

CAUSE NO. 2011-36476

MARY ELLEN WOLF AND
DAVID WOLF

v.

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

§
§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

FILED

Chris Daniel
District Clerk

NOV - 6 2015

Time: 2:25 pm
Harris County, Texas
By [Signature]
Deputy

HARRIS COUNTY, TEXAS

151ST JUDICIAL DISTRICT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason. I will give you a number where others may contact you in case of an emergency.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

Here are the instructions for answering the questions.

- 1. Do not let bias, prejudice, or sympathy play any part in your decision.

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

CONFIRMED FILE DATE: 11/6/2015

2. Base your answers only on the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted in the courtroom.

3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.

4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.

5. All the questions and answers are important. No one should say that any question or answer is not important.

6. Answer "yes" or "no" to all questions unless you are told otherwise. A "yes" answer must be based on a preponderance of the evidence. Whenever a question requires an answer other than "yes" or "no," your answer must be based on a preponderance of the evidence.

The term "preponderance of the evidence" means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a "yes" answer, then answer "no." A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

7. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

8. Do not answer questions by drawing straws or by any method of chance.

9. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror's amount and then figuring the average.

10. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."

11. The answers to the questions must be based on the decision of at least ten of the twelve jurors. The same ten jurors must agree on every answer. Do not agree to be bound by a vote of anything less than ten jurors, even if it would be a majority.

As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

A party's conduct includes conduct of others that the party has ratified. Ratification may be express or implied. Implied ratification occurs if a party, though he may have been unaware of unauthorized conduct taken on his behalf at the time it occurred, retains the benefits of the transaction involving the unauthorized conduct after he acquired full knowledge of the unauthorized conduct. Implied ratification results in the ratification of the entire transaction.

DEFINITIONS

“David Wolf” means the plaintiff David Wolf.

“Mary Wolf” means the plaintiff Mary Ellen Wolf.

“Plaintiffs” means the plaintiffs David Wolf and Mary Ellen Wolf.

“Wells Fargo” means defendant Wells Fargo Bank, N.A., as Trustee for Carrington Mortgage Loan Trust, Series 2006-NC3 Asset Backed Pass-Through Certificates.

“Carrington” means defendant Carrington Mortgage Services, LLC.

“PSA” means the Pooling And Servicing Agreement dated August 1, 2006 between Stanwich Asset Acceptance Company, L.L.C. (Depositor), New Century (Servicer), and Wells Fargo (Trustee).

QUESTION NO. 1

Did any defendant make, present, or use a document with:

- (1) knowledge that the document was a fraudulent lien or claim against real property, or an interest in real property; and
- (2) the intent that the document be given the same legal effect as a valid lien or claim against real property, or an interest in real property; and
- (3) the intent to cause the Plaintiffs to suffer financial injury or mental anguish or emotional distress?

A lien is "fraudulent" if the person who files it has actual knowledge that the lien was not valid at the time it was filed.

"Lien" means a claim in property for the payment of a debt and includes a security interest.

Answer "Yes" or "No" as to the following:

Wells Fargo: yes

Carrington: yes

If you answered "Yes" to Question No. 1, then answer the following question. Otherwise, do not answer the following question and skip to Question No. 4.

QUESTION NO. 2

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate the Plaintiffs for their damages, if any, that resulted from such conduct?

Consider the following elements of damages, if any, and none other. Answer separately in dollars and cents for damages, if any.

In answering questions about damages, answer each question separately. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be.

Any recovery will be determined by the court when it applies the law to your answers at the time of judgment. Do not add any amount for interest on damages, if any.

"Mental anguish or emotional distress" means a high degree of mental pain and distress that is more than mere worry, anxiety, vexation, embarrassment, or anger that resulted in a substantial disruption of the Plaintiffs' daily routine.

Answer separately in dollars and cents for damages, if any:

- a. Financial injury sustained in the past by ~~the~~ David Wolf.

ANSWER: \$ 75,000.00

- b. Financial Injury sustained in the past by Mary Ellen Wolf.

ANSWER: \$ 75,000.00

- c. Financial injury that, in reasonable probability, will be sustained in the future by David Wolf.

ANSWER: \$ 0.00

- d. Financial injury that, in reasonable probability, will be sustained in the future by Mary Ellen Wolf.

ANSWER: \$ 0.00

- e. Mental anguish or emotional distress experienced by David Wolf in the past.

ANSWER: \$ ^{20,000.00}~~20,000.00~~

- f. Mental anguish or emotional distress experienced by Mary Ellen Wolf in the past.

ANSWER: \$ 20,000.00

- g. Mental anguish or emotional distress that, in reasonable probability, will be sustained by David Wolf in the future.

ANSWER: \$ 0.00

- h. Mental anguish or emotional distress that, in reasonable probability, will be sustained by Mary Ellen Wolf in the future.

ANSWER: \$ 0.00

Only answer Question No. 3 if you awarded damages to Plaintiffs in response to Question No. 2 and unanimously answered "Yes" to Question No. 1 as to any defendant. Otherwise, do not answer the following question.

QUESTION NO. 3

Do you find by clear and convincing evidence that any of the Defendants engaged in the conduct that you found in answering Question No. 1?

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

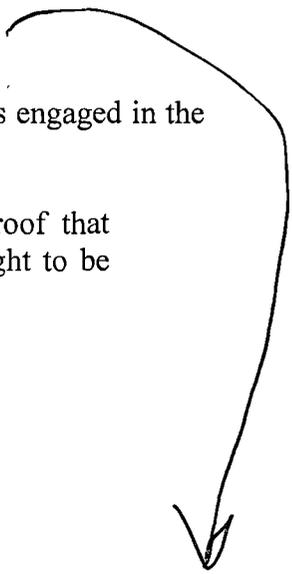
Answer "Yes" or "No" as to the following:

Wells Fargo:

yes

Carrington:

yes



To answer "Yes" to Question No. 3, your answer must be unanimous. You may answer "No" to Question 3 only on a vote of ten or more jurors. Otherwise you may not answer Question 3.

QUESTION NO. 4

Were any of the Defendants unjustly enriched by the Plaintiffs?

“Unjustly enriched” means the entity has obtained a benefit from another by fraud, duress, or the taking of an undue advantage.

Answer “Yes” or “No” as to the following:

Wells Fargo: yes

Carrington: yes

If you answered "Yes" as to any part of Question No. 4, then answer the following question. Otherwise, do not answer the following question and skip to Question No. 6.

QUESTION NO. 5

How much money, if any, did the Defendant(s) receive from the Plaintiffs as a result of unjust enrichment?

Answer separately in dollars and cents for damages, if any:

Wells Fargo: \$ 0.00

Carrington: \$ 0.00

QUESTION NO. 6

Do any of the Defendants hold money that, in equity and good conscience, belongs to the Plaintiffs?

Answer "Yes" or "No" as to the following:

Wells Fargo: NO

Carrington: NO

If you answered "Yes" to any part of Question No. 6, then answer the following question. Otherwise, do not answer the following question and skip to Question No. 8.

QUESTION NO. 7

How much money, if any, do the Defendants hold that, in equity and good conscience, belongs to the Plaintiffs?

Answer separately in dollars and cents for damages, if any:

Wells Fargo: \$ _____

Carrington: \$ _____

QUESTION NO. 8

Did Plaintiffs fail to comply with the terms of the Texas Home Equity Fixed/Adjustable Rate Note (Defendants' Exhibit 2)?

Answer "Yes" or "No": Yes

If you answered "Yes" to Question No. 8, then answer the following question. Otherwise, do not answer the following question and skip to Question No. 10.

QUESTION NO. 9

How much money, if any, do Plaintiffs owe under the Texas Home Equity Fixed/Adjustable Rate Note (Defendants' Exhibit 2) as of November 6, 2015?

Answer in dollars and cents: \$ 655,191.73

QUESTION NO. 10

Is Wells Fargo a Holder of the Texas Home Equity Fixed/Adjustable Rate Note (Defendants' Exhibit 2)?

“Holder” means the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession.

“Bearer” means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, a negotiable tangible document of title, or a certificated security that is payable to bearer or indorsed in blank.

Answer “Yes” or “No”: yes

QUESTION NO. 11

Does Wells Fargo own the Texas Home Equity Fixed/Adjustable Rate Note (Defendants' Exhibit 2) and/or Texas Home Equity Security Instrument (Defendants' Exhibit 3)?

Answer "Yes" or "No" as to each:

Texas Home Equity Fixed/Adjustable Rate Note: NO

Texas Home Equity Security Instrument: NO

QUESTION NO. 12

Was the "Transfer of Lien" (Plaintiffs' Ex. 23) filed on October 20, 2009 from New Century to Wells Fargo void?

"Void" with respect to Question No. 12 means, those documents that are of no effect whatsoever, and those that are an absolute nullity.

Answer "Yes" or "No.":

ANSWER: Yes

QUESTION NO. 13

Did Wells Fargo or Carrington violate the PSA?

Answer "Yes" or "No" as to each:

Wells Fargo: Yes

Carrington: Yes

If you answered "Yes" to Question No. 1, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 14

What is a reasonable fee for the necessary services of the Plaintiffs' attorneys in this case, stated in dollars and cents?

Factors to consider in determining a reasonable fee include:

- The time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly.
- The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer.
- The fee customarily charged in the locality for similar legal services.
- The amount involved and the results obtained.
- The time limitations imposed by the client or by the circumstances.
- The nature and length of the professional relationship with the client.
- The experience, reputation, and ability of the lawyer or lawyers performing the services.
- Whether the fee is fixed or contingent on results obtained or uncertainty of collection before the legal services have been rendered.

Answer with an amount for each of the following:

1. For representation through trial and the completion of proceedings in the trial court.

ANSWER: \$ ~~100,000~~ ~~100,000~~ \$140,000.00

2. For representation through appeal to the court of appeals.

ANSWER: \$ 30,000

3. For representation at the Supreme Court of Texas.

ANSWER: \$ 20,000

Presiding Juror:

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.
2. The presiding juror has these duties:
 - a. have the complete charge read aloud if it will be helpful to your deliberations;
 - b. preside over your deliberations, meaning manage the discussions, and see that you follow these instructions;
 - c. give written questions or comments to the bailiff who will give them to the judge;
 - d. write down the answers you agree on;
 - e. get the signatures for the verdict certificate; and
 - f. notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

Instructions for Signing the Verdict Certificate:

1. You may answer the questions on a vote of ten jurors. The same ten jurors must agree on every answer in the charge. This means you may not have one group of ten jurors agree on one answer and a different group of ten jurors agree on another answer.
2. If ten jurors agree on every answer, those ten jurors sign the verdict. If eleven jurors agree on every answer, those eleven jurors sign the verdict. If all twelve of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.
3. All jurors should deliberate on every question. You may end up with all twelve of you agreeing on some answers, while only ten or eleven of you agree on other answers. But when you sign the verdict, only those ten or eleven who agree on every answer will sign the verdict.
4. There are some special instructions before Question No. 3 explaining how to answer this question. Please follow the instructions. If all twelve of you answer this question, you will need to complete a second verdict certificate for this question.

Do you understand these instructions? If you do not, please tell me now.



Judge Mike Engelhart, Presiding

VERDICT CERTIFICATE

Check one:

Our verdict is unanimous. All twelve of us have agreed to each and every answer. The presiding juror has signed the certificate for all twelve of us.



Signature of Presiding Juror

Ryan Hurst

Printed Name of Presiding Juror

_____ Our verdict is not unanimous. Eleven of us have agreed to each and every answer and have signed the certificate below.

_____ Our verdict is not unanimous. Ten of us have agreed to each and every answer and have signed the certificate below.

SIGNATURE

NAME PRINTED

1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____

ADDITIONAL VERDICT CERTIFICATE

I certify that the jury was unanimous in answering the following questions:

Question No. 1

Question No. 3

All twelve of us agreed to the answer. The presiding juror has signed the certificate for all twelve of us.



Signature of Presiding Juror

Ryan Hurst

Printed Name of Presiding Juror

CAUSE NO. 2011-36476

MARY ELLEN WOLF AND
DAVID WOLF

v.

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

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

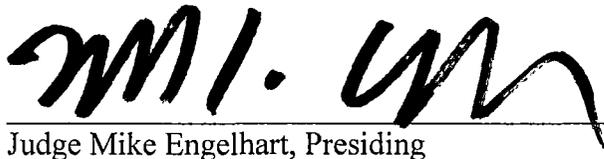
HARRIS COUNTY, TEXAS

151ST JUDICIAL DISTRICT

ADDITIONAL INSTRUCTION FOR BIFURCATED TRIAL

MEMBERS OF THE JURY:

In discharging your responsibility on this jury, you will observe all the instructions that have been previously given you.



Judge Mike Engelhart, Presiding

FILED

Chris Daniel
District Clerk

NOV 10 2015

Time: 2:47 PM
By: [Signature]
Deputy

RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

CONFIRMED FILE DATE: 11/10/2015

QUESTION NO. 15

You are instructed that you must unanimously agree on the amount of any award of exemplary damages.

What sum of money, if any, should be assessed against one or more of the following Defendants and awarded to Plaintiffs as exemplary damages for the conduct found in response to Question Nos. 1 and 3?

“Exemplary damages” means any damages awarded as a penalty or by way of punishment but not for compensatory purposes. Exemplary damages includes punitive damages.

Factors to consider in awarding exemplary damages, if any, are:

1. The nature of the wrong.
2. The character of the conduct involved.
3. The degree of culpability of the wrongdoer.
4. The situation and sensibilities of the parties concerned.
5. The extent to which such conduct offends a public sense of justice and propriety.
6. The net worth of the defendant.

Answer in dollars and cents, if any.

Wells Fargo: \$ 2,500,000.00

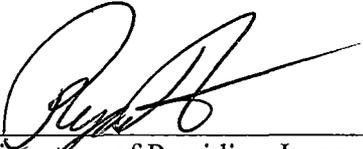
Carrington: \$ 2,500,000.00

ADDITIONAL CERTIFICATE

I certify that the jury was unanimous in answering the following question:

Question No. 15

All eleven of us agreed to each of the answers. The presiding juror has signed the certificate for all eleven of us.



Signature of Presiding Juror

Ryan Hurst

Printed Name of Presiding Juror