

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

SHANNON LOMBARD and
PATRICK LOMBARD

PLAINTIFFS,

U.S. BANK NATIONAL
ASSOCIATION AS TRUSTEE,

DEFENDANTS.

U.S. BANK NATIONAL
ASSOCIATION AS TRUSTEE,

PLAINTIFF,

07-900034

VS.

SHANNON LOMBARD and
PATRICK LOMBARD,

DEFENDANTS

VS.

U.S. BANK NATIONAL
ASSOCIATION AS TRUSTEE

COUNTER-DEFENDANT

HOMEQ SERVICING CORPORATION;

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) CIVIL ACTION NO.: CV 07-86

VS.

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) CIVIL ACTION NO: CV

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PREMIER MORTGAGE FUNDING, INC;

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and SHAMEKA MONTGOMERY; A - D,)

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THIRD-PARTY DEFENDANTS)

**PATRICK LOMBARD AND SHANNON LOMBARD’S AMENDED COUNTERCLAIM
AND THIRD PARTY COMPLAINT**

Comes now, PATRICK LOMBARD AND SHANNON LOMBARD, by and through their attorneys of record and file their answer to the plaintiff’s complaint, and their counterclaim and third party claims pursuant to Rule 13 and 14 of the Alabama Rules of Civil Procedure as follows:

PROCEDURAL MATTERS

The Lombards adopt and reallege all prior paragraphs of any prior responsive pleadings as if set out here in full.

ANSWER

For answer to the plaintiff’s complaint, the defendants respond as follows:

AFFIRMATIVE DEFENSES

1. The plaintiff received no title to the defendants’ property because the foreclosure was void.

2. The title taken to the property by the plaintiff is of no effect and void because the underlying foreclosure was commenced in violation of law on one or more of the following grounds:

- a) The foreclosing entity lacked standing to foreclose; that is, it did not own the note and mortgage at the time that it instituted the foreclosure action.
- b) The foreclosure was taken in violation of law in that the foreclosing entity did not own the property upon which it foreclosed and therefore could pass no legal title to the lands it claimed to foreclose nor could it acquire legal title to the lands that it foreclose upon.
- c) The foreclosure was taken in violation of law in that the default was exaggerated, inflated and based upon improper and illegal mortgage servicing practices on the part of the foreclosing entity and its agents or employees.
- d) The foreclosure is voidable in that the foreclosure sale was completed by fraud, deceit or trickery on the part of the foreclosing entity and its agents, employees or servants in that the foreclosing parties represented that they would delay the foreclosure but then failed to do so.
- e) The foreclosing entity failed to strictly comply with the requirements set out in Alabama law and the contract between the parties, with respect to notice, time and place and other legal provisions thereby rendering the foreclosure void.
- f) The foreclosing entity failed to engage in loss mitigation required by its agreements and federal servicing guidelines which the entity is subject to, and because of the

failure of the condition precedent to foreclosure the acceleration and default were invalid and illegal and renders the foreclosure void.

COUNTERCLAIM

Defendants file herewith their counterclaim as follows:

STATEMENT OF THE PARTIES

3. The plaintiff/counter defendant U.S. Bank as trustee as National Trustee in this action is a foreign corporation doing business in Shelby County, Alabama.

4. The Defendants/Lombards in this action are adult residents of Shelby County, Alabama.

5. The new US Bank National Association and Morris, Schneider and Prior replacing those previously unnamed fictitious defendants are as follows:

a). The law firm of Morris, Schneider & Prior, LLC, whose principal place of business is 1587 Northeast Expressway Atlanta, Georgia 30329 and who does business by agent in Shelby County, Alabama.

b) Jonathan Butler, was an associate employee of Morris, Schneider & Prior, LLC and was personally responsible for going forward with the foreclosure on the Lombard's home.

STATEMENT OF THE FACTS

6. On or about January 4, 2007, U.S. Bank as trustee through its agents, employees or servants, Morris, Schneider & Prior and Jonathan Butler alleged that they completed a foreclosure sale on the property owned by the Lombards.

7. Since that time, these defendants together have pursued and received an order ejecting the Lombard's from their home while representing to the Court that their actions were lawful and that U.S. Bank as trustee had the present right, ownership and authority to pursue both foreclosure and eviction.

8. The new 3rd party defendants Morris, Schneider and Prior and Jonathan Butler, appeared before the Court and represented to the Court that they had the right to foreclose and eject on behalf of their client U.S. Bank as trustee.

9. As will be further shown, U.S. Bank as trustee, Morris, Schneider and Prior and Jonathan Butler conspired together to wrongfully foreclose on the Lombards' home and to eject them from the home.

10. The defendants contend and have represented to this Court that U.S. Bank as trustee "as trustee" is the holder of said mortgage and therefore has foreclosed in accordance with Alabama law and their rights under the security agreement.

11. Attached to this third party complaint as exhibit "1" is a letter received from the defendant Morris, Schneider and Prior dated November 29, 2006 which states that U.S. Bank as trustee is the trustee for "Structured Asset Securities Corporation Structured Asset Investment Loan Trust Mortgage Pass Through Certificates Series 2005-HE1".

12. Attached to this third party complaint as exhibit "2" is a copy of an assignment that is filed of record claiming to assign the Lombards' mortgage first from Argent Mortgage Company to Ameriquest Mortgage Company. This assignment has the following significant information:

- a) The document indicates that it is filed of record at 1/12/2006 at 12:37:10 pm;
- b) It is executed by Argent Mortgage Company, LLC by an individual whose name is Marcia Morgan;
- c) It is claimed that she is an agent of Argent Mortgage Company, LLC
- d) The assignment states that it is executed at Westchester County in New York on January 31, 2005.
- e) The assignment says that Argent's address is 44 South Broadway 16th Floor White Plains, NY 10604.
- f) The assignment does not bear any evidence that Marcia Morgan is an authorized agent of Argent Mortgage Company LLC or that Argent Mortgage Company LLC authorized her to execute the assignment in question.
- g) The assignment does not bear any authentication in the form of a corporate seal or stamp indicating that anyone at Argent Mortgage Company LLC authorized this signature.
- h) This document is notarized by one Richard Price.
- i) This document has handwritten in the upper right corner the following MSP 0519617AL

13. Attached to this complaint as exhibit "3" is a document that purports to assign the Lombard's mortgage from Ameriquest Mortgage Company to U.S. Bank National Association as trustee. Said document contains all of the following characteristics:

- a) The document indicates that it is filed of records at 1/12/2006 at 12:37:11 pm;
- b) The document is executed by Ameriquest Mortgage Company by an individual whose name is Marcia Morgan;
- c) It is claimed on the face of the document that she is an agent of Ameriquest Mortgage Company;
- d) The assignment states that it is executed at Westchester County in New York on January 31, 2005.
- e) The address of Ameriquest Mortgage Company on the face of the document is 1100 Town and Country Road, Suite 200, Orange California 92868.
- f) The assignment does not bear any evidence that Marcia Morgan is an authorized agent of Ameriqueset Mortgage Company or that Ameriquest Mortgage Company authorized her to execute the assignment in question.
- g) The assignment does not bear any authentication in the form of a corporate seal or stamp indicating that anyone at Amerquest Mortgage Company authorized this signature.

- h) This document is notarized by one Richard Price.
- i) This document has handwritten in the upper right corner the following MSP 0519617AL

14. Of particular interest to the finder of fact is that the handwritten information MSP 0519617AL is the file number which is identified in exhibit 1 to this complaint which identifies this loan not as the property of US Bank National Association as trustee but which identifies this property as “U.S. Bank National Association as trustee Structured Asset Securities Corporation Structured Asset Investment Loan Trust Mortgage Pass Through Certificates Series 2005-HE1”.

15. When “Structured Asset Securities Corporation Structured Asset Investment Loan Trust Mortgage Pass Through Certificates Series 2005-HE1” is searched on the SEC database known as the EDGAR database which makes public all filings required by the SEC a party finds certain legal filings required by the SEC to establish a publicly traded “special investment vehicle” or SIV in industry parlance which provide the following information:

- a) That Structured Asset Securities Corporation is the depositor for a trust called the “Structured Asset Investment Loan Trust Mortgage Pass Through Certificates Series 2005-HE1”.
- b) That the issuing entity offering Mortgage backed securities is “Structured Asset Investment Loan Trust Mortgage Pass Through Certificates Series 2005-HE1” and it is a common law trust formed under the laws of New York. <http://www.secinfo.com/d12atd.z3uf.htm#rdl>

- c) That the trustee is US Bank National Association <http://www.secinfo.com/d12atd.z3uf.htm#rdl>
- d) That the primary servicer is Homeq <http://www.secinfo.com/d12atd.z3uf.htm#rdl>
- e) That Finance America LLC and Argent Mortgage LLC and its affiliates are the originators of the mortgages that fund the trust <http://www.secinfo.com/d12atd.z3uf.htm#rdl>
- f) That the certificates represent ownership interests in a trust fund, the assets of which will consist primarily of conventional, adjustable and fixed rate, fully amortizing and balloon, first and second lien, residential mortgage loans having a total principal balance as of the cut-off date, which is [July 1, 2005](#), of approximately \$1,724,787,930. In addition, the supplemental interest trust will hold an interest rate swap agreement for the benefit of the certificate holders. <http://www.secinfo.com/d12atd.z3uf.htm#rdl>
- g) That on the closing date, which is expected to be on or about [July 29, 2005](#), the assets of the trust fund will consist primarily of two mortgage pools of conventional, adjustable and fixed rate, fully amortizing and balloon, first and second lien, residential mortgage loans with a total principal balance as of

the cut-off date of approximately \$1,724,787,930. [http://
www.secinfo.com/d12atd.z3uf.htm#rdl](http://www.secinfo.com/d12atd.z3uf.htm#rdl)

- h) That violation of various federal, state and local laws may result in losses on the mortgage loans Violations of certain federal, state or local laws and regulations relating to the protection of consumers, unfair and deceptive practices and debt collection practices may limit the ability of the servicer to collect all or part of the principal of or interest on the mortgage loans and, in addition, could subject the trust fund to damages and administrative enforcement. [http://www.secinfo.com/
d12atd.z3uf.htm#rdl](http://www.secinfo.com/d12atd.z3uf.htm#rdl)

- i) The following additional information is also found:

The Mortgage Loans will be assigned by the Depositor to the Trustee, together with all principal and interest received with respect to such Mortgage Loans on and after the Cut-off Date (other than Scheduled Payments due on that date). The Trustee will, concurrently with such assignment, authenticate and deliver the Certificates. Each Mortgage Loan will be identified in a schedule appearing as an exhibit to the Trust Agreement which will specify with respect to each Mortgage Loan, among other things, the original principal balance and the Scheduled Principal Balance as of the close of business on the Cut-off Date, the Mortgage Rate, the Scheduled Payment, the maturity date, the Servicer and the Custodian of the mortgage file, whether the Mortgage Loan is covered by an LPMI Policy and the applicable Prepayment Premium provisions, if any.

Deutsche Bank National Trust Company will act as Custodian on behalf of the Trustee, pursuant to the Custodial Agreement. As to each Mortgage Loan, the following documents are generally required to be

delivered to the Custodian on behalf of the Trustee in accordance with the Trust Agreement: (1) the related original mortgage note endorsed without recourse to the Trustee or in blank, (2) the original mortgage with evidence of recording indicated thereon (or, if such original recorded mortgage has not yet been returned by the recording office, a copy thereof certified to be a true and complete copy of such mortgage sent for recording) <http://www.secinfo.com/d12atd.z3uf.htm#6eks>

- j) Further the issuing entity can only act as set forth in the trust documents:

The Issuing Entity will not have any employees, officers or directors. The Trustee, the Depositor, the Master Servicer, the Servicer, the Credit Risk Manager and the Custodian will act on behalf of the Issuing Entity, and may only perform those actions on behalf of the Issuing Entity that are specified in the Trust Agreement, the Sale and Assignment Agreement, the Servicing Agreement and the Custodial Agreement. See "[The Master Servicer](#)," "[The Servicer](#)," "[Mortgage Loan Servicing](#)" and "[The Trust Agreement](#)." "The Trustee, on behalf of the Issuing Entity, is only permitted to take such actions as are specifically provided in the Trust Agreement. Under the Trust Agreement, the Trustee on behalf of the Issuing Entity will not have the power to issue additional certificates representing interests in the Trust Agreement, borrow money on behalf of the Trust Fund or make loans from the assets of the Trust Fund to any person or entity, without the amendment of the Trust Agreement by Certificateholders and the other parties thereto as described under "[Certain Matters Under the Trust Agreement--Amendment of the Trust Agreement](#)." <http://www.secinfo.com/d12atd.z3uf.htm#6ap0>

- k) The depositor represented to the trust that immediately prior to the transfer and assignment of the Mortgage Loans to the Trustee, the Depositor was the sole owner of record and holder of each

Mortgage Loan, and the Depositor had good and marketable title thereto, and had full right to transfer and sell each Mortgage Loan to the Trustee free and clear... section 2.03(a)(vi).

- l) Concurrently with the execution and delivery of this Agreement, the Depositor does hereby transfer, assign, set over, deposit with and otherwise convey to the Trustee, without recourse, subject to Sections 2.02, 2.04, 2.05 and 2.06, in trust, all the right, title and interest of the Depositor in and to the Mortgage Loans. Such conveyance includes, without limitation, the right to all payments of principal and interest received on or with respect to the Mortgage Loans on and after the Cut-off Date. Section 2.01(a)
- m) According to Section 2.01 the depositor is required to provide in connection with such transfer and assignment, the Depositor does hereby deliver to, and deposit with, or cause to be delivered to and deposited with, the Trustee, and/or the Custodian acting on the Trustee's behalf, the following documents or instruments with respect to each Mortgage Loan (each a "*Mortgage File*") so transferred and assigned: with respect to each Mortgage Loan, the original Mortgage Note endorsed without recourse in proper form to the order of the

Trustee, or in blank (in each case, with all necessary intervening endorsements, as applicable) or with respect to any lost Mortgage Note, a lost note affidavit stating that the original Mortgage Note was lost, misplaced or destroyed, together with a copy of the related Mortgage Note; with respect to each Non-MERS Mortgage Loan other than a Cooperative Loan, an original Assignment of Mortgage, in form and substance acceptable for recording. The Mortgage shall be assigned either (A) in blank, without recourse or (B) to “*U.S. Bank National Association, as Trustee of the Structured Asset Investment Loan Trust, 2005-HE1,*” without recourse; and (vi) if applicable, such original intervening assignments of the Mortgage, notice of transfer or equivalent instrument (each, an “*Intervening Assignment*”), as may be necessary to show a complete chain of assignment from the originator, or, in the case of an Intervening Assignment that has been lost, a written Opinion of Counsel acceptable to the Trustee and any NIMS Insurer that such original Intervening Assignment is not required to enforce the Trustee’s interest in the Mortgage Loan; further under 2.03(c) (i) Assignments of Mortgage with respect to each Non-MERS Mortgage Loan other than a Cooperative

Loan shall be recorded; *provided, however,* that such Assignments need not be recorded if, on or prior to the Closing Date, the Depositor delivers, at its own expense, an Opinion of Counsel addressed to the Trustee (which must be Independent counsel) acceptable to the Trustee and the Rating Agencies, to the effect that recording in such states is not required to protect the Trustee's interest in the related Non-MERS Mortgage Loans; *provided, further,* that notwithstanding the delivery of any Opinion of Counsel, the Master Servicer shall cause the Servicer to submit each Assignment of Mortgage for recording upon the occurrence of a bankruptcy, insolvency or foreclosure relating to the Mortgagor under the related Mortgage. Subject to the preceding sentence, as soon as practicable after the Closing Date (but in no event more than three months thereafter except to the extent delays are caused by the applicable recording office), the Master Servicer, at the expense of the Depositor and with the cooperation of the Servicer, shall cause to be properly recorded by the Servicer in each public recording office where the related Mortgages are recorded each Assignment of Mortgage referred to in

subsection (b)(v) above with respect to each Non-MERS
Mortgage Loan.

16. The documents of record in this case tend to show that the mortgage that is the subject of this litigation (which includes the assignments of record) do not convey the subject mortgage to the subject trust which seeks to foreclose on the Lombards' home.

17. In fact, the documents of record indicate that there is an assignment to US Bank National Association as trustee.

18. These purported assignments tend to convey each of the following irregularities rendering the assignments invalid and legally unenforceable:

- a) The documents are each signed by the same individual.
- b) That individual purports to represent two different companies at the same time and place although those companies are separated by thousands of geographical miles.
- c) The documents purport to act with corporate authority but lack the requisite corporate formalities to render them effective.
- d) The documents purport to ultimately convey the mortgage to US Bank National Association. However, the documents from the defendants Morris, Schneider and Prior tend to show the name of a specific trust which claims to own the mortgages.

- e) The documents both contain an MSP file number identical to the one on the attached Morris, Schneider and Prior letter to the Lombards.
- f) If these documents were prepared concurrently with the date they claim to be executed they would have been executed prior to the generation of an MSP file number, providing an inference that these documents were fabricated to support the foreclosure of the defendant Morris Schneider and Prior.
- g) According to the documents created the trust which the defendants contend owns the Lombards' mortgage, the only entity that could convey a mortgage to the trust was Structured Asset Securities Corporation.
- h) Therefore, the assignments of record which purport to assign directly to US Bank National Association as trustee fail to convey the mortgage to the trust which the defendants claim owns the mortgage since the assignors could not go outside the trust documents to convey mortgages directly to the trust nor could the trust go outside of its documents to accept a conveyance that did not comply with the trust agreement's terms.
- i) Also, even though these documents were recorded in 2006, and possibly fabricated. They fail to follow the basic steps for conveyance to the trust in that they are endorsed with recourse

instead of without recourse and there is no assignment to the depositor “Structured Asset Securities Corporation.”

19. Further, should these defendants be willing to creep even further out onto the proverbial limb and argue that US Bank National Association as trustee is the owner of said loan, the Lombard’s would posit only one question: As trustee for whom is US Bank the owner of said loan?

20. As the finder of fact may have now guessed, if the finder of fact is not bored to tears by now, a trustee cannot go beyond his powers set forth in the trust which grants him his powers.

21. US Bank National Association “as trustee” has no power to act beyond the power granted in its trust agreement. If US Bank intends to claim that it is not attempting to foreclose for “Structured Asset Investment Loan Trust Mortgage Pass Through Certificates Series 2005-HE1” then the court should either require US Bank and Morris Schneider and Prior to set forth in specific terms who it claims owns the mortgage in question and who US Bank is serving as trustee for so that the Lombards may have the benefit of reviewing US Bank’s responsibilities and obligations under any alternative trust that it would like to claim owns the Lombards’ mortgage or equitably estop these defendants from so claiming based on their prior representations to this Court over nearly a year of litigation.

22. Further, the potential owners are quite numerous should these defendants go out on that proverbial limb even further (and should this Court allow them to do so) as even a cursory glance of SEC filings shows that there are currently no less than 32 active trusts for mortgage backed securities for which US Bank serves as trustee.

23. The Lombards contend that said sale was wrongful, illegal, in violation of law and the documents governing the relationship between the Lombards and the owners of the Lombards mortgage.

24. The Lombards contend that the foreclosing entity lacked standing to initiate a foreclosure and that the foreclosure is void or at least voidable and that no title has passed to US Bank National Association as there was no legal title to pass to it from the foreclosing entity.

25. The Lombards allege that the actions of US Bank National Association, Morris, Schneider and Prior, LLC and their agents, employees and servants were wrongful and tortious.

26. The Lombards allege that the actions of the foreclosing entity were wrongful and tortious.

27. The Lombards allege that the actions of Morris, Schneider and Prior LLC and US Bank National Association in ejecting them from their home and wrongfully foreclosing is a violation of law, wrongful and tortious and that US Bank National Association holds no title to their home or property, and that its actions constitute trespass, negligence, wantonness, abuse of process and slander of title.

28. The Lombards allege that the actions of US Bank National Association coupled with the actions of Morris, Schneider and Prior LLC and their employees, agents and servants were a civil conspiracy to deprive the Lombards of their property. Additionally, US Bank National Association and Morris, Schneider and Prior LLC are in a joint venture wherein these parties were engaged in a civil conspiracy to falsify legal documents for the purpose of foreclosing on the homes of individuals under a colorable title of right for the purpose of generating profits and

income from the act of depriving individuals of their homes and for the purpose of unjustly enriching the participants of the joint venture at the expense of the unsuspecting and unknowing.

29. The Lombards allege that US Bank National Association had the right to choose and control the attorneys who it hired to foreclose on loans and by having such control are liable for the wrongful and tortious conduct of their agents, employees and servants.

30. As a direct result of the acts complained of the Lombards have been caused to suffer great mental anguish, economic and emotional damages and claim from the defendants all damages allowable under the law.

First Claim

(Negligence)

31. The Lombards reallege all prior paragraphs of the pleading as if set out here in full.

32. US Bank National Association and Morris, Schneider and Prior negligently ejected the Lombards from the home they rightfully own since the foreclosure performed by Morris, Schneider and Prior, LLC is void.

33. As a direct result of the US Bank National Association Morris, Schneider and Prior's negligence, the Lombards were injured and damaged as alleged above and have suffered mental anguish, economic injury and all other damages allowed by law.

34. As a result thereof, the plaintiff/counter-defendant is liable for all natural, proximate and consequential damages due to its negligence.

Second Claim for Relief

(Wantonness)

35. The Lombards reallege all prior paragraphs of the pleading as if set out here in full.

36. US Bank National Association and Morris, Schneider and Prior with reckless indifference to the consequences, consciously and intentionally acted to eject the Lombards from the home they rightfully own.

37. US Bank National Association and Morris, Schneider and Prior with reckless indifference to the consequences, consciously and intentionally instituted this action with the knowledge that the home of the Lombards does not belong to US Bank National Association.

38. These actions were taken with reckless indifference to the consequences, consciously and intentionally in an effort to increase profits for the US Bank National Association.

39. As a result thereof, US Bank National Association and Morris, Schneider and Prior are liable for all natural, proximate and consequential damages due to their wantonness as well as punitive damages upon a proper evidentiary showing.

Third Claim for Relief

(Trespass)

40. After wrongfully foreclosing on the Lombards home and ejecting them US Bank National Association and Morris, Schneider and Prior unlawfully entered upon the lands of the Lombards in Shelby County, Alabama.

41. As a proximate result of said trespass the Lombards have been deprived of the peaceful enjoyment of their property.

42. Because of the willful and oppressive nature of these actions, the Lombards claim punitive damages as allowed under the law.

43. As a result of their trespass US Bank National Association and Morris, Schneider and Prior are liable for all natural, proximate and consequential damages due to their trespass as well as punitive damages upon a proper evidentiary showing.

Fourth Claim for Relief

Abuse of Process

44. The Lombards reallege all paragraphs as if set out here in full.

45. Morris Schneider and Prior at the direction and control of US Bank National Association maliciously obtained the issuance of the writ or process of ejectment, from the Circuit Court of Shelby County, Alabama and had it served on the Lombards.

46. Morris Schneider and Prior abused the said writ or process because they ejected the Lombards from their home with the knowledge that they are the rightful owners of their home and that US Bank National Association and Morris, Schneider and Prior had no right to act against them.

47. As the proximate result of Morris, Schneider and Prior's abuse of the said writ or process, the Lombards were caused to suffer injuries and damages, also, reasonable attorney's fees incurred in defending the abusive writ.

48. The Lombards claim all damages allowable under law.

Fifth Claim for Relief

Slander of Title

49. The Lombards reallege all paragraphs as if set out here in full.

50. US Bank National Association and Morris, Schneider and Prior, in filing a foreclosure deed – which is void - has caused a cloud to be placed on the title of the property of the Lombards.

51. As the proximate cause of US Bank National Association and Morris, Schneider and Prior's said slandering of the Lombards' title, the Lombards were caused to suffer injuries and damages and claim all damages allowable under law.

Sixth Claim for Relief

Respondeat Superior Liability

52. The Lombards reallege all prior paragraphs as if set out here in full.

53. US Bank National Association hired, directed, or controlled the actions of Morris, Schneider and Prior and its employees and associates.

54. Morris, Schneider and Prior who is a third party defendant in this action, serves at the leisure of both the Trust and Trustee and / or is a part of a joint venture with the Trust and Trustee US Bank National Association. These parties are alleged, upon information

and belief, to be engaged in a civil conspiracy to engage in conduct which is unlawful for the purpose of unjustly enriching the members or participants in the joint venture.

55. US Bank National Association is liable in tort for all of the wrongful actions of its agent, employee or servants, Morris, Schneider and Prior, LLC.

56. The Lombards claim all damages allowable under law for these wrongful actions.

Seventh Cause of Action

Negligent or Wanton Hiring, Supervision, Training or Retention

57. The Lombards reallege all prior paragraphs as if set out here in full.

58. US Bank National Association negligently or wantonly hired, trained, supervised or retained the third party defendant, Morris, Schneider and Prior.

59. As a result of this negligence or wantonness, depending on evidence adduced, the Lombards were injured and damaged by the actions of Morris, Schneider and Prior.

60. As a result, US Bank National Association is liable for all damages proximately and directly flowing from these actions by their agent, employee or servant, Morris, Schneider and Prior.

Eighth Cause of Action

Joint Venture Liability

61. The Lombards reallege all prior paragraphs as if set out here in full.

62. US Bank National Association and Morris, Schneider and Prior are part of a joint venture as defined by controlling law.

63. Each member of a joint venture is jointly and severally liable for any tortious act of any member of the joint venture against the Lombards.

64. As a result thereof, the defendants reallege in its entirety the complete third party complaint against US Bank National Association and Morris, Schneider and Prior as grounds for their joint venturer liability.

65. As a result of the actions of the joint venturers, the Lombards have been injured and damaged as heretofore alleged.

66. The Lombards claim all damages as allowed by law for the wrongful acts of the joint venturers against them.

Ninth Claim for Relief
(Wrongful Foreclosure)

67. The Lombards reallege all prior paragraphs of the pleading as if set out here in full.

68. US Bank National Association and Morris, Schneider and Prior have completed a foreclosure proceeding against the Lombards in violation of law.

69. The initiation of the foreclosure proceeding by US Bank National Association and Morris, Schneider and Prior was either negligent or wanton, depending on proof adduced at trial.

70. As a result thereof, US Bank National Association and Morris, Schneider and Prior are liable for all natural, proximate and consequential damages due to their actions including an award of punitive damages upon a proper evidentiary showing.

Tenth Cause of Action
(Unjust Enrichment)

71. The Lombards adopt and reallege all prior paragraphs as if set out here in full.

72. The actions of US Bank National Association and Morris, Schneider and Prior in foreclosing on the home of the Lombards in violation of law resulted in US Bank National Association and Morris, Schneider and Prior being unjustly enriched by the payment of fees, insurance proceeds and equity in the home.

73. As a result of the US Bank National Association and Morris, Schneider and Prior's unjust enrichment, the Lombards have been injured and damaged in that the Lombards have lost their home and have lost any equity in their home resulting in financial and emotional damages including mental anguish.

74. The Lombards claim all damages allowable under law as a result of the US Bank National Association and Morris, Schneider and Prior' wrongful conduct and unjust enrichment.

ELEVENTH CAUSE OF ACTION

CIVIL CONSPIRACY

75. Lombards adopt and reallege all prior paragraphs as if set out here in full.

76. US Bank National Association and Morris, Schneider and Prior engaged in an unlawful combination and conspiracy to foreclose on home loans against individuals for the purpose of unjustly enriching themselves in violation of law. This unlawful activity had the effect of unjustly enriching the joint venturers and conspirators.

77. As a result of this civil conspiracy, civil wrongs were committed against the Lombards and other consumers. The motivation for the civil conspiracy was third party defendant's greed.

78. As a result of the civil conspiracy the Lombards claim all damages allowed by law.

WHEREFORE, the Lombards, having set forth their claims for relief against US Bank National Association and Morris, Schneider and Prior, respectfully request of the Court as follows:

- A. That the Lombards have and recover against the US Bank National Association and Morris, Schneider and Prior a sum to be determined by a jury of their peers in the form of actual damages;
- B. That the Lombards have and recover against the US Bank National Association and Morris, Schneider and Prior a sum to be determined by a jury of their peers in the form of punitive damages;
- C. That this Court enter an order voiding the foreclosure action of the plaintiffs; and
- D. That the Lombards have such other and further relief as the Court may deem just and proper and equitable given the facts of the case.

DEMAND FOR JURY TRIAL

The Lombards hereby demand a trial by struck jury on all claims so triable before the Court.

/s/ Nick Wooten_____

Of Counsel

RESPECTFULLY SUBMITTED,

CONSUMER LAW GROUP, LLC

By: /s/ Nick Wooten

Nick Wooten – WOO084

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served on the all parties in interest either by U.S. First Class mail or electronically through Alafile on this the 15th day of July, 2008.

/s/ Nick Wooten
Of Counsel