

admissions, of what defendants previously denied. Plaintiffs will address defendants admissions in their response to show defendants are seemingly acting with unclean hands, while violating their fiduciary duties to the courts, acting in an unprofessional manner.

The requirements for a sworn statements or affidavits exist to protect integrity of the truth-seeking process and to guard the rights of the parties from abuse. To maintain the integrity of the process, Defendants and their respective counsels should be required to make their current assertions, and any future assertions or allegations within defendants pleadings or during oral argument under the penalty of perjury.

Defendants and respective counsels are not acting in honor

The Campbell's provide notice to this court that on January 21, 2014 during an ex-parte hearing, they were reminded to contact opposing counsels to determine an available date for an injunctive relief hearing, which the Campbell's did within 3 days thereafter, by contacting both opposing counsels, Elizabeth Bloch, which Alvie Campbell talked to stated for Alvie Campbell to call back in about a week or so; and by voicemail to Mark. D. Hopkins who did not return the requested phone call.

Prior to defendants filing their original answer on February 14, 2014, signed by purported lead counsel, Richard A. Illmer, a person whom called himself Justin Allen called Alvie Campbell, claiming he was representing Wells Fargo. During that conversation Alvie Campbell again requested an available date for the injunctive relief hearing and explaining to Mr. Allen, plaintiffs were trying to be fair with defendants about setting up the injunctive relief hearing. Mr. Allen stated he would contact Mr. Hopkins and determine an available date for that injunctive relief hearing, then call Alvie Campbell back to let him know of an available date for both counsels.

On the morning of February 24, Alvie Campbell received a phone call from the same person, Justin Allen, again claiming to be an attorney in this case for

Wells Fargo. Mr. Allen made the statement that he had attempted to contact Mark D. Hopkins to obtain an available date for the injunctive relief hearing, which Mr. Allen stated that he has not received any response from Mr. Hopkins to set a date for the hearing, but would let Mr. Campbell know as soon as possible. At that time, Alvie Campbell requested Mr. Allen's Texas Bar ID, which he provided as Texas Bar # 24069289.

On February 28, 2014, the Alvie Campbell called the 368th District Court Administrative officer in regards to a procedural question, whom noticed Alvie Campbell that defendants had filed a motion and set a hearing date for their motion set for April 14, 2014, at 1:30pm.

Defendants intentionally evaded the Campbell's injunctive relief hearing request, in an attempt to distract the court from a major issue that would prove Wells Fargo Bank, N.A. holds no legal rights to an alleged promissory note according to negotiable instrument law, chapter 3, Texas Business and Commerce Code. Defendants are deliberately attempting to evade the law, and distracting the court from the merits of the Campbell's pleadings. Now, defendants are again asserting untruthful allegations of an alleged default by the Campbell's; while alleging the Campbell's are "vexatious litigant's". Defendants are distracting the court with frivolous pleadings and have overburdened the Campbell's from conducting discovery and litigation on the merits, as a matter of law.

Plaintiffs also notice the courts attention to the fact that defendants released the Campbell's information to a non-related third party in an attempt to discuss the Campbell's case without the Campbell's knowledge. This was determined after defendants made contact. Defendants are well aware that the Plaintiff's have no retained counsel related to these issues that litigate on behalf of the Campbell's.

Summary of the Argument

1. Defendants and their respective counsels appear to be conducting litigation in an unprofessional manner as it appears defendants are grasping at straws or seemingly slinging mud to see if their assertions will stick to the wall.
2. Plaintiffs realize that many frivolous filings have burdened the courts, as it is evidenced by defendants pleadings. However, the plaintiffs' filings do contain merit as a matter of law, of which, is not frivolous, groundless, or baseless. A filing that demonstrates the probability that the plaintiff will prevail is not considered frivolous, groundless, or baseless, either.
3. Defendants have shown that the Campbell's were prevented from proving a meritorious defense to their cause of action, caused by defendants wrongful actions, fraud, and misrepresentation. Otherwise defendants would not be attempting to prevent the plaintiffs' Bill of Review in this instant case to show defendants summary judgments were improperly granted. If defendants could have provided a true and correct copy the Campbell's purported promissory note, meeting the requirements designated in Chapter 3, Texas Business and Commerce Code, defendants could pursue a claim upon such non-secured legal instrument. However, defendants could not produce such, and this instant case is a result of such malfeasance conducted by defendants.
4. Defendants have not met the requirements of chapter §11.054(2), Tex. Civ. R. & Practices code as defendants assert.
5. Defendants cannot support an argument that a previous judgment obtained by extrinsic fraud could be considered a final judgment when a summary judgment motions brought under Texas Rules of Civil Procedure requires there is no issue genuine issue of material fact and that defendants are entitled to judgment as a matter of law. See *Browning v. Prostock*, 165 SW 3d 336 - Tex: Supreme Court 2005.
6. Defendants intentional misuse of summary judgment procedure instantly after plaintiffs discovery requests to defendants denied plaintiffs an opportunity to fully litigate and introduce evidence to prove defendants could not prevail.

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 *Montgomery v. Kennedy*, 669 SW 2d 309 - Tex: Supreme Court 1984

Factual and Procedural Background

First Lawsuit

7. Defendants provide many untruths. Even by bringing up arguments from a previous case. Plaintiff's are not attempting re-litigate this issue, however since defendants provide untruths, plaintiffs will show defendants are incorrect and accomplished the unprofessional same tactics in that case.
8. It should be recognized that certain suit involved subsidiary Wells Fargo Home Mortgage, (WFHM") and not Wells Fargo Bank. N.A., and according to law, there is a difference, especially when two entities are claiming upon the same purported promissory note. Defendants also fail to disclose to the court that a Notice of Felony was also filed in that case, along with an initial request for production of documents in a nice offer and demands, albeit a bit wonky. Court records would show the Campbell's made claim of Fair Debt Collection Practices Act. At that time, Wells Fargo Home Mortgage asserted the word "foreclosure" many times in that case, while Wells Fargo Home Mortgage counsels were denying any attempt of foreclosure. According to defendants current motion to declare plaintiffs' vexatious litigants, in item #2, defendants now admit that Wells Fargo Home Mortgage actually was attempting to foreclose on the Campbell's real property located at 250 Private Road 947, Taylor, Texas 76574 without producing any lawful evidence to show such debt collection act could occur according to Texas law. Defendants also failed to mention to this court that the Campbell's filed a motion to compel Wells Fargo Home Mortgage to produce the Campbell's promissory note along with other requested documentation to show Wells Fargo Home Mortgage lacked any legal rights to initiate such actions it was attempting to carry out in its name.

9. Defendants failed to mention the 277th District Court ordered the defendants to produce the promissory note, of which was never provided. Defendants also failed to mention to the court that counsel for Wells Fargo Home Mortgage intentionally filed a summary judgment as soon as the Campbell's received production of the documents requested which excluded the Campbell's alleged promissory note. This was an intentional action to prevent the Campbell's from further litigation on the merits, or as a matter of law. Wells Fargo Home Mortgage evaded producing the Campbell's purported promissory note by abusing the summary judgment procedure. Now, Defendants in their motion, again attempt to mislead this court into believing the purported judgment in favor of WFHM was conducted upon the merits of the case or as a matter of law. Court opinions citing federal case law references as far back as 1946 to *Aurick v. Rockmont*, have agreed that it is not the purpose of a summary judgment to deprive a litigant of their right to a full hearing. See *Aurick v. Rockmont Envelope Co.*, 155 F. 2d 568 - Circuit Court of Appeals, 10th Circuit 1946. Defendants abusive tactics to deprive the Campbell's from a right to trial by jury was successful even though Wels Fargo Home Mortgage, nor Wells Fargo Bank, N.A. can prove rights to the promissory note they both have claimed to hold, then and now.
10. Defendants or its counsels have no personal knowledge of the case in the 277th District Court and are acting to overburden the court and the Campbell's to deprive the Campbell's of a hearing and trial on the merits in this Bill of Review. Defendants continue to provide untruths to the court in order to evade the real issue of what Bank defendants, Attorney defendants, and their respective counsels have accomplished by asserting untruthful, unprofessional, and unethical means of litigation. Both, bank defendants and attorney defendants through their answers; and by bank defendants motion to declare the Campbell's as vexatious litigants actually provides truth into how these entities seemingly conduct litigation with untruths and abuse of process, opposite of what was meant to keep the playing field of litigation equal and on the merits,

as a matter of law. The Campbell's initial lawsuit challenged Wells Fargo Home Mortgage rights to a purported promissory note allegedly secured by a deed of trust. Wells Fargo Home Mortgage through misrepresentation accomplished a summary judgment without determining merits of the case or as a matter of law. Contained in record and fact, when Alvie Campbell asked the judge, Ken Anderson at that time of the Wells Fargo Home Mortgage summary judgment hearing, if his honor had read the Campbell's pleadings, the judge Anderson replied "no". When Alvie Campbell asked the judge if he would read the Campbell's pleadings, the judge said "no". Nevertheless, whether or not the judge was to read the Campbell's pleadings, the Campbell's had merit in their oral argument and Wells Fargo Home Mortgage counsel knew that. It is easily viewed in the court reporter's transcript, when judge Anderson said "counsel, you look like you lost". Then, Wells Fargo Home Mortgage counsel submitted into evidence, an unsigned contract alleging a forbearance agreement to support its argument. The Campbell's objected to such evidence being introduced. It is contained in the reporter's record, and as stated in *Browning* ; "It is this type of fraud employed by a successful party to a suit in order to prevent an adversary trial or decision". See *Browning v. Prostok*, 165 S.W. 3d 336, 348. (Tex. 2005). The Campbell's complaints, and responses to defendants past assertions have and continue to have merit, yet, through defendants counsels dishonest tactics, defendants managed to prevent the Campbell's from adjudication on the merits in a court of law, as a matter of law, and are now trying to sway this court to believe their untruths. In this instance, the vexatious litigant tool is being used by the defendants to cover up that prior judicial malfeasance ruling, all the while exposing another unjust tactic seemingly unconstitutional. Defendants have also attempted to assert claims of res judicata that fail to meet the elements for such claim of which no prior judgment was obtained upon the merits of the case, or as a matter of law, and now such overburdening tactics of vexatious litigant, yet another misapplication of process preventing plaintiffs rights of a fair opportunity for presenting defendants own documents as evidence

to the court or at a trial on the merits, as a matter of law to show defendants could not prevail then, or now.

11. Defendants admit that the Campbell's attempted to exhaust their avenues to correct the wrongs accomplished by defendants malfeasance. Although Defendants attempt to paint a pretty picture for themselves, if the court were to review the case defendants boldly boast upon, the court would find Wells Fargo Home Mortgage introduced an unsigned contract to allude the previous court into believing such contract was enforceable, even though the Campbell's objected to such introduction. This should be seen as contempt upon the court by defendants asserting untruths to that court and this court. However, due to fraud, misrepresentation, and wrongful acts by defendants, the Texas Supreme Court has stated that a Bill of Review could be initiated to correct the wrongs ensued by untruthful conduct of litigants to correct such fraud. Extrinsic fraud is fraud that denies a losing party the opportunity to fully litigate at trial all the rights and defenses that could be asserted. *See Browing*, Id., at 347.

Second Lawsuit

12. Defendants are only correct in stating that the Campbell's filed suit in September 2010. However this suit was against Wells Fargo Bank, N.A., MERS and attorney defendants, along with John Does 1-100 to be added later during pre-trial procedures due to the complexity of the MERS system. Again, Defendants admit the electronic transaction in the MERS system is the cause of the suit initiated by the Campbell's. Defendants again allude to the court that the judgments in favor of Defendants were adjudicated upon the merits, as a matter of law, when in fact, they were not. Defendants favorable judgments were obtained by untruths and abuse of summary judgment procedures and motions to dismiss. Extrinsic fraud is fraud that denies a party the opportunity to fully litigate at trial all the rights or defenses the he could have asserted. *Tice v. City of Pasadena*, 767, S.W. 2d, 700, 702, (Tex. 1989)

Appeal

13. Defendants have proven to the court that the Campbell's have exhausted all their avenues to correct the wrongs accomplished by the Defendants. This is an essential element for the Campbell's to file a Bill of Review in this court.

Instant Lawsuit

14. The Campbell's filed their Bill of Review which is allowed according to the Texas Supreme Court. However, Defendants motion reflects the same Rambo type tactics to allude the court to believe the Campbell's complaint is baseless, groundless, or without merit. Defendants attempt to make claims that the Campbell's case were baseless is only another ill-faded attempt to evade a very serious problem with rouge attorneys abusing the non-judicial foreclosure practice in Texas causing great harm to many fellow Texas citizens, not just the Campbell's. As noticed in the Nueces County case, the court has realized even the counties are victims to fraud, according to Judge Ramos. See

15. Plaintiffs object to such nonsense as defendants attorneys attempt to mix peanut butter and toothpaste to allude the court to believe in defendants untruth or gibberish. Defendants assertions are meritless. It is either foreclosure or possession; or, foreclosure and possession. Which is it? Defendants have not and cannot provide any evidence to show defendants lawfully hold rights to a secured note to make such a claim. Plaintiffs do not believe defendants can assert any claim upon the purported promissory note according to section §3.203(d), Texas Business and Commerce code. Defendants actions are more closely compared to theft of real property rather than the word they freely use, called "foreclosure". If defendants can accomplish theft under the guise of "foreclosure", God help us all.

16. This court should remove the blindfold to see that Defendants conduct litigation with unclean hands. See [*Truly v. Austin*](#), 744 SW 2d 934 - Tex: Supreme Court 1988. Rather than look to Plaintiffs as vexatious litigant, especially when Plaintiffs have already proven defendants were without rights to bring any such judgments against plaintiffs.

17. This court should sanction defendants for their evasive tactics to avoid a trial upon the merits of a case, and not by the abuse and untruths to avoid the real issues at hand, theft of real property.
18. This court should sanction defendants for their actions to avoid and distract the court from what the Bill of Review is meant to accomplish. Defendants untruthful tactics are preventing the Campbell's from fair dealings in the court. Defendants claims that plaintiffs have no probability of prevailing is yet another evasive tactics to prevent the plaintiffs showing the court that Defendants are untruthful, work with unclean hands, and prevent the truth from being exposed about defendants actions.
19. Defendants make claims that the Campbell's will not prevail, yet, according to Texas law, if defendants were ordered to prove chain of title to the Campbell's purported promissory note showing Wells Fargo Bank, N.A. had rights to such promissory note according to chapter 3, section 203(d), Texas Business and Commerce code, Wells Fargo Bank, N.A. could not produce such. And if the Court were to order Wells Fargo Bank, N.A. to prove up a lawful chain of title to the purported Deed of Trust, Wells Fargo Bank, N.A. could not produce that chain of title either.

Motion for pre-filing order

20. Plaintiffs object to such a baseless, nonsensical motion by defendants. Defendants should be prevented from making such motion because the Campbell's pleadings are with merit, and supported, as a matter of law, and not baseless as defendants claims. Defendants appear to be hoping the honorable judge of this court is blind, or looking the other way to not see defendants unethical tactics. Defendants have proven through their motion that defendants were acting in bad faith. Defendants even provided the avenue to the court to peer into the case in the 277th and see that defendants subsidiary made the same claim to the purported promissory note they alleged to be the Campbell's promissory note owner. These untruthful acts are exactly what this court and many other courts should be aware of due to the MERS debacle, just about

anyone with access to the MERS system can make a claim upon a purported deed of trust without ever proving they hold rights to a debtor's purported promissory note, as a matter of law. A promissory note does not follow a mortgage registered in the MERS system. It never did.

21. Defendants motion should not be considered at an oral hearing before the 368th District Court because defendants bring such claims to the court in bad faith, with unclean hands and untruths.
22. Defendants and its counsels should be ashamed of themselves for violating their oaths and acting outside their disciplinary conduct requirements. If these individuals seemingly violate their "Lawyer's Creed", the question arises as to what else have these individuals violated?

Conclusion

23. For the reasons provide in this response, defendants, Wells Fargo Bank, N.A. and Mortgage Electronic Registration Systems, Inc. ("MERS") should not be granted any such action they request; and the Plaintiff's request the court to grant;

- 1, Sanction against defendants for attempting to accomplish such blatant, misleading, and untruthful attack upon the Plaintiff's.
2. Order defendants to declare all their future pleadings under the penalty of perjury to guard the integrity of the truth-seeking process, thus preventing any further untruths against the Campbell's.
3. And for such other and further relief, at law or equity, to which, the Campbell's may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on March 10, 2014, a true and correct copy of Plaintiff's Objections and Response to Defendants Motion to Declare Plaintiff's Vexatious Litigant was served to each person listed below by the method indicated;

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