UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION
CASE NO. _____

CLASS ACTION COMPLAINT

ELIZABETH FOSTER;
JOHN R. FOSTER;

CONNIE WELLS;
ROYCE WELLS;

AUGUSTA MASON;
BRIAN MASON;

SHERILL A. MOODY;
MARK MOODY, *and;*

CHARLOTTE A. WOODWARD

REPRESENTATIVE
CLASS PLAINTIFFS;

on behalf of themselves
and others so situated
as putative class members

v.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC. AND,
MERSCORP,
collectively as MERS;

GMAC MORTGAGE LLC,
RESIDENTIAL ACCREDIT LOANS, INC., AND
RESIDENTIAL FUNDING COMPANY, LLC
collectively as GMAC ;

DEUTSCHE BANK NATIONAL TRUST COMPANY;

NATIONSTAR MORTGAGE;

AURORA LOAN SERVICES;

BAC LOAN SERVICES;

CITIMORTGAGE;

US BANK;

LSR PROCESSING;

DOCX;

LENDER PROCESSING SERVICES;

LERNER SAMPSON & ROTHFUSS;

MANLEY DEAS KOCHALSKI PLLC;

DINSMORE & SHOHL LLP;

REISENFELD & ASSOCIATES, LPA, *and;*

MIDDLETON & REUTLINGER DEFENDANTS

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Come the Representative Plaintiffs, by counsel, on behalf of themselves and others so situated as putative class members pursuant to Fed. R. Civ. P. 23. and for their Class Action Complaint against the name Defendants and yet to be named Defendants, make their claim for treble and punitive damages, costs and attorneys fees under 18 U.S.C. 1962 and 1964, otherwise known as the "racketeer Influenced and Corrupt Organizations Act," hereinafter ("RICO") and for all violations of law heretofore claimed.

An ongoing criminal investigation has been in place in the state of Florida by both the Florida Attorney General and the Justice Department. Upon information and belief, a parallel investigation is ongoing in the state of Kentucky and at least three other states.

In September 2010, the national press began reporting that one of the Defendants, GMAC, had placed a moratorium nationwide on foreclosures, based on the illegalities in the policies, practices and procedures of their own employees and the law firms representing their interests in foreclosures.

On September 24, 2010, Members of Congress, Alan Grayson, Barney Frank and Corrine Brown wrote an open letter to Mr. Michael J. Williams, President and CEO of Fannie Mae, as to the egregious nature and Congressional hearings as to the issues which are the subject of this action. Said letter is attached hereto as Exhibit "A."

Additionally, and as to the claims of the parties to this action, the legality of MERS on Deeds of Trust is being litigated in a Consolidated Class Action, *In Re MERS Litigation,* MDL 2119, United States District Court Arizona.[1]

I. THE PARTIES
A. THE PLAINTIFFS

1. The named and representative Plaintiffs bring suit on behalf of themselves and the putative class, consisting of all putative members in the Commonwealth of Kentucky and through each and every state of the United States, the District of Columbia and all United States Territories . They have standing to sue as they possess the same interest and have suffered or will suffer in the future, the same type of injury as the putative class members as the recorded owners in fee simple to property and/or are the Defendants to a foreclosure action relating to the property wherein a Mortgage was or is recorded in the name of MERS against the property.

The Representative Plaintiffs' lawsuits for which they are a Defendant are as follows:

2. John R. and Elizabeth Foster are a married couple owning four properties in the County of Hardin. The Foster property is currently in various stages of

1 Counsel of record in this case, while representing one of the Plaintiff/ Moody cases, was recently "transferred out" as a Tag-Along from the *In Re MERS Litigation*, MDL 2119. The MDL Panel ruled that the Arizona action will only include those cases filed in non-judicial foreclosure jurisdictions. Kentucky is a judicial foreclosure state and will not be included in the action. The Order as to such is attached hereto as Exhibit. "B."

litigation, with one of their properties, liquidated in foreclosure and deeded by to the Servicer, GMAC. The owners of the Foster's loans remains unknown.

Foster Loan #1
Hardin Circuit 10-CI-00862
GMAC Mortgage LLC Plaintiff
Manley Deas Kochalski Counsel of Record

-2006 Promisory Note to Greenpoint Mortgage Funding, Inc.
-MERS Mortgage "acting solely as nominee for Greenbelt Mortgage Funding, Inc."
-2007 Lender Greenpoint Mortgage Funding, Inc. became extinct.
-2010 Assignment of Promissory Note as an allonge on behalf of the already extinct lender.
-Manley Deas Kochalski's, Crystal L Saresky, drafts Mortgage Assignment.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-April 23, 2010, GMAC's Jeffrey Stephan, (alleged robo-signer,) executes Mortgage Assignment as Assignor and Assignee as Vice President of MERS and as an agent of the already extinct Lender Greenpoint Mortgage Lending, LLC.
-April 27, 2010, GMAC's Jeffrey Stephan, executes Affidavit as to Account Status and Defendants' Military Service.
-July 27, 2010, GMAC's Jeffrey Stephan executes and files second Affidavit filed as basis to attempt to obtain Summary Judgment and Order of Sale.

Foster Loan #2
Hardin Circuit 09-CI-02248
GMAC Mortgage, LLC Plaintiff
Lerner Sampson Rothfuss Counsel of Record

-2006 Promissory Note to Greenpoint Mortgage Funding, Inc.
-MERS Mortgage "acting solely as nominee for Greenbelt Mortgage Funding, Inc. .
-No assignment of Promissory Note.
-No assignment of MERS Mortgage.
-2007 Lender Greenpoint Mortgage Funding, Inc. became extinct.
-May 17, 2010, GMAC's Jeffrey Stephan, (alleged robo-signer,) Affidavit filed and used as basis to obtain Judgment and Order of Sale.

Foster Loan #3
Hardin Circuit 09-CI-0209
GMAC Mortgage LLC Plaintiff
Manley Deas Kochalski Counsel of Record

-10/14/09 Foreclosure Filed with no Note or lost Note Affidavit. Regardless, Plaintiff and Plaintiff's counsel state in their First Claim for Relief, "Plaintiff is the holder and owner of the Note."
-MERS Mortgage "acting solely as nominee for Greenbelt Mortgage Funding, Inc. Book 1610 Page 662.
-2007 Lender Greenpoint Mortgage Funding, Inc. became extinct.
October 21, 2009, Counsel of Record for GMAC, Crystal L Saresky, drafts Mortgage Assignment.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-October 21, 2009, GMAC's Jeffrey Stephan, (alleged robo-signer,) executes Mortgage Assignment as Assignor and Assignee as Vice President of MERS as nominee of extinct Lender Greenpoint Mortgage Lending, LLC.
-No reference to a Promissory Note in the Assignment. No Promissory Note is ever entered into the record.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-Notary to the Mortgage Assignment illegible.
-November 3, 2009 GMAC's Brenda Staehle, (alleged GMAC robo-signer,) executes Affidavit as to Account Status and Defendants' Military Service.
-July 29, 2010, Property sold by Master Commissioner based on Motion for Default obtained without Notice to the homeowners while owners believed a repayment plan was in place. The property was purchased by GMAC.

Foster Loan # 4
Hardin Circuit 10-CI-01862
GMAC Mortgage LLC Plaintiff
Lerner Sampson Rothfuss Counsel of Record

-2006 Promissory Note to Greenpoint Mortgage Funding, Inc.
-MERS Mortgage "acting solely as nominee for Greenbelt Mortgage Funding, Inc."
-No assignment of Promissory Note to GMAC.
-No assignment of MERS Mortgage.
-2007 Lender Greenpoint Mortgage Funding, Inc. became extinct.
-Litigation pending.

3. Connie and Wells are a married couple who own a home in the County of Madison. At the time a foreclosure was filed, the Wells believed the were in the process of a H.A.M.P. loan modification and were fraudulently led to believe that BAC was the owner of their loan. The Wells property is currently under a Summary Order

from Judge William Clouse to be liquidated in foreclosure and the deed transferred to the Servicer, BAC The owner of the Wells' loan remains unknown.

Wells
Madison Circuit 09-CI-1345
BAC Home Loan Servicing
Lerner Sampson Rothfuss Counsel of Record

-Promissory Note to First Omni Mortgage Lending.
-No Assignment of Promissory Note to BAC.
-MERS Mortgage "acting solely as nominee for First Omni Lending."
-No Mortgage Assignment filed with Foreclosure.
-Mortgage Assignment recorded after Foreclosure and filed with Motion for Default.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290
-Mortgage Assignment drafted by Richard Rothfuss II, partner in Lerner Sampson Rothfuss.
-Mr. Rothfuss' Secretary, Ms Shellie Hill, signed the Assignment as an "Assistant Secretary and Vice President of MERS," claiming that she was acting for MERS as nominee for First Omni Mortgage Lending, a Mortgage Broker in Louisville, Kentucky .
-Summary Judgment Ordered by Judge William Clouse utilizing Order drafted by LSR law firm. (Judge Clouse refused to write his own opinion.)
-Master Commissioner, Hon. from Jessamine County appeared on behalf of LRS at Default hearing.
-Appeal of Judge Clouse's Summary Judgment pending.

4. Augusta and Brian Mason are a married couple who own a home in the County of Jessamine. At the time a foreclosure was filed, the Masons believed the were in the process of a H.A.M.P. loan modification and were fraudulently led to believe that Nationstar, was the owner of their loan. The Mason's property is currently in litigation. The owner of the Mason's loan remains unknown.

Mason
Jessamine Circuit 09-CI-362
Nationstar Mortgage Plaintiff
Manly Deas Kochalski Counsel of Record Nationstar
Dinsmore & Shohl Counsel of Record GMAC and Homecomings Financial

-No Promissory Note.

-MERS Mortgage "acting solely as nominee for Homecomings Financial."
-No Mortgage Assignment filed with Foreclosure.
-2009 Mortgage Assignment recorded after Foreclosure.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-Mortgage Assignment drafted by Crystal L. Ford of Manley Deas Kochalski.
-Mortgage Assignment executed by Christine Odom, an employee of Nationstar (alleged robo-signer) as a "Vice President of MERS," claiming that she was acting for both MERS and Homecomings Financial LLC for the benefit of her employer, Nationstar.
-Mortgage Assignment notarized by Dionne Stevenson in the state of Texas.
-Dinsmore & Shohl Attorney of Record for Homecomings Financial LLC and GMAC LLC.

5. Charlotte Woodward is the owner of a home in the County of Boone. At the time a foreclosure was filed, Ms. Woodward was in the process of a applying for a H.A.M.P. loan modification. She was fraudulently led to believe that GMAC, the servicer, is the owner of a mortgage loan. Ms. Woodward's property is currently in litigation. The owner of the loan remains unknown.

Woodward
Boone Circuit 10-2057
M & I Bank FSB Plaintiff
Lerner Sampson Rothfuss Counsel of Record
GMAC Servicer

-Promissory Note to M & I Bank FSB.
-No Promissory Note Assignment.
-MERS Mortgage recorded as "nominee" for M & I Bank, FSB.
-GMAC continues to hold itself out in writing as the creditor in relationship to the mortgage loan.
-Owner and holder of Promissory Note unknown.
-No Mortgage Assignment.
-Litigation and Class Action Counter/Cross Claim pending in Boone Circuit.

6. Sherrill and Mark Moody are a married couple owning properties in the Counties of Fayette and Madison. The Moody's properties are currently in various stages of litigation. The owners of the Moody's loans. remains unknown.

Moody Loan #1
Madison Circuit 09-CI-1323
Deutsche Bank National Trust Company Plaintiff
Jerry R. Howard Reisenfeld & Associates Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record
Middleton Reutlinger Counsel of Record for MERS

-Promissory Note to American Home Mortgage Acceptance, Inc.
-No Promissory Note Assignment.
-2/09 American Home Mortgage Liquidated in Bankruptcy. Extinct entity.
-MERS Mortgage "acting solely as nominee for American Home Mortgage."
-No Mortgage Assignment filed with Foreclosure.
-9/1/09 Mortgage Assignment recorded after Foreclosure and filed with Motion for Default.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-Mortgage Assignment drafted by Jerry R. Howard, partner Reisenfeld & Associates.
-Mortgage Assignment executed in the state of Florida by Lender Processing Services employee, Michelle Halyard, (alleged robo-signer,) as "Signature and Title of Officer," claiming she was simultaneously acting on behalf of MERS, and the bankrupt/extinct entity, American Home Mortgage, as grantors for the benefit of their client, the grantee, Deutsche Bank.
-Lender Processing Services employee, Gerhard v. Heckerman, Notary.
-Litigation pending.

Moody Loan #2
Madison Circuit 09-CI-1592
Deutsche Bank National Trust Company as Trustee Plaintiff
Jerry R. Howard Reisenfeld & Associates Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record

-Promissory Note to American Home Mortgage Acceptance, Inc.
-No Promissory Note Assignment.
-2/09 American Home Mortgage Liquidated in Bankruptcy. Extinct entity.
-MERS Mortgage "acting solely as nominee for American Home Mortgage."
-No Mortgage Assignment filed with Foreclosure.
-10/21/09 Mortgage Assignment recorded after Foreclosure and filed with Motion for Default.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-Mortgage Assignment drafted by Jerry R. Howard, partner Reisenfeld & Associates.
-Mortgage Assignment executed in the state of Florida by Lender Processing Services employee, Michelle Halyard, (alleged robo-signer,) as "Signature and Title of Officer," claiming she was simultaneously acting on behalf of MERS, and

the bankrupt/extinct entity, American Home Mortgage, as grantors for the benefit of their client, the grantee, Deutsche Bank.
-Lender Processing Services employee, Gerhard v. Heckerman, Notary.
-Litigation pending.

Moody Loan #3
Madison Circuit 09-CI-1522
Citimortgage, Inc. Plaintiff
Manley Deas Kochalski Counsel of Record

-Promissory Note to American Home Mortgage Acceptance, Inc.
-No Promissory Note Assignment.
-MERS Mortgage "acting solely as nominee for American Home Mortgage."
- American Home Mortgage. Assets were sold in Bankruptcy 8/5/08. 2/23/09 liquidated in Bankruptcy. Extinct entity.
-10/1/09 Mortgage Assignment recorded.
- Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-Mortgage Assignment drafted by Counsel of Record, Manley Deas Kochalski.
-Mortgage Assignment executed in the state of Missouri by CitiMortgage employee, Scott Scheiner (alleged robo-signer,) as "Vice President" of MERS claiming he was simultaneously acting on behalf of MERS, and the bankrupt/extinct entity, American Home Mortgage, as grantors for the benefit of his employer, the grantee, CitiMortgage.
-CitiMortgage employee, Alex Crossman, Notary.
-Litigation pending.

Moody Loan #4
Madison County 09-CI-1300
Deutsche Bank National Trust Company as Indenture Trustee Plaintiff
Lerner Sampson Rothfuss Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record
Middleton Reutlinger Counsel of Record for MERS

No Promissory Note
-MERS Mortgage "acting solely as nominee for American Home Mortgage Acceptance, Inc."
- American Home Mortgage. Assets were sold in Bankruptcy 8/5/08. 2/23/09 liquidated in Bankruptcy. Extinct entity.
-No Mortgage Assignment filed with Foreclosure.
-No Mortgage Assignment.
-Litigation pending.

Moody Loan #5
Madison Circuit 09-CI-1293
Deutsche Bank National Trust Company as Indenture Trustee Plaintiff

Lerner Sampson Rothfuss Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record
Middleton Reutlinger Counsel of Record for MERS

-Promissory Note to American Home Mortgage Acceptance, Inc.
-No Promissory Note Assignment.
-MERS Mortgage "acting solely as nominee for American Home Mortgage Acceptance Inc."

- American Home Mortgage. Assets were sold in Bankruptcy 8/5/08. 2/23/09 liquidated in Bankruptcy. Extinct entity.
-No Mortgage Assignment filed with Foreclosure.
-No Mortgage Assignment served with Motion for Default and Summary Judgment.
-11/09/09 Motion for Default and Summary Judgment Denied and Overruled by Judge Logue.
-Litigation pending.

Moody Loan #6
Madison Circuit 09-CI-1297
Deutsche Bank National Trust Company as Indenture Trustee Plaintiff
Lerner Sampson Rothfuss Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record
Middleton Reutlinger Counsel of Record for MERS

-No Promissory Note.
-MERS Mortgage "acting solely as nominee for American Home Mortgage Acceptance Inc."

- American Home Mortgage. Assets were sold in Bankruptcy 8/5/08. 2/23/09 liquidated in Bankruptcy. Extinct entity.
-No Mortgage Assignment filed with Foreclosure.
-No Mortgage Assignment.
-Litigation pending.

Moody Loan #7
Madison Circuit 09-CI-1410
Aurora Loan Services Plaintiff
Manley Deas Kochalski Counsel of Record

-Promissory Note to American Home Mortgage Acceptance, Inc.
-No Promissory Note Assignment.
-MERS Mortgage "acting solely as nominee for American Home Mortgage."
-American Home Mortgage. Assets were sold in Bankruptcy 8/5/08.
2/23/09 liquidated in Bankruptcy. Extinct entity.
-10/1/09 Mortgage Assignment recorded.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-Mortgage Assignment drafted by Counsel of Record, Manley Deas Kochalski.

-Mortgage Assignment executed in the state of Nebraska by Aurora Loan Services employee, Theodore Schultz (alleged robo-signer,) as "Vice President" of MERS claiming he was simultaneously acting on behalf of MERS, and the bankrupt/extinct entity, American Home Mortgage, as grantors for the benefit of his employer, the grantee, Aurora Loan Services.
-Aurora Loan Services employee, Darlene Dietz (alleged robo-signer,) Notary.
-Litigation pending. Motion for Summary Judgment and Order for Sale set aside.
-Attached as a Tag-Along to MDL 2119, *In Re Mers Litigation*, and subsequently transferred back, based on the decision of the MDL Panel that MDL 2119 will only include cases taking place in states which allow non-judicial foreclosure. Kentucky is a judicial foreclosure jurisdiction.

Moody Loan #8
Madison Circuit 09-CI-1922
Deutsche Bank National Trust Company as Indenture Trustee Plaintiff
Lerner Sampson Rothfuss Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record

Promissory Note to American Home Mortgage.
-No Assignment of Promissory Note.
-MERS Mortgage "acting solely as nominee for American Home Mortgage."
- American Home Mortgage. Assets were sold in Bankruptcy 8/5/08. 2/23/09 liquidated in Bankruptcy. Extinct entity.
-No Mortgage Assignment filed with Foreclosure.
-No Mortgage Assignment.
-Litigation pending.

Moody Loan #9
Fayette Circuit 09-CI-4463
Deutsche Bank National Trust Company as Indenture Trustee Plaintiff
Lerner Sampson Rothfuss Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record
Middleton Reutlinger Counsel of Record for MERS

-No Promissory Note
-MERS Mortgage "acting solely as nominee for American Home Mortgage Acceptance, Inc."
-American Home Mortgage. Assets were sold in Bankruptcy 8/5/08. 2/23/09 liquidated in Bankruptcy. Extinct entity.
-No Mortgage Assignment filed with Foreclosure.
-No Mortgage Assignment.

Moody Loan #10
Fayette Circuit 09-CI-4513
U.S. Bank Association as Indenture Trustee Plaintiff

Lerner Sampson Rothfuss Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record
Middleton Reitlinger Counsel of Record for MERS

-Promissory Note to American Home Mortgage Acceptance, Inc.
-No Promissory Note Assignment.
-2/09 American Home Mortgage Liquidated in Bankruptcy. Extinct entity.
-MERS Mortgage "acting solely as nominee for American Home Mortgage."
-No Mortgage Assignment filed with Foreclosure.
-9/1/09 Mortgage Assignment recorded after Foreclosure and filed with Motion for Default.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-Mortgage Assignment drafted by DOCX employee, Ron Meharg.
-Mortgage Assignment executed by DOCX employees, Tywanna Thomas, (alleged robo-signer,) and Linda Green (alleged robo-signer,) as "Assistant Secretary and Vice President of MERS," claiming that they were simultaneously acting on behalf of MERS, the bankrupt/extinct entity, American Home Mortgage, as grantors for the benefit of their client, the grantee, U.S. Bank as Indenture Trustee.
-DOCX employee, Diane Miskell, Notary.
-Litigation pending.

Moody Loan #11
Fayette Circuit 09-CI-6675
U.S. Bank Association as Indenture Trustee Plaintiff
Jerry R. Howard Reisenfeld & Associates Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record
Middleton Reitlinger Counsel of Record for MERS

- 2005 Promissory Note to American Home Mortgage Acceptance, Inc.
-MERS Mortgage "acting solely as nominee for American Home Mortgage Acceptance, Inc."
-American Home Mortgage. Assets were sold in Bankruptcy 8/5/08. 2/23/09 liquidated in Bankruptcy. Extinct entity.
-No Mortgage Assignment filed with Foreclosure.
-No Mortgage Assignment.
-Litigation pending.

Moody Loan #12
Fayette Circuit 09-CI-4465
Deutsche Bank National Trust Company as Indenture Trustee Plaintiff
Lerner Sampson Rothfuss Original Counsel of Record
Dinsmore & Shohl Current Counsel of Record
Middleton Reitlinger Counsel of Record for MERS

-Promissory Note to American Home Mortgage Acceptance, Inc.
-No Promissory Note Assignment.
-MERS Mortgage "acting solely as nominee for American Home Mortgage."
-Mortgage attached as Exhibit "B" is for a loan unrelated to the Promissory Note.
- American Home Mortgage. Assets were sold in Bankruptcy 8/5/08. 2/23/09 liquidated in Bankruptcy. Extinct entity.
-No Mortgage Assignment filed with Foreclosure.
-9/1/09 Mortgage Assignment recorded for a Mortgage unrelated to the Promissory Note and filed after Foreclosure with Motion for Default.
-Mortgage Assignment defective on its face pursuant to KRS 382.270 and 382.290.
-Mortgage Assignment drafted by DOCX employee, Ron Meharg.
-Mortgage Assignment executed in Georgia by DOCX employees, Tywanna Thomas, (alleged robo-signer,) and Linda Green (alleged robo-signer,) as "Assistant Secretary and Vice President of MERS," claiming that they were simultaneously acting on behalf of MERS, the bankrupt/extinct entity, American Home Mortgage, as grantors for the benefit of their client, the grantee, U.S. Bank as Indenture Trustee.
-DOCX employee, Chris M. Ivey, Notary.
-Litigation pending.

II.B. THE DEFENDANTS

Mortgage Electronic Registration Systems, Inc., MERSCORP, hereinafter collectively ("MERS") and the MERS Shareholders:

7. Defendant Merscorp, Inc., is a foreign corporation created in or about 1998 by conspirators from the largest banks in the United States in order to undermine and eventually eviscerate long-standing principles of real property law, such as the requirement that any person or entity who seeks to foreclose upon a parcel of real property: 1) be in possession of the original note, 2) Have a publicly recorded mortage in the name of the party for whom the underlying debt is actually owed and who is the holder of the original Promissory Note with legally binding assignments, and 3) possess a written assignment giving he, she or it actual rights to the payments due from the borrower pursuant to both the mortgage and note.

8. Defendant Merscorp, Inc., claims to be the sole shareholder in an entity by the name of Mortgage Electronic Registrations Systems, Inc., ("MERS"). MERS is the

RICO enterprise and is the primary innovation through which the conspirators, including the Defendants, have accomplished their illegal objectives as detailed throughout this Complaint.

9. For the purposes of this action, MERS shall also refer to each and every shareholder of MERSCORP, who will be named as their identities are revealed.

10. The Complaint names the entity, Mortgage Electronic Registration Systems, Inc., hereinafter, ("MERS"). MERS is the mortgage holder of record for the Class Plaintiff's second mortgage. The lender to the second mortgage is M & I Bank FSB. It is this second mortgage, which is the subject of this action.

11. MERS is not the original lender for any of the class members loans. MERS is not the creditor, beneficiary of the underlying debt or an assignee under the terms of the Promissory Notes of the class members. MERS does not hold the original of the Promissory Note, nor has it ever held the Promissory Notes of the class members.

12. The Mortgagee, MERS, is a owned by the company, MERSCORP, which is in turn owned by a group of Wall Street investment Banks.

13. MERS is unregistered and unlicensed to conduct mortgage lending or any other type of business in the Commonwealth of Kentucky and has been and continues to knowingly and intentionally illegally and fraudulently record mortgages and conduct business in Kentucky on a large scale and systematic fashion..

14. No promissory Note or other evidence exists which could ever make the Plaintiffs and the class members indebted to MERS in any way.

15. MERS never had nor will it ever have standing to enforce the illegal and fraudulent mortgage it filed against the properties in question. MERS never had nor will it ever have the authority to assign the Mortgage to any entity.

16. MERS has never possessed a pecuniary or financial interest in the Notes of the Plaintiffs and the class members.

17. MERS has never had any right to collect on the Note or enforce the Mortgage, nor has it had a right to hold, enforce or collect upon any of the thousands of Mortgages it has fraudulently recorded throughout the Commonwealth of Kentucky, in the 50 states, the District of Columbia and all other US Territories.

The Law Firms:

18. In or about the last decade, the Defendant Firms joined with Defendant Merscorp, Inc., and other conspirators in the fraudulent scheme and RICO enterprise herein complained. . The employees of the Defendant Firms, including many licensed attorneys, have become skilled in using the artifice of MERS to sabotage the judicial process to the detriment of borrowers, and, over the past several years, have routinely relied upon MERS to accomplish illegal acts.

19. Manley Deas Kochalski PLLC, is a law firm with its principal place of business in the state of Ohio. Herein after ("MDK",) the firm is one of the regional foreclosure mills.

20. Dinsmore & Shohl LLP, is a law firm with its principal place of business in the state of Ohio. Herein after ("D&S",) the firm is one of the regional foreclosure mills, and the regional corporate counsel for GMAC.

21. Lerner Sampson & Rothfuss, is a law firm with its principal place of business in the state of Ohio. Herein after ("LSR",) the firm is one of the regional foreclosure mills, and the Kentucky counterpart to Florida's Stern Law Group in that the partners of LSR own their own document processing company, LSR Processing LLC, to generate loan and mortgage documents. LSR has a pattern and practice on drafting missing mortgage and loan documents and in turn, having them executed by their own employees.

22. Jerry R. Howard Reisenfeld & Associates, LPA, is a law firm with its principal place of business in the state of Ohio. Herein after ("R&A" ,) the firm is one of the regional foreclosure mills.

23. Middleton & Reutlinger, is a Kentucky based law firm and serves as MERS regional counsel.

The Document Processing Defendants:

24. LSR Processing LLC, is a document processing company, based in the state of Ohio to generate loan and mortgage documents. Upon information and belief it is owned by one or more of the partners of LSR law firm. LSR Processing was created in order to facilitate the conspiratorial acts of the Defendants in relation to the creation of fraudulent Promissory Notes, Note Assignments, Affidavits and Mortgage Assignments LSR Processing has a pattern and practice of drafting missing mortgage and loan documents and in turn, having them executed by their own employees.

25. DOCX LLC, hereinafter ("DOCX".) Defendant, DOCX, is a Georgia Corporation with its principal place of business in Irvine, California. Although DOCX is

doing business in the state of Kentucky, it is not registered to engage in business in the state of Kentucky.

26. Defendant Lender Processing Services, Inc. ("LPS") is a Delaware Corporation, with its principal place of business in Jacksonville, Florida. Although LPS is doing business in the state of Kentucky, it is not registered to engage in business in the state of Kentucky. At all times relevant hereto, LPS was the parent company of DOCX. Together they are referred to as ("LPS/DOCX.")

The Servicers and MBS "Trusts"[2]:

27. GMAC Mortgage and GMAC Residential Funding Corporation, collectively hereinafter ("GMAC",) is a foreign business entity, which according to the MERS internet web site, www.mersinc.org, is a shareholder in MERS. GMAC serves as a servicer on tens of thousands of Mortgage loans.

28. The Deutsche Bank as "Trustee" is a generic term for an entity not incorporated or registered to do business in any of the United States in order to facilitate illegal property foreclosures.

29. CitiMortgage is a foreign business entity, which according to the MERS internet web site, www.mersinc.org, is a shareholder in MERS.

30. Aurora Loan Services is thought to be a foreign corporation, but is not registered to conduct business in the state of Kentucky.

31. Nationstar Mortgage is thought to be a foreign corporation, but is not registered to conduct business in the state of Kentucky.

2 Other loan Servicers and MBS "Trustee" Defendants shall be named as their identities are revealed. The underwriters and originators of the MBS "Trusts" shall be named as their identities are revealed. It is anticipated that they will include, bu in no way be limited to Bear Stearns, Lehman Brothers, RFC Financial and Goldman Sachs.

32. Us Bank is thought to be a foreign corporation, but is not registered to conduct business in the state of Kentucky.

33. BAC Loan Servicing, is a foreign business entity, which according to the MERS internet web site, www.mersinc.org, is a shareholder in MERS.

34. M & I Bank FSB is believed to be a financial services company. According to the records of the Kentucky Secretary of State, it is not registered in the state of Kentucky as a Bank or any other type of business entity.

II. JURISDICTION AND VENUE

35. The Court has original and subject matter jurisdiction over the Plaintiffs' statutory and common law violations of RICO, Kentucky, and common law.

36. Venue is proper in this Judicial District as two of the lead Plaintiffs' properties are located in Hardin County, Kentucky. Defendants have conducted business, albeit illegally in this County and throughout the one hundred twenty (120) Counties in Kentucky and throughout the United States by filing tens of thousands of fabricated, illegal and unenforceable Promissory Notes, Assignments of Promissory Notes, Affidavits as to loan ownership and Status of Accounts, Mortgages and Assignments of Mortgages.

III. INTRODUCTION

37. This case arises due to the fact that for the Class Plaintiff and the members of this putative class, their Mortgages and in some cases, the foreclosures that followed, were and will be based upon a mortgage and a note in the mortgage that are not held by the same entity or party and are based upon a mortgage that was flawed at the date of origination of the loan because Mortgage Electronic Registration Systems

("MERS") was named as the beneficiary or nominee of the lender on the mortgage or an assignee and because the naming of MERS as the beneficiary was done for the purpose of deception, fraud, harming the borrower and the theft of revenue from in all one hundred (120) Kentucky Counties through the illegal avoidance of mortgage recording fees.

38. This action includes class members from each and every Federal jurisdiction, whether or not the individual state allows the foreclosure of the homes in its state without the owner of the home ever having the opportunity to defend itself in a Court of law, (the non-judicial foreclosure states.) Therefore, for purposes of this action the term "Mortgage" shall include the term "Deed of Trust."

39. In the case where a foreclosure has been filed, the entity filing the foreclosure has no pecuniary in the mortgage loan. The foreclosing entity is a third party. The entity lacks standing, and most times, the capacity to foreclose. The entity has no first hand knowledge of the loan, no authority to testify or file affidavits as to the validity of the loan documents or the existence of the loan. The entity has no legal authority to draft mortgage assignments relating to the loan. The foreclosing entity and its agents regularly commit perjury in relation to their testimony.

40. The "lender," on the original Promissory Note was not the lender. The originators of the loan immediately and simultaneously securitized the note. The beneficial interest in the note was never in the lender. MERS, acting as the mortgagee or mortgage assignee, was never intended to be the lender nor did it represent the true lender of the funds for the mortgage. The Servicer, like GMAC Mortgage, or some party has or is about to declare the default, is not in privity with the lender. The true owner or beneficiary of the mortgage loan has not declared a default and usually no longer have an

interest in the note. The Servicer is not in privity nor does it have the permission of the beneficial owners of the Note to file suit on their behalf.

41. The obligations reflected by the note allegedly secured by the MERS mortgage have been satisfied in whole or in part because the investors who furnished the funding for these loans have been paid to the degree that extinguishment of the debts has occurred with the result that there exists no obligations on which to base any foreclosure on the property owned by the Class Plaintiffs. Defendants have and will cloud the title and illegally collect payments and attempt to foreclose upon the property of the Plaintiffs when they do not have lawful rights to foreclose, are not holders in due course of the notes.

42. Any mortgage loan with a Mortgage recorded in the name of MERS, is at most, an unsecured debt. The only parties entitled to collect on the unsecured debt would be the holders in due and beneficial owners of the original Promissory Note.

43. The loan agreements were predatory and the Defendants made false representations to the Class Plaintiffs which induced the Class Plaintiffs to enter into the loans and the Defendants knew the representations were false when they were made.

44. This is a Class Action brought for violations of Kentucky and Federal law. It is brought by one or more classes of mortgagors who have been sued for either in foreclosure or Declaratory Judgments for Truth in Lending Act ("TILA") Regulation Z Rescissions, by entities lacking capacity (fake Trusts), to file suit in Kentucky and who lack standing as a real party in interest to the underlying debt; which would exist in the form of a negotiable instrument, a Promissory Note. The class members also consist of any and all mortgagors in the state of Kentucky whose mortgages are or were ever

publicly recorded in the name of MERS, regardless of whether there is a suit in foreclosure against the property.

45. Although the loan transactions in question contain dozens of violations of federal and state statutes and common law torts, which have been perpetrated against Kentucky recording clerks, the Kentucky Revenue Cabinet and property owners, this Class Action concerns to violations of law pertaining to the improper and illegal drafting, execution and public recording of Affidavits, Mortgages and Assignment of Mortgages used to illegally divest and the continued illegal attempts to divest property owners of title to their property.

46. In addition to damages, the violations have created and continue to create a permanent cloud on Kentucky and nationwide titles and land records in relation to the titles illegally divested. This cloud potentially affects every resident of Kentucky and the United States as all have the potential to be the title holders of the clouded property.

47. Since 2007, and going forward, many property owners found themselves defending a foreclosure action during the pendency of a Declaratory action to loan rescission under TILA's Regulation Z. Often, the Declaratory Judgment and Foreclosure would be filed by different parties. Other property owners found themselves served with a foreclosure action while in the middle of a loan modification with an entity they were led to believe was a bank and their lender. Others were foreclosed upon due to an involuntary default due to a substantial and insurmountable increase in their adjustable rate mortgage. While still others were foreclosed during a voluntary default made at the request of a loan Servicer, whom the borrower believed to

be a Bank and their lender. This was a lie. These voluntary defaults were obtained by the third party loan Servicer under the guise that the voluntary 60 day default was necessary in order for the homeowner to qualify for a Government sponsored loan modification program.

48. The property owners find that they have been sued in Declaratory Judgment and/or foreclosure by a third party Loan Servicing Agent for "Trustee for the _____Trust" or by a fourth party Sub-Servicer. The Servicers have absolutely no legal rights or legal connection to the mortgage loan. In other cases the "Trust" themselves will come to Court.

49. The pattern and practice of the Servicers, MBS Trusts, the document processing companies and law firms was to procure fraudulent and forged documents for the sole purpose of creating a fraud in the public record in order to illegally take property in foreclosure.

50. Certain individuals who were the employees of the Servicer, document processing company and even the employees of the law firms executed and notarized forged documents as to the ownership of the loan. The affiants have committed wide-spread and counts of fraud, perjury and forgery in the tens of thousands. These forgers have been referred in the press with the vernacular term "robo-signers."

51. In these cases, the property could be foreclosed by default, sold and transferred without ANY real party in interest havening ever come to Court and with out the name of the "Trust" or the owners of the mortgage loan, ever having been revealed. Many times the Servicer will fraudulently keep the proceeds of the foreclosure sale under the terms of a Pooling and Servicing Agreement as the "Trust" no longer exists or has

been paid off. The Court and the property owner will never know that the property was literally stolen.

52. After the property is disposed of in foreclosure, the real owners of the mortgage loan are still free to come to Court and lay claim to the mortgage loan for a second time. These parties who may actually be owed money on the loan are now also the victims of the illegal foreclosure. The purchaser of the property in foreclosure has a bogus and clouded title, as well as all other unsuspecting buyers down the line. Title Insurance would be impossible to write on the property.

53. The "Trusts" coming to Court are actually Mortgage Backed Securities ("MBS"). The Servicers, like GMAC, are merely administrative entities which collect the mortgage payments and escrow funds. The MBS have signed themselves up under oath with the Securities and Exchange Commission ("SEC,") and the Internal Revenue Service ("IRS,") as mortgage asset "pass through" entities wherein they can never own the mortgage loan assets in the MBS. This allows them to qualify as a Real Estate Mortgage Investment Conduit ("REMIC") rather than an ordinary Real Estate Investment Trust ("REIT"). As long as the MBS is a qualified REMIC, no income tax will be charged to the MBS. For purposes of this action, "Trust" and MBS are interchangeable.

Real Estate Mortgage Investment Conduit (REMIC):

54. Although the Plaintiffs attempting to foreclosure refer to themselves as "Trustees" of a "Trust," the entities are not "Trustees" nor "Trusts" as defined by Kentucky law. Neither are the entities registered as Business Trusts or Business Trustees as required by Kentucky law. In every case, where one of these MBS have come to a Kentucky Court the entity foreclosing lacked capacity sue to file suit in the

State of Kentucky. There is no "Trust Agreement" in existence. The entity filing has utilized a Kentucky legal term it has no right to use for the sole purpose of misleading the Court.

55. Although the "Trust" listed may be registered with the Securities and Exchange Commission ("SEC") and the Internal Revenue Service ("IRS") as a Real Estate Mortgage Investment Conduit ("REMIC"), more often than it is not properly registered in any state of the union as a Corporation, Business Trust, or any other type of corporate entity. Therefore, the REMIC does not legally exist for purposes of capacity for filing a law suit in Kentucky or any other State.

56. REMICS were newly invented in 1987 as a tax avoidance measure by Investment Banks. To file as a REMIC, and in order to avoid one hundred percent (100%) taxation by the IRS and the Kentucky Revenue Cabinet, an MBS REMIC could not engage in any prohibited action. The "Trustee" can not own the assets of the REMIC. A REMIC Trustee could never claim it owned a mortgage loan. Hence, it can never be the owner of a mortgage loan.

57. Additionally, and important to the issues presented with this particular action, is the fact that in order to keep its tax status and to fund the "Trust" and legally collect money from investors, who bought into the REMIC, the "Trustee" or the more properly named, Custodian of the REMIC, had to have possession of ALL the original blue ink Promissory Notes and original allonges and assignments of the Notes, showing a complete paper chain of title.

58. Most importantly for this action, the "Trustee"/Custodian MUST have the mortgages recorded in the investors name as the beneficiaries of a MBS in the year

the MBS "closed." Every mortgage in the MBS should have been publicly recorded in the Kentucky County where the property was located with a mortgage in the name similar to "2006 ABC REMIC Trust on behalf of the beneficiaries of the 2006 ABC REMIC Trust." The mortgages in the referenced example would all have had to been publicly recorded in the year 2006.

59. As previously pointed out, the "Trusts" were never set up or registered as Trusts. The Promissory Notes were never obtained and the mortgages never obtained or recorded.

60. The "Trust" engaged in a plethora of "prohibited activities" and sold the investors certificates and Bonds with phantom mortgage backed assets. There are now nationwide, numerous Class actions filed by the beneficiaries (the owners/investors) of the "Trusts" against the entities who sold the investments as REMICS based on a bogus prospectus.

61. In the above scenario, even if the attorney for the servicer who is foreclosing on behalf of the Trustee (who is in turn acting for the securitized trust) produces a copy of a note, or even an alleged original, the mortgage loan was not conveyed into the trust under the requirements of the prospectus for the trust or the REMIC requirements of the IRS.

62. As applied to the Class Members in this action**, t**he end result would be that the required MBS asset, or any part thereof (mortgage note or security interest), would not have been legally transferred to the trust to allow the trust to ever even be considered a "holder" of a mortgage loan. Neither the "Trust" or the Servicer would ever be entitled to bring a foreclosure or declaratory action. The Trust will never have

standing or be a real party in interest. They will never be the proper party to appear before the Court**.**

63. The transfer of mortgage loans into the trust after the “cut off date” (in the example 2006), destroys the trust's REMIC tax exempt status, and these “Trusts” (and potentially the financial entities who created them) would owe millions of dollars to the IRS and the Kentucky Revenue Cabinet as the income would be taxed at of one hundred percent (100%).

64. Subsequent to the "cut off date" listed in the prospectus, whereby the mortgage notes and security for these notes had to be identified, and Note and Mortgages transferred, and thereafter, the pool is permanently closed to future transfers of mortgage assets.

65. All Class members have mortgage loans which were recorded in the name of MERS and/or for which were attempted through a Mortgage Assignment to be transferred into a REMIC after that REMIC’s “cut off” and “closing dates.”

66. In all cases, the lack of acquisition of the Class Members’ mortgage loans violates the prospectus presented to the investors and the IRS REMIC requirements.

67. If an MBS Trust was audited by the IRS and was found to have violated any of the REMIC requirements, it would lose its REMIC status and all back taxes would be due and owing to the IRS as well as the state of Kentucky. As previously stated, one hundred percent (100%) of the income will be taxed.

68. As the Class Members are identified and the identity of the MBS REMICs revealed through this action, the individual "Trusts"/ MBS REMICs will be turned over to the IRS for auditing.

69. Upon information and belief, it is asserted that the IRS is aware that a list of alleged "unqualified" REMICs is forthcoming through the identity of the Class Members' mortgage loan "Trusts" in this action.

Securitization and Standing:

70. To the judges throughout the Commonwealth and to the homeowners, the foreclosing Plaintiff, a servicing company or "Trust" entity appears to be a bank or lender. This falsity is due to its name in the style of the case. They are not banks or lenders to the loan. They are not a beneficiaries under the loan. They do not possess a Mortgage in the property. They will never have a right to posses a mortgage in the property. It would have been a more honest representation for the foreclosing entity to called itself something like "Billy Bob's Bill Collectors,"

71. In such cases, the "trustee" filing the foreclosure complaint is not known to the homeowner. The very first time the homeowners learns that their home was put up as collateral for a publicly traded and sold home loan REMIC (a federally regulated Security) is at the time they are served with a foreclosure complaint.

72. These "trusts" are actually Mortgage Backed Securities (MBS). An MBS is an investment vehicle, defined and regulated as "Security" by the Security and Exchange Commission (SEC.)

73. At the time the homeowners signed a Promissory Note and Mortgage, they were unknowingly converting their property into an asset of a MBS. The

homeowners were never informed of the nature of the scheme. They were deliberately induced into signing a Negotiable Instrument which was never intended as such, but was intended as collateral for a MBS.

74. The fact that the loan was meant to fund a MBS was a "material disclosure" which was deliberately and intentionally undisclosed. The failure to disclose the identity of the true lender at closing was also a "material disclosure;" the nature of which would make the contract voidable under Kentucky contract law.

75. From the time of the Great Depression up and until 1999, the conversion of loans into MBS was illegal. The Banking Act of 1933 established the Federal Deposit Insurance Corporation (FDIC) in the United States and introduced banking reforms, some of which were designed to control speculation of the exact nature of what has taken place in the last several years. It was commonly known as the Glass–Steagall Act. Over the years provisions of the Act were eroded little by little, until the Act was finally killed with the last repeal of the section which prohibited a bank holding company from owning other financial companies. This was accomplished with the Gramm–Leach Act.

76. The repeal of the Glass-Steagall Act of 1933 effectively removed the separation that previously existed between Wall Street investment banks and depository banks and has been blamed for creating the damage caused by the collapse of the subprime mortgage market that led to the Financial crisis of 2008–present day. The repeal opened the door for an interpretation which would supposedly allow securitization of mortgage loans. This interpretation has yet to be challenged, is ripe for such, but must be left for another day.

77. Mostly beginning in 2004, hundreds of thousands of residential mortgages were bundled together (often in groups of 5,000 mortgages), and investors were offered the opportunity to buy shares of each bundle, an MBS. Some of the bundles were offered as Bond Certificates, guaranteeing a rate of return. Many of these Bond MBS were funded by large private and governmental pension funds and in some cases, as the case with Greece, by foreign governments

78. Investments were made in the MBS, based on a prospectus, which had to be filed with the SEC. The MBS would always be rated "AAA" by Moody's or Standard & Poors in order to invoke a sense of confidence for the investors. The rating agencies were hired and compensated by the underwriter/salesman of the MBS. The rating Agencies are currently under investigation by the Justice Department for their role in the financial meltdown.

79. The prospectus was created, the MBS rated and the investors money was pledged and collected long before the homeowner ever even applied for a loan.

80. In other words, the MBS was created first. The loans fitting the description of those found in the prospectus had to then be created and originated. Each MBS/Trust was required to keep a list of the individual loans they had allegedly recruited for the MBS. This list has to be publicly recorded with the SEC. However, the SEC did not require any proof that the loans actually existed or were possessed by the MBS. For the tax man and in order to qualify as a REMIC, the Notes and mortgages listed with the SEC had to be held, and mortgages recorded ON THE DATE THE MBS CLOSED.

81. Each such MBS bundle was given a name, such as "ABC Home Loan Trust 2006 ABC-8." The name indicates information about the particular trust, such as

the year it was created and closed and its reference name and number for the SEC and IRS.

82. As required by the SEC, each MBS/Trust has a Pooling and Servicing Agreement ("PSA") which must be publicly filed. The only purpose for the PSA is for the administration and distribution of funds to the investors and the obligation of the so-called Trustee in administering the MBS. The investors who put up the money for the MBS and who received the MBS Certificates or Bonds, are not parties to the PSA.

83. The PSA merely sets forth what happens after the mortgages are bundled together. However, the PSA also sets forth a Cut Off Date. The Cut Off Date is the date on which all mortgage loans in the MBS/Trust must be identified and set out in the SEC required list of mortgage loans. Often, these loans were identified and listed for the SEC and the investors, regardless of whether the loan existed or had been closed. Some loans were listed in SEC filings in multiple MBS.

84. Like the Cut Off Date, each MBS/Trust had a Closing Date. The Closing Date is the date that the individual identified mortgages were to be transferred through the Custodian for the benefit of the investors. The Trust Custodian must certify that for each mortgage loan, the Trust Custodian has possession of the original Promissory Note, all original endorsements and assignments transferring the Note and proof that the ownership of the Note has been transferred for the benefit of the shareholder/investors. Further proof of the ownership of a mortgage loan is required by a public recording of the Mortgage or Assignment of the Mortgage itself. This MUST have occurred by the closing date.

85. The Servicers worked to collect money for the MBS from the individual loans and collected and distributed escrow funds. The "Trustees" were Custodians, akin to administrators.

86. Typically, and contrary to Kentucky law, the Trust would include equivalent language regarding the handling of these required Assignments: "Assignments of the Mortgage Loans to the Trustee (or its nominee) will not be recorded in any jurisdiction, but will be delivered to the Trustee in recordable form, so that they can be recorded in the event recordation is necessary in connection with the servicing of a Mortgage Loan." This publicly recorded provision to deliberately keep the transfers out of the public record, violates the Mortgage recording Statute of almost every State of the Union.

87. While attempting to circumvent Kentucky recording Statutes, the MBS Trust created for itself a situation wherein it had no legally recognizable interest in the loans for the benefit of the investors. The investors were invested in nothing. The MBS possessed nothing on the date the REMIC closed and perpetrated a fraud on the investors and the American taxpayer through its fraudulent qualification as a REMIC with the SEC.

88. No bank, lending institution or "Trustee" ever pledged or put up the money for the Homeowners' loans. The foreclosing entities had or have no pecuniary, ownership stake or beneficial interest in the homeowners' loans.

89. A review of the foreclosures filed by the Servicers and "Trusts" typically states that the "Trustee" is the "Holder" of the homeowners' Note. The

Complaint in foreclosure never states that the "Trustee is the owner of the homeowners' Note.

90. More often than not, the statement that the foreclosing entity "holds" the original Promissory Note is an untruth. The majority of the securitized Notes no longer exist, having been deliberately destroyed or disposed. At the time the feeding frenzy of securitization occurred (mostly between 2004 and 2008,) paperwork was of little consequence as the goal of the originators was to fill and securitize as many loans as possible in order to create the loan number list for the SEC. Likewise, whether or not the loans were ever repaid was of absolutely no consequence as the Servicers and "Trusts" had nothing to loose; the loans having been funded by the investors and were insured by multiple derivative contracts.

91. Often, and contrary to Kentucky law, the Servicer would have a provision in its Pooling and Servicing Agreement which would allow it to collect and keep the proceeds of any foreclosures it could accomplish after the MBS Trust was paid off by derivatives and closed. Often, a Servicer will show up in a Kentucky Court to foreclose on behalf of a Trustee who administers a MBS Trust which no longer exists.

92. In addition, in order to make the Cut Off date to fill the SEC required loan number list, the appraisals for the loan were deliberately inflated as many of the investor Prospectus stated that all the loans in the bundle met certain criteria, including and most significantly specific loan to value ratios.

93. When the scheme was originated and implemented en mass (mostly between the years 2004 and 2007), what was not planned for or counted upon was the immediate 2008 massive real estate market collapse and the thousands of voluntary and

involuntary defaults and TILA loan rescissions of mortgage loans. At the same time, the fair market value of housing dropped by as much as fifty percent (50%) in some parts of the country.

94. No legal plan was in place for such a wide spread loss of the assets. No legal plan was ever in place to deal with the fact that the original Prospectus to the shareholder/investors was a myth. No legal plan was ever in place for the shareholder/investors to come to Court in an attempt to collect on the assets of the MBS they purchased.

95. Most importantly for Kentucky foreclosures and Declaratory actions, the investors or beneficiaries did not have contracts with the Trusts, Servicers, or Trustees to act on their behalf in a law suit in foreclosure or otherwise.

96. In order to collect on the mortgage loans and divest Americans of their homes, Servicers and "Trustees" have had to mislead the Courts as to their standing in foreclosure. They have had to create, forge and fabricate phony documents in order to obtain an Order of Sale in Foreclosure.

The Creation and Use of Fraudulent Affidavits and Mortgage Assignments:

97. In a foreclosure, the MBS/Trustee claims to be acting on behalf of the MBS/Trust and claims that it has acquired the loan from the originator. The multiple transfers of title of the mortgage loan in between the originator and the MBS/Trust is simply ignored as it can never be proved or shown to the Court. As previously stated, when a Servicer is foreclosing, an additional break in the chain occurs as the Servicer is often never the mortgagee of record under a Mortgage Assignment and has absolutely no

legal tie to the investors in the MBS. The "Trust" or Servicer can never hold or transfer a Mortgage in the property on behalf of the investors.

98. In many of the cases, the originator is no longer in business and/or has been dissolved in bankruptcy. The MBS/Trustee never mentions the intervening transfers to the other parties or the shareholder/investors or to the Court. The MBS/Trustee never proves that such transfers lawfully occurred.

99. In the rush to create these trusts and sell shares to investors as fast and in as large a quantity as possible, the loans, Mortgages and Assignments were never prepared, filed or recorded. This means that the entity seeking to foreclose can NEVER prove the chain of ownership.

100. When a Servicer shows up in a Kentucky Circuit Court, it is even one more step removed from the ownership of the underlying debt and Mortgage and would NEVER have an ownership claim. The Homeowner has no idea that it is making payments to, corresponding with and applying for a modification with a mortgage loan servicer instead of a mortgage loan owner or that the Servicer is keeping part or all of proceeds of the mortgage payments without the knowledge or permission of the investors.

101. In Wall Street's massive feeding frenzy and rush to transform Notes and Mortgages (negotiable instruments) into asset-backed securities, the necessary documents were never prepared or executed from the original lender to the MBS originator, to the Depositor to the Underwriter through the Securitized MBS/Trust to the only possible beneficiaries under the loans, the shareholder/investors.

102. MBS/Trustees and their lawyers discovered in the foreclosure process that the Note and Mortgage Assignments would never be located because they never existed. They also discovered that states did no allow blank Assignments or Assignments with retroactive effective dates. To solve the problem of the missing and non-existent Assignments, the MBS/Trustees, their attorneys and their Servicing Agents, decided to fabricate Assignments from thin air and then quietly record the fabricated Assignments. If a Promissory Note Assignment is presented to the Court, it deliberately do not state the date the promissory Note was assigned. It was procured after the fact and is based in fraud and in violation of MBS Trusts' tax status requirements. The dateless Promissory Note Assignment or allonge is then affixed to a copy of the Promissory Note as the original Promissory Note simply does not exist. The fabricated Promissory Note Assignments are affixed to Motions for Default or Summary Judgment.

103. The Assignments of the Mortgage were signed and notarized many years after the actual date of the loan and the date listed with the SEC and IRS as the "Closing" of the REMIC. In every one of these cases, the MBS Trust has been operating illegally as a tax exempt REMIC. The federal government is in turn, owed billions of dollars in income tax from these entities. The individual states of the union has causes of action on behalf of their citizens for the unpaid state tax.

104. Incredibly, most times, the Mortgage Assignments are dated after the filing of the foreclosure. Most foreclosures are filed without an Assignment at all and the Mortgage attached as the Exhibit is in the name of the original lender or a third nominal party like Mortgage Electron Registration Systems, Inc. ("MERS".) The

foreclosures are invalid on their face. The recording statutes of every state in the union have been violated.

105. The fabricated Assignments were prepared by specially selected law firms and companies that solely specialized in providing "mortgage default services" to the MBS/Trusts and their Servicers. In Kentucky, it is estimated that over ninety percent (90%) of the filed Mortgage Assignments in the last three years were prepared, fabricated, and filed by the same five or six law firms and default processing companies.

106. In most cases, the Note and Mortgage were severed or bifurcated at the closing table with the Mortgage being recorded in the name of MERS as "nominee" for the original lender. However, the original lender never actually loaned any money to the homeowner. The original lender was never owed or paid any money under the terms of the Note. There the Mortgage sat for years in the name of an entity, MERS, for which the homeowner owed no money and which would never be beneficiary under the Note. As previously set out, often the MERS held the Mortgage as "nominee" for a lender who was out of business and/or liquidated in bankruptcy. There could be no party legally able to Assign the Mortgage on behalf of the dissolved lender. The only party who could authorize the Mortgage Assignment for a bankrupt lender would be the Bankruptcy Trustee. In these cases where a MERS mortgage has been assigned on behalf of a bankrupt entity, a criminal violation of the bankruptcy code had occurred.

107. When MERS did not appear as the original Mortgagee, two such Assignments had to be prepared, executed and filed by the "Trust," its Servicer, a document processing company and/or a foreclosure mill law firm. The first was prepared in the name of MERS from the original lender; who as previously stated, may

be extinct or bankrupt. A second bogus Assignment would then have to prepared and filed wherein an agent and sometimes an employee for the entity filing the foreclosure, or an employee of the law firm which filed the foreclosure, would forge the name of or hold themselves out as a Vice-President or executive of MERS. By drafting, Executing and notarizing the Affidavit or Mortgage Assignment, the forger claimed that they had Mortgage Assignment authority for both MERS and the extinct original lender.

108. An Assignment from MERS was a legal nullity. MERS never had a interest in the Note or Mortgage.

109. Often, the foreclosure mill law firm will sue MERS as a co-defendant with the property owner and then turn around and represent MERS as a Vice-President with the drafting and execution of an affidavit and/or mortgage assignment on MERS behalf. In other words, the law firm claims to work for MERS, at the same time they are suing MERS.

110. Often, the same half a dozen names appear on the Mortgage Assignments, which have been filed by the thousands. Upon information and belief, the printed names on the Mortgage Assignments were not signed by the person whose name appears. Not only were the robo-signers committing forgery and fraud, it would be physically impossible for them to have signed the tens of thousands of documents filed in Kentucky court and county clerks offices and in the courts and clerks offices across the nation.

111. In all these cases, the Assignment is prepared to conceal the actual date that the property was to have "passed through" the MBS/Trust to the shareholder/investors. Note Assignments for non-existent Notes and Mortgage

Assignment were prepared and filed years after the mortgages and notes were actually fictionally assigned for the benefit of the shareholder/investors prior to the Closing Date of the MBS/Trust. While exact Closing Dates can only be determined by looking at the MBS/Trust documents, filed with the SEC and IRS, any MBS/Trust that includes the year 2005 in its title closed in 2005.

112. If a Mortgage Assignment is dated, notarized and filed in a year after the year set forth in the name of the grantee trust, it was an Assignment fraudulently made for the sole purpose of facilitating an illegal foreclosure or to use as evidence as standing in an action to challenge a homeowner's TILA Rescission.

113. These Specially-Made Assignments have created havoc in the Courts and were done with the specific purpose of perpetrating a fraud on the Court.

114. In many cases, the foreclosing entities did not even bother to request that the Specially-Made fabricated Assignment be prepared prior to the filing of the foreclosure. In more cases than not, the Assignments are prepared and filed AFTER the foreclosure action has been initiated. The MBS/Trust (who has no beneficial interest in the loan and probably is not in possession of the original Note) files a foreclosure and then attempts to make it appear to the Court that the MBS/Trust magically knew prior to the Assignment that it would acquire the defaulting property several weeks or months after the foreclosure is filed.

115. Courts have repeatedly asked the MBS/Trustee to explain why they were acquiring non-performing loans and whether such acquisition was a violation of the Trustee's fiduciary duty the beneficiaries under the MBS/Trust. No MBS/Trustee has ever come forth and explained tat MBS/Trust actually listed the loan in its SEC loan list

without possessing the loan and that the loan was "acquired" years before the Assignment. As a result, there are many decisions with observations similar to this observation by Judge Arthur M. Schack of Kings County, New York, in *HSBC Bank v. Valentin*, 21 Misc. 3d 1124 [A]: "Further, according to plaintiff's application, the default of defendants Valentin and Ruiz began with the nonpayment of principal and interest due on January 1, 2007. Yet four months later, plaintiff HSCB was willing to take an assignment of the instant nonperforming loan, four months in arrears?"

116. In *Deutsche Bank National Trust Co. v. Harris*, Judge Arthur M. Schack, Kings, New York, Index No. 39192/2007 (05 FEB 2008) opined again: "Further, the Court requires an explanation from an officer of plaintiff DEUTSCHE BANK as to why, in the middle of our national sub-prime mortgage crisis, DEUTSCHE BANK would purchase a non-performing loan from [bankrupt and now dissolved] INDYMAC…."

117. In cases where the Trust failed to get a valid Assignment, whether before or after the foreclosure, is further complicated by the actual parties participating as Assignors. Most of the major loan originators, listed on the Mortgages or listed as a "nominee" of MERS on the original Promissory Notes, have been sold, closed or dissolved in bankruptcy. These include, but are not limited to; American Home Mortgage, Option One Mortgage, Countrywide Home Loans, and INDYMAC.

118. When these mortgage companies filed for bankruptcy, the Trusts did not claim an interest in the assets (loan lists.) Years later, when Note and Mortgage Assignments were required for the MBS/Trust or Servicer to attempt foreclosure, a bankruptcy Court's permission was needed to assign billions of dollars in Notes and

Mortgages. Knowing that permission would not be granted, permission was NEVER sought in any of the aforementioned bankruptcies. Hence, the need arose to invent and forge Affidavits and Assignments on behalf of the bankrupt entities.

119. The similar issue occurs when a Servicer of an MBS/Trust needs to invent an assignment, when the Mortgage is held by the "nominee" MERS. Like the third-party default service companies, the Servicer fabricates and executes the Assignment on behalf of the Mortgagee MERS. A double forgery takes place when the Assignor purports to act on behalf of a non-existent or bankrupt entity.

120. In lieu of valid Promissory Notes, Mortgages and Mortgage Assignments, MBS/Trusts relied and continue to rely on these fabricated documents produced and executed by their own law firms, Servicers and third-party default service companies.

121. Although the greatest risk of fraud from the fraudulently produced assignments is imposed on the homeowners, this scheme poses a great risk in the exposure of the Title Companies that guaranteed the clear and correct transfer of ownership. Additional risk is imposed on both homeowner and the Title Company due to the fact that the loans were never owned by the MBS/Trust, making the clear and correct transfer of title impossible. The MBS/Trust or Servicer has come to the foreclosure asserting standing when it is neither the owner of the underlying debt or the valid Mortgagee.

122. The MBS/Trustees have been on notice for several years that the faulty Assignments were likely to jeopardize the claims of ownership and the ability of any

entity to foreclosure. They have continually failed to disclose this information to the share/holder investors and to the SEC.

123. Defendants, and other entities such as M&I Bank, Regions Mortgage, Deutsche Bank, U.S. National Bank Association, Bank of America, J.P. Morgan Chase, CITI, MERS, and Servicing Agents such as GMAC, Aurora Loan Services, CitiMortgage and Nationstar Mortgage, have filed thousands of foreclosure actions in the State of Kentucky and throughout the United States, including against the Class Plaintiffs, under false pretenses, without the legal authority to bring such suits.

124. Other parties including DOCX, LLC, Lender Processing Services, Inc., in Florida, LSR Processing in Cincinnati, Ohio and the foreclosure mill law firms have facilitated, aided and abetted the Defendants in filing thousands of residential Mortgages and Mortgage Assignments under false pretenses and without legal authority.

The Double and Triple Dip and Derivative Contracts:

125. Many of the MBS/Trusts were covered by an insurance policy, commonly referred to as a Derivative or Collateral Contract. These Derivative Contracts are not recorded or regulated by the SEC. Upon information and belief, the Defendants have attempted to receive distribution, fees or proceeds or have received distributions from the liquidation of the Plaintiffs or the putative class members homes, when the actual beneficiaries under the homeowners' loans, the shareholder/investors have been made whole by a Derivative Contract. In other instances, the MBS has been "closed" months or years prior. Funds collected from the loans allegedly within the MBS, ar no longer being paid to the investors, but are an unearned windfall to the servicer. Additionally, there is no contract between the investors and the foreclosing entity which

would allow them so act as a Plaintiff in a Foreclosure even when the MBS is not shut down.

126. Likewise, the MBS/Trusts themselves became parties to Derivative Contracts. Most times, the actual Derivative contract is for more, up to ten times (10x), the face value of the MBS. More often than not, multiple insurance policies were taken and traded on the MBS.

127. The "double dip" or double compensation of the MBS/Trustee, or Sericer is improper in its own right. The offense is patently egregious when it is viewed in light of the fact that the MBS/Trustee or Servicer. The bogus entities have no standing to foreclose, yet they came and continue to come to the Courts with the fabricated and forged documents.

Unjust Enrichment:

128. The Defendants and MERS have illegally filed suit, as parties and counsel of record, in actions against the Plaintiffs and the putative class members, and have received distributions from the sale of their properties, while engaging in one or more of the following illegal practices:

129. Defendants have filed foreclosures throughout the State of Kentucky and the United States of America knowing that they were not the "owners" or beneficiaries of the loan they filed foreclosure upon. They knowingly and intentionally set out to deceive the Courts as to this fact and had full knowledge of the fact that they lacked Constitutionally defined "Standing" and capacity to file suit;

130. The Defendants and MERS have drafted, executed and filed, or caused to be filed, false and fabricated Promissory Notes, Mortgages, and Assignments of

Mortgages, prepared by LPS, by and through DOCX, LSR Processing, employees of foreclosure law firm and employees of the Servicer, in order to foreclose upon properties.

131. These MERS Mortgages and Assignments were prepared by an agreement between the Defendants. These Defendants used false information regarding the individuals executing such Mortgages and Assignments, holding such individuals out to be officers of various banks, mortgage companies and mortgage servicing companies and MERS. At the time the Assignments were executed, many of these companies no longer existed and/or had been dissolved in bankruptcy;

132. Defendants used these MERS Mortgages and Assignments as Exhibits to foreclosures and filed these Assignments in the public record in all one hundred twenty (120) Counties in the State of Kentucky. In all such cases and public recording, essential documentation to prove chain of title had not been obtained. The essential documentation to prove chain of title does not exist.

133. Defendants filed or caused to be filed MERS Mortgages and Assignments of Mortgages prepared by Defendants with forged signatures of individuals purported to be officers of the entity, such as MERS or bank or mortgage company making the assignment;

134. Defendants repeatedly filed foreclosure and declaratory judgment actions on TILA Rescissions months and sometimes over a year before they acquired any legal interest in the subject property through a fraudulent Assignment of a Mortgage. They have repeatedly claimed and continue to falsely claim that they owned the note executed with the mortgage on the property;

135. Defendants repeatedly filed foreclosures and continue to file foreclosure actions claiming that they have lost the Promissory Note, Mortgage and other necessary documentation or that the documentation is "unavailable." They falsely lead the Court to believe by inference or actual testimony, that the documentation is missing SUBSEQUENT to the acquisition of the documents, when in fact they have never possessed such documents;

136. Defendants have filed other altered or fabricated documents in many foreclosure cases to support their claims of ownership, including fabricating and filing multiple Assignments in blank with no dates on copies of the Promissory Notes (many times from non-existent or bankruptcy dissolved entities) and multiple Mortgage Assignments with different dates, bank officers signatures, witnesses and notaries for the same residential property. Often, the same individuals appear as the signatory for multiple banks and mortgage companies at the same time and simultaneously act as a signatory for the entity MERS;

137. Defendants have repeatedly filed and continue to file foreclosure actions as a Trustee for a SEC registered MBS/trust where the chain of title has not and can not be established by Defendants and/or the MBS no longer exists and was never qualified to be a REMIC.

138. The Defendants in many cases have filed and continue to file foreclosure actions where the individual loan in question was never on the SEC loan list submitted on behalf of the MBS/Trust. In other instances, the individual loan number appear on multiple loan lists inside multiple MBS/Trusts or has been removed from the

list of the MBS/Trust. While in others, the individual loan number is listed with a MBS/Trust which has been closed or no longer exists.

139. In this action, Plaintiffs seek to recover actual and statutory damages, as well as attorneys' fees and costs as permitted by law.

IV. THE CONSPIRATORS' BUSINESS MODEL

140. In and about the years 1998 and 1999, with the final desecration of the Glass-Steagall Act, the mortgage industry introduced new "products" into the American marketplace in order to create massive amounts of mortgage loan "lists" to be listed as the assets of Mortgage Backed Securities, ("MBS".) The borrowers taking out these loans were unaware of the fact that their loan was never a true negotiable instrument, but securitized and sold prior to them ever reaching the closing table. These products included "non-documentation loans" and adjustable rate mortgages, known as "ARMS." Mortgage lenders, acting in coordination with one another, relaxed their standards for lending, which made an entirely new class of lower-income individuals eligible to receive loans. This, in turn, artificially drove up property "values." As part and parcel of this scheme, investment "banks" and other lenders accepted appraisals "documenting" the new, higher values, and approved hundreds of thousands of applications for financing, most of which would normally have been declined.

141. Unbeknownst to the borrowers and the public, the billions of dollars spent to fund these loans were expended to "prime the pump." The big institutions and the conspirators were making an investment, but the expected return was not the interest they pretended to anticipate receiving as borrowers paid the mortgages. The lenders knew that the new loans were "bad paper;" this was of little concern to them because they

intended to realize profits so great as to render such interest, even if it had been received, negligible by comparison.

142. Part of the reason this fraudulent scheme has gone largely unnoticed for such an extended period of time is that its sophistication is beyond the imagination of average persons. Similarly beyond the imagination of most persons is and was the scope of the dishonesty of the lenders and the investment Banks and those acting in furtherance of the scheme, including the present Defendants. Through the present time, persons acting within the ambit of this conspiracy, have continued to operate consistent with the core principles of dishonesty and fraud engendered by the original conspirators.

143. These corrupt influences have spread throughout the financial services, lending and banking industries into the national economy and beyond, threatening the economic stability of the United States and the world as a whole. This Court is urged in the strongest possible way to apply a presumption of falsity when reviewing any documentary evidence filed in this Court by one or more of the Defendants. Such a presumption is not just warranted; it is t indeed compelled by the extent to which the Defendants and those with which they are associated have long acted in a malicious and wanton manner evincing complete contempt for the judicial process and the rights of persons having interests contrary to their own.

144. This is particularly true because the Defendants' contempt for due process is compounded by their specific intention to obviate the requirement that documents prepared for legal use be truthful, authentic, and legitimate.

145. There is one sort of lie that, when later discovered, constitutes the strongest possible proof of a person's malicious intentions, that is to say, the lie about one's name or identity in relation to whether a person owes money.

146. Many such lies are present in this instance. The whole purpose of MERS is to allow "servicers" to pretend as if they are someone else: the "owners" of the mortgage, or the real parties in interest. In fact they are not. The standard MERS Mortgage Complaint contains at least one to three lies as to the identity of the parties.

147. While the title of the standard foreclosure Complaint makes reference to "unavailable" Promissory Notes in the body of the Complaint, the Defendant Firm alleges that the plaintiff is the "owner and holder" of the note and mortgage.

148. In the years leading up to the introduction of the new loan "products," and securitized mortgage loans, the conspirators laid the groundwork which would grow into a new mortgage lending infrastructure: a new paradigm in which the ratios of risk to reward were dramatically altered in favor of these Wall Street interests and to the detriment of common consumers.

149. One material bulwark in the support for this new paradigm was the inclusion in new mortgages of intentionally ambiguous and infinitely malleable provisions pertaining to MERS.[3] As is the case with most of the written documents routinely used in the scheme, such as "assignments" and complaints for foreclosure, each word concerning MERS in these standardized mortgages is carefully crafted so as to

3 This allows for another "nominee;" one which could apparently coexist with MERS. "Is" is present tense - - this seems to indicate that as of the time of execution of the mortgage, MERS was performing some unknown service for both lender and its "successors and assigns" even though ostensibly the mortgage had not as of execution been assigned. Upon assignment, it would seem to be impossible for MERS to act as "nominee" for the original lender. This phrase also tacitly acknowledges that the mortgage will be assigned. Bypassing Black's Law Dictionary, "mortgagee: n. the person or business making a loan that is secured by the real property of the person (mortgagor) who owes him/her/it money." *See.* www.law.dictionary.com

allow those relying upon it to infinitely recede in their positions and to be moving targets virtually unreachable by standard legal means.

150. Upon reading the standard mortgage clauses pertaining to MERS, even persons of high intelligence will have a sense that they should, but do not quite, comprehend them. Consider these:

151. "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a3 nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under the security instrument. This Security Instrument secures to Lender: (1) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (2) the performance of Borrower's covenants. There is no "purpose" stated in the preceding sentence. This begs the question as to the following: How can the borrower simultaneously "convey" the property to: (1) MERS as nominee for lender; (2) MERS as nominee for lender's successors and assigns; and (3) MERS's *own* successors and assigns? Furthermore, who are the successors and assigns to an entity with absolutely no interest in the Promissory Note for which the mortgage was allegedly based? No assignment could have existed as of the moment the mortgage was executed by the borrowers, and if somehow same did exist, it should have been disclosed as a fundamental and material aspect of the transaction. If the assignment occurred prior to the mortgage, the mortgage itself is void.

152. because the lender had no interest to secure. No "law or custom" could possibly necessitate action by MERS, as opposed to action by the original lender.

153. A mortgage is not a conveyance of property by operation of Kentucky law. It is merely the public evidence of a lien in property. Furthermore since an entity

can not assign something it had no rights in the first place, any and all Mortgage assignment from MERS to a third party are null and void.

154. Beginning soon after the "ink" on the new mortgages was "dry," and in many cases prior to the loan even closing, the lenders promptly sold the loans, in secretive transactions, to "investors" for some percentage or fraction of what had been the alleged value of the mortgage and the property by which it was secured just days or weeks earlier. In most cases, the Lender did not advance any funds as to the loan, serving as a strawman, thereby negating the validity of each and every one of the required TILA disclosures.

155. Another part of the scheme was the use of words in ways inconsistent with their traditional meanings, and the creation of new terms which could be used to blur important distinctions between parties and their interests. The revolutionary ways in which words were utilized all shared one characteristic: they made it more difficult to determine who had the right to receive and utilize for their own purposes the payments made on the loan by the borrower. For example, "mortgagee" began to have a meaning other than "lender." "Servicer," which has no legal definition, arose to prominence and was and is used to further obscure important truths. Specifically, the "servicer" does not hold the true beneficial interest in the mortgage. The Defendants will not release any further information on the subject, whether it is requested in discovery in a foreclosure action or in any other context.

156. Attorneys have been told in open Court by the counsel of record for the foreclosing Servicer, that "it is none of the borrowers business" who owns or in the case of a closed MBS, who owned their loan before the MBS REMIC became extinct.

157. With the oversight of Defendant Merscorp and its principals, the MERS artifice and enterprise evolved into an "ultra-fictitious" entity. To perpetuate the scheme, MERS was and is used in a way so that to the average consumer, or even legal professional, can never determine who or what was or is ultimately receiving the benefits of any mortgage payments. The conspirators set about to confuse everyone as to who owned what. They created a truly effective smokescreen which has left the public and most of the judiciary operating "in the dark" through the present time.

158. On its website, www.mersinc.org, Defendant Merscorp lists the shareholders of "MERS," which is defined on a separate page of the site as "Mortgage Electronic Registration Systems, Inc." Among the shareholders of MERS, according to the site, are the following institutions: Bank of America, Chase, CitiMortgage, Inc., Fannie Mae, Freddie Mac, HSBC, SunTrust, and Wells Fargo. These entities are co-conspirators in the MERS scheme herein described.

159. The conspirators intended to maintain an absolute stranglehold on the American economy for many decades into the future. This could only be accomplished if the scheme was able to evolve over time in a changing regulatory and consumer environment.

160. The conspirators adjusted the American lending system and the legal system governing it in a way designed to most effectively gratify their greedy interests over the longest period of time.

161. Through this revolution in the use of words and ephemeral concepts such as the "nominee," "servicer" and "Trustee," the conspirators, including the present Defendants, have by-and-large been successful in changing the paradigm so that the

rights of individuals are no longer afforded the safeguards which have been carefully maintained in place since the formation of the United States.

162. As the conspirators and present Defendants have long intended, certain important terms in the mortgages and other legal documents are devolving into a state of meaninglessness. Even the names of the mortgage and lending institutions are tinkered with and interchanged so often that it is difficult to keep track of the constantly shifting parameters of the series of alleged mergers, assertions of subsidiary relationships.

163. This is not some random trend which resulted from the mortgage crisis. It is, instead, the calculated tactic and conspiracy which ultimately caused it. The end result of the continued actions is that the mortgages and associated documents come to mean whatever their proponents wish them to mean.

164. The conspirators did not want there to be any documentation which could later potentially be used as evidence of their crimes. They did not want to pay the fees associated with recording mortgages, robbing the County clerks across the nation of billions of dollars in statutorily mandated Recording Fees. They did not want to be bothered with the trouble of keeping track of the originals pf Promissory Notes as they have felt at all times that they are above the law. This is the significance of the word 'Electronic' in Mortgage Electronic Registration Systems, Inc. The conspirators, through this exceptionally sophisticated legerdemain, made over the American judicial system's long-honored requirements for mortgages and foreclosures to serve their interests and to minimize the possibilities of the victims obtaining any meaningful redress through the courts.

165. They have so far, undermined long-established rights and sabotaged the judicial process itself by de-emphasizing the importance of, and eventually eliminating, "troublesome" documentation requirements which in all jurisdictions of the United States MUST BE IN WRITING. If a conversion to electronic loan documentation is ever implemented, it would be the voting public, by and through their elected representatives through duly enacted constitutional legislation.

The Creation and Use of Fraudulent Promissory Notes and Mortgage Assignments:

166. In these remarkable and totally fraudulent Affidavits and "assignments" as to loan ownership, the following irregularities usually appeared: The assignor, MERS, had the same address as the assignee (the plaintiff); they were executed by a person having the title of "Vice President or Assistant Secretary of MERS;" and the document would have an "effective date" well prior to the date upon which it was executed, so as to retroactively give standing to the plaintiff.

167. It has now come to light that the persons signing these assignments as "Assistant Secretary," and "Vice President" of MERS actually were never officers or employees of MERS. Rather, they employees of the foreclosing "servicer" or incredibly, the Servicer's Law Firm.

168. The preparation, filing, and prosecution of the complaints to Foreclose and to Enforce loan without any documents were each predicate acts in the pattern of racketeering activity

169. In furtherance of the MERS enterprise. The actions could not have been brought by the Defendants without the MERS artifice and the ability to generate any necessary affidavits or "assignment" which flowed from it.

170. As with MERS model itself, the affidavits and "assignments" were meaningless shells designed to pull the wool over the eyes of the judiciary and ease the burden upon the unknown real parties in interest. The practice of "non-documentation" can be seen as a common thread weaving all of the complained-of conduct into an undeniable tapestry of a criminal enterprise proscribed by RICO.

V. STATEMENT OF RELEVANT KENTUCKY LAW AND THE UNIFORM COMMERCIAL CODE

171. The alleged Notes in question, started their life as negotiable instruments. They were similar to a check. The negotiation and enforceability of both notes and checks are governed by Article Three (3) of the Uniform Commercial Code. To enforce a negotiable instrument, a person must be a holder of the note. KRS 355.3-301. To meet the definition of a "holder," the person must possess the note, and the note must be issued or endorsed to him or to his order or to bearer or in blank. KRS 355.1-201(2)(u). The record reflects that Plaintiff is not the "holder" or "owner" of the Note. Neither does it appear in the record of this case to be any evidence that the Plaintiff will ever be the "Bearer" of the Note, under KRS 355.1-201(2)(u), wherein the Plaintiff could ever be "a person in possession of a negotiable instrument, document of title, or certificated security that is payable to bearer or indorsed in blank." KRS 355.1-201(2)(e). The Plaintiff is not in possession of the original negotiable instrument with any legally binding original endorsement.

172. If the Party, at a later date, attempts to claim that the original documentation was somehow "lost," the Note will never be enforceable, as made obvious by official comments to the UCC § 355.3-203, that read as follows: " X signs a document conveying all of X's right, title, and interest in the instrument to Y. Although

the document may be effective to give Y a claim to ownership of the instrument, Y is not a person entitled to enforce the instrument until Y obtains possession of the instrument. No transfer of the instrument occurs under Section 3-203(a) until it is delivered to Y."

173. Based on the record in the Plaintiffs' cases, and the class members' loans, the Note and the Mortgage were bifurcated at inception and were and remain unenforceable as a Secured Transaction under the Uniform Commercial Code and Kentucky law. The most the Plaintiff could ever be is an unsecured creditor.

174. Upon information and belief, the Note, the Note was "securitized," was paid off in excess of the principal balance and is no longer enforceable as a Secured Negotiable Instrument.

175. If an enforceable transaction can be proven, the Defendants were deceived into such transaction without notice that they were encumbering the property as a "Security" under the Rules and regulations of the Securities and Exchange Commission.

176. The Party does not hold, bear or own the original Note, is not a Mortgagee and has no legally enforceable interest in the loan or standing to file this action.

177. There is no assignment of the Promissory Note to the foreclosing Party. The endorsement stamped on the copy of the Note as Exhibit "A" to the Complaint, bears no signature and is invalid.

178. The alleged Affidavits of ownership and Account Status and the Assignment of the Mortgage are believed to be forged instruments. Those forged

instruments have been uttered or published into the public record, Mortgage Fraud and Forgery violations have occurred.

179. It is asserted that the Law Firm initiating this action and the Plaintiff, have conspired with each other and their other agents and principals to file a false and fraudulent Foreclosure Action and to later create a false and forged Mortgage Assignment. It is asserted that such action is part of the Law Firm's regular practice and procedure, whereby it engages in systemic fraud across the Commonwealth of Kentucky, in conspiracy with its clients.

180. During the origination of the loan, the Lender, MERS, the Broker, the Plaintiff (if it funded the loan and was the "true lender"), and the Title Company conspired together commit illegal acts pursuant Federal and State law.

181. Moreover, the so-called "bogus note" submitted with this Complaint and "lost note" Complaints, filed by the thousands in the past three (3) years in Kentucky, present issues of more interest than the basic enforcement of the Uniform Commercial Code. When a Court Orders the Foreclosure and Order of Sale on Kentucky real estate, based solely on sham pleadings, the entire community is affected as well as the home owner. If a Kentucky citizen sat through the average foreclosure chocked Circuit Court Motion docket, in any given County, he would see that very few, foreclosures are defended. Therefore, most Kentucky families lose their property and their homes by default, regardless of whether the foreclosing entity has any rights in the debt.[4]

4 Since Foreclosure defense has not proved financially lucrative for attorneys, most property owners are left out in the cold and without legal representation.

182. In other jurisdictions, such as Ohio, New York and Florida, the judiciary has taken upon itself to recognize its duty to protect its property owners and communities from illegal Foreclosures, especially when the property owner is not represented by counsel and a Foreclosure by Default has been requested. The Florida Attorney General and the United States Attorney in Florida both have public investigations against a Foreclosure Factory law firm and a Document Processing Corporation as to the Post- Foreclosure Mortgage Assignments forgery issues identical in this case.

183. In today's environment, in which mortgage notes are freely traded, and serve as collateral for various investment vehicles this "owner of the claim issue" is more important than ever to a defendant: a.) to determine whether the Note and Mortgage have been bifurcated and issued to separate entities, making neither enforceable; b.) to determine whether a real "holder" or "bearer" of the Note even exists; c.) to determine whether the debt has been paid in a credit default swap (Insurance Policy) a derivative contract, or by the Servicer under a Pooling Agreement; d.) if the Note was in fact "securitized," hence becoming a "Security" it was no longer a Negotiable Instrument/Mortgage Note and under Kentucky law, was paid in full, has been satisfied and is no longer enforceable as a Mortgage Note; e.) to have Mortgages declared void and titles quieted whenever mortgages have been recorded in the name of the entity MERS.

VI. NATIONAL HISTORIC BACKGROUND AND SIGNIFICANCE

184. In the United States, home purchases are typically financed by mortgages or loans that are secured by a mortgage (in judicial foreclosure states) or deed

of trust (in non-judicial foreclosure states) and a note which, when executed on behalf of the same entity and held by the same entity as a "note and deed of trust", entitle the holder of the note and deed of trust to foreclose on the property of the borrower if the borrower is in default without legal excuse or recourse.

185. According to CNNmoney.com, beginning in 2008, U.S. foreclosure filings spiked by more than 81% in one year, a record in the United States. Foreclosures were up 225% compared with 2006 figures. A reported excess of ten (10) million foreclosures have occurred in the U.S. since 2008. The peak in foreclosures is not predicted to occur until the end of 2011.

186. From 2003 through 2008, the Defendants entered into mortgages with mortgages deeds of trust and notes nationwide that were intentionally separated after the execution of the mortgage, the note was warehoused and alleged to have been sold to an investor who literally and actually provided the funds for the loan given to the borrower, and the note was in whole or in part allegedly conveyed to that investor by means of deposit in a mortgage backed security pool ("MBS."). In essence, prior to the contract being signed by the borrower, the note was funded by a party other than the originator or servicer of the loan. The MBS was literally created and funded prior to the borrower ever taking out a loan. Therefore, the MBS underwriter/originator or servicer (in GMAC's case they are one in the same,) had to go create loans after the fact which loosely matched the description of the prospectus used to entice investors into the MBS. Most times, the ratings Agency, such as Moody's would give the MBS its AAA rating even thought the loans had yet to be created or originated.

187. Most importantly, for purposes of the nationwide foreclosure frenzy,

the investors, do not attempt to call defaults upon the borrowers nor do the investors threatened to foreclose or foreclose. The entity filing foreclosure has absolutely NO financial stake in the mortgage loan. If they did, the MBS would lose its REMIC pass through tax status. Most importantly the foreclosing entities have NO agreement with the Trust or Servicer to act on their behalf. In fact, the Pooling and Servicing Agreements forbid the Trustees or Servicers from filing actions on the investors behalf.

188. Nationwide, the mortgages and Deed of Trusts, name a party as the "lender" who did not fund the mortgage and had no intention of funding the mortgage; yet, that "lender" who had no beneficial interest named MERS as the beneficiary and MERS had no beneficial interest nor did MERS represent any party to the deed of trust who had a beneficial interest. Each mortgage and deed of trust was, therefore, void upon execution because the statements contained therein were untrue and the failure to disclose these facts to the borrower acted to the borrower's detriment and there was no meeting of the minds, no consideration and an utter failure to create a security instrument.

189. Nationwide, borrowers execute the note and then separately execute the mortgage or deed of trust naming MERS as the beneficiary and/or nominee of the beneficiary/lender. At inception, the note was separated from the mortgage or deed of trust.

190. This concept was unheard of in state property law in every state and territory of the union until these Defendants created these fictional documents and these fictional beneficial interests, and fictional lenders.

191. After the execution of the documents, with the note being allegedly transferred to investors whose money had funded the loans taken out by the

Plaintiffs/borrowers, the failed mortgage or deed of trust was kept with MERS listed as the beneficiary, but the notes were transferred to parties outside the MERS system in violation of the rules and policies adopted by MERS.

192. It is predicted that in at least seventy percent (70%) of the nationwide mortgages and Deeds of Trust registered to MER in America, the "lender" that MERS claims to be a "nominee" for is no longer in business and/or has been liquidated in bankruptcy. MERS, at the moment of the note's transfer to another party, or the "lender's" demise, MERS could not possibly have an agency/beneficiary/nominee status with the "lender." There is no further authority to substitute a mortgagee or trustee or transfer any other interest in the mortgage or deed of trust to any party. No party that has initiated foreclosure or intends to initiate foreclosure on any MERS mortgage has any authority to and holds, at most, an unsecured note in favor of the real parties in interest of the note, the investor/owners; if and only if they can prove they have an agency relationship with the owners and if they can show that they owners have not already been made whole by a derivative contract.

193. Simultaneously with or immediately after the loans were taken out by borrowers nationwide, the obligations reflected by the notes were satisfied by monies provided by the investors who then obtained ownership of and right to payments under the terms of the note. These investors are the only parties to whom any obligation arose after the loan was securitized, and are the only proper parties, but these parties have no recorded interest in the mortgage or deed of trust, which was never delivered to the Trustee for the mortgage backed security pool and, therefore, the note itself, is at best unsecured rights to payment.

194. The note, that had been executed with the mortgages or deed of trust were separated from the mortgages and deed of trust in that the note became part of a pool of mortgages; thereby losing its individual identity as a note between a lender and a borrower. The note instead merged with other unknown notes as a total obligation due to the investor or investors. The note is no longer a negotiable instrument, but collateral for a Federally regulated Security under the confines of the SEC.

195. MERS was created by its owners to work with investment banks and "lenders" as co-conspirators in relation to the MERS system with the specific intent that MERS would be named the beneficiary and/or as the nominee of the lender on the mortgages and deeds of trust which borrowers nationwide were induced into signing.

196. However, MERS was not the "nominee" for the lenders, but was the agent for the servicers. The true lenders were investors who had provided the funds for the loans through mortgage backed security pools which were held as trusts. This fact was known to MERS and the purported lender and the subsequent assignee of any and all rights purported to have been assigned by MERS at the time the note and mortgage or deed of trust was signed by borrowers at the time of each and every such later purported assignment by MERS of any interest in the note and deed of trust.

197. The foreclosures filed in the past, present and in the future bearing a recorded mortgage or deed of trust in MERS name have been and continue to be initiated nationwide by parties who have no right to declare default, have failed to provide an accounting of the amounts due and owing to the true beneficiary, who are the only parties with the right to declare such default.

198. The Servicers, such as GMAC, did not fund the loans of the nation's

borrowers with any of its own assets and is not owed any of the funds to be repaid by the nations' borrowers. The Servicers and MERS do not stand to suffer any loss should they be enjoined from foreclosing on real estate nationwide and have no right to foreclose on behalf of unknown investors because of a lack of agency, lack of authority and lack of knowledge of whether the note has been discharged.5

199. All Defendants knew that prior to the time that the loan was taken out by the nation's borrowers, a loan which named MERS on the mortgage was securitized or intended to be securitized prior to the preparation of the note and mortgage reflecting the loan. Defendants also knew that the scheme employed by all Defendants involved in the origination, aggregation and securitization of mortgage-backed loans originated from 2003 through 2009 and secured by real property in the United States included financial incentives which were designed to result in the loans being written on terms which were likely or certain to result in foreclosure, and that the scheme described herein included financial incentives designed to motivate appraisers, mortgage brokers, lenders, aggregator banks and securitizing banks to steer borrowers into loans they could not afford and could not repay so that the loans would go into default and the Defendants involved in servicing, aggregating and securitizing those loans could make yet more profits from default, foreclosure and selling the properties after foreclosure.

200. The financial incentives mentioned in the previous paragraph included without limitation the hiring of appraisers who had financial incentive to appraise properties at a value that would justify the loan requested, the payment to mortgage

5 The logical question raised is "what does the Servicer, like GMAC have to gain by foreclosing." The Answer comes from the plain language of the standard Prospectus and Pooling and Service Agreements, which allow the Servicers to keep the proceeds of the foreclosures when the MBS has been closed or the investors paid off.

brokers of higher fees for sub-prime and sub-sub-prime loans than for prime loans and the use of novel and unprecedented underwriting criteria such as stated income and 100% or more financing of the purchase price, and the purchase of loans from lenders by aggregators and servicers of loans at more than face value if the loans were sub-prime or sub-sub-prime and if such loans also included an adjustable interest rate and/or a pre-payment penalty. In the case of many of the nation's borrowers the loans were advanced based upon the value of the house itself and not the income of the borrower. Also, in this case, the equity in the house itself was used to secure more loans based upon the value of the home when that value was exaggerated by the market manipulated by the Defendants and which is clearly not in the interest of the borrowers for an initial purchase or refinancing of property.

201. The Defendants who originated, serviced, aggregated and/or securitized the loans knew or should have known at the time of those actions by Defendants that the financial incentives described in the previous paragraph herein were not disclosed to the investor or to the nation's borrowers, and that the Defendants who originated, serviced, aggregated and/or securitized the Plaintiff's loan also purchased credit default swaps which were essentially bets that the Plaintiff's loan would fail, resulting in multiple payments to those Defendants of the face amount of the loan, and knew or should have known that fact was also concealed from the investors and Plaintiffs who were instead intentionally misled by Defendants to believe that the Plaintiffs qualified for the loans under residential loan underwriting standards used in the industry.

202. All Defendants who originated, serviced, aggregated and/or securitized the Plaintiff's loan knew or should have known at the time of those actions by

Defendants that the more likely or certain the loans were to fail, the more likely that failure was to cause the entire mortgage-backed security pool, to fail, and the more profitable those events would be to Defendants.

203. The investors and the borrowers were entitled to information regarding all of the profits, payments, kick-backs, fees and insurance and credit default swaps related to the transactions which included the identity of the investors providing the funds loaned to the borrowers, and the concealment of those facts by all the Defendants who originated, serviced, aggregated and/or securitized the loans was an intentional misrepresentation and/or intentional material omission of fact by those Defendants for the purpose of using the borrowers' signature on a note and deed of trust to defraud the investors and the borrowers. These Defendants, upon information and belief, falsely told the FDIC or the federal government or the federal reserve that the Defendants were in dire need of trillions of dollars in federal funds due to "toxic assets" being allegedly on the books of Defendants and those "toxic assets" included the loan to the borrowers for which they were not qualified, but were encouraged and induced by the Defendants to enter into the loan and to default on the loan in order for the Defendants to foreclose.

204. All Defendants participated in a conspiracy to cause borrowers to enter into instruments that would result in the foreclosure on their home and the loss of their investment and to initiate and complete foreclosure on the borrower's house without the lawful right to do so or to commence and advance foreclosure against the borrowers with knowledge that the borrowers had been deceived by having not been informed that the loan they took out was intended to result in foreclosure and consequently more profits to the Defendants. As a proximate and direct result, soon to be named Defendant servicers,

such as GMAC, have been unjustly enriched by the payments of the Plaintiffs on the note and by the profits earned by Defendants from the declarations of default, the commencement and advancement of foreclosure on the borrower's property and will be unjustly enriched if allowed to keep the property of the Plaintiff.

205. The lenders and investors in mortgage-backed securities, including some of the Defendants, have obtained bailout money from the United States Treasury and the Federal Reserve in the amount of trillions of dollars for the stated purpose of compensating the lenders and investors for losses sustained due to the alleged default on residential mortgage loans including those of Plaintiffs.

206. The lenders, servicers and investors in mortgage backed securities, have used those funds to repay investors who funded loans and/or to settle the lawsuits of those investors against the securitizing banks for fraud, with such use of those funds having extinguished the obligations reflected by the note that was executed by the borrowers and thus have no right to collect on the note, and had no right to initiate the foreclosure on all borrower's homes bearing a mortgage or deed of trust in the name of MERS.

207. The nationwide Class have mortgages or deed of trust that states that the beneficiary and/or beneficiary as the nominee of the lender is MERS. Some of the Class members have been have been declared in default by parties not entitled to declare the default. Even though the Borrowers/Plaintiffs did pay the payments agreed in the "Note," and, in fact, invested their savings in the home based upon the representations of the Defendants, the Defendants have foreclosed and intend to foreclose and take the Plaintiff's property without stating who holds the note and to whom payment is due on

the note and what amount is due on the note.

208. Defendants' use of MERS created the method to defraud the Home Purchaser, the nationwide Class herein, because MERS was not the holder of the Note and MERS was not a transferee in possession entitled to the rights of a holder or had authority under State law to act for the holder. Neither does MERS have the authority to appoint a successor "nominee.".

209. The entities that have foreclosed or will attempt to give notice that they will foreclose on the home of the nationwide class are not MERS and are not the parties that funded the loan of the borrowers.

210. The nationwide class of borrowers executed notes and mortgages on their property under circumstances that were predatory lending and all the defendants herein are now in a position to have taken advantage of the predatory lending or are now in a position of taking advantage of the predatory lending and, thus, all are liable for the predatory lending.

211. Defendants knew that the business practices in which they were engaged would result in driving the market for housing into unnaturally high demand which would cause the prices on home to escalate beyond their normal and reasonable value and further knew that lending money to persons who were not qualified in such large numbers would cause the market to eventually crash. The Defendants believed this to the extent that the Defendants purchased credit default swaps, in essence, side bets that bet that the Plaintiffs and other loans given in the same time frame and under the same circumstances would fail.

VII. CLASS ALLEGATIONS

The Class Defined:

212. This Class Action is being filed by the Plaintiffs, pursuant to the Federal Rules of Civil Procedure 23, on behalf of themselves and other similarly situated.

213. Plaintiffs bring the action on behalf of themselves and all other persons similarly situated as proposed Plaintiff Class. The Plaintiff Class is defined as:

214. All persons holding the deed to any property in the Commonwealth of Kentucky and nationwide who since 2006, are currently in foreclosure or TILA Regulation Z litigation, with pending litigation, or have been foreclosed upon and lost title to their property, since 2006, by judicial or non-judicial methods, who have been damaged and/or are entitled to Injunctive Relief and monetary damages against the Defendants, when the Defendants filed the foreclosure, were involved in the drafting, executing and filing of Promissory Note, Promissory Note Assignment, a Mortgage in the name of MERS, or where an fraudulent and forged affidavit or Mortgage Assignment were filed in the public record, to obtain the foreclosure, or;

215. The Foreclosure was filed and has been dismissed or is pending by or with the involvement of any or all of the Defendants either in their own behalf or as a Servicer or third party "nominee," or "Trustee" and MERS is or ever was a recorded Mortgagee, or Mortgagor or;

216. There is a recorded mortgage in the public record, naming MERS as a Mortgagee regardless of whether there is any litigation in the public record as to the property. In other words, the class consists of all persons whose

property has ever been encumbered by a mortgage in the name Mortgage Electronic Registration Systems.

Existence of an Identifiable Class Fed. R. Civ. P. 23.01(a):

217. The Representaive Plaintiffs to this action fulfill the prerequisites of a class action to represent the interests of the putative class members. The proposed Class definition is sufficiently definite so that it is administratively feasible for the Court to determine whether a particular individual is a member by Court records, public mortgage records, land records and the records in the hands of the Defendants.

Numerosity of the Class Fed. R. Civ. P. 23.01(a)(1):

218. The class consists of individuals throughout all 120 Counties of the Commonwealth of Kentucky, and every state and US Territory, making joinder impractical, and in satisfaction of Fed. R. Civ. P. 23.01(a)(1.) Class members are predicted to number in the tens of thousands. The precise number of class members in unknown at this time, but can easily be obtained through public record and the electronic databases of the Defendants. Class members can be notified of the pendency of this action based on the public record utilized by the Defendants to serve the property owners with a Complaint in Foreclosure. The disposition of the claims of the Class members in a single Class Action will provide substantial benefits to all parties and to the Court.

The Existence of Common Questions of Fact or Law Fed. R. Civ. P. 23.01(a)(2):

219. The Class Representatives allege that the questions of law and fact relating to their claims predominate over any questions affecting solely individual members in satisfaction of Fed. R. Civ. P. 23.01(a)(2):

220. There are questions of law or fact common to the class including, but not limited to:

a.) Whether filing a foreclosure without standing and without the right or ability to obtain and record a Mortgage and/or Assignment of Mortgage, or Assignment of the original Promissory Note for which the claim is based, constitutes false, misleading deceptive, fraudulent, criminal or other wise illegal conduct under the law;

b.) Whether filing and pursuing a foreclosure suit using and publicly recording a false Promissory Note, Note Assignment, Mortgage, affidavit, or Mortgage Assignment with forged signatures, erroneous information regarding the authority of the signors, and/or erroneous information regarding the date the transfer actually occurred constitutes false, misleading, deceptive, fraudulent, criminal or otherwise illegal conduct under the law.

c.) Whether a criminal and civil conspiracy existed and continues to exist in regards to the Defendants actions.

d.) Whether mortgages recorded in the name of MERS are illegal and unenforceable.

e.) Whether Plaintiffs and Class Members have been damaged or injured by Defendants' conduct;

f.) Whether Plaintiffs and Class Members are entitled to compensatory damages, and the amount of such damages;

g.) Whether Plaintiffs and Class Members are entitled to statutory damages, common law damages and treble damages under the law as well as costs and attorneys fees and the amount of such damages; and

h.) Whether Plaintiffs and Class Members are entitled to punitive damages and the amount of such damages.

Typicality Fed. R. Civ. P. 23.01(a)(3):

221. Plaintiffs' claims are typical of the claims of the Class as the Defendants in collusion with each other initiated loans, filed mortgages, recorded and illegally transferred mortgages and initiated Complaints in foreclosure, stole the Plaintiffs' property by foreclosing against the Plaintiffs' property illegally; wherein all mortgages in question having been originally recorded in the name of the Defendant MERS or subsequently assigned to MERS.

Adequacy Fed. R. Civ. P. 23.01(a)(4)::

222. The Plaintiffs are adequate representatives of the Class because their interests overlap and are not in conflict with the interests of the Class. The Plaintiffs, as represented by qualified counsel, intend to prosecute the action vigorously and behalf of the Class and indirectly on behalf of the taxpayers and property owners across the Commonwealth of Kentucky and the nation who may not be members of the Class, but will benefit from the Class when the Defendants actions in illegal foreclosure cases cease and desist by Court Order. Further, the Class is adequate to protect and preserve the deeds and title to land for future generations as the illegal foreclosure already performed have "dirtied" the title for any and all property liquidated by Court Order since 2006, or

for which property is currently encumbered in the public record by a mortgage in the name of MERS.

Class Action Maintainable Fed. R. Civ. P. 23.01(b) and Certification Fed. R. Civ. P. 23.01(c):

223. The Prerequisites of Fed. R. Civ. P. 23.01(a) having been satisfied. The Class may be Maintained as the prosecution of separate actions by individual members of the classes would create a risk of inconsistent or varying adjudications that would establish incompatible standards of conduct and punishment for Defendants and/or because adjudications respecting individual members would, as a practical matter, be dispositive of the interests of the other members or would risk substantially impairing or impending their ability to prosecute their interests.

224. The Class should be maintained and certified is appropriate because Defendants have acted or refused to act on grounds generally applicable to all members of the class, thereby making final injunctive relief or declaratory relief as a whole appropriate. Plaintiffs and member of the class have suffered and will continue to suffer harm and damages as a result of Defendants' unlawful and wrongful conduct.

225. The Class may be certified as a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a Class Action, most, if not all members of the Class would likely find the cost of litigating their claims costly and beyond their means. Therefore, the Class Members have no effective individual remedy at law. The Class treatment of common questions of law or fact is also superior to multiple piece meal litigation in that it conserves the resources of the Courts and the litigants and promotes consistency and efficiency of adjudication.

Appointment of Class Counsel Fed. Rule Civ. P. 23(g.):

226. Counsel of Record has served as the representative Plaintiffs in Kentucky state actions and in Federal Court. Counsel of record could not possibly logistically represent the hundreds of putative class members who have contacted said counsel since 2008 to seek representation.

227. An expert document expert has already been procured on behalf of the class. Said expert is currently working with the Justice Department's criminal investigation, which parallels the allegations of this action.

228. Counsel of record has been informally summoned by the Federal Bureau of Investigation and the Kentucky Department of Financial Institutions in an information and advisory position to the parallel criminal investigation.

229. Counsel of record has served as an instructor for Continuing Legal Education in the state of California for the issues which are the subject of this action.

VIII. CAUSES OF ACTION
COUNT I.

A. Violation of 18 U.S.C. §1962 [c]
The Law Offices and the Document Processing Companies

230. Plaintiffs re-alleges and affirms each and every preceding paragraph of this Complaint and incorporate such as if alleged anew.

231. By engaging in a pattern of racketeering activity, specifically "mail or wire fraud," the Defendants subject to this Count participated in a criminal enterprise affecting interstate commerce.

232. A separate count of Mail Fraud took place each and every time a fraudulent pleading, Affidavit, Promissory Note Assignment, mortgage or mortgage

assignment was sent by a Defendant through the use of the US mail. Likewise is true for any documents sent via electronic mail as would be the case as part of a Federal action electronically filed with the Court. Such would constitute a separate act of wire fraud.

233. By sending the fraudulent affidavits, assignments and pleadings to the clerks of court, judges, attorneys, and defendants in foreclosure cases. These Defendants intentionally participated in a scheme to defraud others, including the Plaintiff and the other Class Members, They utilized the U.S. Mail and the internet to do so.

234. The criminal enterprise affects interstate commerce in numerous ways. It is used to conceal the true ownership of mortgage loans from the general public, including investors, borrowers, the SEC, the IRS and the Courts.

235. But for the Conspiracy, investors would be enabled to have a clearer picture of the assets and debts of large banking and financial institutions in which they may consider investing.

236. The entire American economy has been affected by the conspiracy described in this Complaint, which is exemplified by the MERS enterprise. The foreclosure crisis and larger economic downturn were substantially contributed to, and are believed

237. to have been caused, by the MERS enterprise and underlying conspiracy as it related to the fraud involved with the securitization of mortgage loans and the issuance of unregulated derivative contracts.

238. The "predicate acts" of fraud, which were accomplished through the U.S. Mail, and the internet, and which are specifically attributable to the Defendants subject to this Count, are:

a.) Bringing suit on behalf of entities which were not the real parties in interest, and which had no standing to sue. This involved, and involves, the use of the MERS artifice.

b.) Actively concealing the plaintiffs' lack of standing in their standard complaints for foreclosure.

c.) The drafting, by DOCX/LPS and LSR Processing of the fraudulent affidavits and documents and the subsequent execution of the documents be robo-signers and employees of the document company, servicer or Defendant Law Firm, and the filing of fraudulent and forged affidavits as to loan ownership by robo-signers and employees of the Defendant Law Firms, servicers and LPS and LSR Processing.

239. The Defendant Law Firms attached to these fraudulent complaints the mortgage containing the MERS provisions quoted above. While the title of the standard complaint makes reference to "unavailable" loan documents, the Defendant Law Firm alleges that the plaintiff is the "owner and holder" of the note and mortgage."

240. The documents on their face contradict this statement. A forged mortgage assignment is often attached as an Exhibit to a Motion for Default. Other times, the Default or Summary Judgment is granted based on the perjured affidavit of one of the Conspirators employees while the mortgage is still in the name of MERS.

241. Documents executed by an alleged MERS "Assistant Secretary" or "Vice President,"

242. By persons working for the foreclosing entity with no knowledge whatsoever of the truth of their contents.

243. These predicate acts are related. They share the common purpose of defrauding the

244. Class Members and other borrowers of their money and property. They share the common themes of "non-documentation" and concealment of the real parties in interest.

245. The predicate acts satisfy the RICO continuity requirement: they extend from in or

246. Beginning in 1998 and continuing unabated, the scheme meets the definition of "open-ended" continuity. The threat of continued criminal activity as part of this enterprise in, without question, still looming over the American economy.[6] Alternatively, closed-ended continuity is present because the scheme occurred over a period in excess of ten years.

247. As the result of the RICO enterprise of which these actions were part, the Class Members have suffered damages, in that they have lost their homes. The measure of the damages for the Class Members is the average of the accelerated amounts demanded from the Class Members by the Defendant Firm in the subject complaints to foreclose property and to enforce non-existent Loan Documents. Since any real parties in interest have already been paid, the mortgages were truly not subject to being foreclosed upon, and the fair market value of the properties at the time of foreclosure is for this reason the measure of the damages suffered by the Class Members. To provide an example, if the average value of the properties was $250,000.00, and the Class is

6 Herein lies an alleged quote from David Stern, one of the attorneys under criminal investigation in the state of Florida: "One of my favorite questions from one of my believers, one of my investors on the first call-in, "What inning are we in? If this was a baseball game, what inning are we in?" And my response is, we're only in the 2nd inning. We still have 3 innings of foreclosures left, and after the foreclosures, we have 3 innings of REO liquidation and as the REO liquidations pan out, we get into the re-fi and we get into the origination. [. . .] So yeah, we're in the 2nd inning, but guess what - when we get to the 9th inning, it's going to be a doubleheader and we got a second game coming. So when people say, "Oh my God, the economy is bad!" I'm like, "Oh my God, it's great." *See.* Www.americansunitedforjustice.org/stern.html.

comprised of 10,000 persons, the initial damages to which the Class is entitled by law would be $2,500,000,000.00, or 2.5 billion dollars. This amount is then tripled by operation of the RICO law, so that, without reference to attorney fees and costs, the total damages awarded would be 7,500,000,000.00, or 7.5 billion dollars.

248. The Class Members are entitled to judgment in the amount of three times their actual damages, which should be arrived in the manner indicated in the preceding paragraph. plus costs and a reasonable attorneys' fee under 18 U.S.C. §1964[c].

B. Violation of 18 U.S.C. §1962 [c]
Defendant Merscorp, Inc. and Its Shareholders

249. Plaintiffs re-alleges and affirms each and every preceding paragraph of this Complaint and incorporate such as if alleged anew.

250. Merscorp, Inc. was created in or about 1998, and its purpose, from the outset, was to enact the fraudulent scheme/RICO enterprise herein complained.

251. Its overt acts include the following: a.) Creation of the MERS artifice; b.) Planning, designing, and enacting the MERS criminal enterprise of which Plaintiff complains herein; c.) Arranging for the use of the MERS as "mortgagee" in the standard mortgages at issue; d.) Drafting of the standard MERS language to be included in such mortgages; e.) Entering into one or more "agreements for signing authority" which purported to allow employees of the other conspirators to execute assignments in which the "assignor" and "assignee" are strawmen actually not possessed of the capacity stated, and of which the person executing the document has no knowledge; f.) Creation and maintenance of an acceptable public image for MERS; g.) Owning and maintaining the registration and licensure of the MERS entity, Mortgage Electronic Registration Systems,

Inc, with the necessary state agencies, plus other ministerial acts designed to maintain the corporate shield and to mimic the actions expected of normal corporations so as to fraudulently disguise its true nature, and; h.) Facilitating the use of the MERS artifice by other participants in the conspirators' scheme.

252. These predicate acts are related. They share a common purpose, defrauding the Class Members and other borrowers of their money and property. They share the common themes of "non-documentation" and concealment of the real parties in interest.

253. The predicate acts satisfy the RICO continuity requirement: they extend from in or about 1998 through and continue unabated at the present time, which meets the definition of "open-ended" continuity. In the alternative, the participants in the RICO enterprise engaged in a pattern of racketeering activities continuously for a period of time exceeding ten years in duration, which as a matter of law suffices to establish "closed-ended" continuity.

254. As the result of the RICO enterprise of which these actions were part, the Class Members have suffered damages, in that they have lost their homes. The measure of the damages for the Class Members is the average of the accelerated amounts demanded from the Class Members in the subject Complaints to Foreclose on the class members property. The real parties in interest to the loan have already been paid. The MERS mortgages were and are not enforceable. The mortgage loans possessed by the Plaintiffs and putative class were not subject to being foreclosed upon, and the mortgage amount recorded in the pubic record of the properties is the measure of the damages

suffered by the Class Members in relation to MERS. The manner in which damages should be calculated is set forth in Count I.A. and is incorporated here by reference.

255. The Class Members are entitled to judgment in the amount of three times their actual damages, which should be arrived at using the formula set forth in said paragraph, plus costs and a reasonable attorneys' fee under 18 U.S.C. §1964[c].

C. Violation of 18 U.S.C. §1962[d].
All Named Defendants Now and in the Future

256. Plaintiffs re-allege and affirm each and every preceding paragraph of this Complaint and incorporate such as if alleged anew.

257. The Defendants have conspired together to violate 18 U.S.C. §1962[d], by committing fraud and utilizing the US Mail and the internet. The Defendants agreed upon the same criminal objective to wit: the theft of real property through illegal foreclosures. Each conspirator is reasonable for the actions of the others and the results of the conspiracy as a whole.

258. Those who provide support for an illegal enterprise are liable for the actions of those who commit the criminal acts, regardless of whether they participated in that particular criminal act.

259. Additionally, each and every shareholder in MERS shall so too be responsible for the acts of the other players to the conspiracy.

260. The class members are entitled to judgment in the amount of three times their actual damages, plus costs and attorneys' fees under 18 U.S.C. §1964[c].

COUNT II.
Conspiracy and KRS 506.040

261. Plaintiff incorporates by this reference each and every paragraph of

this Complaint as if set forth fully herein.

Introduction of the Claim:

262. At all times relevant hereto, agreements were made by and between the original Lender the foreclosure Plaintiff and MERS to deceive the Homeowners; and to break Kentucky and Federal law. The entities colluded together to achieve unlawful aims by unlawful means. The entities, as co-conspirators, took overt steps to accomplish their illegal acts and have clearly demonstrated their intention to break the law; thereby "breathing together" in their fraudulent and illegal acts.

263. The Plaintiff and MERS' conduct constitutes a pattern of corrupt activity. They have maintained more than two and perhaps thousands of foreclosures in Kentucky under the fraudulent and misleading circumstances as fully outlined in this Claim.

264. Through the filing of foreclosure under false pretenses and the filing of a Post-Foreclosure fraudulent and forged Mortgage Assignment, in violation of Kentucky and Federal law, the Plaintiff with the assistance of its co-conspirators, the original Lender, MERS KRS 506.040. Thousands of other Kentucky homeowners have been injured through the improper loss of title to their property, loss of the equity in their property, through penalties, court costs and attorneys fees charged against their accounts on lawsuits filed under false and misleading circumstances, and from other incidental and consequential costs and expenses attendant to being disposed of the property illegally.

265. Defendant MERS, the wholly owned subsidiary of Merscorp, Inc., is an unregistered entity created in or about 1998 by conspirators from the largest banks in the United States in order to undermine and eventually eviscerate long-standing

principles of real property law, such as the requirement that any person or entity who seeks to foreclose upon a parcel of real property: 1) be in possession of the original note and mortgage and 2) possess a written assignment giving he, she or it actual rights to the payments due from the borrower pursuant to the mortgage and note. Merscorp, Inc., claims to be the sole shareholder in an entity by the name of Mortgage Electronic Registrations Systems, Inc.,

266. MERS is the enterprise and is the primary innovation through which the

267. conspirators, including the Defendants, have accomplished their illegal objectives as detailed throughout this Complaint.

268. In and about the years 1998 and 1999, the mortgage industry introduced new "products" into the American marketplace, known as Mortgage Backed Securities ("MBS".) These products included "non-documentation loans" and adjustable rate mortgages, known as "ARMS." Mortgage lenders, acting in coordination with one another, relaxed their standards for lending, which made an entirely new class of lower-income individuals eligible to receive loans. This, in turn, drove up property "values." As part and parcel of this scheme, banks and other lenders "accepted" appraisals "documenting" the new, higher values, and approved hundreds of thousands of applications for financing, most of which would normally have been declined.

269. Unbeknownst to the borrowers and the public, the billions of dollars spent to fund these loans were expended to "prime the pump." The big institutions and the conspirators were making an investment, but the expected return was NOT the interest they pretended to anticipate receiving as borrowers paid the mortgages. The lenders knew that the new loans were "bad paper;" this was of little concern to them

because they intended to realize profits so great as to render such interest, even if it had been received, negligible by comparison. Part of the reason this fraudulent scheme has gone largely unnoticed for such an extended period of time is that its sophistication is beyond the imagination of average persons. Similarly beyond the imagination of most persons is and was the scope of the dishonesty of the lenders the investment banks and the principal owners of MERS and those acting in furtherance of the scheme, including the present Defendants.

270. Through the present time, persons acting within the ambit of this conspiracy, most particularly including the Defendants herein, have continued to operate consistent with the core principles of dishonesty and obscurantism engendered by the original conspirators.

271. These dark influences have spread throughout the financial services, lending and banking industries into the national economy and beyond, threatening the economic stability of the United States and the world as a whole. This Court is urged in the strongest possible way to apply a presumption of falsity when reviewing any documentary evidence filed in this Court by one or more of the Defendants. Such a presumption is not just warranted; it is indeed compelled by the extent to which the Defendants and those with which they are associated have long acted in a malicious and wanton manner evincing complete contempt for the judicial process and the rights of persons having interests contrary to their own. This is particularly true because the Defendants' contempt for due process is compounded by their specific intention to obviate the requirement that documents prepared for legal use be truthful, authentic, and legitimate.

272. There is one sort of lie that, when later discovered, constitutes the strongest possible proof of a person's malicious intentions. What is it? A lie about one's name or identity.

273. Many such lies are present in this instance. The whole purpose of MERS is to allow "servicers" to pretend as if they are someone else: the "owners" of the mortgage, or the real parties in interest. In fact they are not. The standard MERS held mortgage Complaint contains a lie about this very subject. While the title of the standard complaint makes reference to "loan documents," in the body of the standard complaint, the Defendant Firm alleges that the plaintiff is the "owner and holder" of the note and mortgage. Both cannot be true unless the words used are given new legal meanings.

274. In the years leading up to the introduction of the new loan "products," the conspirators laid the groundwork which would grow into a new mortgage lending infrastructure: a new paradigm in which the ratios of risk to reward were dramatically altered in favor of these conspirators. To date, no individual players have yet to be convicted of their felonious acts and imprisoned.[7]

The Use of the term "nominee" :

275. On many mortgages, MERS call itself the "nominee" for the lender listed on the Promissory Note. However, this allows for another "nominee;" one which could apparently coexist with MERS.

276. When the Note has been table funded, meaning the lender on the Note never lent any money and therefore never had any rights in the Note, MERS has become

7 Upon information and belief, there are multiple ongoing criminal investigations in the state of Florida, New York and here in Kentucky by the Justice Department.

the “nominee” for an entity with absolutely no pecuniary interest in the Note from the moment of Note’s execution.

277. The Mortgage states that MERS “is” the nominee for the lender. “Is” is present tense - - this seems to indicate that as of the time of execution of the mortgage, MERS was performing some unknown service for both lender and its “successors and assigns” even though ostensibly the mortgage had not as of execution been assigned. Upon assignment, it would seem to be impossible for MERS to act as “nominee” for the original lender. This phrase also tacitly acknowledges that the mortgage will be assigned.

278. A “mortgagee” is the person or business making a loan that is secured by the real property of the person (mortgagor) who owes him/her/it money.

279. In order to further the goals of the conspiracy, and to perpetuate this new paradigm was the inclusion in new mortgages of intentionally ambiguous and infinitely malleable provisions pertaining to MERS. As is the case with most of the written documents

280. As routinely used in the scheme, with mortgage assignments and complaints for foreclosure, each word concerning MERS in these standardized mortgages is carefully crafted so as to allow those relying upon it to infinitely recede in their positions and to be moving targets virtually unreachable by standard legal means.

281. The standard mortgage is a form entitled “KENTUCKY-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT-MERS,” or some slight variation thereof. Upon reading the standard mortgage clauses pertaining to MERS, even persons of high intelligence will have a sense that they should, but do not quite, comprehend them.

The false "Transfer" of Rights in the Property:

282. This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants. There is no "purpose" stated in the preceding sentence.

283. How can the borrower simultaneously "convey" the property to: (1) MERS as nominee

284. for lender; (2) MERS as nominee for lender's successors and assigns; and (3) MERS's *own* successors and assigns? Furthermore, who *are* such successors and assigns? No assignment could have existed as of the moment the mortgage was executed by the borrowers, and if somehow same did exist, it should have been disclosed as a fundamental and material aspect of the transaction. If the assignment occurred prior to the mortgage, the mortgage itself is void because the lender had no interest to secure.

285. A mortgage is **not** a conveyance of property by operation of Kentucky law.

286. What "interests" does this passage refer to, and to *whom* were they granted? No "law or custom" could possibly necessitate action by MERS, as opposed to action by the original lender.

287. Before the ink on the new mortgages was dry, and before the loan would be considered "dry" by industry standards; while the loan was still "wet" and in many cases non-existent legally, the lenders promptly sold the loans, in secretive transactions, to "investors" for some percentage or fraction of what had been the alleged value of the mortgage and the property by which it was secured just days or weeks

earlier. In some cases, the loan was listed inside a MBS and sold before the loan was even consummated. Most were sold without the Note ever being in the possession of the MBS. All loans, for purposes of this action, were securitized and sold with the mortgage recorded in the name of MERS The unsuspecting investors were in fact buying nothing.8

288. The quick sale by the lender of its interest, at what appears to be a loss, would have at first seemed inexplicable, but when considered with the benefit of hindsight, proof of these quick transfers would have been evidence that the lender knew in advance that property values would soon decline. Additionally, the securitizers/underwriters, hedged their bets beforehand with multiple collateral contracts, far in excess of their original investment, thereby banking on and benefiting on the fact that the MBS would eventually fail.

Concealed Identity:

289. By changing "servicers" on these loans, and by sending out notices of such changes drafted also in intentionally ambiguous verbiage, the bankers behind the scenes cooperated in obscuring the truth as to who had the right to receive the proceeds of the loans, and to foreclose in the event of non-payment. The loans were grouped into "pools" and sold multiple times, thereby increasing profits for the wrongdoers. These "securitized debt pools" were sold on the stock market and elsewhere, and in this manner affected interstate commerce. The real parties in interest also in many instances collected mortgage insurance upon "default."

8 A review of the Pacer record reveals that the duped investors have begun en mass to also file their own class actions against the entities which sold them the phony securities.

290. Another part of the scheme was the use of words in ways inconsistent with their traditional meanings, and the creation of new terms which could be used to blur important distinctions between parties and their interests. The revolutionary ways in which words were utilized all shared one characteristic: they made it more difficult to determine who had the right to receive and utilize for their own purposes the payments made on the loan by the borrower. For example, "mortgagee" began to have a meaning other than "lender." "Servicer" arose to prominence and was and is used to further obscure important truths. Specifically, the "servicer" does not hold the true beneficial interest in the mortgage.

291. Typically, the Defendants will not release any further information on the subject, whether it is requested in discovery in a foreclosure action or in any other context.

292. With the oversight of Defendant MERS/Merscorp and its yet to be named unknown principals, the MERS artifice and enterprise evolved into an "ultra-fictitious" entity. To perpetuate the scheme, MERS was and is used in a way so that to the average consumer, or even legal professional, can never determine who or what was or is ultimately receiving the benefits of any mortgage payments. The conspirators set about to confuse everyone as to who owned what. They created a truly effective smokescreen which has left the public and most of the judiciary operating "in the dark" through the present time.

293. Although the putative class of this Class Action does not include every American citizen, it can be concluded that reasoned contemplation of the available facts leads to a stunning realization: the mortgage crisis and resulting economic downturn with

which the United States is currently afflicted was planned in advance by certain scions of Wall Street.

294. In addition to the other incriminating facts set forth in this Complaint the Judge and Jury in this case may also consider this: On its website, www.mersinc.org, Defendant MERS/Merscorp lists the shareholders of "MERS," which is defined on a separate page of the site as "Mortgage Electronic Registration Systems, Inc." Among the shareholders of MERS, according to the site, are the following institutions: Bank of America, Chase, CitiMortgage, Inc., Fannie Mae, Freddie Mac, HSBC, SunTrust, and Wells Fargo. These are many of the same institutions the law firm in this action represents. This is no coincidence, as these entities are co-conspirators in the MERS scheme herein described.9

295. The conspirators intended to maintain an absolute stranglehold on the American economy for many decades, if not centuries, into the future. This could only be accomplished if the scheme was able to evolve over time in a changing regulatory and consumer environment. The point is that the conspirators adjusted the American lending system and the legal system governing it in a way designed to most effectively gratify their greed motivated crimes over the longest period of time.

296. Through this revolution in the use of words and ephemeral concepts such as the "corporation," the conspirators, including the present Defendants, have by-and-large been successful in changing the paradigm so that the rights of individuals are

9 In contradiction with the ownership proclamation contained on www.mersinc.com and as previously addressed, the parties make the representation that MERS is owned entirely by Merscorp, Inc. However, the owners of MERS will be named officially to this action upon the receipt of the information through verified discovery.

no longer afforded the safeguards which have been carefully maintained in place since the colonies became a nation.

297. As the conspirators and present Defendants have long intended, certain important terms in the mortgages and other legal documents are devolving into a state of meaninglessness. Even the names of the mortgage and lending institutions are tinkered with and interchanged so often that it is difficult to keep track of the constantly shifting parameters of the series of alleged mergers, assertions of subsidiary relationships, "divisions," and the like with which the American economy and consumer populace are deluged in advertisements and mortgage documents. This is not some random trend which resulted from the mortgage crisis. It is, instead, just another tactic in the vast scheme which ultimately caused it. The end result of the continued actions is that the mortgages and associated documents come to mean whatever their proponents wish them to mean.

298. The conspirators of course did not want there to be any documentation which could incriminate them or later potentially be used as evidence of their crimes and evidence to the investors of the MBS or the IRS that the loans were illegitimate.

299. They did not want to pay the fees associated with recording mortgages and they did not want to be bothered with the trouble of keeping track of the originals. That is the significance of the word 'Electronic' in Mortgage Electronic Registration Systems, Inc. The conspirators, through this exceptionally sophisticated legerdemain, made over the American judicial system's long-honored requirements for mortgages and foreclosures to serve their own criminal interests and to minimize the possibilities of the victims obtaining any meaningful redress through the courts. They undermined long-

established rights and sabotaged the judicial process itself by de-emphasizing the importance of, and eventually eliminating, "troublesome" documentation requirements. If a conversion to electronic loan documentation is ever implemented, it is the PEOPLE, by and through their elected representatives, who could ultimately bring about this transition through duly enacted Kentucky state legislation. Most importantly, these changes are to be made BY THE STATES themselves, and not a system implemented nationwide by any Federal body.

300. The preparation and filing of MERS mortgages and assignments, and prosecution of the complaints to Foreclose on the MERS mortgages on these properties were each predicate acts in the pattern of racketeering activity complained of herein, and were actions taken in furtherance of the MERS enterprise. The actions could not have been brought by the Defendant Firm without the MERS artifice and the ability to generate any necessary "assignment" which flowed from it. Just like MERS, the assignments were meaningless shells designed to pull the wool over the eyes of the judiciary and ease the burden upon the unknown real parties in interest. The practice of "non-documentation" can be seen as a common thread weaving all of the complained-of conduct into an undeniable tapestry of a criminal enterprise proscribed the Kentucky statute.

COUNT III.
KRS 434.155 Filing Illegal Liens

301. Plaintiff incorporates by this reference each and every paragraph of this Complaint as if set forth fully herein.

302. A person is guilty of filing an illegal lien when he files a document or lien that he knows or should have known was forged, groundless, contained a material misstatement, or was a false claim.

303. Filing an illegal lien is a Class D felony for the first offense, a Class C felony for any second offense, and a Class B felony for any subsequent offense.

304. The Defendants filed an illegal lien in the way of an Assignment of Mortgage against the Plaintiffs' and Class Members property.

305. Since 2007, the Defendants have filed thousands of forged, groundless, materially misstated or false claims against the Class Members property in the way of illegal Assignments of Mortgages. From the third offense forward, each and every illegal lien filed constitutes a Class B Felony. The individuals responsible for the violations, can be ascertained from the public record for criminal prosecution. Restitution to the Plaintiffs and to the Class Members is warranted.

306. All parties taking part in or who conspired with those who participated in the acts or practices in question are jointly and severally liable to the Class Members.

COUNT IV.
Common Law Fraud and Injurious Falsehood

307. Plaintiff incorporates by this reference each and every paragraph of this Complaint as if set forth fully herein.

Fraud:

308. Fraud occurs generally where there is an intentional deception made for personal gain or to damage another. For a civil verses a criminal claim under Kentucky law, there are six elements: 1) a "material misrepresentation;" 2) "which is false;" 3) which Defendant knew "to be false or made recklessly;" 4) which was made in order to

induce Plaintiff to act in a certain manner; 5) that Plaintiff so acted in reliance on the misrepresentation; and, 6) that Plaintiff was injured as a result of this reliance. Common law fraud may be proved in Kentucky based solely on circumstantial evidence.

309. The forged and publicly filed "false" mortgage assignments are the key element to the Defendants being able to perpetrate the fraudulent foreclosures. The Defendants conspired together and "knew" the "material representations were "false." The material representations to the Court and to the property owners was made so that the Court and the property owners would believe that the Defendants had legitimate claims in the property. The property owners and Judges across Kentucky relied on such and the property owners were injured as a result with the entering of a judgment or the facing of foreclosure litigation. There could possibly be no more serious injury to a Kentuckian than the illegal divestment of his private property.

Injurious Falsehood:

310. One who publishes a false statement harmful to the interests of another is subject to liability for pecuniary loss resulting to the other if (a) he intends for publication of the statement to result in harm to interests of the other having a pecuniary value, or either recognizes or should recognize that it is likely to do so, and (b) he knows that the statement is false or acts in reckless disregard of its truth or falsity.

311. The Mortgage Asignments were published false statements intended to do harm in which the Defendants clearly recognized would divest the pproperty owner to title. The Defendants knew the foreclosures and declaratory judgments were filed with false statements as to the Defendants' standing to file suit and status as Mortgagee. The Defendants are subject to liability for the pecuniary loss by the property owners. The

pecuniary loss to the Property owners under injurious falsehood is the fair market value of the property and costs associated thereto.

Count V.
Slander/Defamation of Title and Quiet Title KRS 411.120

312. Plaintiffs incorporate each and every paragraph of this Complaint as if fully set forth in this claim.

313. KRS 411.120 states:

> Any person having both the legal title and possession of land may prosecute suit, by petition in equity, in the circuit court of the county where the land or some part of it lies, against any other person setting up a claim to it. If the plaintiff establishes his title to the land the court shall order the defendant to release his claim to it and to pay the plaintiff his costs, unless the defendant by his answer disclaims all title to the land and offers to give such release to the plaintiff, in which case the plaintiff shall pay the defendant's costs, unless for special reasons the court decrees otherwise respecting the costs.

314. Based on this Petition in Equity, the property owners are entitled to have clear title restored and the Court should Order the Clerks of the Counties to release all mortgages and strike all mortgage assignments filed in the name of the Defendants as to the Class Members.

Slander of Title:

315. The Defendants have knowingly and maliciously communicated, in writing, a false statement which has the effect of disparaging the plaintiff's title to property. The proeprty owners have incurred special damage as a result.

316. MERS was illegally and fraudulently listed in the public record as a Mortgagee, having no pecuniary interest in said property and no standing to ever collect upon or enforce a debt connected to the property. The Post-Foreclosure Mortgage Assignment was drafted by a partner at the law firm filing this action. The Assignment was signed by an employee of that law firm and her signature notarized by an employee

of the law firm. The Post-Foreclosure Assignments from MERS to the Plaintiff are a legal nullity and if placed in the public record, were based in fraud and subject to prosecution.

317. MERS has no legally enforceable claim, interest or standing to sue as to the Note or Mortgage in question and the claim is a cloud on the Defendants' title and should be quieted as against MERS under Kentucky law.

318. Plaintiffs are the rightful owner of the properties known as each have stated herein above.

319. The Plaintiffs are the legal title holder of their respective properties.

320. MERS has caused to be recorded against the title of the Plaintiffs' properties and sent notices of default, filed foreclosures and served and filed mortgage documents that claim an interest in the properties of the Plaintiffs.

321. As alleged herein, any purported transfer of any interest in the Plaintiff's d real estate was wrongful and invalid because the mortgages, foreclosures or purported foreclosures were invalid and were not conducted in accordance with the laws of Kentucky. MERS knew or should have known that such transfers were wrongful and invalid. Any publication of an ownership interest in any of the Plaintiff's properties is, therefore false.

322. The recording of the mortgages published the information to third parties.

323. As a result of said wrongful publication of an ownership interest in the Plaintiff's properties, Plaintiffs have incurred damages in excess of the amount of their

individual publicly recorded mortgages and will continue to incur attorneys' fees and costs related to this litigation, in an amount to be proven at trial.

(Declaratory Relief)

324. As alleged in Plaintiff's claims regarding Defendants' wrongful filing of mortgages, foreclosure, unjust enrichment and conspiracy, Plaintiff's rights have been violated.

325. Defendants have filed mortgages, threatened foreclosure or have foreclosed against Plaintiffs for which Defendants are not owed any payments, have no lawful right to foreclose and have unlawfully deprived or attempted to deprive Plaintiff of their home and further have failed to notify the Plaintiffs of the discharge of their obligations on the notes associated with their mortgage.

326. Plaintiffs seek a declaratory judgment against Defendants stating that Defendants have violated Plaintiff's rights and that the Defendants had and have no right to hold mortgages in the name of MERS and/or foreclose on the Plaintiffs' property and that the Defendants are entitled to no further payments from the Plaintiffs or recognition in Plaintiffs' Title to their property.

(Reformation)

327. Plaintiffs have been intentionally misled about the terms and conditions of the agreements entered into with the Defendants, MERS and all other yet to be named lenders, who originated loans or who have attempted or have successfully foreclosed on the Plaintiffs.

328. The Plaintiffs are entitled to a reformation of these agreements and notes as unsecured notes or as partially or wholly discharged notes and a right to

reformation of the contracts with the persons or entities who are owed obligations because of funding of the loans of the Plaintiffs.

(Quiet Title)

329. The Plaintiffs are entitled to have their properties as referred to herein quieted in their names until and unless some party comes forward in this litigation who has a right to enforce the loans upon their houses free and clear of all encumbrances.

330. As alleged in the above paragraphs, the loans on these home were specifically designed to result in equity stripping by loaning funds at the same time to these Plaintiffs as to other borrowers that were intended to fail.

331. The originators of the loans were brokers of loans and intended to place the loans but to never be the "lenders" that they purported to be.

332. The originators of the loans, were, in fact, a means by which MERS and the Defendants could insulate themselves from liability for the breach of contract, the violation of lending and recording laws, and for all the reasons stated in the allegations of this Complaint.

333. The Defendants have not loaned any money to the Plaintiffs.

334. The Defendants have no contractual relationship with the Plaintiffs.

335. The Defendants are not the holders in due course of the promissory notes on the Plaintiff's properties.

336. No one who has an interest in the Plaintiff's properties has made any claim of that interest.

337. The Plaintiffs are entitled to have the titles to the properties quieted in their names as to the Defendants, where a mortgage was ever recorded in the name of

MERS.

338. Plaintiffs have been required to retain counsel in this matter to protect their rights and seek these remedies and have incurred attorneys' fees and costs in this matter.

Count VI .
Fraud by Misrepresentation

339. Plaintiff incorporates by this reference each and every paragraph of this Complaint as if set forth fully herein.

340. The deceptive acts of the the original Lender(s), and MERS as to the inducement of the borrower to enter the transaction and as to a multitude of misrepresentations in the execution of such; including, but not limited to the true identity of the Lender and fraudulent misrepresentation as to the Mortgagee, MERS. The record shows, by clear and convincing evidence, that there existed in the inducement and execution, material representations which were false, were known to be false or made recklessly, which were made with inducement to be acted upon; that the Defendants acted in reliance thereon and has suffered injury due to such. The facts as attested herein, and the documentary evidence shows that the deceptive acts of the Lender, the Plaintiff and MERS constitute fraudulent misrepresentation and the parties in question are jointly and severally liable for their acts of fraud by their misrepresentation and all damages stemming from such, including punitive damages and attorney's fees.

Count VII.
Fraud by Omission and Inducement

341. Plaintiff incorporates by this reference each and every paragraph of this Complaint as if set forth fully herein.

342. The Lender conspired to fraudulently conceal the "True Lender" at closing, and the Note may have been securitized and converted into an investment vehicle within a Special Purpose Vehicle. The Lender, the Plaintiff and MERS had a duty to disclose material facts, failed to disclose those facts; and that failure induced the Defendants to act, and they have suffered actual damages due to the fraudulent omissions. The parties had a duty to disclose the true nature of their relationship and the fact that the Lender was merely a "Pretender Lender" and thus, the agent for the Concealed and Unknown Lender. The failure to disclose the material facts, induced the Defendants to enter into a loan with unknown and unrevealed entities and he has suffered actual damages as a direct result of Fraud by Omission. The plaintiff and MERS are jointly and severally liable for their acts of Fraud by Omission and all damages stemming from such.

COUNT VIII.
Conspiracy to Commit Fraud by the Creation, Operation and Use of MERS System

343. Plaintiff incorporates by this reference and re-alleges the allegations contained in all the paragraphs above as if set forth fully herein.

344. Upon information and belief, Defendants and each of them, did knowingly and willfully conspire and agree among themselves to engage in a conspiracy to promote, encourage, facilitate and actively engage in fraudulent and predatory lending practices perpetrated on Plaintiff as alleged herein and the actions of the Defendant conspirators were taken as part of the business policies and practices of each Defendant conspirator in participating in the MERS system.

345. Upon information and belief, the Defendant conspirators are or have

been members of and participants in the MERS system, and, through their employees and agents, served as members of MERSCORP, Inc. and/or MERS, Inc., and participated in the design and coordination of the MERS system described in this complaint.

346. Defendants' participation as shareholders, directors, operators, or members of MERSCORP, Inc. and/or MERS, Inc. are as follows:

347. MERSCORP, Inc. is the operating company that owns and operates the MERS System described herein, and is the parent company of Mortgage Electronic Registration Systems, Inc. ("MERS, Inc.").

348. Defendants are shareholders, members or representatives of MERS, Inc.

349. Whenever this Complaint refers to any corporation's act, deed, or transaction, it means that such corporation engaged in the act, deed, or transaction by or through its members, officers, directors, agents, employees, or other representatives while they actively were engaged in the management, direction, control, or transaction of its business or affairs.

350. Beginning at a time unknown to the Plaintiffs, prior to 2004, and continuing through at least the present, the Defendant co-conspirators engaged in a conspiracy to unlawfully deprive borrower-homeowners of property in numerous States through issuing predatory loans as described herein, and through securitization and subsequent processes described herein.

351. MERS, Inc. and/or MERSCORP, Inc. arranged for bilateral and multilateral meetings, bilateral and multilateral teleconferences, and bilateral internet communications with potential Shareholders, actual Shareholders, candidates for

Membership, and Members.

352. Upon information and belief, the Defendant conspirators have conspired among themselves and with other unknown parties to:

a. Develop a system of earning profits from the origination and securitization of residential loans without regard for the rights of Plaintiffs, and others similarly situated, by engaging in predatory and deceptive residential lending practices as alleged in this complaint above; and

b. In furtherance of the system referred to immediately above, the Defendant conspirators intentionally created, managed, operated and controlled the Defendants MERSCORP, Inc. and MERS, Inc. for the specific purpose of MERS, Inc. being designated as a sham "beneficiary" in the original deeds of trust securing those loans, including the loans made to Plaintiffs and other similarly situated individuals by the "lenders"; and

c. Defendant conspirators intentionally created, managed, operated and controlled the MERS system with the unlawful intent and for the unlawful purpose of making it difficult or impossible for Plaintiffs and other victims of such industry-wide predatory policies and practices to identify and hold responsible the persons and entities responsible for the unlawful actions of Defendants and their co-conspirators because MERS did not track the transfers but relied upon the members to report the transfers when a foreclosure was initiated.

353. Upon information and belief, Defendant conspirators, through creation of the MERS system alleged herein, adopted and implemented residential lending underwriting guidelines for use in Kentucky and in other states which:

a. were intended to, and did, generate unprecedented profits for the Defendant conspirators and their co-conspirators at the expense of Plaintiff and other persons who were fraudulently induced by the Defendant conspirators and their co-conspirators into taking out residential loans that were known by the Defendant conspirators and their co-conspirators, at the time the loans were originated, and,

b. were likely to result in foreclosure on those loans and loss by Plaintiff and other borrowers of their home, with reckless disregard and intentional indifference by the Defendant conspirators and their co-conspirators of the likelihood of such foreclosure.

354. Removing the transfers from the recording process and failure to record a real estate transaction on the public record maintained by the county clerks prevents oversight of real estate transactions by the public and by public officials.

355. MERSCORP, Inc. informed its co-conspirators that using the MERS system would remove transaction records from the public record.

356. MERSCORP, Inc. and/or MERS, Inc. have publicly stated the following:

357. "MERS eliminates the need to prepare and record assignments when trading residential and commercial mortgage loans."

a. "With the recording of the security instrument(s), MERS becomes the mortgagee in the county land records and no assignments are required during a subsequent sale and transfer of the loan between MERS members."

b. "There is no dependency on the corporate name you use on closing documents and the corresponding corporate name on the MERS System because the MERS System is not the legal system of record of ownership of mortgage loans."

358. Upon information and belief, the MERS system was created for the unlawful purpose of hiding and insulating the brokers and originators of predatory toxic loans from accountability and liability by creating an entity which simultaneously informed all lenders who originated loans that named MERS as the beneficiary of the following:

359. MERS would never own or acquire any actual beneficial interest in any loan in which it was named as beneficiary under the deed of trust, and that

360. MERS could be named as beneficiary for purposes of public notice and notice to the borrower and would act in that capacity if so designated by the lender who originated the loan.

361. Upon information and belief, the intent and purpose of the Defendant conspirators and their co-conspirators in the creation, management, operation and control of MERS was, without limitation, to make it impossible for the borrowers, their attorneys, the courts, the government, and anyone other than the Defendant conspirators who created and controlled MERS to identify the actual beneficial owner of any particular loan or the property which was the collateral securing that loan until such time, if any, that foreclosure action was initiated. As a result, Plaintiffs were deprived of the right to modify their toxic loan even though the Defendant America's Servicing Company did not provide the right to modify the loan and the true beneficial owners were intentionally hidden from Plaintiffs and the transfers that occurred of the note of the Plaintiff have also been hidden from them.

362. MERSCORP, Inc.'s marketing materials also promise Members with assistance with foreclosures. MERSCORP, Inc. and/or MERS, Inc. have publicly stated:

"MERS has assembled a Foreclosure Manual to provide a state-by-state guideline for our Members to follow when foreclosing a mortgage loan in the name of MERS."

363. Upon information and belief, the Defendant conspirators' actions in creating the MERS system, which was dependent on fraudulent and deceptive practices that included, but were not limited to, making loans to consumers such as Plaintiff using underwriting guidelines that were wildly divergent from the guidelines that had been used to give loans in this country for decades, created a system to unlawfully deprive Plaintiffs of their interest in their home and loaned money to the Plaintiffs for these home with the intention of foreclosing.

364. MERSCORP, Inc. and/or MERS, Inc. offered Members increased profit. MERSCORP, Inc. has publicly stated:

a. "The MERS web site enables you to target directly your MERS® Ready products and services to MERS members."

b. "Commercial originators and issuers save hundreds to thousands of dollars (in the case of cross-collateralized loans) in preparing and recording assignments. Where the originator has not recorded a MERS as Original Mortgagee (MOM) security instrument, the issuer saves the costs of assigning to the Trust by having the originator assign to MERS."

c. "It will reduce risk and generate more profits for lenders because the Notes registered on it will be in electronic format. It shortens the timeframe between the closing and the securitization of the loan, enabling the Note to move instantly, creating faster funding."

365. MERSCORP, Inc.'s rules and by-laws, to which MERS Members

agree, require the following:

366. BY COMPLETING, SIGNING, AND SUBMITTING THIS APPLICATION, THE APPLICANT IS AGREEING TO BE A MERS MEMBER. THE APPLICANT HEREBY AGREES TO PAY ALL FEES AND EXPENSES SET FORTH IN THE MERS RESIDENTIAL FEE SCHEDULE, WHICH MAY CHANGE FROM TIME TO TIME; ABIDE BY ALL EXISTING MERS RULES AND PROCEDURES, WHICH ARE INCORPORATED HEREIN BY REFERENCE AND MAY BE AMENDED FROM TIME TO TIME; AND COMPLY WITH THE TERMS AND CONDITIONS SET FORTH IN THE ATTACHED ADDENDUM ENTITLED TERMS AND CONDITIONS. (Emphasis in original).

367. The MERSCORP, Inc. rules and by-laws, to which MERS Members agree, cannot be carried out lawfully because they require the following:

a. MERS, which shall include MERSCORP, Inc. and Mortgage Electronic Registration Systems, Inc., and the Member shall abide by these Terms and Conditions, the Rules and Procedures (collectively, the "Governing Documents"), copies of which will be supplied upon request. The Governing Documents shall be a part of the terms and conditions of every transaction that the Member may make or have with MERS or the MERS® System either directly or through a third party. The Member shall be bound by any amendment to any of the Governing Documents.

b. The Member, at its own expense, shall promptly, or as soon as practicable, cause MERS to appear in the appropriate public records as the mortgagee of record with respect to each mortgage loan that the Member registers on the MERS® System. MERS shall serve as mortgagee of record with respect to all such mortgage loans solely as a

nominee, in an administrative capacity, for the beneficial owner or owners thereof from time to time. MERS shall have no rights whatsoever to any payments made on account of such mortgage loans, to any servicing rights related to such mortgage loans, or to any mortgaged properties securing such mortgage loans. MERS agrees not to assert any rights (other than rights specified in the Governing Documents) with respect to such mortgage loans or mortgaged properties. References herein to "mortgage(s)" and "mortgagee of record" shall include deed(s) of trust and beneficiary under a deed of trust and any other form of security instrument under applicable state law. . . .

MERS and the Member agree that: (i) the MERS® System is not a vehicle for creating or transferring beneficial interests in mortgage loans, (ii) transfers of servicing interests reflected on the MERS® System are subject to the consent of the beneficial owner of the mortgage loans, and (iii) membership in MERS or use of the MERS® System shall not modify or supersede any agreement between or among the Members having interests in mortgage loans registered on the MERS® System."

368. The times, dates, and locations of the various meetings and communications among and between the conspirators are solely within the knowledge of the conspirators and have not been made public by MERS or its co-conspirators.

369. In addition to the allegations made related to the director, and creator and user conspirators, the MERS system conspiracy consisted of:

370. The Lender conspirators, including the entities who were named on the deed of trust as lender, Soma Financial, Inc., who agreed to procure loans by means of violation of state laws, as further described in the previous claims for relief, and the Trustees, Western Title Company, who allowed their names to be used as Trustee for

"lender" who did not lend any money and the beneficiary MERS who disclaimed to have any beneficial interest;

371. MERS, the Lender, Securitizer and Servicer conspirators, who agreed to use the MERS system unlawfully and in violation of state laws to deceive homeowners and securities purchasers by misleading them to believe that the conspirators had legal authority to foreclose when, in fact, the conspirators do not have legal authority to foreclose on loans which were made part of the MERS system, as further described in the previous claims for relief.

372. The Securitizer conspirator(s), who were aware of these violations of law during procurement and agreed to purchase the loans knowing that the law had been violated.

373. The Securitizer conspirator(s) who, upon information and belief, packaged and sold loans knowing that such loans were based on deeds of trust that had been split from the notes, and based on loans that had been sold as part of the securitization process before the loans were finalized with the borrowers. Thereafter, the purported interests in the obligations, the notes as evidence of the obligations, and the security interest for the obligations were transferred multiple times without recording the change in ownership of an interest in real property in the appropriate county records. This was accomplished by the creation of the private parallel record keeping service known as the MERS system, whereby MERS, Inc. is named in the deed of trust which is supposed to be the security for the underlying loan obligation. MERS is named as the nominee of the lender, but not as the holder of the note or the actual lender. Rather,

MERS is named as beneficiary for the purpose of deceiving the borrower and the clerk's office where the deed of trust is recorded.

374. A securitization process that was based on loans that were made based on residential loan underwriting guidelines that were designed to generate as many loans as possible to fuel the securitization process to feed the demand for mortgage-backed securities, the faulty and toxic nature of which loans was hidden by the MERS system. As a result of MERS being named the beneficiary, and through the processes described herein, the note and deed of trust are "split." When the note is split from the deed of trust, then the note becomes unsecured and a person holding only the note lacks the power to foreclose and a person holding only a deed of trust suffers no default because only the holder of the note is entitled to payment on it. The monetary effect of utilizing the MERS system, in addition to the allegations set forth otherwise herein, was to hide profits and fees that were not disclosed to the borrower or to the investor in the note, which, in some cases, upon information and belief, were in excess of the principal value stated on the note.

375. The Securitizer conspirator(s) who violated state and Federal securities laws through their descriptions of the financial derivatives created by the conspiracy demonstrated their fraudulent intent by their pattern of business practices;

376. The Lender conspirators who agreed to supply borrowers to the Securitizers despite knowledge that the Securitizers would sell the borrowers' promissory notes in violation of the law.

377. The Servicer conspirator who agreed to unlawfully foreclose on loans despite the separation of the loan from the deed of trust which made the foreclosure unlawful because the debt was no longer secured.

378. All of the conspirators agreed to the participation of the other conspirators in their individual roles in the conspiracy. The loan files of each of the loans disclose the legal violations and document that the Lenders agreed to purchase loans from third party originators and to sell them to the Securitizers. The Securitizers agreed to purchase the loans and pool them with full knowledge of the contents of the loan files. The Servicers agreed to foreclose with full knowledge of the loan file for each loan.

379. All of the conspirators continued to agree to the conspiracy over the course of tens of thousands of transactions.

380. Defendants has acted as players in the conspiracy.

381. Defendants have acted as Securitizers or the agents of securitizers in the conspiracy.

382. For the purpose of forming and effectuating this conspiracy, Defendants and co-conspirators did the following things, among others:

383. The "lender" with the knowledge of the servicer, acting as Lender described above systematically and repeatedly violated state laws in order to originate mortgages, as described in the previous claims for relief;

384. The unknown entity with the knowledge of the servicers and "lender" allowed their names to be designated as trustee for "lender" on the deed of trust for the Plaintiffs when the trustees knew that the "lender" was not loaning any money to the Plaintiffs.

385. The Defendants acting as Securitizers knowingly and by agreement serviced the unlawfully obtained mortgage;

386. The Defendants, acting as Lenders, Securitizers and Servicers utilized and benefited from the MERS system as a means of preventing detection by law enforcement or by the public and as a means of unlawful foreclosure to the detriment of homeowners;

387. All Defendants named herein as co-conspirators profited from their respective roles in originating loans, selling them, and pooling their MERS registered home loans together in large bundles which were sold and turned into financial derivative instruments;

388. The mortgage securitization process became known in financial industry parlance as "slicing and dicing." The slicing and dicing results in a pool of mortgages which have lost their individual characteristics but which have a high value to those who create them;

389. The Defendants acting as Securitizers named herein obtained mortgages from the Defendants acting as Lenders named herein for securitization;

390. The Defendants named as Securitizers herein sold the securitized and pooled mortgages as asset backed financial derivatives with affirmative claims that Defendants were unaware of any legal issues which would affect the value of the assets backing the securities, which was untrue, as Defendants actually knew that the mortgages were unlawfully obtained and subject to rescission, and knew that the mortgage and promissory notes had been split and, therefore, the note holders no longer had the right to foreclose, assuming that they ever did;

391. The Defendants described herein as Servicers have and will attempt to unlawfully foreclose on the homeowner property. The Servicers will misrepresent the legal right to foreclose, when, in fact, they have no right to foreclose. The Servicers' foreclosure will illegally deprive the Plaintiffs of the legal title to their home if allowed to proceed;

392. All Defendants named as MERS members agreed to promote MERS, an ostensibly lawful business, and to utilize MERS in an unlawful manner to deprive Plaintiffs and those similarly situated of property.

393. The securitization process took distinct loans, deeds of trust, and mortgages, and pooled them together in such a manner that they lost their unique identity. Hundreds of such financial derivative instruments were created by the co-conspirators. The co-conspirators all profited from their respective roles in the process, including, but not limited to, the following pooling agreements. These pooling agreements are examples of the type of pooling agreements utilized by the Defendants:

394. Upon information and belief, Plaintiff's loan was securitized, "sliced and diced" and pooled into mortgage pools such as the ones described herein as part of the conspiracy related to the creation and operation of the MERS system, and Defendants, and each of them, profited from same and are liable for their acts and the acts of their co-conspirators in creating the MERS system, including, but not limited to, the use of MERS-approved and created documents to establish the loans (including, but not limited to, the form of deed of trust), and in participating in the securitization process described herein, thus, involving the Plaintiffs in this fraud upon the investors without their knowledge.

395. Upon information and belief, Defendant conspirators utilized funds received as part of the Troubled Asset Relief Program payouts and payouts from the Federal Reserve or the FDIC to further the conspiracy to defraud Plaintiffs to deprive them of their money, to deprive them of their property and any equity in their properties, to unlawfully initiate foreclosure on their house and, by that foreclosure, ruin their credit and credit rating and standing in the community, to pay investors in the mortgage-backed securities which were comprised of the loan made to Plaintiffs and others similarly situated, and to pay bonuses to employees and officers of the Defendant conspirators based on their devising the subprime mortgage-backed products which were securitized by loans of the type issued to Plaintiffs, and collateralizing and selling such products in the United States and abroad.

396. As a result of Defendant conspirators' conspiracy described herein, Plaintiffs have suffered injuries which include mental anguish, emotional distress, embarrassment, humiliation, loss of reputation and a decreased credit rating which has, or will, impair Plaintiff's ability to obtain credit at a more favorable rate than before the decrease in credit rating, the loss or anticipated loss of their Residence and other financial losses according to proof, and Plaintiffs have incurred attorneys' fees and costs in this matter.

397. Defendant conspirators' actions were wanton, willful and reckless, and justify an award of punitive damages against Defendant conspirators, and each of them.

COUNT IX.
Conspiracy to Commit Wrongful Foreclosure by the Creation, Operation and Use of the MERS System

398. Plaintiff incorporates by this reference each and every paragraph of this

Complaint as if set forth fully herein.

399. Upon information and belief, Defendants and each of them, did knowingly and willfully conspire and agree among themselves to engage in a conspiracy to promote, encourage, facilitate and actively engage in and benefit from wrongful foreclosures perpetrated on Plaintiffs as alleged herein, specifically in the First Claim for Relief, and the actions of the Defendant conspirators were taken as part of the business policies and practices of each Defendant conspirator in participating in the MERS system.

400. The MERS system was known by Defendant conspirators as being used by the Defendant co-conspirators named in the first, second and third Claims for relief to facilitate the wrongful foreclosures complained of herein.

401. Specifically, the MERS system was designed to remove the need for recordation of transfers of deeds of trust as alleged herein. This component of the design of the MERS System facilitated the wrongful foreclosures complained of herein by making it easier to transfer

402. Defendants for purposes of this as the "Defendant conspirators", and each of them, did knowingly and willfully conspire and agree among themselves to engage in a conspiracy to promote, encourage, facilitate and actively engage in and benefit from collecting mortgage payments and wrongful foreclosures perpetrated on Plaintiffs as alleged herein. The actions of the Defendant conspirators were taken as part of the business policies and practices of each Defendant conspirator in participating in the MERS system.

403. The MERS system was known by Defendant conspirators as being used

by the Defendant co-conspirators to facilitate a fraud on the public records and the wrongful foreclosures complained of herein.

404. Specifically, the MERS system was designed to remove the need for recordation of transfers of deeds of trust as alleged herein. This component of the design of the MERS System facilitated the illegal mortgage registration, transfer and wrongful foreclosures, by making it easier to transfer the purported beneficial interest in a mortgage and for the purpose of foreclosing on a property, despite the fact that the mortgage no longer provided security for a note as a result of the note having been separated from the deed of trust as alleged herein.

405. The MERS system does not track the transfer of the notes nor to what entity the notes were transferred.

406. The MERS system does not track the identity of the holders of the note on the Plaintiff's properties.

407. Upon information and belief, the Defendant conspirators are or have been creators and/or directors of MERSCORP, Inc., MERS, Inc. and/or members of the MERS system, and, as to Defendant conspirators, and participated in the design and coordination of the MERS system described in this complaint.

408. Yet to be named Defendants' participation as shareholders, directors, operators, or members of MERSCORP, Inc. and/or MERS, Inc. are as follows:

409. MERSCORP, Inc. is the operating company that owns and operates the MERS System described herein, and is the parent company of Mortgage Electronic Registration Systems, Inc. ("MERS, Inc.").

410. Defendants are members and/or shareholders of MERS or the agents of such.

411. Whenever this Complaint refers to any corporation's act, deed, or transaction, it means that such corporation engaged in the act, deed, or transaction by or through its members, officers, directors, agents, employees, or other representatives while they actively were engaged in the creation, management, direction, control, or transaction of its business or affairs.

412. The illegal use of the Mail, and the internet and which are specifically attributable to the Defendants subject to this Count, are:

413. Bringing suit on behalf of entities which were not the real parties in interest, and which had no standing to sue. This involved, and involves, the use of the MERS artifice.

414. Actively concealing the plaintiffs' lack of standing in their standard complaints for foreclosure, usually entitled, "Complaint to Foreclose Mortgage and to Enforce Lost

415. Loan Documents." It is believed that in 80% or more of these mortgages held and foreclosure complaints filed by the Defendants, the original loan documents do not exist.

416. Although MERS is the mortgagee of record, it has never been the "owner" or "holder" of the Note. Most importantly, MERS is never the agent of the actual holder in due course or the owner of the Note. MERS works for the servicing agent, which, as with MERS, is not the holder in due course or the owner of the Note. MERS never has a relationship with the owners of the Note.

417. Alternatively, closed-ended continuity is present because the scheme occurred over a period in excess of ten years.

418. As the result of the enterprise of which these actions were part, the Class Members have suffered damages, in that they have lost their homes and/or make a mortgage payment to a servicing entity not entitle to the proceeds of the Note. All Class members, regardless of whether they are in foreclosure, have the title to their property clouded by the listing of MERS as mortgagee in the public record.

419. The measure of the damages for the Class Members is the average of the accelerated amounts demanded from the Class Members by foreclosing entity in the subject foreclosure Complaints. Members not currently in foreclosure are entitled to damages in the amount of the MERS illegal publicly recorded mortgage.

420. Since the real parties in interest are not parties to the foreclosures or Mortgagees of record, the mortgages were truly not subject to being foreclosed upon. [10]

421. The fair market value of the properties at the time of foreclosure is for this reason the measure of the damages suffered by the Class Members. The illustrive example is as follows:

422. The average value of the properties was $250,000.00, and the Class is comprised of 10,000 persons.

423. The initial damages to which the Class is entitled by law would be $2,500,000,000.00, or 2.5 billion dollars.

10 In most instances, the "real parties in interest" have already been paid, either by a CDS and/or through the T.A.R.P.; and the MBS "Fund" or "Trust" the Note was securitized for is no longer in existence. Many of the MBS holding securitized collateral in Kentucky property, have been covered by Maiden Lane LLC, Maiden Lane II or Maiden Lane III; the corporation formed to pay off the debts of Bear Stearns.

424. This amount is then tripled by operation of the Kentucky's conspiracy law. Without reference to attorney fees and costs, the total damages awarded would be 7,500,000,000.00, or 7.5 billion dollars.

425. The Class Members are entitled to judgment in the amount of three times their actual damages, which should be arrived in the manner indicated in the preceding paragraph. plus costs and a reasonable attorneys' fee under 18 U.S.C. §1964[c],

MERS/Merscorp, Inc.:

426. MERS/Merscorp, Inc. was created in or about 1998, and its purpose, from the outset, was to enact the fraudulent scheme enterprise herein complained.

427. Its overt acts include the following:

a. Creation of the MERS artifice;

b. Planning, designing, and enacting the MERS criminal enterprise of which Plaintiff complains herein;

c. Arranging for the use of the MERS as "mortgagee" in the standard mortgages at issue;

d. Drafting of the standard MERS language to be included in such mortgages;

e. Entering into one or more "agreements for signing authority" which purported to allow employees of Servicing Agents and foreclosure mill law firms to execute assignments in which the "assignor" and "assignee" are straw men actually not possessed of the capacity stated, and of which the person executing the document has no knowledge;

f. Creation and maintenance of an acceptable public image for MERS;

g. Owning and maintaining the registration and licensure of the MERS entity, Mortgage Electronic Registration Systems, Inc, with the necessary state agencies, plus other ministerial acts designed to maintain the corporate shield and to mimic the actions expected of normal corporations so as to fraudulently disguise its true nature;

h. Facilitating the use of the MERS artifice by other participants in the scheme.

428. These predicate acts are related. They share a common purpose, defrauding the Class Members and other borrowers of their money and property. They share the common themes of "non-documentation" and concealment of the real parties in interest.

429. The predicate acts satisfy the continuity requirement: they extend from in or about 1998 through and continue unabated at the present time, which meets the definition of "open-ended" continuity. In the alternative, the participants in the RICO enterprise engaged in a pattern of racketeering activities continuously for a period of time exceeding ten years in duration, which as a matter of law suffices to establish "closed-ended" continuity.

430. As the result of the enterprise of which these actions were part, the Class Members have suffered damages, in that they have lost their homes. The measure of the damages for the Class Members is the average of the accelerated amounts demanded from the Class Members by the Defendant Firm in the subject complaints "to Foreclose Mortgage and to Enforce Lost Loan Documents." Since the real parties in interest had already been paid, the mortgages were truly not subject to being foreclosed upon, and the fair market value of the properties for this reason is the measure of the

damages suffered by the Class Members. The manner in which damages should be calculated is set forth herein.

431. The Class Members are entitled to judgment in the amount of three times their actual damages, which should be arrived at using the formula set forth in said paragraph, plus costs and a reasonable attorneys' fee under Kentucky law.

Count X.
Violations of the Kentucky Residential Mortgage Fraud Act KRS 286.8-990

432. Plaintiff incorporates by this reference each and every paragraph of this Complaint as if set forth fully herein.

433. KRS 286.8-990 states that ANY of the actions as set out in the statute constitute a violation of the Act:

> A person is guilty of residential mortgage fraud when, with the intent to defraud, that person does any of the following in connection with the mortgage lending process:

434. The original Lender, the MBS originators, servicers/trustees and MERS conspired together and acted in concert under the facts as previously set out in both the fraudulent inducement of the original transaction. Their fraudulent attempt to enforce such is an act of fraud and a violation of the Act as to sections (2)(a-h).

COUNT XI.
Unjust Enrichment

435. Plaintiffs incorporate each and every paragraph of this Complaint as if fully set forth in this claim.

436. Defendants' deceptive scheme as alleged herein will unjustly enrich Defendants, and each of them, to the detriment of Plaintiffs, by causing Defendants, and each of them, to receive monetary payments from the mortgage payments, and/or the sale

of Plaintiffs' properties through illegal foreclosures. The Defendants were not entitled to the mortgage payments or proceeds of a foreclosure. The Defendants did not fund the loans of the Plaintiffs.

437. Specifically, Plaintiffs have been injured in their property and will lose their cash and personal investment in the home and right to peaceful enjoyment of their home in a variety of ways, including but not limited to: All borrowers who were targeted for and lured into the mortgages sold by Defendants were kept from knowing the true purpose of the securitization and the use of the funds of the investors. This constituted a misrepresentation that caused Plaintiffs to make their monthly payments of what represented the equity in their homes to the Defendants and their Servicers. The result is that the Plaintiffs assumed financial burdens that they would not otherwise had assumed, and paid Defendants funds to which the Defendants were not entitled or owed.

438. The loans made to Plaintiffs were then repackaged, reassigned, and/or resold, each with a margin of profit for the assignee/buyer that would not otherwise have existed had Plaintiffs not been deceived by the original terms of the loans and/or the lack of disclosures as alleged herein, along with all the similarly situated loans going on at the same time and in the same manner. Likewise, Plaintiffs would not have continued to make payments on the loans if the Defendants had properly disclosed the discharge in whole or in part of the obligations on the notes to the investors or that those obligations would be discharged by other means upon foreclosure and that the servicers would be given the houses without having invest any money into the loans to the Plaintiffs. Likewise the Plaintiffs would have continued to make some payments on their loans had the Defendant Servicers not instructed them to stop making payments in order to seek

modifications of their loans.

439. Plaintiffs have paid inflated interest rates that, upon information and belief, would not have been agreed to but for the failure to understand the documents and otherwise disclose the true terms and costs of the loans, tangential services, and out-of-pocket costs and that the housing market would not, as represented by the Defendants and their agents, the "lenders" continue to increase in value but would, because of the acts of the Defendants, crash and cause catastrophic loss of value in the real estate market.

440. Upon information and belief, Defendants, and each of them, retained and continue to retain these ongoing and escalating profits to the detriment of Plaintiffs, contrary to the fundamental principals of fairness, justice, and good conscience and reasonable business practices.

441. Upon information and belief, all payments made to the Defendants servicing the Plaintiff's mortgages or holding the Plaintiff's home are not due to the Defendants who are making demands for collection.

442. The Defendants who have serviced the loans and now hold the home of the Plaintiffs did not fund the loans, did not loan any money to the Plaintiffs, and are not the holders in due course of the notes of the Plaintiffs and have no lawful right to foreclose upon Plaintiff's houses.

443. Upon information and belief, all sums advanced to Plaintiffs for loans by investors has been repaid, settled, satisfied or otherwise are no longer outstanding.

444. Accordingly, Defendants, and each of them, should be ordered to return all funds obtained as a result of their deceptive scheme on Plaintiff.

445. MERS, an entity not licensed to engage in the practice of mortgage lending, committed forgery as to both subsections (1)(a) and (1)(b) when it placed a Mortgage into the records of the County clerk for which it had no pecuniary right rights or interest in the Mortgage Note.

446. The Plaintiff and Lerner Sampson & Rothfuss violated both sections of the act when Lerner drafted and forged a Post-Foreclosure Mortgage Assignment on behalf of both MERS and the original Lender.

COUNT XII.
KRS 516.030 Kentucky Forgery in the Second Degree

447. Plaintiff incorporates by this reference each and every paragraph of this Complaint as if set forth fully herein.

448. A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be or which is calculated to become or to represent when completed:

(a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or

(b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee; or

(2) Forgery in the second degree is a Class D felony.

449. The forgery on the Assignment was an "Unauthorized Signature" under Kentucky's Uniform Commercial Code, meaning "a signature made without actual, implied, or apparent authority." KRS 355.1-201(2)(ao). Nor is the Assignment "Genuine" meaning "free of forgery or counterfeiting." KRS 355.1-201(2)(s). The Assignment is null and void. It is unenforceable.

450. The acts of the Defendants in forging the mortgage assignments and the subsequent filing of such with the County Clerks across Kentucky violates both sections (1)(a) and (1)(b.) Each mortgage assignment executed and filed since 2007 constitutes a

separate violation of the act and a separate Class D felony, illustrating a systematic pattern and partnership.

COUNT XIII.
KRS 516.060 Criminal Possession of a Forged Instrument

451. Plaintiff incorporates by this reference each and every paragraph of this Complaint as if set forth fully herein.

(1) A person is guilty of criminal possession of a forged instrument in the second degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in KRS 516.030.
(2) Criminal possession of a forged instrument in the second degree is a Class D felony.

452. Each mortgage assignment executed and filed constitutes a separate violation of the act and a separate Class D felony, illustrating a systematic pattern and partnership.

453. The Defendants worked together to create the forge Mortgage Assignments. Therefore knowledge of the forgery is irrefutable. The Defendants both possessed and uttered the forgeries in to the land records across Kentucky. All parties taking part in or who conspired with those who participated in the acts or practices in question are jointly and severally liable to the Class Members.

COUNT XIV.
KRS 378.010 and 378.030 Fraudulent Conveyance

454. Plaintiff incorporates by this reference each and every paragraph of this Complaint as if set forth fully herein.

455. KRS 378.010 Fraudulent conveyances and encumbrances -- Void as to whom -- Exception.:

Every gift, conveyance, assignment or transfer of, or charge upon, any estate, real or personal, or right or thing in action, or any rent or profit thereof, made with the intent to delay, hinder or defraud creditors, purchasers or other persons, and every bond or other

evidence of debt given, action commenced or judgment suffered, with like intent, shall be void as against such creditors, purchasers and other persons. This section shall not affect the title of a purchaser for a valuable consideration, unless it appears that he had notice of the fraudulent intent of his immediate grantor or of the fraud rendering void the title of such grantor.

456. KRS 378.030 Action on fraudulent conveyance or encumbrance of real property -- Proceedings.

> Any party aggrieved by the fraudulent conveyance, transfer or mortgage of real property may file a petition in equity against the parties thereto or their representatives or heirs, alleging the facts showing his right of action, alleging the fraud or the facts constituting it and describing the property. When this petition is filed a lis pendens shall be created upon the property described, and the suit shall progress and be determined as other suits in equity and as though it had been brought on a return of nulla bona.

457. The parties are aggrieved by the transfer of mortgage of their real property. This action serves as a Petition in Equity against the Defendants. A lis pendens "suit pending" and notice to the world is now created upon the parties' property and a lis pendens shall exist on each and every piece of Kentucky property owned by the members of this Class Action.

458. All parties taking part in or who conspired with those who participated in the acts or practices in question are jointly and severally liable to the Class Members.

VIII. CONCLUSION

459. Upon information and belief, the Defendants, did not and cannot legally obtain foreclosures and/or file an Assignment of the Notes or Mortgages of the representative Plaintiffs or the putative Class Members. Neither the Defendants or MERS had capacity or standing to file suit or foreclose on property. In conspiracy with each other, the Defendants, filed fraudulent mortgages, affidavits, and mortgage assignments, filed sham pleadings and committed and continue to commit fraud on the recording clerks and the Courts.

460. These violations as aforementioned entitle the Plaintiffs and putative Class members to recover the actual damages they have sustained as a result of the improper filing of foreclosure suits and the improper filing of the Mortgage Assignments; statutory damages as permitted by law; restitution under for the violations of the criminal acts, treble damages as allowed by the acts, punitive damages, and cost and attorneys fees incurred. The Plaintiffs are entitled to equitable relief as to the clearing and quieting of the title to their properties in relation to the filing of false Note and Mortgage Assignments.

461. MERS should be enjoined from this day forward from drafting, executing and filing Mortgages and Mortgage Assignments and should be further enjoined from filing Complaints in Foreclosure based in fraud and further be enjoined from prosecuting all pending cases.

IX. JURY TRIAL AND DEMAND FOR RELIEF

WHEREFORE, the Plaintiffs on their own behalf and on behalf of the putative Class Members, request the this Court enter judgment against the Defendants jointly and severally and award all damages, costs and any other relief the Court deems proper on behalf of the Class Members, demands judgment against the Defendants, jointly and severally, for the total damages sustained by the Class, plus costs, attorneys' fees, and such additional relief as the Court or jury may deem just and proper, including imposition of liability on the members of the conspiracy not presently named as Defendants in this action. as follows:

1. Certification of the action or common issues herein as a Class Action, and the designation of any sub-classes, for any and all claims and issues, under the applicable

class action provisions and appointment of counsel of record as the appointed class counsel for any and all proceedings relating to this action.

2. Such coordination and cooperation as may be appropriate between this Court and other Courts that may exercise subject matter jurisdiction over the subject of this litigation, but with other Class Actions filed against other Defendants.

3. A determination of common issues and claims in unitary consolidated Class Action

4. An award of actual and compensatory damages, statutory damages as permitted by law; restitution under for the violations of the criminal acts, treble damages as allowed by the acts, punitive damages, and cost and attorneys fees incurred and equitable relief as to the clearing and quieting of the title to their properties in relation to the filing of false Note and Mortgage Assignments.

5. An Injunction halting from this day forward, the filing of new foreclosure or Declaratory Judgments, or the prosecution of existing law suits, and an Order which punishes severely and sanctions any violation of said Injunction by any of the Defendants.

6. A trial by jury.

7. Any other relief legal and/or equitable to which the Plaintiffs and the putative Class Members are entitled at law or for which the Court deems proper, including, according to proof, exemplary or punitive damages as may be necessary and appropriate to punish the past and present and deter future reprehensible misconduct.

Dated September 28, 2010

Most respectfully submitted,

/s/_____

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