

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 ORIGINAL PETITION FOR BILL OF REVIEW AND REQUEST FOR DISCLOSURE**

**TO THE HONORABLE JUSTICE OF THE COURT**

Comes now your pro se plaintiff’s, Alvie Campbell and Julia Campbell, (herein “Campbell’s) in the interest of justice and fairness, and files this Original Petition for Bill of Review in cause number 10-1098-C368<sup>1</sup>, and will show such void judgments were obtained by deceptive trade practices, common law fraud, fraudulent foreclosure practices, slander to title, fraud, misrepresentation, concealment, non-disclosure, unclean hands, violations of Federal Trade Commission, Truth in Lending Act, RESPA Act, Fair Housing Act, Fair Credit Reporting Act (FCRA), Recording Act, Texas Property Codes (5.004, 11.001, 5.079, 51.002(a), 51.0025) Texas Government Codes (192.001, 192.007), Business and Commerce Code Title 1 -- Uniform Commercial Code Chapter 3 (3.109, 3.115, 3.203, 3.204(d), 3.301, 3.302, 3.303), Title 18 USC contempt, and defendants deception to the court by showing the court the following;

**A. Introduction**

1. The Texas Supreme court has stated; “While this court has always upheld the sanctity of final judgments, we have also always recognized that showing the former judgment was obtained

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<sup>1</sup> See *Transworld Fin. Serv. Corp. v. Briscoe*, 722 S.W.2d 407, 407 (Tex. 1987); see also, *Law v. Law*, 792 S.W. 2d 150, 153 (Tex.App.–Houston [1st Dist.] 1990, writ denied) (a bill of review is a separate suit in equity, brought to set aside a judgment in the same court in an earlier suit, when the judgment in the earlier suit is final, not reviewable by appeal or by writ of error, and does not appear to be void on the face of the record).

by fraud will justify a bill of review to set it aside.” [Montgomery v. Kennedy](#), 669 SW 2d 309 - Tex: Supreme Court 1984

2. The Texas Supreme court has also stated; “Extrinsic fraud is fraud that denies a losing party the opportunity to fully litigate at trial all the rights or defenses that could have been asserted.” See [Browning v. Prostock](#), 165 SW 3d 336 - Tex: Supreme Court 2005
3. A U.S. District Court has stated; “Where jurisdiction depends upon domicile that question is always open to re-examination, even upon contradictory evidence... Moreover, fraud destroys the validity of everything into which it enters. It affects fatally even the most solemn judgments and decrees”, [Diehl v. United States](#), 438 F. 2d 705 - Court of Appeals, 5th Circuit 1971.

#### **B. Discovery-Control Plan**

4. Plaintiff intends to conduct discovery under Level 2 of [Texas Rule of Civil Procedure 190.3](#) to show the court that the alleged promissory Note Defendants fraudulently claimed do not meet the requirements of section [§3.203\(d\)](#), Texas Business and Commerce Code.<sup>2</sup> This in turn, would show the court that Defendants could not lawfully claim on the purported title to real property, a deed of trust, naming Alvie Campbell and Julie Campbell as owners in possession, further evidenced by a special warranty Deed.
5. Plaintiffs initially provides their partial discovery information obtained by a Texas licensed private investigator which will show defendants misled the courts and deprived plaintiffs equal due process. Had the courts honestly understood the function of Mortgage Electronic Registration Systems, Inc., a computer program<sup>3</sup>, also known as an electronic agent<sup>4</sup> plaintiffs could have proven defendants were not entitled to the judgment opinions they received utilizing unclean hands and an information processing system<sup>5</sup> which violates the Campbell’s right provide by the constitution and Texas rules of discovery. In support, Plaintiffs provides Affidavit of Joseph R. Esquivel, Jr., a Texas licensed investigator whom conducted an investigation analysis for the Campbell’s and is attached as **Exhibit A**, and incorporated by reference, (herein “affidavit”); Also in support, Plaintiffs provides their memorandum in support and incorporates by reference (herein “memorandum”) to the

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<sup>2</sup> [Uniform Commercial Code, 3.203\(d\)](#).

<sup>3</sup> See [§322.002\(3\)](#)

<sup>4</sup> See [§322.002\(6\)](#)

<sup>5</sup> See [§322.002\(11\)](#)

constitutionality of book entry system; and attorney defendants counsel's manipulation of previous court opinions; to show the court that defendants have no evidence to prove defendants could as a matter of law obtain such favorable opinions as defendants received by this court and other courts;

6. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 to show;
  - a. defendants violated plaintiff's right to trial by jury by filing false and misleading motions to manipulate and mislead the court to opine in defendants favor;
  - b. defendants utilized a personal property, intangible obligation that bears no direct interest in the Campbell's purported residential mortgage loan obligation;
  - c. to show the court that Defendants do not as a matter of law have a legal right; or a lawful claim to title to real property without lawful proof of ownership as Defendants were not entitled to the opinions favored by this court or other courts;
  - d. to show the court that Defendants the MERS eRegistry is a system not related to real estate mortgage loan obligations, but separate intangible obligations between MERS members;
  - e. to show the court that Mortgage Electronic Registration Systems, Inc. , is an electronic agent, and is defined as a "book entry system" which violates Plaintiffs Constitution rights, and depriving access through Texas Discovery rules, all of which appear seemingly flawed by section [§ 51.0001\(1\)](#) in the Texas Property Code; and show that Mortgage Electronic Registration Systems, Inc. was never disclosed as an electronic agent by MERS members or MERS itself. Defendants provided a legal impossibility to the courts by misapplying the law of agency;
  - f. to show the court that Attorney defendants past actions were without lawful authority or authorization from a real party in interest related to the Campbell's tangible real estate mortgage loan.

### **C. Parties**

7. Plaintiffs', Alvie Campbell and Julie Campbell are individuals whose mailing address is 250 Private Road 947, Taylor, Texas, 76574. The last three digits of Alvie Campbell's driver's license number are 578, and the last three digits of his social security number are 180. The

last three digits of Julie Campbell's driver's license number are 933, and the last three digits of her social security number are 938.

8. Defendant Mortgage Electronic Registration Systems, Inc., as Nominee for Lender and Lender's Successors and Assigns is a Foreign For-Profit Corporation and may be served through its counsel at the time, Elizabeth G. Bloch, Brown & McCarroll, at 111 Congress Ave. Suite 1400, Austin, Texas 78701. Service on this defendant may be effected by personal service or Certified Mail return Receipt requested [hereinafter "Bank" defendant]
9. Defendant Wells Fargo Bank, N.A., is a National Banking company who may be served by and through its counsel at the time, Elizabeth Bloch, Brown & McCarroll, 111 Congress Ave. Suite 1400, Austin, Texas 78701. Service on this defendant may be effected by personal service or Certified Mail return Receipt requested [hereinafter "Bank" defendant]
10. Defendant Stephen C. Porter, is an individual who may be served through his counsel at the time, Mark D. Hopkins, Hopkins & Williams, PLLC, at 12117 FM 2244, Bldg 3, Suite 260, Austin, Texas 78738. Service on this defendant may be effected by personal service or Certified Mail return Receipt requested [ [hereinafter "Attorney" defendant]
11. Defendant David Seybold, is an individual who may be served through his counsel at the time, Mark D. Hopkins, Hopkins & Williams, PLLC, at 12117 FM 2244, Bldg 3, Suite 260, Austin, Texas 78738. Service on this defendant may be effected by personal service or Certified Mail return Receipt requested [hereinafter "Attorney" defendant]
12. Defendant Ryan Bourgeois, is an individual who may be served through his counsel at the time, Mark D. Hopkins, Hopkins & Williams, PLLC, at 12117 FM 2244, Bldg 3, Suite 260, Austin, Texas 78738. Service on this defendant may be effected by personal service or Certified Mail return Receipt requested [ [hereinafter "Attorney" defendant]
13. Defendant Matthew Cunningham, is an individual who may be served through his counsel at the time, Mark D. Hopkins, Hopkins & Williams, PLLC, at 12117 FM 2244, Bldg 3, Suite 260, Austin, Texas 78738. Service on this defendant may be effected by personal service or Certified Mail return Receipt requested [hereinafter "Attorney" defendant]

#### **D. Jurisdiction**

14. This bill of review is filed in the court of jurisdiction that granted the fraudulently obtained judgment now being challenged by this bill of review, and is within the residual four-year statute of limitations. [Tex. Civ. Prac. & Rem. Code §16.051](#)

15. The subject matter in controversy is within the jurisdictional limits of this Court.
16. This Court has personal jurisdiction because the property which is the subject of this litigation is located in Texas and Defendants are doing business within this state.
17. Venue in this cause is proper in Williamson County, Texas pursuant to Section [§17.56](#) of the Texas Business and Commerce Code and under Section [§15.011](#) of the Texas Civil Practice and Remedies Code because this action involves real property, and the property is located in Williamson County, Texas.

#### **E. Facts**

18. It is not a lack of law or evidence or lack of merit that supports the Campbell's past efforts to raise this issue, but a lack of comprehension and understanding of the laws that apply; seemingly caused by defendants acts deceiving the court whom cannot deprive the Campbell's their rights guaranteed by the Constitutions. It was not the court erring, it is the defendants acting to mislead the justice for the court.
19. When agents of the principal are not comprehensible of the true electronic commerce function of Mortgage Electronic Registration Systems, Inc., a court cannot opine statutorily or constitutionally correct. Ignorance caused by an agent is no excuse for violations of constitutional rights guaranteed by the Texas and Federal Constitutions, and the agent's principal cannot uphold such violation, otherwise, it too violates the federal constitution?
20. The Law holds that even sinners are provided the chance to repent, or turn from their unlawful ways. The Campbell's ask for protection from the sinners of the laws that are depriving them of rights guaranteed by both the Texas and Federal Constitutions.
21. In September, 2010, Plaintiffs' filed their original petition against named defendants in suit, and also included John Doe 1-100 because Plaintiff's knew there would be additional parties named later.<sup>6</sup> Through the Defendants misuse and abuse of Rule 166a, and Rule 91 deprived plaintiffs' equal justice when issues of material facts could be proven yet the court granted defendants ill-faded judgments without taking into accord laws that govern defendants documents, thus depriving plaintiffs due process of law, and the right to trial by jury. Plaintiff can prove all assertions.
22. Again, in May, 2012 Defendants fraudulent actions caused the honorable court of the 368<sup>th</sup> District to enter a judgment in favor of Mortgage Electronic Registration Systems, Inc., as

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<sup>6</sup> Cause No. 10-1098-C368, Williamson County District Court No. 368.

Nominee For Lender And Lender's Successors And Assigns, And Wells Fargo Bank, N.A., (Bank defendants) And Stephen C. Porter, And David Seybold, And Ryan Bourgeois, And Matthew Cunningham (Attorney defendants).

23. Through no fault of their own plaintiffs' were deprived of their constitutional rights for equal due process and right to trial by jury when in fact Plaintiffs can factually prove defendants acts not only deprived the Campbell's of their right to property by defendant committing criminal acts to slander to title, but could also show similarities to many other Texas citizens who have fallen victim to these "MERS" entities seemingly conducting non-judicial foreclosures with transferable records registered in the MERS system instead of pursuing actions with original real estate mortgage loan documentation.
24. The Campbell's feel certain that if the courts were not misled about the functions of Mortgage Electronic Registration Systems, Inc.; and what its members do with transferable records governed by [E-SIGN](#) and [Texas UETA](#), the Campbell's would not have been denied their rights guaranteed by the [Bill of Rights](#), within both Texas and U.S. Constitutions.
25. Defendants deprived Plaintiffs from proving Defendants were not an interested party due to defendants use of evasive tactics to deprive the Campbell's from introducing discovery evidence produced by defendants that would show defendants were acting as anything but a real party in interest, or a lawful party with a protected interest.
26. The Campbell's were deprived of due course of law rights when the courts were misled by defendants concealment of the functionality of Mortgage Electronic Registration Systems, Inc. Plaintiff's purvey notice to the court that ignorance is no excuse for the law.
27. Plaintiffs equal due process rights were violated by an obscure definition of book entry system in the Texas Property Code, section §51.0001(1). In support, reference plaintiffs memorandum, and is incorporated in reference.
28. MERS is an electronic agent defined in section [§322.002\(6\)](#), Texas Business and Commerce Code. MERS is a computer program as defined in section [§ 322.002\(3\)](#), Texas Business and Commerce Code.
29. Defendants are utilizing a personal property debt obligation registered in the MERS eRegistry which is not the alleged real estate mortgage loan obligation of the Campbell's. In support, reference plaintiffs analysis attached as **Exhibit A**.

30. Defendants could be seen as exposing their fraud against Ginnie Mae for its interest in an intangible obligation registered in the MERS eRegistry that is unrelated to the Campbell's alleged real estate mortgage loan. Would this be misleading Ginnie Mae to believe it was a holder of a secured debt, when Wells Fargo Bank, N. A. made the same deceptive claim?

#### **F. Void judgment**

31. If a judgment is void it must be from one or more of the following causes: (1) Want of jurisdiction over the subject matter; (2) want of jurisdiction over the parties to the action, or some of them; (3) want of power to grant the relief contained in the judgment. In pronouncing judgments of the first and second class, the court acts without jurisdiction, while in those of the third class it acts in excess of jurisdiction. See *Liberty Enterprises v. Moore Transp. Co.*, 679 SW 2d 779 - Tex: Court of Appeals, 2nd Dist. 1984; citing *Walton v. Stinson*, 140 SW 2d 497 – 1940

32. The Supreme Court of Texas has stated that a judgment is void if the court rendering such judgment "did not have jurisdiction, both of the parties and of the subject matter of the litigation." See *Liberty Enterprises v. Moore Transp. Co.*, 679 SW 2d 779 - Tex: Court of Appeals, 2nd Dist. 1984

#### **G. Jurisdiction, Standing, Capacity**

33. In order for a party to have standing to file a bill of review, usually he or she must be a party to the prior judgment, or one who had a then existing interest or right which was prejudiced thereby. *Lerma v. Bustillos*, 720 S.W.2d 204, 205 (Tex.App.–San Antonio 1986, no writ).

34. The issue of standing focuses on whether a party has a sufficient relationship with the lawsuit so as to have a "justiciable interest" in its outcome, whereas the issue of capacity "is conceived of as a procedural issue dealing with the personal qualifications of a party to litigate." See *Austin Nursing Center, Inc. v. Lovato*, 171 SW 3d 845 - Tex: Supreme Court 2005

35. Without standing, a court lacks subject matter jurisdiction to hear the case. See *Austin Nursing Center, Inc. v. Lovato*, 171 SW 3d 845 - Tex: Supreme Court 2005; citing *Tex. Ass'n of Business v. Air Control Bd.*, 852 SW 2d 440 - Tex: Supreme Court 1993

36. The trial court must determine at its earliest opportunity whether it has the constitutional or statutory authority to decide the case before allowing the litigation to proceed. See *Texas Dept. Parks and Wildlife v. Miranda*, 133 SW 3d 217 - Tex: Supreme Court 2004

37. Defendants have engaged in fraud and standing requires clean hands, which defendant do not have, nor can defendants prove they have legal standing or capacity to pursue their rule 166a or rule 91a motions . See [Truly v. Austin](#), 744 SW 2d 934 - Tex: Supreme Court 1988
38. When the trial court acts without jurisdiction, the proper remedy is to return the parties to the positions they occupied prior to the trial courts actions. See [Deifik v. State](#), 58 SW 3d 794 - Tex: Court of Appeals, 2nd Dist. 2001
39. Subject matter jurisdiction is an issue that may be raised for the first time on appeal; it may not be waived by the parties. See [Tex. Ass'n of Business v. Air Control Bd.](#), 852 SW 2d 440 - Tex: Supreme Court 1993
40. In sum, a court deciding a plea to the jurisdiction is not required to look solely to the pleadings but may consider evidence and must do so when necessary to resolve the jurisdictional issues raised. See [Bland Independent School Dist. v. Blue](#), 34 SW 3d 547 – Tex, Supreme Court 2000. Plaintiffs’ provide evidence for the court to consider. See Affidavit of Joseph R. Esquivel, attached as exhibit [letter], and incorporated as reference.

#### **H. Fraud, Misrepresentation, Wrongful Acts**

41. Through defendants acts of deception, defendants misapplied Texas laws to repossess real property using a personal property obligation of a MERS member for summary judgment purposes against the Campbell’s. See [Lighthouse Church of Cloverleaf v. Texas Bank](#), 889 SW 2d 595 - Tex: Court of Appeals 1994. Through the deception by Defendants actions the individual acting as an agent for the principal unknowingly violated the Campbell’s right to due process of law; and right to trial by jury. To this day defendants still cannot prove it was entitled to summary judgment or a motion to dismiss as a matter of law and when this Court grants this Petition for Bill of Review, discovery will prove it.
42. As stated in *Komet v. Graves*, “illegality is an affirmative defense, Tex. R. Civ. P 94”. The court also stated “...And, courts will not enforce an illegal contract, even if the parties don’t object. Id Enforcement of an illegal contract violates public policy”. See [Komet v. Graves](#), 40 SW 3d 596 - Tex: Court of Appeals, 4th Dist. 2001
43. Defendants provided false information to the court to purport defendants were a holder of the Campbell’s alleged promissory Note where investigation shows Ginnie Mae purportedly holds an interest in the intangible obligation since October of 2004 according to an investigation conducted by a licensed Texas Private Investigator. Wells Fargo Bank N.A.

was never a lawful holder of a deed of trust securing a paper promissory Note purportedly being that of the Campbell's. In support, reference plaintiffs analysis attached as **Exhibit A**.

44. The void judgments deriving from in cause number 10-1098-C368 were rendered against plaintiffs as the result of fraud and wrongful acts by defendants, specifically, fraud, misrepresentation, unclean hands, contempt of court and Constitutional violations and depriving plaintiff's a right to trial by jury. [\*Vela v Marywood\*](#) 17 S.W 3d 750, review denied with per curiam opinion 53 S.W. 3d 684, rehearing of petition for review denied (Tex. App. – Austin 2000).
45. Defendants use of unethical and unprofessional tactics deprived plaintiffs' a trial for equal justice in a court of law caused by all defendants and their respective counsels whom entered into the courts and misled the courts to believe all defendants were proper parties with a direct interest to file a motion to dismiss or file either motion for summary judgment, or motion for no evidence summary judgment (hereinafter motions). [\*Montgomery v. Kennedy\*](#), 669 S.W. 2d 309, 312 (Tex. 1984).
46. Defendants wrongful actions deprived the Campbell's from producing discovery evidence to reflect Defendants were not a legal party to the Campbell's real estate mortgage loan obligation or deed of trust lien. Ginnie Mae has owned an interest in an eNote allegedly reflecting the Campbell's information registered in the MERS eRegistry since October 29, 2004. In support, reference Plaintiffs memorandum.
47. Defendants, by their wrongful acts, have deprived the Campbell's a right to protect their real property, and the court was misled by Defendants wrongful acts.
48. Defendants have misled the courts by manipulation of previous Texas court opinion wording which plaintiffs directs the courts attention to. In support, reference plaintiffs memorandum.
49. This court must realize the implications of the definition of "book entry system" which has abridged Plaintiffs right to obtain redress for injuries caused by wrongful acts of another. See [\*Sax v. Votteler\*](#), 648 SW 2d 661 - Tex: Supreme Court 1983
50. Plaintiff's original complaint and additional pleadings contained enough factual information to allow a reasonable inference that Attorney defendants acted knowingly as a "debt collector" without lawful authority to conduct such unlawful actions against the Campbell's.<sup>7,8</sup>

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<sup>7</sup> [\*Conklin v. WELLS FARGO BANK, NA\*](#), Dist. Court, MD Florida 2013

### **I. Constitutionally guaranteed rights**

51. It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon. See [Boyd v. United States](#), 116 US 616 - Supreme Court 1886
52. If a court acts without jurisdiction, then any proclamation by that court is void. *Patton v. Diemer*, 35 Ohio St.3d 68 (1988).” State ex rel. Jones v. Suster, 84 Ohio St.3d 70, 75 (1998).

### **J. Moral Turpitude**

53. The Texas Supreme Court has stated; “We have held that the question of whether a particular crime involves moral turpitude is a question of law and "is to be determined by a consideration of the nature of the offense as it bears on the attorney's moral fitness to continue in the practice of law." See [Matter of Humphreys](#), 880 SW 2d 402 - Tex: Supreme Court 1994.
54. Plaintiffs’ believe that the justice of this court was misled and deceived because plaintiffs do not believe the honorable justice of this court would be committing acts of moral turpitude that would violate a state or federal laws. Plaintiffs’ believe the justice of this court was not aware of defendants use of some type of electronic chattel paper with an intent to defraud the Campbell’s through misrepresentation. It is written in *Heard*,1983, "Moreover, any crime of which fraud is a necessary element is a crime involving moral turpitude." See [State Bar v. Heard](#), 603 S.W.2d 829, 835 (Tex.1980) (citing [Jordan v. DeGeorge](#), 341 U.S. 223, 227, 71 S.Ct. 703, 705, 95 L.Ed. 886 (1951)).
55. It is written that "Generally, moral turpitude means something that is inherently immoral or dishonest." [Hutson v. State](#), 843 S.W.2d 106, 107 (Tex.App. 6th Dist. Texarkana 1992) (citing [Williams v. State](#), 55 Ala. App. 436, 316 So.2d 362 (Ala.Crim.App. 1975)).
56. In *Williams*, supra, at 363, the court recognized "moral turpitude" as follows: "'Moral turpitude signifies an inherent quality of baseness, vileness, depravity.' [citation omitted] Moral turpitude `implies something immoral itself, regardless of the fact whether it is punishable by law. The doing of the act, and not its prohibition by statute fixes the moral

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<sup>8</sup> [Reese v. Ellis, Painter, Ratterree & Adams, LLP](#), 678 F. 3d 1211 - Court of Appeals, 11th Circuit

turpitude.' [citation omitted] Moral turpitude means `something immoral in itself. \* \* \* It must not be merely mala prohibita, but the act itself must be inherently immoral. The doing of the act itself and not its prohibition by statute, fixes the moral turpitude. \* \* \* It is the nature of the act itself, and not its legislative characterization or punishment which must be the test in determining whether or not it involves moral turpitude."

57. It is written, "Generally, in determining whether a crime committed by an attorney involves moral turpitude, consideration must be given to the fact that the illegal act was committed by an attorney as compared to a layman. An attorney must be held to a more strict standard than the layman because of the position of public trust which he enjoys. As such, his standard of conduct must be high. A lawyer assumes a position of responsibility to the law itself, and any serious disregard of the law by him or her is much more grave than that by the layman who may breach the law innocently or otherwise. A lawyer has always been regarded as an officer of the court. He is charged with obedience to the laws of this State and of the United States." [\*Muniz v. State\*](#), 575 S.W.2d 408, 411 (Tex.Civ.App Corpus Christi 1978) (citing [\*Cincinnati Bar Association v. Shott\*](#), 10 Ohio St.2d 117, 226 N.E.2d 724, 733 (1967); [\*In re Clark's License Suspension\*](#), 52 Cal.2d 322, 340 P.2d 613 (1959); [\*In re Anderson\*](#), 195 N.W.2d 345, 348 (N.D.1972); [\*Matter of Fosaaen\*](#), 234 N.W.2d 867, 869 (N.D.1975); [\*People v. Wilson\*](#), 176 Colo. 389, 490 P.2d 954, 955 (1971)). "An attorney is also charged with the responsibility to maintain due respect for the judicial system and its rules of law." *Id.* (citing [\*State v. Hendrickson\*](#), 139 Neb. 522, 298 N.W. 148 (1941)). "... Of all classes and professions, the lawyer is most sacredly bound to uphold the laws. He is their sworn servant; and for him, of all men in the world, to repudiate and override the laws, .. argues recreancy to his position and office, ... It manifests a want of fidelity to the system of lawful government which he has sworn to uphold and preserve...." *Id.* (citing [\*Ex Parte Wall\*](#), 107 U.S. 265, 274, 2 S.Ct. 569, 576, 27 L.Ed. 552 (1882)).

#### **K. Violations of Texas Rules of Civil Procedures**

58. Neither Rule 166a(i) nor the Comment to the Rule defines the term "adequate time for discovery." The Comment elaborates only that "[a] discovery period set by pretrial order should be adequate opportunity for discovery unless there is a showing to the contrary, and ordinarily a motion under paragraph (i) would be permitted after the period but not before."

TEX. R. CIV. P. 166a cmt. to 1997 change.<sup>9</sup> Nevertheless, defendants aggressive tactics prevented pro se Plaintiffs' from providing evidence obtained through plaintiff's request for production from defendants who immediately filed motions for summary and no-evidence summary judgments; and motion to dismiss. Plaintiffs attempted to provide such evidence to the court but was refused, yet the court accepted hearsay evidence stored and produced from a computer information system. Defendants use of alleged affidavits did not disclose affiants were reviewing data from an electronic registration system.

59. Defendants abused and misused Texas rules of Civil Procedure 166a; 166a(i) in violation of Texas law which such acts conducted outside Texas Legislatures intent for such motions deprived the Campbell's equal due process rights and a right to trial by jury when in fact the Campbell's can prove facts with Defendants own evidence that defendants deprived the Campbell's constitutionally guaranteed rights were deprived.
60. Defendants abused and misused Texas rules of Civil Procedure 91a in violation of Texas law which such acts conducted outside Texas Legislatures intent for such motion deprived the Campbell's equal due process rights and a right to trial by jury when in fact the Campbell's can prove facts with Defendants own evidence and a Texas licensed private investigator affidavit, to show that defendants deprived the Campbell's of constitutionally guaranteed rights.
61. In 1992, 5th District Court of Appeals, Texas stated "Summary judgment may be rendered only if the pleadings, depositions, admissions, and affidavits show (1) that there is no genuine issue as to any material fact and (2) that the moving party is entitled to judgment as a matter of law. Tex. R.Civ.P. 166a(c); citing [Rodriguez v. NAYLOR INDUSTRIES INC.](#), 763 SW 2d 411 - Tex: Supreme Court 1989; also citing [Gulbenkian v. Penn](#), 252 SW 2d 929 - Tex: Supreme Court 1952. See [Dae Won Choe v. Chancellor, Inc.](#), 823 SW 2d 740 - Tex: Court of Appeals, 5th Dist. 1992
62. In 1992, Texas Supreme Court stated that "Ordinarily, contested issues are decided after a plenary hearing, that is, a hearing at which witnesses present sworn testimony in person or by deposition rather than by affidavit. For example, our rules permit trial courts to render final judgments in civil cases on motions for summary judgment. A trial court may render a

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<sup>9</sup> See - Summary Judgment Update: No-Evidence Summary Judgments And Other Recent Developments, Charles T. Frazier, Jr., Gregory J. Lensing, Shawn M. Mccaskill, Cowles & Thompson, P.C.

summary judgment based on a record consisting of deposition transcripts, interrogatory answers, and other discovery responses, along with the pleadings, admissions, affidavits, stipulations, and authenticated or certified public records before the court at the time the motion is heard. Tex. R.Civ.P. 166a(c). This procedure, as the title suggests, is summary in nature.” See [Jack B. Anglin Co., Inc. v. Tipps](#), 842 SW 2d 266 - Tex: Supreme Court 1992

63. In 1952, the Texas Supreme Court stated; “Rule 166-A, Rules of Civil Procedure, provides for summary judgment "(c) \* \* The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." See [Gulbenkian v. Penn](#), 252 SW 2d 929 - Tex: Supreme Court 1952
64. The honorable court went on to state; “We adopted this rule from Federal Rules of Civil Procedure rule 56, 28 U.S.C.A., and that rule has been construed as allowing summary judgments only when there is no disputed fact issue.” *Id*
65. The honorable court also cited from [Kaufman v. Blackman](#), 239 SW 2d 422 - Tex: Court of Civil Appeals, 5th Dist. 1951, that stated "The underlying purpose of Rule 166-A was elimination of patently unmeritorious claims or untenable defenses; not being intended to deprive litigants of their right to a full hearing on the merits of any real issue of fact." *Id*.
66. Plaintiffs’ will provide a prima facie meritorious defense and show the court defendants wrongful acts of fraud deprived plaintiffs’; which caused the honorable judge of the court to unknowingly deprive the Campbell’s right to pursue their cause of action to prove defendants were not entitled to a judgment as a matter of law. By Affidavit of Joseph R. Esquivel, Jr., the court will see how the courts were misled, and the Campbell’s were deprived of equal due process of law and a right to trial by jury. This court should grant the Campbell’s Petition for Bill of Review.
67. There is no attempt to re-litigation, this addresses constitutional violations seemingly caused by deception and misrepresentation by defendants; and ill-faded judgments based on such misrepresentation of the laws that apply; along with non-disclosure of an electronic agent governed by E-SIGN and Texas UETA, an alleged agent of defendants transactions defined as a book entry system in section 51.0001(1), Texas Property Code.

68. “The MERS eRegistry is the legal system of record that identifies the owner (Controller) and custodian (Location) for registered eNotes and that provides greater liquidity, transferability and security for lenders.” See MERS website MERS is not a legal system of recordation such as the recordation system of the Clerk of the county.
69. eNotes are governed by E-SIGN, Texas UETA; and neither law governs real property transactions, nor does E-SIGN or UETA include chapter 3, negotiable instruments; or chapter 9, secured transactions, Texas Business and Commerce Code. See section [§322.003](#); and [§322.016\(a\)\(2\)](#), Texas UETA; See [chapter 322](#), Texas UETA.

#### **L. Meritorious Defense**

70. A petitioner in a bill of review is not required to prove his or her meritorious defense by a preponderance of the evidence, but rather must show a prima facie meritorious defense, i.e., the petitioner must show that his or her defense is not barred as a matter of law, and that he or she will be entitled to judgment on retrial if no evidence to the contrary is offered. See [Baker v. Goldsmith](#), 582 SW 2d 404 - Tex: Supreme Court 1979
71. Plaintiff’s have a meritorious defense to claims in plaintiffs’ cause no. 10-1098-C368 against defendants attempted wrongful actions. In support, reference plaintiffs analysis attached as Exhibit A, and incorporated as reference.
72. Plaintiff’s have a meritorious defense to claims in plaintiffs’ suit against defendants attempted wrongful and seemingly criminal actions. In support, reference plaintiffs memorandum and incorporated as reference.
73. Ignorance of the law, by individuals acting as agents for the principal [Texas Court system] have unsuspectingly deprived the Campbell’s their rights guaranteed by the several constitutions.
74. Lack of comprehension and understanding combined with the failure to apply law to the fact was an error by the individual acting as an agent. Error occurred when the individual acting as agent relied on misconceptions by defendants and failed to apply applicable law; thus violating the law by not allowing evidence to be lawfully introduced into law; thus failing to apply the laws of Texas.
75. Why was the agent refusing Texas law to take its rightful course? Was it intentional to deprive a citizen of its given rights? Was it motivated by other mercenary measures? Was it by deception? Why, is best left to law enforcement, not plaintiff’s.

76. Laws separate from secured real estate mortgage loans cannot replace existing Texas laws that govern such. Such use of intangible laws *ie*, E-SIGN and Texas UETA by defendants cannot violate the Campbell's rights protected by the constitution. Fraudulent misrepresentations cannot be favored with an ill-faded court opinion originating from 10-1093-C368. A judgment obtained by fraud is void.

**M. Request for Disclosure**

77. Under Texas Rule of Civil Procedure 194, plaintiff requests that defendant disclose, within 50 days of the service of this request, MERS agency relationship with Wells Fargo Bank, N.A.; and power of attorney from MERS, the electronic agent, to each of its counsels; and MERS power of attorney to Wells Fargo Bank, N.A.; power of attorney to defendants attorneys from MERS electronic agent to respective counsels.

**N. Prayer**

For these reasons, plaintiffs' asks the Court to do the following:

1. After a hearing, if needed or required, render a judgment in cause number 10-1093-C368 that defendants take nothing.
2. Vacate Bank Defendants motion for summary judgment in cause number 10-1093-C368, Alvie Campbell And Julie Campbell v. Mortgage Electronic Registration Systems, Inc., As Nominee For Lender And Lender's Successors And 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
3. Vacate Bank defendants motion for no-evidence summary judgment in cause number 10-1093-C368, Alvie Campbell And Julie Campbell v. Mortgage Electronic Registration Systems, Inc., As Nominee For Lender And Lender's Successors And 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
4. Vacate Attorney defendants Motion to Dismiss in cause number 10-1093-C368, Alvie Campbell and Julie Campbell v. Mortgage Electronic Registration Systems, Inc., As Nominee For Lender And Lender's Successors And 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.
5. Reopen cause number 10-1093-C368 and grant a new trial

6. Assess costs against defendants.
7. Award plaintiffs' all other relief to which plaintiffs are entitled.

Respectfully submitted,

By: \_\_\_\_\_  
Julie Campbell, pro se  
c/o 250 PR 947, Taylor Texas 76574  
(512) 791-2295; [Jgc1983@hotmail.com](mailto:Jgc1983@hotmail.com)

By: \_\_\_\_\_  
Alvie Campbell, pro se  
c/o 250 PR 947, Taylor Texas 76574  
(512) 796-6397; [Alvie@ourlemon.com](mailto:Alvie@ourlemon.com)

**O. Certificate of Service**

I hereby certify that on January 21, 2014, a true and correct copy of Plaintiffs Petition for Bill of Review and Request for Disclosure was delivered to representing counsel of this case listed below by U.S. Mail.

Mark D. Hopkins, Hopkins & Williams Law, P.L.L.C., 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

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

**P. Certificate of Compliance**

I hereby certify that according to the word-count feature of the Microsoft Word 2007, which has been applied specifically to include all text, including headings, footnotes, quotations, and verification in Plaintiffs Petition for Bill of Review consists of a cumulative total of 6,195 words.

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

**Q. 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