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6 **SUPERIOR COURT OF CALIFORNIA**
7 **COUNTY OF SANTA CLARA**

8 SALMA MERRITT et al,

9 Plaintiffs,

10 v.

11 ANGELO MOZILO, COUNTRYWIDE
HOME LOANS, COUNTRYWIDE
12 FINANANCIAL, FIRST AMERICAN TITLE,
MICHAEL COLYER, BEAR STERNS (DOB
13 JP MORGAN CHASE), MERSCORP, ET AL

14 Defendants.

Case No. 109cv159993

**VERIFIED STATEMENT OF
DISQUALIFICATION OF JUDGE
JAMES STOELKER BY PLAINTIFF
SALMA MERRITT UNDER CCP §§
170.1 et seq.**

[Exhibits A to F Attached with References to
Deposition DVDs on File with Plaintiffs Reply to
Defendants Opposition for Protective Order]

Date: August 17, 2012

Date Action Filed: December 23, 2009
Trial Date: Not Set

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18 1. I David Merritt declare and state as follows:

19 2. I am one of the plaintiffs in above caption and in opposition to James Stoelker continuing
20 as a judge to hear our matters, I now state and allege that:

21 3. Judge James Stoelker is disqualified from hearing our matters because he has: 1)
22 Personally been and sub-contractor-employee agent of Defendant Countrywide Home Loans; 2)
23 Personally been and sub-contractor-employee agent of Defendant First American Title; 3) Has
24 repeatedly made rulings in this case that is partially slanted substantially in favor of Defendants; 4)
25 Have made rulings in this case which impedes the Prosecution of Defendants; 5) Has violated the
26 California Constitutional rights of both me and my husband and I to have Public Proceedings by
27 excluding the entire Public from our depositions; 6) Has not required Defendants to prove good
28

1 cause for excluding unnamed persons from proceedings; 7) Has unconstitutionally shifted the
2 burden of proof from his former Defendant Clients and placed the burden on my husband and I to
3 prove why others should be included in our proceedings; 8) Have violated the California
4 Constitutional rights of both me and my husband to have friends and family present in judicial
5 proceedings; 9) Has not required Defendants to demonstrate good cause why infant daughter and
6 sisters should be excluded from proceedings; 10) Have violated my husband and I substantive due
7 process rights under the U.S. Constitution 14th Amendment by failing to be impartial; 11) Has
8 refused to enforce California law in this case by limiting deposition to one(1) seven (7) day or the
9 equivalent per 2025.290; 12) Have failed to require Defendants to carry their burden of
10 demonstrating good cause for “day-to-day” deposition before any actual need of such has arose;
11 13) Has secretly withheld information from my husband and I that Countrywide Defendants
12 employed him for several years; 14) Has secretly withheld information from my husband and I
13 that Defendant First Financial Title employed him for several years; 15) Has failed to disclose
14 what financial interest he or relatives hold or previously held with Defendants; 16) Appears to
15 have leaked to Defendants confidential medical information regarding the Persons With Disability
16 Act.

17 4. From 2005 to 2007, judge Stoelker represented this case’s Defendant First American Title
18 in the matter entitled *R. Rooney v. Countrywide Home Loans, Et Al* 1-05-CV-046745

19 5. From 1999 to 2002, judge Stoelker represented this case’s Defendant First American Title
20 in the matter entitled *First American Title v. McCasey* 1-98-CV-776626

21 6. From 2005 to 2007, judge Stoelker represented this case’s Defendant First American Title
22 in the matter entitled *First American v. D. Beitpoulice* 1-05-CV-040178

23 7. From 2000 to 2003, judge Stoelker represented this case’s Defendant First American Title
24 in the matter entitled *First American v. Sailer* 1-00-CV-794645

25 8. From 2000 to 2001, judge Stoelker represented this case’s Defendant First American Title
26 in the matter entitled *First American Title v. Fletcher-Bautista* 1-00-CV-789750

27 9. Judge Stoelker has ruled on discovery motions filed both by Countrywide Home Loans, his
28 former clients and Plaintiffs, and each time he has biasedly taken his former clients side

1 notwithstanding that it would violate Plaintiffs rights under Discovery Act and violate the code
2 itself.

3 10. The proof of this is found in each ruling that he has made in our case where he constantly
4 refuses to enforce meet and confer rules; he refuses to require that his former clients show the
5 requisite good cause for anything; he disregards the code's burden of proof requirements and shifts
6 it over to the Plaintiffs without the Defendants presenting any evidence at all.

7 11. Additionally, the Defendants have constantly made it clear that they pre-knew that Stoelker
8 was going to rule in their favor every time.

9 12. The Plaintiffs further note that they presented confidential Persons with Disability Request
10 information seeking accommodations due to disability that was presented in camera and ex parte.

11 13. Defendants have file, to which Countrywide Defendants learned of from judge Stoelker's
12 court the confidential details of and disclosed them publicly. See Exhibit A, p.2 regarding
13 memory.

14 14. The judge further indicated his biasness against my husband and I and in favor of
15 Countrywide Defendants by making the following orders without requiring them to make good
16 cause showings whatsoever and shifting burden of proof to us:

- 17 i. August 17, 2012 Tentative Ruling, Refusing to Protect Plaintiffs From Abuses and
18 Granting BofA Motion to continue abuses, Exhibit B;
- 19 ii. June 22, 2012 Ex Parte Order, granting Defendants Motion to Compel Documents they
20 already have and private financials of Plaintiffs, Exhibit C;
- 21 iii. June 22, 2012 Ex Parte Order, compelling Plaintiffs to appear for deposition when no
22 showing that they failed to attend was possible since date had not occurred, Exhibit D;
- 23 iv. May 24, 2012 Order Denying Plaintiffs Motion to Compel, Exhibit E, 2012;
- 24 v. February 25, 2012 Order Granting Defendants Motion without Meet & Confer, Exhibit
25 F.

26 15. I and others who reviewed the Order, juxtaposed to the July 17th and July 18, 2012
27 Deposition Video Tapes found that Stoelker's Tentative Order is improperly biased in Defendants
28 favor.

1 16. I request that the reviewing judge review the deposition video DVDs as well to understand
2 this charge.

3 17. I and my husband did not learn about Stoelker's conflict of interest regarding his past
4 employment by Countrywide and American Title Defendants until August 16, 2012, which we
5 confirmed this morning before drafting this Application for recusal.

6 18. Once my husband learned of the Tentative ruling on August 16, 2012, he became
7 suspicious of why the judge was so much in favor of supporting the Defendants that he
8 investigated the judge's previous cases and on August 17, 2012 confirmed that the above 5 cases
9 are positive times that he represented Countrywide and American Title Defendants and further
10 learned that there are about another half a dozen other times which implicitly suggest that he was
11 employed by defendants in addition to these above cited times.

12 19. Neither my husband nor I do personally know judge Mckinney, have not had direct contact
13 with him before and so there was no reason for him to hold any preconceived biasness against me
14 or husband.

15 20. His actions in the orders, and his abuses in ordering all persons excluded from attending
16 depositions and authorizing Defendants to abuse us with "day-to-day" deposition categorically
17 shows that he is not impartial in this case and is siding with Defendants without good cause.

18 21. We have researched and found that California Judicial Conduct Handbook §§ 1.30 & 2.03
19 directs judges to "Compliance With the Code is Mandatory" and be fair, impartial, absence of
20 bias.

21 22. Judge Stoelker's decisions in this case, particularly the August 16, 2012 Tentative ignores
22 the Code as set forth above and at minimum, appears to be biased against us or in unreasonable
23 favor of his former clients.

24 23. Furthermore, we believe that his failure to disclose to my husband and I that he was
25 previously employed for years and years by those we are suing in the instant action, is at minimum
26 a *de facto* act of cloaking his past roles and violation of judicial canons.

27 24. Under CCP § 170.3(c)(5) I request for this issue of disqualification be heard by some other
28 judge and for the entire case to be reassigned to a judge that is not prejudice or becomes biased

1 against me and my husband due to us exercising our Constitutional right to prosecute BofA,
2 Countrywide, American Title and others for fraudulent practices against us and Californians like
3 ourselves. We also pray for a judge that is not partial in favor of these Defendants.
4

5 VERIFICATION

6 I, Salma Merritt, hereby affirm that the foregoing is true and correct to the best of my knowledge
7 and belief under laws of perjury for the State of California on this 17 Day of August 2012.

8 Dated: August 17, 2012


Salma Merritt

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11 CERTIFICATE OF SERVICE

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13 I, Ronald Merritt, hereby certify that I placed a true copy of:

14 VERIFIED STATEMENT OF DISQUALIFICATION OF JUDGE JAMES STOELKER BY
15 PLAINTIFF SALMA MERRITT
16 in a envelop addressed to:

17 JAMES GOLDBERG OF BRYAN & CAVE, 333 Market street, 25th floor, San Francisco CA,
18 with first class postage affixed to envelop which was placed in US Post office mails on August 17,
19 2012 under the penalties of perjury for the State of California.



20 Ronald Merritt
21 2767 Kesey Lane
22 San Jose, Ca 95132

23 I, David Merritt, hereby declare that I served this Statement for Disqualification upon James
24 Stoelker on this 17th Day of August 2012.



25 David Merritt
26 830 Stewart Drive
27 Sunnyvale, CA 94085
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