

**MARY ELLEN WOLF AND
DAVID WOLF**

IN THE DISTRICT COURT OF

vs.

HARRIS COUNTY, TEXAS

**WELLS FARGO BANK N.A.,
AS TRUSTEE FOR CARRINGTON
MORTGAGE LOAN TRUST, TOM
CROFT NEW CENTURY MORTGAGE
CORPORATION AND CARRINGTON
MORTGAGE SERVICES, LLC**

_____ **JUDICIAL DISTRICT**

PLAINTIFF’S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THIS COURT:

MARY ELLEN WOLF AND DAVID WOLF, hereinafter referred to as Plaintiff, whether one or more, files this Original Petition pursuant to Texas Rules of Civil Procedure 736(10) against, WELLS FARGO BANK N.A., AS TRUSTEE FOR CARRINGTON MORTGAGE LOAN TRUST, SERIES 2006-NC3 ASSET BACKED PASS-THROUGH CERTIFICATES, TOM CROFT, NEW CENTURY MORTGAGE CORPORATION, AND CARRINGTON MORTGAGE SERVICES, LLC, hereinafter referred to as Defendants, and show the following:

1. Because Plaintiff and Defendants, Wells Fargo Bank N.A., As Trustee For Carrington Mortgage Loan Trust, Series 2006-NC3 Asset Backed Pass-Through Certificates have previously appeared in Cause Number 2011-08930, personal service of this Original Petition is not necessary on Wells Fargo Bank N.A., As Trustee For Carrington Mortgage Loan Trust, Series 2006-NC3 Asset Backed Pass-Through Certificates. In compliance with Rules 21 and 21a of the Texas Rules of Civil Procedure, Defendants may be served with this Petition by serving Defendants’ attorney of record.

2. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure Plaintiff states that discovery is to be conducted under Rule 190.3, Level 2 Discovery.

3. Plaintiff hereby contests Defendants right to foreclose on the property located at 6404 Buffalo Speedway, Houston, Texas 77005, the property the subject of the Application for Expedited Foreclosure filed in Cause Number 2011-08930 (herein at times referred to as “subject property”), pursuant to Texas Rule of Civil Procedure 736(10). Plaintiff hereby demands damages from Defendants for wrongful filing of the Application in Cause Number 2011-08930.

4. Plaintiff hereby further incorporates by reference as if fully set forth herein at length for all purposes, Plaintiff’s Answer filed in Cause Number 2011-08930, in the 151st Judicial District Court of Harris County, Texas.

5. Plaintiff further complains about Defendants improper, reckless and illegal business practices in violation of the Texas Deceptive Trade and Practices Act. Defendants have engaged in a pattern of unfair and fraudulent practices. At all times Plaintiff was a Consumer as defined by the Texas Deceptive Trade and Practices Act and thus Plaintiff is entitled to damages, treble damages and reasonable attorney’s fees plus costs pursuant to the statute.

6. Plaintiff’s damages arise out of the fraudulent practices and acts of Defendants who have prepared fraudulent documents with the intent to use these fraudulent documents and with the intent that a Third Person would rely on these documents as valid documents to proceed to foreclosure.

7. Plaintiff requests verification of the debt from Defendants, Wells Fargo Bank N.A., As Trustee For Carrington Mortgage Loan Trust, Series 2006-NC3 Asset Backed Pass-Through Certificates, to establish that this Defendants has no standing to bring forth these foreclosure proceedings and/or seek any of the remedies this Defendants is seeking in its Application for Under Texas Rule of Civil Procedure 736 Seeking an Order to Proceed With Foreclosure Sale (herein “Application”).

8. Plaintiff hereby further demands that Defendants, Wells Fargo Bank N.A., As Trustee For Carrington Mortgage Loan Trust, Series 2006-NC3 Asset Backed Pass-Through Certificates (herein at times referred to as “Wells Fargo”), produce the ORIGINAL WET INK

SIGNATURE PROMISSORY NOTE AND DEED OF TRUST signed by Plaintiff in association with the property located at 6404 Buffalo Speedway, Houston, Texas 77005, the property the subject of the Application (herein at times referred to as “subject property”).

9. Further, Plaintiff hereby further demand that the Defendants, Wells Fargo is in fact the Note Holder in due course and has standing as a party in interest in the Promissory Note in issue. Plaintiff has reason to believe that the subject Note was “sold” under “mortgage backed securities instrument” to investors under a pooling of interest.

10. In truth and in fact Plaintiff would show this Court that Defendants are in involved in a conspiracy of fraud to wrongfully deprive Plaintiff of the subject property. Plaintiff request this Court look at the documents presented in Cause Number 2011-08930 in the Application as they are riddled with material misrepresentations and material errors which cannot support the Application.

11. Plaintiff alleges that the Defendants (and it is unknown at this time, but perhaps along with the law firms that represent them) have conspired to fraudulently deprive the Plaintiff of the subject property.

12. Tom Croft, (it is not known at this time whether he is real person) who allegedly signed the Verification of Application and Affidavit attached to the Wells Fargo’s Application, is what is known as a “Robo-Signer”. Merely searching in the Internet for the name “Tom Croft” and/or “Tom Croft” and “Robo-Signer” will result in numerous listings of the name “Tom Croft” as a Robo-Signer and shows his association as a Robo-Signer for Carrington Mortgage Services, LLC. It would further show that Tom Croft and Carrington Mortgage Services are associated with numerous fraudulent and wrongful foreclosures throughout the United States of America. Attached hereto as Exhibit “A” and incorporated herein for all purposes as if fully set forth herein are some search results which depict Tom Croft as a “Robo-Signer”. Robo-Signers are mortgage lending company employees who prepared and signed off on foreclosures without reviewing them, as the law requires. This robo-signing of affidavits and assignments of

mortgages and all other mortgage foreclosure documents serve to cover up the fact that loan servicers cannot demonstrate the facts required to conduct a lawful foreclosure. This is fraud by claiming knowledge of a financial matter of which they had no personal knowledge. This is just the tip of the iceberg of the fraud these Defendants have committed.

13. A Cease and Refrain Order pursuant to the California Financial Code Section 22712 was issued against New Century Mortgage Corporation on March 16, 2007, because New Century had engaged in and was engaging in acts or practices constituting violations of the California Finance Lenders Law.

14. Further Tom Croft's Affidavit attached to the Application cannot support the Application for various reasons including the fact that it is riddle with errors and inconsistency, especially between the Application and the Affidavit and including the fact that the Affidavit states the wrong date when the account's monthly mortgage is due—the Application states it is **due on January 1, 2010**, and the Affidavit states it is **due July 1, 2010**. It is believed that Tom Croft has perjured himself in the Affidavit in many material ways.

15. Further, the Affidavit of Tom Croft refers to an account number 1007965339 being “contractually due for a July 1, 2010, monthly mortgage installment....”, yet there is no proof anywhere as to who that account number refers. Therefore, the Affidavit fails on its face.

16. Tom Croft's Affidavit is a bad faith Affidavit as the law defines such and the Defendants should be punished for their actions jointly and severally including their attorneys for filing a bad faith Affidavit and for filing a frivolous and groundless pleading.

17. Further, Tom Croft states in his Affidavit that “Applicant is the owner and holder of the Note and Security Instrument and is in possession of both”. Tom Croft could not possibly be able to attest truthfully to such for the reasons that will appear more clearly herein.

18. Tom Croft signed the Affidavit attached to the Application on behalf of Wells Fargo and “Carrington Mortgage Services, its servicing agent and Attorney-in-Fact”. His Title is listed on the Affidavit attached to the Application as “Tom Croft, VP of REO, Carrington

Mortgage Services, LLC. Tom Croft ALSO signed off on the “Transfer of Lien” dated to be effective on 9/30/09, on behalf of “New Century Mortgage Corporation” as “Vice President of REO” , which is attached to the Application as part of “Exhibit A”. This Transfer of Lien is believed to be fraudulent. This Transfer of Lien purports to transfer the New Century Mortgage to Wells Fargo. In the Transfer of Lien Tom Croft is attacking on behalf of New Century Mortgage, allegedly transferring the Lien from New Century Mortgage to Wells Fargo Bank N.A., As Trustee For Carrington Mortgage Loan Trust, Series 2006-NC3 Asset Backed Pass-Through Certificates while on the Affidavit attached to the Application, Tom Croft claims to be the custodian of records for Bank N.A., As Trustee For Carrington Mortgage Loan Trust, Series 2006-NC3 Asset Backed Pass-Through Certificates. **This would be Wells Fargo Bank N.A., As Trustee For Carrington Mortgage Loan Trust, Series 2006-NC3 Asset Backed Pass-Through Certificates transferring the Lien to ITSELF!** How can Tom Croft be acting for the allegedly prior Holder of Note Lien, New Century Mortgage, and transfer the Lien on behalf of New Century Mortgage Corporation when he claims on the Affidavit that he is the custodian of records for Wells Fargo and is the servicing agent and Attorney-in-Fact for Carrington Mortgage Services. These documents are obvious fraud and **break the chain of title to the subject property** and show that Wells Fargo is not the holder of the note and as such cannot foreclose on the subject Note and subject property.

19. On March 13, 2007, the New Jersey Department of Banking and Insurance issued a Cease and Desist order against New Century Mortgage Corporation and its affiliate, Home 123 Corporation, both of Irvine California, ordering New Century Mortgage Corp. and Home 123 to stop doing business in the state and took the initial step toward revoking the companies’ mortgage lender licenses due to their lending practices and loss of their funding sources.

20. On July 31, 2009, the Ohio Attorney General filed a joint lawsuit with the Ohio Department of Commerce against Carrington Mortgage Services, LLC. The lawsuit alleges that Carrington breached its agreement with the state to offer reasonable loan modifications to

eligible borrowers. The lawsuit also alleges that Carrington violated Ohio's Consumer Sales Practices Act by providing incompetent, inadequate and inefficient customer service in connection with its servicing of Ohio mortgage loans.

21. Plaintiff would show that the conduct of Defendants rise to the level of gross negligence and Plaintiff seeks exemplary damages.

22. Plaintiff hereby seeks an immediate permanent restraining order and permanent injunction restraining Defendants from continuing to pursue any foreclosure against the subject property because if such is not issued Plaintiff will be irreparably harmed. Petitioner requests the Court, after notice and hearing, to dispense with the issuance of a bond, to make temporary orders and issue any appropriate temporary injunctions for the preservation of the property as deemed necessary and equitable.

23. Under Texas Rules of Civil Procedure 194, Plaintiff request that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

24. In accordance with Texas statutes and common law, Plaintiff hereby makes a request for attorney's fees, expenses and costs of court from Defendants jointly and severally, including their attorneys if the evidence shows that they were part of the fraud and conspiracy. The Court should order Defendants Wells Fargo and their attorneys, jointly and severally, to pay reasonable interim attorney's fees and expenses of no less than \$50,000.00 for the filing of a frivolous and groundless application. Further, for services rendered in connection with this matter, judgment for attorney's fees, expenses, and costs through trial and appeal should be granted against Defendants and in favor of Plaintiff for the use and benefit of Plaintiff's attorney and be ordered paid directly to Plaintiff's attorney, who may enforce the judgment in the attorney's own name. Plaintiff requests prejudgment and postjudgment interest as allowed by law.

25. Plaintiff requests the Court and Jury to consider the relative damages and conduct of the parties and all tortfeasors.

WHEREFORE, Plaintiff prays for judgment against Defendants with interest from the date of judgment at the legal rate, exemplary damages, attorney's fees, costs of court, and all further relief, both general and special, legal and equitable, to which Plaintiff may be entitled.

Respectfully submitted,

THE ALONSO-BUJOSA LAW FIRM

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Houston, Texas 77096
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NINA A. BUJOSA
State Bar No. 03319550

**ATTORNEY FOR PLAINTIFF, MARY
ELLEN WOLF AND DAVID WOLF**

CERTIFICATE OF SERVICE

I certify that on the 19th day of June, 2011, a true and correct copy of the foregoing instrument has been forwarded in accordance with the Texas Rules of Civil Procedure to:

VIA FACSIMILE TRANSMISSION TO: 713-464-8553

Thomas D. Pruyn
8584 Katy Freeway, Suite 305
Houston, Texas 77024



NINA A. BUJOSA