

**IN THE UNITED STATES DISTRICT COURT**

**FOR WESTERN DISTRICT OF TEXAS**

**UNITED STATES COURTHOUSE**

**501 WEST FIFTH STREET AUSTIN, TEXAS 78701**

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**DAVID MCCRAE, qui tam** }

**CONSUMER FINANCIAL PROTECTION BUREAU** }

**v.** }

**PHH MORTGAGE CORPORATION (dba BURNET** }

**MORTGAGE SERVICES;** }

**CENTURY 21 MORTGAGE; COLDWELL BANKER** }

**CIVIL ACTION NO.**

**MORTGAGE; DOMAIN DISTINCTIVE PROPERTY** }

**1:14-733-LY**

**FINANCE; ERA MORTGAGE; INSTAMORTGAGE.COM** }

**MORTGAGE SERVICE CENTER;** }

**MORTGAGEQUESTIONS.COM; MORTGAGESAVE.COM** }

**PHH MORTGAGE SERVICES)** }

**And BARRETT DAFFIN FRAPPIER TURNER** }

**AND ENGEL, LLP,** }

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**§§§**

**JURY TRIAL DEMANDED**

**§§§**

27.08.12

## OBJECTION TO MARK LANE REPORT AND RECOMMENDATIONS

Since the recent and ongoing financial crisis in this country (Wall Street and the Financial Crisis, Anatomy of a Financial Collapse, Majority and Minority Staff Report, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Carl Levin, Chairman and Tom Coburn, Ranking Minority Member), the Financial Institutions Reform, Recovery, and Enforcement act of 1989 (FIRREA) has been passed by the legislature (still being widely litigated) to define and confirm the ethical bedrock foundations of proper financial institution operations to the benefit of our community. The Consumer Financial Protection Board has been established specifically by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 to address, and the Department of Justice appears to have expended great effort in examining and regulating, mortgage servicing industry practice, company by company. The most egregious violators in the arena (BofA, Chase, Citi, Greentree, Ocwen, Wells) have already begun to appear in courts to register consent judgments with the united group of all 50 State Attorneys General, and to disgorge record setting penalties in restitution of past practices, and to submit themselves and their changing practices to regulatory oversight by Joseph A. Smith, The Office of Mortgage Settlement Oversight (Joseph A. Smith does not participate in litigation). We are now considering just such industry practices in the case of the plaintiff and these two defendants. A jury has never been empaneled before to openly consider and judge these issues, or their most proper and effective remediation. Now is the time.

Mark Lane has reviewed a great deal of complex information concerning my threadbare allegations and defendants' responses in our preliminary filings. The case now seems to be well defined. I'd like to take Magistrate Lane's report into consideration and file an amended complaint. Dismissal of this case would result in a premature judgment of my threadbare allegations. I desire to present the case to a jury.

Since I'm not an attorney, I will no longer represent Barbara McCrae. The 424th District Court asked for her inclusion; she is now no longer a plaintiff. Everybody, stop sending mail.

Since I'm not an attorney, I will no longer act for a class. I've been expecting to locate counsel, certify a class, and proceed in behalf of a great many. Time has run out. I now

act only for myself. John Does 1-100 are dismissed. Someone else can represent the class in future, if it exists at all.

I am continuing to appear qui tam the Consumer Finance Protection Bureau, who represent the United States of America. The CFPB is not a company like WalMart. They are the duly acting agency of the United States of America, with jurisdiction in this matter. I am a citizen of the United States of America, acting in their behalf. Although this status is not customary, it is permitted. I have properly given 90 days notice to the department of Justice of my intent, and have not been enjoined. I have no concerns about my personal security, and waive my right to file under seal. PHH represents about 2.4% of the mortgage servicing industry and forecloses only about 8-10,000 houses per month. In my case they made a mistake. Possibly they are below the threshold to attract the resources of the Mortgage Fraud Task Force Working Group, or perhaps they are scheduled for 2020 action. Today, I have sustained damages and have standing in this venue to enforce the law, and am acting. Possibly a US Attorney will intervene at some point, possibly not. I see no reason to delay.

I named USAA in an early draft of this claim. Through contact with their CEO and clarification of their role, I removed them. I'll remove any other typographical errors referring to them in an amended claim.

In accord with the theory of judicial estoppel, I am no longer claiming damages from the payments I made to PHH under the bankruptcy Proof of Claim. I'll learn from experience. I know I paid \$810 as expenses of public sale, yet I still live here and I have no boarders. I don't know who has the money. PHH is holding some escrow funds. Maybe they're still hunting for them. I will present the package to the jury and ask for their review. That's a little bunny trail that has no real import in this case. Let's not waste any more time on it.

Aside from judicial estoppel, I did hire two attorneys, Ann Little and Ray Fisher, to block seizure of my property after it was posted in Burnet County, and the sale was blocked. I filed this case for \$350. I have a subscription to PACER. I pay \$0.10/page to read the responses of my worthy counterparties. For accounting simplification, I'm claiming \$1 (ONE DOLLAR) in damages.

Possibly my claim for wrongful foreclosure is not worded correctly. What should we call it? Possibly it should say something like 'extortion of money from our clients to us,' or 'let's all pile on and get some more fees,' or 'special initiative to improve margins in portfolio management in Texas.' I'll go along with the court's suggested appellation. I call it theft by polecats.

Since this activity has become so common, it has attracted notice. There is a mortgage fraud task force working group, with expenses last year of \$550 million. They have recovered \$80 billion so far in fines and restitution, by consent judgments. I expect to present their work to a jury. These are complex issues. A jury has never been empaneled for such consideration, and there is no precedent. We've never had a financial crisis before. We've made new laws so we never have another one.

BDFTE continues to act in furtherance of fraudulent seizure activity, and continues to sell property in Texas every first Tuesday. I'd like to present their patented document processing system to a jury for review. It seems relevant.

In short, I object to this report, specifically PART IV. Recommendation, as a premature judgment of my threadbare claims, without review of trial exhibits. I expect another motion for dismissal after the case is presented, and before the jury is excused. Let's continue until that time.

Naturally, our Rule 26(f) meeting is not going well. I have an ADR motion before the court.

I also have a settlement offer open until midnight, 30 September.

Respectfully,

Date: 22 September 2014

Signature: /s/ David McCrae, Pro se

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**SERVICE**

I have served this OBJECTION TO MARK LANE REPORT AND RECOMMENDATIONS

To

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By e-mail

Sworn to on 09/22/2014

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