owes the fraudulent amount of \$479,735.84 as of June 29, 2011, to be collected on behalf of BONY. (Ex. 80, BOFA Debt Collector Notice 06/29/2011, 2d page).

214. BOFA continues Countrywide/BOFA's fraudulent collections practices by stating in its Important Notice dated 06/29/2011, "Please pay the total amount due immediately. BAC Home Loans Servicing, LP will proceed with collection action until your account is brought fully current, and you will be responsible for all cost incurred in this process to the full extent permitted by law," showing fraudulent total payment amount as \$3,201.36 at interest rate of 10.67% while showing only 7.55%, escrow balance as \$21,855.40, past due payment amount as \$40,142.83, fees as \$2,030.40, late fee of \$113.25, with notice stating "INTEREST-ONLY LOAN MONTHLY STATEMENT (During the Interest-Only Period)". However, Note shows Interest-Only Period ended with first interest rate change May 2008 effective June 1, 2008. (Ex. 81, BOFA Important Notice 06/29/2011).

215. BOFA continues Countrywide/BOFA's fraudulent debt collections practices by stating in its letter dated 06/27/2011, "You were recently notified that, unfortunately, a loan modification on your mortgage isn't an option. This means that the foreclosure process will be moving forward and you will need to leave your house." (Ex. 82, BOFA Letter 06/27/2011). However, **Plaintiff** never requested a modification from BOFA and specifically communicated this to BOFA on or about May 19, 2011, yet BOFA continued to harass **Plaintiff** with repeated telephone calls to both her cell phone and office phone.

216. **Plaintiff** has received in excess of 93 telephone calls on her cell phone from BOFA since May 19, 2011, almost daily and some days up to 3 calls on a single day. At least 19 of these calls occurred after **Plaintiff's** letter dated October 21, 2011 requesting BOFA stop making these harassing telephone calls. (Ex. 83, **Plaintiff** Letter 10/21/2011).

217. **Plaintiff** disputed the validity of BOFA debt of \$479,735.84 in her letter dated June 27, 2011 to BOFA. (Ex. 84, **Plaintiff's** Dispute Debt 06/29/2011); however, **Plaintiff** received no response to this letter.

218. On or about July 28, 2011, **Plaintiff** received verification of Countrywide/BOFA's fraudulent debt collection practices against her, along with many other consumers, when she received a check from the Federal Trade Commission ("FTC") in the



amount of \$476.00 resulting from the FTC suing Countrywide and Countrywide agreeing “to stop the illegal servicing practices and make major changes to its practices.” (Ex. 85, FTC Check 07/21/2011).

219. The Consent Judgment and Order shows Countrywide/BOFA is prohibited from continuing “Misrepresenting, expressly or by implication, the status of the Loan or amounts owed on the Loan, including but not limited to the amount of any Monthly Payment, Fee claimed or assessed, Escrow Shortage, or Escrow Deficiency,” among others. Ex. 86 Consent Judgment and Order 06/15/2011).

220. In a letter dated 08/03/2011, BOFA continued Countrywide/BOFA's fraudulent debt collection practices against **Plaintiff** by stating, “We have reviewed your request for participation in the federal government's Home Affordable Foreclosure Alternative (HAFA) Short Sale Program. Unfortunately, we are not able to offer you a HAFA Short Sale or HAFA Deed in Lieu of Foreclosure at this time.” However, BOFA's claim of such a request is a fabrication because **Plaintiff** never made any such request to BOFA for the HAFA Short Sale Program or HAFA Deed in Lieu of Foreclosure. (Ex. 87, BOFA Letter 08/03/2011).

221. In a letter dated 09/09/2011, BOFA continued Countrywide/BOFA's fraudulent debt collection practices against **Sheppard** by stating, “Thank you for working with us on a home loan modification. To receive your next steps in the process, we encourage you to attend a homeowner event with our partner sponsor, The Alliance for Stabilizing our Communities (ASC) and hosted by their local non-profit affiliate, The Atlanta Urban League.” However, BOFA's claim of working with **Plaintiff** on a home loan modification is a fabrication because **Plaintiff** never applied for or worked on any home modification loan with BOFA. (Ex. 88, BOFA Letter 09/09/2011).

222. In a letter dated 10/14/2011, BOFA continued Countrywide/BOFA's fraudulent debt collection practices against **Sheppard** by stating, “Thank you for working with Bank of America on your home loan modification. We are pleased to inform you that Bank of America mortgage counselors are in your area at the local Customer Assistance Center. Counselors will speak with you, in-person, about your next steps in the loan assistance process. However, BOFA's claim of working with **Sheppard** on a home loan modification is a fabrication because **Plaintiff** never applied for or worked on any home modification loan with BOFA. (Ex. 89, BOFA Letter 10/14/2011).

223. BOFA continued Countrywide/BOFA's fraudulent debt collection practices against **Plaintiff** by having its attorney McCalla Raymer, LLC to send a debt collection letter dated October 4, 2011 stating they were attempting to collect a debt for \$488,759.27. (Ex. 90, McCalla Letter 10/04/2011).

224. On or about October 21, 2011, **Plaintiff** disputed the validity of BOFA debt for \$488,759.27 by responding to McCalla's letter dated October 4, 2011. (Ex. 83, **Plaintiff** Letter 10/21/2011).

225. BOFA continued Countrywide/BOFA's fraudulent debt collection practices against **Sheppard** by having its attorney McCalla Raymer, LLC to send a “NOTICE OF FORECLOSURE SALE- Note and Security Deed - The Bank of New York Mellon fka the Bank of New York as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-4 vs. **Sandra Jackson-Sheppard**” dated October 5, 2011 but delivered by U. S. Mail on October 27, 2011, along with the statement, “THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.” (Ex. 91, McCalla Notice of Foreclosure 10/05/2011).

226. BOFA continued Countrywide/BOFA's fraudulent debt collection practices against **Plaintiff** by having its attorney McCalla Raymer, LLC to send a response dated November 3, 2011 to **Plaintiff's** disputation, without identifying which disputation being responded to, along with copies of fraudulent documents prepared by Countrywide: Security Deed, Interest Only Adjustable Rate Rider, Waiver of Borrower's Rights, Interest Only Adjustable Rate Note, Assignment of Security Deed, Payment/Escrow Detail, McCalla Transmittal Cover Letter dated 10/25/201 with PAYOFF information, and a second McCalla Transmittal Cover Letter dated 10/25/2011 with REINSTATEMENT information. (Ex. 92, McCalla Letter 11/03/2011).

227. In addition, McCalla states in all-caps, bold and underlined, “***PLEASE BE ADVISED THAT THIS LAW FIRM IS ACTING AS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.*** (Id)

228. Countrywide/BOFA continued its fraudulent debt collection practices through its fraudulent response stating **Plaintiff** owes “2 payments @ \$3,291.32” without stating the dates that these alleged payments were due (*Id.* at Reinstatement Figures), when the record shows this is not possible since **Plaintiff** made payment of \$3,291.32 on 04/29/2008 and credited by Countrywide to 03/2008 (Ex. 25 BOFA Transaction History 03/16/2010), and Countrywide changed the monthly payment for 05/2008 to \$3,528.12 (Ex. 43, Important Notice 03/05/2008, p.5).

229. Countrywide/BOFA continued its fraudulent debt collection practices through its fraudulent response stating **Plaintiff** owes “2 payments @ \$4,002.17” without stating the dates that these alleged payments were due (Ex. 91 at Reinstatement Figures), when the record shows this is not possible since Countrywide's Notice dated 04/02/2008 states “Your total Interest-Only payment amount is changing to \$4,238.97 effective 06/01/2008,” (Ex. 44, Important Notice 04/02/2008) not \$4,002.17.

230. Countrywide/BOFA continued its fraudulent debt collection practices through its fraudulent response stating **Plaintiff** owes “32 payments @ \$3,634.11” without stating the dates that these alleged payments were due (Ex. 91 at Reinstatement Figures), when the record shows this is not possible since Countrywide's Notice dated 07/30/2008 states “Your total Interest-Only payment amount due is \$3,870.91 (Ex. 46, Important Notice 07/30/2008) and it stayed at that amount until change to \$2,974.10 effective 05/2009,” (Ex. 53, Important Message 03/30/2009) not \$3,634.11.

231. However, BOFA changed monthly amount to \$3,430.14 in its Notice dated 04/29/2009. (Ex. 54, Important Notice 04/29/2009) not \$3,634.11 until it changed to \$3,434.78 about Notice dated 03/30/2010 (Ex. 66, Important Notice 03/30/2010) until it changed to \$2,745.32 effective 04/2011 (Ex. 77, Important Message 02/17/2011).

232. Countrywide/BOFA further misled and deceived the **Plaintiff** by passing off financial products and services of Countrywide as Source Financial and America One Finance when such products and/or services were structured and controlled by Countrywide / BOFA.

233. Countrywide/BOFA further misled and deceived the **Plaintiff** by causing actual confusion or actual misunderstanding as to the source, sponsorship, approval or certification of financial products and/or services sold to the **Plaintiff**.

234. Countrywide/BOFA further misled and deceived the **Plaintiff** by causing actual confusion or actual misunderstanding as to the affiliation, connection, or association with or certification by another concerning the financial products and/or services sold to the **Plaintiff**.

235. Countrywide/BOFA further misled and deceived the **Plaintiff** by representing financial products and/or services sold to the **Plaintiff** have ingredients, uses, benefits that they do not have.

236. Countrywide/BOFA further misled and deceived the **Plaintiff** by representing financial products and/or services sold to the **Plaintiff** are of a particular standard, quality, or grade when they were of another.

237. Countrywide/BOFA further misled and deceived the **Plaintiff** by advertising financial products and/or services sold to the **Plaintiff** with intent not to sell them as advertised.

238. Within the contemplation of O.C.G.A. § 10-1-850(2) **Plaintiff** is an “Elder person” and on April 5, 2005, **Plaintiff** was a person who was 60 years of age or older.

239. O.C.G.A. § 10-1-851 provides “a civil penalty When any person who is found to have conducted business in violation of Article 15, 17, or 21 of this chapter is found to have committed said violation against elder or disabled persons, in addition to any civil penalty otherwise set forth or imposed, the court may impose an additional civil penalty not to exceed \$10,000.00 for each violation.”

240. **Plaintiff** asserts that Countrywide/BOFA, BONY, MERS, and Goldman, individually and in his capacity as employee, agent, and/or business partner of Source Financial, America One, and/or Countrywide/BOFA repeatedly violated **Plaintiff's** rights as an elder person causing both economic and noneconomic harms.

241. **Plaintiff** asserts that Countrywide/BOFA, BONY, MERS, and Goldman, individually and in his capacity as employee, agent, and/or business partner of Source Financial, America One, and/or Countrywide/BOFA's conduct falls within the contemplation of O.C.G.A. § 10-1-852 because they individually and/or collectively displayed conduct in disregard of the rights of the **Plaintiff**, an elder person.

242. **Plaintiff** asserts that Countrywide/BOFA, BONY, MERS, and Goldman, individually and in his capacity as employee, agent, and/or business partner of Source Financial, America One, and/or Countrywide/BOFA's conduct falls within the contemplation of O.C.G.A. § 10-1-852 because they individually and/or collectively knew or should have known that their conduct was directed to **Plaintiff**, an elder person;

243. **Plaintiff** asserts that Countrywide/BOFA, BONY, MERS, and Goldman, individually and in his capacity as employee, agent, and/or business partner of Source Financial, America One, and/or Countrywide/BOFA's conduct falls within the contemplation of O.C.G.A. § 10-1-852 because they individually and/or collectively knew or should have known **Plaintiff** as an elder person, who showed by lack of knowledge of mortgages products and related financing of same, was more vulnerable to the defendant's conduct because of her age than other persons and that **Plaintiff** actually suffered economic damages resulting from the defendant's conduct.

244. **Plaintiff** asserts that Countrywide/BOFA, BONY, MERS, and Goldman, individually and in his capacity as employee, agent, and/or business partner of Source Financial, America One, and/or Countrywide/BOFA's conduct falls within the contemplation of O.C.G.A. § 10-1-852 because they individually and/or collectively caused **Plaintiff**, an elder person,

(a) to suffer, and continuing to suffer, mental or emotional anguish;

(b) to suffer, and continuing to suffer, the potential loss of her primary residence;

(c) to suffer, and continuing to suffer, the potential loss of assets essential to her health and welfare;

245. Pursuant to O.C.G.A. § 10-1-853, **Plaintiff** seeks to recover actual damages, punitive damages, if appropriate, and reasonable attorney's fees, for **Plaintiff** is required to forego taking in clients in her law practice in order to litigate this lawsuit brought on by the fraudulent and unlawful conduct of the defendants.

246. Pursuant to O.C.G.A. § 10-1-373, **Plaintiff** seeks Injunctive relief because **Plaintiff** is a person likely to be damaged by further deceptive trade practices of Countrywide/BOFA and BONY on the first Tuesday in December, that is, December 6, 2011 unless the Court grants an injunction against it under the principles of equity and on terms that the court considers reasonable. Proof of monetary damage, loss of profits, or intent to deceive is not required.

247. **Plaintiff** seeks costs and attorney's fees because the defendants, individually and/or collectively, willfully engaged deceptive trade practices knowing such practices to be deceptive.

248. Unknown to the **Plaintiff** prior to or at Closing on April 5, 2005 Defendants Countrywide/BOFA, MERS, and Goldman, individually and in his capacity as employee, agent, and/or business partner of Source Financial, America One, and/or Countrywide/BOFA made **Plaintiff** a part of Countrywide/BOFA's fraud perpetrated on investors in the securities market by defendants fabricating and/or falsifying information on Countrywide/BOFA's documents that constituted the mortgage papers that were used in a mortgage pool underlying the CWABS, Inc., Asset-Backed Certificates, Series 2005-4, giving the false appearance of wrongdoing by **Plaintiff** and ultimately causing both economic and noneconomic harm to **Plaintiff** and investors alike.

249. The defendants, Countrywide/BOFA and Goldman in his multiple capacities, individually and/or collectively, purposely confounded and deceived the **Plaintiff**, an elder person, in the mortgage process by creating a sense of urgency about completing and/or reviewing paperwork within very short time frames, not giving her an adequate opportunity to deliberate in her mind or to consider obtaining other professional opinions about the information given to her.

250. The defendants, Countrywide/BOFA and Goldman in his multiple capacities, individually and/or collectively, purposely confounded and deceived the **Plaintiff**, an elder person, in the mortgage process by presenting documents to **Plaintiff** and quickly making handwritten changes in her presence and not giving her an adequate opportunity to deliberate in her mind or to consider obtaining other professional opinions about the information given to her.

251. The defendants, Countrywide/BOFA and Goldman in his multiple capacities, individually and/or collectively, purposely confounded and deceived the **Plaintiff**, an elder person, in the mortgage process by fabricating and/or falsifying documents to give the appearance of **Plaintiff's** credit being highly blemished, ultimately, causing **Plaintiff** to rely more heavily on the expertise of Greene and Goldman than she would have done with truthful documents.

252. Countrywide/BOFA fraudulently stated in the Security Deed under the Borrower Covenants that "Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record."

253. Countrywide/BOFA further fraudulently stated in the Security Deed under the Borrower Covenants that "Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record."

254. However, on or before Closing of April 5, 2005, Countrywide/BOFA knew that **Plaintiff** did not own the property known as 455 Park Avenue, S.E., Atlanta, Georgia, and purposely misled **Plaintiff** into believing she was in the process of borrowing funds to purchase the property.

255. However, Countrywide/BOFA did not inform **Plaintiff** that the property had already been purchased and placed in her name without her knowledge or approval so that Countrywide could structure a fraudulent Note that for it to be used in building its mortgage pools of toxic subprime mortgages to sell to unwary investors as part of CWAB, Inc Asset-backed Certificates, Series 2005-4 securities.

256. Neither prior to nor subsequent to the Closing on April 5, 2005, Countrywide/BOFA did not disclose to **Plaintiff** its fraudulent scheme as set forth in the Asset-Backed Certificates, Series 2005-4 that represent undivided beneficial ownership interests in a trust fund.

257. The trust fund consists primarily of a pool of fixed and adjustable rate, credit blemished mortgage loans that are secured by first liens on one- to four-family residential properties and certain other property and assets described in the prospectus supplement, wherein Countrywide/BOFA intentionally put **Plaintiff** in a toxic 80/20 subprime mortgage to which included fraudulent terms to culminate in fraudulent and excessive fees, fraudulent payment amounts, fraudulent interest, among others,

without regard and/or intent that **Plaintiff** would ever be able to sustain the mortgage, build equity and ultimately pay off the mortgage. (CWABS Prospectus Supplement 06/17/2005, SEC Reg. File No. 333-125164 (“CWABS 2005-4”).

258. Prior to making the toxic 80/20 Subprime mortgage loans to **Plaintiff** on April 5, 2005, Countrywide/BOFA had been studying the risks of the mortgage loans that they were making, and they knew they had not obtained sufficient empirical data about the new “Interest Only” product yet they proceeded to put **Plaintiff** into the toxic interest-only 80/20 subprime first mortgage loan without regard to severe economic and noneconomic consequences to **Sheppard**. (Ex. 93, Corporate Credit Risk Committee Minutes 04/06/2005, p. 3 ¶ 5).

259. Prior to making the toxic 80/20 Subprime mortgage loans to **Plaintiff** on April 5, 2005, Countrywide/BOFA had been studying the risks of the mortgage loans that they were making, and they knew they were not making adequate disclosures to borrowers: “Stan asked what steps are being taken by ‘QC’ to address the legal challenges around reduced documentation. Ron said currently there is not an audit step. Rod Williams suggested CFC create a disclosure document that states the borrower recognizes they could have received a lower rate if they had provided full documentation.” (*Id.* at p. 4 s 6).

260. Prior to making the toxic 80/20 Subprime mortgage loans to **Plaintiff** on April 5, 2005, Countrywide/BOFA had been engaging in allowing use of unapproved guidelines as exceptions to its underwriting guidelines that allowed approval of toxic subprime mortgage loans, such as **Plaintiff's** first mortgage, and Countrywide/BOFA knew, or should have known, of these fraudulent practices: “Are you guys still out with these unapproved guidelines despite all of the prior conversations and emails asking you to stop advertising and originating programs that do NOT have corporate approval? Please let me know as soon as possible.” (Ex. 94, Email 04/14/2005 09:57 AM, p. 3).

261. Prior to making the toxic 80/20 Subprime mortgage loans to **Plaintiff** on April 5, 2005, Countrywide/BOFA had been engaging in allowing use of unapproved guidelines as exception policy to its underwriting guidelines that allowed approval of toxic subprime mortgage loans, such as **Plaintiff's** first mortgage, not based on valid borrower's data but to keep pace with their perception of what other lenders were doing or to accommodate their business partner needs, such as Goldman and America One, without first putting in adequate internal policies for control to manage and/or prevent rogue production of mortgage loans, leading to the toxic subprime mortgage they put off on **Sheppard** for mere greed. (Ex. 94, Email 04/14/2005 12:14:46 PM, p. 2).

262. Countrywide did not disclose its fraudulent scheme for building mortgage pools by loosening and/or ignoring altogether its underwriting guidelines for the purpose of putting borrowers, including the **Plaintiff**, in the most toxic 80/20 subprime mortgages and call them “credit blemished mortgage loans,” despite fact **Plaintiff** fell within Countrywide/BOFA's guideline for prime mortgage options.

263. By April 17, 2006, Angelo Mozilo (“Mozilo”) admitted Countrywide's 80/20 Sub-prime second mortgage is toxic when he stated, “In all of my years in the business I have never seen a more toxic product. It's not only subordinated to the first but the first is sub-prime. In addition the fico's are below 600, below 500 and some below 400 compounded by the fact these are 100% loans which must always be written off in the event of foreclosure. With real estate values coming down and interest rates rising this product will become increasingly worse.” Countrywide placed **Sheppard** in this toxic 80/20 sub-prime mortgage program for its own greed without regard to the economic and noneconomic consequences to **Sheppard**. (Ex. 95, Email 04/17/2006 05:55 PM).

264. In response to Mozilo's email concerning the 80/20 sub-prime mortgage product, Dave Sambol stated “I do however believe that we should defer arriving at conclusions as to whether and when it might be advisable to pull back our guidelines on the product until we analyze the underlying facts here and the impact on the Company of our various options. What I do know at this point (based on what has been conveyed to me by our product people) is that our current guidelines for this product are not more aggressive than those offered in the general market, and these loans are pervasively offered in the marketplace by virtually every relevant competitor of ours.” (*Id.* at Email 04/17/2006 06:45 PM).

265. Countrywide intentionally encouraged its business partners, including Goldman and America One, to put **Plaintiff** in the toxic 80/20 subprime mortgage product to help Countrywide achieve its overall financial goals. As explained by Mozilo to Countrywide's Board of Directors, "Countrywide's (CW's) participation in the subprime market should be considered in the context of our primary market strategy, risk appetite, and fair lending standards. We offer substantially all of the residential mortgage products available in the industry as part of our 'supermarket' strategy. Subprime mortgages are an important product sector in the industry and, as a result of our strategy, are offered in our consumer, wholesale, correspondent and broker-dealer distribution channels." (Ex. 96, Mozilo's Memo 12/7/2006).

266. Mozilo further states that "Interest rates and house prices influence delinquencies. We not only agree with this assertion, it is also confirmed in our empirical analyses. Low interest rates provide consumers the opportunities to refinance and, in a low rate environment, we observe more borrowers prepaying via a refinance instead of becoming delinquent and defaulting on their obligations." (*Id.* at p. 2).

267. However, solely for greed, Countrywide/BOFA took the option of refinancing in a low rate environment from **Plaintiff** by inserting a term in the Note that provides "The interest rate I [**Plaintiff**] am required to pay at the first Change Date will not be greater than 9.050% or less than 7.550%. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE & ONE-HALF percentage point(s) (1.500%) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than 14.500% or less than 7.550%." (Ex. 15, Note 04/05/2005).

268. Countrywide/BOFA intentionally and/or negligently and/or recklessly encouraged rogue behavior in its business partners such as Goldman and America One by loosening its underwriting guidelines as explained by Mozilo that "Consistent with the broader industry, we have expanded our subprime menu over recent years. Since 2003, the industry aggressively expanded product offerings and guidelines to promote more purchase business. Industry guidelines have expanded in a variety of dimensions, including increased availability of reduced documentation, higher leverage (i.e. lower down payment or equity requirements), increased prevalence of 'piggyback' (first + second lien) loans, higher loan amounts, and interest-only. More importantly, these products are typically offered in combination with each other, creating 'layered' risk.'" (Ex. 96, Mozilo's Memo 12/7/2006, p. 4).

269. As a result, Countrywide/BOFA turned a blind eye to its own fraudulent practices and the fraudulent practices of its business partners Goldman and America One used against **Sheppard**.

270. Countrywide/BOFA admits that it treats subprime mortgages as high risk loans with added markup to squeeze more money out of the unwary consumers such as **Plaintiff**, as a way to shift its risk to borrowers.

271. Mozilo states that "Subprime loans are priced based on their individual risk attributes -- higher risk loans carry higher interest rates."

272. Mozilo continued, "In addition, certain high risk transactions are purposely priced to discourage production; some examples include: 100% LTV 1<sup>st</sup> Lien. Production has been reduced from a high of 20% in 2005:Q3 to 3% in 2006:Q3 via less favorable pricing."

273. Mozilo continued "80/20 Piggyback Loans. Pricing on the 80/20 piggyback loans has been systematically worsened in the last 12 months, primarily the 2<sup>nd</sup> lien component, to reduce production volume. 2006:Q3 production volume of 80/20 piggyback loans is down 20% from year ago levels." (Ex. 96, Mozilo's Memo 12/7/2006, p. 6).

274. Countrywide/BOFA was not trying to discourage its production of these toxic subprime loans in April of 2005, but, instead, encourage rogue business partners Goldman and America One to put **Plaintiff** in the 80/20 subprime loans.

275. Countrywide/BOFA admits that subprime piggyback loans are generally more risky than typical subprime loans. (Ex. 96, Mozilo's Memo 12/7/2006, p. 7).

276. Countrywide/BOFA admitted their awareness in 2004 that there was a clear deterioration in the credit quality of subprime loans that they were originating, yet they continued to originate and/or allow their business partners, including Goldman and America One, to put unwary borrowers such as **Plaintiff** into these toxic 80/20 subprime loans. (Ex. 97, Mozilo's *Email* 09/01/2004 08:17:50 PM, p. 2).

277. Countrywide/BOFA admitted its awareness in 2004 that loans with payment shock features have more default risk than loans without these features and was only concerned about how to reduce its default risk and increase its returns, not about the devastation it would bring on unwary borrowers, such as **Plaintiff**, by putting them in toxic subprime interest-only adjustable rate loans with high rate caps ranges, such as a high of 14.550% but not ever lower than 7.550% regardless of how low interest rates drop in the overall market, although **Plaintiff's** rates went higher than 14.550%. (Ex. 98, John McMurray' s *Email* 02/20/2004 09:07 AM; Raymond Walsh *Email* 02/19/2004 04:55 PM).

278. **Plaintiff** asserts that Countrywide/BOFA engaged in a practice of putting African Americans and/or elder persons, such as **Plaintiff**, in these toxic 80/20 subprime loans in 2005 regardless of their credit history. "The Center for Responsible Lending estimated that in 2005, a majority of home loans to African-Americans and 40 percent of home loans to Hispanics were subprime loans." (Ex. 99, Dan Tarman/Managing Director's *Email* 03/29/2007 08:04 AM).

279. Mozilo admitted that along with imprudent actions of regulators and legislators "there was a degree of irresponsible lending primarily by specific mortgage brokers that exploited the uninitiated and that certain underwriting guidelines were expanded beyond reason... This is tragic because not only are these delinquent borrowers further damaging their credit, but more importantly, they are losing the only asset that will give them an opportunity to build wealth for themselves and their families." (Ex. 99, Mozilo's *Email* 03/29/2007 08:47:05 AM).

280. Countrywide allowed its business partners Goldman and America One to put **Plaintiff** in a toxic 80/20 subprime loan because of her race as an African American, and her being an elder person not sophisticated in mortgage financing.

281. **Plaintiff**, at the age of 66, has been severely damaged since her chances of rebuilding credit or financially or the opportunity to use her VA Loan benefits are substantially and effectively lost because of Countrywide/BOFA's fraudulently placing her in toxic 80/20 subprime mortgages, of which only the first is the subject of this lawsuit.

282. Countrywide/BOFA Technical Manual provides that "Countrywide Financial Corporation is committed to originating loans that help borrowers achieve their dreams of homeownership." (Ex. 100, Excerpts from Countrywide Technical Manual Revised 03/15/2005, p. 4).

283. However, Countrywide/BOFA intentionally, negligently and/or recklessly failed to follow its own policy by not seriously considering more affordable loan options for **Plaintiff** or simply informing her that her credit history and income simply would not support purchase of the subject property.

284. Instead, Countrywide/BOFA allowed its business partners Goldman and America One to use any scheme they chose to put **Plaintiff** in the toxic 80/20 subprime mortgage program leading to possible lost of home to foreclosure and causing her economic and noneconomic harm.

285. Countrywide/BOFA Technical Manual further provides that "Part of our responsibility as an ethical lender is to ensure that if we make the loan, it helps the borrower meet his or her goals." (Ex. 100, Countrywide Technical Manual Revised 03/15/2005). Countrywide/BOFA intentionally, negligently, and/or recklessly failed to follow its own policy by placing **Plaintiff** into the toxic 80/20 subprime mortgage loans.

286. Countrywide/BOFA Technical Manual further provides that “This objective must be met by offering consumers responsible products with measured corporate risk and return profiles.” (Ex. 100, Countrywide Technical Manual Revised 03/15/2005). Countrywide/BOFA intentionally, negligently, and/or recklessly failed to follow its own policy by placing **Plaintiff** into the toxic 80/20 subprime mortgage loans.

287. Countrywide/BOFA Technical Manual further provides that “Countrywide manages this by employing the following product offering guiding principles: We seek to only offer products that provide benefit to all parties related to loan including consumers, Countrywide, and its shareholders.” (Ex. 100, Countrywide Technical Manual Revised 03/15/2005). Countrywide/BOFA intentionally, negligently, and/or recklessly failed to follow its own policy by placing **Plaintiff** into the toxic 80/20 subprime mortgage loans.

288. Countrywide/BOFA Technical Manual further provides that “Products should benefit the consumers who choose them.” (Ex. 100, Countrywide Technical Manual Revised 03/15/2005). Countrywide/BOFA intentionally, negligently, and/or recklessly failed to follow its own policy by placing **Plaintiff** into the toxic 80/20 subprime mortgage loans.

289. Countrywide/BOFA Technical Manual further provides that “Neither Countrywide nor the consumer benefits from a loan the consumer ultimately cannot afford.” (Ex. 100, Countrywide Technical Manual Revised 03/15/2005). Countrywide/BOFA intentionally, negligently, and/or recklessly failed to follow its own policy by placing **Plaintiff** into the toxic 80/20 subprime mortgage loans.

290. Countrywide/BOFA Technical Manual further provides that “Offered products should not cause high risk, abusive, or discriminatory practices.” (Ex. 100, Countrywide Technical Manual Revised 03/15/2005). However, Countrywide intentionally, negligently, and/or recklessly failed to follow its own policy by accepting any type of toxic subprime mortgage originated by them or on their behalf by business partners such as the toxic 80/20 subprime mortgage loans Goldman and America One structured for Countrywide to put **Plaintiff**, an African American purchaser and elder person, causing her economic and noneconomic harm.

291. Countrywide/BOFA Technical Manual further provides that “Loans must have one or more factors, which have a demonstrable correlation with loan performance, on which we are relying for repayment. Example factors include equity in property (LTV, CLTV), borrower credit history, income, and assets.”

292. Countrywide intentionally, negligently, and/or recklessly failed to follow its own policy by excluding any information about toxic subprime mortgages from its “Home Loan Application Disclosure Handbook,” which would have disclosed LTV and CLTV, thereby avoiding misleading and/or confusing unwary borrowers, such as **Plaintiff**, forcing **Plaintiff** to make uninformed decisions to her economic and noneconomic harm, including stripping her of all equity or potential to build any equity under mortgages designed to failed ab initio. (Ex. 100, Countrywide Technical Manual Revised 03/15/2005).

293. Countrywide/BOFA Technical Manual further provides that “Whether someone is a Prime borrower or a SubPrime borrower, our focus must be on the borrower's demonstrated desire and ability to repay his or her obligations as well as on informing the borrower of various loan options. For example, if a borrower could qualify for a Prime product at a lower rate than our SubPrime product by taking less cash out, we should explore this option with the borrower.”

294. Countrywide/BOFA intentionally, negligently, and/or recklessly failed to follow its own policy by excluding any information about toxic subprime mortgages from its ‘Home Loan Application Disclosure Handbook’ to avoid misleading and/or confusing unwary borrowers, such as **Plaintiff**. (Ex. 100, Countrywide Technical Manual Revised 03/15/2005).

295. Countrywide/BOFA Technical Manual further provides that “It is equally important to review submissions from brokers for their analysis of the customer's goals and benefits from the new loan.” Countrywide intentionally, negligently and/or recklessly



failed to follow its own policy by not reviewing the work of business partner and/or employee Goldman and/or business partner America One for fraudulent practices and/or simply turned its head in order to get another toxic 80/20 subprime mortgage into one of its mortgage pools to support its securitization market. (Ex. 100, Countrywide Technical Manual Revised 03/15/2005).

296. Countrywide/BOFA failed to follow its own policy against excessive layering of risk that is built into the toxic subprime 80/20 mortgage product in which Countrywide/BOFA ultimately placed **Plaintiff**, specifically, Countrywide/BOFA knew, or should have known of **Plaintiff's** insufficient liquid assets, high CLTV, credit history, and/or high debt ratios for the loan program selected for **Plaintiff**, and the fraudulent information submitted by Goldman and America One in two separate loan applications. (Ex. 100, Countrywide Technical Manual Revised 03/15/2005, p. 7).

297. After putting **Plaintiff** in its toxic 80/20 subprime mortgage product, on or about April 20, 2005, Countrywide intentionally, negligently, and/or recklessly became even more reckless in dispensing with its underwriting guidelines by making further exception to its 80/20 subprime product to compete with “competitive market pressures” which compelled Countrywide “to create a more aggressive product,” the 80/20 subprime mortgage with a 560 FICO score. (Ex. 101, John McMurray/Managing Directors/CF/CCI Email 04/20/2005 08:31 AM).

298. McMurray confirmed he had been trying to get Countrywide/BOFA to stop violating its own exception policies and tried again about 03/24/2005 when he asked Joe A. Miller and Steve Blackwell in Wholesale division, “Joe or Steve, could you please check and confirm that we've stopped taking in loans under the two SLG flyers with unapproved credit terms? We expected to see the funding volume to fall off sharply after December in these unapproved buckets(please see tables below), but that doesn't appear to be happening.” (Ex. 101, John McMurray/Managing Directors/CF/CCI Email 03/24/2005 01:05 PM, p. 8).

299. **Plaintiff** asserts that if Countrywide/BOFA had listened to McMurray as late as March 2005 and stopped violating its on exception policies, Countrywide would have avoided the fraudulent practices that Goldman and America One used on its behalf, as well as those Countrywide used directly, to put **Plaintiff** in the toxic 80/20 subprime mortgage high risk product.

300. **Plaintiff** further seeks an equitable proceeding for the purpose of canceling the first mortgage Security Deed on the ground of fraud, breach of condition, or the like.

301. **Plaintiff** additionally asserts and shows that defendants inflicted upon **plaintiff** tortious misconduct in that they, individually and/or collectively, fraudulently misrepresented the above-described products and/or services, Notes and Security Deeds with intent to deceive **plaintiff**, and did in fact deceive **plaintiff** and thereby induced **plaintiff** to act to her injury.

302. By engaging in the above-described conduct defendants Countrywide/BOFA, BOFA, MERS, BONY, and Goldman, in his multiple capacities, individually and/or collectively, used fraudulent, unlawful and/or deceptive trade practices to put, and maintain, **Plaintiff** in the toxic 80/20 Subprime first mortgage loan that was designed to fail and by their actions showed willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to consequences so as to entitle **plaintiff** to punitive damages against defendants in accordance with [O.C.G.A. § 51-12-5.1](#).

303. **Plaintiff** seeks costs and attorney's fees.

304. **Plaintiff** seeks a Temporary Restraining Order and/or a 100 Permanent Injunction against continuation of any debt collection actions, including any attempts to foreclose under revoked power of sale/attorney to BONY by way of assignment of revoked power of sale/attorney from MERS.

**PRAYER**

WHEREFORE, **plaintiff** demands that she has judgment against all defendants, individually and/or collectively, for \$490,324.62 actual damages and \$1,470,973.00 in punitive damages and costs. **Plaintiff** further demands the Court issue a Temporary Restraining Order to stop the impending foreclosure scheduled for December 6, 2011 and/or issue a Permanent Injunction for the duration of this lawsuit, and any other remedies she is entitled to under law.

JURY TRIAL REQUESTED.

Filed: November 16, 2011.

<<signature>>

**SANDRA JACKSON SHEPPARD**

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Footnotes

- 1 **Plaintiff** and HSBC, in the prior lawsuit filed in 2008 against Countrywide, HSBC, and others, settled their differences in February 2010 resulting in a cancellation of the second mortgage security deed, therefore, any references to the second mortgage will be as background information only. Countrywide was dismissed from the lawsuit on December 13, 2009.