EXHIBIT A

DISTRICT COURT, DOUGLAS COUNTY, COLORADO Court Address: 4000 Justice Way Castle Rock, Colorado 80109 303-663-7200	
Plaintiffs: **TRISHA J. MUNHOLLAND** **and** **BELLA HOMES, LLC,** **v.** **Defendants:** **WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF STRUCTURED ASSET MORTGAGE INVESTMENTS II INC. BEAR STEARNS MORTGAGE FUNDING TRUST 2007-AR5 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-AR5;** **JP MORGAN CHASE BANK, N.A.;** **EMC MORTGAGE CORPORATION; and** **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.**	**▲ COURT USE ONLY ▲**
Attorneys for Plaintiffs: William J. Hunsaker, P.C. Donald T. Emmi, #38983 4465 Kipling Street, Suite 200 Wheat Ridge, Colorado 80033 Phone No: 303-456-5116 Fax No: 303-421-4309 E-mail: Donnie@EmmiLawFirm.com	Case Number: Division: Courtroom
COMPLAINT	

COME NOW, the Plaintiffs, above named, by and through their attorneys, WILLIAM J. HUNSAKER, P.C., and for their Complaint against the Defendants, above named, state and allege as follows:

GENERAL ALLEGATIONS

1. At all times material hereto, Plaintiff Trisha J. Munholland, hereinafter referred to as "Plaintiff Munholland", is and was a resident of Douglas County in the State of Colorado residing at 5328 Danvers Court, Castle Rock, Colorado 80104.

2. At all times material hereto, Plaintiff Bella Homes, LLC, hereinafter referred to as "Plaintiff Bella," is a foreign limited liability company formed under the laws of Delaware, in good standing and authorized to do business in the State of Colorado with a principal street address of One Glenlake Parkway, Suite 700, Atlanta, Georgia 30328.

3. At all times material hereto, Defendant Wells Fargo Bank, National Association as Trustee for the certificateholders of structured asset mortgage investments II Inc. Bear Stearns Mortgage Funding Trust 2007-AR5 Mortgage Pass-Through Certificates, Series 2007-AR5, hereinafter referred to as "Defendant Wells Fargo", is a foreign corporation, in good standing in the State of Colorado, with a principal street address of 101 N. Phillips Avenue, Sioux Falls, South Dakota 57104 or 2780 Lake Vista Drive, Lewisville, Texas 75067.

4. At all times material hereto, Defendant EMC Mortgage Corporation, hereinafter referred to as "Defendant EMC," is a foreign corporation, which has withdrawn its status to do business in the State of Colorado as of May 18, 2011, with a principal street address of 194 Wood Avenue South, 2nd Floor, Iselin, New Jersey 08830.

5. At all times material hereto, Defendant JP Morgan Chase Bank, N.A., hereinafter referred to as "Defendant Chase", is a foreign corporation authorized to do business in the state of Colorado. Defendant Chase is headquartered at 270 Park Avenue, New York, NY 10017-2014, with its principal executive offices in California located at 560 Mission Street, San Francisco, California.

6. Defendant EMC was a wholly owned subsidiary of Bear Stearns. Bear Stearns was acquired by, and is now owned by, J.P. Morgan Chase, NA. Thus, Defendant EMC is now a wholly owned subsidiary of Defendant Chase.

7. At all times material hereto, Defendant Mortgage Electronic Registration Systems, Inc., hereinafter referred to as "Defendant MERS", is a Delaware corporation organized and existing under the laws of Delaware, and has for its address P.O. Box 2026, Flint, Michigan 48501.

8. At all times material hereto, Plaintiff Bella is and was the owner of the certain real property located at 5328 Danvers Court, Castle Rock, Colorado 80104, legally described as: Lot 2, Block 5, Castlewood Ranch Subdivision-Filing No. 1- Parcel 8, County of Douglas, State of Colorado, hereinafter referred to as "Real Property" or "Property."

9. At all times material hereto, Defendants were aware or should have been aware, and were on Notice that Plaintiff Bella was the owner of the subject Property and that Plaintiff Munholland had conveyed said Property to Plaintiff Bella.

10. Venue is proper in the Douglas County District Court pursuant to Rule 98(a) Colo. R. Civ. Pro., in that the Real Property located at 5328 Danvers Court, Castle Rock, Colorado 80104, which is the subject of this litigation, is located in Douglas County, Colorado.

FACTUAL ALLEGATIONS

11. Plaintiffs incorporate herein by reference as though fully set forth herein the allegations contained in the foregoing paragraphs of their Complaint.

12. On April 4, 2007, Plaintiff Munholland executed a Deed of Trust in favor of Aegis Wholesale in the amount of $488,000.00 using the Property as security for a loan. Said document was recorded with the Douglas County Clerk and Recorder on April 12, 2007 at reception number 2007029062.

13. Also on April 4, 2007, Plaintiff Munholland executed a Deed of Trust in favor of Aegis Wholesale in the amount of $61,000.00 using the Property as security for a loan. Said document was recorded with the Douglas County Clerk and Recorder on April 12, 2007 at reception number 2007029063.

14. The following day, on April 5, 2007, Justin M. Byrd executed a General Warranty Deed in favor of Plaintiff Munholland. Said document was recorded with the Douglas County Clerk and Recorder on April 12, 2007 at reception number 2007029061.

15. On July 17, 2007, Defendant MERS, on behalf of Defendant Aegis, released the Deed of Trust in the amount of $61,000.00 as referenced above. Said release was recorded with the Douglas County Clerk and Recorder on August 6, 2007 at reception number 2007062417.

16. On February 14, 2011, Defendant Wells Fargo, acting as Trustee for the certificateholders of structured asset mortgage investments II Inc. Bear Stearns Mortgage Funding Trust 2007-AR5 Mortgage Pass-Through Certificates, Series 2007-AR5, filed a Notice of Election and Demand for Sale. Said document was recorded with the Douglas County Clerk and Recorder on February 16, 2011 at reception number 2011011298.

17. On May 26, 2011, Plaintiff Munholland executed a Warranty Deed in favor of Plaintiff Bella. Said document was recorded with the Douglas County Clerk and Recorder on September 8, 2011 at reception number 2011054089.

18. On May 26, 2011, Plaintiff Bella executed a Memorandum of Option in favor of Plaintiff Munholland. Said document was recorded with the Douglas County Clerk and Recorder on September 8, 2011 at reception number 2011054090.

19. On June 8, 2011, the Public Trustee, and pursuant to Public Trustee Foreclosure Sale No. 2011-0320, issued a Public Trustee's Certificate of Purchase to Defendant Wells Fargo. Said document was recorded with the Douglas County Clerk and Recorder on June 8, 2011 at reception number 2011035051.

20. On June 23, 2011, the Public Trustee, and pursuant to Public Trustee Foreclosure Sale No. 2011-0320, issued a Public Trustee's Confirmation Deed to Defendant Wells Fargo. Said document was recorded with the Douglas County Clerk and Recorder on June 23, 2011 at reception number 2011038105.

21. Plaintiff Munholland was being contacted and is still currently being contacted by representatives of Defendants Chase and EMC. In said phone calls representatives and agents of Defendant EMC represented to Plaintiff Munholland that the Note and Deed of Trust for which the Property was security was and still currently is owned by Chase Bank.

22. Prior to the foreclosure sale date, Defendant EMC was placed on actual notice of the transfer of ownership from Plaintiff Munholland to Plaintiff Bella.

23. Prior to the foreclosure sale date, Defendant Wells Fargo was placed on actual notice of the transfer of ownership from Plaintiff Munholland to Plaintiff Bella.

24. At no time throughout the mortgage foreclosure proceeding initiated by Defendant Wells Fargo was Plaintiff Bella named as a party and no notice of said foreclosure proceeding was given to Plaintiff Bella, who was the legal owner of said Property at the time of the June 8, 2011 sale pursuant to a Warranty Deed dated May 26, 2011.

25. At no time prior to or throughout the mortgage foreclosure proceeding initiated by Defendant Wells Fargo did said Defendant provide evidence and or proof of legal ownership of the Deed of Trust sufficient to commence a foreclosure action against Plaintiff Munholland.

26. Prior to the foreclosure sale date, Defendants Chase and EMC were placed on actual notice of the transfer of ownership from Plaintiff Patricia Dill to Plaintiff Bella.

27. On or about February 14, 2011, Plaintiff Munholland received a letter from a law firm (Aronowitz & Mecklenburg, LLP) representing Defendant Wells Fargo and Defendant MERS claiming a default and threatening a foreclosure. Said letter lists the "original creditor" as Defendant MERS.

28. At no time throughout the mortgage foreclosure proceeding initiated by Defendant Wells Fargo was Plaintiff Bella named as a party and no notice of said foreclosure proceeding was given to Plaintiff Bella, who is the legal owner of said Property.

29. At no time prior to or throughout the mortgage foreclosure proceeding initiated by Defendant Wells Fargo did said Defendant provide evidence and or proof of legal ownership of the Deed of Trust sufficient to commence a foreclosure action against Plaintiffs.

30. Sometime in April of 2011, Plaintiffs received a Notice of Hearing from the same law firm which generated the letter referenced in paragraph 27 above, said Notice also erroneously and falsely claimed that Plaintiffs executed a Deed of Trust (hereafter "DOT") to Defendant MERS.

31. Plaintiffs never executed a credit agreement with Defendant Wells Fargo or Defendant MERS; was never lent any money from either Defendant; and was never extended any credit from either Defendant.

32. Sometime after May 4, 2011, Plaintiff Munholland and Byrd received a Combined Notice of Sale and Notice of Rights to Cure or Redeem which, upon information and belief, alleges that the "original beneficiary" was Defendant MERS.

33. Defendant MERS was never the "beneficiary" pursuant to MERS' self-imposed Terms and Conditions and nationally-consistent decisional law which provides that Defendant MERS is not a "beneficiary" and cannot transfer interests in either promissory notes or Deeds of Trust.

34. The Notice also claims that Defendant Wells Fargo is the "Current Owner of Evidence of Debt".

35. Plaintiffs have never been provided with any assignment or other evidence of the transfer of the full and unencumbered rights under the Note and DOT contracts to any person or party, and never executed any credit agreement with Defendant Wells Fargo or Defendant MERS. Furthermore, Plaintiffs still receive telephone calls and letters from Defendant Chase, which has maintained that they are the legal owner of the Deed of Trust.

36. Plaintiffs are thus in doubt of their legal rights under the Note and DOT Contracts, and Defendants Wells Fargo and MERS, none of whom was the original lender and neither of which ever extended Plaintiffs any credit, have failed to demonstrate that they have the legal right to foreclose on the Property.

37. Colo. Rev. Stat. §38-10-124(2) expressly provides that notwithstanding any statutory or case law to the contrary, no creditor may file or maintain an action or claim relating to a credit agreement involving a principal amount in excess of $25,000.00 unless the credit agreement is in writing signed by the party against whom enforcement is sought. The principal amount of the mortgage loan was in excess of $25,000.00.

38. Colo. Rev. Stat. §38-10-124(1)(a)(1) provides that a credit agreement is a contract, promise, offer, or commitment to lend, borrow, repay, or forbear repayment of money, to otherwise extend or receive credit, or to make any financial accommodation.

39. Colo. Rev. Stat. §38-10-142(1)(d) includes banks and mortgage companies.

40. Plaintiff Munholland is a "debtor" within the meaning of Colo. Rev. Stat. §38-10-124(1)(c).

41. Said statutes also bar implied agreements and claims notwithstanding the absence of a borrower-lender relationship between the parties.

42. As Plaintiffs never executed a credit agreement with either Defendant Wells Fargo or Defendant MERS, and as said Defendants, through Defendant Public Trustee, have foreclosed on the Plaintiffs' property based on a credit agreement, Defendants should have been precluded as a matter of law from initiating or maintaining a foreclosure action or proceeding arising out of a credit agreement (to with, the mortgage loan transaction which was with a third party, that being the original lender) notwithstanding any "implied" agreement incident to any transfer of the mortgage loan.

43. Further, neither Defendant Wells Fargo nor Defendant MERS had any legal standing to foreclose; neither is the real party in interest; and neither has a clear chain of title to either the Note or the DOT.

44. In 2007 or early 2008, after falling on hard financial times, Plaintiff Munholland contacted Defendant EMC to inquire about restructuring or modifying her mortgage.

45. Plaintiff Munholland submitted all of the requested paperwork requested by Defendant EMC.

46. Thereafter, Defendant EMC offered Plaintiff Munholland a reduced mortgage payment amount and represented to her that upon successfully making such payments for a short period of time, she would be offered a full modification of her mortgage with the payment being the same as the temporary payment, or potentially being less.

47. Plaintiff Munholland complied with the requirements of Defendant EMC and continued to make the modified payment amount each month for approximately three years.

48. In or around December 2010, Defendant EMC sent Plaintiff Munholland a letter indicating that they were not going to modify her mortgage as previously agreed, and demanded immediate payment of the difference between her old payment and her modified payment for the last three years.

49. Defendant EMC acted in bad faith in allowing Plaintiff Munholland to make payments on her mortgage under the modified payment arrangement for approximately three years.

50. The Emergency Economic Stabilization Act of 2008 was passed on October 3, 2008, and was amended with the American Recovery and Reinvestment Act of 2009 on February 17, 2009 (collectively, the "Act"), 12 U.S.C.A §5201 et. Seq.

51. The purpose of the Act is to grant the Secretary of Treasury the authority to restore liquidity and stability to the financial system, and ensure that such authority is used in a manner that "protects home valued" and "preserves homeownership." 12 U.S.C.A. §5201.

52. The Act grants the Secretary of Treasury the authority to establish the Troubled Asset Relief Program, or TARP. 12 U.S.C. §5211. Under TARP, the Secretary may purchase troubled assets from financial institutions. *Id.* Congress allocated up to $700 billion to the United States Department of Treasury for TARP. 12 U.S.C. §5225.

53. In exercising its authority to administer TARP, the Act mandates that the Secretary take into consideration the "need to help families keep their homes and to stabilize communities." 12 U.S.C. §5213(3).

54. With regard to any assets acquired by the Secretary that are secured by residential real estate, the Act mandates that the Secretary "shall implement a plan that seeks to maximize assistance for homeowners" and use the Secretary's authority over loan servicers to encourage them to take advantage of programs to "minimize foreclosures." 12 U.S.C.A. §5219.

55. On February 18, 2009, pursuant to the Act, the Treasury Secretary and the Director of the Federal Housing Finance Agency announced the Making Home Affordable Program.

56. The Making Home Affordable program consists of two sub-programs. The first sub-program concerns the creation of re-financing products for individuals with minimal or negative equity in their home, and is now known as the Home Affordable Refinance Program, or HARP. The second sub-program concerns the creation and implementation of a uniform loan modification protocol, and is now known as the Home Affordable Modification Program, or HAMP.

57. HAMP is funded by the federal government, primarily with TARP funds. The Treasury Department has allocated at least $75 billion to HAMP, of which at least $50 billion is TARP money.

58. Under HAMP, the federal government incentivizes participating loan servicers to modify existing mortgage obligations for struggling homeowners in order to make their monthly payments more affordable-and thereby reduce foreclosures.

59. Should a loan servicer elect to participate in HAMP, it must execute a Servicer Participation Agreement ("SPA") with the federal government. Defendant Chase and Defendant EMC both executed SPAs, thereby making them participating servicers in HAMP.

60. The SPAs incorporate all guidelines, procedures and "supplemental documentation, instructions, bulletins, frequently asked questions, letters, directives, or other communications" issued by the Treasury, Fannie Mae or Freddie Mac. These documents together are known as the "Program Documentation."

61. The SPA states that a Participating Servicer "shall perform" the activities described in the Program Documentation "for all mortgage loans is services."

62. The Program Documentation requires Participating Servicers to evaluate all loans which are 60 or more days delinquent for HAMP modifications. In addition, if a borrower contacts a Participating Servicer regarding a HAMP modification, the Participating Servicer must collect income and hardship information to determine if HAMP is appropriate.

63. A HAMP modification consists of two stages. First, a Participating Servicer is required to gather information and, if appropriate, offer the homeowner a TTP (Trial Period Plan). The TPP consists of a time frame, typically a three-month period, in which the homeowner makes mortgage payments based on a formula utilizing the initial financial information provided. The monthly mortgage payments under a TPP are lower than the borrower's monthly payments under the ordinary mortgage contract.

64. Defendant Chase and Defendant EMC offered a TPP to Plaintiff Munholland by way of a TPP Agreement, (which is not a necessary prerequisite) which describes the homeowner's duties and obligations under the plan and promises a permanent HAMP modification for Plaintiff if she executed the TPP and fulfilled certain documentation and payment requirements. Plaintiff Munholland executed the TPP Agreement, complied with all documentation requirements and made all TPP monthly payments. Therefore, the second stage of the HAMP process was supposed to be triggered, in which Plaintiff Munholland should have been offered a permanent modification. In reality, Defendants Chase and EMC are ignoring the HAMP guidelines by allowing the TPP to continue for months and years beyond the three-month period.

65. Plaintiff Munholland was qualified under the HAMP Program, but was never offered an appropriated permanent loan modification, and was kept in an indefinite cycle of TPPS and forbearance agreements.

66. By failing to comply with their obligations under the TPP Agreement, and by failing to timely convert the TPP into permanent modification or process loan modification applications in good faith, Defendant Chase and EMC forced Plaintiff Munholland into a state of anxiety and uncertainty, wondering if her homes can be saved, and induced her to pay "trial payments" or "forbearance payments" for approximately three years. Further, said Defendants prevented her from pursuing other avenues of resolution, including using the money she was putting toward TTP payments to fund relocation costs, short sales, bankruptcy, or other means of curing her default. These "*extend & pretend*" practices are deceptive and unlawful.

67. Defendant Chase and Defendant EMC's wrongful actions and practices alleged herein caused Plaintiff Munholland damages, injuries, losses of money and/or property, in the following respects, among others:

(a) Plaintiff Munholland was induced to make trial payments both during and after the TPP period, which consisted of approximately three years without permanent modification.

(b) Plaintiff Munholland forewent other productive remedies that she might have pursued or other strategies to deal with their financial distress and/or mortgage loan

defaults. Had she pursed such alternative remedies or strategies, rather than proceed toward a loan modification in reliance on Defendants' representations, Plaintiff Munholland would not necessarily have spent the monies that she spent on her existing mortgage loan with Defendant Chase and Defendant EMC. These alternatives included, *inter alia*: restructuring her debts under the Bankruptcy Code; refinancing her home with other lenders; allowing a foreclosure; pursing a "short sale"; selling her home and then purchasing a different home at lower price, or renting a home. Plaintiff Munholland had no need to pursue these other remedies and strategies, having the desire to remain in her existing home and the reasonable belief in reliance of Defendant Chase and Defendant EMC's representations that loan modifications would be forthcoming if she complied with the TTP Agreement.

(c) Plaintiff has suffered fees and costs on her accounts and/or foreclosure/collection activity against her home.

(d) Because Defendant Chase and Defendant EMC improperly applied mortgage payments and/or held mortgage payments in "suspense" accounts rather than applying those payments to principal and interest, Plaintiff Munholland suffered escalated debt obligations, including interest and other charges, and/or negative references to credit rating agencies.

(e) Because Defendant EMC and Defendant Chase instructed Plaintiff Munholland to cease making existing mortgage payments and to pay the trial period payment for approximately three years, Plaintiff Munholland was subjected to additional financial losses including foreclosure, risk of foreclosure, late payment fees or penalties, and/or negative reference to credit rating agencies.

(f) Plaintiff Munholland was subjected to improperly recorded notices of default regarding her loans.

(g) Plaintiff Munholland was subjected to an unlawful foreclosure action regarding her loan.

68. Plaintiff Munholland alleges, among other, that Defendants EMC and Chase:

(a) Misrepresented to Plaintiff Munholland the requirements for achieving permanent loan modification and the status of her loan modification application;

(b) Requested and accepted interim payments under temporary modification to TPP Agreements or forbearance agreements as a condition for promised permanent loan modification, without any reasonable basis to believe that the loan would be permanently modified, and without taking reasonable steps to implement a permanent loan modification;

(c) Misrepresented to Plaintiff Munholland the terms of the balance of the loan being serviced;

(d) Held mortgage payments made under temporary modification, TPP Agreements, or forbearance agreement in "suspense account," or otherwise misapplied such payments, resulting in increased debt obligations, including interest and other charges;

(e) Instructed Plaintiff Munholland that she must stop making her existing mortgage payment as a prerequisite to qualifying for a loan modification, thus subjecting her to additional financial jeopardy including foreclosure, risk of foreclosure, late fees or penalties, and negative references on their credit histories;

(f) Instructed Plaintiff Munholland that she must cease making payments on credit cards and/or other unsecured debt as a prerequisite to qualifying for a loan modification, thus subjecting them to additional financial jeopardy including late fees or penalties and negative resentences on their credit histories;

(g) Caused to be recorded a notice of default for a mortgage loan against Plaintiff Munholland;

(h) Caused to be initiated an unlawful foreclosure actions against Plaintiff Munholland; and

(i) Implemented procedures and systems that effectively made it unlikely that permanent loan modification would be granted to Plaintiff Munholland.

FIRST CLAIM FOR RELIEF
(Declaratory Judgment)

69. Plaintiffs incorporate herein by reference as though fully set forth herein the allegations contained in the foregoing paragraphs.

70. This is an action for declaratory relief which is being brought pursuant to Colo.R.Civ.Pro. 57 (which incorporates the Colorado Declaratory Judgment Act) to declare that Defendants have no legal or equitable rights in the Note, Deed of Trust, or Property, and do not possess the full and unencumbered legal rights in both the Note and the Deed of Trust for purposes of foreclosure and that Defendants has no legal standing to institute or maintain foreclosure on the Property, and to further permit Plaintiffs to seek permanent injunctive relief forever barring Defendants from ever seeking to foreclose on the Property.

71. Pursuant to Colo.R.Civ.Pro. 57(a), this District Court has the power to declare rights, status, and other legal relations whether or not further relief could be claimed.

72. Pursuant to Colo.R.Civ.Pro. 57(b), any person interested under a deed, will, written contract or other writings constituting a contract or whose rights, status, or other legal

relations are affected by a statute, municipal ordinance, contract, or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

73. Pursuant to Colo.R.Civ.Pro. 57(c), a contract may be construed either before or after there has been a breach thereof.

74. Colo.R.Civ.Pro. 57(e) provides that the enumeration in preceding sections do not limit or restrict the exercise of the general powers conferred in section (a) of the Rule in any proceedings where declaratory relief is sought in which a judgment or decree will terminate the controversy or remove an uncertainty.

75. Colo.R.Civ.Pro. 57(k) provides that the Rule is declared to be remedial and that its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations and is to be liberally construed and administered.

76. Plaintiffs and Defendants are "persons" within the meaning and definition of "person" pursuant to CRCP 57.

77. Colo.R.Civ.Pro. 57(h) provides that further relief based on a declaratory judgment or decree may be granted whenever necessary or proper.

78. Colo.R.Civ.Pro. 57(i) provides that when a proceeding under this Rule involves the determination of an issue of fact that such issues may be tried and determined in the same manner as issues of fact are tried and determined in other actions before the court in which the proceeding is pending, with Colo.R.Civ.Pro. 57(m) expressly providing that trial by jury may be demanded and that the existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate.

79. For the following reasons, there is a true, actual, and present controversy and Plaintiffs are in doubt and are uncertain as to their rights under the Note and DOT contracts, and thus Plaintiffs are legally entitled, through this action for Declaratory Relief, to have such doubt and uncertainty removed:

a. the Note and Deed of Trust were not executed in favor of Defendant Wells Fargo or Defendant MERS;

b. there is no credit agreement executed by Plaintiffs with Defendant Wells Fargo or Defendant MERS;

c. there is no evidence of any lawful transfer of the full and unencumbered rights to the Note and Deed of Trust from the original lender to any person or party;

d. Defendants have foreclosed on the Property without any legal interest in the Note or Deed of Trust;

e. Defendant MERS is expressly precluded from creating a beneficial interest in a mortgage loan by its own Terms and Conditions;

f. Defendant Wells Fargo or Defendant MERS never loaned any money to Plaintiffs or extended any credit to Plaintiffs; and

g. Defendant Wells Fargo has failed to demonstrate that it lawfully or properly acquired any interest in either the Note or the DOT pursuant to its own agreed-upon restrictions for such acquisition.

80. Pursuant to Colo.R.Civ.Pro. 57(h), Plaintiffs are entitled to further relief based on this action for a Declaratory Judgment, and Plaintiffs have asserted such further relief in the Seventh Claim for Relief of this Complaint for Temporary and Permanent Injunctive Relief, which has been asserted as necessary and proper to preserve the status quo during the pendency of and through the full disposition of the merits of this proceeding.

81. As the disposition of this action on the merits will require the determination of multiple issues of fact, Plaintiffs demand, pursuant to Colo.R.Civ.Pro. 57(i) and (m), trial by jury of all issues of fact.

82. Plaintiffs are interested parties in the ownership of the subject Property. Defendant(s) are interested parties in the ownership of the subject Property.

83. All parties, now known, which have or claim any interest which would be affected by the declaration have been made a party to this action.

84. The Deeds of Trust executed on April 4, 2007 by Plaintiff Munholland were done prior to the Plaintiff obtaining title to the Property sufficient to convey an interest in said Property.

85. The subject Property was transferred via Public Trustee's Confirmation Deed, without the proper owner, Plaintiff Bella, being made aware of or a named party in any of the proceedings.

86. Said Deeds of Trust in favor of Defendant Aegis dated April 4, 2007 are void or voidable.

87. Since the Deeds of Trust in favor of Defendant Aegis dated April 4, 2007 are void or voidable, any subsequent transfers of ownership of said Deeds of Trust are also void or voidable.

88. Said purported Property transfer is void or voidable as to the transfer from Douglas County Public Trustee to Defendant Wells Fargo.

SECOND CLAIM FOR RELIEF
(Quiet Title)

89. Plaintiffs incorporate herein by reference as though fully set forth herein the allegations contained in the foregoing paragraphs.

90. Defendants, and each of them, claim or may claim some right, title or interest in and to the above described real Property adverse to the Plaintiffs, and said claim of said Defendants is without foundation or right.

91. Following the execution of the Deeds of Trust on April 4, 2007, Plaintiff Munholland was never made aware that said Deeds of Trust was/were sold or otherwise conveyed to Defendant Wells Fargo and Defendant Wells Fargo at no time has provided proper proof thereof.

92. Defendant Chase and Defendant EMC, as of the date of filing this Complaint have represented to Plaintiff Munholland that they are the owners of the evidence of debt, and that Defendant Wells Fargo is not. Defendant Chase has sent correspondence of the same as recently as within a month of the date of the filing of this Complaint.

93. Upon information and belief, Defendant Wells Fargo was and is not the proper owner of the original Deed of Trust executed by Plaintiff Munholland sufficient to allow Defendant Wells Fargo to initiate foreclosure proceedings on the subject Property.

94. Plaintiff prays for a complete adjudication of the rights of all parties to this action with respect to the real Property above described, for a decree requiring the Defendants to set forth the nature of their claim, determining that the Defendants and each of them has no interest, estate or claim of any kind whatsoever in the said real Property, forever barring and enjoining the Defendants from asserting any claim or title thereto, quieting the title of the Plaintiff in and to the real Property and adjudging that Plaintiff is the owner in fee simple and entitled to possession of the real Property, for attorneys' fees and costs and for such other and further relief as the Court may deem proper.

THIRD CLAIM FOR RELIEF
(Violation of the Federal and Colorado Fair Debt Collection Practices Act Against All Defendants)

95. Plaintiffs hereby incorporate by reference all the foregoing paragraphs as though fully set forth herein.

96. Defendant Chase and/or Defendant EMC are debt collectors within the meaning of Colorado Fair Debt Collections Practices Act, Colo.Rev.Stat. §12-14-101, *et.seq* and 15 U.S.C. 1692, *et.seq*. The monies allegedly owed by Plaintiff Munholland, are "debts" within the meaning of Colo.Rev.Stat. §12-14-101, *et.seq.* and 15 U.S.C. 1692, *et.seq*.

97. By the acts and practices described herein Defendants Chase and EMC have violated these laws, as follows, without limitation:

- Using false, deceptive, or misleading representation or means in connection with the collections of any debt, 15 U.S.C. §1692e, by, without limitation, falsely promising to consider Plaintiff Munholland in good faith for loan modifications on the condition that they submit TPP payments or forbearance payments;

- Using false, representations or deceptive means to collect or attempt to collect on any debt, 15 U.S.C. §1692e(1); and

- Using unfair or unconscionable means to collect or attempt to collect any debt, 15 U.S.C. §1692f.

FOURTH CLAIM FOR RELIEF
(Breach of Written Contract Against All Defendants)

98. Plaintiffs herein incorporate by reference all the foregoing paragraphs as though fully set forth herein.

99. Defendants Chase and EMC both executed Servicer Participation Agreements "(SPAs") to participate in the HAMP program. Through the HAMP program, lenders and servicers like Defendants Chase and EMC received portions of the $75 billion funded by the US Treasury Department to assist distressed homeowners like Plaintiff Munholland by providing loan modifications. HAMP includes a specific, uniform loan modification protocol, described below.

100. As Participating Servicers, under their SPAs Defendants Chase or EMC "shall perform" the activities described in the Program Documentation "for all mortgage loans [they] service []." These mandatory duties include:

(a) Evaluating for HAMP modifications all loans which are 60 or more days delinquent as well as loans of borrowers who contact them regarding a HAMP modification; and

(b) Where appropriate, offering the homeowner a TPP in which the homeowner makes mortgage payments, which are lower than the payments under the existing mortgage contract, based on a formula utilizing the initial financial information provided.

101. Under HAMP, if the homeowner executes the TPP Agreement, complies with all documentation requirements and makes all TPP monthly payments, the homeowner must be offered a permanent modification.

102. The formula utilized by Participating Servicers under HAMP for calculating a modified loan under the HAMP Programs is called the "Waterfall Formula," pursuant to the U.S. Treasure Department's HAMP Guidelines issued March 4, 2009 and its Supplemental Directive

09-01 issued April 6, 2009.[1] The Waterfall Formula provides the following criteria for Participating Servicers to calculate the terms of a modified loan for eligible homeowners:

(a) Capitalize accrued interest, advances, and third party fees;

(b) Reduce the current interest rates in increments of .125 percent with a floor of 2 percent;

(c) Extend the loan terms to up to 480 months; and

(d) Provide a non-interest bearing forbearance amount that will result in a balloon payment due on the maturity date of the loan.

103. The Waterfall Formula provides a specific, uniform protocol for calculating loan modifications. Participating Servicers like Defendants Chase and EMC utilize the Waterfall Formula for calculating loan modifications for borrowers who fit the HAMP criteria. Upon information and belief, Defendants Chase and EMC also utilized the Waterfall Formula for calculating loan modifications for borrowers who do not fit the HAMP criteria but who are seeking or being considered for a loan modification, including Plaintiff Munholland.

104. Plaintiff Munholland entered into various written agreements with Defendants Chase and EMC for modification on the terms of her loans requiring, *inter alia*, forbearance, loan modification, and/or good faith consideration for loan modification or TPPs (the "Agreements"). The promises contained in the Agreements (both express and implied), in conjunction with specific, uniform criteria contained in the Waterfall Formula, plus further representations made by Defendants Chase and EMC, provide sufficient material terms for the formation of legally binding contracts between Plaintiff Munholland and Defendant Chase and EMC for the modification of Plaintiff Munholland's loan. This information constitutes a sufficient specified standard for ascertainment of the material terms of the Agreements.

105. In addition, Defendants Chase and EMC made common, uniform oral representations to Plaintiff Munholland that if she complied with the terms of her trial plan, forbearance agreement, RMA Agreement, and/or TPP, they she receive permanent loan modification, and/or genuine and timely consideration for such loan modification. This oral representations was part of the Agreement as well.

106. Adequate legal consideration supports the Agreements. The consideration flowing from Defendants Chase and EMC was the promise to modify loans and to consider, in good faith and in a timely manner, Plaintiff Munholland's requests to modify her loan. The consideration flowing from Plaintiff Munholland included, but was not limited to, the following:

(a) Plaintiff foregoing or delaying selling her residence;

(b) Plaintiff foregoing or delaying refinancing the debt on her residence;

[1] Home Affordable Modification program, Supplemental Directive 09-01, April 6, 2009, located at: https://www.hmpadmin.com/portal/programs/docs/hamp_servicer/sd0901.pdf

(c) Plaintiff foregoing or delaying filing bankruptcy to restructure or discharge her financial obligations;

(d) Plaintiff foregoing or delaying legal action at an earlier juncture;

(e) Plaintiff foregoing or delaying alternate remedies at an earlier juncture;

(f) Plaintiff foregoing or delaying negotiating for a short sale, deed in lieu of foreclosure, debt restructuring, or other alternatives to foreclosure;

(g) Plaintiff remaining in and maintaining her home;

(h) Plaintiff continuing to pay money in mortgage payments for approximately three years, in order to obtain the loan modification, which amounts she otherwise would not have paid;

(i) Plaintiff continuing to pay money to keep the home insured and taxes current in order to obtain the loan modification, which amounts she would not have paid;

(j) Plaintiff fulfilling new documentation requirement; and

107. Plaintiff Munholland performed all conditions, covenants and promises required to be performed by her in accordance with the terms and conditions of the Agreements, except for such performance as may be excused by Defendants' conduct.

108. Defendants Chase and EMC requested and accepted interim payments for approximately three years under the TPP, temporary modifications, RMA Agreements and/or forbearance agreement as a condition for the promised permanent loan modification, without any reasonable basis to believe that the loan would be permanently modified, and without taking diligent or reasonable steps to consider in good faith or implement permanent loan modification.

109. Defendant Chase and EMC breached the Agreement (including the covenant of good faith and fair dealing inherent in every contract) by failing to consider the Plaintiff's application in good faith and in a timely manner and by falling to provide permanent loan modifications, as agreed, and in failing to make Plaintiff's modification permanent.

FIFTH CLAIM FOR RELIEF
(Fraud - Against All Defendants)

110. Plaintiffs herein incorporate by reference the foregoing paragraphs as though fully set forth herein.

111. Defendants Chase and EMC made numerous material misrepresentations to Plaintiff Munholland relating to her mortgage loans and application for modification of said loan, as specified above in detail. These representations included, but were not limited to, the uniform

oral representations that if Plaintiff complied with the terms of their trial plans, she would receive a permanent loan modification. In addition, Defendants Chase and EMC made the representation that Plaintiff Munholland's loan modification application was still being processed for almost three years, at times when in reality it was not still being processed, either because the processing stopped, was hopeless, or there was a temporary moratorium on loan modification processing.

112. Plaintiff Munholland believes, and based thereon allege, that Defendants Chase and EMC's representations were in fact false and that, at the time Defendants made these misrepresentations, Defendants knew them to be false, and made then with the intention to induce Plaintiff Munholland to act in reliance on said representations as alleged herein, or with the expectation that she would do so.

113. Plaintiff Munholland reasonably and justifiably relied on Defendants' representations. At the time the misrepresentations were made by Defendants, and at the time she took the actions alleged herein or failed to act as alleged herein, Plaintiff Munholland was ignorant of the falsity of Defendants' misrepresentation and believed them to be true. In reasonable and justifiable reliance on such misrepresentations, Plaintiff Munholland was induced to, and in fact did, take certain actions, to her detriment, and/or forego or delay multiple alternative options that would have been available to her.

114. As a direct, foreseeable, and proximate result of Defendants' wrongful actions alleged herein, Plaintiff Munholland has been injured and damaged in amounts to be determined at the time of trial. Had Plaintiff Munholland known the true facts, she would not have taken the actions she did in reliance on Defendants' representations or would have taken other actions altogether. In particular, Plaintiff Munholland was induced to, and did, take certain actions to her detriment. In addition, or in the alternative, Plaintiff Munholland was induced to, and did, forego or delay certain alternative actions, including:

(a) Selling her residence;

(b) Refinancing the debt on her residence;

(c) Initiating legal action at an earlier juncture;

(d) Seeking alternate remedies at an earlier juncture;

(e) Avoiding damage to her credit scores;

(f) Negotiating for a short sale, deed in lieu of foreclosure, debt restructuring, or other alternatives to foreclosure.

115. In doing the acts alleged in this cause of action, Defendants acted intentionally, willfully, and with the intent to injury Plaintiff Munholland with malice, fraud, and oppression.

SIXTH CLAIM FOR RELIEF
(Promissory Estoppel Against All Defendants)

116. Plaintiffs herein incorporate by reference the foregoing paragraphs as though fully set forth herein.

117. In offering a temporary loan modification, a forbearance agreement, and a TPP to Plaintiff Munholland, Defendants Chase and EMC made representations to Plaintiff Munholland that, if she submitted certain documents to Defendant Chase and EMC and made certain payments, which she did for approximately three years, Plaintiff Munholland would receive a permanent loan modification, or at least good faith and timely consideration. Plaintiff Munholland was led to believe that if she executed the Agreement, complied with all documentation requirements and made all monthly payments, she would be provided a permanent modification, or at least good faith and timely consideration.

118. Defendants' promises and representations to Plaintiff Munholland were clear and unambiguous. Under HAMP, if the homeowner executes the TPP Agreement, complies with all documentation requirements and makes all TPP monthly payments, the homeowner is offered a permanent modification. There is nothing "unclear" or "ambiguous" about these representations. Moreover, specific loan modification terms are calculated by the "Waterfall Formula" used by Participating Servicers under the HAMP Program, detailed above.

119. Defendants' TPP was intended to induce Plaintiff Munholland to rely on them and to make monthly TPP payments, with the promise of obtaining a permanent loan modification.

120. Plaintiff Munholland relied on Defendants' representations, as demonstrated by, *inter alia*, her submitting the required documents and making payments under the TPP for approximately three years.

121. Plaintiff Munholland's reliance on Defendants' representations was reasonable and foreseeable under the circumstances and given the representations made in the TPP Agreement and in related communications by Defendants EMC and Chase.

SEVENTH CLAIM FOR RELIEF
(Temporary and Permanent Injunctive Relief)

122. Plaintiffs incorporate herein by reference as though fully set forth herein the allegations contained in foregoing paragraphs.

123. This is an action for temporary and permanent injunctive relief which is brought pursuant to Colo.R.Civ.Pro. 65.

124. Plaintiffs have a clear legal right to seek the issuance of a Temporary Restraining Order against the Forcible Entry and Detainer action ("FED") as their interests in the Property are being threatened by Defendants who have failed to demonstrate any legal interest in either

the Note or the Deed of Trust and who have failed to demonstrate any legal right to foreclose on their home.

125. Plaintiffs have no adequate remedy at law to restrain the unlawful conduct of the Defendants as set forth hereinabove.

126. Unless temporary and permanent injunctive relief are granted, Plaintiffs will suffer the irreparable loss of the Property, which Property is unique.

127. In view of the matters set forth hereinabove including the prohibitions on the actions of the Defendants by virtue of Colo. Rev. Stat. §38-10-124 and as if an injunction is not issued the subject matter of this litigation (that being the Property) will be lost, Plaintiffs have a reasonable probability of success on the merits of this claim for injunctive relief.

128. The granting of injunctive relief is in the public interest as the public, including Plaintiffs, benefits from this Court's precluding a wrongful FED action from proceeding with the grant of injunctive relief as requested herein.

129. As Plaintiffs have challenged the Defendants' standing to maintain an FED action, challenged whether any of the Defendants are the real party in interest, and has challenged the Defendants' claim to a chain of title to either the Note or the DOT, and as Defendants have failed to demonstrate that they will suffer any harm if the relief requested herein is granted, this Court may enter a restraining order without bond as is just.

130. Alternatively, Plaintiffs should only be required to provide minimal security for purposes of satisfying the requirements of CRCP 65(c) or agrees that the Property may serve as security during the pendency of this action through full disposition on the merits including any appeal(s), and Plaintiffs agrees not to encumber, sell, transfer, or otherwise impair the Property during the pendency of this action through such full disposition.

PRAYER FOR RELIEF

(All Claims)

WHEREFORE, Plaintiffs pray for judgment and relief as follows:

1. A decree requiring Defendants, and each of them, to show proper ownership and chain of title;

2. A decree requiring Defendant Wells Fargo, or any other Defendant in possession, to provide, or make available for copying and inspection, the original deed of trust executed by Plaintiff Munholland;

3. A decree requiring the Defendants to set forth the nature of their claim;

4. A decree determining that the Defendants and each of them have no interest, estate or claim of any kind whatsoever in the said real Property;

5. A decree forever barring and enjoining the Defendants from asserting any claim or title thereto;

6. Quieting the title of Plaintiff Bella and/or Plaintiff Munholland in and to the real Property;

7. Adjudging that Plaintiff Bella and/or Plaintiff Munholland is the owner in fee simple and entitled to possession of the subject Property;

8. An Order ordering that the Deed of trust dated April 4, 2007 and recorded in Douglas County, Colorado on April 12, 2007 at reception number 2007029062 does not and did not encumber the Property and cannot act as security thereto;

9. An Order ordering that the Deed of trust dated April 4, 2007 and recorded in Douglas County, Colorado on April 12, 2007 at reception number 2007029063 does not and did not encumber the Property and cannot act as security thereto;

10. A decree that the Public Trustee's Deed and/or Public Trustees Certificate of Purchase, on June 8, 2011 in Douglas County, Colorado at reception number 2011035051, be declared void;

11. An Order ordering that Defendant Wells Fargo did not have title to the Property sufficient to commence foreclosure proceedings and said foreclosure proceedings be set aside as invalid;

12. Any other legally recoverable amounts;

13. An Order cancelling and enjoining the FED possession hearing presently scheduled for November 9, 2011;

14. A Permanent Injunction forever barring Defendants or any agents thereof from attempting to foreclose or foreclosing on the Property in the future; and

15. For specific performance and/or injunctive relief, consisting of a temporary restraining order, preliminary injunction, and/or permanent injunction preventing defendants from continuing their illegal business practices against Plaintiff Munholland, and/or compelling Defendants to honor their representations, specifically including the prompt implementation of permanent loan modifications, as promised, op pursuant to an appropriate loan modification standard formula (such as HAMP);

16. In the alternative, rescission and/or restitution, or other appropriate equitable or statutory relief.

17. For general, compensatory and consequential damages in an amount to be determined at the time of trial.

18. For interest at the highest legal rate commencing from earliest date allowed by law.

19. For costs of suit incurred herein.

20. For reasonable attorney fees.

21. For damages on the fraud cause of action.

22. Any other legally recoverable damages; and

23. For such other and further relief as the Court may deem just and proper.

PLAINTIFFS DEMANDS THAT ALL ISSUES OF FACT BE TRIED TO A JURY OF SIX (6) PERSONS.

Respectfully submitted this 7th day of November 2011.

WILLIAM J. HUNSAKER, P.C.

By:/s/Donald T. Emmi
Attorneys for Plaintiff

In accordance with C.R.C.P. 121 § 1-26(9), a printed copy of this document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the court upon request.