

1 KAVEH KHA
7234 Encelia Dr.
2 La Jolla, California 92037
Phone: (858) 250-7620
3

10 OCT 18 10:52

4 Plaintiff, In Pro Se

MTB

5
6
7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA

9 KAVEH KHA

Case No. **10 CV 2168** IEG JMA

10 Plaintiff

VERIFIED COMPLAINT FOR DAMAGES FOR:

11 vs.

12 WASHINGTON MUTUAL BANK
13 JP MORGAN CHASE BANK; CALIFORNIA
RECONVEYANCE COMPANY, and
DOES, 1-10 INCLUSIVE

1. Violations of 15 U.S.C. 1601, Federal Truth in Lending Act.
2. Violations of 15 U.S.C. 1692 § 808 (6)(a) Federal Fair Debt Collection Practices Act;
3. Violations of 12 U.S.C. 2601 et seq. Real Estate Settlement Procedures Act.
4. To Set Aside and Vacate Trustees Sale Under Cal. Civil Code § 3412
5. Unjust Enrichment;
6. Promissory Estoppel;
7. Action for an Accounting;
8. Breach of Implied Warranties
9. Injunctive Relief, Disgorgement Under California Private Attorney Generals Statute, Cal. Business & Prof. Code §17200;
10. Consumer Fraud;
11. Common Law Fraud;
12. Negligence;
13. Declaratory Relief
14. Application for TRO pending OSC for Preliminary Injunction

14 Defendants

JURY DEMANDED

25 Plaintiff, KAVEH KHA, brings this action against Mortgage Lenders, WASHINGTON
26 MUTUAL BANK, CHASE BANK, CALIFORNIA RECONVEYANCE COMPANY, and DOES,
27 1 through 10, INCLUSIVE, to secure redress from predatory lending practices and unfair debt
28 collection practices.

CR

1 Plaintiff seeks to rescind a residential mortgage loan for violation of the Truth in Lending
2 Act, codified at 15 U.S.C. § 1601 et seq., (TILA), and implementing Federal Reserve Board
3 Regulation Z, 12 C.F.R. part 226, and for cancellation of a Deed of Trust after Sale.

4 Additionally, Plaintiff seeks redress under 15 U.S.C. 1692, et seq. for unlawful and unfair
5 debt collection practices and for violations of the Real Estate Settlement Procedures Act 12 U.S.C.
6 2601. Moreover, Plaintiff seeks injunctive relief and disgorgement under Cal. Bus. & Professions
7 Code § 17200 et seq. and implementing the California Private Attorney General Statute.

8 **JURISDICTION**

9 This Court has jurisdiction under 28 U.S.C. § 1331 (general federal question), 15 U.S.C. §
10 1601 (TILA), 15 U.S.C. 1692, Fair Debt Collection Practices Act, 12 U.S.C. 2601, Real Estate
11 Settlement Procedures Act, (RESPA), and, 28 U.S.C. § 1367 (supplemental jurisdiction).

12 Jurisdiction is additionally inferred under California Business & Professions Code § 17200 et seq.
13 Venue in this District is proper whereas Defendants, and each of them, transact business within the
14 jurisdiction of this Court.

15 **PARTIES**

16 1. Plaintiff, KAVEH KHAJAST, is an individual, and is and at all times herein mentioned was
17 a resident of the County of San Diego, State of California within the jurisdictional boundaries of this
18 Court. Plaintiff is the owner of real property commonly known as and located at 7234 Encelia Dr.,
19 La Jolla, California 92037, (hereinafter the "Subject Property"), which is situated within the
20 jurisdictional boundaries of this Court.

21 2. Defendant, CALIFORNIA RECONVEYANCE COMPANY (hereinafter CRC), at all
22 times herein mentioned was doing business in the County of San Diego, State of California and on
23 information and belief was hired by Defendant JP Morgan Chase Bank, (hereinafter CHASE), to
24 issue notices of default and other notices relating to the foreclosure of Plaintiffs' property.

25 3. Defendant, WASHINGTON MUTUAL BANK, (hereinafter referred to as "WAMU"),
26 at all times herein mentioned was doing business in the County of San Diego, State of California as
27 a Mortgage lender, and this Defendant alleged to be the beneficiary under Plaintiffs note and ordered
28 the foreclosure of Plaintiffs real property.

1 4. Defendant, CHASE BANK, (hereinafter referred to as "CHASE ") , at all relevant times
2 herein mentioned was doing business in the County of San Diego State of California, and this
3 Defendant alleges to be the beneficiary under Plaintiffs Note and in concert with defendant WAMU,
4 is conducting the Foreclosure of Plaintiffs property.

5 5. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as DOES
6 1 through 10, INCLUSIVE, and therefore sues these Defendants by such fictitious names. Plaintiff
7 will amend its complaint to show the true names and capacities of such fictitious Defendants when
8 they have been fully ascertained.

9 6. Plaintiff is informed and believes, and upon such information and belief alleges that, at
10 all times herein mentioned each of the Defendants sued herein in relation to the property they claim
11 an interest in was the agent and employee of each of the remaining Defendants thereof and at all
12 times was acting within the purpose and scope of such agency and employment.

13 7. Plaintiff alleges that Defendants, WAMU, and CHASE, are conducting a Trustee Sale and
14 and attempting to foreclose on Plaintiffs real property commonly known as, and located at, 7234
15 Encelia Dr., La Jolla, California 92037, the same property identified in Exhibit 1, ostensibly to
16 collect the unpaid balance on the Note secured by the security instrument that is identified in Exhibit

17 8. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as DOES
18 1 through 10, INCLUSIVE, and therefore sues these Defendants by such fictitious names. Plaintiff
19 will amend its complaint to show the true names and capacities of such fictitious Defendants when
20 they have been fully ascertained.

21 9. Plaintiff is informed and believes, and upon such information and belief alleges that, at
22 all times herein mentioned each of the Defendants sued herein in relation to the property they claim
23 an interest in was the agent, or employee of and in concert with the remaining Defendant(s).

24 **INTRODUCTION**

25 10. Mortgage Fraud is defined as the intentional misstatement, misrepresentation, or
26 omission by an applicant or other interested parties, relied on by a lender or underwriter to provide
27 funding for, to purchase, or to insure a mortgage loan. Combating mortgage fraud effectively requires
28 the cooperation of law enforcement and industry entities.

1 11. No single regulatory agency is charged with monitoring this crime. The FBI, Department
2 of Housing and Urban Development-Office of Inspector General (HUD-OIG), Internal Revenue
3 Service, Postal Inspection Service, and state and local agencies are among those investigating
4 mortgage fraud. "The potential impact of mortgage fraud on financial institutions and the stock
5 market is clear. If fraudulent practices become systemic within the mortgage industry and mortgage
6 fraud is allowed to become unrestrained, it will ultimately place financial institutions at risk and have
7 adverse effects on the stock market." -Chris Swecker, former FBI Assistant Director, Criminal
8 Investigative Division, Introductory Statement: House Financial Services Subcommittee on Housing
9 and Community Opportunity, 7 October 2004.

10 **Application of Unique Law to this Case is Warranted**

11 12. Cal Bus Prof Code 17200, is perhaps the only mechanism that can both force the
12 disgorgement and enjoin further conduct which loots California residents of hundreds of millions
13 of dollars annually by Wamu/Chase alone. Accordingly, Plaintiff, absent being forced to devote his
14 resources to investigating the fraud perpetrated at the inception of the financing triggered by the
15 second stage fraud. This second stage fraud occurred when Wamu/Chase instructed Plaintiff to
16 purposely default on his mortgage loan so he could qualify for a loan modification and immediately,
17 recorded a Notice of Default and proceeded with foreclosure.

18 13. The fact that there was more than \$100,000.00 of equity in property was clearly a
19 motivating factor but as evidenced in the admission by Wamu detailed in the 300 page complaint
20 filed against WAMU by its stockholders, that mortgages were not the core of Wamu's profit center,
21 rather, mortgage fraud was the core. And such fraud has served as the key to the Court house for
22 Wamu.

23 14. Mortgage fraud is a relatively low-risk, high-yield criminal activity which is accessible
24 to many, however Plaintiff asserts that Wamu took it to a new level rendering fraud the key to
25 generating fees and placing homeowners like Plaintiff on a track to foreclosure from day one. How
26 a large powerful bank like WAMU place homeowners on a path to foreclosure form the date of
27 financing is simple:

28 ///

1 a) First, they issued fraudulent property appraisals as detailed in the admissions on ABC by
2 the WAMU's top officers and directors and as detailed in the 300 page complaint aforementioned.

3 b) Second, in an attempt to strip issuing the loans Wamu would routinely violate
4 RESPA, TILA, together with inflating the Notary costs by 900%.

5 For example, Cal.Gov.Code § 8211, I pertinent part, states that fees charged by a notary
6 public for the following services shall not exceed the fees prescribed by this section:

7 "For taking an acknowledgment or proof of a deed, or other instrument, to include
8 the seal and the writing of the certificate, the sum of ten dollars (\$10) for each
signature taken."

9 15. Despite the above, Defendants charged Plaintiff 100.00 for his signature. This alone,
10 sought under 17200 for disgorgement and injunction from further acts trumps the amount in
11 controversy in the foreclosure action (even assuming the entire note was valid, due and owing by
12 more than 100,000,000.00 million dollars.)

13 16. With full cognizance that "class actions" are all but barred by the generally flocked to
14 Respa statutes, as these statutes, due to their limitation, have short statute of limitations.
15 Nevertheless, through their continuing fraud and failure to reverse these charges, and continuing to
16 amortize these illegal costs into each loan payment, Wamu tolled the statue of limitations.

17 17. Plaintiff asserts that by looting the tens of thousands of California homeowners for
18 notary fees in excess of 900% of their statutory amount, there no more objective evidence that
19 Plaintiffs claim on behalf of himself and as the private attorney general needs to be decided (as well
20 as the others), which combined with the others well exceeds the amount Wamu claims to be in
21 controversy.

22 **STATEMENT OF FACTS**

23 18. Plaintiff realleges and incorporates by reference all of the paragraphs as fully set forth
24 above.

25 19. On or about April 11, 2006, Plaintiff entered into a mortgage agreement with
26 Washington Mutual Bank (WAMU) for the purchase of a single family residence located at 7234
27 Encelia Dr., La Jolla, California 92037.

28 //./

1 20. For the first two years of the mortgage agreement, Plaintiff made all of his payments in
2 a timely manner and according to terms.

3 21. On or about May 12, 2008, Plaintiff contacted Defendant WAMU regarding modification
4 and restructuring of his current mortgage.

5 22. At that time the representative for Defendant WAMU, informed Plaintiff that they would
6 modify his loan, but only if he was in default, and thereon instructed Plaintiff to purposely stop
7 making his mortgage payments in order to qualify. Accordingly, Plaintiff ceased making his
8 mortgage payments for a period of 90 days and immediately contacted Defendant WAMU for a loan
9 modification package.

10 23. Thereafter, Defendant WAMU mailed Plaintiff loan modification documents which he
11 completed along with all supporting documentation requested and returned.

12 24. Plaintiff waited approximately one week and contacted Defendant WAMU to confirm
13 receipt of his loan modification documents. At that time, Plaintiff spoke to a WAMU representative
14 who informed Plaintiff that they did in fact receive his loan modification application and supporting
15 documentation, and that an agent would be assigned to handle his request. Plaintiff was further
16 informed that the process of assigning an agent would take approximately 1 to 2 months.

17 25. When Defendant, WAMU failed to contact Plaintiff within the anticipated time line,
18 he contacted Defendant and was informed that his application and supporting documentation were
19 missing and that he would have to reapply . Plaintiff immediately prepared a second application with
20 accompanying documents and overnight mailed it to Defendant.

21 26. Plaintiff then waited an additional 30 days without receiving any correspondence from
22 Defendant WAMU and contacted them telephonically. At that time, Plaintiff discovered that the
23 Federal Trade Administration had issued a cease and desist order against WAMU and that Defendant
24 JP MORGAN CHASE BANK had assumed the assets, (and liabilities) of Defendant WAMU.

25 27. Plaintiff immediately contacted Defendant CHASE BANK and was informed that his
26 loan modification application was missing and that he would have to once again reapply. After
27 Defendant CHASE BANK lost Plaintiffs second application, he hired Mr. Martin Estehaghi to
28 negotiate with Defendant CHASE BANK on his behalf.

1 28. Plaintiff reapplied for a third time and his advocate, Mr. Estehagi, was successful in
2 obtaining a “conditional” loan modification from Defendant CHASE BANK. Thereafter, Defendant
3 CHASE sent Plaintiff a document which he signed and resumed making his monthly payments.

4 29. Thereafter, Plaintiff contacted the agent in charge of his loan modification at CHASE
5 to inquire about the status of his property insurance and taxes, as they were previously in impound.
6 At that time, Plaintiff was informed that he would have to file yet another loan package to reconsider
7 his loan for review.

8 30. Plaintiffs advocate, Mr. Estehagi sent out the fourth package with supporting
9 documentation which was immediately denied. Thereafter, Defendant CHASE issued its Notice of
10 Trustee’s Sale for Plaintiffs property.

11 31. Plaintiffs advocate, Mr. Estehagi contacted Defendant CHASE which had now assigned
12 a female agent named “Elsa” to manage Plaintiffs loan. Elsa informed Plaintiff that if he could make
13 one or two payments of \$25,000.00 - \$30,000.00, the bank advisor would be more likely to consider
14 his request for a loan modification.

15 32. Plaintiff agreed to make the payments she suggested, however as the sale date grew
16 closer, Plaintiff was unable to reach “Elsa”. On the last Friday prior to the Trustees Sale Date, Elsa
17 finally contacted Plaintiff to inform him that his application had been denied.

18 33. Plaintiff then decided to contact Elsa about the possibility of a short sale. Plaintiff
19 attempted to contact Elsa at least 7-8 times before she finally answered the telephone and told
20 Plaintiff not to bother with a short sale because the bank would simply not consider it.

21 34. Plaintiff attempted to short sale the property, however, it failed largely due to Defendant
22 CHASE’s failure to cooperate. Defendant CHASE is attempting to foreclose on Plaintiffs home and
23 has scheduled a sale date of October 27, 2010.

24 35. Additionally, although repeated request have been made to Defendant CHASE to provide
25 Plaintiff with statements regarding his loan, they have failed and refused and continue to fail and
26 refuse to provide such statements.

27 ///

28 ///

1 36. Given Wamu/Chase's actions Plaintiff began researching into the legalities of what
2 Wamu/Chase had done to him and discovered that Defendant Washington Mutual had been taken
3 over by Defendant Chase after essentially going bankrupt making billions of dollars of risky home
4 loans.

5 37. Plaintiff further discovered the existence of a major share holder class action suit which
6 had been filed against Washington Mutual in the United States District Court in the Western District
7 of Washington at Seattle under case number No. 2:08-md-1919 MJP / Lead Case No. C08-387 MJP
8 in which it is alleged that Washington Mutual's risky loan practice arose after it illegally inflated the
9 value of numerous homes to allow them to lend excessive amounts of money to homeowners
10 borrowing from them.

11 38. Additionally, Plaintiff found numerous news articles which disclosed a number of
12 government agencies who are currently investigating employees and officers of Washington
13 Mutual to ascertain the full extent of their unlawful lending practices.

14 39. On or about July 01, 2009, the State of California enacted SB 1137 which extended the
15 period of time between recordation of the "Notice of Default", and, "Notice of Trustees Sale" from
16 30 days to 90 days as to allow homeowners time to secure funds to cure the default.

17 40. Plaintiff is informed and believes, and upon such information and belief alleges that
18 Defendants "Loan Modification" program is a nothing more that a ruse designed to circumvent
19 California State Bill 1137¹, and to lead Plaintiff, and other similarly situated borrowers to early
20 default and foreclosure.

21 41. Plaintiff asserts that Defendant, CHASE, has no legal right to initiate foreclosure under
22 the security instrument identified in the Notice of Sale attached as Exhibit 1, nor does it have the
23 right to direct Defendant CRC, to foreclose and sell the Subject real property.

24
25 ¹. Close examination of SB 1137 shows there are some significant loop holes for mortgage companies insofar and they don't have to
26 comply with SB 1137 if they are offering modifications to home owners that meet certain criteria. All that a lender needs to do is "offer" a deferment
27 of some of the principal due until the end of the loan and a minimal interest rate decrease to qualify under the new law. The lender does not necessarily
28 have to modify any loan, only "offer". Once such a modification is "offered", the lender can apply for a certificate of exemption, and continue to
foreclose regardless of this law.

1 42. As a result thereof, Plaintiff has been damaged in the costs associated with bringing this
2 action to enjoin Defendants and each of them from unlawfully depriving Plaintiff from ownership
3 of the subject property.

4 43. Plaintiff asserts that Defendants, and each of them, misrepresented the facts intending
5 to mislead Plaintiff so that Defendants and each of them, could steal the Subject Property thereby
6 benefitting from the sizable amount of equity the property contains.

7 44. Plaintiff is informed and believes, and upon such information and belief alleges that
8 Defendants, WAMU, and, CHASE , have engaged in deceptive practices with respect to Plaintiff
9 in violation of the Home Ownership and Equity Protection Act, (“HOEPA”), 15 U.S.C. § 1637, the
10 Truth in Lending Act, (“TILA”), 15 U.S.C. § 1601, Regulation Z, 12 C.F.R. 226, and the Federal
11 Trade Commission Act, (“FTC Act”) 15 U.S.C. §§ 41-58.

12 45. In addition to the foregoing, Plaintiff discovered multiple violations of the Truth In
13 Lending Act (TILA), and the Real Estate Settlement Procedures Act, (RESPA), which include but
14 are not limited to:

- 15 a.) Undisclosed Settlement Charges;
- 16 b.) Unjust Enrichment;
- 17 c.) Miscalculated Annual Percentage Rate;
- 18 e.) Inflated Notary Charges;
- 19 f.) Conflicts between Disclosures and Official Documents;
- 20 g.) Estimated Settlement Statement Not Properly Completed;
- 21 h.) Inflated Appraisal;
- 22 g.) Failure to Apply Application Fee;
- 23 h.) Various Miscalculations;
- 24 i.) Failure to provide Consumer Handbook on Adjustable Rate Mortgages
25 (“CHARM”) Booklet;
- 26 j.) No Good Faith Estimate;
- 27 k.) Failure to comply with underwriting standards

28 ///

FIRST CLAIM FOR RELIEF

Violations of 15 U.S.C. 1601, Truth in Lending Act

46. Plaintiff realleges and incorporates ¶¶ 1-45, as fully set forth above. This claim is against Defendants, WAMU, and, CHASE .

47. Because the transaction was secured by Plaintiffs home, and was not entered into for the purposes of the initial acquisition or construction of that home, it is subject to the right to cancel provided by TILA, 15 U.S.C. § 1601, and implementing Federal Reserve Board Regulation Z, 12 C.F.R § 226.23, which provides:

(a) Consumers right to rescind

- (1) In a credit transaction in which a security interest is or will be retained or acquired in a consumers principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind the transaction, except for transactions described in paragraph (f) of this section. [fn]47.
- (2) To exercise the right to rescind, the consumer shall notify the creditor of the rescission by mail, telegram, or other means of written communication. Notice is considered given when mailed, when filed for telegraphic transmission or, if sent by other means, when delivered to the creditors' designated place of business.
- (3) The consumer may exercise the right to rescind until midnight of the third business day following consummation, delivery of the notice required by paragraph (b) of this section, or delivery of all material disclosures , [fn] 48, whichever occurs last. If the required notice or material disclosures are not delivered, the right to rescind shall expire 3 years after consummation, upon transfer of all of the consumer's interest in the property, or upon sale of the property, whichever occurs first. In the case of certain administrative proceedings, the rescission period shall be extended in accordance with section 125(f) of the Act. [15 U.S.C. § 1635(f)].
- (4) When more than one consumer in a transaction has the right to rescind the exercise of the right by one consumer shall be effective as to all consumers.

(b) Notice of right to rescind

In a transaction subject to rescission, a creditor shall deliver 2 copies of the notice of right to rescind to each consumer entitled to rescind. The notice shall be on a separate document that identifies the transaction and shall clearly and conspicuously disclose the following:

- (1) The retention or acquisition of a security interest in the consumers' principal dwelling.
- (2) The consumers right to rescind the transaction;
- (3) How to exercise the right to rescind, with a form for that purpose, designating the address of the creditors place of business;

- 1 (4) The effects of rescission, as described in paragraph (d) of this section;
- 2 (5) The date the rescission period expires;

3 (f) Exempt transactions.

4 The right to rescind does not apply to the following:

- 5 (1) A residential mortgage transaction [defined in U.S.C. 15 §1602(w) as one where a
6 “security interest is created or retained against the consumers dwelling to finance the
7 acquisition or initial construction of such dwelling].
- 8 (2) A credit plan in which a state agency is a creditor.

9 48. Because Defendant WAMU failed to comply with Section 226.23, Plaintiff’s has
10 a continuing right to rescind.

11 49. Plaintiff’s has given notice of his election to rescind.

12 **ADDITIONAL RELIEF:**

13 In any transaction in which it is determined that the creditor has violated this section, in
14 addition to rescission, the Court may award relief under section 1640 of this title for violations of
15 this sub-chapter not relating to the right to rescind.

16 WHEREFORE, Plaintiff’s requests that the Court enter judgment in favor of Plaintiff’s and
17 against Washington Mutual Bank and Chase Bank for:

- 18 a. Rescission of the 2006 WASHINGTON MUTUAL BANK, mortgage loan;
- 19 b. Statutory damages for the disclosure violations;
- 20 c. Attorneys fees, litigation expenses and costs.
- 21 d. Such other relief as the Court may deem just and proper.

22 **SECOND CLAIM FOR RELIEF**

23 **(Unfair Debt Collection Practices)**

24 50. Plaintiff realleges and incorporates ¶¶ 1-49, as fully set forth above. This claim is against
25 Defendants, and, CHASE , and, CRC

26 51. Plaintiff is informed and believes, and upon such information and belief alleges that the
27 Defendants, and each of them, in taking the actions aforementioned, have violated provisions of the
28 Federal Fair Debt Collections Act, 15 U.S.C. Title 41, Subchapter V, §§ 1692 et seq., and the Real
Estate Settlement Procedures Act (RESPA), 12 U.S.C. §§ 2601-2617.

///

1 WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as hereinafter
2 set forth.

3 **THIRD CLAIM FOR RELIEF**
4 **(Violations of 12 U.S.C. 2601 et seq.**
5 **Real Estate Settlement Procedures Act.)**

6 52. Plaintiff's incorporates ¶¶ 1-51, as fully set forth above. This claim is against
7 Defendants, WAMU, CHASE and CRC.

8 53. By engaging in the practices set forth above, Defendant WAMU gave to, and/or
9 accepted a fee, kickback, or thing of value pursuant to an agreement or understanding that business
10 incident to or a part of a real estate settlement service involving federally related mortgage loans
11 would be referred to a person in violation of the Real Estate Settlement Procedures Act of 1974, 12
12 U.S.C. § 2607(a).

13 WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as hereinafter
14 set forth.

15 **FOURTH CLAIM FOR RELIEF**
16 **(Set Aside and Vacate Trustee's Sale**
17 **Cancellation of Deed of Trust**
18 **California Civil Code § 3412)**

19 54. Plaintiff's incorporates ¶¶ 1-53, as fully set forth above. This claim is against
20 Defendants, CHASE , and, CRC

21 55. Plaintiff is informed and believes, and upon such information and belief alleges that
22 Defendants, CHASE, and, CRC are conducting their trustee's sale in violation of California Civil
23 Code § 2924. et seq. which if allowed, wrongfully deprived Plaintiff of title to the Subject Property
24 and of its beneficial use and enjoyment.

25 56. Defendant, CHASE claims and interest in the Subject Property based upon the Trustee's
26 Deed Upon Sale.

27 57. The claim of Defendant, to the Subject Property is without any right or merit. Although
28 the Trustee's Deed Upon Sale appears valid on its face, it is invalid and of no force and effect, for
the reasons set forth herein above. If the Notice of Trustees Sale is not canceled, serious irreparable
injury will continue to result to Plaintiff.

1
2 64. Injustice can be avoided by enforcing Defendants' promise, assurance and representation
3 completely.

4 WHEREFORE, Plaintiff prays judgment against Defendants and each of them as hereinafter
5 set forth.

6 **SEVENTH CLAIM FOR RELIEF**
7 **(Demand for Accounting)**

8 65. Plaintiff's incorporates ¶¶ 1-97, as fully set forth above. This claim is against
9 Defendants, WAMU, and, CHASE.

10 66. Plaintiff asserts that as a result of the aforementioned conduct of Defendants, and each
11 of them, these Defendants have received proceeds from the unlawful sale of the Subject Property,
12 a portion of which is due to Plaintiff from Defendants, as previously alleged.

13 67. The amount of money due from Defendants, and each of them, to Plaintiff is unknown
14 to Plaintiff at this time and cannot be ascertained without an accounting of the proceeds after the sale
15 of the Subject property. Plaintiff is informed and believes and thereon alleges that the amount due
16 to Plaintiff exceeds the minimum jurisdiction of this Court.

17 68. Further, Plaintiff has demanded his statements and an accounting of the amortization
18 schedule and calculated interest for the aforementioned loan modification from Defendant, CHASE,
19 but Defendant has failed and refused, and continues to fail and refuse, to render such an accounting.

20 WHEREFORE, Plaintiff prays judgment against Defendants and each of them as hereinafter
21 set forth.

22 **EIGHTH CLAIM FOR RELIEF**

23 **(Breach of Implied Warranties, Violation of the Consumers Legal
24 Remedies Act, Cal. Civ. Code §§ 1750 et seq.)**

25 69. Plaintiff's incorporates ¶¶ 1-68, as fully set forth above. This claim is against
26 Defendants, WAMU, and, CHASE.

27 70. This cause of action is brought on behalf of Plaintiff and on behalf of each of the
28 similarly situated homeowners throughout the state of California pursuant to the Consumers Legal
Remedies Act, *California Civil Code* §§ 1750, et seq. (the "CLRA").

1 As a proximate result of the acts of Defendants, Plaintiff as well as hundreds of thousands
2 of other California homeowners are either facing foreclosure or have already lost their homes.

3 78. Plaintiff has suffered injury in fact as a direct and proximate result of the acts of
4 Defendants and each of them.

5 79. Defendants practices as alleged herein are unfair, unlawful, immoral, unethical, and in
6 violation of the law.

7 80. Plaintiff prays for the full disgorgement of monies and profits and the value of converted
8 assets according to proof, which exceeds the minimum jurisdiction of this Court, against Defendants,
9 WAMU, and, CHASE .

10 81. Plaintiff further prays for an injunctive order enjoining and restraining Defendants, and
11 each of them from engaging in or performing any act to deprive Plaintiff of ownership or possession
12 of their real property, including but not limited to, prosecuting or maintaining foreclosure or sale
13 proceedings on Plaintiffs real property, from recording any deeds or mortgages regarding the
14 property, or from otherwise taking any steps whatsoever to deprive Plaintiff of ownership in the
15 Subject property.

16 **TENTH CLAIM FOR RELIEF**

17 **(Fraud -Violation of Unfair Practices Act)**

18 82. Plaintiff's incorporates ¶¶ 1-81, as fully set forth above. This claim is against
19 Defendants, WAMU, and CHASE

20 83. Defendants WAMU, and CHASE engaged in unfair and deceptive acts in violation of
21 the California Unfair Practices Act, *California Business & Professions Code* § 1700 et seq. as it is
22 an unfair practice to advertise, misrepresent to consumers and encourage loan modifications which
23 are designed to lead borrowers to certain foreclosure.

24 84. *California Business and Professions Code* § 17200 states as follows;

25 As used in this chapter, unfair competition shall mean and include any unlawful, unfair or
26 fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and
27 any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7
28 of the Business and Professions Code.

///

1 85. Defendants engaged in such unfair and fraudulent acts and practiced in course of trade
2 and commerce in financial services.

3 86. Defendant intended that Plaintiff's rely on the undisclosed facts by entering into
4 Defendants Loan Modification Program.

5 87. Plaintiff did so rely, and was damaged in the loss of his home.

6 88. The conduct of Defendant was deliberately oppressive, corrupt and dishonest.

7 WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as hereinafter
8 set forth.

9 **ELEVENTH CLAIM FOR RELIEF**

10 **(Fraud -Violation of Unfair Practices Act)**

11 89. Plaintiff's incorporates ¶¶ 1-88, as fully set forth above. This claim is against
12 Defendants, CHASE.

13 90. Defendant CHASE, engaged in unfair and deceptive act in violation of the California
14 Unfair Practices Act, as it is an unfair practice to misrepresent to Plaintiff, and other similarly
15 situated consumers, in detrimental reliance to enter into its "Loan Modification" program, and to
16 thereafter misrepresent to consumers including Plaintiff, that they would modify the loan when the
17 true facts are that they were proceeding with foreclosure nonetheless.

18 91. Plaintiff further alleges that the intentional concealment of facts, made by the
19 Defendant, was done with the intent of inducing Plaintiff to not seek alternative financial and/or
20 legal remedies, and to lead him into certain foreclosure.

21 92. At the time the intentional misrepresentations and concealment of facts took place, and
22 at the time Plaintiff took the actions herein described, Plaintiff was ignorant of Defendants', secret
23 intention to foreclose on his property.

24 93. Plaintiff could not, in the exercise of reasonable diligence, have discovered Defendants'
25 secret intentions based upon the promises and representations made by Defendants'. If Plaintiff had
26 known of the actual intentions of Defendant, Plaintiff would not have taken such action.

27 94. At all times herein mentioned, and by engaging in the conduct described above,
28 Defendants, and each of them, acted with oppression, fraud and malice, entitling Plaintiff to an
award of exemplary and punitive damages.

1 a. Defendants have violated, and continue to violate, the Truth in Lending Act, 15 U.S.C.
2 § 1601;

3 b. Defendants have violated, and continue to violate California Business & Professions Code
4 § 17200, (prohibiting unfair business practices), and 17500, (prohibiting false or misleading
5 statements).

6 c. Defendants have violated, and continue to violate the Fair Debt Collection Practices Act,
7 15 U.S.C. 1692, et seq.

8 d. Defendants have violated, and continue to violate the Real Estate Settlement Procedures
9 Act (RESPA), 12 U.S.C. §§ 2601-2617.

10 e. Defendants have violated, and continue to violate the Home Ownership and Equity
11 Protection Act, (“HOEPA”), 15 U.S.C. § 1637;

12 f. Defendants have violated, and continue to violate the Federal Trade Commission Act,
13 (“FTC Act”) 15 U.S.C. §§ 41-58

14 The relief that the Plaintiff is requesting is necessary to protect himself from being irreparably
15 harmed by Defendants’, and each of their misconduct.


16 WHEREFORE, Plaintiff’s pray judgment against Defendants, and each of them as follows:

- 17 1. For rescission of Plaintiff’s May 2006 WAMU loan;
- 18 2. For general damages, according to proof at the time of trial for Defendants, and each of
19 their, general negligence and misconduct;
- 20 3. For the full disgorgement of monies and profits and the value of converted assets
21 according to proof, which exceeds the minimum jurisdiction of this Court;
- 22 4. For an injunctive order enjoining and restraining Defendants, and each of them from
23 engaging in or performing any act to deprive Plaintiff’s of ownership or possession of his real
24 property, including but not limited to, recording any deeds or mortgages regarding the property, or
25 from otherwise taking any steps whatsoever to deprive Plaintiff’s or ownership in the property.
- 26 5. For a judicial determination of the rights and duties of each party herein;
- 27 6. For Court fees and cost associated with bringing this action, including but not limited to
28 attorneys fees and cost, if necessary.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. For any and all further relief as the Court may deem just and proper.

Dated: 10/18/2010

By: 
KAVEH KHAST
Plaintiff, In Pro Se

VERIFICATION

I, KAVEH KHAST Plaintiff in the above entitled action, hereby declare that I have read the foregoing Verified Complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I hereby declare, under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Dated: 10/18/2010

By: 
KAVEH KHAST

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

KAVEH KHAST

(b) County of Residence of First Listed Plaintiff SAN DIEGO
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

WASHINGTON MUTUAL; JPMORGAN CHASE BANK;
CALIFORNIA RECONVEYANCE COMPANY

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

70 CV 2168 IEG JMA

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1601; 15 USC 1692; 12 USC 2601

Brief description of cause:
UNLAWFUL FORECLOSURE

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE

10/18/2010

SIGNATURE OF ATTORNEY OF RECORD

[Handwritten Signature]

FOR OFFICE USE ONLY

RECEIPT # 19186 AMOUNT \$350 - APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

TB 10-18-10

CR

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS019186
Cashier ID: mbain
Transaction Date: 10/18/2010
Payer Name: SEAMEX CAPITAL

CIVIL FILING FEE

For: KHAST V WASHINGTON MUTUAL
Case/Party: D-CAS-3-10-CV-002168-001
Amount: \$350.00

CHECK

Check/Money Order Num: 1006
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.