

CASE NO. _____

ALVIE CAMPBELL AND JULIE	§	
CAMPBELL,	§	
PLAINTIFF,	§	
V.	§	IN THE DISTRICT COURT OF
	§	
MORTGAGE ELECTRONIC	§	
REGISTRATION SYSTEMS, INC., AS	§	
NOMINEE FOR LENDER AND	§	
LENDER’S SUCCESSORS AND	§	WILLIAMSON COUNTY, TEXAS
ASSIGNS, AND WELLS FARGO BANK,	§	
N.A., AND STEPHEN C. PORTER, AND	§	
DAVID SEYBOLD, AND RYAN	§	
BOURGEOIS, AND MATTHEW	§	
CUNNINGHAM, AND JOHN DOE 1-100,	§	_____ JUDICIAL DISTRICT
DEFENDANTS,	§	

PLAINTIFF’S MEMORANDUM IN SUPPORT OF PLAINTIFFS’ ORIGINAL PETITION FOR BILL OF REVIEW AND REQUEST FOR DISCLOSURE

Pro se Plaintiff’s, Alvie Campbell and Julie Campbell, files this Memorandum in Support of Plaintiffs’ Original Bill of Review and Request for Disclosure and in support hereof, shows the court the following:

THE SUBJECT

(1) "Book entry system" means a national book entry system for registering a beneficial interest in a security instrument that acts as a nominee for the grantee, beneficiary, owner, or holder of the security instrument and its successors and assigns.

THE QUESTION BEFORE THE COURT

Can a “book entry system” deprive a citizen of Texas, or Texas law enforcement; the right to property, the right to confrontation, the right to depose, the right to request admissions, the right to request interrogatories, a right to production, the right to interrogate, the right to prosecute, the right to convict, the right to electronic discovery, or any other equal rights a citizen of Texas; or Texas law enforcement may have?

INTRODUCTION

The purpose of this memorandum is to enlighten the courts to recognize the electronic governing laws regarding Wells Fargo Bank, N.A.'s. use of MERS technology. This memorandum aims to show that the existing principles used by the courts do not provide an appropriate legal framework for this new type of contracting MERS members are using as transferable records which are defined in [§ 322.016](#), Texas UETA while attempting to claim real property with those MERS electronic records. Originally, the MERS system was purported to identify and track electronic promissory notes¹, today MERS claims to track interests in mortgage loans. eMortgages are not real estate mortgages.

MERSCORP Holdings, Inc. owns and operates the MERS system, a national electronic registry system, which is a computer software program. MERS, the computer software program is an electronic agent for MERS members. MERS, the electronic agent is defined as a "book entry system".

In addition, since legislatures have attempted to regulate this new electronic way of doing business, this memorandum analyzes the obscure development of Constitutional violations caused by this new set of rules apparently obscure from the courts of Texas. Electronic commerce may be defined as the ability to conduct business via electronic network and to use the internet as a commercial medium.² It is true technology has been developed that enables individuals to use electronic agents to make purchases or to conclude agreements, as this ability is an integral part of Texas UETA. However, electronic agents are not a natural person such as a human agent whom principals have engaged in business for centuries. Corporations, by their very nature, cannot function without human agents. As a general rule, the actions of a corporate agent on behalf of the corporation are

¹ The concept of a National eNote Registry (National Registry) has evolved out of the need to track and identify electronic promissory notes (eNotes) in an evolving industry infrastructure for electronic mortgages (eMortgages). – See attached Exhibit 1, National eNote Registry requirements.

² [Electronic commerce: structures and Issues](#) (1996), by Vladimir Zwass, International Journal of Electronic Commerce

deemed the corporation's acts. [Holloway v. Skinner](#) 898 SW 2d 793 - Tex Supreme Court 1995

To lawyers or the courts , the term “agent” suggests the application of the law of agents and principals, but this memorandum will show the court that the law of agents and principals should not govern the relationship between users and their electronic agents use of electronic contracts unrelated to a third party, a real estate mortgage loan borrower that wet-ink signed paper documents. Many assumptions are taken when the word “agent” arises, but whether a party has or has not disclosed the party was using an electronic agent is a violation to disclose such information according to the laws governing the electronic agent³, federal rules of discovery, and electronic discovery, state rules of discovery, and electronic discovery, and the Texas Constitution. It is apparent that MERS electronic agency relationship was never disclosed to the courts and seemingly obscured from the courts by MERS members, and their counsels. Plaintiffs’ supposes the courts should also question how a prosecutor could prosecute or convict an electronic agent for committing crimes?

Many definitions of electronic agents have been given, and many assumptions are taken when the word “agent” arises, but whether a party disclosed it is using an electronic agent could be a violation for not disclosing such information according to the laws governing the electronic agent.

Electronic Agreement

According to a filed U.S. Patent [# US20050177389](#) in 2005, furthered in 2013, Paperless Process For Mortgage Closings And Other Applications, the patent provides an example “electronic agreement” for the use of electronic signatures.⁴

Plaintiff does not argue that electronic contracts are not valid. Plaintiffs’ alleges that the use of an electronic Note that is not signed by a real estate mortgage loan

³ See E-SIGN, 15 U.S.C. 7001(c) attached as Exhibit 2, and incorporated herein.

⁴ Attached as Exhibit 3, electronic agreement; Also, see attached Exhibit 4, Patent for full discloser of electronic mortgage eClosing system

borrower, cannot be used as an obligation against a real estate mortgage loan borrower, and a deed of trust lien cannot be attached to an electronic promissory Note that a real estate mortgage loan borrower did not sign. A security interest cannot be created in a deed of trust after it is signed. See [Property Interests Are Protected By State Law](#)⁵. Most eNotes registered in MERS system purportedly claiming to be real estate mortgages were allegedly registered after the real estate mortgage loan borrower signed the paper promissory Note and a deed of trust, a lien to secure that paper Note, not an eNote. This could be the reason why electronic consent forms are not provided. Nevertheless, as in the Campbell's instance, it appears the Campbell's Note was purportedly sold to Ginnie Mae⁶ prior to the Campbell's closing of such mortgage loan on October 29, 2004.

The purpose of the Statute of Frauds is to remove uncertainty, prevent fraudulent claims, and reduce litigation. [Givens v. Dougherty](#), 671 SW 2d 877 - Tex: Supreme Court 1984

Electronic Agent

Plaintiff believes the state of Texas is not aware of an apparent Constitutional issue with Texas Discovery Rules⁷ and a "book entry system" defined in the Texas Property Code, or issues with Texas Penal laws.

There is no single definition of an electronic agent. Beyond the basic recognition that an electronic agent is a "software thing,"⁸ there are almost as many definitions available as articles written on the topic. Nonetheless, it is possible to find a common understanding and agreed-upon characteristics that shape a technical definition of an electronic agent. In Texas, it is simple enough to find the definition in chapter 322, Texas Business and Commerce Code. See section [§ 322.002\(6\)](#)

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to

⁵ Page 8 of this memorandum.

⁶ See Exhibit 5

⁷ Plaintiffs' note that there are other areas of Texas statutes affected also by the electronic agent.

⁸ [Contracts and Electronic Agents](#), Sabrina Kis, University of Georgia School of Law

electronic records or performances in whole or in part, without review or action by an individual.

Anyone researching electronic agents can find most information about electronic agents as “robots” or “bots”, such as “knowbots”, “softbots”, “taskbots”, autonomous agents or other intelligent agents. All these types of electronic agents accomplish such tasks as searching the web and gathering information needed by users, or indexing millions of web pages for users, and many other types of robots too long to mention⁹. Nevertheless, the “book entry system” is misconstrued and misrepresented. Regarding real estate mortgage loans, MERS does not meet any definition in Texas law¹⁰ other than an “electronic agent” as defined in E-SIGN and Texas UETA. Since MERS is an electronic agent, does it follow that every electronic agent, be it any other software that can be seen as an electronic agent, be a “book entry system”, “mortgagee”, “holder of a security instrument”, “assignee”, “assignor”, “nominee”, or “beneficiary” of a paper real estate mortgage loan contract according to existing tangible Texas law? If that is such the case, it would be as simple as using Google, MSN, Yahoo or any other electronic agent type “bot” to qualify for any of these definitions. Nevertheless, such electronic agents do not suffice for a corporation’s Principal and agent relationship to conduct real estate mortgage loan transactions.

Texas UETA

According to an executive summary¹¹, “The 77th Legislature passed UETA in 2001 to help establish a legal framework for the growing use of internet transactions between state and local government and citizens.” The Act deals with electronic signatures and electronic contracts, electronic agents, automated transactions, and

⁹ See [Electronic Agents and the Formation of Contracts](#), Emily M. Weitzenboeck, LL.M. (Southampton), LL.D. (Malta); Senior Research Fellow at the Norwegian Research Centre for Computers and Law, Faculty of Law, University of Oslo, P.O. Box 6706 St Olavs plass, N-0130 Oslo, Norway;

¹⁰ Even though “book entry system” is a definition in section §51.0001, the “book entry system” is a computer, an electronic agent according to the laws that govern the electronic agent. See [Texas UETA](#).

¹¹ See - Figure: [13 TAC §6.97\(a\)](#), Guidelines for the Management of Electronic Transactions and Signed Records, Prepared by the UETA Task Force of the Department of Information Resources and the Texas State Library and Archives Commission, September 2002

transactions between parties when both parties have agreed to conduct transactions by electronic means. The Act creates a set of rules that apply to electronic agents. Nevertheless, entities like Wells Fargo Bank, N.A. and its counsels have continuously abused a perfectly good law for the enforcement of electronic contracts and electronic signatures, and also failing to disclose their electronic agent, unfortunately defined as a “book entry system”, to the courts of Texas.

Wells Fargo Bank, N.A. has never mentioned section [§ 322.007](#) or Wells Fargo Bank, N.A.’s ability to enforce the electronic contract registered in the MERS system, because this would tip off the courts to become aware that Wells Fargo Bank, N.A. had conducted many criminal acts and is in the wrong court of law.

Wells Fargo Bank, N.A. has never denied Plaintiffs’ claim that Ginnie Mae, not Wells Fargo Bank, N.A. was allegedly the holder of the Campbell’s alleged paper promissory Note. In support, See Exhibit 5

Laws now exist¹² for the formation of electronic contracts using electronic agents, and those laws provide that electronic contracts may also be formed by multiple electronic agents¹³, or between an electronic agent and an individual. Just as a court would be provided the task of determining whether those electronic contracts created a lawful form of contract, the Court would need to look at common law principles in order to determine whether there was formation of a contract using an “electronic agent” as a nominee, beneficiary, or mortgagee of a paper contract titled deed of trust, a lien on title to real property which is not an electronic contract., but an “in writing” contract involving the sale or transfer of land, as governed by Statute of Frauds.

Wells Fargo Bank, N.A. and its counsels have attempted to mislead the court with transferable records, which are not real property records, and provide an illusion all

¹² See [E-SIGN](#); [Texas UETA](#)

¹³ See [§322.014](#)

across the state of Texas, obscure from Constitutional violations which are apparent.

Moreover, Wells Fargo Bank, N.A. and its counsel Mark D. Hopkins are seemingly in contempt of court by providing evidence, though it may appear on its face as admissible, is unrelated to the Campbell's real estate mortgage loan originated by America Mortgage network, Inc. dba AMNET mortgage. Wells Fargo Bank, N.A. and its counsel Mark D. Hopkins are seemingly in contempt of court by violating the Texas Constitution, causing harm to the Campbell's right to a fair and just trial.

Wells Fargo Bank, N.A. and its counsel Mark D. Hopkins are seemingly in contempt of court by not disclosing the electronic agent used by Wells Fargo Bank, N.A. and allegedly represented by its counsels, including Mark D. Hopkins.

Wells Fargo Bank, N.A. and its purported counsels, including Mark D. Hopkins, whom are seemingly in contempt of court have not disclosed the transferable record which they are attempting to use. Mark D. Hopkins continued use of fraudulent courts continues today, as Hopkins attempts to remind the court of his success in *Campbell v. MERS*¹⁴. "... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws." [*Elmore v. McCammon*](#) (1986) 640 F. Supp. 905

Wells Fargo Bank, N.A. its alleged counsels, including Mark D. Hopkins have seemingly swayed the court in previous Plaintiff cases using a transferable record, an electronic agent, and an electronic image of promissory Note Wells Fargo Bank, N.A. utilized from a transferable record, of which, the court failed to see as "order paper", and not bearer paper. In support, Plaintiffs' evidence introduced to the trial courts previously is attached as **Exhibit 6** and is herein incorporated. All the court would need to do is re-review the copy of the electronic image of the alleged Note, as

¹⁴ Alvie Campbell and Julie Campbell v. Mortgage Electronic Registration Systems, Inc., as Nominee for Lender and Lender's Successors and Assigns; Wells Fargo Bank, N.A.; Stephen C. Porter; David Seybold; Ryan Bourgeois; Matthew Cunningham, and John Doe 1-100, [03-11-00429-CV](#)

a special indorsement was obvious, but with question¹⁵, along with a subsequent “pay to the order of” to a blank endorsee by Wells Fargo Bank, N.A. This “blank” endorsement as a mystery party, reveals something terribly wrong with further negotiations. In support, see **Exhibit 5**. Also in support, the information Campbell’s provided for the analysis, which most evidence is already existing in court record, is attached as **Exhibit 7, and Exhibit 8**, and is herein incorporated.

Non-UCC

Plaintiff provided their arguments in both their Plaintiff complaints and responses of Defendants. To further support Plaintiffs’ merits, Plaintiff requested a chain of title analysis from a Texas License Private Investigate that would further explain the non Article 3 note, an intangible obligation, that is not directly related to Plaintiffs’ real estate mortgage loan as defendant and its counsel have led the court to believe. These continuous seemingly criminal actions by Defendant and their counsels violates Plaintiffs’ rights which obstructs and prevents Plaintiffs’ true justice. Actions by counsels of a “book entry system”, “nominee”, “beneficiary” and its members are causing great harm to Texas and in contempt of court while committing crimes against the public.

Plaintiffs’ realize this Court understands real estate mortgage loan transactions conducted by anyone, whether a MERS member or not, are governed by Texas real property laws for a lien, and possibly Chapter 3 of the Texas Business and Commerce Code for negotiations of an Article 3 Note, and not Chapter 9. Chapter 9 only provides enforcement for goods and services. Liens, or the creation or transfer of an interest in or lien on real property are not governed by Chapter 9. See section [§ 9.109\(d\)\(2\)](#); [§ 9.109\(d\)\(11\)](#)

Plaintiffs’ remind this Court that electronic transactions by MERS members are governed by E-SIGN and Texas UETA. This is the simplest way to understand what

¹⁵ According to MERS, Fannie Mae, Freddie Mac, GSE’s eMortgage requirements, each require the original paper promissory Note to be indorsed “in blank” and submitted to MERS, or Fannie Mae, or Freddie Mac, or Ginnie Mae, GSE’s.

MERS members did not do; they failed to follow the laws related to a real estate mortgage loans, and instead these entities used a “clearinghouse” as the courts called it, which actually tracks “interests” in a transferable record as defined in 15 U.S.C. 7021(1), 15 U.S.C. 7021(2), and section § 322.016(a)(1), § 322.016 (a)(2). Texas UETA, of which the clearinghouse admits, does not track paper promissory Notes.

PROPERTY INTERESTS ARE PROTECTED BY STATE LAW

Property interests are created and defined by state law. See [*Butner v. United States* at 55](#), 440 US 48 - Supreme Court 1979

Generally, the test for creation of a security interest is whether the transaction was intended to have the effect as security, because parties must have intended that their transaction fall within the scope of article 9 of the UCC. See [*Superior Packing, Inc. v. Worldwide Leasing & Financing, Inc.*](#), 880 SW 2d 67 - Tex: Court of Appeals (1994)

A "security interest" in personal property means an interest which secures payment or performance of an obligation. Sec. 1.201(37). "Security Agreement" is defined in Section 9.105(a)(8) as being the bargain of the parties in fact. The requirement that there must be an agreement, not only in connection with Sec. 1.201(3), but also in connection with Sec. 9.203(a)(2) which requires that security agreements be written. See [*Mosley v. Dallas Entertainment Company, Inc.*](#), 496 SW 2d 237 - Tex: Court of Civil Appeals, 12th (1973)

“The code makes no provision for a naked financing statement to be enforced as a security agreement. It merely gives notice of the existence of a security interest but in itself does not create a security interest”. Anderson, Uniform Commercial Code, 2d Ed. sec. 9-402:4. See [*Mosley v. Dallas Entertainment Company, Inc.*](#), 496 SW 2d 237 - Tex: Court of Civil Appeals, 12th (1973)

Where there is a debt secured by a note, in turn secured by a lien, the note and the lien constitute separate obligations so that suit may be had on the note to obtain a

personal judgment, and later suit may be had on the lien if the personal judgment is not satisfied. [*Taylor v. Rigby*](#), 574 S.W.2d 833 (Tex.Civ.App.-Tyler 1978, writ ref'd n.r.e.).

"It is well established in Texas that the rules of construction governing contracts are applicable to notes, and a note must be constructed as a whole.", [*Mathis v. DCR MORTG. III SUB I, LLC*](#), 389 SW 3d 494 - Tex: Court of Appeals, 8th Dist. 2012, citing [*Edlund v. Bounds*](#), 842 SW 2d 719 - Tex: Court of Appeals, 5th Dist. 1992, citing [*Coker v. Coker*](#), 650 SW 2d 391 - Tex: Supreme Court 1983

Real estate contracts are not governed by the UCC. See [*Wesley Eugene Perkins v. Chase Manhattan Mortgage Corporation*](#)--Appeal from 261st District Court of Travis County16 (2006). The security no longer existed would be no defense to the note. The existence of the collateral would be immaterial to a suit for judgment on the debt. [*Garza v. Allied Finance Co.*](#), 566 S.W.2d 57, 62 (Tex.Civ.App.-Corpus Christi 1978, no writ). Texas follows the lien theory of mortgages. Under this theory the mortgagee is not the owner of the property and is not entitled to its possession, rentals or profits. See [*Taylor v. Brennan*](#), 621 SW 2d 592 - Tex: Supreme Court 1981 A lien is not an instrument. [*Max Duncan Family Investments, Ltd. v. NTFN INC.*](#), 267 SW 3d 447 - Tex: Court of Appeals, 5th

Chapter 9 of the UCC does not apply to creation or transfer or interest in or lien on real property. See 9.109(d)(11), See [*Wesley Eugene Perkins v. Chase Manhattan Mortgage Corporation*](#)--Appeal from 261st District Court of Travis County

Conversion is the wrongful exercise of dominion and control over another's property in denial of or inconsistent with the property owner's rights. [*Edlund v. Bounds*](#), 842 SW 2d 719 - Tex: Court of Appeals, 5th Dist. 1992, citing [*Tripp Village Joint Venture v. MBank Lincoln Centre, NA*](#), 774 SW 2d 746 - Tex: Court of Appeals

In *Komet v. Graves*, the court cited “And, courts will not enforce an illegal contract, even if the parties don't object. Id. Enforcement of an illegal contract violates public policy”. [*Komet v. Graves*](#), 40 SW 3d 596 - Tex: Court of Appeals, 4th Dist. 2001.

A mortgage is governed by the same rules of interpretation which apply to contracts. See generally 55 Am.Jur.2d Mortgages § 175 (1971). Thus, the issue of the validity of the clause before the court should be resolved by an application of contract principles. Such an approach recognizes the parties' right to contract with regard to their property as they see fit, so long as the contract does not offend public policy and is not illegal. [*Sonny Arnold, Inc. v. Sentry Sav. Ass'n*](#), 633 SW 2d 811 - Tex: Supreme Court 1982 citing; *Curlee v. Walker*, 244 SW 497 – (1922)

CONSTITUTIONAL ISSUE

"There can be no sanction or penalty imposed upon one because of his exercise of constitutional rights." [*Sherar v. Cullen*](#), 481 F. 2d 946 (1973). "The claim and exercise of a Constitution right cannot be converted into a crime"... "a denial of them would be a denial of due process of law". [*Simmons v. United States*](#), 390 U.S. 377 (1968)

In [*Boyd v. United*](#), 116 U.S. 616 at 635 (1886), Justice Bradley, stated "It may be that it is the obnoxious thing in its mildest form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of persons and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the Courts to be watchful for the Constitutional Rights of the Citizens, and against any stealthy encroachments thereon. Their motto should be *Obsta Principiis*."

The importance of this matter regards conflicting opinions in various courts, conflicting opinions of laws, regarding statutes, codes, and the Texas Constitution

which these entities by failing to comply with Texas Property Code and relative statutes are creating confusion in Texas courts and the Texas real property records using the electronic agent, Mortgage Electronic Registration System (MERS), which Wells Fargo Bank, N.A. is a member, along with various government-sponsored enterprises (GSE's). These entities whether MERS members, or GSE investors are misleading the Courts and the State of Texas. Plaintiff does not believe the courts in Texas are corrupt, just seemingly misled. Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law. [*Warnock v. Pecos County, Texas.*](#), 88 F3d 341 (5th Cir. 1996)

"It will be an evil day for American Liberty if the theory of a government outside supreme law finds lodgement in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles of the Constitution." [*Downs v. Bidwell*](#), 182 U.S. 244 (1901)

Plaintiffs' believe the Texas Legislature's intent was to protect property rights across Texas, and similar statutes have been enacted in most of the United States to ensure this protection. The Texas Legislature's apparent intent in 2003 to amend Chapter 51, Texas Property Code was purportedly intended to allow a mortgage servicer to administer foreclosure of property on behalf of a mortgagee. Plaintiffs' do not believe the Legislature's intent was to create a Constitutional violation against the citizens of Texas by depriving such citizens a right to confrontation, a right to discover, or a right to protect real property from invading foreign entities such as a "book entry system", an electronic agent¹⁷ that cannot be deposed, submit admissions, submit interrogatories, write, or speak, or provide a request for production, nor can the electronic agent intelligently instruct counsel or confront an opposing party.¹⁸ This is a serious issue concerning Texas Discovery Rules,

¹⁷ See section [§ 322.002\(6\)](#)

¹⁸ Plaintiffs' also questions the ability of an electronic agent to create or acknowledge a power of Attorney to a natural person, usually an attorney allegedly representing the electronic agent. In other words, how does an ATM machine provide a power of attorney to anyone?

confrontation, and agents whom are not human, a natural person. Through this understanding it becomes apparent that counsels for electronic agent are producing hearsay evidence unless counsels could produce some type of evidence to show how counsels communicated with a computer, an electronic agent, and the electronic agent provided its answers or instructions to counsel. The only possible or logical means of communicating with an electronic agent, would be using some type of C++ type programming or by means of computer source code tools originally used by EDS to create the national eNote registry, “electronic agent”. Through this understanding is becomes apparent that most affidavits attached to a trustees deed recorded in a county clerks records, pursuant to a MERS action is nothing more than mere hearsay of hearsay. Even more importantly, those court should question how could a prosecutor convict an electronic agent for committing crimes?

To further the implications of the “book entry system”, the Court is directed to section [§ 12.017](#), Title Insurance Company Affidavit As Release Of Lien; Civil Penalty, Texas Property Code which also defines “mortgagee”, but omits the “book entry system” from the definition in section § 12.017(a)(2). The state would need to determine how a “book entry system” could accomplish the task in section § 12.017(d), Affidavit as Release of Lien because according to 51.0001(4), MERS is a “mortgagee”, yet a computer, an electronic agent defined in eSign, Texas UETA and so noted by MERS members tracking agreements, and as an electronic agent, it cannot speak linguistics, type, instruct, or comprehend. An electronic agent could not pass a competency test.

The additional importance of this matter also regards the various counsels of these MERS members, GSE investor who are seemingly in contempt of court by obstructing the proper administration of justice, and committing crimes by creating fraudulent records and courts. The essence of contempt is that the conduct obstructs, or tends to obstruct, the proper administration of justice, [Ex parte Salfen](#), 618 SW 2d 766 - Tex: Court of Criminal Appeals 1981 at 770.

The State of Texas must realize the magnitude of what a simple change to chapter 51 in essence violated any litigants ability to utilize the discovery rules against MERS the purported “holder of a security instrument”, also known as a “book entry system”¹⁹, because a computer system cannot physically write, answer or sign a complaint, motion, instrument, document, admission, interrogatory, or request for production. Only counsels whom are in contempt of court file such items that did not result from the electronic agent itself.

As reference, Plaintiffs’, previously, requested and received purported “discovery rule” items from the alleged representative of the electronic agent called MERS, a.k.a. Mortgage Electronic Registration Systems, Inc., but the answers did not come from the electronic agent, the alleged answers were provided as hearsay from an attorney committing contempt of court answering for the electronic agent without a power of attorney from the electronic agent. This certain counsel was also Wells Fargo Bank, N.A. counsel. In support, see **Exhibit 9, Exhibit 10, Exhibit 11,** previous discovery items from alleged representative of the electronic agent. This contempt of court violated discovery rules, nevertheless, Plaintiffs’ were deprived from noticing the court of this violation due to unfair tactics by defendants and their counsels. After reviewing such referenced “discovery rule” items, the court must ask how the electronic agent objected to Plaintiffs’ request because all the electronic agent was designed to do was to send, receive or store electronic data.

Additionally, Plaintiffs’ ask the court how can an electronic agent foreclose real property or even provide a power of attorney to accomplish such an act? These are serious issues the State of Texas should be aware of, and correct them before Texas real estate becomes a cesspool of clouded titles.

And lastly, Plaintiffs’ ask the court how could a judgment be granted to an electronic agent? Or, how did the electronic agent request a judgment from the

¹⁹ See section § 51.0001(1), Texas Property Code

court, when in fact, it is a computer, an electronic agent as defined by its own electronic governing laws.

CONTEMPT OF COURT

"No man [or woman] in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government from the highest to the lowest, are creatures of the law, and are bound to obey it." [Butz v. Economou](#), 98 S. Ct. 2894 (1978); [United States v. Lee](#), 106 U.S. at 220, 1 S. Ct. at 261 (1882). Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process. [Cannon v. Commission on Judicial Qualifications](#), (1975) 14 Cal. 3d 678, 694

"Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy." [Olmstead v. United States](#), (1928) 277 U.S. 438

This court should begin to see, if it has not already, that Wells Fargo Bank, N.A.'s alleged counsel Mark D. Hopkins and other previous Wells Fargo counsels have misled this court and previous courts which he/they were involved in since 2008 whether it was trial or appellate back when Wells Fargo Home Mortgage was claiming they had the Campbell's real estate mortgage loan, including the Note which the Campbell's compelled evidence of in the 277th case with Judge Ken Anderson²⁰, the Note then was never produced. And even though the court reporters record would reflect, then judge, Anderson telling the banks counsel they looked like they lost, the Campbell's lost simply due to either the judge's ignorance or his corruption. Nevertheless, the Campbell's are being unfairly placed into a harmful situation of losing something that lawfully belongs to them, just like many other unfortunate Texans whom fell victims to this eMortgage crime.

²⁰ *Alvie Campbell, Julia Campbell vs. Wells Fargo Home Mortgage e.t.a.l* And Barrett Daffin Frappier Turner & Engel, LLP e.t.a.l and Ryan Bourgeois, ESQ. and John Doe 1 throught 100 e.t.a.l. , Independently - [CASE NO. 09-636-C277](#)

Defendants' counsel Mark D. Hopkins, may or may not have an agreement with Wells Fargo Bank, N.A. as its counsel. According to the Bankruptcy Court in 2007²¹, it is apparent "The Court recognizes that it has been the practice of creditors' counsel practicing statewide to reduce travel expenses and legal fees by arranging for participation by local counsel". In support, the [In Re: James Patrick Allen](#), Case No: 06-60121, is attached as **Exhibit 12** and is herein incorporated. Defendant originally filed its petition in JP court with the banking law firm, Barrett Daffin Frappier Turner & Engel, LLP, ("Barrett Daffin") an off take of Barrett Burke Wilson Castle Daffin & Frappier, L.L.P., which was sanctioned for wrongdoing in that particular case of a debtor. The Court must recognize the conduct by Mark D. Hopkins, and it may ultimately find Barrett Daffin is Hopkins client, instead of Well Fargo Bank, N.A. being Hopkins client. Barrett Daffin's computer system for handling cases and filing pleadings is not equipped to answer for American Mortgage Network, Inc. DBA AMNET mortgage, whom would be the only entity that could possibly be directly related to Alvie Campbell and Julia Campbell's real estate mortgage loan. Mark D. Hopkins appears to be conducting Wells Fargo Bank N.A. eSign and UETA actions related to a transferable record to commit a crime in Texas, by misleading the state and the courts with a non-related, non Article 3 Note while claiming to be a holder of a security instrument.

Plaintiff is aware the courts rely on attorney's honesty, truthfulness, ethical and professional conduct because they play an important role in the justice system, and they are suppose to be a pillar of the community, however, Defendant and it counsels use the courts to create the case law they need to further this seemingly criminal activity. Defendants' counsel, Mark D. Hopkins has fabricated court cases to fit his needs. This court could go all the way back to 2008 when the Campbell's first filed a suit in Campbell v. Wells Fargo Home Mortgage to find altered court quotes from Mark. D. Hopkins. Each case won by Hopkins misquotes allowed him to use the same misquotes again and again for his favor, along with affidavits that are

²¹ *In Re: James Patrick Allen*, Case No: 06-60121, United States Bankruptcy Court For The Southern District Of Texas Victoria Division

not admissible. This can simply be proven by looking at existing court records from Campbell v. MERS, where Hopkins was committing such acts for criminal gain, of which, the Campbell's have suffered in both mental and financial capacities.

Plaintiff also makes the court aware of Mark D. Hopkins, purported counsel for Wells Fargo Bank, N.A. seemingly makes up or alters previous court quotes, whether ever so slightly, such as the court quote from [Williams v. Bank of New York Mellon](#), which the court may find immaterial, or to a point adding many words. For instance, in [Martin v. Trevino](#), Hopkins added an additional complete sentence consisting of thirty two (32) words,

"[T]hird parties should not be able to disturb the legal advice rendered to adverse parties by filing lawsuits for fraud and conspiracy against their adversaries' lawyers regardless of the likelihood of litigation."

In support, the reference is attached as **Exhibit 13** for reference and is herein incorporated. Seemingly, this would appear to be in violation of Texas Disciplinary Rules of Professional Conduct, Rule 3.03.

Wells Fargo Bank, N.A. counsel, Mark D. Hopkins completely altered and misrepresented [Taco Bell Corp. v. Cracken](#), 939 F.Supp. 528, 532 (N.D. Tex. 1996).

"Based on an overriding public policy, Texas courts have consistently held that an opposing party "does not have a right of recovery, under any cause of action, against another attorney arising from the discharge of his duties in representing a party ... " See, Taco Bell Corp. v. Cracken, 939 F.Supp. 528, 532 (N.D. Tex. 1996)

If the court were to query two words in the first sentence, (1)Texas, and (2)courts, together, no matches will be found in the opinion for "Texas courts".

Wells Fargo Bank, N.A. counsel, Mark D. Hopkins misrepresented [Kruegel v. Murphy](#), 126 S.W. 343 (Tex. Civ. App.-Dallas 1910, writ ref d)."

"Attorneys have an absolute right to "practice their profession, to advise their clients and interpose any defense or supposed defense, without making themselves liable for damages." See, Kruegel v. Murphy, 126 S.W. 343 (Tex. Civ. App.-Dallas 1910, writ ref d)."

If the court were to query the court opinion, misrepresentation could be found.

Wells Fargo Bank, N.A. counsel, Mark D. Hopkins misrepresented *Lewis v. Am. Exploration Co.*, 4 F.Supp.2d 673 (S.D. Tex. 1998)

"Texas law is clear; attorneys are immune from claims like those advanced by the Plaintiffs and must remain immune in the interest of the orderly administration of the civil justice system."

If the court were to query the court opinion, misrepresentation could be found.

Wells Fargo Bank, N.A. counsel, Mark D. Hopkins provided many purported business records or affidavits that according to Texas rules of evidence and past court cases are ineligible for admission as evidence, such as the affidavit of Matthew Cunningham, which according to *Ryland Group, Inc. v. Hood*, 924 SW 2d 120 - Tex: Supreme Court 1996, Cunningham's number five (5) "To the best of my knowledge and belief", disqualifies the seemingly fraudulent document attempting to support another fraudulent document, a purported Trustee's deed.

Plaintiffs' also show the court that the counsels of Barrett Daffin Frappier Turner & Engel, whether it is Mark D Hopkins or not, these attorneys seemingly use the types of misquoted court opinions even in Federal court to argue attorney immunity in *Smith et al v. National City Mortgage et al*. See Exhibit 14.

Wells Fargo Bank, N.A. counsel, Mark D. Hopkins is in violation of Texas Government Code, section [§ 82.037](#), oath of attorney, an oath attorneys are supposed to carry around that is endorsed upon their license.

Wells Fargo Bank, N.A. counsel, Mark D. Hopkins is eligible for Texas Government Code, section [§ 82.061](#), misbehavior or contempt; and section § 82.062 disbarment.

Wells Fargo Bank, N.A. counsel, Mark D. Hopkins is bound to Texas Government Code, [Chapter 81](#), State Bar, subchapter E, Discipline.

Wells Fargo Bank, N.A. counsel, Mark D. Hopkins is in violation of Texas Rules of Professional Conduct.

TEXAS IS AFFECTED

Plaintiff contends the utmost respect to the Court and holds Texas dear as being a descendant of a Texian whom began the Campbell generations to come, and this is why it is important to Plaintiff to stress to the Court that no matter what the outcome of this case may be, especially if in favor of Wells Fargo Bank, N.A. it is not just a Campbell whom will be deprived, it will be many Texans whom have lost defending a cause that holds merit and deprived by corporations and their counsels whom lied, cheated and stole for their ill gotten gains. Texas is affected.

Section §192.007, Texas Local Government Code govern perfection of a lien. This is similar to Texas Certificate of Title Act for the perfection of lien on automobile titles. This similarity can be deduced from [In re Clark Contracting](#)²². As the Clark case recognizes the Certificate of Title Act as the law that govern the perfection of a lien on a car title, Wells Fargo Equipment Finance, relied on the Uniform Commercial Code to support its perfection claims. The similarity to Clark is that Texas Local Government Code, specifically, Chapter 192, § section 007, governs the perfection for title to real property, whereas MERS and Wells Fargo relied on the Uniform Commercial Code to govern perfection of a deed of trust lien. The problem with that theory is liens are excluded from the UCC. See [§ 9.109\(d\)\(2\)](#)

As if the court is not aware, Plaintiffs” direct the courts attention to recent issues taking place with various counties involvement in the serious problem in Texas public land records. A recent interlocutory opinion in *Nueces County v. Mortgage Electronic Registration Systems, Inc., Bank of America*, Civil Action No. 2:12-CV-00131, the court simply stated “*This court cannot simply bend the laws of Texas to fit the MERS system, no matter how ubiquitous it has become.*”, and further on in the opinion, cited the case [In Re Agard](#), 444 B.R. 231 (E.D.N.Y. 2011) “*This Court does not accept the argument that because MERS may be involved with 50% of all residential mortgage in the country, that is reason enough for this Court to turn a*

²² See *In re Clark Contracting Services, Inc*, 399 B.R. 789 (2008) attached as Exhibit 15

blind eye to the fact that this process does not comply with the law". In support, the Nueces Court opinion is attached as **Exhibit 16** and incorporated by reference.

Plaintiffs" also brings to the Courts attention of the *U.S. v. Wells Fargo Bank NA*, U.S. District Court, Southern District of New York, No. 12-07527, in which Wells Fargo Bank, N.A. failed to persuade the court to grant its motion to dismiss against HUD's FIRREA claim, the Financial Institutions Reform, Recovery and Enforcement Act of 1989, a law adopted after the 1980's savings-and-loan crisis that lets the government sue for fraud affecting a federally-insured financial institution. In support, the September 24, 2013 Reuters²³ news article is attached as **Exhibit 17** and incorporated by reference. HUD's key federal claim is that Wells Fargo lied about the quality of mortgages it submitted to a government insurance program, costing hundreds of millions of dollars over roughly a decade. This "decade" claim would place plaintiffs secured mortgage loan origination within that particular timeframe of their application for an FHA/HUD mortgage loan, and Wells Fargo did allege a claim that it purportedly held plaintiffs' promissory note in 2004, even though Wells Fargo's own records reflect in 2008, Ginnie Mae as the holder of an interest in a transferable record.

Plaintiffs" again urge the Court to recognize the laws of Texas governing real property. Plaintiffs" again urge the Court to recognize that MERS members are falsely representing themselves, their electronic agent, and that these continuous misrepresentations are made with the intent to allude that their alleged deed of trusts with an electronic agent named in it and their purported "assignment of note and deed of trust" could be given legal effect when, by law, it cannot.

Very little case law, if any, can be provided for this electronic agent real property fiasco. Texas case law citing back to *Carpenter v. Longan*, only refers to the mortgage follows the note theory, not the mortgage follows the intangible Note

²³ <http://www.reuters.com/article/2013/09/24/us-wellsfargo-lawsuit-mortgage-fraud-idUSBRE98N0WT20130924>

theory as the courts seem to misunderstand. This MERS thing is akin to new uncharted territory that is being newly discovered.

The false claims act provides liability for any person (i) who “knowingly presents, or cause to be presented, a false or fraudulent claim for payment or approval”, or (ii) who “knowingly make, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim”. 31 U.S.C. § 3729(a)(1)(A)-(B).

Generally, an act is false, misleading, or deceptive if it has the capacity to deceive an "ignorant, unthinking, or credulous person." [*Doe v. Boys Clubs of Greater Dallas, Inc.*](#), 907 SW 2d 472 - Tex: Supreme Court 1995; citing [*Spradling v. Williams*](#), 566 SW 2d 561 - Tex: Supreme Court 1978

Plaintiffs’ title to real property is in dispute, and the only instrument closely resembling a colorable claim recorded with the Clerk of Public Records which is not in dispute is a special warranty deed with vendor’s lien evidencing Plaintiffs’ names, not Wells Fargo Bank, N.A. In support, a copy of the special warranty deed with vendor’s lien is attached as **Exhibit 18** and incorporated by reference.

MERS members such as Wells Fargo Bank, N.A. conduct commercial transactions using electronic agents and electronic promissory notes, unequivocal to a Chapter 3 negotiable instrument, but as an intangible obligation between a UCC Creditor and Account Debtor, or according to electronic law, between an electronic obligor and a Controller. See [§ 322.016](#). Whether Wells Fargo Bank, N.A. conducts electronic transactions, entities like Wells Fargo Bank, N.A. as a MERS member are required to track the paper promissory Note, as MERS does not track them.

Actions related to a residential mortgage loan require strict attention to the process of negotiation of a negotiable instrument and further actions are required to perfect the security instrument purportedly attached to the paper promissory note, per Texas Local Government Code chapter 192, section.007.

Such actions related to the secured real estate mortgage failed to take place for the secured debt to meet those strict requirements for perfection of the paper promissory note and the subsequent eligible recordation's to meet the strict requirements of section [§ 192.007](#).

Any action to enforce an indebtedness is an action in equity, as any action to enforce a deed of trust is an action in law. An action to enforce the note without proof a claimant met burden for the requirements for perfection of the deed of trust, the claimant cannot use a court of equity.

CONCLUSION

For the above stated reasons, the Court should grant Plaintiffs' Original Petition for Bill of Review.

Respectfully submitted
By: _____
Alvie Campbell
c/o 250 PR 947
Taylor, Texas 76574

CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2013, a true and correct copy of Plaintiffs' Memorandum in Support of Plaintiffs original Petition for Bill of Review was delivered to representing counsel of this case listed below by U.S. Mail.

Mark D. Hopkins, Hopkins & Williams Law, P.L.L.C., United States mail.
12117 FM 2244, Bldg 3, Suite 260
Austin, Texas 78738

Counsel for Stephen C. Porter, David Seybold, Ryan Bourgeois, Matthew Cunningham, John Doe 1-100

Elizabeth G. Bloch, Brown and McCarroll, LLP
111 Congress Avenue, Suite 1400, Austin, Texas 78701
Counsel for Mortgage Electronic Registration Systems, Inc., as Nominee for Lender and Lender's Successors and Assigns; Wells Fargo Bank, N.A., John Doe 1-100

Counsel for Wells Fargo Bank, N.A

By: /s/ Alvie Campbell
Alvie Campbell
c/o 250 PR 947
Taylor, Texas 76574

CERTIFICATE OF COMPLIANCE

I hereby certify that according to the word-count feature of the Microsoft Word 2003, which has been applied specifically to include all text, including headings, footnotes, and quotations, the Plaintiffs' Memorandum in Support of Plaintiffs original Petition for Bill of Review consists of a cumulative total of 7541 words.

By: /s/ Alvie Campbell Alvie Campbell
c/o 250 PR 947, Taylor, Texas 76574

Unsworn Declaration

Pursuant to chapter 132(d), Texas Civil Remedies and Practices, I, Alvie Lynn Campbell provides this unsworn declaration.

"My name is Alvie Lynn Campbell, my date of birth is September, 18, 1957, and my address is 250 Private Road 947, Taylor Texas 76574 and United States.

I declare under penalty of perjury that the foregoing is true and correct.
Executed in Williamson County, State of Texas, on the 20th day of January, 2014.

Declarant