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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PLAINTIFFS, vs. SPECIALIZED LOAN SERVICING, LLC; MTC FINANCIAL INC., DBA TRUSTEE CORPS; U.S. BANK NATIONAL ASSOCIATION AS INDENTURE TRUSTEE, ON BEHALF OF THE HOLDERS OF THE TERWIN MORTGAGE TRUST 2007-QHL1 ASSET-BACKED SECURITIES, SERIES 2007-QHL1, WITHOUT RECOURSE; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN THE COMPLAINT ADVERSE TO PLAINTIFFS' TITLE, OR ANY CLOUD ON PLAINTIFFS' TITLE THERETO; and DOES 1-20, INCLUSIVE, DEFENDANTS.	Case No: **PLAINTIFFS' OPPOSITION TO DEFENDANTS SPECIALIZED LOAN SERVICING, LLC AND U.S. BANK NATIONAL ASSOCIATION'S DEMURRER TO PLAINTIFFS' SECOND AMENDED COMPLAINT**

Plaintiffs hereby submit their Opposition to Defendants Specialized Loan Servicing, LLC ("SLS") and U.S. BANK, N.A., as Indenture Trustee, on Behalf of the Holders of the Terwin Mortgage Trust 2007-QHL1 Asset-Backed Securities, Series 2007-QHL1, Without

Recourse ("U.S. Bank")'s Demurrer as follows:

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I.

INTRODUCTION

Defendants' Demurrer to Plaintiff's Second Amended Complaint ("SAC") argues that Plaintiffs have failed to set forth any causes of action. To the contrary, for the reasons set forth below, each and every cause of action set forth in the SAC is properly plead and Defendants' demurrer should be overruled in its entirety. Alternatively, if the Court finds that one or more causes of action are not properly plead, Plaintiffs seek leave of court to amend the SAC to cure any defects.

II.

THE DOCTRINE OF RES JUDICATA DOES NOT APPLY TO ANY OF PLAINTIFFS' CAUSES OF ACTION

First, Defendants argue that because a ***default*** judgment was entered against Plaintiffs in the unlawful detainer action regarding the Subject Property, they are precluded from bringing the claims in this action against Defendant U.S. Bank. In support of their argument, Defendants rely upon a distinguishable California appellate opinion from 1954 (Freeze v. Salot). Said opinion, although not overruled, was superseded by the California Supreme Court's opinion in Vella, supra. In Vella, the Court noted that "a judgment in unlawful detainer usually has very limited res judicata effect and will not prevent one who is dispossessed from bringing a subsequent action to resolve questions of title or to adjudicate other legal and equitable claims between the parties [citations omitted]." Id. at 255.

Moreover, in Vella, as here, the Court held that, although the municipal court in the previous unlawful detainer action was empowered to examine the conduct of the trustee's sale

pursuant to CCP Section 1161a, the court had no jurisdiction, however, to adjudicate title to property worth considerably more than the jurisdictional limit of the unlawful detainer court. Id. at 257. Similarly, the unlawful detainer action against Plaintiffs was brought under the limited jurisdiction of this court. Thus, the court in the unlawful detainer action did not have jurisdiction to adjudicate issues of title to the Subject Property but rather only whether the foreclosure sale was conducted and whether the Plaintiff in the unlawful detainer complaint was the same entity listed on the trustee's deed upon sale.

Additionally, an unlawful detainer judgment does not foreclose relitigation of matters material to a determination of title unless the defendant in the unlawful detainer action was afforded a full and fair opportunity to litigate such matters. Id.; see also Pelletier v. Alameda Yacht Harbor (1986) 188 Cal. App. 3d 1551, 1557 ("Legal and equitable claims-such as questions of title and affirmative defenses-are not conclusively established unless they were fully and fairly litigated in an adversary hearing."). Also, the party asserting the doctrine of res judicata has the burden of proof on that issue. Here, there is absolutely no evidence that Plaintiffs were afforded a "full and fair opportunity" to litigate the matters set forth in the SAC through the unlawful detainer action or that the unlawful detainer court had jurisdiction to grant the relief sought in the SAC. Therefore, Defendants' demurrer on res judicata grounds must be overruled in its entirety.

Finally, as only U.S. Bank was a party to the unlawful detainer action, there can be no collateral estoppel or res judicata effect as to SLS because it was not a party to the unlawful detainer action. See Landeros, supra, 39 Cal. App. 4th at 1171. Therefore, Defendants' demurrer on res judicata grounds must be overruled, at the very least, as to SLS.

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III.

THE TENDER RULE DOES NOT APPLY HERE

Defendants cite several cases for the proposition that Plaintiff is required to tender the amount due on the loan that he allegedly had with Defendants. However, said cases are distinguishable. Moreover, tender may not be required where it would be inequitable to do so, Onofrio v. Rice (1997) 55 C.A.4th 413, 424, and if the tender rule does apply, it is only to set aside a VOIDABLE sale. Karlsen v. American Savings & Loan Assn. (1971) 15 Cal.App.3d 117. The cases known to counsel for Plaintiff which require tender are for maintaining an action for irregularity in the procedure of a trustee's sale. Here, as set forth below, Plaintiffs allege that the foreclosure sale is VOID, not voidable, and that it would be inequitable to require tender.

A. THE FORECLOSURE SALE WAS VOID, NOT VOIDABLE

There is no dispute that the tender rule only applies if the foreclosure sale was voidable, not void. Here, Plaintiff alleges that the foreclosure sale is VOID, not voidable. According to the second edition of Black's Law Dictionary something that is "void" is something that is "[o]f no legal effect; null. The distinction between *void* and *voidable* is often of great practical importance. Whenever technical accuracy is required, void can be properly applied only to those provisions that are of no effect whatsoever-those that are an absolute nullity." Something that is "voidable" is "[v]alid until annulled; esp., (of a contract) capable of being affirmed or rejected at the option of one of the parties. This term describes a valid act that may be voided rather than an invalid act that may be ratified."

In Dimock v. Emerald Properties, LLC (2000) 81 Cal. App. 4th 868, 97 Cal. Rptr. 2d 255, the appellate court, in distinguishing Karlsen v. American Sav. & Loan Assn. (1971) 15 Cal.App.3d 112, 92 Cal.Rptr. 851, held that tender is not required when a trustee goes forward

with a foreclosure sale without any legal authority to do so. In Dimock, the original trustee was substituted out for a new trustee. However, without a subsequent substitution, the original trustee conducted the foreclosure sale. Consequently, the court held that the foreclosure sale was VOID and a complete nullity with no force and effect. Id. at 876. Accordingly, the court held that the tender rule did not apply. Id. at 878.

Here, Plaintiff has made substantially similar allegations. Specifically, Plaintiffs allege that MTC did not have the legal authority to record the deed of trust as it did so prior to being substituted in as trustee. Additionally, Plaintiffs allege that MERS never had any beneficial interest in the deed of trust to assign to U.S. Bank. Thus, the assignment was void. Finally, Plaintiffs allege that MTC did not have standing or the legal authority to conduct the trustee's sale as it was not the trustee under the Deed of Trust and it did not have any authority from the beneficiary under the Deed of Trust to do so. SAC, at && 23, 24 and 28-30. Thus, the Dimock opinion is controlling law on this case and dictates that, because the foreclosure sale was void, tender is not required.

B. IT WOULD BE INEQUITABLE TO APPLY THE TENDER RULE HERE

Additionally, tender may not be required where it would be inequitable to do so, Onofrio v. Rice (1997) 55 C.A.4th 413, 424. California recognizes that: "Equity does not wait upon precedent which exactly squares with the facts in controversy, but will assert itself in those situations where right and justice would be defeated but for its intervention." Bisno v. Sax (1959) 175 Cal. App. 2d 714, 728.

1. Where the Trustee's Deed Upon Sale Transfers by Credit Bid to the Beneficiary, Tender of the Full Debt is not Appropriate

California Civil Code 2924h(b) distinguishes between purchase money bids by third parties and credit bids by the foreclosing beneficiary. With regard to credit bids, it provides, in

pertinent part, that:

> (b) The present beneficiary of the deed of trust under foreclosure shall have the right to offset his or her bid or bids only to the extent of the total amount due the beneficiary including the trustee's fees and expenses.

In comparison, Section 2924h(b) provides that purchase money bidders ("PMBs") are given the status of good faith purchasers unless there is a lis pendens or obvious title flaw. Regardless of whether the PMB has notice of title flaws or not, any and all PMBs are required to pay the amount of their winning bid with cash or check at the conclusion of the sale.

With regard to credit bids, the creditor on the note applies the amount of indebtedness toward its bid on the property, thereby allowing it to take title without paying a single dollar out of pocket at the sale. The rationale is that the creditor has already lent the borrower/trustor a sum of money in exchange for the trust deed. Credit bidders are not allowed the status of a "good faith purchaser for value" because they are deemed to be aware of any improprieties of title which would undermine their title position. The trustee deed is a mere matter of paperwork, without a penny out of pocket. The only tender that would be required to put a credit bidder in a pre-sale condition is 1) cost of the trustee sale, 2) interest and fees, and 3) reinstatement of the preexisting debt which would still be serviced by the creditor but for the sale.

Where, as here, it may be shown that a sale was knowingly wrongful and without right, equity weighs heavily against requiring the borrower to make a full tender of the challenged debt rather than what is required to put the creditor in a pre-sale position. Defendants argue that the tender in these cases should not be the sale price, i.e., the amount required to put the defendant in a pre-sale position, but the full amount of the debt.

Ultimately, whether or not it is inequitable to require tender is a question of fact inappropriate to decide in a Demurrer. In Storm v. America's Servicing Company et. al., No.

09cv1206, 2009 WL 3756629, at 6 (S.D.Cal. Nov. 6, 2009) (citing *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007), the court stated that it was "unaware of any case holding there is a bright-line rule requiring tender of the unpaid debt to set aside a sale in other circumstances" and that tender was a "matter of discretion left up to the Court." Moreover, "[A]t the procedural stage the Court only decides whether Plaintiffs have pleaded "enough facts to state a claim to relief that is plausible on its face."

Here, tendering the full debt previously owed to U.S. Bank would unjustly enrich U.S. Bank as it was not expecting payment in full for another 27 or more years. The imposition of full debt tender on borrowers as to credit bid grantees by many courts in this state has caused the floodgates to open for massive abuse of the California non-judicial foreclosure system because banks view wrongful foreclosure as having no practical recourse. That is, the only penalty for a wrongful foreclosure sale is getting a 30-year debt paid in full 27 or more years early which, of course, is not a penalty at all, but rather an incentive to hold more foreclosure sales whether they are wrongful or not. If the sale was wrongful, no rationale exists for overburdening the Plaintiff with a full debt tender where the sale has been a matter of paperwork rather than payment. Thus, this court can impose the tender requirement on Plaintiff at judgment if the court deems it appropriate.

IV.

PLAINTIFFS HAVE PROPERLY ALLEGED A CAUSES OF ACTION AGAINST DEFENDANTS FOR VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 17200

No California appellate case has addressed the application of California Business and Professions ("B&P") Code Section 17200, *et seq*., to the business practices of subprime mortgage lenders and servicers at issue here. However, the California state courts have

repeatedly held that all that is necessary to establish a violation of B&P § 17200 *et seq*., is to show that the defendant is a business engaged in acts or practices that are unlawful, fraudulent or unfair. Thus, "there are three varieties of unfair competition: practices which are unlawful, unfair or fraudulent." Daugherty v. American Honda Motor Co., Inc. (2006) 144 Cal. App. 4th 824, 837. The unlawful practices prohibited by the statute are any practices forbidden by law, be it civil or criminal, federal, state, or municipal, statutory, regulatory, or court made. Saunders v. Superior Court (1994) 27 Cal. App. 4th 832, 838-39. It is not necessary that the predicate law provide for private civil enforcement. "Unfair," as used in the statute, simply means any practice whose harm to the victim outweighs its benefits. "Fraudulent," as used in the statute, does not refer to the common law tort of fraud but only requires a showing that members of the public are likely to be deceived. Bank of the West v. Superior Court (1992) 2 Cal.4th 1254, 1267.

The "unfair" prong of section 17200 intentionally provides courts with broad discretion to prohibit new schemes to defraud. Motors, Inc. v. Times-Mirror Co. (1980) 102 Cal. App. 3d 735, 740. An unlawful business practice or act is "unfair" when it "offends an established public policy or when the practice is immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers. People v. Casa Blanca Convalescent Homes, Inc. (1984) 159 Cal. App. 3d 509, 530. "[T]he court must weigh the utility of the defendant's conduct against the gravity of the harm to the alleged victim." State Farm Fire & Casualty Co. v. Superior Court (1996) 45 Cal. App. 4th 1093, 1104.

Here, the SAC alleged that Defendants' business acts and practices, include, but are not limited to, the following: (1) instituting improper or premature foreclosure proceedings to generate unwarranted fees; (2) misapplying or failing to apply customer payments; (3) seeking to collect, and collecting, various improper fees, costs and charges, that are either not legally due under the mortgage contract or California law, or that are in excess of amounts legally due; (4)

mishandling borrowers' mortgage payments and failing to timely or properly credit payments received, resulting in late charges, delinquencies or default; (5) treating borrowers as in default on their loans even though the borrowers have tendered timely and sufficient payments or have otherwise complied with mortgage requirements or California law; (6) Executing and recording false and misleading documents; and (7) acting as beneficiaries and trustees without the legal authority to do so. Thus, Plaintiffs have properly alleged with specificity that Defendants engaged in deceptive, unfair and fraudulent conduct under both the "unlawful" and "unfairness" prongs of B&P § 17200. Defendants' practices are in violation of the laws set forth in Plaintiffs' other causes of action. Additionally, the harm to Plaintiffs outweighs any benefit. Accordingly, Defendants' demurrer to Plaintiffs' B&P § 17200 should be overruled in its entirety.

V.

PLAINTIFFS HAVE PROPERLY ALLEGED CAUSES OF ACTION FOR BREACH OF CONTRACT AND BREACH OF THE IMPLIED COVENAT OF GOOD FAITH AND FAIR DEALING AGAINST DEFENDANTS

With regard to Plaintiffs' breach of contract cause of action, Defendants assert that Plaintiffs have failed to allege the contract with specificity or attach a copy of it. However, a plaintiff may plead the legal effect of a contract rather than its precise language. Construction Protective Services, Inc. v. TIG Specialty Ins. Co. (2002) 29 Cal. 4th 189, 198–199. Here, Plaintiffs have properly alleged that Defendants have breached the provisions within the note and deed of trust with regard to Defendants obligation to apply payments made by Plaintiffs to interest and principal.

Moreover, Plaintiffs have properly alleged the obvious damages, i.e., wrongfully determining that the loan was in default and proceeding with a foreclosure of the property pursuant to the power of sale provisions in the deed of trust. Accordingly, Defendants'

demurrer should be overruled. Alternatively, Plaintiffs respectfully request leave of court to amend the allegations within this cause of action as any deficiencies can be easily cured.

Defendants' demurrer to Plaintiffs' breach of the implied covenant of good faith and fair dealing cause of action argues that the claim fails because Plaintiffs have not properly alleged a contractual relationship with Defendants. However, the SAC clearly alleges that, if the note and deed of trust were properly assigned to Defendants, they became parties to said contracts with benefits, duties and obligations arising therefrom. As Defendants became parties to the note and deed of trust which governed the relationship between Plaintiffs and Defendants, Defendants also owed a duty of good faith and fair dealing to Plaintiffs which Plaintiffs allege was breached. See SAC, at && 89-92. Therefore, Defendants' demurrer to Plaintiffs' breach of the implied covenant of good faith and fair dealing cause of action must be overruled in its entirety as well.

VI.

UNJUST ENRICHMENT IS A CAUSE OF ACTION

Defendants' demurrer to Plaintiffs' unjust enrichment cause of action is one of form over substance. Defendants argue that unjust enrichment is not a cause of action in California. However, recent case law suggests otherwise. Specifically, in Peterson v. Cellco Partnership (2008) 164 Cal. App. 4th 1583, the court held that it was a valid cause of action and set forth the required elements. Id. at 1593. Accordingly, Defendants' demurrer should be overruled in its entirety. Alternatively, Plaintiffs request leave to convert the cause of action to restitution.

VII.

PLAINTIFFS' CANCELLATION CAUSES OF ACTION ARE PROPERLY PLEAD

Defendants make several arguments in support of their demurrers to Plaintiffs'

cancellation causes of action, i.e., sixth, seventh, eighth and nine. However, for the reasons set forth below, none of Defendants' arguments are meritorious.

A. THE EXCEPTION SET FORTH IN CORPORATIONS CODE SECTION 191 DOES NOT APPLY TO MERS

The issue of whether the exception set forth in Corporations Code Section 191(c)(7) (the "creating evidences" exception) has been thoroughly analyzed by the court in Champlie v. BAC Home Loans Servicing, LP, 2009 WL 3429622 (E.D.Cal.). The Champlie court specifically held that the "creating evidences" exception does not apply to MERS and that claims arising out of the fact that MERS acted in violation of Corporations Code Section 2105(a) (requiring entities that transact intrastate business in California to acquire a "certificate of qualification" from the California Secretary of State) cannot be dismissed at the pleading stage. Id. at *11. The court's ruling was followed recently in Carter v. Deutsch Bank National Trust Company, 2010 WL 424477 (N.D. Cal.), at *2. Accordingly, Defendants' demurrer to said causes of action on the ground that MERS did not have to be registered in California should be overruled.

B. PLAINTIFFS DO NOT HAVE TO RETURN THE PRINCIPAL AMOUNT OF THE LOAN PRIOR TO FILING A COMPLAINT TO RESCIND THE DEED OF TRUST PURSUANT TO REVENUE AND TAXATION CODE SECTION 23304.5

Curiously, Defendants next argue that Plaintiffs must return the principal amount of the loan to MERS in order for the court to rescind the deed of trust pursuant to Section 23304.5. It can further be assumed that Defendants believe that the law somehow requires this payment to be made prior to the filing of the complaint as this demurrer only addresses allegations of the complaint. Regardless, Defendants seem to assume, for purposes of this argument, that MERS should be deemed a "taxpayer" pursuant to Section 23304.5 even though Defendants do not

and cannot provide any evidence that MERS ever paid taxes in the State of California. Defendants make the further assumption that MERS provided "benefits" under the "contract."

At best, Defendants' argument simply raises issues of fact. However, the true facts are that MERS did not provide any benefits under any contract at issue here, MERS never paid anything to any party to this action and MERS never received any payments from Plaintiffs. Accordingly, Defendants argument is frivolous and should be disregarded.

C. DEFENDANTS MUST ESTABLISH THAT THEY HAVE A BENEFICIAL INTEREST IN THE NOTE

Defendants are correct in their assertion that actual physical possession of the original note is not a requirement for a non-judicial foreclosure. However, said assertion is not relevant. The relevant law is California Civil Code Section 2932.5 which provides that

> "Where a power to sell real property is given to a mortgagee, or other encumbrancer, in an instrument intended to secure the payment of money, the power is part of the security and vests in any person who ***by assignment*** becomes entitled to payment of the money secured by the instrument. The power of sale may be exercised by the assignee if the assignment is ***duly acknowledged and recorded***." Cal. Civ.Code § 2932.5 (emphasis added).

Here, there was never an assignment from the original mortgagee (Quality Home Loans) to MERS or anyone else. Moreover, assuming arguendo, that there was an assignment of Quality's entire interest in the note and deed of trust to MERS or anyone else, said assignment had to be "duly acknowledged and recorded," which it was not.

Instead, MERS was simply listed as a "nominee" of the beneficiary in the deed of trust. That is, MERS was listed as a beneficiary in name only and not pursuant to any legal definition. A nominee of a beneficiary is not the same as being the beneficiary. In re Mitchell, US Bk

Ct.Nev. Case No. BK-S-07-16226 (August 19, 2008), at p. 6. The deed of trust in Mitchell contained a similar statement, namely that MERS is the nominee and beneficiary of Fremont. This statement does not mean that MERS *is the beneficiary*. Similar to Section 2932.5, the Mitchell court held that a "beneficiary" is defined as "one designated to benefit from an appointment, deposition or assignment or to receive something as a result of a legal arrangement or instrument." Id. (citing Blacks Law Dictionary).

No showing has been made that MERS had any financial interest in the note or deed of trust. MERS was not the "lender." Only parties who have a financial interest are beneficiaries and entitled to assign the note and deed of trust. Thus, the assignment of the Deed of Trust by MERS is ineffective for all purposes. MERS had no interest to assign. The note was not payable to MERS and MERS was not entitled to receive payments. Therefore, tt was never "entitled to payment of the money secured by the instrument" as Section 2932.5 requires for the power of sale to be exercised by an assignee and was never an assignee of the note and deed of trust with the power to assign it to Defendant U.S. Bank. Consequently, Plaintiffs do not simply allege that Defendants acted without authority because they did not possess the original note but rather that they were never assigned the note and deed of trust pursuant to Section 2932.5 and other relevant authority. Accordingly, Plaintiffs' SAC is not based solely on a "holder of the note" theory and, therefore, Defendants' argument lacks merit.

VIII.

PLAINTIFFS HAVE PROPERLY PLEAD A CAUSE OF ACTION FOR FRAUD

With regard to Plaintiffs' fraud cause of action, Defendants make the boilerplate argument that the cause of action lacks specificity. However, with regard to SLS, the SAC has numerous allegations with regard to its fraudulent conduct. See SAC, at && 17-22. Specifically, Plaintiffs allege that SLS received Plaintiffs' payments but fraudulently refused to credit them

to Plaintiffs' account even though Plaintiffs provided evidence of payment. With regard to US Bank, the SAC properly alleges that it proceeded to foreclose on Plaintiffs' property even though it knew or should have known that it was not properly assigned the note and deed of trust which provided the power of sale. Furthermore, Plaintiffs properly alleged justifiable reliance in Paragraph 49. Accordingly, Defendants' demurrer to Plaintiffs' fraud cause of action should be overruled. Alternatively, Plaintiffs request leave of court to allege the facts giving rise to this cause of action with greater specificity.

IX.

PLAINTIFFS' HAVE PROPERLY PLEAD A CAUSE OF ACTION FOR NEGLIGENCE

Defendants cite Nymark v. Heart Fed. Savings & Loan Assn. (1991) 231 Cal. App. 3d 1089, for the proposition that lenders never owe a duty to borrowers. However, the Nymark court simply found that a duty was not owed under the facts in that case after analyzing them pursuant to the six part test established in Biakanja v. Irving (1958) 49 Ca.2d 647, 122 P.2d 293. This test balances six non-exhaustive factors: (1) the extent to which the transaction was intended to affect the plaintiff; (2) the foreseeability of harm to him; (3) the degree of certainty that the plaintiff suffered injury; (4) the closeness of the connection between the defendant's conduct and the injury suffered; (5) the moral blame attached to the defendant's conduct; and (6) the policy of preventing future harm. Biakanja, 49 Cal.2d at 650.

When applied to Defendants, unlike in Nymark, the factors clearly weigh in favor of the finding that Defendants owed Plaintiffs a duty of care. See Garcia v. Ocwen Loan Servicing, LLC, 2010 WL 1881098 (N.D.Cal.) (denying motion to dismiss negligence claim against loan servicer and holding that servicer owed borrower a duty of care). Specifically, the servicing of the loan was intended to affect Plaintiffs and their home. Next, there was a clear foreseeability of harm to Plaintiffs as they could, and did, lose their home, i.e., actual injury. Moreover, the

loss of Plaintiffs home was a direct result of the Defendants' breach of their duty of care as they recorded a notice of default and foreclosed on the property based on faulty grounds. Also, moral blame must be attached to the Defendants' conduct as they knowingly recorded a notice of default even though Plaintiffs provided proof of payments and foreclosed on the property knowing that they did not have the legal authority to do so. Additionally, through legislation, California has established a policy of preventing unnecessary and wrongful foreclosures which this was. Therefore, Plaintiffs' negligence cause of action is proper and Defendants' demurrer should be overruled.

X.

CONCLUSION

For all of the foregoing reasons, Plaintiff respectfully requests that this Court overrule Defendants' Demurrer to Plaintiffs' Second Amended Complaint in its entirety. Alternatively, if the Court finds that one or more of Plaintiffs' causes of action have not been properly pled, Plaintiffs respectfully request leave of court to amend their complaint.

DATED: June 15, 2010 LAW OFFICES OF CAMERON H. TOTTEN

By: _____
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