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6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF SANTA CLARA**

8 SALMA MERRITT and DAVID MERRITT

9 Plaintiffs,

10 v.

11 ANGELO R. MOZILO, DAVID SAMBOL,
12 MICHAEL COLYER, COUNTRYWIDE
13 FINANCIAL CORP.; COUNTRYWIDE HOME
14 LOANS, INC.; BEAR STERNS (dob JP
15 MORGAN CHASE), WELLS FARGO AND
16 DOES 1-100, inclusive,

17 Defendants.

Case No. 109cv159993

**Fourth Amended Complaint Reactivating
Wells Fargo & Amending Bear Sterns
Compensatory and Punitive and or
Exemplary Damages for Injury Based on
Conspiracy—Fraud & Deceit
(Misrepresentation, Concealment, Deceit
& Suppression of Fact); or, Alternatively,
Negligent Misrepresentation; and,
Conspiracy to Commit Unfair Business
Practices Regarding Bear Sterns**

(Exceeds \$50,000 Unlimited Civil Case)

Date Action Filed: December 23, 2009

Trial Date:

Judge: Hon. Mark Pierce

18
19 **ALLEGATIONS**

20 Plaintiffs alleges:

21 1. Plaintiffs Salma & David Merritt is, at all times relevant herein, individuals who reside
22 in Santa Clara County. Plaintiffs purchased and became the owners of their Property on March 27,
23 2006.

24 2. Defendant **Angelo Robert Mozilo** (hereinafter “Mozilo”) was, and at all times herein
25 mentioned, the supervising Mortgage Loan Broker and resident of Thousand Oaks, California.

26 3. Defendant **David Sambol** (hereinafter “Sambol”) is, and at all times herein
27 mentioned, the President of Marketing and resident of Hidden Hills, California.

28

1 4. Defendant **Michael Colyer** (hereinafter “Colyer”) is, and at all times herein
2 mentioned the local Mortgage Broker & a resident of San Mateo county, California.

3 5. Defendant **Countrywide Financial Corporation**, (hereinafter “Countrywide”) is and
4 at all times herein mentioned was, a New York Corporation organized and existing under the laws
5 of the State of New York, but licensed as a Broker to conduct its principle brokerage business out
6 of 4500 Park Granada Blvd. Calabasas, CA.

7 6. Defendant **Countrywide Home Loans, Inc.**, (hereinafter “Countrywide”) is, and at all
8 times herein mentioned was, a New York Corporation organized and existing under the laws of
9 the State of New York with its principle place of business at 4500 Park Granada Blvd. Calabasas,
10 CA and licensed under California Real Estate Broker license no. 00351782 to conduct brokerage
11 business in California. Further, CHL operated and supervised by Angelo Mozilo its principle
12 broker supervisor.

13 7. At all times herein mentioned, defendants Mozilo, Sambol and Colyer, who made the
14 representations herein alleged, is Chief Executive Officer & Chief Broker; President of Marketing
15 and Menlo Park Branch Managing-Broker respectively and, at the time of making the
16 representations herein alleged and at all times herein mentioned, was acting within the course and
17 scope of their employment and authority for defendant Countrywide.

18 8. Defendant **Wells Fargo** is, and at all times herein mentioned was, a corporation
19 organized and operated under California State laws out of its California headquarters in San
20 Francisco California. Wells Fargo acted as agent and co-conspirator of Bank of America, Bear
21 Sterns and Does 1-30, under the authority and guidance of its Chief Executive Officers (CEO) and
22 Board of Directors from 2000 through 2010 to become, *inter alia*, Master Servicer for home loans
23 they were fraudulently producing through Countrywide. And any allegations citing Wells Fargo as
24 taking action or agreeing shall mean that it was agreed or acted by its Board of Director Officers.

25 9. Defendant **BEAR STERNS¹** is, and at all times herein mentioned was, a corporation
26 organized and operated under New York State laws and conducted daily business within and

27 ¹ Plaintiffs just became aware of Bear Sterns identity in 2011 as being Defendant Doe 1 and left open the option of amending Doe
28 defendants as they became subsequently known. Plaintiffs shall serve this defendant within the next 60 days.

1 through the State of California. Bear Sterns acted as a principle with co-conspirator of BofA Board
2 Officers, Does 2-30, Countrywide Board Officers, MERS and FATC, under the authority and
3 guidance of its Chief Executive Officers (CEO) and Board of Directors from 2000 through 2012,
4 and directed all activities of co-defendants regarding Plaintiffs. Allegations citing Bear Sterns
5 taking action or agreeing to co-defendants actions, shall mean that it was being acted or agreed to
6 by its Board of Director Officers.

7 10. On or about 2008, Bear Sterns filed for bankruptcy and was purchased by JP Morgan
8 Chase who, under the laws of the United States, took on all assets and liabilities of Bear Sterns,
9 including the mortgages of Plaintiffs. JP Morgan Chase is named as the successor in interest and is
10 liable for the illegal acts of Bear Sterns and shall be personally served in its stead.

11 11. Defendants **Does 2-30**, are, and at all times herein mentioned was, residents of the
12 State of New York.

13 12. Defendants *Does 1-30*, who made the representations herein alleged, is the CEO,
14 Board of Directors, President(s), Vice President(s) and other managers of Bear Sterns, and, at the
15 time of the making of the representations herein alleged and at all times herein mentioned was
16 acting within the course and scope of their employment and authority for Bear Sterns, who, at all
17 relevant times herein, acted as Principle Lender with Wells Fargo Bank, NA (hereinafter “Wells”),
18 in hiring Countrywide and later BofA to broker, service and modify Salma & David Merritt
19 loans.²

20 13. Defendants **Does 31 through 70** is, and at all times herein mentioned was, residents of
21 California and Texas who was employed as Presidents, Vice Presidents, Managers, Employees or
22 Agents of defendant Countrywide and its subsidiaries, and at the time of the making of the
23 representations or doing things herein alleged, and at all times herein mentioned, was acting
24 within the course and scope of their employment and authority for Countrywide.

25 14. Defendants **Does 71 through 80** is, and at all times herein mentioned was, residents of
26 California and North Carolina, who worked as Presidents, Vice Presidents, employees or agents of

27 ² Subpoena *Duces Tecum* have produced proof that Bear Sterns and its managers are Does 1-30 who hired Countrywide Defendants to broker
28 Plaintiffs loans and is the actual funder of loans. Plaintiffs shall amend once confirmed, See *Exhibit 30*.

1 defendant BofA and, at the time of the making of the representations or doing things herein
2 alleged was acting within the course and scope of their employment and authority for BofA.

3 15. Defendants **Does 81 through 90** is, and at all times herein mentioned was, residents of
4 California who worked as Presidents, Vice Presidents, employees or agents of Wells and, at the
5 time of the making of the representations herein alleged acted within the course and scope of their
6 employment and authority for **Wells Fargo & Company** (WELLS) under the direction of CEOs
7 Paul Hazen, Richard Kovanevich and John Stumpf.

8 16. Defendants **Does 91 through 95** is, and at all times herein mentioned was, residents of
9 California who worked as Presidents, Vice Presidents, employees or agents of defendant First
10 American Title Company (FATC) and, at the time of the making of the representations or doing
11 things herein alleged were acting within the course and scope of their employment and authority
12 for defendants FTC, FATC.

13 17. Defendants **Does 96 through 100** is, and at all times herein mentioned was, residents
14 of Virginia who worked as Vice Presidents, employees or agents of defendants MERSCORP, and,
15 at the time of the making of the representations or doing things herein alleged were acting within
16 the course and scope of their employment and authority for defendant MERSCORP.

17 18. **Bank of America** (hereinafter “BofA”) is, and at all times herein mentioned was, a
18 corporation organized and existing under the laws of the State of North Carolina corporation, with
19 its principle place of business in Charlotte North Carolina. At all times relevant herein, BofA
20 maintained minimum contacts with California by maintaining more than 100 branch offices
21 through California which it conducts its business through by communicating with its branch
22 managers and staff over 100 times per week, including Santa Clara County. BofA is the purchaser
23 and assumer of Countrywide and its subsidiary companies assets and liabilities as it has
24 merged Countrywide under the BofA holding company umbrella.

25 19. **MERSCORP**, (hereinafter “MERS”) is, and at all times herein mentioned was, a
26 Delaware Corporation organized and existing under the laws of the State of Delaware with its
27 principle place of business in Reston, VA.

28 20. At all times herein mentioned, R.K. Arnold, who made the representations herein

1 alleged, was the Chief Executive Officer and, at the time of making the representations herein
2 alleged, was acting within the course and scope of his employment and authority for defendant
3 MERS/MERSCORP.

4 21. **First American Title Ins. Company** (hereinafter “FATC”) is, and at all times herein
5 mentioned was, a California Corporation organized and existing under the laws of the State of
6 California, with its principle place of business in Santa Ana, Orange County, California.

7 22. At all times herein mentioned, Parker S. Kennedy, who made the representations
8 herein alleged, was the Chief Executive Officer and, at the time of making the representations
9 herein alleged, was acting within the course and scope of his employment and authority for
10 defendant FATC and its agent Financial Title Company (“FTC”).

11 23. Plaintiffs do not know the true names or capacities of Defendants sued herein under
12 fictitious names of Does 2 through 100, inclusive. Plaintiffs intend to amend this action with their
13 names and capacities when learned. Salma & David Merritt are informed and believe and on that
14 basis alleges that Does 1 through 100 are legally responsible in some manner for the acts or
15 omissions alleged and the injuries and damages claimed in this action, or in some manner claims
16 an ownership, security or other interest in the Property.

17 24. Any and all allegations regarding acts or omissions attributed to Bear Sterns,
18 Countrywide, BofA, FATC, MERS, MERSCORP, Wells Fargo means that the defendant
19 corporations acted through co-defendants and or its officers, directors, employees, agents or
20 representatives while they, in turn, were acting within the actual or ostensible scope of their duties
21 and authority of respective corporate defendants.

22 25. At all relevant times, each defendant knew or later realized that the other defendants
23 were engaged in or planning to engage in the violations of law as alleged in this Third Amended
24 Complaint (TAC), knowing or realizing that the other defendants were engaging in or planning to
25 engage in unlawful conduct, each defendant nevertheless facilitated the commission of those
26 unlawful acts; each defendant intended to, and did encourage, facilitate, or assist in the
27 commission of the acts, thereby aided and abetted the other defendants thereat.

28 26. From on or about January 1995 through November 2009, Mozilo, Sambol, Colyer,

1 Chen, Benson, Lewis, Countrywide, BofA, Does 31 through 100, and CEOs of MERSCORP,
2 FATC and Wells Fargo, were, at all times herein mentioned, the agent and co-conspirator of, Bear
3 Sterns and Does 2-30; and received permission, consent or ratification from Countrywide, BofA,
4 MERSCORP, FATC and Wells Board of Directors to do the things alleged herein.

5 27. The real property that is the subject of this action consists of a townhouse which is
6 located in Santa Clara County; is more particularly described as Assessor's parcel no. 205-54-027,
7 and commonly known as 660 Pinnacles Terrace, Sunnyvale, Ca 94085, and is referred to herein as
8 the property. A legal description of the property is attached hereto as *Exhibit 1*. A copy of Santa
9 Clara County Recorder's recording of property is attached hereto, as *Exhibit 2* and incorporated
10 herein by this reference.

11 28. MERSCORP, through subsidiary MERS, claims an interest in the property as
12 Beneficiary under a deed of trust dated March 27, 2006, executed by Salma & David Merritt as
13 Trustors to secure a hybrid Pay Option Second Interest only Adjustable Rate Mortgage (Note)
14 promissory note in favor of Countrywide, and a junior Second deed of trust to secure a Home
15 Equity Line of Credit (HELOC) agreement ("HELOC Agreement"), copies of which are attached
16 hereto as *Exhibits 3 and 4*, respectively, in favor of Countrywide. First and Second Deeds of Trust
17 were recorded on April 1, 2006 with the Official Recorder of Santa Clara County as document
18 numbers: 18868879 & 18868880, copies of which are attached hereto as *Exhibits 5 and 6*, each of
19 these exhibits being incorporated herein by this reference.

20 29. MERSCORP is a company holding itself out, under the name of MERS, as a means of
21 evading county taxes or fees in recording deed of trust liens transacted in California and a private
22 alternative to public recording to conceal its members identities from public scrutiny to avoid
23 charges of fraud and the jurisdiction of courts. A disclosure about MERS to Plaintiffs is attached
24 hereto as *Exhibit 7* and MERSCORP to Countrywide and others *Exhibit 8*.

25 30. At all times herein mentioned, defendants Mozilo, Colyer and Countrywide was, and
26 is, a real estate broker duly licensed by the State of California Department of Real Estate and at all
27 times material hereto functioned as a Real Estate Loan Broker on March 27, 2006, as certified to
28 by way of *Exhibit 11* which is incorporated herein as if fully set forth.

1 **A. Bear Sterns & Does 2-30 Investors Real Estate Lending Pools – Background Scheme**

2 31. On or about April 1993, Bear Sterns Board of Directors, at 383 Madison Avenue, New
3 York, elected James E. Cayne (Cayne) to be its CEO and President of all operations, giving him
4 full authority to act in the name of Bear Sterns and on its behalf.

5 32. Plaintiffs are informed and believe and thereby allege that from on or about 1993
6 onward, CEO Cayne presided over Board meetings where the idea of contracting with, and
7 supplying funds to, Mortgage Loan Brokers, who would act as Bear Sterns External-Brokers to
8 originate loans to residential mortgage borrowers, was discussed and voted upon repeatedly by
9 Board in favor of such.

10 33. From on or about January 3, 1993 to November 1997, Cayne and Bear Sterns Board of
11 Directors directed their investment Internal-Brokers, to steer more private investors to invest funds
12 into Bear Sterns mortgage backed security (MBS) pools which were assigned in Special Purpose
13 Vehicles (SPV).

14 34. Bear Sterns Board of Directors communicated among themselves that they needed to
15 pool loans together in securities which were designed to be attractive enough to lure investor to
16 invest in MBS's, while at the same time Directors Cayne and others agreed to direct their Home
17 Loan Brokers to lure borrowers to accept loans that would strip borrowers savings, income and
18 equity then produce default and foreclosure on their mortgaged property.

19 35. At these board meetings, Cayne and other Board of Directors discussed how to direct
20 staff to identify and manage Mortgage Loan Brokers who would then agree to represent to
21 Borrowers that they were purchasing loans that were traditional loans – i.e. fixed 30 year – and
22 *conceal* the fact that the loans were not conventional loans and produce loan documents so
23 complex and incomprehensible that borrowers would not know that they had been defrauded or
24 statute of limitations would have mooted any potential claims against Bear Sterns.

25 36. During the 1994 board meetings, Cayne and Board of Directors approved their staff—
26 Does 2-30—to find Mortgage Loan Brokers and Loan Servicers who would accept and partner
27 with Bear Sterns plans to defraud borrowers and enter into, among others, “Master Repurchase
28 Agreements,” and “Master Service Agreements” which gave Bear Sterns authority to order

1 Brokers to originate certain quantity and types of commercial and residential mortgage loans for
2 Bear Sterns, dictate a range of term parameters that would be acceptable to Bear Sterns in
3 exchange for a supply of funds for loans which Bear Sterns would be the actual Beneficiary.

4 37. Furthermore, these agreements would represent to the borrowers and public that Bear
5 Sterns was not involved by holding the Servicers and Master Servicers as the “Investor,”
6 Beneficiary of the Borrowers loans, in order to shield Bear Sterns from any charges of fraud or
7 other wrong doing.

8 38. Cayne and Board of Directors directed Bear Stern’s General Counsel to work with any
9 prospective Servicers and External Brokers to develop Borrower contract agreements which would
10 be provided to Borrowers to lure them into signing without understanding loan products would be
11 defective and strip their financial worth from them and transfer it to Bear Sterns, Brokers and
12 Servicers.

13 39. General Counsel designed Borrower contract agreements in a way so it would obscure
14 the actual terms of loans by using point 6 or less sized font, using a hybrid language which was
15 composed of partly legal, banking, real estate and investor terms that no lay person or common
16 real estate professional could understand.

17 40. During 1994 to 2000, Cayne ordered Does 2-10 to hire mortgage loan brokers and
18 loan-servicers who were willing to broker loans for Bear Sterns where commercial, and a growing
19 number of residential mortgage borrowers, were identified for brokers to steer borrowers into
20 adjustable rate mortgage loans which they could justify higher profits on the money Bear Sterns
21 lent out.

22 **B. Countrywide Real Estate Loan Broker Model – Background Facts**

23 41. On or about January 1969, Loab and Mozilo talked with each other on how they could
24 get into mortgage industry, establish themselves among those already established and they told
25 each other that since they did not have their own capital to lend to mortgage loan borrowers, that
26 they needed to attract money from “investors” who would contract them to broker loans with
27 mortgage borrowers.

28 42. On or about February 1969, Loab and Mozilo decided and agreed for Mozilo to

1 become a licensed California real estate broker who they could solicit borrowers through for
2 mortgage loans under Countrywide Home Loans (CHL); while Loab would solicit investors and
3 together broker mortgage home loans between borrower and investor.

4 43. During 1969, defendant Mozilo took and passed the California Real Estate Broker
5 licensing exam and was issued license number 00368352.

6 44. From 1969 to 2006, Countrywide avoided becoming an actual state or federally
7 chartered lender and functioned as Mortgage Loan Broker who solicited funding pledges from
8 defendant BofA and certain Wall Street Investment houses to fund home-loan borrowers that CHL
9 identified and convinced to permit CHL to broker loans for them.

10 45. From 1969 to 1980, Countrywide was led by co-founder David Loab who strived to
11 build an ethical mortgage lending company and in 1974; he eliminated all commissioned
12 salespersons in order to focus Countrywide on brokering mortgage loan products which met
13 industry, state and federal underwriting standards.

14 46. By 1978, Loeb successfully directed CHL to be seen as a reputable and trustworthy
15 company by brokering loan products which had competitive fees and interest rates that Fannie
16 Mae, Freddie Mac and others funded more and more of, while directing CHL to service loans for
17 Savings & Loans and other mortgage lenders, so by 1984 it was servicing \$1 Billion in loans as a
18 Mortgage Loan Broker, and not a lender.

19 47. In 1980 and 1981, Mozilo was privy to The Depository Institution Deregulatory and
20 Monetary Control Act of 1980 that nullified California and other states usury laws which
21 restricted Predatory Lending in the residential mortgage loan industry where borrowers' ability to
22 pay and underwriting standards were ignored and fraud was employed to induce them into
23 fraudulent agreements, resulting in the "subprime" loan industry.

24 48. From 1980 onward Mozilo studied the practices which lead to the S&L crisis of the
25 1980s, the lifting of usury laws and the growth of subprime lending which increased likelihood of
26 loan defaults *and took special note* on how it transferred equity from property owners to lenders
27 and resulted in little or no consequences for the broker-perpetrators.

28 49. In 1990, Loeb ordered the use of computers programmed with federal and industry

1 underwriting standards, EDGE, to reduce the risks of deficient loans, streamline origination
2 process and reduce operation costs and in 1992, unveiled Countrywide Loan Underwriting Expert
3 System (CLUES) to underwrite mortgage loans and expedite the process.

4 50. From on or about January 1990 and repeatedly to 2010, the U.S. Department of
5 Housing and Urban Development (HUD), unveiled a series of policies and goals to encourage
6 mortgage loan lending in underserved areas (minorities and lower income Americans) with
7 affordable loans which would be insured by the Federal Housing Administration (FHA).

8 51. During 1990 and 1991, Loeb and Mozilo learned of HUDs announcements and held
9 talks with each other every month during this period on how they could position Countrywide to
10 take advantage of this effort; they directed their subordinates to register Countrywide with HUD
11 and take steps to qualify the company as a HUD recognized loan broker.

12 52. In 1992, Countrywide unveiled "House America" program which was publicized to
13 extend loans to minorities as part of HUDs mission, and Loeb directed staff to program CLUES to
14 apply HUDs underwriting standards for designing mortgage loans.

15 53. From 1992 to 1997, Loeb and Mozilo grew CHL substantially by brokering and
16 servicing loans to Prime borrowers, low income and a growing number of minorities; loans which
17 were principally competitive cost, Prime loans that followed industry underwriting standards.

18 54. From 1998 to 1999, Loeb began to transition for retirement and relinquished more and
19 more control of CHL to Mozilo, until finally in April 2000, he retired and turned over the reins of
20 company to Mozilo.

21 **C. Bear Sterns Alliance With Wells Fargo, MERS & First American – Background Scheme**

22 55. On or about January 1989, FATC Board of Directors elected D.P. Kennedy president
23 of FATC and in 1993, president of FATC Parent Corporation, giving him full authority to act in
24 the name of First American Title Company and on its behalf.

25 56. On or about January 1995, Wells Fargo Board elected Paul Hazen to be president and
26 CEO of Wells & Company, extending to him full control and authority to act in its name and on
27 its behalf.

28 57. On or about January 15, 1995, R.K. Arnold, Kennedy and Hazen, met at Bear Sterns

1 headquarters (HQ) on 383 Madison Ave, New York where Does 2-30 explained how unlicensed
2 private lenders, who they called “Investors,” and were Bear Sterns “clients,” wished to provide
3 funds to real estate mortgage borrowers with special terms that would strip them of their savings,
4 income then equity and produce defaults and confiscate their homes via foreclosures for resale
5 profits. Further, Does 2-30 desired to evade state and federal lending laws, taxes, County Property
6 Recording Fees, California and other state instrument Commercial Code laws and conceal their
7 identities and activities.

8 58. Additional meetings took place defendant FATC California HQ offices on or about
9 February 15, 1995; and again met at Arnold’s Virginia office on or about March 15, 1995, where
10 each time Does 2-30 explained how they wished to work with Wells Fargo, FATC and MERS
11 Board, to make money from residential mortgage borrowers.

12 59. Specifically, Bear Sterns with Does 2-30, informed Arnold, Kennedy and Hazen that
13 they were going to solicit billions in private dollars to fund mortgages for borrowers and needed to
14 employ brokers willing to craft loans designed to strip equity from Americans, increase likelihood
15 of loan defaults and to give Investors the opportunity to foreclose and resell properties to make
16 more profit (over 30% targeted California borrowers). If borrowers or state officials knew about
17 Bear Sterns and Does 2-30 identities and their intent to circumvent lending and property recording
18 laws, they may sue or criminally prosecute them for such activities. Bear Stearns with Does 2-30
19 stated that in order to conceal their identities from public record they would need Loan Brokers,
20 Servicers, Escrow and Title agents, to not record Investors names with local County Clerk
21 Recorders, but to falsify local County Recorder Records by naming some entity in their place who
22 would be bound to not divulge their identities publicly.

23 60. On or about January 15 and again on or about February 15, 1995, Bear Sterns CEO
24 with Does 2-30 spoke with Arnold and his partners, asking were they willing to form a corporation
25 that would act as a Frontman for Bear Sterns by recording company’s name in place of Bear
26 Sterns with county recorders and conceal Bear Sterns identify from public and borrowers view.

27 61. On or about February 15, 1995, Arnold informed Bear Sterns that he would lead such
28 an effort and form a team of persons who he designated to be his Board of Directors for such a

1 company; and after obtaining certain key endorsements from certain financial institutions during
2 1995, Arnold and his Board formed Mortgage Electronic Registration System, in Delaware, later
3 incorporated again under MERSCORP.

4 62. Immediately following the formations of MERS, Arnold presented himself to his
5 Board for the position of President and CEO; and MERS Board elected him so.

6 63. Among the first acts of Arnold was presenting to MERS Board of Directors, for
7 formal voting, was Bear Sterns proposal for MERS to record itself as beneficiary of deeds of trust
8 and other mortgage instruments in order to conceal Bear Sterns identities, and MERS Board
9 authorized Arnold to proceed with the plan of becoming Frontman for Bear Sterns.

10 64. From on or about January 1997 through July 2010, Arnold directed MERSCORP staff
11 to communicate to mortgage brokers and lenders in the United States that they could evade local
12 property recording fees or taxes; state and federal lending laws and conceal their identities and
13 activities which violate Uniform and California Commercial Codes, by becoming members of
14 MERSCORP and agree to falsely record in their local county records, as in Deed of Trust
15 presented to Plaintiffs, with "MERS" as the beneficiary, trustee or mortgagee, that they could
16 evade paying Recorder Fees. *Exhibit 8* is official public statement of MERSCORP confirming
17 such and is incorporated herein as if fully set forth.

18 65. From January 2000 to December 2010 Arnold with Board approval, made instructed
19 all MERSCORP members who falsified county records citing MERS as beneficiary or mortgagee,
20 to not disclose to borrowers, including Plaintiffs, that MERS was acting as Frontman for Bear
21 Sterns or other Wall Street Investment Houses, but let it appear that brokers like Countrywide, was
22 simply using MERS as a way to record-keep its loans. An example of which Plaintiffs' attaches
23 hereto as *Exhibits 7 & 8* and incorporates them herein.

24 66. On or about February 15, 1995, Does 2-30 asked Kennedy whether he and FATC
25 would be willing to overlook these planned activities, instruct FATC Escrow and Title employees
26 to disregard California financial instrument, recording and other laws, then separate Deed of Trust
27 from Notes, and help conceal the identities and activities of Investors like Bear Sterns, by having
28 its Escrow staff or agents falsely record MERS as mortgagee or beneficiary, and to further ensure

1 that FATC Title staff and agents overlooked the title defects such as the separation of deed of trust
2 and note, as well as not being able to learn identities or quantity of holders-in-due-course with
3 such loans, promising Kennedy that millions of dollars in business would be sent to FATC if he
4 agreed.

5 67. On or about February 20, 1995, Kennedy presented Bear Sterns proposal to FATC
6 Board of Directors, and after discussion, the Board approved for FATC, its employees and agents
7 participate in recording MERS as mortgagee or beneficiary; ignore title defects during title
8 searches and any fraud within escrow activities against borrowers. FATC Board approved written
9 and or oral agreements with Bear Sterns that called for FATC to instruct and train its Escrow and
10 Title Insurance staff to falsify county records and not report title defects to borrowers or the
11 public.

12 68. On or about January 2000, Mozilo requested MERSCORP to permit him, as licensed
13 real estate broker whom Countrywide sold residential mortgage loans through, to enroll
14 Countrywide as member of MERSCORP. After exchanges between Arnold and Mozilo,
15 MERSCORP granted Mozilo's request contingent upon him agreeing to lead Countrywide into
16 falsifying loan documents and county records, as well as keeping secret the fraudulent nature of
17 MERSCORP, its activities and purposes.

18 69. From 2000 until at least 2006, Bear Sterns and Does 2-30 communicated with Wells
19 Fargo Board, asking officers to permit them to hire Wells Fargo to be its Master Servicer who
20 would assist them in concealing their identity from public, such as Plaintiffs, and to pass on
21 instructions to lower level Servicers, such as Countrywide, for how to originate, service and
22 enforce contracts with Borrowers.

23 70. Each time during 2000 to 2006, in California offices, Wells Fargo Board accepted
24 Bear Sterns and Does 2-20 offer and entered into a formal and oral agreements that employed
25 Wells Fargo staff to act as Bear Sterns "Master Loan Servicer" who would manage the loans
26 produced by Real Estate brokers that Bear Sterns hired; and represent to the Public that Wells was
27 the actual investor-lender of loans, when the truth was Bear Sterns was the actual lender of their
28 funds as demonstrated in *Exhibits 29 & 30* which are incorporated herein as if fully set forth.

D. DEFENDANT MOZILO’S PERSONAL INVOLVEMENT – 2000-2008

1
2 71. From on or about May 1995 to March 2000, Mozilo and his 20-year subordinate
3 Stanford Kurland (“Kurland”), from within CHL headquarters, monitored and evaluated the
4 enormous profits that Ameriquest Corporation and other subprime lenders were achieving by
5 inducing Americans to purchase subprime loan products that resulted in payment defaults and
6 foreclosures while transferring Americans equity to subprime lenders.³

7 72. On or about January, February, March, April and May of 2000, Bear Sterns Does 2-30
8 with Lewis, on behalf of BofA, held a series of talks with Mozilo and other Countrywide officers
9 at Countrywide California HQ about lending money to mortgage borrowers which they wished to
10 hire Countrywide to broker for Bear Sterns.

11 73. During these discussions in 2000, Lewis with Does 2-30 informed Mozilo et al that
12 they wished to provide Countrywide funds to originate subprime versus prime loans in order to
13 achieve greater profits and saw residential borrowers as a kind of untapped market that billions
14 could be earned from and they needed to portray the subprime loans as prime loans in order to
15 induce more residential borrowers into agreements.

16 74. Plaintiffs are informed by findings of California and 13 other states Attorney Generals,
17 the SEC and FTC, and believe that defendants Does 2-30 and Lewis, BofA explained to Mozilo on
18 or about March 15, 2000, that they did not wish to lend predatory loans directly under state or
19 federal regulations because of the restrictions regulations imposed upon lenders and wished to use
20 Countrywide to broker their funds with the certain types of borrowers.

21 75. On or about April 2000, defendant Countrywide Board of Directors—Mozilo, his wife
22 and children having over 50% controlling interest—duly elected defendant Mozilo to be CFC and
23 CHL Chairman and CEO with full authority to speak and act on behalf of Countrywide and
24 continue to be its chief Broker who hired and trained sub-brokers, such as defendant Colyer, to act
25 on his and Countrywide’s behalf when brokering loans to Californians and other Americans.

26 76. On or about April 2000, Mozilo asked Kurland would he accept promotion as

27 ³ Unless otherwise specified, all talks, plans, agreements, actions of Mozilo, Kurland, Sambol, Does 31 – 70 are alleged to have taken place in
28 CHL’s southern California headquarter offices at 4500 Park Granada Blvd. Calabasas, CA 91302.

1 Countrywide President and support Mozilo's plans to broker loans for Bear Sterns and BofA;
2 discard Loeb's underwriting principles and strip savings, income and equity from mortgage loan
3 borrowers to maximize profits for themselves, Bear Sterns and BofA.

4 77. On or about April 2000, Kurland accepted Mozilo's offer, and Mozilo presented
5 Kurland to Countrywide's board of directors where Mozilo and others elected Kurland to be
6 CHL's president with full authority to speak and act on its behalf.

7 78. On or about May 13, 2000, Mozilo and Kurland discussed how subprime loans were
8 generating higher profits than prime loans and they agreed to develop and work on plans to
9 penetrate and increase sales in the subprime mortgage market; whereby every Monday of each
10 week from May to December 2000, Mozilo and Kurland met at Countrywide's headquarters main
11 conference room where they continuously planned, designed and approved policies and practices
12 that would train their staff to new company practices.

13 79. On or about April 15, 2000, Does 2-30 and Lewis explained to Mozilo and other
14 Countrywide officers that Bear Sterns and BofA would provide Countrywide with the loan
15 contract agreements that Bear Sterns and BofA needed Countrywide to convince borrowers to
16 sign; and such contracts required Mozilo to design loans in a way which would strip borrowers
17 savings, income and property equity before leading to default and foreclosure after statute of
18 limitations had run out on breach of contract, fraud and other civil limitations.

19 80. On or about May 15, 2000, Does 2-30 with Lewis, told defendant Mozilo that as
20 Countrywide's chief broker, he would have to ensure that he and his sub-brokers concealed from
21 borrowers that they were acting as the broker of Bear Sterns or BofA and if Mozilo agreed to each
22 of these points discussed from January to May 2000 meetings, then Bear Sterns would lend
23 millions of dollars to borrowers that Mozilo was willing to broker loans for.

24 81. Bear Sterns then provided Mozilo a "Master Repurchase Agreement" which, *inter*
25 *alia*, committed Countrywide to broker loans for Bear Sterns and committed Bear Sterns to
26 provide corresponding funds for such loans within a certain time frame, as long as the terms of the
27 loans met the specifications that Bear Sterns or BofA dictated to Countrywide.

28 82. On or about June 2000, Mozilo presented Bear Sterns and BofA proposal with the

1 Master Repurchase Agreement to Countrywide Board of Directors, informed the Board that BofA
2 and Bear Sterns required that Mozilo order, train and direct sub-brokers to represent sub-prime
3 loans as prime loans to borrowers, that it would require substantial change in Countrywide's
4 underwriting and other policies; thereat Countrywide Board of Directors approved for Mozilo and
5 other officers to enter into agreements with Bear Sterns, BofA, Wells Fargo, MERSCORP and
6 FATC to fulfill Bear Sterns lending goals and objectives.

7 83. Bear Sterns, Does 2-20 et al avoided most liability by designing loans so that they did
8 not reset to higher payments until after the statute of limitations had expired on breach of contract,
9 fraud and other civil provisions.

10 84. From on or about March 2000 through March 2006, Bear Sterns via Does 2-30 and
11 BofA via Lewis, entered into agreements that were renewed in each year, where they committed
12 Bear Sterns and BofA into providing funds for Mozilo and Countrywide to find borrowers who
13 could be induced into buying subprime and later HELOC/Pay Option ARM "Combo" loans, that
14 Countrywide sub-brokers designed in a way so borrowers would not be able to pay off loans to
15 own their homes, but design them to have the highest interest and payment rates that borrower
16 would tolerate which would strip savings, income and equity from property, transfer it to Bear
17 Sterns and BofA, then produce default and foreclosure that MERSCORP would proceed with as a
18 fictitious beneficiary in order to conceal Bear Sterns and BofA.

19 85. On or about June 2000, Bear Sterns and Lewis asked Mozilo to disregard California
20 laws regarding his Real Estate Broker fiduciary duties, and to manage Countrywide in a way
21 which publicly presented Countrywide as the actual lender of the funds being loaned out to
22 Californians and other Americans, and not informed borrowers that Countrywide and Mozilo's
23 sub-broker agents were acting as dual agents.

24 86. From June 2000 to September 2008 Mozilo ignored his Real Estate Broker duties by
25 supervising his sub-brokers with training to not inform borrowers that they and Countrywide were
26 acting as dual agents; design, sell and close mortgage loans which were in borrowers worse
27 financial interests; design loans to strip savings, income and equity from borrowers then produce
28 default and foreclosures; conceal from borrowers that they Countrywide was not actually lending

1 its own money, but funds of Bear Sterns and BofA; misrepresent to borrowers what terms and type
2 of loans they were actually buying and signing.

3 87. From on or about March to December 2000, defendants Mozilo, Lewis, Does 2-30 and
4 Wells Fargo Officers spoke with each other respectively from their Calabasas, Charlotte and San
5 Francisco offices once per month regarding Mozilo's progress reports on his efforts to move
6 Countrywide to broker subprime loans for them.

7 88. On or about May 2000, Mozilo and Kurland presented to Countrywide's Board their
8 intent of redirecting Countrywide's brokering of Prime loans for borrowers, to subprime loans for
9 borrowers who would not be able to afford to repay the loans that Countrywide brokered and that
10 such loans would be on behalf of Bear Sterns and BofA pursuant to Master Repurchase
11 Agreements that Countrywide Board approved.

12 89. At the May 2000 Board meeting, Countrywide Board of Director approved Mozilo's
13 plans.

14 90. On or about June 5, 2000, Mozilo and Kurland held meetings with defendant Does 31-
15 50 explaining how they were taking Countrywide – hitherto, primarily Prime lender – in a
16 direction that focused on increasing subprime and “non-conforming” loan originations, in order to
17 generate more money for them.

18 91. During this June 2000 and other meetings in 2000, Mozilo and Kurland explained to
19 defendant Does 31-50 how most Americans who had not purchased homes in the last 5 or so years
20 believed that home loans were limited to traditional fix-rate mortgages that were paid off in 30-
21 years and allowed them to build up equity and that they could use this public perception by
22 pretending that Countrywide would broker loans which still fit the traditional quality and type of
23 loans that would allowed them develop equity, while at the same time extending adjustable rate
24 mortgages disguised.

25 92. At this June 2000 meeting Kurland and Mozilo offered Does 31-50 more money if
26 they joined these efforts by helping them come up with marketing, sales and training ideas for
27 retraining Countrywide staff in practices where borrowers could be stripped of savings, income
28 and property equity; and Does 31-50 agreed to join Mozilo and Kurland plans.

1 93. Defendants Mozilo, Sambol, Colyer, Does 2-100, Bear Sterns, Wells Fargo & BofA
2 Board with Lewis, knew or reasonably should have known that subprime loans produced an
3 increase in loan defaults and home foreclosures among Americans.

4 94. Plaintiffs are informed and believe and based thereon allege that in their April, May
5 and June weekly meetings, Mozilo and Kurland talked about how the culture/staff in Countrywide
6 was use to applying the underwriting standards that Loeb put in place and which they had to
7 replace if they were to succeed in their subprime mortgage lending goals.

8 95. On or about June 19, 2000, Mozilo and Kurland spoke about how they could
9 dramatically increase their borrower client-base, and they stated that they would have to make
10 Countrywide publicly appear to be offering loan products which were financially more beneficial
11 than the loans Countrywide competitors were offering; therefrom Mozilo asked Kurland to
12 instruct his sub-brokers and agents, who have direct contacts with customers, to orally promise to
13 prospective borrowers that Countrywide could put them in loans with no closing cost, 30-year
14 fixed FHA or other “conventional” or “prime” loans at 1, 2, 3 percent interest rate; while at the
15 same time present written loan contracts which were so complex and confusing that borrowers
16 would not readily discern that Countrywide was charging twice or more times what was promised
17 or charged by other companies, strip savings, income and equity from property and cause loan
18 defaults and foreclosures.

19 96. Defendants Mozilo with Kurland held a meeting with Does 31-50 after the June 19,
20 2000 meeting where they informed them of their decision, instructed them to meet at least weekly
21 to develop and work out details of plans, so they could promulgate instructions among themselves
22 and other managers through internal memoranda, face-to-face and telephonic talks which would
23 train staff companywide to move in this new direction.

24 97. On or about July 17 and 18, 2000 meetings, Mozilo and Kurland spoke about and
25 agreed with each other to lead Countrywide in a direction that would increase brokering of
26 subprime loans which stripped borrowers savings, income and equity; train staff to not expose this
27 defect and lead borrowers to believe that they could afford to pay off loan just long enough until
28 statute of limitations for fraud and other civil provisions ran its course and MERSCORP was able

1 to foreclose on properties and turn proceeds over to Bear Sterns or BofA.

2 98. In their weekly Monday and Thursday meetings during July, August and September
3 2000, Mozilo and Kurland spoke about how borrowers who are used to buying prime loans, and
4 corresponding lower rate payments, would not be inclined to purchase the average subprime loan
5 and so they agreed that they needed to lure and induce borrowers into buying the loans brokered
6 by Countrywide and Kurland suggested that the best way to do this was to design loans that had an
7 initial low interest and payment rates which would be a teaser or bait rate, to trick the borrower to
8 accept loan terms, while obscuring the fact that it was designed to increase dramatically in future.

9 99. On or about July 17, August 14 and September 25, 2000, Kurland and Mozilo issued
10 orders for defendants Does 31 to 50, Vice President of Operations, Underwriting, managing
11 Mortgage Loan Brokers, to bring remote managers, as defendant Colyer, to Southern California to
12 train them on how to falsely tell borrowers looking to purchase home loans, and who received
13 estimates or commitments from others willing to broker lower rate loans, that Countrywide would
14 provide them with Prime “conventional” loan that had lower payment and interest rate than
15 Countrywide’s competitors.

16 100. At these training sessions, broker-managers, such as Colyer in 2004 and 2005, were
17 flown to Countrywide’s California offices where they were told instructions by Mozilo, Sambol
18 and Does 31-50 on how to “sell the payment” and conceal from borrowers that Countrywide’s
19 brokered loans would be higher than competitors, in order to induce borrowers from buying home
20 loans from Countrywide’s competitors; remove contractual loan contingency in real estate loan
21 contract and trapped them into accepting loans brokered by Countrywide.

22 101. Further, Mozilo and Kurland instructed Does 31-50 during the months of July,
23 August and September 2000 meetings to prepare training programs that taught personnel
24 techniques on how not to disclose and conceal from borrowers that Countrywide brokered loans
25 would cost twice or more what competitors would charge or what a prime loan would cost; and
26 that they were intentionally designed to strip equity from borrowers property by subsequently
27 increasing interest rates so as to consume 80 to 150% of borrowers income, make it impossible for
28 borrower to repay loan unless they could correspondingly increase their income as business.

1 102. Defendants Mozilo, Sambol, Does 31-50 knew or reasonably should have known that
2 their instructions and training of Countrywide employees to design loans in a way which stripped
3 savings, income and equity of borrowers would result in defaults, foreclosures and falsification of
4 information stated or given to borrowers by Countrywide sub-brokers.

5 103. On or about September 25, 2000, Kurland and Mozilo met and talked about
6 maximizing their profits further and decided to instruct, train or approve Does 31-50 and Does 51-
7 60 (the latters' headed up Countrywide's subsidiary company Landsafe as its officers) to instruct,
8 encourage or order staff and subcontractor appraisers, to falsely inflate the values of properties
9 that Countrywide was planning to broker in California, so as to broker mortgage loans at higher
10 than fair market property value so they could earn higher profits for Bear Sterns and themselves.

11 104. From on or about January 10 to December 20, 2000, Mozilo exchanged 30 phone
12 conversations with Does 2-30 and defendant Lewis along with 40 e-mails in working out the
13 agreements for him to broker loans for Bear Sterns and BofA which stripped borrowers savings,
14 income and equity before producing default and foreclosure.

15 **E. DEFENDANT SAMBOL & MOZILO AS CO-CONSPIRATOR**

16 105. From on or about October 4, to December 2000 Mozilo and Kurland held weekly
17 meetings, where they spoke about their plans with defendants Sambol and others, their need to
18 identify trustworthy senior staff to head up, lead and support efforts which portrayed to the public
19 that Countrywide was a company that *sold prime loans*, often backed by FHA, applied strict
20 underwriting standards which Federal Housing and Urban Development (HUD) endorsed, could
21 be trusted to broker and otherwise sell borrowers the best loans while being transparent and good
22 investment for general investors; while at the same time senior staff would support efforts which
23 would train and encourage Countrywide employees to conceal from the public and investors that
24 Countrywide was actually being led to defraud savings, income and equity from borrowers and
25 investors, by not brokering prime loans and not applying such standards.

26 106. On or about October 4, 2000, and each Wednesday in October 2000, defendant
27 Sambol and Does 31-50 held talks with Mozilo and Kurland where the latters' told them the
28 details of their plans to broker loans that stripped borrowers savings, income and equity, then

1 default and produce foreclosures; and Sambol with Doe defendants agreed to join and support
2 such efforts (heretofore cited as “Common Goals”) in exchange for a certain number of CHL’s
3 company, higher employment positions, shares options and or higher compensation.

4 107. On or about October 15, 2000, Mozilo and Kurland presented Sambol to
5 Countrywide’s Board of Directors to be in charge of promulgating and enforcing Common Goals
6 orders, directives and ideas among Countrywide employees, agents and the public, including
7 Plaintiffs, so as to achieve Common Goals and the Board voted unanimously for Sambol to head
8 up such efforts.

9 108. From on or about November 2000 to March 2006, defendant Sambol now sat in on
10 Mozilo and Kurland weekly discussions and contributed ideas on how to best present Common
11 Goals to subordinates throughout CHL and market them to Public; and on or about October 15,
12 2000, Mozilo asked Sambol to come up with things that Mozilo can make in Public statements
13 which would help them all accomplish Common Goals and Sambol answered that he would do so.

14 109. From on or about October to December 2000, Sambol managed certain Doe
15 defendants in the writing and developing of scripts for Mozilo to state publicly and that brokers
16 and other staff would be trained in order to broker loan products to mortgage borrowers who had
17 little or no understanding of the mortgage market; another script for existing home loan borrowers
18 who may have more knowledge, but not enough to understand the obscured complexities. Sambol
19 also ordered certain Does 31-50 to develop instructions for managers on how to influence staff to
20 design loan products which made borrowers feel as if they were buying the best possible product
21 for the purchase or refinancing of their property, while concealing or obscuring how loans would
22 strip savings, income and equity from their property, lead to default and foreclosure.

23 110. From on or about October-December 2000 through December 2001, Defendant
24 Sambol personally held meetings from Mondays to Friday with groups of staff where they brained
25 stormed and discussed the development of training scripts, procedures and policies that Mozilo
26 and Kurland asked Sambol to produce, and at these meetings Sambol concluded, among other
27 things, that Countrywide would need to train brokers and staff to focus the borrower on the
28 temporary low payment and conceal from borrower that low payment was only temporary by

1 becoming personal with borrowers so they would trust them and have a false sense of comfort and
2 security in Countrywide being an honest and trustworthy fiduciary in brokering their home loan:
3 e.g. by laughing, joking, fabricating stories which relates to borrowers experiences and to
4 otherwise gain borrower's trust such as Colyer March 2006 claims: "We really care about
5 designing the right loan each customer..." "out of all the lenders I've worked for before,
6 Countrywide is the only one I've found who doesn't put its interest ahead of borrowers." "I can go
7 home every day and sleep good because I know that I'm not ripping anyone off and the loans I sell
8 is the best loan possible for the customer..." And "no one can do what Countrywide can."

9 111. From January 2001 to December 2005, Sambol wrote different scripts that guided
10 sub-brokers on how to promise the borrower anything at all which would convince them to hire
11 Countrywide to broker loans, as Colyer represented to Plaintiffs David and Salma on March 14,
12 2006: no closing cost, 1 to 3 % interest rates or payment rates which was low enough to beat all
13 the competition; repeating above-described promises and statements, making light jokes and
14 laughing, all in order to convince David and Salma to hire Countrywide to be their loan broker.

15 112. Sambol produced instructions throughout this period for building borrowers
16 confidence up and leading them on as long as possible with false promises of 30-year fixed rate;
17 "the best" and safest possible loan was being worked out; "we provide you with the dream of
18 owning your first home," as Colyer repeated countless times in March 2006 to David and Salma
19 Merritt; retell false stories about other lenders higher cost loans, and once they had no choice but
20 to go with CHL, present them with loan product which used a low "teaser rate" then rush them
21 through the process of signing while unleashing documents that contain fifty (50) to one-hundred
22 thousand or more words in 8 or 6 point font, cited in a hybrid language not used before in the
23 residential loan industry.

24 113. Each time Sambol produced instructions for sub-brokers or modification of existing
25 instructions, he presented them to Mozilo, Kurland on other Board of Directors who approved
26 instructions in 2001, 2002, 2003, 2004, 2005 and 2006, thereat ordering for instructions to be
27 promulgated throughout Countrywide, including training defendant Colyer from January 2005 to
28 March 2006, in these practices and instructions.

1 114. Sambol then worked with certain underwriters - part of Does 31 to 50 - every
2 Wednesday from on or about January 10, 2001 to March 29, 2006, formulating and modifying
3 how sub-brokers, as defendant Colyer, should work with junior underwriters in designing loans
4 pursuant to agreements Mozilo et al made with Bear Sterns and BofA, with payments that
5 increased over time to take 75, 90 and more than 100% of borrowers income so they could ensure
6 that borrower would default and be subjected to foreclosure, while simultaneously concealing
7 from borrower – i.e. not disclosing – that the loan(s) were being underwritten to increase
8 likelihood of default and foreclosure pursuant to defendants BofA, Does 1-30 and or Wells
9 instructions or criteria.

10 115. On or about December 20, 2000, Sambol wrote up then circulated plans among
11 Countrywide Vice Presidents and Managers - within Does 31 to 50 – informing them that they had
12 to direct, encourage, pressure or order Countrywide sub-brokers and underwriters to ignore part or
13 all of Countrywide’s own promulgated underwriting guidelines in CLUES, through “exceptions”
14 that would be approved by Countrywide “risk management” and or “structured lending desk” staff
15 located in Plano, Texas who would know how many and what types of subprime loans had to be
16 produced to supply Bear Sterns, WELLS and BofA securities pools.

17 116. On or about January 8, 2001, Sambol reported his written plans to Mozilo and
18 Kurland. After some discussion, Mozilo and Kurland added to, modified and essentially approved
19 Sambol’s plans, emphasizing for brokers and agents to “push and sell the lower payment option,”
20 conceal the later balloon payments; and to portray the quality of loans as going through “vigorous
21 underwriting” standards, thereat Mozilo directed Sambol to promulgate these orders to Does 31-50
22 through interoffice memos, emails and phone calls, so they could encourage, train and instruct
23 their subordinate VPs, Managers and brokers throughout Countrywide to follow suit.

24 117. During this January 8, 2001, meeting between Mozilo, Sambol, Kurland and others,
25 Mozilo, Kurland and Sambol stated among each other that they could best manipulate or influence
26 their sub-brokers to carry out their plans by paying them higher compensation directly or via
27 bonuses and other ways; and to persuade staff that they were on a noble mission to help
28 Americans, particularly African-, Latino- and other minorities, achieve the “American Dream” of

1 owning a home.

2 118. Mozilo told Kurland and Sambol that since Loeb had established relations with HUD
3 in providing FHA loans in low-income and minority communities, that they should use this history
4 to portray Countrywide as a company that should be trusted to broker borrower loans, thereat they
5 agreed to have Sambol publicize this to the Public while knowing they nor Countrywide should be
6 trusted by any borrower.

7 119. On or about every Wednesday from January 17 to December 12, 2001, Mozilo and
8 Kurland held face-to-face, telephonic and or e-mail talks with Sambol and or Does 31 to 50, to
9 monitor the development of their predatory lending ideas within Countrywide, receive progress
10 reports on its implementation from VP managers and monitored whether they were effective in
11 increasing home owner defaults and foreclosures.

12 120. On or about January 28, 2001, Mozilo, Kurland, Sambol and Does 31-50, met in
13 Countrywide headquarters to discuss the contents of the public statements Mozilo would be
14 making on financial Talk and News programs, Security and Exchange Commission (SEC) filings
15 and other public communications that would be disseminated to Plaintiffs and other Californians.
16 Mozilo, Kurland and Sambol agreed with each other that Mozilo should always state that the
17 quality of loans brokered by Countrywide were “prime quality ... low cost loans ... using quality
18 control audits to monitor compliance with [CHL] underwriting criteria”; while at the same time
19 Mozilo, Kurland and Sambol instructed Does 31-40 to disregard control audits and not apply
20 sound underwriting criteria and to instead from February 2001 to March 2006, Mozilo issued
21 emails and made phone calls to Does 31-50 and ordered them to train underwriters and sub-
22 brokers to start disregarding underwriting criteria to produce an ever growing quantify of
23 subprime and non-prime loans.

24 121. On or about February 2001, and repeatedly each year to March 2006, Mozilo and
25 Kurland told, emailed and wrote memos to Countrywide managing staff, including Sambol and
26 Colyer, to train staff and sub-brokers to not use the term “subprime loans” with borrowers in
27 connection with brokering subprime loans with borrowers, but to use “conventional,” “Prime,”
28 and other terms to conceal the fact that they were brokering inferior loans.

1 122. On or about February 28, 2001, Mozilo personally issued public statements with SEC
2 which reported to Plaintiffs and other Americans, that Countrywide was focusing on producing
3 “prime quality ... low cost loans ... using quality control audits to monitor compliance with
4 Countrywide Home Loans underwriting criteria” that affords Americans best chance to own their
5 first home.

6 123. Defendants Mozilo, Kurland, Sambol on or about March 7, 2002, March 28, 2003,
7 March 12, 2004, March 15 & September 22, 2005 and March 1, 2006 met at Countrywide’s HQ
8 where they talked about Mozilo making direct public statements to Americans, including
9 Plaintiffs, that Countrywide focused on producing “prime quality ... low cost loans ... using
10 quality control audits to monitor compliance with [CHL] underwriting criteria”; “We’re
11 [Countrywide] looking to hold only pristine product on the balance sheet,” and each time on these
12 days *ibid*, Mozilo did in fact make these statements publicly through in Public reports, while
13 knowing he, Kurland and Sambol were increasingly instructing Countrywide subordinates to
14 broker subprime, non-prime and “Combo” loans and to disregard underwriting standards.⁴

15 124. In 2000, 2001, 2003 and onward, Mozilo directed his staff to conduct market
16 assessments which evaluated loan products being brokered by Countrywide to borrowers and how
17 many borrowers the market was able to sell to, and data repeatedly demonstrated that there was a
18 limitation on number of borrowers in general, and even a smaller number specifically, who were
19 interested or inclined to purchase subprime predatory loans.

20 125. Based on reviews of Federal Trade Commission, SEC and the States of California,
21 Florida, Illinois and New York Attorney Generals, Plaintiffs allege on information and belief that
22 on or about January 12, 2004, Mozilo, Sambol and Kurland talked about the staff findings *ibid*.
23 and agreed that they could broaden the number of potential borrowers if they could convince those
24 who qualified for prime loans that subprime loans were better for them; and they agreed to train,
25 instruct and authorize Does 31-50 to train and instruct their subordinates to manipulate, induce and
26 steer borrowers, who would normally qualify for Prime loans, into subprime loans without

27 ⁴ Because these public statements are made through public documents which are quite lengthy, Plaintiffs shall not Exhibit
28 them at this time; however, reserves right to present at proper future proceedings.

1 disclosing it, and pay subordinates bonuses and higher pay for volume of subprime loans, not
2 quality.

3 126. On or about January 15, 2003, through November 13, 2003, Mozilo, Sambol and
4 Does 31-50, hired advertising firm to make the following representations to the Public through
5 Mail Brochures, Telephone calls, Internet, Radio and Television advertisements distributed to
6 home buyers: 100% financing, No Closing Cost, 30-year fixed rate, 1 to 4 percent interest rates;
7 while at the same time Mozilo and Sambol knew that they were ordering Countrywide's sub-
8 brokers to not afford borrowers any of these terms and intended to only bait them so sub-brokers
9 could broker more expensive subprime loan products.

10 127. On or about October 24, 2005, Bears Sterns with Does 2-30 and Wells summoned
11 Mozilo to their New York City offices and instructed him to direct his sub-brokers to steer
12 borrowers into what would be called "Pay Option Adjustable Rate Mortgages" (ARMs) and Home
13 Equity Lines of Credit (HELOC) and entered into a new Master Repurchase Agreement with
14 Countrywide via Mozilo which obligated Bear Sterns to continue to fund loans that were brokered
15 by Countrywide according to the terms they dictated.

16 128. On or about October 26, 2005, Mozilo reported this new agreement to Countrywide
17 Board who approved it and he thereafter directed defendants Sambol, Does 31-50 to advertised to
18 Public via newspapers, television, internet, radio and mailing "Combo Loans" were prime loans
19 which borrowers would be able to pay off and secure "**dream of owning your first home,**" while
20 concealing that loans were designed to strip savings, income and property equity and training
21 Mozilo's sub-brokers to pretend to borrowers, including Plaintiffs, they were originating prime,
22 not subprime loans.

23 **F. MOZILO & SAMBOL TRAINING OF DEFENDANT COLYER**

24 129. On or about October 2005, defendant Mozilo designated Sambol to be the chief
25 officer to head up Marketing and extended Mozilo's direct authority to direct and train
26 underwriters, sub-brokers to design and broker subprime loan products from on or about October
27 2005 to at least March 27, 2006 when such was designed and sold to the Plaintiffs.

28 130. Defendant Colyer was hired by Mozilo on or before January 2005, to be one of his

1 sub-brokers who would receive training and instructions from Mozilo and from those Mozilo
2 designated to train Countrywide's sub-brokers.

3 131. From on or about January 2005 to March 2006, defendant Colyer traveled to
4 Countrywide HQ as well as conducted teleconferences with Mozilo, Sambol and other brokers, to
5 undergo training and instructions on how to represent to borrowers that Countrywide would be
6 lending them its own money, while concealing it was third party lender – Bear Sterns – lending
7 funds; how to bait borrowers with agreements of very low monthly payments, then focus their
8 attention on the low payment while concealing the true terms designed to strip them of savings,
9 income, equity and property.

10 132. During his January 2005 to March 2006 trips to HQ, Colyer met and spoke with
11 defendants Mozilo, Sambol and or Does 31 to 50, who detailed for him that as a California Real
12 Estate Broker who was under the management and control of Mozilo, his compensation was tied
13 to him orally promising borrowers whatever he had to promise in order to gain their trust and
14 confidence in him and Countrywide so as to lure them away from competitors and convince them
15 to hire Countrywide to broker their loans.

16 133. Colyer told Mozilo, Sambol and Does 31-50 that he was willing to disregard his
17 duties under California Real Estate Broker codes as long as they compensated him according to
18 agreements which are unknown to Plaintiffs at this time.

19 134. Between January 2005 to March 2006, Mozilo, Sambol and Does 31-50 specifically
20 told Colyer that he needed to convince borrowers that Countrywide would provide them the
21 lowest possibly interest and or payment rate in the industry; would sell them prime loan;
22 underwritten to follow FHA or other federal and state standards; would fulfill borrowers "dream"
23 of owning their home; learn from borrowers their deadline dates for removing loan contingencies
24 from real estate contract and learn what Countrywide competitors were offering and no matter
25 how low offers were, present offers to borrowers which were as much as half of what competitors
26 offers were; manipulate borrower into believing that it was best to not put any or much of a down
27 payment; then design loan(s) which did not fulfill any of these things and stripped them of
28 savings, income, equity and property and to represent to Public that Menlo Park office was a

1 Bank.

2 135. At every training, instruction or other sessions with Mozilo, Sambol or Does 31 to 50,
3 from January 2005 to March 2006, Colyer readily accepted each of these request, including
4 presenting to Public that his office was a Banking operation although he knew that it he was not
5 operating a bank, and upon returning to Menlo Park office after training sessions, he faithfully
6 implemented Common Goals upon those borrowers residing in Santa Clara and adjacent counties.

7 136. During 2004, 2005 and 2006, defendant Countrywide Board of Directors were
8 provided reports from Does 31-50, on behalf of Mozilo, Sambol and others, which reported that
9 the loans Countrywide were brokering through Colyer and other sub-Brokers was causing a
10 dramatic increase in defaults and foreclosures in California and elsewhere and data tied
11 Countrywide staff and agents practices of misleading, lying and otherwise misrepresenting loan
12 products to borrowers as main cause, and each time the Board of Directors reviewed these reports,
13 they privately spoke on this subject and officially voted to support and authorize Mozilo, Kurland,
14 Sambol et al to continue these practices through Colyer and other sub-Brokers.

15 **G. LOAN APPLICATION ALLEGATIONS**

16 137. On or about February 27, 2006, Countrywide's Consumer Markets Division
17 maintained offices throughout California, including a San Mateo County office whereby
18 Countrywide designed then brokered loan products to consumers, including the Plaintiffs. Further,
19 this office was publicly portrayed as a Banking Institution by positioning "Countrywide Bank" at
20 its entrance although it was in fact a California Mortgage Broker.

21 138. Based on advertisements placed with San Francisco Bay Area and other media
22 groups, on information and belief, Plaintiffs allege that before February 27, 2006, Sambol, Mozilo,
23 Does 31 to 50 began a deceptive marketing campaign to market its Subprime brokering efforts to
24 borrowers such as Salma and David, by aggressively promoting "teaser" interest rates as low as
25 1% and publishing daily or weekly ads portraying Countrywide as a Bank. From on or about
26 January 2005 to March 2006, defendants ran advertisements in the San Jose, San Francisco,
27 Oakland, Los Angeles and other California television channels, Internet and Brochure Mailings
28 stating they would provide loans with 1, 2, 3 or 4% interest rates, no closing costs, low monthly

1 payments or no origination costs. These public advertisements did not distinguish between annual
2 percentage rates, “payment rates,” nor warn Plaintiffs or the public regarding negative
3 amortization, complex acceleration or teaser rates, note reset rates or automatic “re-casting” of
4 promissory note rates into notes bearing rates in excess of 10%, not 1%, that underwritten
5 standards were ignored and that Countrywide knew or had reason to know that purchasers of loans
6 could not repay the loans. Plaintiffs David and Salma saw, heard and read these advertisements
7 throughout 2005.

8 139. From January 2004 to March 2006, Plaintiffs received over ten (10) mailings from
9 Sambol, Mozilo and Does 31 to 50, claiming it was America’s #1 Home lender that could be
10 trusted to sell Plaintiffs the best or right loan for them which would have no closing cost and
11 interest rates as low as 1%; however, these defendants failed to disclose that Countrywide was a
12 broker who would not provide any of these things and would in fact strip them of their savings,
13 income, equity and property.

14 140. These public solicitations portrayed defendant Countrywide as a “lender,” did not
15 disclose that it was a real estate mortgage broker, concealed that it was using Bear Sterns and
16 BofA funds and acting as their broker while concealing that under California law it was obligated
17 to inform borrowers that its role was loan broker for them as well as third party lender.

18 141. From on or about April 13, June 15, July 20, August 17, September 14, October 19,
19 November 16, December 14, 2005; and January 11, February 8, and March 8 2006, Plaintiffs
20 David and Salma both received telemarketing calls from Countrywide defendants Does 61-70,
21 who were supervised by Mozilo, Sambol and Does 31-50, soliciting them to purchase their home
22 loan through Countrywide, and orally promised that Countrywide would be able to sell them a
23 FHA or other type loan which would meet their goal of \$2,000 or so monthly payments by
24 brokering a loan product to be as low as 1%, have no closing cost and be more affordable than
25 what their competitors could broker for Plaintiffs.

26 142. Based on California and 16 other States Attorney General reports, Plaintiffs are
27 informed and believe and based thereon allege that Mozilo, Sambol, Countrywide, Wells Fargo, as
28 broker and Master Servicer, for Bear Sterns and BofA, received monthly requests, including

1 March 2006, for the quantity and terms they wished Countrywide to produce Pay Option ARM
2 and HELOC loans secured by borrowers deeds of trust pursuant to the Master Repurchase
3 Agreement Mozilo and Board of Directors entered into with Bear Sterns and BofA. Countrywide
4 then steered borrowers as well as Plaintiffs purchase loans based on Bear Sterns and BofA
5 interests and not Plaintiffs, while concealing from borrowers these broker-lender relationships.

6 143. Based on Wells Fargo 2006 Master Servicing Agreement with Bear Sterns and
7 Countrywide, Plaintiffs are informed and believe and based thereon allege that Bear Sterns with
8 Wells Fargo and BofA, were participants in Countrywide's loan brokering business during March
9 2006, instructing Countrywide which types of loans to originate, provided funds to Countrywide
10 for such loans, such as Plaintiffs, instructing Countrywide on how to service loans. Further, loans
11 were delivered to Bear Sterns agent Wells Fargo by pre-assignment before origination of loans.
12 Part of Servicing Agreement accompanies this complaint as *Exhibit 33* and is incorporated herein
13 as if fully set forth.

14 144. Based on Countrywide applications for investment funds from 2004 to 2006,
15 Plaintiffs are informed and believe and based thereon allege that from January 2003 to January
16 2007, at least 50% of the loans produced by Countrywide were loans brokered for Bear Sterns,
17 Wells Fargo, BofA and others who provided funding, and not loans provided by Countrywide
18 funds; all along concealing from borrowers, including Plaintiffs, that they were originating loans
19 for third party lenders while representing that origination was with Countrywide funds.

20 145. This was concealed from Plaintiffs and had they known Countrywide was not funding
21 loans for itself, they would not have purchased their loan through Countrywide. The Countrywide
22 defendants, through their deceptive and misleading advertising scheme profited immediately on
23 the loans sold to Plaintiffs including but not limited to following:

24 (a) Producing the Pay Option ARM Note at an above market interest rate for such a loan,
25 which earned a higher premium, meaning the Investors paid Countrywide more than 100% of the
26 loan principle amount, which generated an immediate profit of 2-4% of the principle balance of
27 the Note, versus .5%-2% of the principal balance of the Note received on prime loans;

28 (b) Charging Plaintiffs a "loan discount" fee of \$8,129, when in fact Plaintiffs loan was

1 not discounted from the then existing interest rate for the same first loan, but rather charging more,
2 the opposite of defendant Countrywide's oral representations to the Plaintiffs and the public;

3 (c) Charging loan processing, credit report, appraisal, underwriting and other fees far in
4 excess of defendants costs', contrary to law, and in excess of those charged by Countrywide's
5 competitors;

6 (d) Producing the purchase money HELOC second loan at an above market interest rate
7 for similar HELOC loans, which Countrywide immediately pre-sold to the "investors" ordering
8 and providing the loan products for a premium above the principal balance which generated and
9 immediate profit for Countrywide as their agent-broker while not disclosing these relationships or
10 practices to the public or Plaintiffs;

11 (e) Engineering larger principle balance loans by falsely inflating value of property
12 through a network of appraisers, including defendant Benson, raising additional profits, and
13 without regard for the ability of purchasers of loans to repay loans, and urged purchasers of loans
14 to encumber their homes over 100% of fair market or assessed value to Defendants' profit – i.e.
15 Plaintiffs loan principle amount was \$60,000 above fair market value of \$670,000 which was
16 known to defendant Countrywide when Plaintiffs loans were produced;

17 (f) Placed purchasers of loans, including Plaintiffs, in credit card "piggyback" Home
18 Equity second loans bearing interest rates over 10% while advertizing 1% "fixed" interest rates
19 and obscuring total monthly payment obligations in disclosures, among other deceptive and
20 misleading advertizing schemes.

21 146. The Plaintiffs, at all times relevant herein, are first-time home buyers who were
22 newlyweds at the time and not at all aware of the process or complexities of purchasing a home;
23 any aspect of home loans, deeds of trust, home financing, loan terms, and evaluating or
24 negotiating home financing and lacked knowledge and experience in secured real estate loans.
25 Plaintiffs placed trust and confidence in the good faith, integrity, and honesty of defendant
26 Countrywide through its local broker defendant Colyer, TV commercials and public statements of
27 Mozilo and other Countrywide representations.

28 147. Based on personal experiences of David and Salma, on information and belief

1 Plaintiffs allege that at all times relevant herein, defendant Countrywide deceptive marketing and
2 advertising practices were untrue and misleading in that Defendant Countrywide, as a matter of
3 practice known to Board of Directors of Countrywide, Wells Fargo, BofA, FATC, MERS and
4 Bear Sterns, and ordered, approved and directed by Mozilo and Sambol:

5 (a) Provided false and deceptive monthly home loan payment estimates below those
6 provided by other mortgage lenders in order to induce borrowers who are part of the public, as
7 Plaintiffs, to rely on Countrywide Defendants to broker loans for the close of escrow on property
8 and this caused Plaintiffs and other borrowers to release home-purchase-contract loan conditions
9 precedent to Plaintiffs obligation to purchase the home, and once committed to Countrywide,
10 Countrywide defendants then switch, change or otherwise altered the lower estimated mortgage
11 loan interest rates, loan principal amount, loan origination fees, loan costs, loan payments, loan
12 repayment terms, loan index or margin rates, to higher amounts than promised or represented
13 before or at the close of escrow, switching to loans that were less favorable than loans
14 Countrywide's competitors were willing or able to provide public and Plaintiffs;

15 (b) Induced Plaintiffs and public into selecting Countrywide to purchase loan products
16 based on defendant Countrywide's Television, Internet, or other media promises of No Closing
17 Costs', no origination fees, low interest rates, or other loan fees; no competitor was more
18 trustworthy to broker or sell Plaintiffs and borrowers loans than Countrywide;

19 (c) Concealed that defendants intended to provide Plaintiffs with two loans with no down-
20 payment, while discouraging them from making a down-payment against Plaintiffs financial
21 interests to do so; then concealing that Countrywide would not underwrite the FHA or prime fixed
22 rate, 30-year amortization traditional-loan that Defendants orally and in writing promised to
23 Plaintiffs would be the loan they were signing at close of escrow;

24 (d) Failed to state that defendants intended to inflate and increase the purchase price of
25 Plaintiffs home considerably above market value in order to allow Countrywide defendants to earn
26 more on commission over what honest mortgage brokers would have charged; while falsely and
27 deceptively representing its loan products were discounted, and engaged in other deceptive
28 manipulative, and predatory loan practices, which the public and Plaintiffs reasonably could not

1 detect until sometime after close of escrow. Some of defendants' advertisement are attached
2 hereto, marked *Exhibit 9*, and incorporated herein by reference. A copy of defendants initial Good
3 Faith Estimate of loan costs', terms, FHA etc are attached as *Exhibit 10* and incorporated herein by
4 reference.

5 (e) Twice per month from May 2006 to November 2009, delivered false and deceptive
6 monthly home loan interest rate payment coupons to Plaintiffs and other borrowers; false and
7 deceptive Good Faith Estimates of loan, terms and closing costs, which Countrywide presented as
8 the only payment option available to Plaintiffs on the first and fifteenth of each month

9 148. On or about February 25, 2006, Chen had told plaintiffs Salma and David that he was
10 only the Agent for the Sellers who had purchased the property to live in but an emergency arose
11 that forced them to sell the property below what they purchased it for.

12 149. Chen told plaintiffs Salma and David on or about February 25, 2006, that the owners
13 had paid \$729,000 for property and was willing to sell it to Plaintiffs for \$719,000.

14 150. Chen further told Salma and David that the reason property value was \$729,000 was
15 due to Sellers putting carpet throughout home, granite kitchen tops, Oven, Microwave,
16 Dishwasher, Air conditioner Units, Internet and Cable wiring throughout and, most importantly,
17 that Townhome was one of only six Townhomes which had a third parking space, in addition to
18 two garage, spaces that was directly adjacent to home.

19 151. Once Plaintiffs agreed to purchase the home and informed Chen that they would seek
20 to get a loan for \$729,000 so they could have carpet removed and wooden floors installed, Chen
21 took back his offer to sell for \$719,000 and raised price to \$729,000.

22 152. On or about February 27, 2006, after Chen re-told Salma and David that owners had
23 paid \$729,000 for Property, Plaintiffs entered into a Residential Real Estate purchase agreement to
24 purchase the real property at 660 Pinnacles Terrace, Sunnyvale in Santa Clara County for the sum
25 of \$729,000 and was willing to put 5-10% down payment.

26 153. On or about March 2, 2006, Salma and David spoke with two mortgage loan brokers
27 who had previously qualified them for funding of other prospective property and committed to
28 find a lender willing to fund this property with payments that included taxes, insurance, 30-year

1 fixed rate that would be prime loan.

2 154. On or about March 10, 2006, David and Salma called defendant Colyer about whether
3 Countrywide could loan them 90-95% of property price; Colyer asked what monthly payments the
4 two other brokers were offering; Plaintiffs told him one broker was offering to provide them a
5 loan for \$4,600 the other for \$4,800 and he told them that he would see what he could do as he
6 took their application over phone. Plaintiffs also told Colyer that Salma was disabled and would
7 only have social security income starting in a year or two.

8 155. Colyer then told Salma and David after taking application that day, that he could
9 provide them with a loan that had payments “maybe 40 percent lower than the quotes the others
10 gave you” and if they would authorize him to run their credit reports and research this he would be
11 able to provide a more certain answer. That they need not worry about their low income because it
12 was normal practice for brokers to “exaggerate” what borrowers made in order to get qualified.
13 Plaintiffs did not know that it was illegal for Colyer to falsify their income.

14 156. Colyer stated to both Plaintiffs during this talk that “Countrywide would fund your
15 home as it does for millions of Americans.... We have been lending money for first time home
16 buyers more than any other lender.” representing that it would be Countrywide’s money funding
17 their property and at no time did Colyer represent that he would be brokering loan for Wells or
18 Bear Sterns.

19 157. On or about March 2006, Bear Sterns communicated to Mozilo, Sambol and Does 31
20 to 50, through Wells Fargo, that they wished for Countrywide, as their broker, to steer as many
21 borrowers as they could into buying loans that financed 100% of their property and design terms
22 to strip borrowers’ savings, income, equity and property from them.

23 158. At the same time, Wells Fargo had agreed to be Master Servicer of Plaintiffs loans in
24 order to conceal the identities of investors and Bear Sterns role in the deceptive practices.

25 159. Colyer, through his immediate supervisors who are within Does 31-50, contacted
26 other lenders of home mortgages to determine what types of terms they would provide for
27 plaintiffs and to see whether brokering a loan for others would provide him and Countrywide
28 greater compensation then what Bear Sterns would compensate them for and on or about March

1 23, 2006 Colyer sent Plaintiffs information to “Diablo” loans who, based on this information
2 Plaintiffs believes and allege, informed Colyer and Does 31-50 that Diablo would not compensate
3 them as much as Bear Sterns would. Part of this communication is referenced as *Exhibit 34*,
4 accompanying this complaint and incorporated as if fully set forth herein.

5 160. Plaintiffs are informed and believe and based thereon allege that Colyer contacted
6 Mozilo’s headquarter offices on or about March 10, 2006, spoke with one of the Does 31-50,
7 pursuant to company protocol put in place by Mozilo, Sambol and Countrywide’s board of
8 directors, to learn what types of loan(s) they wished Colyer office to broker for Plaintiffs.

9 161. On or about March 10, 2006, one of the Does 31-50 informed Colyer that they wished
10 for him to sell Plaintiffs a “100% Combo Loan” pursuant to the training they provided him at HQ
11 during 2005 and influence Plaintiffs to not put any down-payment so as to increase Countrywide
12 defendants and Bear Sterns compensation.

13 162. On or about March 10, 2006, Colyer accepted the instructions to steer Plaintiffs into
14 Countrywide’s five-year Option ARM and HELOC Combo Loan package. Colyer further decided
15 that he would pretend to Plaintiffs that he was arranging a loan that was in their best financial
16 interest and conceal from Plaintiffs that it would strip all their equity and personal funds before
17 producing default and foreclosure.

18 163. On or about March 9, 2006, Plaintiffs met with Colyer as one of Countrywide’s top
19 local representatives in Menlo Park offices to complete loan application, provide a copy of the
20 townhome purchase agreement, copies of pay stubs, W-2’s, 2005 tax returns and other financial
21 information showing gross income in 2005, was \$32,312 for plaintiff David Merritt and would
22 increase to \$60,000 for 2006 onward; while Plaintiff Salma Merritt was on temporary 2-year
23 disability payments of \$5,200 which was scheduled to reduce to \$1,400 in September 2008.

24 164. On this same day, Colyer reaffirmed his agreement that he would provide a loan that
25 was 40% lower than Plaintiffs two brokers in order to induce them into terminating relations with
26 their two brokers and to accept Countrywide as their lender; and stating that as Manager of office
27 he would ensure that they received the best loans on the market which would meet their financial
28 needs and long term investment goals. Colyer continued to conceal that he and Countrywide was

1 going to broker funds of third party lender Bear Sterns.

2 165. During the week of March 8, 2006, Salma and David conducted internet research on
3 Countrywide and received dozens of public reports and statements that Mozilo, Kurland, Sambol
4 and other Countrywide officers had made. David and Salma read, saw and heard defendant Mozilo
5 stating that Countrywide only sold prime quality loans, used “strict underwriting standards” that
6 insured healthy borrowers; provided borrowers the lowest interest rates and monthly payments in
7 the nation; if investors provided funds for Countrywide to originate loans they would be assured to
8 receive some of the best returns on their investment.

9 166. None of these statements made by Mozilo and published by Countrywide, reported
10 that they were false although Mozilo, Sambol and Countrywide Board of Directors knew that they
11 were false.

12 167. During March 8 and 9, 2006 talks with Colyer, Colyer referenced numerous television
13 commercials that had been broadcasted to Plaintiffs and other borrowers – i.e. public – as proof
14 that Countrywide was a lender of money which Plaintiffs could easily trust and would have
15 Plaintiffs best financial interest at heart while knowing such was false.

16 168. Specifically, Plaintiffs read during March 2006, that Countrywide used top industry
17 underwriting standards, was committed to helping women and minorities obtain the “American
18 Dream,” loaned its own money; was regulated federally; employed highest ethical standards;
19 provided best loans for borrowers; was one of the best choices for investors to invest their money
20 in; and “No one [i.e. competitors] could do what Countrywide can.” i.e. provide lowest cost loans
21 that will save borrower far more money than what lenders or other brokers would provide.

22 169. On or about March 10, 2006, and at subsequent meetings in March prior to close of
23 escrow, and at all times relevant herein, defendants, Mozilo, Sambol, and Does 1 to 100, through
24 its local representative Colyer, Kimble and others made, provided and represented to Plaintiffs
25 orally that Countrywide would make an FHA loan for \$729,000 to Plaintiffs, 5% down, with a
26 total monthly payment of \$1,800 - \$2200 per month which paid down loan’s principle and interest,
27 and included property taxes, concealing that it was only an agreement to lure Plaintiffs away from
28 other two lenders or brokers.

1 170. On or about March 10, 2006, Colyer told Plaintiffs, on behalf of Countrywide and his
2 supervising broker Mozilo: “Countrywide applies the strictest underwriting standards to all the
3 loans we produce to ensure that you’re able to maintain your property investment for your
4 future....” And loan will meet FHA and HUD standards; however, Colyer failed to disclose that
5 the truth was a practice to discouraged staff from actually applying federal or other strict
6 underwriting standards and actually reduced Plaintiffs ability to maintain their property in the
7 future.

8 171. On March 10, 2006, at Countrywide Menlo Park offices, Colyer told Plaintiffs that he
9 and his Countrywide staff would work tirelessly to find the very best loan for them, and that if
10 they did not have the right loan product available, that he had the ability to get authorization from
11 his superiors to custom design loan product to meet Plaintiffs needs or obtain it from elsewhere.
12 Colyer further stated that if Plaintiffs could find anyone who could provide them with a lower
13 monthly payment or interest rate than what he will do, then Countrywide will insist that Plaintiffs
14 go with such lender.

15 **H. CO-CONSPIRATORS COLYER, CHEN, BENSON**

16 172. Based on Colyer informing David and Salma on March 17 over phone call, that he
17 had several talks with Chen, Plaintiffs believe and therefore allege that on or about March 10,
18 2006, Colyer contacted Chen and told Chen that he was looking to fund the property for Plaintiffs
19 and was seeking Chen’s help in manipulating Plaintiffs into accepting Countrywide as their
20 lender. Chen told Colyer that he fully supported him in funding his property for sell to Plaintiffs.
21 Colyer asked Chen whether he was willing to communicate to Plaintiffs that Countrywide was a
22 good trustworthy place to fund property, Chen stated that he would.

23 173. Also based on this information and belief and written communications between
24 Benson and Chen, Plaintiffs allege that during this talk, Colyer and Chen spoke about the selling
25 price of property; Chen informed Colyer that he recently purchased property for approximately
26 \$650,000 and that although its market value was only approximately \$670,000 currently, that he,
27 Chen, had a working relationship with appraiser – defendant John Benson – who had already
28 agreed with Chen to falsely inflate the value of property beyond its actual market value of

1 \$670,000.

2 174. Further, defendant Chen asked Colyer whether he opposed having Benson conduct
3 Colyer told Chen that he would accept Chen's referral of Benson because Benson also had a
4 working relationship with Countywide in falsely inflating property values for Countrywide
5 previously.

6 175. On this same information and belief Plaintiffs allege that on or about March 10, 2006,
7 Colyer asked Chen to contact Benson on behalf of Countrywide to ensure that Benson would
8 falsely inflate property value beyond the \$729,000 that he was prepared to due for Chen and
9 produce an appraisal report of \$740,000. And Chen told Colyer that he would do this.

10 176. On or about March 10, 2006, Chen contacted Benson with request to falsely inflate
11 the property to meet Countrywide's \$740,000 lending goals and Benson told Chen that he would if
12 Chen and Countrywide promised to refer more work to him in the future. Chen promised Benson
13 such, and then faxed Benson home comparable from other parts of Sunnyvale that he, Chen, and
14 Countrywide wanted Benson to use to falsify Property's appraisal with.

15 177. Defendants Colyer, Benson and Chen respectively took California's Broker,
16 Appraisal and Real Estate licensing exams and directly took an oath that they would not take any
17 actions to falsify the value of any California property, and on or about March 10, 2006, they
18 disregarded this licensing commitment by communicating to Benson information that they wished
19 him to use in order to effect falsified appraisal report. A copy of Countrywide and Chen's
20 communication to Benson is accompanying this complaint as *Exhibit 35* and incorporated herein
21 as if fully set forth.

22 178. On or about March 10, 2006, Chen and Colyer, on behalf of Mozilo and Sambol,
23 formally hired defendant Benson, to produce a false appraisal of property and on or about March
24 17, 2006, Benson wrote up an appraisal report that falsely appraised Property at \$740,000 and
25 delivered it to Colyer and Chen.

26 179. Colyer and Chen then reviewed Benson's report, thanked him for the falsified value
27 and compensated him not only with hundreds of dollars for this appraisal, but by having him
28 perform additional appraisals on other borrower properties from March 2006 to December 2008.

1 180. Based on reports produced by California and 16 other state Attorney Generals
2 Plaintiffs believe and allege that Mozilo, Sambol, Does 31-50 and Countrywide made it company
3 practice to falsify appraisals by encouraging, pressuring or manipulating California Appraisers,
4 including Benson, to falsely inflate property values in order to maximize Countrywide's profits
5 and defraud Californians.

6 181. On or about March 12, 2006, Chen called David's cell phone asking him about who
7 Plaintiffs planned to get their loan through and after mentioning the two brokers, Chen told
8 Plaintiffs that he would not trust anyone better than Countrywide, that some of his clients used
9 Countrywide and had good experiences, causing Plaintiffs to believe Chen and rely on this to hire
10 Countrywide to broker a loan for them. At the same time, Chen concealed that as the sellers' agent
11 he was not suppose to be contacting Plaintiffs and failed to disclose that he was, in part, an agent
12 for Colyer and Countrywide.

13 182. On or about March 14, 2006, two days before Plaintiffs deadline to remove
14 contractual loan contingency, Colyer summoned Salma and David to his office, gave them written
15 agreement to lend them money at 1-3% - See *Exhibit 10* - failing to disclose that Countrywide
16 practice was to misrepresent what loans Countrywide would broker for borrowers like Plaintiffs.

17 183. On or about March 15, 2006, Plaintiffs called Colyer and told them that they would
18 like to borrow money from Countrywide and at no time did Colyer disclose that he was brokering
19 loan for others, promised them that Plaintiffs could trust him to sell them the best possible loan
20 available on the market and emphasized that Countrywide was one of the best "Banks in the U.S."

21 184. As part of Countrywide's deceptive marketing scheme, defendant Countrywide and
22 Mozilo trained employees and agents, as Colyer, to portray Countrywide as the actual lender by
23 holding itself out as a Bank through saturating Newspaper and other media with Countrywide
24 Bank ads; displaying "Countrywide Bank" signs to Public view; setting up bank at entryway of
25 offices with banking literature everywhere and structuring the physical appearance similar to how
26 consumers find banks set up.

27 185. During the March 2006 visits to Colyer's office, Salma and David saw, heard and
28 read these representations and in conjunction with the March 14, 2006 loan Good Faith Estimate,

1 Plaintiffs were induced into removing Residential Purchase Agreements Loan Contingency in
2 paragraph 14 of the California Association of Realtors (“AR”) Residential Purchase Agreement,
3 due to reliance thereon as well as the Countrywide marketing ads, phone calls, brochures, internet
4 and media representations, and were committed and locked into the real estate purchase contract,
5 thereby being reluctant to cancel commitment with Countrywide. See *Exhibit 10*.

6 186. Had Plaintiffs known the true facts regarding Countrywide’s deceptive loan
7 marketing practices, they would not have removed, on March 16, 2006, the loan contingency, and
8 would have either terminated the purchase agreement, or sought loan elsewhere. Countrywide as
9 an institution and corporation were using the known terms of California Association of Realtors
10 form Residential Purchase Agreement in furtherance of its “predatory loan scheme” at all times
11 relevant herein.

12 187. The Good Faith Estimate, attached hereto as *Exhibit 10*, which Plaintiffs and general
13 public relied on further states that:

- 14 (a) No loan origination fee would be charged to Plaintiffs;
- 15 (b) \$400 loan preparation fee
- 16 (c) \$60 appraisal fee
- 17 (d) \$40 credit fee and
- 18 (e) Total loan costs and fees of \$2,550.

19 188. Based on reports produced by FTC, California and 16 other states Attorney Generals
20 Plaintiffs are informed and believe and based thereon allege that Mozilo, Sambol and Does 31-50
21 trained and encouraged Colyer and other sub-brokers, to make deceptive and misleading written
22 statements to prospective purchasers of loans, including Plaintiffs, pursuant to policies or practices
23 promulgated by Mozilo, Colyer, Sambol and Does 1 to 100, from on or about January 2001 to
24 March 2006, who knew that such writings and statements were deceptive, false, and misleading,
25 and knew that after purchasers of loans released contract loan contingency, including Plaintiffs,
26 that Countrywide would at the close of escrow demand thousands of dollars more, such as in
27 Plaintiffs case where it was at least \$15,000 in fees above that agreed to.

28 189. Based on reports produced by FTC, California and 16 other states Attorney Generals

1 Plaintiffs are informed and believe and based thereon allege that from on or about January 2001
2 and each month to March 2006, Mozilo and Sambol instructed and authorized Does 31-50, to train
3 its employees, including Colyer, to switch and alter Prime loan representations or agreements
4 made to the Public, and Good Faith Estimates, such as Plaintiffs FHA fixed rate \$1,800 per month
5 mortgage payment, to a Pay Option Note and HELOC Agreement at or just before the close of
6 escrow, whereby home buyers would be in contractual breach of their CAR Residential Purchase
7 Agreements if purchasers, including Plaintiffs, did not sign and close loans originated by
8 defendant Countrywide on the pain of Plaintiffs losing their deposits, Property and be subject to
9 lawsuit for \$729,000 and sign Countrywide agreement under duress.

10 190. During 2005-2006, California real estate decreasing market conditions had put
11 defendants Mozilo, Sambol, Colyer on sufficient notice that the appraised value of \$740,000 was
12 an inflated and false value of Plaintiffs' townhome.

13 191. Based on reports produced by FTC, California and 16 other states Attorney Generals
14 Plaintiffs are informed and believe and based thereon allege that Mozilo, Sambol, Colyer and
15 Does 1-100 were so driven for profits and market share, promised and agreed to whatever it took
16 to broker loan products faster, by disregarding or easing underwriting criteria to increase the risk
17 purchasers of loans would default and lose their homes; actively pushing underwriters and sub-
18 brokers to ease underwriting rules, added exceptions to the already eased underwriting standards
19 while receiving daily detailed underwriting characteristics of each loan, including Plaintiffs, which
20 was approved by Does 31 to 50 under the direct supervision, guidance, training and authorization
21 of Mozilo and his real estate broker license.

22 192. During March 2006, underwriters, appraisers, loan agents, brokers, including branch
23 managers, regional vice presidents of Countrywide Does 31-100, were paid commissions and
24 bonuses based on loan volume produced, and broker offices were expected to manufacture 40 or
25 more loans per day, while concealing from borrowers, including Plaintiffs, that loan products were
26 not suitable to meet their financial needs and would not allow them to pay off and home their
27 home, often being 60 and more percent above borrowers income.
28

I. FATC ESCROW & TITLE FRAUD

1
2 193. From at least January 2000 to March 2006, FATC entered into agreements with
3 various Underwritten Title Companies to produce escrow and title search functions that it, FATC
4 could underwrite as chief Title Insurance Company and one of these companies were Financial
5 Title Company, a subsidiary of Colorado based Mercury Co. who joined in agreements with
6 FATC after CEO Kennedy presented this intent to FATC board during 2000, who approved
7 Kennedy to proceed with such plans.

8 194. From January 2006 to March 2006, FATC required such companies to train and
9 instruct its staff to comply with the conditions agreed to between FATC CEO Kennedy,
10 MERSCORP Arnold and Does 1-30, which called for FATC to ignore title defects and ensure
11 escrow agents covered up and otherwise not disclose such defects before borrowers.

12 195. On or about October 2005, when Chen closed escrow for approximately \$650,000 on
13 Property, the promissory note and deed of trust was split up from one another, and assigned to and
14 recorded to defendant MERSCORP agent MERS, while in truth Note was sent to some
15 undisclosed Beneficiaries who were actual owners of Note, each with varying levels of ownership
16 in Chen's promissory note and hence holders in due course.

17 196. On or about March 20, 2006 FATC directed its agent FTC to conduct another title
18 search and to conduct escrow on Property, after being contacted by defendants Chen and Colyer
19 regarding the sale of Property to Plaintiffs and based on information obtained from Wells Fargo,
20 County of Santa Clara Records Office and Plaintiffs experiences Plaintiffs are informed and
21 allege that one of Does 91-100 conducted title search of Property and took notice that it was
22 recorded as belonging to MERS, learned that Note was separated from deed of trust and that there
23 was multiple breaks in the title, possibly more than a dozen holders in due course claiming rights
24 to Property and no way to validate a clean title.

25 197. FTC staff reported its findings to FATC staff who are part of Does 91-100, Chen,
26 Colyer and Does 31-50; who spoke with each other on or about March 20, 2006, and agreed that
27 FATC should direct its FTC agent to ignore the title defects, order FTC to issue Preliminary Title
28 Report and close escrow as is, and withhold certain loan documents from Salma and David so they

1 could not readily learn of defects or otherwise know that they were being induced to purchase a
2 loan other than they were promised.

3 198. On or about March 26, 2006, FTC issued Report as FATC instructed and on March
4 27, 2006 provided its Escrow agent Wyatt with two sets of documents which were partially filled
5 out with financial information, instructed her to do whatever she could to convince Salma and
6 David to sign their set of documents, leave Plaintiffs with the second mostly blank documents and
7 return them to her supervisor; thereat Wyatt convinced Salma and David hat they were being
8 issued the same documents that they had signed when they were being left with missing and blank
9 documents.

10 199. On or about March 28, 2006, FATC agent FTC caused blank documents to be given
11 to Colyer and Does 31-50, who altered the escrow documents by filling in blank areas of Truth in
12 lending and other forms, then recording them with County of Santa Clara Records Office in this
13 altered condition and did not inform Salma or David of this at any time thereafter.

14 **J. LOAN ORIGINATION ALLEGATIONS**

15 200. On or about March 20, 2006, Countrywide’s agent Colyer informed Salma and David
16 orally in a meeting, that he and his staff in Menlo Park and Southern California had done all that
17 they could to make a FHA loan with payments between \$1,800 and \$2,200 for them and even
18 contacted other lenders; however, that due to “issues” that arose, it was not possible and that he
19 came up with something better which would allow them to keep their 5% down-payment and use
20 it for other investment purposes. Plaintiffs did not understand what Colyer was proposing and he
21 told them to “trust” him because he was going to look out for their best interest and provide them
22 with the best possible loan on the mortgage market.

23 201. Colyer had told Salma and David that although they had “good credit,” that his
24 underwriters were reluctant to approve the loan that Countrywide promised to provide, but if they
25 just had patience and trust, he would deliver the very best loan for them; concealing from
26 Plaintiffs that he was under instructions to broker two subprime loans for them although they
27 qualified for prime loan which would not strip them of savings, income, equity or property.

28 202. Plaintiffs Salma and David had fully considered Colyer and Countrywide to be a

1 fiduciary which had their best financial interests in mind, not broker for others, and believed
2 Countrywide's oral and television, internet, newspapers representations would protect their
3 interests.

4 203. Colyer did not disclose to Salma and David at any time, that Countrywide and Mozilo
5 practice and policy had trained Colyer to discourage down-payments in order to increase the
6 amount of the loan, so Colyer, Mozilo, Sambol and Does 1 through 100, would earn more revenue
7 and their stock values would increase.

8 204. On or about March 25, 2006 agent Colyer then reported to Salma and David, with
9 excitement and feigned pleasure in himself, that he was able to work out a much better loan
10 product then he believed possible which had a \$5,200 monthly payment schedule for Plaintiffs.

11 205. Plaintiffs Salma and David told Colyer they could not afford such and would have to
12 go with other brokers who had already agreed to sell them a loan with lower payments. Colyer
13 then pleaded with them to not do so, that he was presenting this loan as an option because he had
14 let a lower level subordinate handle the loan origination, that he "sees" where they made the errors
15 and that he could clear it up in little time, if Plaintiffs would excuse the mistake and bare with him.
16 Colyer also pointed out that they would be subject to lawsuit if they did not close escrow, all
17 together induced Plaintiffs to continue to rely on Colyer and Countrywide's representations.

18 206. On or about March 26, 2006, Colyer with Does 61-70, designed a Pay Option ARM
19 and HELOC for Plaintiffs which did not include property taxes, insurance or HOA fees and would
20 initially consume over 50% of their income and 70% by October 2008 and over 100% in March
21 2011. Further, Countrywide increased the loan to \$754,000, some \$80,0000 above property market
22 value, which contained some \$15,000 in fees that Countryside did not inform Plaintiffs about; and
23 Colyer contacted his boss, one of Does 31-50 in Countrywide headquarter offices for approval
24 and, pursuant to Countrywide practices was approved to broker these loans for Plaintiffs.

25 207. Based on Salma and David talks with Colyer and Attorney Generals reports, Plaintiffs
26 are informed and believe and thereon allege that Colyer asked Katherine Colciano, local junior
27 underwriter, to officially sign off on loan package they created for Plaintiffs. Colciano informed
28 Colyer that Plaintiffs would not be able to repay loan and would be headed towards certain

1 default; thereat Colyer asked her to disregard such underwriting principles and contact her
2 underwriting boss at HQ – one of Does 31-50 – to gain exception approval. Colciano sent in
3 request for exception to authorize brokering a loan that would not meet Countrywide’s own
4 underwriting guidelines and would strip from Plaintiffs: savings, income, equity and property.

5 208. By March 24 and 25, 2006, Plaintiffs contacted the two brokers who had previously
6 provided them with offers to sell them loans for the purchase of their home and was told that there
7 was not enough time to underwrite loan by the April 10, 2006 close of escrow dead line.

8 209. Plaintiffs spoke with their Real Estate agent Earl Taylor, on or about March 25, 2006
9 and he informed them that if they did not follow fund the property pursuant to the deadline set
10 forth in the contract they had signed, that they would definitely lose their “earnest money”
11 provided in escrow and would open themselves up for possible liability and lawsuit.

12 210. On or about March 26, 2006, Colyer called Salma and David with lots of enthusiasm
13 explaining that he was able to secure them “the best loan possible” on the market after receiving
14 approval from his “our headquarters in Southern Cal,” and that Plaintiffs will be able to enjoy their
15 new home, but he refused to give them the details of this loan and told Salma and David that he
16 was still working out the final details, but they would not be “disappointed.” At the same time,
17 defendant Colyer was using techniques that Mozilo, Sambol and Does 31-50 taught him, during
18 his 2004-2005 training at Countrywide HQ, to use on borrowers just like David and Salma.

19 211. On or about March 26, 2006, Colyer and Colciano supervisor, one of the Does 31-60
20 at Countrywide HQ, ordered her to disregard Plaintiffs inability to repay the loans and to approve
21 it based on Mozilo and Sambol policy to broker as many loans as possible that are designed to
22 strip equity from property owner. Where HELOC was to act as a credit card type line of credit
23 that neither David or Salma applied for and used without any discloser for prior agreement as a
24 down-payment on their property of \$147,000; and a second loan, Pay Option ARM, would pay the
25 remaining amount of \$591,000

26 212. On or about March 26, 2006, Salma and David stopped into Countrywide’s Menlo
27 Park offices to speak with Colyer and noted again that the office was designed to look like a
28 banking establishment and at the entrance had “Countrywide Bank, N.A.” prominently displayed

1 and gave borrowers, including Plaintiffs, the sense that they were dealing with a reputable, honest
2 and possibly federally regulated banking institution who was lending its own money, although the
3 Bank had no connection with the mortgage loans brokered in the main area of the office.

4 213. Defendant Countrywide, Mozilo, Colyer and Does 31 to 50, did not disclose to the
5 public, or Plaintiffs, that Countrywide Menlo Park office was not a bank, was not lending its own
6 funds, but the funds of Bear Sterns and BofA; and that Countrywide was directly operating under
7 Mozilo California real estate broker license.

8 214. On March 26, 2006, Colyer's assistant Brandon Bell informed Salma and David that
9 Colyer was not able to see them then, but that their loan documents were pretty much complete
10 and that they would be dispatching a representative of the title company to Plaintiffs Mt. View,
11 California apartment with the final documents for them to sign, and he, Colyer and FTC/FATC
12 concealed that Plaintiffs had a right to go to title company to close escrow, review and be part of
13 escrow instructions or have lawyer review loan documents before close of escrow.

14 215. On or about March 27, 2006 Colyer and Does 61-70, applied the training that they
15 received from Mozilo-Countrywide and designed Plaintiffs HELOC and ARM Note loans to have
16 the major defects of ultimately consuming over 100% of Plaintiffs income each month; initially
17 65% when property taxes are included until December 2006; then 75% of income from January to
18 December 2007; then 97% from January to October 2008; and on May 1, 2011, set to consume
19 over 100% of Plaintiffs income, leaving them with no money for food, gas, day care, medical bills
20 et cetera and guarantying default and foreclosure.

21 216. From on or about March 18 to 27, 2006, defendant Colyer emailed and called
22 defendants Sambol and Mozilo in HQ after sending them loans he brokered for them, to gain their
23 approval to broker them, and based on statements made by Colyer to David and Salma during this
24 period and Colyer's acts, they are informed and believe, and based thereon allege that Sambol and
25 Mozilo told Colyer that the tactics and design of loans they approve and had one of Does 31-50
26 sign off to officially approve the loans for issuance to Plaintiffs.

27 217. At no time during March 2006, had Colyer, Mozilo, Sambol or any Countrywide
28 personnel communicated any of these loan designs to Salma or David, and Colyer with Does 71-

1 80 held at least 30 talks with David and Salma during March 2006, but failed to disclose the terms
2 of the loans, that there would in fact be two loans which totaled \$754,000, not give any disclose
3 prior to close of escrow on any other aspect of loan and let Plaintiffs continue to rely on the March
4 14, 2006 agreement to produce a FHA 1,800 to 2,200 30 year fix.

5 218. Neither Countrywide, Mozilo, Colyer nor Does 1-100 applied any fiduciary principles
6 in brokering Plaintiffs loans. Defendants Mozilo, Colyer and others lead Plaintiffs into believing
7 that they could pay for loans because Countrywide had advertised from 2001 to 2006, and orally
8 stated March 2006 to David and Salma in Menlo Park offices, that Countrywide applies strict
9 “underwritten” standards to their loans; when in truth, from January 2001 through March 2006,
10 Mozilo and Sambol trained, encouraged and authorized Does 31-50 to ignore, disregard or
11 otherwise not apply underwriting standards and actually provided unconventional, non-prime
12 private “investor” loans, unlike federally insured loans, while representing to public, and Plaintiffs
13 during March 2006.

14 219. The Plaintiffs had a high degree of emotions, excitement and anxiety due to this being
15 their first real estate purchase, which Colyer and Countrywide ascertained; and this inclined Salma
16 and David to rely upon Colyer, Chen, Benson, Mozilo, Sambol and others who presented
17 themselves as experts in the mortgage loan industry. Countrywide, through Mozilo and Sambol
18 Public ads and publicity, with Colyer and Does 61-70 face-to-face presentations of promises,
19 agreements and representations, coupled with Plaintiffs never had any training or understanding of
20 loan or mortgage loan industry or its regulatory laws at the time, made them vulnerable to
21 whatever these Defendants stated.

22 220. On March 27, 2006, Colyer contacted defendant FATC staff Does 91-95, requesting
23 them to dispatch agent to Plaintiffs’ residence in Mt. View, California for the purpose of closing
24 escrow pursuant to the agreement that FATC Board made with Bear Sterns. At no time relevant
25 herein did Countrywide or anyone else inform Plaintiffs that it is customary for borrowers to be
26 invited to sign at the escrow and title company offices, with a loan agent and/or realtor present to
27 answer any questions that borrower may, or to be available by telephone to answer questions.
28 Based on Salma and David experiences and research showing others experienced the same,

1 Plaintiffs are informed and believe and based thereon allege that Countrywide had a practice for
2 brokers to not be present at close of escrow and not be available by telephone to answer loan
3 purchasers questions, specifically because Countrywide produced loans at escrow with terms and
4 conditions that were different then borrowers, including Plaintiffs, were promised or expected, in
5 that the loans are: (a) higher interest rates variable instead of fixed rates; (b) greatly increased loan
6 costs⁵; (c) non-prime terms; (d) higher margins and indexes; and (e) different indexes, among
7 other material things, this bait and switch tactic was part of defendants' predatory deceptive,
8 misleading and false loan marketing and sales practices.

9 221. At no time prior to close of escrow did Mozilo, Colyer, Sambol, FATC, Countrywide
10 or any defendant disclose to Plaintiffs the material terms of the loans presented to Plaintiffs for
11 signature at close of escrow, and among other things, these defendants failed to disclose to Salma
12 and David the private mortgage market Pay Option ARM loan or "piggyback" HELOC
13 Agreement prior to escrow signing, including:

14 (i) That Plaintiffs would have to ultimately pay up to \$6,693 per month on the Pay Option
15 ARM which would be beyond their monthly income at that time;

16 (ii) Plaintiffs would be required to pay up to 18% interest which could be more than an
17 additional \$2,400 per month on the HELOC loan, or 35% more than total income;

18 (iii) What "index" or "margin" meant and the effects they would have on Plaintiffs future
19 monthly obligations;

20 (iv) The Pay Option product would reset to a 25-year loan amortization schedule, greatly
21 increasing monthly payments beyond the disclosed \$6,693 schedule payment;

22 (v) Property taxes and insurance would not be included in loan and would require an
23 additional \$1,000 per month expense for Plaintiffs;⁵

24 (vi) Pay Options products were originally designed and sold to those with business
25 projects which expected substantial revenue increases before reset or recast dates;

26 (vii) Loans were designed to exhaust all their savings, income, equity; and,

27 ⁵ Plaintiffs did not learn until circa October 2006 that they had to pay their own property taxes and in speaking with Colyer he said that was the
28 way all loans were done and was oversight on his part.

1 (viii) It was a high probability that Plaintiffs would default on their loans and be
2 foreclosed upon unless Plaintiffs income increased by at least 75%.

3 222. Defendants Mozilo, Sambol, Kurland, Colyer, Countrywide, Wells Fargo, Bear Sterns
4 and Does 31-50 designed the Pay Option ARM and HELOC agreements which they presented to
5 David and Salma on March 27, 2006, and these defendants, each one of them, intentionally
6 designed them to be so complex for lay borrowers, that Plaintiffs would not be able to understand
7 or ferret out the undisclosed adverse loan terms before, during or after close of escrow, without
8 finding and hiring a very specialized professional who was specially trained in law, real estate,
9 Wall Street and mortgage loan areas combined.

10 223. On March 27, 2006, Does 91-95, under FATC Board of Directors authority and
11 pursuant to FATC agreement with Bear Sterns, instructed escrow employee Ms Wyatt to take two
12 different sets of loan documents to Salma and David home and get them to sign the first set of loan
13 documents then leave them with the second set. Does 91-95, acting on instructions of defendant
14 Colyer who was in turn acting on practices that Mozilo and Sambol directly trained him with, left
15 out of the second set of documents which set forth the loan terms, the amount being borrowed, the
16 amount that would have to be paid back, Plaintiffs right to rescind loans and other material
17 information regarding the loans. The first set of documents also left blank most of the amounts so
18 in the event Plaintiffs did read the forms; they still would not know that they were getting two
19 loans or know what they amounted to.

20 224. On March 27, 2006, Does 91-95 sent Ms Wyatt to Plaintiffs home, asked them to sign
21 documents and as David began to read the loan documents Ms Wyatt stated that she did not have
22 time for them to read documents, that she was providing them with copies of every document they
23 were signing and that they could read them afterwards. Both Plaintiffs signed the documents and
24 David proceeded to make copies on their home copier, but was told by agent Wyatt that it was best
25 for her to process documents and Plaintiffs would be able to get signed copies from Countrywide.

26 225. On or about March 28, 2006, Salma and David read portions of loan documents and
27 were able to make out what seemed to be two loans that were issued and did not see anything
28 about FHA or payments. Salma and David called agent Colyer asking how much were the loans

1 for and whether they were actually two or one FHA loan. Colyer talked about how much work he
2 had put into finding the right loan for them; how he tried to find other lenders and had to settle on
3 one “investor” who was willing to give him “excellent” loan terms for Plaintiffs; that he lost
4 money on this “deal,” but since he personally liked Plaintiffs he was willing to take a lost. Finally,
5 after David repeatedly asked him, Colyer told Salma and David that loans were over 4,569.

6 226. On March 28, 2006, David and Salma became surprised and concerned as Colyer
7 chimed in saying that loans were conventional and the same as prime loans, and was the only
8 possible way of financing property in the mortgage loan market and that if Plaintiffs faithfully
9 maintained their payments without delinquencies for a year, that he guaranteed them a new loan
10 which would dramatically reduce their payments, concealing property taxes was not included in
11 loans. At the same time Colyer knew that everything he stated was untrue and failed to disclose to
12 Plaintiffs that it was part of training he received from Mozilo, Sambol and Does 31-50.

13 227. On or about March 28, 2006 Does 91-95 sent the signed, and mostly blank loan
14 documents to Colyer who then filled in the blank portions of the documents with MERS being
15 loans Beneficiary pursuant to Countrywide’s Board of Directors agreement with Bear Sterns, and
16 filled in other information regarding the amounts of loan charges, \$754,000 loan versus the
17 \$729,000 agreed upon by David and Salma, then returned documents to FATC Does 91-95.

18 228. On or about March 29, 2006, Does 91-95, pursuant to FATC agreement with Bear
19 Sterns filed Deed of Trust and HELOC Note and Agreement with Santa Clara County Recorder,
20 failed to inform the Recorder, Plaintiffs or others that they were filing falsified information then
21 transmitted Deed to Trust to Bear Sterns and the Note to MERSCORP staff, Does 96-100, who in
22 turn transmitted Notes Wells Fargo thereafter as Master Servicer for Bear Sterns.

23 229. On or about March 29, and 30, 2006 Colyer orally repeated to David and Salma when
24 they went to his office, that he would refinance the loans within a year if they made all payments
25 on time, manipulating them with the fact that Countrywide brokers billions of dollars in loans each
26 year successfully, employing a technique which Mozilo and Sambol trained him to use during
27 2005 at HQ, to lull borrowers as Plaintiffs, to trust Countrywide further.

28 230. On March 27, 2006, Plaintiffs signed and executed Pay Option ARM and HELOC

1 loan documents under the clear belief that they would face lawsuit for \$729,000 for failure to close
2 escrow, lose Earnest Money and Property, and that Colyer and Countrywide were honest brokers,
3 thereat compelling them, under economic duress and without any assistance from lawyer or
4 financial professional, and with these fears coupled with not understanding the terms of either loan
5 defendants left them with blank documents. The Plaintiffs did not know that this was part of
6 Countrywide's deceptive advertizing and marketing practices and scheme.

7 **K. DEFENDANTS LEWIS & MOZILO CONSPIRACY**

8 231. On or about January 2001, Bank of America (BofA) Board of directors approved K.
9 Lewis to be its CEO in charge of representing BofA interests and leading it in the direction he
10 deemed proper.

11 232. Based on BofA public reports, Countrywide history and news media reports Plaintiffs
12 are informed and believe and thereon allege that defendant Lewis held a series of face-to-face and
13 telephonic meetings with Mozilo at Countrywide HQ between January 2006 and December 2007,
14 where Mozilo communicated Countrywide was running into financial difficulties and was headed
15 towards bankruptcy and he wished to increase Countrywide's predatory lending so he, Mozilo
16 could represent publicly that Countrywide was very healthy and not in the business of producing
17 predatory loans, so as to increase its stock value and allow Mozilo, his family, Sambol and Does
18 31-50 to sell their stock off at inflated values and retire.

19 233. Mozilo further told Lewis that since BofA has been a continuous lender of loans
20 brokered by Mozilo and his sub-brokers that he was offering to sell Countrywide to BofA at a very
21 cheap price if Lewis would do whatever he could to cover up Mozilo et al deeds in the event their
22 fraud became known and they were prosecuted.

23 234. On or about December 2007, Lewis presented this proposal to his BofA Board of
24 Directors and on or about January 15, 2008, BofA Board agreed to support proposal and
25 authorized Lewis to enter into this and other details of agreement with Mozilo and his team.

26 **L. LOAN SERVICING ALLEGATIONS**

27 235. From on or about 2004 to 2006, Wells Fargo Board Officers issued instructions to
28 staff handling the Master Servicing accounts of Bear Sterns, that they were to instruct lower level

1 servicing agents, such as Countrywide, to apply certain treatment to those Borrowers who are
2 targeted with predatory loans, such as the Plaintiffs.

3 236. On or about March 28, 2006, Plaintiff David called Colyer at Menlo Park office
4 informing him that FTC/FATC had not delivered any signed loan documents and they requested
5 copies of all loan documents they signed. Colyer promised that copies would be mailed.
6 Countrywide did not mail Plaintiffs any signed loan documents at this time or the next 2 years, 10
7 months.

8 237. From on or about March 8 through March 30, Colyer and Does 61 to 70, continuously
9 and repeatedly told Plaintiffs that all of their monthly payments would be applied to the principle
10 of their loans. The truth was that Colyer was designing loans pursuant to practices he was trained
11 with in 2005 by Mozilo, Sambol and Does 31-50, which applied all of Plaintiffs savings and
12 income to interest of loans.

13 238. On or about August 8, 2006, Salma and David contacted Countrywide asking staff
14 why their loan principles were not being reduced, and were told because their loan agreements
15 called for them to remain same for 3 years on the HELOC and 5 on the Pay Option ARM make
16 only “minimum payments and no more.” Thereat Salma and David called Colyer about this and he
17 told them that this was a last minute change that he forgot to tell them about and that it was not
18 that important because he planned to refinance them within a year and so they should not worry
19 about this.

20 239. In at least two of the discussions with Does 61-70 regarding principles not being
21 reduced, a friend of Plaintiffs sat in on September 2006, discussions where Does 61-70 told
22 Plaintiffs that they could only make minimum payments and not pay more to pay down principles
23 of loans; then in October 2006, Colyer finally admitted to David, Salma and Mr. Smith that they
24 could only pay down principle if they specifically instructed Countrywide staff to apply funds to
25 it. See *Declaration of Ronnie Smith* attached hereto as *Exhibit 13*.

26 240. Plaintiffs Salma and David sent communications to defendants Countrywide, Mozilo,
27 BofA CEO Lewis and Wells Fargo CEO Stumpf and their agents Kurland, Sambol, Colyer and
28 Does 71-90, including but not limited to the following dates: October 23, 2006 April 7 & 8, May

1 12, August 8, 2007, January 2, February 11, April 1, September 2, and October 1, 2008 each
2 attached hereto as *Exhibits 15 to 24*. Plaintiffs also called defendants Mozilo and Countrywide
3 local and headquarter offices in 2006 on or about March 28 & 30; April 1, 13 & 27; June 14;
4 August 12; November 2. Then in 2007 on or about February 3; April 5; June 7; September 22;
5 November 1. And during 2008 on or about January 25; February 17; April 4; July 19; August 7 &
6 21; September 14, 15 & 20; October 5 & 19; November 4, 6, 14, 17; December 3, 17, 2008.

7 241. These communications requested, *inter alia*, for defendants Countrywide, Mozilo and
8 their agents Lewis, Stumpf et al, to supply Plaintiffs with the *signed* documents that FATC/FTC
9 and Countrywide refused and failed to deliver to Plaintiffs on March 27, 2006; for defendants to
10 rectify Plaintiffs loans by replacing the two they were coerced into buying under duress, with one
11 FHA or other traditional loan that they could afford to repay.

12 242. Based on the actions or inactions by these defendants, reports from California and 16
13 State Attorney Generals, FTC and SEC Plaintiffs are informed and believe and thereon alleged
14 that in response to reading Plaintiffs communications, Mozilo, Sambol, Lewis, Stumpf, Colyer and
15 Does, called each other about on or about the above-cited dates and told each other that it would
16 be best to refuse to provide any of the final loan documents Plaintiffs signed on March 27, 2006
17 and refused to provide Plaintiffs with the loan defendant Countrywide had promised on March 14,
18 2006 and several times on and around this date. Such refusals authorized, ratified and sanctioned
19 by Countrywide, Mozilo and BofA was part of their deceptive loan scheme.

20 243. From March 2006 to December 2008, neither Salma nor David received any signed
21 loan documents from any defendant or their agents.

22 244. On or about the 20 days of May, June, July, August, September, October, November
23 and December of 2006; and on or about the 20 of January, February, March, April, May, June,
24 July, August, September, October, November and December of 2007; and on or about the 20 of
25 January, February, March, April, May, June, July, August, September, October 2008, defendants
26 Countrywide, Mozilo, BofA, Lewis, Wells Fargo, Colyer and Does 1 to 100, falsely charged
27 Plaintiffs either 11.25%, 10.25% or other percentages as HELOC fees when the HELOC
28 Agreement was contracted for no more than 3% margin above 12-Month LIBOR Index which had

1 a high of 5.72 in June of 2006 and a low of 2.5 between April 2006 and September 2008, meaning
2 Countrywide, BofA, Mozilo, Sambol, Colyer, Does 1 through 100, falsely charged 4 to 7 interest
3 rate points above what HELOC Agreement contracted and they accomplished this by sending
4 Plaintiffs:

5 **a)** False and deceptive monthly mortgage payment coupons which represented to be
6 payments which would pay down the principal of Pay Option ARM over 25 to 30 years, when in
7 fact it would be 50 years or more; and,

8 **b)** False and deceptive monthly mortgage payment coupons which purported to be
9 payments which would pay down the principal of HELOC with dollar amounts which were 5 to 7
10 percentage points higher than contractually agreed upon.

11 245. As a result of these continuous and repeated false charges, which were hidden from
12 Plaintiffs, due to Colyer, Mozilo, Sambol, FATC concealing the original loan disclosures,
13 defendants Countrywide, Wells Fargo, Mozilo, BofA, Colyer and Does 1 through 50, and 61 to
14 90, misrepresented to Plaintiffs what they were actually obligated to pay pursuant to agreement,
15 and induced them to pay \$200 to \$750 more each month from April 2006 to September 2008, than
16 what agreement called for, resulting in Bear Sterns with Does 2-30 using Countrywide to falsely
17 overcharge Plaintiffs more than \$10,000 during this period.

18 246. On or about September 15, 2006, after Salma and David learned from Santa Clara
19 Tax Assessor that they owed \$6,065 in property taxes for 2006, they spoke with a broker who
20 previously committed itself to brokering a mortgage loan for their property and was informed that
21 traditionally, mortgage loans included taxes within monthly payments, however, when a broker or
22 lender does not do this they are obligated to inform borrower of this.

23 247. On or about September 17, 2006, Salma and David visited Colyer's Menlo Park
24 offices and, *inter alia*, questioned him about taxes and Colyer told them that taxes were not
25 included because it would have given Plaintiffs an inaccurate understanding about the lending
26 industry and benefits of the loans Countrywide brokered for them.

27 248. Neither before or during close of escrow had defendant Countrywide disclosed to
28 Plaintiffs that property taxes and insurance would not be included within monthly payments,

1 resulting in more than \$900 per month that Plaintiffs had to separately pay, and if it was disclosed
2 to them that taxes were not included they would have rejected the loan and gone with a broker
3 who included taxes in their loan.

4 249. At no time before this period had any Countrywide defendant or staff disclose plainly
5 to Plaintiffs that their monthly payments would not be applied to principle balance or that they
6 would have to pay more than the amounts disclosed on payment coupons if they wished to pay
7 balance down.

8 250. During October to December 2005, Colyer was trained by Mozilo and Sambol at HQ
9 to discourage borrowers from providing down-payments for homes and design loans that were
10 interest only, in order to broker ARMs and HELOCs (Combo Loan); and during March 2006,
11 Colyer acted on this training by discouraging Salma and David from putting down money as down
12 payment and concealed or failed to disclose to them in order to maintain the highest possible
13 payments from Plaintiffs purely in their own, Bear Sterns, FATC, MERSCORP and Wells Fargo
14 interests for profits.

15 251. From January 2007 through October 2008, Plaintiffs sent \$144,191.80 in mortgage
16 payments to Bear Sterns and Wells Fargo through Countrywide and BofA, when they were only
17 required under the terms of the Note and HELOC to send \$82,872.90. David and Salma called
18 Countrywide and BofA during 2006, 2007 and 2008 asking them to apply the extra amounts sent
19 in their monthly payments to both the Note and HELOC principles.

20 252. From January 2007 through October 2008, WELLS with Does 1-30, Countrywide and
21 BofA only applied part of the extra money being sent to the Note (\$146,000) with \$64,000 to
22 interest; and to HELOC, only \$51,000 was applied to HELOC principle to pay it down with
23 \$22,318.90 kept by Countrywide and BofA as falsified charges.

24 253. By not applying Plaintiffs \$144,191.80 to both HELOC and Note principles, Wells
25 Fargo with Bear Sterns, Countrywide and BofA maintained a higher principle balance on both
26 loans that additionally falsely charged Plaintiffs by another \$14,223 that Plaintiffs have not had
27 credited towards them.

28 254. From on or about December 2007 through July 15, 2008, defendant Lewis held

1 monthly talks from his North Carolina office to Mozilo in his Calabasas offices, where Mozilo and
2 Lewis worked out final terms of Countrywide sale to BofA and received additional assurances
3 from Lewis that he would cover-up the predatory loan practices and other frauds committed by
4 Mozilo, Sambol and others.

5 255. From on or about January 8 to July 2008, Lewis instructed Does 71-80 to perform
6 financial, operational and policy auditing of Countrywide, and these personnel reported, *inter alia*,
7 that most of Countrywide loans which they had sold, including Plaintiffs, were predatory loans
8 which ensured Plaintiffs and other borrowers default and ultimate foreclosure, and that
9 Countrywide was intentionally falsifying monthly charges to borrowers such as Plaintiffs who
10 were ignorant of and otherwise did not contest higher than agreed upon interest rate payments
11 each and every month. Lewis lobbied BofA Board to see this as a good opportunity for BofA to
12 obtain savings, income, equity and properties from Americans.

13 256. On or about March 2008, BofA Board of Directors accepted Lewis' assessment and
14 his agreement with Mozilo to cover-up Countrywide officers' fraud; and voted to approve him and
15 Does 71-80 to acquire Countrywide on behalf of BofA.

16 257. On or about August 1, 2008, BofA officers Does 71-80 held meetings regarding the
17 predatory lending practices and loan overcharging of loans which BofA had acquired, and agreed
18 that since they were generating hundreds of millions of dollars in additional profits by falsely
19 overcharging borrowers, that they would not stop overcharging borrowers, including Plaintiffs,
20 unless borrowers complained.

21 258. On or about July 20, August 20, September 20, October 20, November 20, December
22 20, 2008 and January 20, February 20 and March 20 2009, defendant BofA and Does 71 to 80,
23 sent Plaintiffs monthly billing statements which falsely represented that Plaintiffs were obligated
24 to pay six (6) margin points above LIBOR, when HELOC Agreement obligated them to only 3
25 points above LIBOR, thereat over billing Plaintiffs hundreds of dollars to which they paid \$1,100
26 from July to September 2008 of directly to BofA before they refused to make any more payments.

27 259. BofA, on behalf of itself and for Countrywide has refused to refund the more than
28 \$75,233 falsely charged monies defrauded from Plaintiffs on Bear Sterns, Does 2-30, Mozilo,

1 Sambol, Colyer, Wells Fargo, BofA and Countrywide's behalf from April 2006 to October 2008.

2 260. On or about September 15, 2008, and repeatedly during the dates cited in October,
3 November and December 2008 and January 2009, Salma and David notified Countrywide's
4 successor in interest, ofA throuBgh Lewis and Does 71-80 who was its Vice Presidents and other
5 managers functioning on behalf of BofA with its full authority, of the illegal, deceptive and
6 fraudulent acts of Countrywide as alleged above; then demanded for it to produce the loan
7 originally promised to Plaintiffs, citing that they could no longer continue to make payments
8 because of fraud and that Plaintiffs would refuse to make further payments until the originally
9 promised loan was issued them. Further, they requested BofA to provide them copies of the loan
10 documents FTC/FATC failed to provide, including disclosures, notes, and deeds of trust and
11 identify the holders in due course.

12 261. On or about September 2, and October 8 2008, Salma and David contacted Lewis and
13 on or about September 2, September 16, October 8, October 14, October 15, November 6,
14 December 3, 2008 and January 8 and 16, 2009, they both repeatedly spoke with Does 71 to 80,
15 explaining that Plaintiffs would not make any more payments due to the fraud which was
16 perpetrated upon them among other things.

17 **M. RESCISSION ALLEGATIONS**

18 262. From on or about March 8 to 27, 2006, Countrywide, through its duly recognized
19 local representative Colyer, directly informed Plaintiffs that Countrywide would broker a prime or
20 conventional loan for them that would meet all federal underwriting guidelines, including payment
21 of property taxes within monthly payment of \$2,200.

22 263. On March 27, 2006, Countrywide baited and switched the loan, and forced Plaintiffs,
23 under duress, into purchasing two loans which were not the loan promised and which concealed
24 many defects which Plaintiffs could not discern without professional help and due to filled in loan
25 documents being withheld from them until January 2009.

26 264. On or about September 15, 2006, Plaintiffs were notified by Santa Clara County
27 Assessor that some \$6600 were due in property taxes and when they called Colyer about it he told
28 them that they had to pay it since the loan did not account for such.

1 265. Plaintiffs are informed and believe, and based thereon allege that Mozilo, Sambol,
2 Kurland, Wells Fargo, Bear Sterns and Does 2-30, designed loan documents to be so complex and
3 filled with legal and financial jargon in order to conceal information and make it incomprehensible
4 and confusing for Plaintiffs and laypersons, particularly first time home buyers. Further, at no time
5 did Countrywide ever afford Plaintiffs, including other loan purchasers, time to read the loan
6 documents or provided them with professionals who could interpret it for them.

7 266. The market value of Plaintiffs townhome, was approximately \$670,000; and pursuant
8 to their practice of fraud, Wells Fargo, Does 1-30, Countrywide, Mozilo, Sambol, Colyer and
9 Does 1 through 70, brokered a loan of \$754,000 for Plaintiffs, some \$84,000 above actual value of
10 home which represents additional damages due Plaintiffs.

11 267. Further, Bear Sterns, Does 2-30, Wells Fargo, BofA, Lewis refused, and continues to
12 refuse, to offer any adjustment to the false inflated value of the original loan and from March 2006
13 to April 2011, acts to cover up or conceal evidence of Mozilo, Sambol, Colyer, Does 31-50
14 actions that falsely inflated property value through its agents Benson, Colyer and Chen.

15 268. On or about January 20, 2009, BofA provided to Plaintiffs copies of loan documents,
16 but these documents were different, specifically the HELOC Agreement and Note than what
17 Plaintiffs recall. At this time Plaintiffs orally tendered their home to BofA, Lewis, Wells Fargo
18 and Bear Sterns in exchange for rescinding the HELOC and Note loans based on fraud.

19 269. On or about January 28, 2009, Salma and David rescinded Note and HELOC
20 agreements and tendered their home. Lewis, Does 71-80, and Does 2-30 received and read
21 Plaintiffs formal written rescission asking them to return every payment they ever made, along
22 with property taxes of \$22,827.87; \$1,575 in HOA fees and \$37,000 in home improvement
23 invested and Does 81-100, including president Barbara Deseor conferred with Wells Fargo staff,
24 Lewis, Does 2-30, talked about Plaintiffs rescind notice and decided, each one of them, to cover
25 up their co-defendants fraud by not honoring Plaintiffs right to rescind and attempted to
26 manipulate David and Salma to consummate loan modifications; however, after studying
27 modification, Plaintiffs determined it was designed to nullify and cover-up the fraudulent aspects
28 of the original loan that their Countrywide colleagues committed. See *Exhibit 14*, incorporated

1 herein in full.

2 270. Plaintiffs are inform and believe that Wells Fargo instructed BofA to not permit
3 Plaintiffs to rescind their loan because the scheme was to foreclose after all funds were stripped.

4 271. The Salma and David orally and in writing informed Wells Fargo, Lewis, Bear Sterns
5 Does 2-30, and BofA about the fraud they experienced in the application and origination of loans
6 then tendered the property to them in exchange for all funds they paid. As of January 2009, the
7 property was valued at \$723,800 by the Santa Clara County Assessor whose assessment was based
8 on defendants false inflated appraisal, in part, and is incorporated herein as if fully set forth as
9 *Exhibit 25*. The Plaintiffs had a principle balance outstanding secured by the First Deed of Trust
10 ARM as of January 2009, of 591,000, and for the Second Deed of Trust Agreement \$91,000 in full
11 totaling: \$682,000, meaning that BofA should have honored rescission and paid Plaintiffs the
12 difference of \$41,000 plus all the property taxes of \$27,714.74 they had paid to Santa Clara
13 County from 2006 through 2009, and \$36,000 for home improvements. For a total of \$104,714.74
14 based on the record. This was before Plaintiffs had learned that Countrywide and BofA had
15 illegally overcharged them on HELOC with the 11.25% rate, adding thousands more.

16 272. Since Wells Fargo, Bear Sterns Does 2-30, BofA, Lewis, refused Plaintiffs offer to
17 rescind, and attempted to cover up fraud with loan “modification,” Plaintiffs allege that they are
18 entitled to be made whole and a refund of the original amount of money that they paid into
19 HELOC - \$55,900 – and not simply \$41,000 along with all other damages suffered as a result of
20 defendants fraud and other violations according to additional damages suffered due Plaintiffs
21 being forced to hold on to home pending the outcome of litigation to attain their recession rights.

22 273. Plaintiffs allege that Lewis, Does 71-80 produced a modification of original loans on
23 orders of Wells Fargo CEO Stumpf who acted pursuant with agreement it had with Bear Sterns, in
24 order to cover up Mozilo, Colyer, Sambol et al March 2006 fraudulent acts; the 2006 to 2008
25 overcharges; denial of loan documents and rescission of Plaintiffs. Further BofA and Does 71-80
26 modifications was a continuation of predatory lending practices of Countrywide in that it was
27 designed to continue to strip savings, income, equity and property, prevent Plaintiffs from paying
28 loan off loans and ultimately consume over 100% of their income. *Exhibit 14*.

1 274. On February 24, 2009, BofA, Lewis, Stumpf, Wells Fargo and Does 71-80 delivered
2 loan modifications and through a series of teleconferences with Plaintiffs repeatedly threaten
3 Plaintiffs with default, foreclosure and very negative FICO credit score if Plaintiffs did not sign,
4 accept and make BofA's new loan payments. The loan modifications on its face conceals past
5 fraud.

6 275. Although Does 71-70 new loan provided a temporary 4.5% interest rate, they
7 continued to mislead Plaintiffs buy representing that they only needed to pay the interest and was
8 in fact designed to not pay down the principle. Further on April 1, 2012 monthly payments
9 doubled and this did not include HELOC payments which Defendants failed to disclose and did
10 not include property taxes, home owners insurance, HOA fees and positioned Plaintiffs, again, to
11 not be able to prospectively repay loan and would cause them to default and be foreclosed upon.
12 Plaintiffs signed the new loan but refused to give any consideration for it due to these issues that
13 an attorney pointed out afterwards; as well as it containing the inflated and false-principle balance
14 manufactured by Chen, Benson, Colyer et al March 2006; did not return defrauded funds; did not
15 apply Plaintiffs \$200,000 in monthly payments to principle as Countrywide promised to do in
16 2006; and it was not FHA or other traditional 30-year fixed loan.

17 276. From on or about April 28, 2006, and continuing through to at least June 2010, the
18 Plaintiffs expended money, time and labor to make improvements to the property, including but
19 not limited to installing over 1600 sq foot wood flooring, remodeled the 3 bathrooms, painted
20 every ceiling and wall throughout three floors, bathrooms and garage walls; special garage floor
21 sealant and paint; garage door installation; new light fixtures and more at a cost to the Plaintiffs of
22 at least \$36,000 for improvements.

23 277. On or about March 31, 2006, defendant Countrywide submitted with FATC/FTC
24 escrow exculpatory documents for Plaintiffs signatures, including, Notices and Closing
25 Instructions. At the time of closing these documents were incomplete with blank or unfilled-in
26 sections and were being presented to Plaintiffs for the first time, including 3/27/06 Good Faith
27 Estimate, Right to Rescind, Truth In Lending statements and other forms, part of which are
28 attached hereto as *Exhibits* 26 to 28 and incorporated herein as if fully set forth.

1 278. The Plaintiffs, as first-time home buyers were inexperienced and lacked the capacity
2 to understand the notices, disclosures or that documents should not have been signed with omitted
3 information. Defendants Bear Sterns, Wells Fargo, Does 2-30, Countrywide, BofA, Mozilo,
4 Colyer, Sambol, FATC, knew Plaintiffs were unassuming and lacked experience as well as
5 knowledge to comprehend. These Defendant should be stopped and prevented from asserting any
6 defense based upon these exculpatory Notices and Disclosures or documents being left blank.

7 279. On or about March 27, 2006, Plaintiffs signed and executed numerous documents that
8 FATC agent presented; however, Plaintiffs were not afforded any time to evaluate or make copies
9 of those documents and do not recall signing any documents which assigned MERS as beneficiary
10 or Recontrust as Trustee for the Note and or HELOC Agreement which are incorporated herein as
11 *Exhibits 5 and 6*, respectively. Plaintiffs also had no way of knowing that California law required
12 holder in due course record title in their name and to not separate Note from deed of trust and that
13 their title had this and other defects with was known to every defendants on March 27, 2006.
14 Further, this failure to provide Plaintiffs with all documentation and or fully filled in documents,
15 resulted in the failure of Bear Sterns, WELLS, Does 2-30, Mozilo, Colyer, Sambol, Countrywide,
16 MERSCORP, and FTC/FATC to disclose or conspicuously disclose the following:

- 17 a) Note and HELOC Agreement were designed to ensure that Plaintiffs would default
18 and face foreclosure;
- 19 b) Countrywide, Colyer, WELLS, Does et al were putting their interest ahead of
20 Plaintiffs;
- 21 c) Colyer was acting as a Triple agent on behalf of Countrywide, WELLS with Does 1-
22 30 and Plaintiffs;
- 23 d) Recontrust is/was owned and controlled by Countrywide, Mozilo et al and a biased,
24 not neutral third party as Defendants represented;
- 25 e) Countrywide, Mozilo, WELLS with Does 1-30 and 81 through 90 et al are
26 members/owners of MERS and plotted with MERS to effect fraud upon Plaintiffs;
- 27 f) MERS was designed and operated to be a front company for WELLS with Does 1-30,
28 in order to shield themselves from claims of fraud perpetrated upon borrowers, such as Plaintiffs,

1 by Countrywide and other predatory lenders;

2 **g)** MERS was not an actual Beneficiary for Countrywide or anyone else, but simply a
3 Strawman publicly recorded as a real beneficiary for Does 1-30 with WELLS;

4 **h)** Note was pre-assigned to others who are part of WELLS with Does 1-30 Investors
5 before the close of escrow and that all Countrywide defendants were in fact representing WELLS
6 with Does 1-30 in brokering loans to Plaintiffs as WELLS with Does 1-30 agent;

7 **i)** Concealing from Plaintiffs that Countrywide was never the assignee and that WELLS
8 with Does 1-30 were assignees;

9 **j)** Countrywide, Mozilo, Sambol, WELLS with Does 1-30 conspired to divide Plaintiffs
10 loans up, as other borrowers, so that portions could be sold off to “investors” whose identities
11 would be concealed from Plaintiffs so there would be no way to identify any holder in due course
12 and so Plaintiffs would have no way of knowing who to sue once cognizance of fraud surfaced;

13 **k)** Countrywide, Mozilo, Sambol and Does 1 through 50, had a practice of using
14 borrowers, including Plaintiffs, social security numbers and other personal and financial
15 information to secure funds from investors without Plaintiffs permission.

16 280. The Plaintiffs allege at all times relevant herein that no purchaser assignee, pledgee or
17 subsequent holder of Notes is or can be a holder in due course of the HELOC Agreement should
18 there be one, including defendant BofA, Wells Fargo, Does 2-30, Bear Sterns or its successor in
19 interest JP Morgan, each such assignee being deemed to have received Notice under Regulation Z
20 §226 et seq. that purchasers or assignees could be liable for all of Plaintiffs claims and defenses
21 with respect to the HELOC that Plaintiffs could assert against defendant Countrywide.

22 281. Defendant MERS is not a bona fide purchaser for value or holder in due course of
23 either the interest only ARM Note or HELOC Agreement, but MERS is a Pretender Beneficiary or
24 Mortgagee held up by Bear Sterns to deceive the Plaintiffs and public, by concealing who is true
25 Beneficiary. Further, under MERS private recording system, no purchaser or assignee of
26 Countrywide’s beneficial interest appears in the public records of Santa Clara County as
27 evidenced by the Santa Clara County Office of the Clerk Recorder dated July 27, 2010, attached
28 hereto as *Exhibit 2* and incorporated herein as if fully set forth.

1 **N. Wells Fargo, FATC, MERSCORP, Countrywide, Bear Sterns Involvement**

2 282. Based on Florida, California, Kansas and other state cases, along with county of Santa
3 Clara records, Plaintiffs are informed and believe and thereon allege that from at least January 15,
4 2001 to March 30, 2006, Mozilo instructed all of his subordinate brokers, including Colyer, to
5 instruct title companies as FATC and FTC, to falsely record in Santa Clara County Clerk-Recorder
6 records that MERS would be the mortgagee or beneficiary of mortgage Notes or HELOCs it
7 specified. Further, Mozilo instructed Countrywide brokers being supervised by himself, to
8 represent to borrowers, including Plaintiffs, that Countrywide Home Loans, Inc., would remain the
9 owner of the Note/HELOC and to falsely record MERS as their mortgagee or beneficiary while
10 concealing that MERS was actually a Strawman or front for Wells Fargo and Bear Sterns.

11 283. On or about January 2001, Countrywide, through its duly appointed CEO Mozilo,
12 negotiated with defendants Bear Sterns, Does 2-30, MERSCORP & FATC the language that
13 would be used in recording MERS in County Recorder offices as beneficiary, including Santa
14 Clara County. The CEOs of MERSCORP & FATC directed their staff to work with Countrywide
15 staff on the language, resulting in the language cited in *Exhibits 7 and 8* which MERSCORP &
16 FATC promulgated to FTC.

17 284. Before March 14, 2006, when Colyer had issued Countrywide's representation to
18 provide Plaintiffs with a 30-year fixed 1 to 3 percent loan, *Exhibit 10*, Bear Sterns communicated
19 to Countrywide to supply them with a certain number and quality of Pay Option ARM Notes and
20 HELOC agreements, and that Colyer in steering Plaintiffs to purchase such loans was fulfilling
21 such request pursuant to Master Repurchase Agreement Mozilo entered Countrywide into with
22 Wells Fargo and Bear Sterns before March 2006, thereby Countrywide was not owner of Notes.

23 285. Colyer, Mozilo, Sambol, Wells Fargo with Does 1-30 concealed from Plaintiffs that
24 loans were being brokered on behalf of Wells Fargo and Bear Sterns and had Plaintiffs known this
25 they would not have purchased their loan through Countrywide.

26 286. On or about March 27, 2006, Colyer contacted FATC agent FTC, to send an
27 employee to close escrow on Plaintiffs and secure their signatures on all loan documents presented
28 in escrow, and to not leave certain documents that they sign with Plaintiffs, and those which were

1 left, leave them un-filled in order to conceal from Plaintiffs the actual cost of the loans or what
2 their rights to rescind was. Further, Colyer directed FTC to not permit Plaintiffs to copy signed
3 originals, but go to Santa Clara County Clerk-Recorder and falsely record MERS as the
4 mortgagee, beneficiary and trustee.

5 287. FATC CEO was informed by Does 2-50, that MERSCORP was only a front or
6 Strawman for Wells Fargo and Bear Sterns and operated to allow Does 2-30 to sale and resale
7 Notes without informing the public or borrowers, including Plaintiffs, the Chain of Title or who
8 the actual Note Holder was at a given time and followed Countrywide's instructions, as it has done
9 thousands of times before in California, by sending agent FTC representative to close escrow at
10 Plaintiffs Mt. View, California home on March 27, 2006.

11 288. Defendant FATC representative Javani Wyatt⁶ presented David and Salma escrow
12 documents on March 27, 2006, which were not filled in or partially filled in, rushed Plaintiffs to
13 sign them based on her not having time for them to read them before signing; refused to let
14 Plaintiffs copy them on their copier with the promise that they could contact Countrywide to
15 obtain copies of signed documents and left Plaintiffs with some of the documents missing, unfilled
16 in or partially filled.

17 289. On or about March 30, 2006, FATC sent another agent to follow the orders of
18 Countrywide and they paid the \$130 filing fees to Santa Clara County Clerk-Recorder and falsely
19 recorded in County of Santa Clara records that MERS was the mortgagee or beneficiary along
20 with Recontrust, and concealed from the Plaintiffs and the public who the holder of the Note or
21 HELOC was, immediately clouding Title of Property.

22 290. On or about April 1, 2006, some of the Does from 2-30 sold Plaintiffs Note and
23 HELOC to others who were or were not members of MERSCORP. From April 1, 2006 through
24 July 2010, Plaintiffs Note and HELOC was sold multiple times in portions via securities pooling,
25 by Bear Sterns and WELLS who ignored California Commercial Code provisions regarding laws
26 on endorsements, chain of title and instrument laws to where the owner of the Note and HELOC is

27 ⁶ Agent Wyatt is not sued at this time although she is culpable of wrongdoing, but right is reserved to sue.
28

1 not actually known. Each of the named Defendants concealed from, and did not disclose to
2 Plaintiffs these things or that they would be using Plaintiffs' personal and financial information to
3 generate money.

4 291. On or about October 15 2006, April and June 2007, January, March, July, August,
5 September and November 2008, Salma and David contacted Colyer and other Countrywide
6 employees in an attempt to speak with the actual owners of their Note and HELOC so they could
7 negotiate a refinancing of their two loans and obtain the "one" loan promised by Countrywide.
8 Further, to inform actual Note Holder that Plaintiffs were victims of fraud. At this time, Colyer
9 and other staff represented to these Plaintiffs that Countrywide was the owners of Notes, while
10 knowing in truth Bear Sterns and Wells Fargo were.

11 292. On or about November 2008, May 2009 and July 2010, Countrywide and BofA
12 represented to Plaintiffs that Wells Fargo or Does 1-30 was the owner of this action's Note;
13 however, WELLS, pursuant to Stumpf orders, has denied this and BofA provided proof of this
14 which Plaintiffs incorporates herein as *Exhibit 29*, as if fully set forth herein. Further, from
15 January 2009, when Plaintiffs formally tendered their home and rescinded their loans, up to
16 August 2010, WELLS FARGO with Does 1-30, through its agent BofA, refused to rescind loans
17 in order to cover-up and support their own and Countrywide's application, origination and
18 servicing fraudulent acts.

19 293. Since the filing of this action at least forty Attorney Generals from US States along
20 with Federal Government investigated and brought fraud, conspiracy actions against Mozilo,
21 Sambol, Countrywide, MERSCORP, Does 2-30, Bear Sterns et al which arise from substantially
22 the same questions of fact and laws alleged herein. The Plaintiffs are submitting just four related
23 ones as *Law Suit Exhibits 36 to 39* accompanying Third Amended Complaint and are incorporated
24 herein as if fully set forth.

25 **FIRST CAUSE OF ACTION**

26 **(Conspiracy to Commit Fraud-Misrepresentation, Deceit, Concealment)**

27 Plaintiffs adopt and incorporate herein paragraphs 1 through 293, above as if fully set forth
28 in this cause of action.

Defendants Mozilo, Sambol, Colyer, Benson and Chen

1
2 294. On or about March 7, 2002, March 28, 2003, March 12, 2004, March 15 & September
3 22, 2005 and March 1, 2006 defendants Mozilo, Sambol, Countrywide, Does 31-50 made the
4 following representations to American Public in SEC filings: Countrywide produced “prime
5 quality ... low cost loans ... using quality control audits to monitor compliance with [CHL]
6 underwriting criteria”; “...[Countrywide] looking to hold only pristine product on the balance
7 sheet,” and loans are designed to meet borrowers’ needs. In every month from January 2005 to
8 March 2006, these same defendants made the representations in San Jose Mercury, San Francisco
9 Chronicle and other Bay Area News papers: Countrywide Bank was the same or similar to
10 Countrywide Home Loans and offered the best interests rates of any other Bank. From January
11 2005 to March 2006, Sambol and Mozilo ordered Does 31-50 to hire advertising firm to publish
12 TV, Internet and Junk Mail Ads transmitted and sent to American mortgage loan borrowers which
13 made the following representations: Countrywide would provide mortgage loan borrowers 1 to 4
14 percent interest rate loans; lowest monthly payments in the industry; no competitor could provide
15 less expensive payments or interest rates; would charge borrower no closing fees; would charge no
16 origination fees; provide FHA backed loans; provide 30-year fixed rate; would facilitate
17 borrower’s ability to own their home securely. During January 2005 to March 2006, Salma and
18 David saw, read and heard each and every one of these representations in named Newspapers,
19 local and national TV stations, Countrywide, SEC and other Internet sites, brochures mailed by
20 Mozilo and Sambol Ad Agents to their home and phone calls received from Does 45-50 and
21 March 9, 10, 14, 18, 20 to 28, 2006 face-to-face and phone talks with defendant Colyer.

22 295. From May 2006 to November 2008, Mozilo, Sambol, Colyer, Does 1-100, Wells
23 Fargo, BofA and Lewis made the following representations to Salma and David twice per month,
24 every month, by way of payment vouchers: Plaintiffs owed monthly payments some 20-30%
25 above what loan documents specified. During March 2006 Colyer and Chen directly represented
26 to Salma and David through face-to-face and phone conversations that Countrywide was a
27 trustworthy and best company to get loan from. From February to November 2009 defendants
28 Lewis and Does 71-80 made representations that the modification of their loans would combine

1 both loans into one, include property taxes, be a 30-year fixed loan that would be below 30% of
2 Plaintiffs monthly income. On or about March 18, 2006, defendants Colyer, Benson and Chen
3 made representations through an official Appraisal report reporting to public and Plaintiffs that the
4 value of Property
5 was \$739,000.

6 296. The representations made by defendants Mozilo, Sambol, Does 31-50 were in fact
7 false. The true facts were Mozilo and Sambol trained subordinates to broker the most costly loans
8 for borrowers; hide the charges of closing and origination fees by wrapping it into loan thereby
9 increasing loan beyond what borrower agreed upon; direct appraisers to falsify value of property
10 to higher value to make more profit; train, order and encourage underwriters and sub-brokers to
11 not apply or lower underwriting standards; not broker FHA loans; design loans to strip Plaintiffs
12 savings, income, equity and ensure that they are not able to securely own their property; broker 3,
13 5 or 10 year Adjustable Rate mortgage terms, not 30-year fixed; Plaintiffs owed 20-30% less than
14 what these defendants represented each month; Countrywide was not a trustworthy company since
15 its officers and sub-brokers were intentionally defrauding millions of Americans; modification
16 was intended to cover-up past fraud and abrogate Plaintiffs rights to sue for damages thereto; did
17 not include property taxes; were still two loans and would exhaust 80-100% of Plaintiffs income
18 and the actual value of Property was \$700,000 or less.

19 297. When defendants Mozilo, Sambol, Colyer, Benson, Chen, Lewis and Does 31-50 with
20 71-80, made these representations, they knew them to be false and made these representations with
21 the intention to deceive and defraud the Public and Plaintiffs Salma and David in order to induce
22 Plaintiffs along with the Public to act in reliance on these representations in the manner alleged
23 herein, or with the expectation that they would act so.

24 298. Plaintiffs Salma and David, at the time these representations were made by
25 defendants Bear Sterns, Mozilo, Sambol, Colyer, Chen, Benson, Countrywide, Wells Fargo, Does
26 1-100, FATC, MERSCORP, BofA, Lewis, David and Salma Merritt were ignorant of the falsity of
27 the defendant's representations and believed them to be true. In reliance on these representations,
28 Salma and David was induced to and did agree to purchase their property, unbeknownst to them at

1 a falsified higher value; hired Countrywide to broker their loan; made monthly payments 20-30%
2 above agreed upon for 2 years 10 months; used up all their savings, income and equity to meet
3 defendants representations. Had Salma and David known the actual facts, they would not have
4 taken such actions. Their reliance on these defendants' representations was justified because they
5 are not trained in real estate, loans, and law or otherwise cognizant of this area, and hired these
6 defendants to actually provide a trustworthy service of brokering a loan.

7 **Chen, Benson and Colyer**

8 299. On or about February 27, 2006, plaintiffs Salma and David entered into a written
9 agreement to purchase property situated at 660 Pinnacles Terrace, Sunnyvale, and Santa Clara
10 County, California from Defendant Chen. A copy of this agreement accompanies this complaint as
11 *Exhibit 32* and made part hereof by reference.

12 300. In this sales transaction, defendant Chen acted as the real estate agent for "seller" of
13 property and concealed that he was one of the sellers. Plaintiffs, as buyers, was represented by
14 Earl Taylor. Confirmation of the agency relationships is set forth in Exhibit 32.

15 301. Prior to the execution of the sales agreement and continuing through the escrow
16 period, defendant Chen was aware that he was one of the sellers of the property; that he and
17 Colyer had enlisted defendant Benson to falsely increase the value of Property more than \$40,000
18 above its fair market value; that the parking space adjacent to Property was at that time property of
19 the Home Owners Association; and that the loans he encouraged Plaintiffs to purchase from
20 Countrywide would be financially defective and was part of conspiracy to defraud David and
21 Salma out of their savings, income, equity and property. Defendant Chen knew that these defects
22 in the property value and loans as well as parking space were unknown to, or were beyond the
23 reach of Plaintiffs.

24 302. These defects and misrepresentations materially affect the value and the desirability
25 of the property.

26 303. Defendant Chen failed to disclose to Salma and David the existence of these defects
27 with the intent to induce Plaintiffs to complete the purchase of the property. Defendant took
28 certain affirmative acts to insure that Plaintiffs would not discover the defects or misrepresent-

1 tations by hiring and conspiring with defendants Benson and Colyer to falsify the appraisal report;
2 produce loans for the falsified amount; concealed that he was actually the Seller of Property; told
3 Plaintiffs that Seller purchased Property for \$729,000 and confirmed Countrywide was a
4 trustworthy place to get their loans.

5 304. As a result of defendant Chen's fraudulent failure to disclose defects and made false
6 representations to Salma and David, Plaintiffs completed the purchase of the property and has
7 been damaged in having their savings, income and equity stripped from them in excess of
8 \$200,000.

9 305. On or about February 25, 2006 at Property address, defendant Chen, with the intent to
10 defraud and deceive Salma and David and with the intent to induce both Plaintiffs to: purchase the
11 above-described real property for a sum of \$729,000; represented to the plaintiffs that Sellers had
12 purchased the property at and above the cost of \$729,000; an appraisal will confirm Property's
13 value; that this property contained third parking space which increased acreage by approximately
14 20% and that he was only the agent for the Seller. These representations were false, and defendant
15 Chen knew them to be false at the time he made them, and at all times herein mentioned. In fact
16 and truth, the above-described real property was worth only approximately \$700,000; it was
17 purchased for \$750-760,000; defendant Chen was a owner and Seller; Chen and Colyer had
18 enlisted Benson to falsify appraisal report which they presented to David and Salma on or about
19 March 18, 2006 at Colyer's Menlo Park office, to eliminate any doubt that Plaintiffs held about
20 Property's value; and property acreage was about 20% less than what Chen represented.

21 306. Each of these representations made by Colyer, Benson, Chen and others were
22 pursuant to the training, orders, instructions or authorizations by Bear Sterns, Wells Fargo,
23 Countrywide, Mozilo, Sambol, Does 2-100, as well as Lewis, FATC, MERSCORP and their
24 respective Board of Directors.

25 307. Salma and David did not know that these representations were untrue, but on the
26 other hand, believed them to be true. In reliance on this representation, Plaintiffs entered into a
27 contract of purchase and sale of the above-described real property with the defendant, and paid the
28 defendant the sum of \$739,000 as a purchase price therefor. The contract of sale is attached hereto

1 as *Exhibit 32*, and made part hereof. Except for the false representations of defendant Chen,
2 Colyer and Benson, the Plaintiffs would not have entered into the above-mentioned contract and
3 would not have paid the contract sum of \$739,000, or any sum, for the above-described real
4 property, to defendants Chen, Benson, Colyer et al. Defendant Chen escorted Plaintiffs around the
5 home, showed them how the parking space was directly adjacent to the home, displayed for them
6 photos and official real estate print outs of other townhomes in Sunnyvale which had similar and
7 higher sales prices to \$739,000, did not have any expertise in this area and was urged by Chen,
8 Benson's Appraisal report and Colyer to accept each of their assurances as to the value of the
9 Property.

10 **Fraudulent Promises**

11 308. On or about March 14, 2006, defendant Colyer, acting on the aforementioned
12 authority of defendant Mozilo and Countrywide Board of Directors, promised Salma and David
13 that he could guaranty to provide them with a loan which was FHA 30-year fix with monthly
14 payments of \$2,200 or less as long as Plaintiffs hired him and terminated the two other brokers
15 they were working with. This was a practice that Colyer learned directly from defendants Mozilo,
16 Sambol and Does 31-50 during 2005 and 2006, when they trained him at Countrywide HQ and
17 was a promise similar to others that Colyer, Mozilo, Sambol and hundreds of other Countrywide
18 staff made to other mortgage loan borrowers in order to lure them into hiring them to broker loan.

19 309. At the time defendant Colyer made the promise to David and Salma on at least 2 face
20 to face and 3 telephonic talks between March 10 to 18, 2006, Colyer had no intention of
21 performing it.

22 310. The promise was made by Colyer with the intent of being an additional inducement to
23 the Plaintiffs terminate their other brokers, remove loan contingency from Real Estate Sales
24 Contract with Chen and commit to letting Colyer take their application.

25 311. David and Salma, at the time this promise was made, and at the time Plaintiffs took
26 the actions herein alleged, was ignorant of Colyer's training from Mozilo and Sambol and his
27 secret intention not to perform and Plaintiffs could not, in the exercise of reasonable diligence,
28 have discovered the defendant's secret intention. In reliance on the promise of the defendant,

1 Plaintiffs hired Colyer to broker them the above-described loan. If the Plaintiffs had known the
2 actual intention of the defendants, Plaintiffs would not have taken such action.

3 312. Defendants Colyer, Mozilo, Sambol, Does 31-50 and Countrywide, failed to abide by
4 their promise by brokering a loan which was twice the amount of loan promised, was two versus
5 one loan and retained the other detrimental qualities described above.

6 313. As a proximate result of the fraudulent conduct of these defendants as herein alleged,
7 Salma and David was induced to exhaust their savings, income, equity and thousands of hours of
8 their time and energy in an attempt to rectify the fraud perpetrated upon them, by reason of which
9 the Plaintiffs have been damaged in the sum of \$400,000

10 314. The aforementioned conduct of defendants Mozilo, Sambol, Colyer and Countrywide
11 were agreed to and or known by Bear Sterns, Wells Fargo, FATC, Lewis, MERSCORP and was
12 intentional misrepresentations, deceit, or concealment of material facts known to defendants with
13 the intention on the part of the defendants of thereby depriving Plaintiffs of property and legal
14 rights or otherwise causing injury, and was despicable conduct that subjected Plaintiffs to a cruel
15 and unjust hardship in conscious disregard of the Plaintiffs rights, so as to justify an award of
16 exemplary and punitive damages.

17 **a. False Representations And Concealments – 1st Element**

18 315. This is a list of the false representations made to mortgage loan borrowers such as
19 Plaintiffs through California newspapers, magazines, radio, television, brochures, public corporate
20 filings and internet which specifically included, but is not limited to:

21 (i) Pay no closing cost loans; (ii) No origination fees; (iii) receive 1, 2, 3 or 4% interest
22 rate; (iv) lowest payments in industry and “no one could do” better; (v) could be trusted to provide
23 best loan; (vi) prime loan financing; (vii) strict or sound federal underwriting standards applied;
24 (viii) high quality underwriting audits; (ix) Save thousands without making down-payment; (x)
25 chance to actually own your first home; (xi) Countrywide will loan money; x(xii) All loan
26 documents they sign will be delivered to them; (xiii) Title will be clear of any cloud; (xiv) Title
27 Company would deal honestly and fairly. From on or about January 15, March 15, July 15,
28 October 15, December 15, 2005, and continuously and repeatedly to March 2006, Plaintiffs saw,

1 heard and read these representations in San Jose, San Francisco, Oakland, Los Angeles, Atlanta,
2 Chicago, Detroit and New York newspapers, local television and radio stations, on Internet and
3 advertising brochures mailed by Countrywide upon Sambol and Mozilo personal orders and
4 instructions.

5 316. This is a list of the false oral and written representations and promises to Plaintiffs
6 which specifically include, but are not limited to:

7 (i) Countrywide (hereinafter cited as “CW”) was selling Plaintiffs Prime conventional 30-
8 year fixed rate FHA mortgage with an interest rate between 1-3%; (ii) Followed federal
9 underwriting standards; (iii) CW was selling loans for itself and would be the holder-in-due course
10 of loan; (iv) Would fully meet Plaintiffs financial ability to pay off loan in 30-years; (v) Property
11 was accurately appraised at \$740,000; (vi) the Pay Option & HELOC two loans was very best and
12 only option for Plaintiffs available in the mortgage market; (v) Plaintiffs had ability to repay loans;
13 (vi) Loan documents and information therein would be faithfully delivered to Plaintiffs; (vii) CW
14 was going to “refi” into originally promised loan if Plaintiffs made monthly payments for year;
15 (viii) CW staff were honest and trustworthy professionals; (ix) Plaintiffs did not qualify for prime
16 or conventional loan; (x) Plaintiffs owed 11.25% on HELOC; (xi) Payments and 6.5% on Note
17 would last 30-years; (xii) There would be no cloud on title; (xiii) Best to not put down payment;
18 (xiv) Actual chance for Plaintiffs to own their first home.

19 **b. Actual Truth – 2nd Element**

20 317. This is a list of the **true facts**, including but not limited t: (i) defendants would charge
21 closing cost & origination fees; (ii) employees and agents were untrustworthy as fiduciaries and
22 not only overcharge costs, but falsify monthly coupons from April 2006 to January 2009 with
23 11.25% interest rate payments; (iii) design loans to be among the highest payments, fees and
24 interests in industry; (iv) Plaintiffs qualified for prime conventional loan; (v) deny prime loan and
25 sell them subprime; (vi) not apply federal or even Countrywide underwriting standards; (vii)
26 maintain low quality underwriting audits or negate audits; (viii) cost thousands of dollars more
27 than what Plaintiffs should have paid if loan sold by honest broker; (ix) not making down payment
28 was in Plaintiffs worse interests; (x) loans designed to strip equity from Property; (xi) made loans

1 so complicated that no layperson, first-time home buyer or many real estate or loan professionals
2 could understand loan terms or payments; (xii) underwrote loans to ensure default of payments
3 and foreclosure; (xiii) designed payments to initially be lower – teaser rate – in order to bait and
4 conceal or obscure the later higher payments that would be impossible for Plaintiffs to pay; (xiv)
5 violate all fiduciary duties and only ensure profits for CW, Wells Fargo and Does 1 through 100;
6 (xv) pretend CW was bank to engender confidence and trust in staff; (xvi) steered Plaintiffs to
7 purchase loan that was presold or ordered by Wells Fargo or Does 1-30; (xvii) FHA 30-year 1-3%
8 promise was solely to entrap Plaintiffs to be committed to CW and terminate other lenders; (xviii)
9 always charged closing and origination costs; (xix) Was dual or triple agent and did not provide
10 written nor oral disclosures of such; (xx) left Plaintiffs with unfilled-in documents and did not
11 provide certain other documents; (xxi) provided different loan at close of escrow than what was
12 initially promised; (xxii) inflated value of property above \$670,000 to sell higher valued loan and
13 commissions; (xxiii) had right to close escrow at title company and invite professionals to review
14 documents; (xxiv) loans would first consume 65% then over 100% of income; (xxv) property
15 taxes and insurance were not included in payments; (xxvi) Plaintiffs had right to have excess
16 payments pay down principles of both loans; (xxvii) should have paid between 4.5 and 8% on
17 HELOC; (xxviii) MERS designated as mortgagee or beneficiary to cloud title and conceal Does 1-
18 30; (xxix) MERSCORP Wells Fargo with Does 1-30 agent to effect pre-planned foreclosure on
19 Plaintiffs and conceal fraud of Wells Fargo with Does 1-30; (xxx) Plaintiffs had right to rescind
20 loans once documents were provided in January 2009 which exposed 2006 fraud; (xxxi) BofA
21 modified loan to cover up CW et al 2006 to 2009 fraud; (xxxii) defendants sold Plaintiffs loans to
22 supply mortgage backed securities and not to provide them chance to actually own a home at all;
23 (xxxiii) Wells Fargo or Does 1-30 were the de facto Note holders and not CW; (xxxiiii) No
24 intention of delivering any signed loan documents; (xxxv) Concealed Title Insurance policy until
25 2010; (xxxvi) Intended to cloud title and in fact did cloud title; (xxxvii) Aided and Abetted in fraud
26 at the close of escrow; (xxxviii) No intent of having title company deal honestly and fairly.

27 **b. Knowledge of False Representations or Concealments – 3rd Element**

28 318. Each and every one of the Defendants were directly involved in Plaintiffs loans either

1 during application, origination, servicing and/or rescinding stages personally or through their
2 named CEOs, employees or agents herein.

3 319. The falseness of each representation was fully known to defendants Mozilo, Sambol,
4 Lewis, Does 2-30, Mozilo, Sambol, Colyer, Chen, Benson, Countrywide, Does 31-50 & 61 to 70,
5 BofA, Does 71-80, Wells Fargo, Does 81-90, MERSCORP and R.K. Arnold, FTC & FATC
6 agents Wyatt and Does 91-100 and Bear Sterns as specifically alleged above.

7 **c. Intent to Remove Competition and Induce Plaintiffs to Act – 4th Element**

8 320. The representations were made by Defendants to remove broker competition and to
9 induce Plaintiffs to act thereon, and Plaintiffs did act by doing specifically as alleged as follows:

10 (i) Giving full trust and confidence in Colyer, Chen, Benson and Does 61-70 decisions;
11 (ii) Believed Countrywide was a reputable and honest banking institution; (iii) believed CW would
12 provide a prime quality FHA or conventional 30-year fix mortgage between 1-3%; (iv) sell them
13 very best loan on the market; (v) accepted their status as mortgage experts; (vi) trusted them to be
14 honest fiduciaries who placed Plaintiffs interest first; (vii) accepted them as *Plaintiffs agent* who
15 did not have any others whose interest would come before Plaintiffs; (viii) took their assurance
16 that it was best to not put money down; (ix) believed there would not be closing cost; (x) believed
17 high quality underwriting standards applied; (xi) believed loan would allow actual ownership of
18 home; (xii) underwriting would ensure ability to repay loan; (xiii) loan would be 30-50% lower
19 than what other lenders could do; (xiv) trusted for all loan documents to be delivered; (xv)
20 believed in promise to refinance; (xvi) accepted promise to apply monthly payments to principles
21 of both loans; (xvii) accepted appraisal report of \$740,000 was true value; (xviii) accepted
22 assurance that Countrywide would be holder of Note; (xix) believed taxes would be included in
23 payments; (xx) signed agreement for purchase of Property; (xxi)

24 321. Further, Defendants Bear Sterns, Colyer, Benson, Chen, Countrywide, BofA,
25 FTC/FATC, WELLS FARGO, Stumpf, Lewis, MERSCORP, Recontrust, Mozilo, Sambol, Wells
26 Fargo and Does 2 -50 failed to reveal and suppressed facts such as including but not limited to: 1)
27 Their promises were made only to persuade Plaintiffs to not seek lending elsewhere; 2) No 30-
28 year or conventional loan would be afforded; 3) Two, not one, loans would be issued at 6.5 and

1 11.25%; 4) CW did not follow federal underwriting standards; 5) CW was acting as agent for
2 Wells Fargo with Does 1 – 30 who were actual holders of Note; 6) Property was actually worth
3 \$670,000; 8) Designating seemingly innocent MERS as Beneficiary versus Bear Sterns, Does 2-30
4 or WELLS FARGO, would not raise questions or concerns and persuade Plaintiffs to agree; 9)
5 Signed loan documents with cost of loan, rescinding date and other loan data; 10) Other loan
6 options were available; 11) Loans were actually subprime and unconventional; 12) final signed
7 and completely filled-in loan documents; 13) CW was not a bank but a real estate mortgage
8 broker; 14) Final loan payments would not and did not include taxes, insurance etc.; 15) Not
9 delivering ultimate signed loan documents would not contradict what was being represented to
10 Plaintiffs; 16) Title Policy; 17) Right or need to have lawyer review all documents before signing.

11 **d. Plaintiffs Reliance on Misrepresentations/Concealment – 5th Element**

12 322. The Plaintiffs reliance on Defendants representations was justified and reasonable
13 because Plaintiffs:

14 (i) Are first-time home buyers; (ii) not trained or work in real estate or financial industries;
15 (iii) hired Colyer/Countrywide to be their broker with all fiduciary duties; (vi) told loan would be
16 through CW; (vii) saw CW as Publicly traded and American Corporation; (viii) saw television and
17 other advertisements presenting CW as a honest trustworthy institution; (ix) were told that federal
18 underwriting standards was applied to loans; (x) read and heard Mozilo personal public reports
19 that CW employed high quality underwriting audits; (xi) were manipulated to trust and have
20 confidence in CW; (xi) believed Colyer & Does 61-70 were professional financial experts; (xiii)
21 believed professional and honest standards would dictate that all Defendants had legal
22 responsibilities and duties to consumers; (xix) Chen, Wells Fargo vouched for CW credibility;
23 (xx) were not afforded time to review loan documents and not informed that they could hire
24 lawyer or professional; (xxi) received each month official coupons demanding certain amount in
25 payments; (xxii) were promised that payments would apply to principle and told this was the way
26 loans worked; (xxiii) was told that CW was providing funds for loans and would be holder of Note
27 and HELOC; (xxiv) each and every defendant are trained professionals in the real estate and
28 lending brokerage industries; (xxv) each and every defendant was in positions of advantage with

1 respect to knowledge of facts concerning real estate and lending industries; (xxvi) had federal and
2 state rights to receive every loan document signed and filled in.

3 **e. Damages from Misrepresentations/Concealment – 6th Element**

4 323. As a proximate result of the fraudulent concealments of each and every defendant
5 herein alleged, Plaintiffs were forced to expend 350 days of 8-hours which was lost to time
6 commitment to employer; and 150 days of 8-hours each lost in work regarding their own private
7 California Corporation business activities, due to their needs to investigate and uncover
8 misrepresentations herein as well as studying law and litigation at a cost of not less than
9 \$1,375,000 in lost wages, bonuses and business development.

10 324. As an additional proximate result of misrepresentations and the failure to disclose the
11 true facts, Plaintiffs have been damaged in that the value of the property is far less than the sales,
12 appraised and funded prices. The exact amount by which Plaintiffs have been damaged is
13 unknown at this time, but it is at least the difference between what Plaintiffs paid for the Property
14 and its true value, or other damages, which are unknown to Plaintiffs at this time. Plaintiffs have
15 also suffered consequential damages in the form of closing costs, escrow fees, loan origination
16 fees, title insurance, moving expenses, payments of principal and interest on the purchase money
17 loans, improvements made to Property, and other expenses, among other damages, according to
18 proof at trial in addition to sums cited infra.

19 325. On or about March 27, 2006, Plaintiffs are informed and believe and based thereon
20 allege that Countrywide sold Plaintiffs loan for an amount in excess of the principle amount of
21 \$591,000 (Hybrid ARM), and \$147,000 principle amount of the HELOC second loan by using
22 Plaintiffs financial and personal information without permission, disclosure or right to do so.

23 326. As a proximate result of Countrywide misrepresentations Plaintiffs have been
24 defrauded of the sum of \$9,300 loan costs'; 82,550 paid on the HELOC loan and \$99,700 paid on
25 the Hybrid Pay Option ARM loan, and Plaintiffs have been damaged further in that Plaintiffs
26 could have qualified for either an FHA, prime loan or other type of conventional loan, but was
27 steered into and sold a subprime loan which immediately affected credit score negatively. Also
28 sold a loan that was above interest rate they qualified for - 6.5% rate paid by Plaintiffs for their

1 first and 7.5% on their second HELOC. Further, to loss sustained in false inflated appraisal of the
2 market value of Plaintiffs home in the sum of \$66,000; For excessive above prime market interest
3 rates charged on the Hybrid Pay Option ARM in the sum of \$113,169 more than Plaintiffs would
4 otherwise have paid and \$964,444 over the term of the Pay Option ARM loan; For excessive
5 above market interest and principle paid on the credit card HELOC loan in the approximate
6 amount of \$32,550, when the exact amount becomes known to Plaintiffs, they will amend this
7 complaint to state the such loss.

8 327. Additionally, as results of Defendants, and each of them, misrepresentations,
9 Plaintiffs completed the purchase of the home using Defendants purchase money loans, and once
10 fraud became known to them they were forced to cease payments on fraudulent loans and tender
11 their property which had depreciated by \$20,000 in January 2009, and was further subject to fraud
12 when BofA refused their right to rescind and reported Plaintiffs to credit bureau as being in default
13 of loan payments and now Property depreciating to \$550,000 as a direct result of Defendants
14 refusal to rectify fraud and rescind loan January 2009. This is an additional \$180,000 as lost to
15 Plaintiffs. There are other damages in a sum presently unknown to Plaintiffs and Plaintiffs will
16 amend this complaint when the sum becomes known to them.

17 328. In doing the things alleged in this complaint, each and every defendant acted with
18 oppression, fraud and malice, and said acts were approved and/or ratified by each of the remaining
19 Defendants. Plaintiffs are therefore entitled to punitive damages in a sum according to proof.

20 329. The various acts and representations of defendants, and each of them, were all false
21 and made as the result of, and in furtherance of, an agreement whereby each of the defendants
22 knowingly conspired with the other defendants to sell David and Salma aforementioned Property
23 and loans at prices much greater than its value and to divide the profits derived from that sale
24 among themselves.

25 **Formation and Operation of Conspiracy**

26 330. Plaintiffs are informed and believes and thereon alleges that at all times herein
27 mentioned each of the defendants was the agent and employee of each of the remaining
28 defendants, and in doing the things herein alleged, was acting within the course and scope of such

1 agency.

2 331. From on or about January to December 2005, defendants Mozilo, Sambol, Does 2-50,
3 the CEOs of Bear Sterns, Wells Fargo, MERSCORP, FATC, knowingly and willfully conspired
4 and agreed among themselves to make false representations to Public and or Plaintiffs in order to
5 lend money to and defraud mortgage loan borrowers such as Plaintiffs, out of their savings,
6 income, equity and properties.

7 332. The numerous and specific representations, its falsities, truth and damages thereof are
8 set forth fully from ¶¶ 24-293, emphasized from ¶¶ 294-331 are incorporated fully herein.

9 333. Defendants Mozilo, Sambol, Does 2-50, the CEOs of Bear Sterns, Wells Fargo,
10 MERSCORP, FATC did the acts, things and omissions herein alleged pursuant to, and in
11 furtherance of, the conspiracy and above-alleged agreements repeatedly made among them.

12 334. Defendants Lewis, Colyer, Chen, Benson, Does 51-100, MERSCORP, Countrywide,
13 FATC, Wells Fargo, FTC furthered the conspiracy from October 2005 repeatedly and
14 continuously until March 2009 and up to April 2011, by cooperation with or lent aid and
15 encouragement to or ratified and adopted the acts of defendants Mozilo, Sambol, Does 2-50, the
16 CEOs of Bear Sterns and BofA by holding discussions with these defendants, undergoing training,
17 agreement to follow their wishes as described throughout above and referenced paragraphs.

18 335. Plaintiffs are informed and believes and thereon alleges that the last overt act in
19 pursuance of the above-described conspiracy occurs to this filing of March 8, 2012, in that Bear
20 Sterns successor in interest, JP Morgan Chase, continuously orders Wells Fargo to direct BofA to
21 try to convince Plaintiffs to accept a modification of loans in order to abrogate their right to
22 redress herein, and to cover up past and existing fraud and conspiracy as well as contining to seek
23 payments on the fraudulent loans at issue herein.

24 **COUNT II: Negligent Misrepresentation-Wells Fargo**

25 Plaintiffs adopt and incorporate herein paragraphs 1 through 335, above as if fully set
26 forth in this cause of action.

27 336. When defendants Countrywide, through defendants Mozilo, Sambol, Colyer, Chen,
28 Benson Does 31-100 made each of the representations, concealments, promises or omissions cited

1 herein they each had no reasonable ground for believing representations to be true in that they
2 each had knowledge they were all false, inaccurate or otherwise untrue as referenced in First
3 Cause of Action. And these defendants acted under the direction, cooperation, and or approval of
4 Bear Sterns, Wells Fargo, Lewis, BofA, MERSCORP, FATC.

5 337. Defendants Countrywide, through defendants Mozilo, Sambol, Colyer, Chen, Benson,
6 Lewis, BofA, MERSCORP, FATC and Does 31 to 100, made each of the representations with the
7 intention of inducing members of public who were in the market for home loan mortgages, which
8 Plaintiffs are a member of, to act in reliance on these representations in the manner herein alleged,
9 or with the expectation that they would so act in completing purchase of home and loans.

10 338. The aforementioned conduct of the named defendants in ¶ 337, was intentional
11 misrepresentations, deceit, or concealments of material facts known to the defendants with the
12 intention on the part of the defendants of thereby depriving Plaintiffs of property and legal rights
13 or otherwise causing injury, and was despicable conduct down with oppression, fraud and malice,
14 and said acts were approved and/or ratified by each of the remaining Defendants. Plaintiffs were
15 subjected to cruel and unjust hardship in conscious disregard of their rights, so as to be entitled to
16 punitive and exemplary damages in a sum according to proof.

17 **Third Cause of Action—Conspiracy to Commit Unfair Business Practices**

18 Plaintiffs adopt and incorporate herein paragraphs 1 through 338, above as if fully set forth
19 in this cause of action.

20 339. Between January 2004 and March 2006, defendants Mozilo, Sambol, Colyer, Chen
21 with Does 31-50 offered to David and Salma and other members of the Public looking for
22 mortgage loans, to broker for them, or otherwise sale Countrywide's services to them all at no
23 closing or origination cost and with reduced interest rates that ranged between 1-4%. These offers
24 of service at no cost were made below cost, in that Countrywide needed to earn at least \$2,500 per
25 loan in order to pay all its staff and maintain its overhead and Countrywide lending-funding
26 investors expected charging borrowers 6 to 12 percent interest on funds they lent out through
27 Countrywide, meaning that Countrywide would have to pay the difference to lender-investors.

28 340. Plaintiffs are informed and believes and thereon alleges that defendants Mozilo,

1 Sambol, Colyer and Countrywide performed the above-mentioned acts for the purpose of injuring
2 borrowers as Plaintiffs by inducing them into terminating business relations with loan brokers they
3 were planning to buy mortgage loan through as well as injuring their competitors that Plaintiffs
4 and other borrowers may look to for financing their property.

5 341. These Countrywide Defendants acted under the direction, approval, cooperation and
6 or knowledge of Bear Sterns, Wells Fargo, BofA, FATC and MERSCORP, pursuant to the
7 agreements cited from ¶¶ 24 to 340.

8 342. Defendants, and each of them, threatens to continue or not correct these practices by
9 keeping in place the loans which were brokered for Plaintiffs in 2006, or threatens to replace them
10 with similar loans by representing them below their actual cost to Plaintiffs and other California
11 property owners.

12 343. As a proximate result of the above-mentioned acts of named defendants herein, and
13 each of them, Plaintiffs have been deprived of accessing much more competitive loans for their
14 property due to the damages caused to their credit, stripping of savings, income and equity which
15 exceeds the sum of \$200,000, trebled to the sum of \$600,000.

16 344. Since 2001 and up to June 2007, defendants Wells Fargo, Bear Sterns, Mozilo,
17 Sambol, Colyer, Chen, Benson, Lewis, Does 2-100, FATC, MERSCORP, combined, conspired
18 and agreed together to falsely inflate the values of properties in California in order to increase each
19 of their own commissions as real estate brokers, agent and appraiser. This was formalized as
20 unwritten policy by way of defendants establishing the practice and through e-mail and telephone
21 communications and, at all times relevant herein, published and disseminated on a regular basis to
22 all Countrywide sub-brokers, appraisers and agents working with Countrywide from 2004 to 2007.

23 345. In furtherance of this unlawful combination, conspiracy and agreement, defendants
24 Mozilo, Sambol, Colyer, Countrywide, Wells Fargo, Does 2-100 as well as Benson, Chen, BofA,
25 Lewis, MERSCORP and FATC, refused to accept for inclusion in its pool of appraisers any
26 appraisers who were not willing to falsely inflate property values that they wished to broker loans
27 for, fund or sale and encouraged each other to not hire appraisers who were unwilling to cooperate
28 with their false inflations wishes.

1 346. As a proximate result of the acts of defendants, and each of them, Plaintiffs property
2 was artificially inflated at a high level and have been forced to exhaust their savings, income,
3 equity and property and Plaintiffs were deprived of the benefit of free, competitive negotiations
4 for mortgage loan. The Plaintiffs damages exceeds \$200,000.

5 347. Defendants, and each of them, continuing wrongful conduct as alleged above, unless
6 and until restrained by order of this Court, will cause great and irreparable harm to Plaintiffs by
7 the lost of their home and or savings, income and equity.

8 348. Plaintiffs have no adequate remedy at law for the injuries currently being suffered or
9 which will result in the future from defendants' continued wrongful conduct in that they have
10 already loss over \$200,000, are constantly losing thousands of dollars weekly and monthly in
11 having to seek redress for herein and in the end will lose their only home.

12 **Fourth Cause of Action—Conspiracy to Commit Unfair Business Practices**
13 **(Violation of Bus. & Prof. § 17200-Fraudulent Acts/Practices)**

14 Plaintiffs adopt and incorporate paragraphs 24 through 348 above as if they were fully set
15 forth in this Cause of Action.

16 349. Defendants Colyer, Mozilo, Sambol, Countrywide, Wells Fargo, as well as Chen,
17 Benson, MERSCORP, FATC, Lewis, at all times herein mentioned, were the agents of defendants
18 Bear Sterns and Does 2-30 and, in doing the things alleged herein, were acting in the scope of
19 such agency and with the permission and consent of Bear Sterns Board of Directors.

20 350. The Court has jurisdiction over this claim pursuant to Business and Professions Code
21 § 17200 et seq., specifically § 17203, which provides any person who engages, has engaged, or
22 proposes to engage in unfair competition may be enjoined in any court, or as may be necessary to
23 restore to any person in interest any money or property, real or personal, which may have been
24 acquired by means of such unfair competition; and § 17204, which provides for actions for any
25 relief pursuant to the Unfair Competition Law to be prosecuted exclusively in a court of competent
26 jurisdiction by any person who has suffered injury in fact and has lost money or property as a
27 result of such unfair competition.

28 351. Countrywide was licensed by the Department of Real Estate and Secretary of State of

1 California to conduct business therein and at all times mentioned owned and operated numerous
2 brokerage retail offices located throughout California for the purpose of soliciting mortgage
3 borrowers to broker their loans for, service their loans and solicit lenders/investors who would
4 fund such borrower loans.

5 352. Beginning on or about January 2004, and continuing to March 2008, Countrywide has
6 engaged in advertising to the public, including Salma and David, and offering for sale brokering
7 services described as “Home Loans.” The advertising consists of consecutive daily, weekly or
8 monthly advertisements published in San Jose Mercury, San Francisco Chronicle, KTVU, KNTV,
9 KRON and Los Angeles Times and that areas TV channels as well. The advertisements were
10 disseminated to and received by the public throughout California, and the Plaintiffs.

11 353. Defendant Countrywide advertisements were likely to deceive the public in that it
12 stated that Countrywide would provide loans with terms, conditions and fees that no other
13 competitor could provide; provide 1, 2, 3 or 4% interest rates; monthly payments of \$1,800-2,200;
14 no closing cost; no origination fee; 30-year fix interest rate; fixed interest rate (implying 30-years);
15 Countrywide could be trusted to provide best loan; prime loans; followed strict underwriting
16 standards; high quality loans; would save borrower thousands of dollars on financing with
17 Countrywide; that Countrywide was a Bank by publicizing Countrywide Bank, which was simply
18 an on-line depository with the identical branding, logos and often next to Countrywide Home
19 Loans; however, Countrywide, through its appointed agents named herein, failed to state that all of
20 these things were untrue and that it provided inferior loans. Specifically, advertisements failed to
21 state that Countrywide Home Loans was a broker which did not lend its own funds for any of the
22 advertised terms or time-periods; it was designing loans to strip borrowers of their savings,
23 income, equity and property; other competitors offered far better loans; Countrywide loans was
24 financially defective in that it increase the likelihood of its borrowers to default on loans, have
25 their properties foreclosed upon or lead to bankruptcy; normally no borrower was issued a 1-4%
26 interest loan and those who did received it only as short term bait to induce them into buying
27 Countrywide services and later having interest rate double, treble or more; all borrowers were
28 charged closing cost and origination fees which Countrywide hid be “wrapping” cost into overall

1 loan and that no 30-year fix were brokered, but 3, 5 or 10 year adjustable rate loans were.

2 354. These actions of Countrywide were conducted under the directions, orders, encourage
3 ment, or approval of Bear Sterns and partly done on behalf of Bear Sterns, Wells Fargo, BofA,
4 MERSCORP, FATC et al.

5 355. As a direct, proximate, and foreseeable result of defendants Bear Sterns, Wells Fargo,
6 Colyer, Mozilo, Sambol, Does 2-100, as well as Chen, Benson, MERSCORP, FATC, Lewis and
7 wrongful conduct, as alleged above, plaintiffs Salma and David and numerous members of the
8 public, who are unknown to Plaintiffs but can be identified through inspection of defendants
9 brokerage/sales records and other data, bought and paid for loan brokerage services that was
10 advertised without knowing that the loans were not sufficient quality loans. Plaintiffs have so far
11 paid more than \$200,000 out of pocket cost directly for the loans. Plaintiffs are informed and
12 believe and thereon alleges that at least 10,000 other customers individually paid between
13 \$100,000-\$200,000 for the loans that they bought. Plaintiffs are entitled to relief, including full
14 restitution and/or disgorgement of all revenues, earnings, profits, compensation, and benefits
15 which may have been obtained by Defendants, and each of them, as a result of such business acts
16 or practices.

17 356. From January 2009 to present, Countrywide and its successor in interest, BofA, has
18 failed and refused to accede to Plaintiffs requests for refund in exchange for returning the home
19 that they bought. Plaintiff is informed and believes, and thereon alleges that defendants, and each
20 of them, has likewise failed and refused, and in the future will fail and refuse to accede to other
21 customers' requests for refunds. BofA actions have been under the control of Bear Sterns and its
22 successor in interest JP Morgan Chase who is acting through BofA.

23 **Formation and Operation of Conspiracy**

24 357. Plaintiffs are informed and believes and thereon alleges that at all times herein
25 mentioned each of the defendants was the agent and employee of each of the remaining
26 defendants, and in doing the things herein alleged, was acting within the course and scope of such
27 agency.

28 358. From on or about January to December 2005, defendants Mozilo, Sambol, Does 2-50,

1 the CEOs of Bear Sterns, Wells Fargo, MERSCORP, FATC, knowingly and willfully conspired
2 and agreed among themselves to commit unfair business practices in regards to Plaintiffs in order
3 to lend money to them and defraud Plaintiffs out of their savings, income, equity and properties.

4 359. The numerous and specific breaches and damages thereof are set forth fully from ¶¶
5 24-358 and incorporated as if fully set forth herein.

6 360. Defendants Mozilo, Sambol, Does 2-50, the CEOs of Bear Sterns, Wells Fargo,
7 Countrywide as well as MERSCORP, FATC did the acts, things and omissions herein alleged
8 pursuant to, and in furtherance of, the conspiracy and above-alleged agreements repeatedly made
9 among themselves.

10 361. Defendants Colyer, Does 51-100, Countrywide, Bear Sterns, Wells Fargo as well as
11 Chen, Benson, Lewis, FATC, MERSCORP furthered the conspiracy from October 2005
12 repeatedly and continuously until March 2009 and up to the present time by cooperating with or
13 lent aid and encouragement to or ratified and adopted the acts of defendants Mozilo, Sambol, Does
14 2-50, the CEOs of Bear Sterns and BofA by holding discussions with these defendants,
15 undergoing training, agreement to follow their wishes as described throughout above and
16 referenced ¶¶ 24-360.

17 362. Plaintiffs are informed and believes and thereon alleges that the last overt act in
18 pursuance of the above-described conspiracy occurred on or about March 8, 2012, on which date
19 Bear Sterns successor in interest, JP Morgan Chase, ordered Wells Fargo to direct BofA to try to
20 convince Plaintiffs to accept a modification of loans in order to abrogate their right to redress
21 herein, and to cover up past and existing fraud and conspiracy and continues to seek payments on
22 the loans at issue herein.

23 **Fifth Cause of Action—Conspiracy to Commit Unfair Business Practices**

24 **(Untrue or Misleading Advertising)**

25 Plaintiffs adopt and incorporate paragraphs 24 through 362 above as if they were fully set
26 forth in this Cause of Action.

27 363. Defendant Mozilo at all times herein mentioned Countrywide CEO and defendant
28 Sambol at all times herein mentioned Countrywide’s President of Marketing and Training which

1 includes Advertising. Both Mozilo and Sambol were acting as agent of defendant Countrywide,
2 and in doing the things herein alleged was acting within the course and scope of such agency and
3 with the permission and consent of Countrywide Board of Directors.

4 364. Countrywide Board of Directors acted under the instructions, direction, orders,
5 approval or cooperation with the Board of Directors of Bear Sterns, Wells Fargo as well as BofA,
6 FATC, MERSCORP.

7 365. Beginning on or about January 2004, and continuing to March 2008, Countrywide has
8 engaged in advertising to the public, including Salma and David, and offering for sale brokering
9 services described as “Home Loans.” The advertising consists of consecutive daily, weekly or
10 monthly advertisements published in San Jose Mercury, San Francisco Chronicle, KTVU, KNTV,
11 KRON and Los Angeles Times and that areas TV channels as well. The advertisements were
12 disseminated to and received by the public throughout California, and the Plaintiffs.

13 366. Defendants Countrywide, Mozilo, Sambol et al has engaged in the advertising herein
14 alleged above with the intent to directly or indirectly perform the loan brokering services
15 described herein and to induce the public to enter into an obligation relating to their brokering
16 services described herein.

17 367. Defendants and each of them, advertising was untrue or misleading as described
18 above and caused injury in fact to the plaintiffs resulting in loss of money or property. Plaintiffs
19 Salma and David were deceived by the aforementioned advertisements and hired defendants, and
20 each of them, to perform the brokerage services in reliance thereon, resulting in Plaintiffs loss of
21 money and property.

22 368. In making and disseminating the statements herein alleged, defendants, and each of
23 them, knew or by the exercise of reasonable care should have known, that the statements were
24 untrue or misleading and so acted in violation of section 17500 of the Business and Professions
25 Code.

26 **Formation and Operation of Conspiracy**

27 369. Plaintiffs are informed and believes and thereon alleges that at all times herein
28 mentioned each of the defendants was the agent and employee of each of the remaining

1 defendants, and in doing the things herein alleged, was acting within the course and scope of such
2 agency.

3 370. From on or about January to December 2005, defendants Mozilo, Sambol, Does 2-50,
4 the CEOs of Bear Sterns, Wells Fargo, MERSCORP, FATC, knowingly and willfully conspired
5 and agreed among themselves to falsely or misleadingly advertise in order to lend money to Public
6 and defraud borrowers, as Plaintiffs out of their savings, income, equity and properties.

7 371. The numerous and specific breaches and damages thereof are set forth fully from ¶¶
8 24-370 and incorporated as if fully set forth herein.

9 372. Defendants Mozilo, Sambol, Does 2-50, the CEOs of Bear Sterns, Wells Fargo,
10 MERSCORP, FATC did the acts, things and omissions herein alleged pursuant to, and in
11 furtherance of, the conspiracy and above-alleged agreements repeatedly made among themselves.

12 373. Defendants Colyer, Does 51-100, Countrywide, Wells Fargo, as well as Lewis, Chen,
13 Benson, MERSCORP, FATC furthered the conspiracy from October 2005 repeatedly and
14 continuously until March 2009 and up to April 2011, by cooperation with or lent aid and
15 encouragement to or ratified and adopted the acts of defendants Mozilo, Sambol, Does 2-50, the
16 CEOs of Bear Sterns and BofA by holding discussions with these defendants, undergoing training,
17 agreement to follow their wishes as described throughout above and referenced ¶¶ 24-372.

18 374. Plaintiffs are informed and believes and thereon alleges that the last overt act in
19 pursuance of the above-described conspiracy continues to occur to the present, as Bear Sterns
20 successor in interest, JP Morgan Chase, orders Wells Fargo to direct BofA to try to convince
21 Plaintiffs to accept a modification of loans in order to abrogate their right to redress herein, and to
22 cover up past and existing fraud and conspiracy and continues to seek payments on the loans at
23 issue herein.

24 WHEREFORE, Plaintiffs pray for judgment from each Defendant in the form of:

- 25 i. Trial by jury;
- 26 ii. That Plaintiffs rights and obligations as to the various claims against each defendant
27 be determined by the Court;

28

- 1 iii. For a temporary restraining order, a preliminary injunction, and a permanent
2 injunction, all enjoining defendants from: 1) offering or modifying any loans to
3 borrowers which contain lower “teaser rates/payments”; 2) selling any subprime or
4 Pay Option Adjustable Rate Mortgage or “Combo Loan” to residential consumers
5 unless property purchase includes future commercial revenues which can cover
6 balloon/increase payments; 3) contact all credit bureaus and communicate to them
7 whatever is necessary to totally and fully return Plaintiffs credit rating, status, history
8 and other elements back to pre-default status; 4) attempting to collect any payments
9 from Plaintiffs on property unless defendants pay all compensation and other
10 damages produced by injuries defendants activities caused.
- 11 iv. For defendants restore Plaintiffs to their March 30, 2006 date, refund all monies paid
12 them, including improvements, property taxes, HOA fees etc.
- 13 v. For general damages of \$192,550 plus \$215,000 for total of \$407,550 from each;
- 14 vi. For special damages in the amount of \$1,375,000 for the loss of earnings, bonuses
15 and lost business development; or, an amount according to proof from each;
- 16 vii. For punitive damages according to proof, against each respective defendant and for
17 that sum be trebled;
- 18 viii. Cost of suit herein incurred;
- 19 ix. For interest on these sums at the legal rate;
- 20 x. Pursuant to Business and Professions Code § 17203, that defendant Countrywide, its
21 successor BofA, and their employees, agents, representatives, successors, and
22 assigns, and all person who act in concert with them be enjoined from any acts of
23 unfair competition as set forth herein;
- 24 xi. For Plaintiffs reasonable attorney fees, if counsel is hired;
- 25 xii. For such other and further relief as the Court may deem just and proper.

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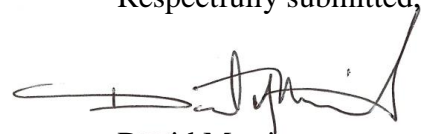
VERIFICATION

1
2 We, Salma Merritt and David Merritt, are the Plaintiffs in the above entitle action. We have
3 read the foregoing complaint and know the contents thereof. The same is true of our own
4 knowledge, except as to those matters which are therein alleged on information and belief, and, as
5 to those matters, we believe it to be true based on all of the documentation and information we
6 have researched and investigated.

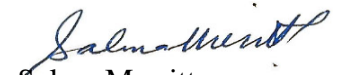
7 We declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct.

9 Signed and Executed in Sunnyvale, Santa Clara County California on this 8th Day of March 2012.

10
11 Respectfully submitted,



12
13 David Merritt
14 660 Pinnacles Terrace
15 Sunnyvale, Ca. 94085



16
17 Salma Merritt
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19 Sunnyvale, Ca. 94085
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