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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF VENTURA**

11
12 SUSAN LANGE, an individual

13 Plaintiffs,

14 vs.

15 JP MORGAN CHASE BANK, N.A., a New
York Corporation; WASHINGTON
16 MUTUAL, INC., a Delaware Corporation;
WASHINGTON MUTUAL BANK, F.A., a
Washington Corporation; WASHINGTON
17 MUTUAL ASSET ACCEPTANCE CORP., a
Washington Corporation; WASHINGTON
18 MUTUAL MORTGAGE SECURITIES
CORP., A Washington Corporation; ALTA
19 COMMUNITY INVESTMENT INC., A
California Corporation; WASHINGTON
20 MUTUAL CAPITAL CORP., a corporation of
unknown local; ALTA COMMUNITY
21 INVESTMENT III, LLC, A California
Limited Liability Company; SEASIDE
22 CAPITAL FUND I, LP, A California Limited
Partnership; and DOES 1-250, inclusive,

23 Defendants
24

Case No. 56-2010-00378356-CU-OR-VTA

Complaint Filed: August 2, 2010

Third Amended Complaint for:

1. WRONGFUL FORECLOSURE
2. VIOLATIONS OF CALIFORNIA CIVIL
CODE § 2920 et seq.
3. UNJUST ENRICHMENT
4. RESPA AND TILA VIOLATIONS
5. BREACH OF OR IN THE
ALTERNATIVE NO CONTRACT
6. FRAUD AND CONCEALMENT,
7. QUIET TITLE
8. DECLARATORY AND INJUNCTIVE
RELIEF
9. SLANDER OF TITLE
10. BREACH OF THE DUTY OF GOOD
FAITH AND FAIR DEALING
11. CONSTRUCTIVE TRUST
12. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS
13. RESPONDEAT SUPERIOR
14. NEGLIGENCE

25 Assigned for all purposed to The Honorable
Mark S. Borrell
26 Dept.: 43
27
28

1 COMES NOW Plaintiff SUSAN LANGE for causes of action against defendants
2 complains and alleges as follows.
3

4 **INTRODUCTION**

5 1. It was the biggest financial bubble in history. During the first decade of this century,
6 banks abandoned underwriting practices and caused a frenzy of real estate speculation by issuing
7 predatory loans that ultimately lowered property values in the United States by thirty to fifty
8 percent. Banks reaped the harvest. Kerry Killinger, CEO of Washington Mutual, Inc. (with
9 defendants WASHINGTON MUTUAL BANK F.A. (“WMB”), WASHINGTON MUTUAL
10 ASSET ACCEPTANCE CORP. and WASHINGTON MUTUAL MORTGAGE SECURITIES
11 CORP. (“WMMSC”), and collectively “WAMU”), was paid more than \$100 million during the
12 seven years that he steered WAMU into bankruptcy. In order to feed the burgeoning secondary
13 vehicle market, WAMU issued thousands of predatory loans, particularly adjustable rate
14 mortgages knowing that the borrowers would default and lose their homes. WAMU presold
15 mortgages to vehicle packagers, then issued credit for that money to homeowners after the fact.
16 The promissory notes on those predatory loans were immediately turned over to the pre-buyers,
17 bound with other notes into secondary vehicles and sold to varied purchasers including money
18 managers, REITS, trusts and others. The secondary vehicles were then sold and sold again. As a
19 direct, foreseeable, proximate result, thousands of families are now in danger of foreclosure or
20 have suffered through foreclosure.
21
22

23 **SUMMARY OF THE CASE**

24 2. Plaintiff DR. SUSAN LANGE (“LANGE”) is the legal and rightful owner of her home
25 at 276 Running Ridge Trail; Ojai, CA 93023 (the “Property”). A true and correct copy of the
26 legal description of the Property is attached hereto as Exhibit 1. The Defendants and each of them
27 are attempting to force LANGE out of her home, as part of an unlawful enterprise, the predatory
28

1 lending and foreclosure practices that caused her to be left holding a toxic loan. What's more,
2 defendant JP MORGAN CHASE BANK, N.A., a New York Corporation licensed to do business
3 in the State of California ("CHASE") has refused to modify the toxic loan and has placed LANGE
4 one step away from losing her property. All acts and omissions of defendants WAMU

5 3. For its own private profit, WAMU defrauded LANGE into making a purported loan she
6 could not afford, despite her wishes. WAMU defrauded LANGE by failing to disclose the true
7 nature of the purported loans they got her to take out for their own profit in the transaction.
8 CHASE illegally foreclosed on LANGE'S home because, among other things, the underlying
9 security instruments on which CHASE relied for the foreclosure are invalid and void ab initio.
10 CHASE illegally foreclosed on LANGE'S home in breach of their agreement with LANGE as
11 well as in violation of its duty of good faith and fair dealing owed LANGE. CHASE illegally
12 foreclosed on LANGE'S home without any notice to LANGE or legal notice to the public.
13 CHASE effected a trustee's sale on LANGE'S home knowing that they had no right to do so
14 because among other things, the title documents to LANGE'S home were invalid and void ab
15 initio and the sale wasn't properly noticed. The sale date was effected by CHASE merely to
16 prevent the one year deadline required by California law from passing. Some defendants believe
17 that they purchased LANGE'S home at the Trustee's Sale even though they knew that CHASE did
18 not hold title to LANGE'S home, that CHASE had not not recorded proper title documents and
19 that CHASE could not legally sell it. Despite knowing that they had obtained title to LANGE'S
20 home illegally, some defendants fraudulently attempted to evict LANGE, her husband and their
21 tenants from LANGE'S home. In order to effect possession of LANGE'S home, some defendants
22 threatened LANGE with harm if she did not vacate the property within three days after giving
23 LANGE notice of the illegal trustee's sale. All acts were done in furtherance of an illegal
24 enterprise.

25

26

JURISDICTION AND VENUE

27

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4. This Court has subject matter jurisdiction because the dispute arises over real property
that is located in Ventura County at 276 Running Ridge Trail; Ojai, CA 93023 ("Running Ridge")

1 information and belief, Does 1-100 claim to be successors in interest to a purported WAMU loan
2 that was allegedly transacted between LANGE and WAMU in 2006. Upon information and
3 belief, Does 1-100 claim to have become the successors in interest to the Subject Mortgage by
4 virtue of this loan having been made a part of a securitization process wherein certain residential
5 mortgages and the promissory notes alleged to be based thereon were securitized by aggregating a
6 large number of promissory notes into a mortgage loan pool, then selling security interests in that
7 pool of mortgages to investors by way of items called "Secondary Vehicles". As part of this
8 process, Plaintiff is informed and believes that the Subject Mortgage was made part of, or was
9 subject to, a Loan Pool, a Pooling and Servicing Agreement, a Collateralized Debt Obligation, a
10 Mortgage Backed Security, a Mortgage Pass-Through Certificate, a Credit Default Swap, an
11 Investment Trust, and/or a Special Purpose Vehicle.

12 9. Plaintiff LANGE is a married woman and individual consumer. LANGE is and at all
13 relevant times herein has been a resident of Ventura County, California. LANGE currently lives
14 with her husband Julian in their family home on the Property at Running Ridge as they have for
15 more than a decade.

16 10. Jeff Dunavant ("Dunavant") during all times in question was an employee of Building
17 Capital. Dunavant held himself out to be a licensed mortgage broker at all times in question
18 herein, but LANGE is informed and believes that Dunavant was in fact unlicensed during all
19 times in question. LANGE is informed and believes and thereon alleges that Dunavant and
20 Building Capital coordinated hundreds, if not thousands of loans including the purported loans
21 between LANGE and WAMU as agents for WAMU.
22

23 11. WASHINGTON MUTUAL, INC. ("WMI") was a savings bank holding company and
24 the former owner of Defendant WASHINGTON MUTUAL BANK, F.A. ("WMB") which until
25 its collapse was the largest savings and loan association in the United States. Plaintiff asserts on
26 information and belief that on September 25, 2008, the United States Office of Thrift Supervision
27 ("OTS") seized WAMU and placed it into the receivership of the Federal Deposit Insurance
28

1 Corporation (“FDIC”). LANGE is informed and believes that the FDIC sold WAMU’S banking
2 subsidiaries including WMB and defendants WASHINGTON MUTUAL ASSET ACCEPTANCE
3 CORP. (“WMAAC”), a business entity of unknown form and WASHINGTON MUTUAL
4 MORTGAGE SECURITIES CORP., a business entity of unknown form (“WMMSC”)
5 (collectively the “WAMU”) to CHASE. Despite ostensibly purchasing the Promissory Note
6 purportedly evidencing WAMU’S loan to LANGE (the “Subject Note”) with the rest of WAMU’S
7 assets, CHASE caused no Assignment of Deed of Trust to be recorded with the Office of the
8 Ventura County Recorder. CHASE claims to be the note holder, beneficiary of the Subject DOT,
9 and servicer for investment trusts of the Subject Mortgage yet has never recorded its purported
10 ownership of the purported mortgage or its purported security interest in the deed of trust securing
11 it. Further, no notice has been recorded of any change in ownership of the purported mortgage
12 since it was first recorded by WAMU.

13 12. California Reconveyance Company (“CRC”) is a California Corporation what was
14 until WAMU’S collapse, a wholly owned subsidiary of WAMU. CRC was named by WAMU as
15 the Trustee on the DOT allegedly securing the Subject Note. At various of the relevant times
16 herein, CRC acted as an agent of defendants WAMU and CHASE.

17 13. Quality Loan Service Company (“Quality”) is a Corporation of unknown locale but
18 licensed to do business in California. Without capacity to do so, CHASE purportedly substituted
19 Quality as trustee on the Subject DOT. At all relevant times herein, Quality acted as an agent of
20 defendant CHASE.

21 14. Without capacity to do so and/or without identifying its capacity to do so, LSI Title
22 (“LSI”) caused two illegal and invalid Notices of Default and Election to Sell (“NOD”), one
23 Rescission of Notice of Default and Election to Sell Under Deed of Trust and one Notice of
24 Trustee’s Sale (“NTS) to be recorded against the Property.

25 15. Todd Kaufman (“Kaufman”) is the president and owner of ALTA COMMUNITY
26 INVESTMENT INC. (“ACII”), a company in the business of buying properties in foreclosure and
27 at Trustee’s Sales. LANGE is informed and believes that ALTA is the sole member of ALTA
28 COMMUNITY INVESTMENT III, LLC (“ALTA III”) (collectively, “ALTA”). Both entities are

1 owned and controlled by Kaufman. Prior to starting ALTA and ALTA III, Kaufman worked for
2 Paine Webber in its real estate securities division which was in the business of bundling and
3 selling mortgages also known as “securitization.” Kaufman was promoted, eventually becoming
4 in charge of Paine Webber’s West Coast Capital Markets Division.

5 16. In 1998, Kaufman founded and operated the Alta Residential Mortgage Trust
6 (“ARMT”) which was primarily geared to buying mortgages and mortgage backed securities.
7 Kaufman was so successful that in 2000, WAMU purchased ARMT and Kaufman became an
8 employee of WAMU. There he started and led WAMU’s Correspondent Lending Division which
9 ultimately became WAMU’s largest channel of mortgage loans. Extremely pleased with his
10 knowledge and work product, WAMU asked Kaufman to develop and operate WAMU’s own
11 securitization division, which he did. In 2001, he cofounded Washington Mutual Capital Corp.
12 (“WMCC”) which became one of the largest distributors of mortgage backed securities on Wall
13 Street. Kaufman ran WMCC for many years, including the time in which the Subject Mortgage
14 was funded. LANGE is informed and believes that the Subject Mortgage was securitized by
15 WMCC during Kaufman’s control of WMCC.

16 17. In 2007, when the “mortgage meltdown” began due in large part to the illegal and
17 improper predatory practices of WAMU, including WMCC at the direction of Kaufman, Kaufman
18 founded ACII and ALTA III. LANGE is informed and believes that since its founding, Kaufman,
19 through ALTA has bought and sold hundreds of distressed properties, both before and after a
20 trustee’s sale.

21 18. Luke McCarthy (“McCarthy”) owns and controls SEASIDE CAPITAL FUND LP I
22 (“SEASIDE”). McCarthy, through SEASIDE has bought and sold hundreds of distressed
23 properties both before and after a trustee’s sale. ALTA and SEASIDE purportedly purchased
24 Running Ridge at the illegal trustee’s sale on July 14, 2010.

25 19. Nancy Mura (“Mura”) is a real estate agent working for Mike Szakos & Associates
26 (“Szakos”). Both Mura and Szakos work as agents for McCarthy and SEASIDE attempting to
27 force people from their homes as part of an illegal enterprise.

28

1 **JURY TRIAL DEMAND**

2 20. LANGE requests a jury trial on all issues.

3
4 **GENERAL ALLEGATIONS**

5 21. Susan Lange (“LANGE”) purchased her home at 276 Running Ridge Trail; Ojai, CA
6 93023 (“Running Ridge”) in 1998, for cash and has lived there with her husband, Julian Lange
7 ever since. Over the next twelve years, the LANGES spent an enormous amount of money, time
8 and energy making their home a truly unique, toxic free environment for LANGE, who had
9 several environmental allergies and as an example of a “Green Home” for their domestic and
10 international clients.

11
12 22. In 2004, Dunavant, an employee of Building Capital, approached LANGE to get her to
13 obtain a mortgage on Running Ridge from WAMU in the amount of \$995,000 (the “Original
14 Mortgage”) and a Home Equity Line of Credit (“HELOC”) from Countrywide in the amount of
15 \$195,000 (the “HELOC”). Trusting Dunavant completely in his fiduciary capacity, she did so.

16 23. In or around 2006, WAMU approached Building Capital and Dunavant requesting that
17 they get it as many mortgages as possible even though Dunavant was not licensed to do so.
18 Adjustable Rate Mortgages (“ARMS”) especially Negatively Amortized ARMS (“NA-ARMS”) were particularly desired since they were significantly more profitable for WAMU than other
19 ARMS or Fixed Rate Mortgages (“FRMS”). LANGE is informed and believes that Building
20 Capital and Dunavant received larger fees for selling NA-ARMS instead of other ARMS, FRMS
21 or Home Equity Lines of Credit (“HELOCS”) because they were so much more profitable.
22 LANGE is informed and believes that WAMU presold thousands of mortgages to sellers of
23 Secondary Vehicles requiring it to use whatever means necessary to obtain the mortgages they had
24 already sold. LANGE is informed and believes that WAMU, Building Capital and Dunavant
25 made a practice of convincing unsuspecting mortgagees to misrepresent income and other
26 underwriting factors on loan applications as well as changing borrowers’ application documents
27 after signature in order to obtain the mortgages WAMU had already sold.
28

1 24. At approximately the same time, Building Capital and Dunavant approached LANGE
2 to refinance the Original Mortgages. LANGE, on the one hand and Building Capital and
3 Dunavant on the other hand, formed a contract by which LANGE would grant Building Capital
4 and Dunavant the right to represent her in attempting to obtain refinancing of the Original
5 Mortgages with loans better for LANGE, and Building Capital and Dunavant would get to receive
6 any fees or bonuses associated with obtaining refinancing if they were able to do so. LANGE
7 would only refinance if she could obtain a loan or loans that would leave her in a better situation
8 than she was with the Original Loans.

9 25. Dunavant and Building Capital knowingly misrepresented the Original and Subject
10 Loans to her and convinced her that she should refinance her Original Mortgage with an ARM
11 which despite Dunavant's representations, contained more predatory terms than the first loan. The
12 Subject Mortgage contained a three year prepayment penalty and payments that more than
13 doubled in approximately two years. Dunavant and Building Capital told her that the new loans
14 were a much better deal for her and that she would be able to afford it. Dunavant even wrote
15 LANGE that she would keep "the same great rate for five years." LANGE didn't understand but
16 she trusted Building Capital and Dunavant and took their word for it, to her detriment. At
17 WAMU'S urging, Building Capital and Dunavant convinced her to refinance with a more
18 predatory ARM. Unbeknownst to LANGE, WAMU earned more with the ARM and accordingly
19 WAMU paid them more for doing so. LANGE requested that her Original HELOC be replaced
20 with another HELOC if a second mortgage was needed so she would have flexibility as to how
21 much to borrow against it, if any. Instead Building Capital and Dunavant obtained an FRM for
22 her, from National City Bank telling her that it was better for her than a HELOC. LANGE again
23 didn't understand but took on faith that Dunavant and Building Capital were telling the truth and
24 would protect her. They weren't and they didn't.

25 26. The Subject Mortgage provided to LANGE was toxic and fraudulent. Building Capital
26 and Dunavant placed her in the Subject Mortgage that unbeknownst to her would and did become
27 unaffordable for her in two years. WAMU, Building Capital and Dunavant failed to provide
28 accurate, material disclosures concerning the Original and Subject Loans that had she known

1 them, LANGE would not have entered into the loan Subject Mortgage. Additionally, the subject
2 defendants convinced LANGE to take out an FRM as her second mortgage rather than the
3 HELOC she wanted (if a second mortgage was needed) because it benefited WAMU and them,
4 not her.

5 27. Kaufman was in charge of WMCC during the time WAMU was offering Building
6 Capital and Dunavant big bonuses for obtaining ARMS. Kaufman knew of and condoned
7 WAMU'S fraudulent practices to obtain mortgages to feed his securitization pipeline. Kaufman
8 knew that WAMU was forsaking appropriate underwriting practices for these loans and not only
9 condoning but making clear that it would turn a blind eye to misrepresentations on loan
10 applications. Building Capital, Dunavant and WAMU knew that LANGE'S payment under the
11 subject mortgage would more than double within two years and that LANGE could not afford the
12 mortgage when it did. With the full knowledge and approval of WAMU, Dunavant pushed
13 LANGE through the loan process without allowing her to understand the loans she was taking out.

14 28. To meet the demands of its presold mortgages, WAMU was approving nearly all
15 mortgages, whether deserved or not, and knew that WAMU was urging him to make loan
16 applications, including LANGE'S, look good, even if the language was untrue.

17 29. Dunavant approached LANGE with the mortgage offered by WAMU, which had
18 contacted Building Capital and him clamoring for loans to fund. During all relevant times herein,
19 Dunavant was not licensed or authorized to act in such capacity. WAMU, Building Capital and
20 Dunavant were aware that Dunavant was unlicensed during the period he sold LANGE the Subject
21 Mortgage and the Second Mortgage. At the very least, they negligently supervised Dunavant and
22 Building and Building Capital negligently supervised Dunavant. Both Building Capital and
23 Dunavant breached their fiduciary duty to LANGE by not requiring Dunavant to be validly
24 licensed to sell mortgages and seduced by WAMU, to steer her into a toxic loan. LANGE did not
25 want to refinance the Original Mortgage at all. WAMU, Building Capital and Dunavant
26 fraudulently induced LANGE to take out the Subject Mortgage combining the Original Mortgage
27 and the then current balance on the HELOC (the "Subject Mortgage") convincing her that it was
28 financially smart and sensible to do. The Subject Mortgage was a negatively amortized ARM,

1 with a three year prepayment penalty, more highly profitable for WAMU and earning a higher
2 bonus for DUNAVANT than many mortgage products.

3 30. Unbeknownst to LANGE at the time of origination, the note on the Subject Mortgage
4 (the "Subject Note") was part of an elaborate securitization and securities fraud scheme wherein
5 the Subject Note was reported to the SEC to be allegedly transferred to a DOE trust with the
6 conditions precedent in the offering documents and pooling and servicing agreement ("PSA").

7 31. In order to have the right to foreclose on the Subject Note, WAMU and other parties in
8 the chain of title to the Subject Note were required by law and contract to conform to:

9 a. California laws relating to the transfer of real estate and the writing and recordation of
10 assignments of deeds of trust to secure debt to create a valid chain of title and to perfect any lien
11 interest;

12 b. California and federal requirements regarding the ownership, endorsement, possession,
13 and transfer of promissory notes;

14 c. IRS REMIC tax requirements that restricted the transfer and conveyance of the Subject
15 Note;

16 d. The terms and conditions of the PSA and offering documents which LANGE is
17 informed and believes mandated the above conditions and provisions for the conveyance be met
18 and certified prior to the closing and cut-off dates for the allegedly formed DOE trust.

19 WAMU failed to do so.

20 32. Any party who can prove it is a lawful and equitable owner of the Subject Note may
21 prosecute a legal action to collect on the note; obtain a judgment; and even secure a lien on
22 Running Ridge if successful in litigation. However, such a party would be subject to LANGE'S
23 defenses and claims to the Subject Note. Here, CHASE cannot prove that it owns the Subject
24 Note, that it is the Note's holder in due course or that it is the authorized servicer of the
25 Note. CHASE cannot even provide the names of the actual owners of the Subject Note.

26 33. Neither WAMU nor CHASE, nor subsequent owners of the Subject DOT perfected
27 their lien interests in the Subject Note. Accordingly, if any indebtedness is owed by LANGE, it is
28 unsecured. In California, an unsecured creditor may not foreclose without permission from the

1 Court, after judgment, if at all. Nonjudicial foreclosure is further precluded since the Subject Note
2 was presold, and guaranteed by third party guarantors, sureties and insurers as part of WAMU'S
3 securitization scheme.

4 34. Substantial amounts have been paid to the DOE trust and WAMU by other DOE
5 defendants including but not limited to investors, insurers and guarantors to be applied to
6 WAMU'S and the DOE trust's subaccount(s) and subledger(s) related to the Subject Mortgage.
7 LANGE is informed and believes that the amounts paid by such DOE defendants exceeded the
8 value of the Subject Mortgage and were not applied by WAMU against any claimed principal
9 balance due by LANGE and allocated on a proportional basis according to the total amount of the
10 Subject Note as a percentage of the entire alleged pool balance.

11 35. CHASE'S foreclosure on the Property is consistent with CHASE'S pattern of
12 foreclosing on properties it does not own and to which it does not have any equitable or legal title.

13 36. CHASE has been severely sanctioned by state and federal courts for providing false,
14 perjurious, forged, and fabricated assignments, affidavits, verifications, and pleadings.

15 37. Based on information and belief, LANGE alleges that the offering documents of the
16 DOE trust state that WAMU owns the Subject Mortgage which will be conveyed to the DOE trust
17 in return for certain REMIC I Regular Interests and the Class R-1 Residual Interest.

18 38. WAMU and CHASE were not exempt under California law from preparing and
19 recording an assignment of the Subject Note and Subject DOT to secure LANGE'S purported
20 debt. In order to have a valid chain of title and lawful transfer of the Subject Note, assignments
21 from each purported holder in due course of the Subject Note to the next purchaser of the
22 secondary vehicle into which the Subject Note was bound would have had to have occurred. No
23 such assignments were recorded. Accordingly, title to the Property is clouded.

24 39. CHASE increased LANGE'S payments illegally and unconscionably to more than
25 \$9,000, in August 2008. LANGE attempted to modify the loan through her initial counsel in May
26 2008, then through the Law Offices of Julie Gaviria ("Gaviria") which notified CHASE that she
27 represented LANGE in December 2008. Gaviria attempted to work out a modification of the
28 Subject Mortgage with CHASE.

1 40. On the DOT, LANGE is named as the Trustor and WAMU is falsely identified as the
2 lender and beneficiary. The true facts are that WAMU gave up all beneficial interest in the
3 Subject Note when it presold the note.

4 41. No assignment of the Note or DOT has been recorded giving CHASE any interest in
5 the Property nor was a document recorded making CHASE the beneficiary of the DOT.
6 Accordingly, since CHASE had no capacity to make them, all actions taken by CHASE in regard
7 to the Property were void on their face. Even if such a transfer had taken place or been recorded,
8 CHASE could not have taken that which WAMU did not possess, status as the holder in due
9 course of the Subject Note which it had already sold.

10 42. Pertinent documents recorded with the Ventura County Recorder regarding Running
11 Ridge are as follows. Transfers between and among LANGE, LANGE and her husband, and the
12 LANGE'S trust (the Health Core Consulting Common Law Pure Trust (the "Health Core Trust"))
13 are excluded.

14 43. The Grant Deed conveying Running Ridge to the Health Core Trust was recorded on
15 April 20, 2004.

16 44. The Deed of Trust purportedly securing the Promissory Note reflecting the Original
17 Mortgage was recorded on April 20, 2004.

18 45. The Deed of Trust purportedly securing the Promissory Note reflecting the Original
19 HELOC was recorded on February 28, 2005.

20 46. The Subject DOT was recorded on April 24, 2006.

21 47. The Substitution of Trustee and Full Reconveyance in regard to the Original Mortgage
22 and the Original HELOC were recorded on June 5 and June 12, 2006 respectively.

23 48. The Deed of Trust of the National City Bank 2nd mortgage was recorded on July 12,
24 2006.

25 49. The Assignment of Deed of Trust for the 2nd mortgage to CHASE was recorded on
26 January 19, 2007.

27 50. A Notice of Default and Election to Sell under Deed of Trust was recorded on March
28 18, 2009. The document itself was dated March 14, 2009 and purportedly executed by "Quality

1 Loan Service Corp., AS AGENT FOR BENEFICIARY BY LSI Title Company, as Agent” with
2 two illegible initials and without any name identifying the signer or his or her capacity identified.
3 At the time, Quality Loan Service Corp. was not even purportedly any entity related to the DOT.
4 None the less, the NOD was not signed under penalty of perjury nor was it notarized nor did it
5 state the language required to allow an unsworn declaration. LANGE is informed and believes
6 that the NOD was signed by a “robosigner” who had no idea what was being signed or the true
7 facts relating to the LANGE’S purported mortgage and accordingly is void ab initio.

8 51. A second Notice of Default and Election to Sell under Deed of Trust was recorded on
9 March 20, 2009. The document itself was dated March 18, 2009 and again was purportedly
10 executed by “Quality Loan Service Corp. AS AGENT FOR BENEFICIARY BY LSI Title
11 Company, as Agent” with two illegible initials and without any name or capacity identifying the
12 signer. Again, the document was not signed under penalty of perjury or notarized nor did it state
13 the language required to allow an unsworn declaration. LANGE is informed and believes that the
14 NOD was signed by a “robosigner” who had no idea what was being signed and accordingly is
15 void ab initio.

16 52. A Rescission of Notice of Default and Election to Sell Under Deed of Trust (the first
17 NOD recorded) was recorded on March 25, 2009. The document was purportedly executed on
18 March 18, 2009 and purportedly executed by “Quality Loan Service Corp. AS AGENT FOR
19 BENEFICIARY BY LSI Title Company, as Agent”. A signature appears on the “By:” line with
20 what appears to be a stamped name, “RUBI NGO” although no capacity is stated.

21 53. An invalid Substitution of Trustee was recorded on May 4, 2009 and dated on March
22 18, 2009. The Notarization states that Christine Anderson, the Attorney in Fact for JP Morgan
23 Chase Bank, National Association executed the document before the Notary on March 26, 2009.
24 The notarization was not legally completed and is invalid making the Substitution of Trustee
25 invalid. What’s more, LANGE is informed and believes that the NOD was signed by a
26 “robosigner” who had no idea what was being signed or the facts surrounding LANGE’S case and
27 accordingly is illegal. What’s more, LANGE is informed and believes that the NOD was not
28 signed in the presence of the notary, thereby independently making the notarization invalid.

1 54. The Substitution of Trustee identifies JP Morgan Chase Bank, National Association as
2 the present beneficiary of the Subject DOT yet contrary to California law, no document had been
3 recorded transferring that status to CHASE. What’s more, under California law, a later recorded
4 Substitution of Trustee is valid in regard to a prior recorded Notice of Default only if it is executed
5 no later than the time the Notice of Default is executed. Here, even though the Substitution of
6 Trustee is dated March 18, 2009, the date on which the second NOD was purportedly executed,
7 based on the notarization, the Substitution of Trustee was not executed until March 26, eight days
8 after the second NOD was purportedly executed and six days after the second NOD was recorded.
9 For this independent reason, like the first NOD, the second NOD is invalid and unenforceable.
10 Accordingly, all activities based on the NOD, including the Trustee’s sale were illegal.

11 55. Further, both NODS are invalid in that they don’t meet the requirements of California
12 Civil Code §2923.5 which requires an affidavit or declaration of the efforts of the lender to
13 prevent foreclosure before filing a Notice of Default. Both NODS are purportedly signed by a
14 company, on behalf of another company on behalf of another company none of whom is
15 represented by a person. The execution appears to consist of the same two letters although the
16 initials appear to be written by different people in each case. Further, the “signature” of the
17 anonymous signer is not notarized. Additionally, LANGE is informed and believes that the
18 NODS were signed by a “robosigner” who had no idea what was being signed or the
19 circumstances of her specific case and accordingly rendering each document illegal and void on its
20 face.

21 56. Likewise, the Notice of Trustee’s Sale (the “NTS”) is invalid since it was recorded
22 without a valid NOD. The NTS was recorded on June 26, 2009 and set the date for the trustee’s
23 sale as July 14, 2009.

24 57. LANGE’S attorney, Julie Gaviria negotiated a Trial Plan Agreement (“TPA”) with
25 WAMU whereby LANGE would pay a monthly trial payment of \$6384 and WAMU would
26 suspend the foreclosure proceedings only to be resumed in the event that LANGE breached the
27 TPA. A true and correct copy of the TPA is attached hereto as Exhibit 2. In mid September 2009,
28 WAMU sent the TPA to LANGE who signed it and returned it to WAMU on September 25, 2009.

1 Thereafter, as required by the TPA, WAMU suspended the NOD and Trustee's Sale. WAMU set
2 no date for a Trustee's Sale. None was announced orally, noticed in a newspaper or posted at the
3 site of the auction as required by California law as prerequisites of a legal trustee's sale.

4 58. LANGE timely made all payments required under the executed TPA and had and
5 continues to have the ability to make payments as due. In reliance on WAMU'S suspension of the
6 NOD and the Notice of Trustee's Sale, LANGE spent thousands of dollars to repair and modify
7 Running Ridge.

8 59. Based on the recorded and unrecorded documents, NO ONE had a right to foreclose or
9 effect a Trustee's Sale on Running Ridge. WAMU sold the note so was no longer the beneficiary
10 of the note. No valid change in beneficiary or substitution of trustee was ever recorded. All
11 defendants knew that there was no valid NOD or Substitution of Trustee. All defendants knew
12 that WAMU did not own the Subject Note so CHASE could not have purchased it. All defendants
13 knew that the Trustee's Sale could not have validly been held.

14 60. Despite such knowledge, the rest of the defendants effected the trustee's sale and
15 purported purchase of Running Ridge to ALTA and SEASIDE. After the illegal sale, Quality
16 prepared and caused a Trustee's Deed Upon Sale, purportedly transferring title to Running Ridge
17 to Defendants ALTA COMMUNITY INVESTMENT III, LLC and SEASIDE CAPITAL FUND
18 1, LP as 50% Tenants in Common. The Trustee's Sale of Running Ridge should be nullified and
19 the Trustee's Deed Upon Sale rescinded.

20 61. On July 15, 2010, LANGE came home to find a 3 Day Notice to Quit on her door
21 stating that ALTA and SEASIDE had purchased Running Ridge even though at that time, not even
22 purported title to Running Ridge had been passed to them. Accordingly, as they knew, they had
23 no standing to post such a notice. LANGE is informed and believes that the 3 Day Notice was
24 posted solely for the purpose of scaring LANGE and the other occupants of the house to move out.
25 Shocked and scared, LANGE notified Gaviria which contacted CHASE who informed her that on
26 July 6, 2010 and July 8, 2010, someone from CHASE had telephoned LANGE and received a
27 "disconnected or no longer in service" message. CHASE'S computer notes stated that
28 accordingly, CHASE had sold Running Ridge at Trustee's Sale on July 14, 2010 with at most, six

1 days notice to the public. No notice at all was given to LANGE or Gaviria which prevented
2 LANGE from appearing at the trustee's sale to oversee the process and at her option, to bid on the
3 Property. LANGE believes that had she known of the sale, she would have had the capacity to
4 obtain financing to bid. No notice of the sale was made in any newspaper. No posting regarding
5 the sale was placed at the location. If any notice of the trustee's sale was given to the public, it
6 was inadequate in time and nature such that on its face, the sale was void. The sale took place
7 despite the fact that CHASE and LANGE had a valid and enforceable TPA in place and that
8 LANGE had complied with every term thereof and was current on payments thereunder. Like
9 CHASE, Kaufman and McCarthy on behalf of ALTA and SEASIDE knew that the timing and
10 notice of the trustee's sale on Running Ridge did not meet statutory requirements and that the
11 NOD and NTS were invalid. For these independent reasons, the Trustee's Sale should be nullified
12 and the Trustee's Deed Upon Sale should be rescinded.

13 62. In addition to seeking compensatory, consequential, punitive and other damages,
14 LANGE seeks declaratory relief as to what party, entity or individual or group thereof is the owner
15 of the Subject Note and as to whether the purported DOT secures any obligation of LANGE to any
16 Defendant. If not, LANGE seeks a Final Judgment granting LANGE quiet title in the Property,
17 and the unsecured note, if any, payable to its true owners if any debt is due.

18 63. This litigation is a complex matter which will require the review and analysis of
19 thousands of pages of complex legal and securitization agreements as well as tens of thousands of
20 pages of loan origination, marketing, sale, securitization, custody, and servicing records and data.
21 Prior to the advent of this fraudulent securitization scheme, these relatively simple questions
22 would have been easy for lenders and borrowers to answer. Now, the Court must resolve them.

- 23 a. To whom is the debt lawfully owed?
- 24 b. What is the amount of any legal obligation, if any?
- 25 c. If one exists, is the debt secured or unsecured?
- 26 d. What is the chain of title to the Subject Note?
- 27 e. Who has the lawful authority to execute a valid and lawful satisfaction of the Deed of
28 Trust upon payoff or refinance?

- 1 f. Will LANGE be subject to double liability if she pays the wrong party?
- 2 g. Who has legal and proper authority to satisfy and release the deed of trust and cancel
- 3 and return the Subject Note?
- 4 h. Who has legal and proper authority to negotiate and modify any terms of the Subject
- 5 Note or DOT, settle any claims LANGE may have; and/or consent to transfer of the property or
- 6 assumption of LANGE'S obligation, if any.
- 7 i. Who is the holder in due course of the Subject Note?

8 64. LANGE is informed and believes that WAMU insured for satisfaction of the Subject

9 Note and sold the Subject Note to an entity whose name is unknown at present, to be bundled with

10 other mortgages and sold again by way of a secondary vehicle. CHASE was aware before causing

11 the recording of the faulty NODS and the invalid NTS that it was not a holder in due course, did

12 not have title to the property, was not the legal servicer of the Subject Note and had no other legal

13 ability to pursue the foreclosure and sale of Running Ridge. Despite knowing of its lack of

14 capacity, CHASE caused the trustee's sale to be had anyway.

15 65. Before causing ALTA to participate in the alleged purchase of Running Ridge,

16 Kaufman, ALTA, SEASIDE and McCarthy were specifically aware that the Subject Mortgage and

17 those with it were sold by WAMU such that WAMU, and then CHASE as ostensible receiver of

18 the Subject Mortgage, were not holders in due course of the Subject Note. Likewise, Kaufman,

19 ALTA, McCarthy and SEASIDE were aware that after WAMU sold the Note, neither WAMU nor

20 CHASE was the beneficiary of the Subject Note, despite their representations to the contrary. In

21 addition, Kaufman, ALTA, SEASIDE AND McCarthy knew that purported title documents were

22 robo-signed, the note was insured, WAMU had been prepaid in full by the securitization buyers of

23 the note as well as paid in full for the note by insurance. Kaufman, ALTA, SEASIDE and

24 McCarthy knew that CHASE did not have legal title to Running Ridge and that they could not

25 have legal title to Running Ridge. Kaufman, ALTA SEASIDE and McCarthy knew that the title

26 documents on Running Ridge as filed by LSI and QUALITY were statutorily defective, improper,

27 illegal and void ab initio leaving them with title only if LANGE didn't find out about the fraud

28 and mistakes.

1 66. CHASE is an entity that held certain obligations to LANGE by virtue of its role in the
2 events described in this complaint, and by virtue of its role as a consumer lender and claimed
3 servicer, agent, and/or successor in interest to WAMU. Building Capital, WAMU and Dunavant
4 also held obligations to LANGE as fiduciary because they acted as consumer servicers to her.
5 CHASE was bound by the duties it owed to LANGE, including the duty to avoid a foreclosure on
6 Running Ridge, LANGE’S primary and sole residence by virtue of the recently enacted “Hope for
7 Homeowners” laws including California Civil Code §2923.5 and the related Federal Acts such as
8 the Helping Families Save Their Homes Act of 2009, part of the Emergency Economic
9 Stabilization Act (“ESSA”)Pub. L. No. 111-22, 123 Stat. 1632 (2009). An expressed purpose of
10 ESSA is to “preserve ownership” 12 USCS § 5201(2) (B).
11
12

13 Securitization of the Loans and the Associated Security Instruments
14

15 67. Upon information and belief, the Subject Mortgage was securitized. The Subject
16 Mortgage was made part of the securitization process wherein certain residential mortgages were
17 securitized by aggregating a large number of promissory notes into a mortgage loan pool, and then
18 selling security interests into that pool of mortgages to investors. As part of this process, the
19 Subject Mortgage is believed to have been made part of, or was subject to a Loan Pool, a Pooling
20 and Servicing Agreement, A Collateralized Debt Obligation, a Mortgage Backed Security, a
21 Mortgage Pass-Through Certificate, a Credit Default Swap, and Investment Trust, and/or a Special
22 Purpose Vehicle.

23 68. LANGE is informed and believes that the Subject Note and the Subject DOT were
24 bifurcated such that the Subject Note was placed into, or was subject to, one or more of the
25 financial transactions listed in the previous paragraph such that ownership of all or an interest in
26 the Subject Note and thereby the Property is and can be claimed by multiple parties including but
27 not limited to and Does 1-150

28 69. By virtue of the Subject Mortgage being placed into one or more of these financial

1 transactions, LANGE alleges that her obligations, if any under the original loan contracts have
2 been nullified.

3 70. The loan contract on the Subject Loan between the LANGE and WAMU and its
4 corresponding Deed of Trust became unenforceable by any of the Defendants. Prior to the
5 trustee's sale, there were no longer any powers vested in the Subject DOT which could be
6 exercised by CHASE because in addition to the reasons set forth above, through the securitization
7 process, it no longer possessed any powers over the Property, including the power of sale.

8
9 Failure to Modify the Toxic Loans and to Abide by California Law to Help Homeowners

10

11 71. On July 30, 2008, the Hope for Homeowners Act of 2008 (the "HHA") passed
12 Congress aimed to encourage lenders to refinance distressed loans. The HHA was signed into law
13 and was later amended by the ESSA. An expressed purpose of the ESSA was to preserve home
14 ownership. Among other relief afforded by Federal law, owner-occupants who are unable to
15 afford their mortgage payments were made eligible for a program designed to avoid foreclosure
16 and save their ownership of their home. Congress and the President went further by adding the
17 Helping Families Save their Homes Act of 2009 to the ESSA.

18 72. After the 2008 Federal laws went into effect, California lawmakers followed suit to try
19 to help California residents save their homes, especially when the foreclosures were brought about
20 from lenders' abusiveness throughout the loan process. In 2008, California enacted Civil Code
21 §2920 et seq including §2923.5 which requires a lender to contact the borrower in person or by
22 telephone to assess the borrower's financial condition and "explore options for the borrower to
23 avoid foreclosure" [Civil Code § 2923.5(a) (2)] prior to commencing or proceeding with
24 foreclosure.

25 73. California law also provides that parties exercise due diligence when attempting to
26 work out a program to save a homeowner before taking actions to force the homeowner out [Civil
27 Code §2923.5(g)]. The Code section is specific as to what a lender must do in order to meet the
28 due diligence threshold. The Code includes: that a borrower has the right to request meetings with

1 the creditor [§2923.5(a)(2)], that a borrower shall be provided the toll-free telephone number made
2 available by the United States Department of Housing and Urban Development (HUD) to find a
3 HUD certified housing counseling agency [§2923.5(a)(2)], that a borrower may designate a HUD
4 certified housing counseling agency, attorney, or other advisor to discuss with the mortgagee,
5 beneficiary, or authorized agent, on borrower's behalf, options for the borrower to avoid
6 foreclosure [2923.5(f)], that any loan modification or workout plan offered be subject to approval
7 by the borrower (§2923.5(f)), and that a lender exercise further due diligence by contacting a
8 borrower by sending a letter by first class post [§2923.5(g)(1)]. California Civil Code §2923.5
9 also requires that an affidavit or declaration stating those efforts must be attached to any notice of
10 default. No such affidavit or declaration was attached to any document recorded in regard to
11 Running Ridge. Accordingly, the documents and resulting trustee's sale are invalid. The
12 legislature is clear. A lender is obligated to explore options at keeping homeowners in their homes
13 and include a declaration that such efforts have been made attached to any notice of default.

14 74. Even if the WAMU Defendants and CHASE originally made efforts to assist LANGE
15 in avoiding foreclosure on Running Ridge, and LANGE is not taking that position, they are not
16 documented on the NODS as required by law. What's more, when post NOD negotiations to
17 avoid foreclosure concluded with the TPA, with no further contact to LANGE or her attorney to
18 avoid foreclosure, CHASE cut out the legs from under LANGE by holding a trustee's sale. By
19 attempting to sell Running Ridge illegally, CHASE failed to follow the clear legislative mandate
20 to lenders to avoid foreclosure where possible.

21

22 The Metrics for Loan Modification

23 75. If a homeowner's loan is placed into a loan pool, the Borrower becomes a party to that
24 loan pool, as does the loan servicer and others. LANGE is informed and believes that various
25 agreements executed as part of the securitization of the Subject Note called for WAMU and any
26 loan servicer to act in the best interests of ALL parties to the service agreement. When WAMU
27 presold the Subject Note to a loan pool, WAMU was paid off in full.

28 76. The 2008 changes to California law included parameters setting out how to measure

1 the “best interests” of the parties to a loan pool. CHASE was to have evaluated what was in the
2 best interests of all parties (not just one or two). California Civil Code §2923.6 contains the
3 metrics. The law declares that,

4
5 “A servicer acts in the best interests of all parties if it agrees to or implements a
6 loan modification or workout plan for which both of the following apply: the loan
7 is in payment default, or payment default is reasonably foreseeable, and
8 anticipated recovery under the loan modification or workout plan exceeds the
9 anticipated recovery through foreclosure or a net present value basis.”

10 77. Thus, if the overall return anticipated to the lender under a loan modification for a
11 borrower in foreclosure is greater than the return of the anticipated recovery through a foreclosure,
12 then implementing the loan modification is deemed to be in the best interests of the borrower, the
13 lender, and the other parties to the loan pool. Here, CHASE, as purported successor in interest to
14 WAMU failed miserably in its obligations.

15 78. LANGE submits that in the context of California Civil Code §2923.6, the financial
16 return to WAMU/CHASE for the recovery of Running Ridge through foreclosure would be equal
17 to the long term financial return (through time) on the property minus the costs the lender would
18 have to incur as a result of the foreclosure/trustee’s sale. Mathematically, the formula would be as
19 follows:

20 79. Anticipated Recovery Through Foreclosure (“ARTF”)=Time Return on Asset (“TRA”)
21 –Foreclosure Costs (“FC”) or ARTF=TRA-FC where foreclosure costs include the cost of hiring
22 the resources (legal and otherwise) to notice and conduct a trustee sale on the Property, the cost of
23 hiring the resources (legal or otherwise) to conduct an eviction proceeding (Unlawful Detainer) in
24 order to lawfully remove all occupants of the Subject Property, the time and cost of engaging a
25 Real Estate Agent to list the subject Property for sale on the open market, and the time and cost of
26 procuring a new buyer for the subject property, and to qualify that buyer at current market rates for
27 a home loan.

28 80. LANGE alleges that if WAMU/CHASE would have simply converted the TPA to a
permanent loan modification at market rate, the WAMU/CHASE anticipated recovery under the

1 loan modification or workout plan would have far exceeded the recovery through foreclosure.
2 Accordingly, WAMU/CHASE violated California law setting forth lenders' mandatory duties
3 prior to placing a loan in default and thereafter. If WAMU/CHASE were contracted servicers of
4 the Subject Mortgage, WAMU/CHASE breached their contract with LANGE and mandatory
5 duties under the code section to act in the best interests of ALL parties to the agreement.
6 WAMU/CHASE did not follow the statutorily mandated parameters for determining "best interest
7 of the parties." For this independent reason, the trustee's sale was invalid and should be nullified.

8
9

WAMU/CHASE Never Had any Interest in the Property.

10 81. LANGE is informed and believes that prior to entering into the purported loan
11 contracts with her, WAMU had presold the purported loans to Doe Defendants. Accordingly,
12 WAMU was never the Lender and never had any interest in Running Ridge. WAMU and
13 KAUFMAN knew that WAMU was never the lender or beneficiary on the Subject Mortgage. For
14 this independent reason, the Subject DOT and Subject Note are void ab initio and may not serve as
15 the basis for a non-judicial foreclosure sale.

16 82. LANGE is informed and believes that each defendant is an agent of each other
17 defendant herein and that each act or omission of any defendant was done on behalf, at the behest
18 and at the express direction of each other defendant in furtherance of an illegal enterprise.

19 83. LANGE is informed and believes that CHASE is not an authorized servicer of the note
20 on behalf of the owner(s) of the note.

21

22

CLAIM FOR RELIEF

23

24 84. Despite public policy favoring troubled homeowners, and despite the State and Federal
25 laws outlined above, Defendants have ignored the law and ignored their duties to LANGE. Even
26 more, the Defendants have participated in an illegal scheme to fraudulently take LANGE'S home.
27 Accordingly, LANGE comes to this court to seek relief.

28 85. LANGE brings this action against Defendants for fraudulently getting her to buy

1 mortgages to her detriment, knowingly and illegally attempting to foreclose on one mortgage and
2 selling Running Ridge at a trustee's sale, then knowingly and without right, evict her, her husband
3 and her tenants using strong arm tactics designed to intimidate her and cause her extreme
4 emotional distress.

5
6 **FIRST CAUSE OF ACTION**

7 For

8 **WRONGFUL FORECLOSURE**

9 Against the WAMU; CHASE, as purported successor in interest to WAMU and DOES 1-100

10 86. LANGE realleges the facts and allegations set forth in Paragraphs 1 through 85 above
11 and incorporates them herein as if set forth in full.

12 87. Since they were executed and recorded prior to any Substitution of Trustee, no valid
13 Notice of Default was recorded against Running Ridge. Accordingly, the Notice of Trustee's Sale
14 of Running Ridge is void ab initio and the sale therefor illegal. The trustee's sale of July 14, 2010
15 should be nullified.

16 88. As an independent basis to prove Wrongful Foreclosure, neither ownership nor
17 designation of beneficiary was recorded making CHASE the holder in due course or beneficiary of
18 the Subject Note. Accordingly, CHASE had no authority to change trustees on the Subject Note
19 and cause a substitution of trustee to be recorded naming itself as trustee. Accordingly,
20 QUALITY on CHASE'S behalf had no standing to cause either NOD or the NTS to be recorded.
21 For this independent reason, the trustee's sale should be nullified.

22 89. As a third independent basis to prove Wrongful Foreclosure, after WAMU originated
23 the Subject Mortgage, it transferred all beneficial interest in the Subject Note to one of the
24 WAMU entities who transferred it to many DOE defendants in its securitization scheme. All
25 subsequent holders of the Subject Note took possession subject to all claims and defenses that
26 LANGE has against WAMU. WAMU retained no beneficial interest in the Subject Loan that
27 could be transferred to CHASE after the FDIC placed WAMU into receivership. Accordingly,
28 CHASE did not and could not have purchased the Subject Note and accordingly, had no right to

1 effect foreclosure or trustee's sale on Running Ridge.

2 90. Neither WAMU nor CHASE, nor anyone else has recorded a transfer of any beneficial
3 interest in the Subject Note to CHASE. If CHASE is a beneficiary, CHASE has violated its duties
4 under the law, under the securitization agreements and under the DOT by not recording the alleged
5 transfer of the beneficial interest to CHASE. By effecting the foreclosure and sale of Running
6 Ridge, CHASE acted without legal authority to do so. CHASE recorded no document to grant it
7 standing to enforce the note because CHASE was never the holder in due course of the Subject
8 Note or beneficiary of the Subject Note. Accordingly, because CHASE is not a real party in
9 interest, it had no right to a nonjudicial foreclosure on Running Ridge. CHASE couldn't even
10 obtain a judicial foreclosure without joining the owner, holder or beneficiary of the note. Chase
11 simply had no standing.

12 91. LANGE is informed and believes and thereon alleges that CHASE did not have
13 standing to sell Running Ridge because CHASE was not the legal holder or beneficiary of the
14 Subject Note. CHASE did not pay any consideration to LANGE evidenced by a promissory note
15 and cannot produce a promissory note endorsed to CHASE nor an assignment of the note to
16 CHASE. CHASE can produce no legal document giving it authority to foreclose on Running
17 Ridge. LANGE is informed and believes that CHASE cannot even identify the owner or holder of
18 the Subject Note. CHASE could not have purchased the Subject Note when it took over WAMU
19 in September 2008 because WAMU no longer owned the note.

20 92. LANGE is informed and believes that CHASE is not even an authorized servicer on
21 behalf of the owner(s)/beneficiary(ies), holder(s) in due course of the note. Accordingly for this
22 additional independent reason, the wrongful foreclosure of Running Ridge should be set aside.

23

24

SECOND CAUSE OF ACTION

25

FOR VIOLATION OF CALIFORNIA CIVIL CODE §2920 et seq.

26

Against Defendants WAMU, CHASE and DOES 1-100

27

28

93. LANGE realleges the facts and allegations set forth in Paragraphs 1 through 90 above

1 and incorporates them herein as if set forth in full.

2 94. Defendants to this Cause of Action commenced foreclosure of Running Ridge
3 in violation of California Civil Code §2923.5 by recording an invalid Notice of Default in
4 the Office of the Ventura County Recorder on March 18, 2009.

5 95. Section 2923.5 requires that a declarant make a declaration in an NOD that
6 certain specific acts were taken by the beneficiary or designated agent. Specifically,

7 A notice of default filed pursuant to Section 2924 shall include a
8 declaration that the mortgagee, beneficiary, or authorized agent has
9 contacted the borrower, has tried with due diligence to contact the borrower
as required by this section, or that no contact was required pursuant to
subdivision (h).

10 96. Incorporated within the NOD was the following paragraph which CHASE apparently
11 intended to meet the requirements of §2923.5.

12 “The Beneficiary or its designated agent declares that it has contacted the
13 borrower, tried with due diligence to contact the borrower as required by
14 California Civil Code §2923.5, or the borrower has surrendered the property to
the beneficiary or authorized agent, or is otherwise exempt from the requirements
of §2923.5”

15 97. CHASE’S language is inadequate for multiple reasons thereby rendering invalid
16 the NOD’s and subsequent trustee’s sale. Section 2923.5 requires that a “declaration”
17 containing the above language be included within an NOD for it to be valid. The language is
18 unclear whether the declaration must be under penalty of perjury but given the gravity with
19 which the legislature recognized and attempted to remedy the immense foreclosure problems
20 facing Californians, it is reasonable to interpret legislative intent as demanding it.

22 98. California Code of Civil Procedure §2015.5 sets forth the requirements for a
23 declaration under penalty of perjury.

24
25
26 “Whenever, under any law of this state or under any rule,
27 regulation, order or requirement made pursuant to the law of this state, any
28 matter is required . . . to be supported, evidenced, established, or proved
by the sworn statement, declaration, verification, certificate, oath, or
affidavit, in writing of the person making the same . . . such matter may

1 with like force and effect be supported, evidenced, established or proved
2 by the unsworn statement, declaration, verification, or certificate in
3 writing of such person which recites that it is certified or declared by him
4 or her to be true under penalty of perjury, is subscribed by him or her, and
5 (1), if executed within this state, states that date and place of execution, or
6 (2), if executed at any place, within or without this states the date of
7 execution and that it is certified or declared under the laws of the State of
8 California.”

9 99. None of these requirements are met. What’s more, they purport to be signed
10 by LSI on behalf of CRC on behalf of the beneficiary. LANGE is informed and believes
11 and thereby alleges that no agreements exist creating any relationship among those
12 parties. What’s more, since CHASE was not validly the beneficiary, CHASE had no
13 right to contract with CRC, even if there was an agreement.

14 100. Whether or not the declaration required pursuant to CCP §2015.5 must be
15 signed under penalty of perjury, it must certainly be signed by an identified person. The
16 name beneath the signature line on both NODS was LSI for CRC. Indecipherable scrawl
17 is on the signature line. Certainly, a declaration must be made by an identified real
18 person with personal knowledge of the matters stated such that the person could testify as
19 to the matters set forth in a court of law if required to do so. Nothing on either NOD
20 even identifies the name of the signer/declarant. A corporation is not able to sign a
21 declaration, only a human being is.

22 101. LANGE is additionally informed and believes that the indecipherable
23 initials scrawled on the signature line were made by a so called “robosigner”, a person
24 who signed hundreds or thousands of NOD’s and other documents on behalf of banks,
25 trustees and title companies without even reading them let alone having investigated the
26 individual case to know whether the actions required by 2923.5 were met. Because the
27 signer of the NOD’s had no knowledge as to the information contained in his or her
28

1 declaration, independent of other bases, the declaration and therefore each NOD is
2 invalid for failing to meet the requirements of California Civil Code §2923.5. Absent a
3 valid NOD, the Notice of Sale was invalid and the trustee's sale illegal. The trustee's
4 sale should be set aside.

5
6 102. Based on behavior such as that exhibited by CHASE and its agents herein,
7 on October 1, 2010, California Attorney General (now Governor) Jerry Brown sent a
8 letter to CHASE (Exhibit 3) and ordered CHASE to halt all foreclosures in California. A
9 copy of the letter is posted on the Attorney General's website. Mr. Brown wrote,

10
11

The Office of the Attorney General writes to demand that JP
Morgan Chase demonstrate immediately that it conducts foreclosures in
compliance with California Civil Code, section 2923.5 or, if it cannot, halt
all foreclosures in California until it can.

12
13
14
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16

Section 2923.5, subdivision (b) provides that a lender may not
record a notice of default in California for a California mortgage
originated between January 1, 2003 and December 31, 2007, unless it can
declare that it "has contacted the borrower, has tried with due diligence to
contact the borrower as required by this section, or that no contact was
required pursuant to subdivision (h)."

17
18
19
20
21

JP Morgan Chase has admitted that employees assigned to
handling foreclosures signed affidavits without personally reviewing the
contents of borrowers' loan files. Thus, borrowers suffered the
foreclosure of their homes based on affidavits which JP Morgan Chase
had not confirmed to be accurate. This admission strongly suggests that
any purported verification by JP Morgan Chase that it complied with
section 2923.5 before commencing a foreclosure in California is similarly
suspect.

22
23
24
25

103. On October 8, 2010, the Attorney General called on all lenders in
California to halt foreclosing on California homes until they can demonstrate
compliance with state law.

26
27
28

104. Based on information and belief, foreclosures have been suspended
by state attorneys general in most states based on the testimony of CHASE, Ally
(GMAC), Bank of America and other banks that declarations and affidavits were

1 manufactured to commence foreclosures that were not based on the personal
2 knowledge of the “robo-signers,” whose names and signatures appeared on the
3 foreclosure documents without the declarants possessing any personal knowledge
4 of the matters stated therein.

5
6 **THIRD CAUSE OF ACTION**

7 **FOR UNJUST ENRICHMENT**
8 **AGAINST ALL DEFENDANTS**

9 105. As to each Count of the Third Cause of Action, LANGE realleges the facts and
10 allegations set forth in Paragraphs 1 through 104 above and incorporates them herein as if set forth
11 in full.

12
13 Count 1: Against CHASE

14 106. CHASE had no interest in LANGE’S mortgage or in Running Ridge, so
15 payments made to CHASE by LANGE in the sum of approximately \$56,700 in 2009 and
16 2010 constitute unjust enrichment. Additionally, because CHASE had no interest in
17 LANGE’S mortgage or in Running Ridge, the sales price paid CHASE by Defendants
18 ALTA III and SEASIDE is a further unjust enrichment. What’s more, LANGE is
19 informed and believes that CHASE agents and employees knew that if a trustee’s sale
20 was not held by July 14, 2010, the entire foreclosure process would have to be repeated if
21 foreclosure was to proceed so even knowing that there was insufficient notice to sell
22 Running Ridge legally at trustee’s sale, CHASE directed QUALITY to conduct the sale
23 anyway hoping that LANGE wouldn’t notice the violation of the law and her rights.
24 LANGE is informed and believes that WAMU purchased credit default insurance so that
25 WAMU would receive the balance due on the Subject Note when LANGE defaulted, in
26 addition to any money WAMU received when it securitized the Subject Note.
27
28

1 WAMU/CHASE was also unjustly enriched by any money it received pursuant to credit
2 default insurance. WAMU/CHASE was unjustly enriched by any money it received in
3 any way for the Subject Note/Mortgage that it didn't apply toward payoff of the Subject
4 Note.

5
6 107. LANGE is informed and believes and thereon alleges that WAMU presold
7 the Subject Note in an amount to be proven at trial. Because it profited from fraudulently
8 inducing LANGE to enter into the Subject Note, such profit should be disgorged to
9 LANGE.

10 108. For these independent reasons, CHASE should disgorge to LANGE
11 the amounts by which it was unjustly enriched.

12
13
14 Count 4: against ALTA and SEASIDE

15 109. LANGE is informed and believes that through his significant position at
16 WAMU securitizing mortgages, KAUFMAN knew that WAMU and thereby CHASE
17 had no interest in the Subject Mortgage or was a holder in due course of the Subject Note.
18 KAUFMAN knew that thereby, CHASE had no interest in the Subject DOT or Running
19 Ridge. LANGE is informed and believes and thereon alleges that KAUFMAN knew that
20 the foreclosure documents (NOD, etc.) were signed by a robo signer and were therefore
21 illegal. LANGE is informed and believes and thereon alleges that, knowing the above
22 and also knowing that proper notice of the trustee's sale on Running Ridge was not given,
23 KAUFMAN and MCCARTHY, owners and operators of ALTA III and SEASIDE knew
24 that they could not legally buy Running Ridge at the trustee's sale there on. Despite this
25 knowledge, they purportedly bought Running Ridge which unjustly enriches them with
26 purported title. LANGE has been and continues to pay ALTA III and SEASIDE and
27
28

1 thereby KAUFMAN and MCCARTHY \$6,000 per month to continue to live in Running
2 Ridge. Since these subject defendants have no legal right to Running Ridge, they are
3 unjustly enriched by claiming title to Running Ridge and the monthly amount and should
4 disgorge it back to LANGE.
5

6
7 **FOURTH CAUSE OF ACTION**

8 FOR VIOLATION OF RESPA AND TILA

9 Against WAMU, CHASE, and DOES 1-100

10 110. LANGE realleges and incorporates by reference the allegations contained in
11 paragraphs 1 through 109.

12 111. The WAMU and its agents made material misrepresentations and omissions
13 with respect to the terms of the Subject Mortgage in violation of the Truth in Lending Act
14 (“TILA”). LANGE is informed and believes that WAMU concealed the terms of the
15 Subject Mortgage with the intention of inducing LANGE to refrain from investigating
16 and challenging the disclosures until the period for rescinding the Subject Mortgage had
17 expired. LANGE did not receive any documents from any defendant after her meeting to
18 sign documents in 2006.
19

20 112. The Subject Mortgage is a loan subject to the provisions of RESPA 12
21 U.S.C. §2605 et. seq. and California Financial Code §50505.
22

23 113. On December 15, 2010, LANGE requested from CHASE all documents
24 relating to the Subject Mortgage. On January 31, 2011, LANGE received three
25 documents from CHASE, including a purported accounting of payments LANGE made
26 pursuant to the TPA, at best an incomplete response to her request in violation of State
27 and Federal Law.
28

1 month which she paid timely and faithfully each month for nine months following the
2 execution of the TPA. In consideration of paying WAMU such a large mortgage
3 payment, WAMU agreed and committed to suspend the foreclosure and notice of
4 trustee's sale it had unlawfully placed against Running Ridge as long as LANGE
5 continued to make the payments. Further, WAMU agreed to review modification with
6 LANGE which by statute required contact between WAMU and Gaviria. No contact was
7 had other than when WAMU repeatedly lost track of the financial data LANGE had
8 provided. Without any notice to either LANGE or Gaviria or legal notice to the public,
9 and despite LANGE'S consistent record of timely making her monthly payment, WAMU
10 breached its obligation to LANGE and sold Running Ridge at a trustee's sale on July 14,
11 2010, exactly one year after it had caused an illegal Notice of Trustee's Sale to be
12 recorded with the Ventura County Recorder.
13

14
15 119. LANGE has been severely damaged as a result of WAMU's breach
16 including but not limited to the following. Unless she prevails in this action, LANGE
17 will have lost all money she has invested in the property, either by way of the payments
18 on the Original and Subject Mortgages, as well as the tens of thousands of dollars in
19 modifications to Running Ridge to make it eco-friendly, chemical free and non-toxic
20 when she bought it. In reliance on WAMU'S suspension of the foreclosure and trustee's
21 sale, LANGE spent thousands of dollars more performing maintenance and updating
22 Running Ridge which she would not have spent had she not entered into the TPA with
23 WAMU. She has been forced to hire attorneys and others to defend against an improper
24 unlawful detainer action by ALTA and SEASIDE. She has been forced to hire attorneys
25 to prosecute this action. She has been forced to pay to the attorney for ALTA and
26 SEASIDE more than \$6,000 per month in order to stay in her house. The Attorney has
27
28

1 been ordered to and LANGE is informed and believes that the attorney has deposited
2 LANGE'S payments in his attorney-client trust account to be returned to her if she
3 prevails in the instant suit as against ALTA and SEASIDE.

4 120. LANGE seeks specific performance of the TPA consistent with CHASE'S
5 statutory obligations to work directly with LANGE to attempt to effect modification and
6 to modify what CHASE contends is the Subject Mortgage if any modification would
7 provide the parties with more revenue than foreclosing. In the alternative, LANGE seeks
8 reimbursement of her damages in an amount to be proven at trial.
9

10

11 Count 2: Against WAMU, CHASE and DOES 1-150

12

13 121. LANGE is informed and believes that WAMU routinely approved predatory
14 real estate loans to unqualified buyers in 2006 and implemented unlawful lending
15 practices by encouraging brokers and loan officers to falsify borrowers' income and
16 assets to meet underwriting guidelines when borrowers were not qualified.

17

18 122. LANGE is informed and believes that WAMU presold the Subject Mortgage
19 such that WAMU was never the holder in due course of the Subject Note but was merely
20 a pipeline through which the subject note flowed to WMCC, an investment bank or
21 another entity as the holder in due course upon LANGE'S signature. After receipt, the
22 holder of the Subject Note bundled the Subject Note with numerous other residential
23 mortgages into residential mortgage-backed securities ("RMBS") which were structured
24 into synthetic collateralized debt obligations ("CDOs") and sold to investors.

25

26 123. LANGE is informed and believes and thereon alleges that the portfolio of
27 RMBS underlying the synthetic CDOs was selected by a Doe hedge fund with economic
28 interests directly adverse to borrowers and investors, and that the hedge fund and the

28

1 investment bank intended to short the portfolio it helped to select by entering into credit
2 default swaps to buy protection against the almost certain event that the promissory notes
3 would default. WAMU expected that LANGE would not have the ability to repay the
4 loan. It was not a matter of being unconcerned with a possible outcome that LANGE
5 would default. They knew.
6

7 124. WAMU sponsored the securitization transaction. Securitization of mortgage
8 loans was an integral part of WAMU's management of its capital. WAMU engaged in
9 securitizations of first lien single-family residential mortgage loans through WMMSC as
10 depositor beginning in 2001. At most, WAMU acted only as a servicer of the Subject
11 Mortgage.
12

13 125. WAMU failed to disclose to LANGE that its economic interests were
14 adverse to hers and that WAMU expected to profit when LANGE found it impossible to
15 perform and defaulted on the Subject Mortgage.
16

17 126. If there was a contract between LANGE and WAMU, WAMU and CHASE
18 breached it. In the alternative, no contract was formed at all. A necessary element in the
19 formation of an enforceable contract under common law is a meeting of the minds. Two
20 or more parties must share an expectation that a future event will occur. LANGE
21 expected that she would borrow money from WAMU, she would pay it back, and then
22 she would own Running Ridge free and clear. WAMU expected that LANGE would
23 borrow money, she would not be able to pay it back and then WAMU or its investors
24 would own Running Ridge. In the alternative to a breach of contract by WAMU and
25 CHASE, since there was no shared expectation – no meeting of the minds – no contract
26 was formed between LANGE and WAMU.
27

28 127. In addition to WAMU's expectation that LANGE would lose title to

1 Running Ridge through foreclosure, WAMU anticipated being merely a pipeline through
2 which the Subject Note would flow to the ultimate holders in due course immediately
3 after LANGE signed it. LANGE is informed and believes that WAMU purchased credit
4 default insurance so that WAMU would receive the balance due on the Subject Note
5 when LANGE defaulted, in addition to any money WAMU received when it securitized
6 the Subject Note and payments LANGE paid on the Subject Note.
7

8 128. Not only did WAMU dispense with conventional underwriting practices in
9 2006, it also paid premium fees and other incentives to mortgage brokers (like
10 BUILDING CAPITAL and DUNAVANT) who signed up the riskiest borrowers. Fueled
11 by spiraling profits to CHASE, WAMU and other banks, common law principles
12 disintegrated including those of contract formation, customary underwriting practices,
13 and statutory procedures for transferring interests in real property, including the
14 recordation of transfers of interests in real property.
15

16 129. WAMU expected that LANGE would not perform, that she would merely be
17 one victim in a scheme in which:

18 (1) WAMU's fees if servicer and otherwise would be greater as the number of
19 loans increased;

20 (2) WAMU's fees if servicer and otherwise would be greater as the balances
21 of loans increased;

22 (3) WAMU would recover any of its unpaid interest in the Subject Mortgage,
23 if any, through credit default insurance when LANGE inevitably defaulted; and
24

25 (4) WAMU would face no risk of loss in the event of LANGE'S default since
26 they lent LANGE no money or if it did, was paid a like amount with a premium by
27 investors even before the loan was closed.
28

1 (5) WAMU would face no risk of loss in the event of LANGE'S default since
2 they purchased and were made whole by insurance to the degree that they had any
3 shortfall.

4 (6) If there was a mortgage agreed to between WAMU and LANGE, the
5 mortgage was paid off several times over.
6

7 130. LANGE'S participation in the contract for the Subject Mortgage was
8 procured by overt and covert misrepresentations and nondisclosures. The parties did not
9 share a single expectation with respect to any of the terms of the mortgage contract and
10 therefore the contract was void ab initio. Had LANGE known that WAMU was merely a
11 pipeline to feed notes into securitizations and collateralizations, she would not have
12 entered into the Subject Mortgage.
13

14 131. In the alternative, if the Court finds that there was an enforceable contract
15 between WAMU and LANGE, WAMU sold the mortgage contract before it was even
16 signed and never possessed it or the Subject DOT and Subject Promissory Note reflecting
17 it. Accordingly, CHASE could not have purchased the mortgage contract and had no
18 right to foreclose upon it.
19

20 132. In the alternative, no enforceable contract was formed between WAMU and
21 LANGE so the Subject DOT and the Subject Note were not assets of WAMU that could
22 be acquired or assumed by CHASE from the Federal Deposit Insurance Corporation
23 ("FDIC") as receiver after WAMU was closed by OTS on September 25, 2008.

24 133. CHASE had no right to receive payment from LANGE under the Subject
25 Mortgage and had no right to foreclose on Running Ridge.

26 134. LANGE paid CHASE pursuant to the TPA until CHASE stopped accepting
27 her payments. LANGE has offered and continues to be able to pay off the Subject
28

1 Mortgage pursuant to the TPA.

2

3

SIXTH CAUSE OF ACTION

4

FOR FRAUD AND CONCEALMENT

5

AGAINST WAMU, CHASE and DOES 1-250

6

7

135. As to all Counts, LANGE realleges and incorporates by reference the

8

allegations contained in paragraphs 1 through 82.

9

Count 1: Against WAMU and CHASE

10

136. WAMU and Building Capital and Dunavant as agents for WAMU knew and

11

affirmatively concealed material facts from LANGE to induce her to consummate the

12

Subject Mortgage, including but not limited to:

13

(1.) WAMU did not follow conventional, sound underwriting practices;

14

(2.) LANGE would not be able to afford the increased payments required

15

under the Subject Mortgage, a negative amortization Adjustable Rate Mortgage that

16

allowed her payments to increase by more than double yet these defendants told LANGE

17

that she could afford the payments or be able to refinance the Subject Mortgage before

18

the payments increased.

19

(3.) LANGE would not be able to refinance her negative amortization ARM

20

without a significant prepayment penalty before she was forced to make dramatically

21

increased payments; and

22

(4.) The Subject Mortgage had been presold such that WAMU was merely a

23

pipeline to provide notes to third parties to be securitized rendering it impossible for

24

WAMU to provide LANGE with a full reconveyance upon completion of her payments

25

on the Subject Note or provide her with the information set out in Count 2 below.

26

27

28

1 (5.) At all relevant times herein, DUNAVANT was not licensed as a mortgage
2 broker, a license he needed to legally perform the services he provided to LANGE.

3 (6.) At all relevant times herein, WAMU was aware that Dunavant was not
4 licensed to perform the services he provided to LANGE.

5 (7.) WAMU paid Building Capital and Dunavant more money to sell LANGE
6 on a negative amortized ARM rather than better suited mortgage.

8 Additionally, Dunavant and Building Capital affirmatively told LANGE that:

9 (1.) She could afford the Subject Mortgage through its course.

10 (2.) She could refinance the Subject Mortgage without penalty before her
11 payments would increase.

12 (3.) She was better off getting a negative amortized adjusted rate mortgage than a
13 fixed rate mortgage.

14 (4.) She was better off with a fixed rate mortgage as a second mortgage than a
15 Home Equity Line of Credit (“HELOC”) even though she wanted and requested a
16 HELOC.

17
18 137. As agents of WAMU, Dunavant and Building Capital made the above
19 statements knowing that they were false, intending that LANGE rely on these statements
20 to her detriment and their significant benefit. Like so many others duped into taking out
21 these toxic purported loans, LANGE did reasonably rely on the statements and now has
22 suffered significant actual and potential damages as a result of that reliance.

23
24 138. If the subject defendants had not committed fraud by omission and
25 commission such that LANGE had been aware of the truth, LANGE would not have
26 entered into an agreement with Building Capital and Dunavant for them to provide
27 services in an effort to obtain refinancing for the Original Mortgage. If the subject
28

1 defendants had not committed fraud as well as concealed the truth, LANGE would not
2 have entered into the Subject Mortgage with WAMU.

3

4

Count 2: Against CHASE

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139. CHASE has concealed and continues to conceal from LANGE the following material facts in its possession which LANGE requested that would confirm CHASE'S fraud by omission and commission and would also enable her to ascertain whether her payments to WAMU and CHASE were received by the owner or beneficiary of the

Subject Note:

(1.) a copy of the Final Loan Application, including notations by underwriters,

(2.) the contract, duly signed by an officer of the corporation, which committed

WAMU to lend funds to LANGE,

(3.) a ledger statement of WAMU showing: (a) the account and the source of the

funds loaned to LANGE, and (b) entry in WAMU's books of the Subject

Note as an asset or cash item,

(4.) the identity and contact information of the owner of the Subject Note and the

holder of the Subject Note immediately before the trustee's sale, and whether

that entity or entities filed for bankruptcy,

(5.) an authenticated copy of the front and back sides of the original Promissory

Note showing a complete chronological chain of all endorsements and

assignments,

(6.) the names and addresses of each and every individual or entity that has

received a full or partial assignment of the Subject Note,

(7.) whether there has been a sale or assignment of the servicing rights to the

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- Subject Mortgage account, and if so, the names and addresses of each and every individual or entity that has received such servicing rights,
- (8.) whether the Subject Mortgage account has been a part of any mortgage pool since the inception of the loan, and if so, the identity of each account mortgage pool that the Subject Mortgage has been a part of,
- (9.) whether any assignment of the Subject Note has been recorded in the Office of the Ventura County Recorder.
- (10.) whether there has been any assignment of this mortgage to MERS (Mortgage Electronic Registration System) or any other mortgage registry service;
- (11.) whether any investors participated in any mortgage-backed security collateralized debt obligation, or other mortgage security instrument that included the Subject Mortgage,
- (12.) copies of all sales contracts, servicing agreements, assignments, allonges, transfers, indemnification agreements, recourse agreements and other agreements related to LANGE’S account,
- (13.) whether the Subject Mortgage is part of a mortgage pool,
- (14.) whether any investor or other interested party approved of the foreclosure of Running Ridge, and
- (15.) the CUSIP number for LANGE’S loan account.

140. By refusing to provide said documents, CHASE participates fully in the fraud committed by WAMU. LANGE is informed and believes and alleges thereon that CHASE knew of the fraud of WAMU, Building Capital and Dunavant and has adopted it to their own benefit and thereby continue to perpetrate the fraud.

1 141. CHASE through its agents further perpetuated the fraud by relying on it as
2 bases on which to illegally foreclose on LANGE.

3 142. CHASE entered into the TPA with LANGE telling her that CHASE would
4 act in good faith toward modifying her purported loan with CHASE. CHASE knew that
5 its statements were not true. CHASE intended to keep the money LANGE paid pursuant
6 to the TPA and never intended to grant or even consider LANGE for a modified loan.
7 LANGE relied on CHASE'S misrepresentation to her detriment, investing a significant
8 amount of money in the repair and maintenance of Running Ridge. Under cover of the
9 TPA, CHASE sold Running Ridge out from under LANGE without attempting to work
10 out a modification and without discussing its findings and alternatives regarding a
11 modification with either LANGE or GAVIRIA. CHASE failed to meet its legal
12 obligations to LANGE in order to rush through the trustee's sale of Running Ridge
13 without the legally required notice in order to beat the one year deadline after which
14 CHASE would have had to begin foreclosure proceedings again.
15

16 143. As a direct and proximate result of the fraud and concealment of all subject
17 parties, LANGE has suffered and continues to suffer damages in an amount to be proved
18 at trial. LANGE has suffered and continues to suffer severe emotional distress as a result
19 of the subject defendants' fraud and concealment. LANGE will suffer irreparable injury
20 not compensable in damages if the trustee's sale of Running Ridge is not nullified and the
21 Trustee's Deed Upon Sale is not rescinded.
22

23 144. After the remodeling LANGE did to Running Ridge, the property has
24 become uniquely chemical free. No other property can provide the safety against her
25 severe allergies absent an enormous and incalculable investment of time, energy and
26 money. Even if LANGE were to undertake such remodeling of a new property, she
27
28

1 would be forced to suffer unmercifully until the new property became chemical free, a
2 process that could take more than a year.

3
4

Count 3: Against WAMU

5
6 145. LANGE is informed and believes that for a period of several years,
7 KAUFMAN organized and effected the fraudulent scheme set out above for WAMU.
8 Pursuant to that fraudulent enterprise, LANGE was caught in KAUFMAN’S and
9 WAMU’S web of outrageous deceit which has led LANGE and so many other
10 homeowners to lose their homes and be threatened with the prospect of losing their
11 homes. Based on the fraudulent practices put into effect and endorsed by KAUFMAN,
12 LANGE relied on what she was told and took out the subject loan to her detriment.

13
14 146. As to all counts, the subject defendants’ behavior is outrageous, malicious,
15 oppressive and fraudulent. Accordingly, punitive damages are appropriate in an amount
16 sufficient to deter the subject defendants from repeating their despicable behavior and
17 deter others from behaving similarly.

18
19

SEVENTH CAUSE OF ACTION

20
21

FOR QUIET TITLE
AGAINST CHASE, WAMU, ALTA and SEASIDE and DOES 1-250

22
23

147. LANGE realleges and incorporates by reference the allegations contained in
24 paragraphs 1 through 146.

25
26

148. LANGE seeks to quiet title against the claims of the subject defendants and
26 all persons claiming any legal or equitable right, title, estate, lien, or adverse interest in
27 Running Ridge as of the date the Complaint in this matter was filed (CCP §760.020).

27
28

1 149. LANGE is the title holder of Running Ridge according to terms of a Trust
2 Transfer Deed dated June 8, 2006. A true and correct copy of the Deed is attached hereto
3 as Exhibit 5.

4 150. LANGE is informed and believes that WAMU securitized the Subject Note.
5 She is also informed and believes that the instrument ultimately containing the securitized
6 Subject Note has been terminated with the lawful beneficiary(ies) paid in full.
7 Accordingly, CHASE owed LANGE a duty to convey the Subject DOT to LANGE but
8 they did not do so.
9

10 151. Paragraph 23 of the Subject DOT states,
11

12 “23. RECONVEYANCE. Upon payment of all sums secured by
13 this Security Instrument, Lender shall request Trustee to reconvey the
14 Property and shall surrender this Security Instrument and all notes
15 evidencing debt secured by this Security Instrument to Trustee. Trustee
16 shall reconvey the Property without warranty to the person or persons
17 legally entitled to it. Lender may charge such person or persons a
18 reasonable fee for reconveying the Property, but only if the fee is paid to a
19 third party (such as the Trustee) for services rendered and the charging of
20 the fee is permitted under Applicable Law. If the fee charged does not
21 exceed the fee set by Applicable Law, the fee is conclusively presumed to
22 be reasonable.”

19 152. The Subject DOT does not state that LANGE must make full payment, only
20 that all secured sums must be paid. LANGE alleges that the obligations owed to WAMU
21 under the Subject DOT were fulfilled prior to the trustee’s sale of July 14, 2010 and the
22 loan was fully paid when WAMU received funds in excess of the balance on the Subject
23 Note as proceeds of sale through securitization(s) of the Subject Note and insurance
24 proceeds from Credit Default Swaps.
25

26 153. Instead of reconveying Running Ridge to LANGE, CHASE illegally placed
27 Running Ridge for auction at trustee’s sale. ALTA and SEASIDE purportedly purchased
28

1 Running Ridge at the trustee's sale and rely on the illegally issued and recorded Trustee's
2 Deed Upon Sale as evidence of their claim. Based on the above causes of action and the
3 knowledge and awareness of ALTA'S and SEASIDE'S principals that the DOT was
4 fraudulently obtained, trustee's sale was illegal and the NOD and NTS were void ab
5 initio, these said defendants cannot be bona fide purchasers for value and can have no
6 interest in Running Ridge.
7

8 154. Defendants' claims are adverse to LANGE because LANGE is informed and
9 believes that none of the Defendants is the holder of the Subject Note, none of the
10 Defendants can prove any interest in the Subject Note, none of the defendants can prove
11 that they were the servicer of the purported mortgage and none of them can prove that the
12 Subject Note is secured by the Subject DOT, as well as for the reasons set forth in the
13 preceding causes of action. As such, Defendants have no right, title, estate, lien, or
14 interest in Running Ridge.
15

16 155. Lange therefore seeks a judicial declaration that the title to the subject
17 property is vested solely in LANGE and that Defendants have no right, title, estate, lien,
18 or interest in Running Ridge and that Defendants and each of them be forever enjoined
19 from asserting any right, title, estate, lien or interest in Running Ridge adverse to
20 LANGE.
21

22 **EIGHTH CAUSE OF ACTION**

23 FOR DECLARATORY AND INJUNCTIVE RELIEF
24 AGAINST WAMU, CHASE, ALTA, SEASIDE and DOES 1-250
25

26 156. LANGE realleges and incorporates by reference the allegations contained in
27 paragraphs 1 through 155.
28

1 157. An actual controversy has arisen and now exists between LANGE and the
2 subject defendants concerning their respective rights and duties. LANGE contends:

3 (a) that prior to the trustee's sale and thereafter, no defendant has been the holder
4 in due course or beneficiary of the Subject Note. However, CHASE contends that it was
5 the owner and beneficiary of the Subject Note.
6

7 (b) that prior to the trustee's sale and since, no defendant was a real party in
8 interest, had standing or was entitled to accelerate the maturity of any obligation and sell
9 Running Ridge because they were not a beneficiary or authorized agent of a beneficiary
10 under the Subject Note. However, Defendants assert that the trustee's sale was proper.
11

12 158. LANGE desires a judicial determination of her rights and duties as to the
13 validity of the Subject Note and Subject DOT, and Defendants' rights to have sold
14 Running Ridge pursuant to nonjudicial foreclosure on Running Ridge.

15 159. LANGE is informed and believes that ALTA and SEASIDE have advertised
16 Running Ridge for sale and unless restrained intend to sell Running Ridge for profit
17 causing LANGE even further great and irreparable injury for which pecuniary
18 compensation would not afford adequate relief.

19 160. Defendants' wrongful conduct, unless and until restrained by order of this
20 Court will cause great, irreparable injury to LANGE as the value of the residence
21 declines under cloud of title and LANGE faces another attempt to evict her from Running
22 Ridge. LANGE remodeled Running Ridge and has made it a chemical free, nontoxic
23 environment in which she can live without sickness from her severe allergies and as an
24 example for patients from around the world with similar problems. Running Ridge is
25 unique and cannot be replicated without an enormous investment of time, energy and
26 money.
27
28

1 LANGE’S right to title in Running Ridge.

2 165. The aforementioned publications by the foreclosing and purchasing
3 defendants, and each of them were unjustified and without privilege.

4 166. It is reasonably foreseeable that the aforementioned publications by the
5 foreclosing defendants, and each of them, casts doubt on LANGE’S right to title in her
6 property, which has caused and continues to cause damages to her.

7 167. As a result of said publications from the subject defendants, and each of
8 them, LANGE has suffered and continues to suffer loss of money, credit, real property
9 value, and reputation in an amount to be proven at trial.
10

11

12

TENTH CAUSE OF ACTION

13

14 FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
15 AGAINST WAMU, CHASE, ALTA, SEASIDE and DOES 1-250

16

17 168. As to all Counts, LANGE realleges and incorporates by reference the
18 allegations contained in paragraphs 1 through 167.

19

20 169. LANGE contends that the acts and omissions of the subject defendants, and
21 each of them, constitute extreme and outrageous conduct.

22

23 170. LANGE further contends that the subject defendants, and each of them,
24 engaged in such conduct either intentionally or with reckless disregard as to the effect on
25 LANGE.

26

27 171. As a result of said extreme and outrageous conduct by the subject
28 defendants, and each of them, LANGE has suffered severe emotional distress.

Count 1 Against CHASE and DOES 200-250

27

28 172. CHASE activities go far beyond those of pursuing its purported economic
interests. Among other things, CHASE is well aware that as set forth above, through

1 securitization and otherwise, it had no economic interest in the Subject DOT so its
2 attempts to enforce its claimed interests constitute extreme and outrageous fraudulent
3 conduct. That CHASE has pursued similar activities against hundreds or thousands of
4 California homeowners makes the conduct all the more extreme and outrageous. It is
5 extreme and outrageous that CHASE knowingly and intentionally used a robosigner to
6 effect the foreclosure on Running Ridge including declarations that CHASE had followed
7 the law, when the robosigner in fact had no knowledge of what was being signed or what
8 CHASE and its agents had done in relation to LANGE and Running Ridge. That
9 CHASE'S agents at Quality and LSI did the same thing, especially doing so with
10 CHASE'S knowledge, if not direction constitutes further evidence of extreme and
11 outrageous conduct. That CHASE'S agents and employees lied about the reason CHASE
12 directed that the foreclosure sale take place is extreme and outrageous conduct. CHASE
13 was well aware that selling LANGE'S home under the circumstances was extreme and
14 outrageous and that it would cause LANGE extreme emotional distress, yet CHASE did
15 so anyway. Collectively, CHASE'S activities and those of its agents involved deceit
16 and falsehood and therefore was inherently unreasonable.
17
18
19

20 Count 2 Against ALTA, SEASIDE and DOES 150-200
21

22 173. At the express direction of SEASIDE on behalf of ALTA and itself, even
23 knowing that it had illegally paid for Running Ridge at the trustee's sale, and knowing
24 that title had not yet been transferred to it, SEASIDE directed Nancy Mura, SEASIDE'S
25 employee to go to LANGE'S home to persuade LANGE and the other tenants of Running
26 Ridge to move immediately. Mura did so by threatening LANGE that if she didn't move
27 right away, she would have Luke McCarthy pay her a very unpleasant visit and that that
28

1 he would be very unpleasant if he had to come. Mura pressed LANGE to move because,
2 “He never loses these things.” Such efforts to scare LANGE and the other tenants of
3 Running Ridge to leave even though ALTA and SEASIDE had no legal title to Running
4 Ridge is extreme and outrageous and caused LANGE extreme emotional distress.
5

6
7 **ELEVENTH CAUSE OF ACTION**

8 FOR BREACH OF THE DUTY OF GOOD FAITH AND FAIR DEALING
9 AGAINST WAMU, CHASE and DOES 100-250

10 174. LANGE realleges and incorporates by reference the allegations contained in
11 paragraphs 1 through 173.

12 175. The subject defendants, and each of them, entered into oral and/or written
13 contracts with LANGE. In California, all contracts are deemed to include a duty of good
14 faith and fair dealing owed by each party of a contract to each other party of the contract.
15 By such acts and omissions reflected in the above paragraphs, the subject defendants and
16 each of them have breached this duty thereby causing LANGE damage and harm in
17 amounts to be proven at trial.
18

19
20 **TWELFTH CAUSE OF ACTION**

21 FOR CONSTRUCTIVE TRUST
22 AGAINST DEFENDANTS CHASE, ALTA, SEASIDE and DOES 100-250

23 176. As to all Counts, LANGE realleges and incorporates by reference the
24 allegations contained in paragraphs 1 through 175.
25

26 177. Plaintiff Susan Lange owns her home located at 276 Running Ridge Trail;
27 Ojai, California.

28 Count 1 Against ALTA and SEASIDE

1 178. ALTA and SEASIDE paid approximately \$750,000 at trustee's sale for
2 Running Ridge. LANGE is informed and believes and thereon alleges that at the time,
3 principals of both companies knew that Running Ridge could not be legally sold. Despite
4 that they knew that Running Ridge could not be legally sold, ALTA and SEASIDE paid
5 CHASE'S agents in order to get the agents to execute a Trustee's Deed Upon Sale which
6 they succeeded in doing. CHASE, ALTA, SEASIDE and CHASE'S agents knew that
7 Running Ridge could not be legally sold.
8

9 179. By their wrongful acts as set forth above, ALTA and SEASIDE hold
10 Running Ridge as a constructive trustee for LANGE'S benefit.
11

12 Count 2 Against CHASE
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14 180. CHASE wrongfully claimed a security interest in and/or that it was the legal
15 servicer for those who claimed a security interest in Running Ridge. CHASE knew of
16 and thereby adopted WAMU'S wrongs in regard to Running Ridge. Additionally,
17 CHASE perpetrated more wrongs on LANGE as set forth above, including but not
18 limited to fraudulently entering into a TPA with her to her detriment, thereby inducing
19 her to pay CHASE money and make additional repairs and provide additional
20 maintenance to Running Ridge, causing invalid and illegal foreclosure documents to be
21 recorded against Running Ridge both in form and because it had no right to do so, cause a
22 trustee's sale to be held without notifying LANGE and without giving the public
23 adequate notice of the sale thereby reducing the likelihood of maximum bidding for the
24 property, unlawfully pocketing the sales price from the trustee's sale.
25

26 181. By its wrongful acts as set forth above, CHASE holds all proceeds from the
27 trustee's sale and all proceeds from what it alleges to be the Subject Mortgage as a
28

1 constructive trustee for LANGE'S benefit.

2

3 Count 3 Against WAMU

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5 182. WAMU perpetrated wrongs against LANGE as set forth above, including
6 but not limited to fraudulently inducing LANGE to enter into a negatively amortized
7 adjusted rate mortgage, commencing foreclosure proceedings against LANGE in
8 violation of Civil Code Section 2920, et. seq., and RESPA and TILA.

9

10 183. By its wrongful acts as set forth above, WAMU holds all proceeds from the
11 trustee's sale and all proceeds from what it alleges to be the Subject Mortgage as a
12 constructive trustee for LANGE'S benefit.

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THIRTEENTH CAUSE OF ACTION

15

FOR RESPONDEAT SUPERIOR
AGAINST WAMU, CHASE, ALTA, SEASIDE and DOES 50-250

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184. LANGE realleges and incorporates by reference the allegations contained in
paragraphs 1 through 183.

185. At all times herein mentioned, Kaufman was the agent and employee of
either defendant WAMU or defendant ALTA and in doing the acts herein described and
referred to, was acting in the course and scope of his authority as agent and employee,
and in the transaction of the business of the employment or agency. Defendants WAMU
and ALTA are liable to LANGE for the acts of Kaufman during his employment with
each of them as alleged herein.

186. At all times herein mentioned, McCarthy was the agent and employee of
defendant SEASIDE and in doing the acts herein described and referred to, was acting in

1 the course and scope of his authority as agent and employee, and in the transaction of the
2 business of the employment or agency. Defendant SEASIDE is liable to LANGE for the
3 acts of McCarthy during his employment as alleged herein.

4 187. At all times herein mentioned, Mura was the agent and employee of
5 defendant SEASIDE and in doing the acts herein described and referred to, was acting in
6 the course and scope of her authority as agent and employee, and in the transaction of the
7 business of the employment or agency. Defendant SEASIDE is liable to LANGE for the
8 acts of Mura during her employment as alleged herein.

10 188. At all times herein mentioned, CRC was the agent of either defendant and
11 subsidiary of WAMU or the agent of defendant CHASE and in doing the acts herein
12 described and referred to, was acting in the course and scope of its authority as agent in
13 the transaction of the business of the agency. Defendants WAMU and CHASE are liable
14 to LANGE for the acts of CRC during its agency for each.

16 189. At all times mentioned here, Quality and LSI were the agents of defendant
17 CHASE and in doing the acts herein described and referred to were acting in the course
18 and scope of their authority as agents in the transaction of the business of the agency.
19 Defendant CHASE is liable to LANGE for the acts of Quality and LSI during their
20 agency.

22
23 **FOURTEENTH CAUSE OF ACTION**

24 FOR NEGLIGENCE
25 Against All Defendants

26 LANGE realleges and incorporates by reference the allegations contained in
27 paragraphs 1 through 189.

28 190. In the alternative to the above acts being taken intentionally, LANGE

1 alleges that the above acts were taken negligently thereby breaching each defendant's
2 duty to LANGE and causing her damage.

3
4 **PRAYER**
5

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7 191. WHEREFORE, LANGE requests judgment as follows:

- 8 1. That this Court issue an Order to Show Cause and after a hearing issue a
9 Temporary Restraining Order and Preliminary Injunction restraining
10 defendants ALTA and SEASIDE, and each of them from continuing with
11 their efforts to advertise for sale and sell Running Ridge.
12 2. That the foreclosure and trustee's sale of Running Ridge be declared
13 illegal and nullified and the trustee's deed upon sale be rescinded.
14 3. That the underlying loan transaction be declared void as a result of
15 Defendants' misrepresentations, fraud, concealment, and predatory loan
16 practices.
17 4. That Defendants make restitution to LANGE according to proof.
18 5. For judgment determining that LANGE is the owner in fee simple of
19 Running Ridge against the adverse claims of Defendants and that
20 Defendants have no interest in Running Ridge adverse to LANGE.
21 6. For compensatory damages according to proof at trial but no less than
22 two million dollars (\$2,000,000)
23 7. For exemplary damages in an amount no less than ten million dollars
24 (\$10,000,000)
25 8. For costs of suit and reasonable attorneys fees.
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9. For any and all other relief that the Court may deem just in this matter.

Respectfully submitted,

Date: March 31, 2011

The Law Offices of Roger S. Senders
A Professional Corporation

By: _____
Roger S. Senders, Esq.
Attorneys for Susan Lange